



TDH
TEXAS DEPARTMENT OF HEALTH

Communicable
Disease Control Measures
In Texas

A Guide for
Health Authorities in a
Public Health Emergency

Communicable Disease Control Measures In Texas

Eduardo J. Sanchez, M.D., M.P.H.
Commissioner of Health



Gary R. Bego
Chief Operating Officer



Charles E. Bell, M.D.
Executive Deputy Commissioner



Produced by the Office of General Counsel

Susan K. Steeg
General Counsel



Linda S. Wiegman
Deputy General Counsel



George D. Cato
Deputy General Counsel



Michael E. Greenberg
Assistant General Counsel



Monty M. Waters
Assistant General Counsel



Charles H. Homer III
Assistant General Counsel



Robin A. Carter
Legal Assistant



Sherry D. Mansell
Legal Assistant



Carol J. Stewart
Executive Assistant



Design
Health Communications Division



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A Guide For Health Authorities In A Public Health Emergency

Eduardo J. Sanchez, M.D., M.P.H.
Commissioner of Health

1100 West 49th Street
Austin, Texas 78756-3199

<http://www.tdh.state.tx.us>
1-888-963-7111

Gary R. Bego
Chief Operating Officer

Charles E. Bell, M.D.
Executive Deputy Commissioner

Dear Health Authority:

This handbook is intended to assist you in carrying out your duties under the Communicable Disease Prevention and Control Act. Whether an outbreak of a communicable disease occurs from a natural biological event or a terrorist act, the health and safety of citizens throughout the state of Texas may very well depend on the actions you take in your communities.

As the Commissioner of Health, I rely on your medical judgment to order and enforce the best public health practices. Implementing control measures, such as individual or area quarantines, will require close coordination with your city, county, or district attorney, as well as law enforcement. You should share this handbook with them to use as a guide. You may customize the procedures to fit your community.

The handbook has three sections. The first section contains information presented in a question and answer format. The second section contains model orders and forms and instructions for their use. The third section contains reference material on Texas law.

An electronic version of the handbook, which includes forms that can be downloaded, is available on the TDH website at <http://www.tdh.state.tx.us/phpep/lha>. You may also contact the Office of Public Health Practice at (512) 458-7770 for further information.

I hope you find this information useful, and I appreciate your service to the people of Texas.

Eduardo J. Sanchez, M.D., M.P.H.
Commissioner of Health

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Common Questions and Answers on the Imposition of Control Measures

Q Does Texas have a “quarantine” law?

A The term “quarantine” is used loosely in common speech and law as a synonym for “isolation.” Texas statutes usually use the more inclusive and accurate term “control measure.” The state law on control measures is found in the Communicable Disease Prevention and Control Act, Health and Safety Code, Chapter 81. All further references in this document are to the Health and Safety Code unless stated otherwise.

Q How can I find the Health and Safety Code on the internet?

A State laws are located on the internet at Texas Legislature Online at www.capitol.state.tx.us/statutes/statutes.html. (NOTE: Following a legislative session, this site is not updated for several months. Please refer to the information at this site for further information.) Scroll down the table of contents to find the applicable Code (example: Health and Safety Code). Find the desired chapter (example: Chapter 81). Then choose which section (§) you are interested in. These directions also apply in locating other codes listed in this manual such as the Government Code and Occupations Code.

Q What is the definition of a “communicable disease”?

A Section 81.003(1) defines “communicable disease” to mean “an illness that occurs through the transmission of an infectious agent or its toxic products from a reservoir to a susceptible host, either directly, as from an infected person or animal, or indirectly through an intermediate plant or animal host, a vector, or the inanimate environment.”

Q Generally what control measures can be imposed?

A Control measures are efforts necessary to control and prevent communicable disease. They include, but are not limited to, immunization, detention, restriction, disinfection, decontamination, isolation, quarantine, disinfestation, chemoprophylaxis, preventive therapy, prevention, and education. See §81.082. However, the law does not limit control measures to only these efforts. Texas law allows control measures to be imposed on individuals, property, areas, or common carriers as discussed below.

Q Who has the authority to enforce public health laws in an emergency?

A For most laws the Texas Department of Health (department) has authority that is concurrent with the local health authority. However, it is imperative to carefully read each statute because some statutes give the local health authority or local government different authority than that given to the department or require different procedures to impose a control measure.

“(E)stablishing, maintaining, and enforcing quarantine in the health authority’s jurisdiction” is one of the local health authority’s explicit legal duties. See § 121.024(c)(1).

Q Who is a local health authority?

A Chapter 121, the Local Public Health Reorganization Act, provides for the appointment of local health authorities as follows:

1. If the city or county has a local health department and the director of the department is a physician, that physician is the authority. The city council or commissioners court or a person designated by the appropriate body must appoint the director. See § 121.033(a)-(c).
2. If the city or county has a local health department and the director of the department is not a physician, the director must appoint a physician as the authority subject to city council or commissioners court approval. See § 121.033(d). Texas Board of Health approval already has been given for such appointment in department rules found at Title 25 Texas Administrative Code (T.A.C.) § 85.1(b).
3. If there is a public health district and the director is a physician, the director is the authority. The members of the district, e.g., the city council and/or county commissioners court, or a designee of each member must appoint the director. See § 121.045(a)-(c).
4. If there is a public health district and the director is not a physician, the director must appoint a physician as the authority subject to the approval of the members of the district, e.g., the city council and/or county commissioners court, or a designee of each member. Texas Board of Health approval already has been given for such appointment in department rules found at Title 25 T.A.C. § 85.1(b). See § 121.045(d).
5. If a local health department or local public health district is not established, the city council or commissioners court may appoint a physician as the authority. If the city or county is receiving an innovation grant from the department, it must appoint a physician as its health authority. See § 121.028(a)-(b).

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6. The Texas Board of Health or its designee may require a department regional director to perform the duties of a health authority when the health authority fails to perform duties prescribed by the board. See § 121.007(c). This applies when there is already a health authority appointed under one of the above circumstances. Board approval already has been given for regional directors to perform such duties in department rules found at Title 25 T.A.C. § 85.1(f).
 7. A department regional director performs the duties of a health authority in a jurisdiction within the director's region when there is not a health authority. See § 21.007(c).

Q Are there other requirements in order for the appointment of a health authority to be legal?

A A health authority must be a physician licensed by the State of Texas and a resident of the State of Texas. Once appointed, the health authority must take the official oath of office. See Texas Constitution, Article XVI, Section 1. The oath and the statement of appointed officer, which is also required by the Texas Constitution, must be filed with the department regional office covering the health authority's jurisdiction within ten working days of the date of taking the oath. See §121.022 and department rules at Title 25 T.A.C. § 85.1(h). The health authority serves for a term of two years. See § 121.023. The oath must be taken when a new health authority is appointed or retaken if the same health authority is reappointed.

Further information on the appointment of health authorities may be obtained at the department's web site at www.tdh.state.tx.us/thtep/lha or by contacting the appropriate regional office or the department's Office of Public Health Practice at (512) 458-7770.

Q Why are the above requirements relating to appointment of a health authority important?

A A health authority is a state officer when performing duties prescribed by state law. See §121.024. If a health authority has not been legally appointed or taken the required oath of office, his or her actions as a health authority, including the imposition of control measures in an emergency, may be subject to challenge, and the immunities from lawsuit and liability available to a state officer may not apply.

Q Are there other officials who have authority to address emergency situations?

A The Secretary of the United States Department of Health and Human Services is authorized to assist states and political subdivisions in the prevention and suppression of communicable disease and to cooperate in the enforcement of quarantine and other health regulations. The Secretary is authorized to advise states on matters relating to the preservation of public health. The Secretary may

also extend assistance for up to six months to states or localities in meeting health emergencies of such a nature to warrant federal assistance. See 42 United States Code, § 243.

The governor may invoke his or her powers under the Texas Disaster Act, Government Code, Chapter 418, which gives the governor sweeping powers to deal with an emergency.

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How can the governor declare a disaster?

The Texas Disaster Act defines a disaster as “the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause” (Government Code § 418.004(1)). The “governor by executive order or proclamation may declare a state of disaster if the governor finds a disaster has occurred or that the occurrence or threat of disaster is imminent” (§ 418.014(a)). The governor could use his or her authority under this law if the terrorist weapon is a communicable disease or if it is something other than a communicable disease, since the governor’s authority can be used in the case of any natural or man-made disaster. A disaster could be declared in response to a request by state or local officials.

Some of the effects of a declaration of a state of disaster would be:

- ❖ activation of the state emergency management plan;
- ❖ authorization of the use of any forces, supplies, equipment, materials, or facilities assembled to be made available under a disaster;
- ❖ suspension of regulatory statutes and rules that would hinder action in coping with a disaster;
- ❖ use of all available and necessary state government and political subdivision resources;
- ❖ use of necessary private property;
- ❖ recommendation for evacuation of an area; and
- ❖ control of ingress and egress to and from a disaster area. See Government Code, §§ 418.015-418.018.

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Who has the authority to impose control measures on an individual?

Imposing control measures on individuals is a process that, though not common, has been used in this state, mainly in cases of tuberculosis. The first step in the process is for the health authority or department to execute and deliver an order to the individual. This order is issued if the health authority or the department “has reasonable cause to believe that an individual is ill with, has been exposed to, or is the carrier of a communicable disease.” The order informs and instructs

the individual on the “control measures that are reasonable and necessary to prevent the introduction, transmission, and spread of disease in this state” (§ 81.083(b)).

The order must be in writing and delivered in person or by certified mail to the individual (or his or her parents or guardian if a minor) (§ 81.083(c)). No particular form of an order is required by law, however, the order should identify the individual clearly and state the control measures that are being ordered. The control measures could be required within a very short time period, especially in an emergency. The department has developed a form for an order and included it in this manual. State law does not establish any exception to the requirement to issue an order in an emergency situation.

Q To impose control measures on an individual, does the health authority’s order have to be approved by a city, county, or district judge?

A Many health authorities are familiar with applying control measures to an individual (§ 81.083). As described above, this process begins with an order to the individual (it is sometimes called a “warning letter” or “control measure letter”) from the health authority or department, which does not have to be approved by a judge or court. Any further coercive measures used to obtain compliance with the health authority’s order will require an order from a state district court.

Q What are the requirements for obtaining a court order if the individual is noncompliant with the health authority’s or department’s order?

A An individual may be subject to court order if the individual does not comply with the department’s or health authority’s order described above and “the individual is infected or is reasonably suspected of being infected with a communicable disease that presents an immediate threat to the public health.” See § 81.083(e).

Chapter 81, Subchapter G addresses “Court Orders for Management of Persons with Communicable Diseases.” The health authority must request the city, county, or district attorney to file an application for a court order. The attorney general will file an application if requested by the department. The application includes the order issued under § 81.083, if inpatient treatment is being requested. The application also includes a medical evaluation that must be signed by the commissioner of health or his designee or by a health authority with the concurrence of the commissioner or his designee. A designation of health care facility is also required. A health authority’s medical evaluation form meeting the requirements of the law is included in this manual. The commissioner’s or a designee’s concurrence may be obtained by contacting the

department's Office of General Counsel at (512) 458-7236 or by fax at (512) 458-7751. The department will prepare the facility designation and the commissioner's concurrence.

A protective order may be obtained quickly from the court to order the individual to be immediately detained. Otherwise, a judge, or a jury if requested, will decide if mandatory inpatient treatment or some other treatment option is most appropriate for the individual. The district court will issue its order to the individual and anyone necessary to carry out the order (e.g. law enforcement officers).

As one can tell from the procedures described above, this process may not be practical in an emergency situation. A declaration of a state of emergency by the governor or the imposition of control measures on property or an area as described below may be a more expeditious way to implement control measures needed in an emergency.

Q Who has the authority to impose quarantine or control measures on property?

A Section 81.084, Subsection (a) provides:

If the department or a health authority has reasonable cause to believe that property in its jurisdiction is or may be infected or contaminated with a communicable disease, the department or health authority may place the property in quarantine for a period necessary for a medical examination or technical analysis of samples taken from the property to determine if the property is infected or contaminated. The department or health authority may tag an object for identification with a notice of possible infection or contamination.

Property may be an object, a parcel of land, or a structure, an animal, or other property on a parcel of land. See § 81.084(j). Notice of the action to the person who owns or controls the property is required. A sample notice form is included in this manual. Notice must be sent by registered or certified mail to the person who owns or controls the property and in some circumstances, be posted "on the land and on the courthouse door." See § 81.084(b). A health authority needs to work closely with his or her city, county, or district attorney to comply with these requirements, especially if the property is privately owned.

Q To impose control measures on property, does the health authority issue an order? Does this have to be approved by a city, county, or district judge?

A As described above, the health authority or department must issue a notice that it has placed property in quarantine to determine if it is infected or contaminated. Once the determination is made that the property is infected

or contaminated, the department or health authority issues a written order requiring the person who owns or controls the property to impose control measures to disinfect or decontaminate the property or to secure or destroy the property. See § 81.084(c)(d). A sample order is included in this manual. The department or health authority may issue further orders if necessary. See § 81.084(d). There is no requirement that a judge or court approve these orders.

County or district court involvement may be necessary where “a person fails or refuses to comply with the orders of the department or health authority ...” and there is “reason to believe that the property is or may be infected or contaminated with a communicable disease that presents an immediate threat to the public health.” See § 81.084(e). If the department initiates a request, the attorney general petitions the court. If a health authority initiates a request, the appropriate city, county, or district attorney petitions the court.

Q **Who has the authority to quarantine or impose control measures on an area?**

A The isolation of a city, county, or portion of such a political subdivision may be necessary where there is an outbreak of communicable disease in a finite geographic area. There is overlapping authority between the local health authority and the department. There are some things that either the commissioner of health or a local health authority might do.

Similarly, the governor has broad authority under the Texas Disaster Act as discussed above to take steps that will address a public health emergency. The governor has some authority to do things the public health sector cannot. This is reason for careful coordination between all persons and entities involved in addressing a communicable disease emergency.

Q **What is the specific law on area quarantine?**

A The most relevant provisions are § 81.085(a) and (b) as follows:

- a. If an outbreak of communicable disease occurs in this state, the commissioner or one or more health authorities may impose an area quarantine coextensive with the area affected. A health authority may impose the quarantine only within the boundaries of the health authority’s jurisdiction.
- b. A health authority may not impose an area quarantine until the authority consults with and obtains the approval of the commissioner and of the governing body of each county and municipality in the health authority’s jurisdiction that has territory in the affected area.

If the health authority imposes the area quarantine, Subsection (b) would require quick action by a local health authority to get the approval of the commissioner of health and the county commissioners court and/or the city

council. The county commissioners court or city council could be called into emergency session on short notice. See the provisions for emergency meetings in the Open Meetings Act, Government Code, Chapter 551, § 551.045. There is no specific chronological order in which such approvals must be obtained. However, it may be quicker for the local health authority to ask the commissioner of health to issue an order under Subsection (a), rather than having the local health authority issue the order.

Q Are there difficulties with imposing an area quarantine?

A One problem facing the local health authority or the commissioner of health is the determination of when an “outbreak of communicable disease occurs.” For example, does an outbreak occur when a crop duster is seen over a city spraying an unknown substance? The law does not provide guidance as to what constitutes an outbreak.

In an instance where an outbreak has not occurred, it may be more expeditious to ask the governor to use his or her powers under the Government Code, Chapter 418 to declare a state of disaster since the governor may do this when there is an imminent threat of disaster. The governor has the authority, under such a declaration, to “control ingress and egress to and from a disaster area and the movement of persons and the occupancy of premises in the area” (Government Code, §418.018(c)). This accomplishes the goal of isolating the geographic area if that is needed.

Q How does the commissioner or health authority impose an area quarantine? Does an order have to be approved by a city, county, or district judge?

A The commissioner of health or the health authority (after the latter obtains approval of the commissioner of health and the county commissioners court and/or city council) “may use all reasonable means of communication to inform persons in the quarantine area of the ... orders and instructions ...” and publishes a notice of the orders and instructions at least once a week in an area newspaper (See § 81.085(e)). The law does not specify a specific format or content of an order, instructions, or notice. The department has developed a format for an order, which is included in this manual.

No court approval is required of a health authority or commissioner’s order imposing an area quarantine.

Q **May an area quarantine include other control measures?**

A In an area quarantine, a health authority may impose “additional disease control measures that the health authority considers necessary and most appropriate to arrest, control, and eradicate the threat to the public health.” See § 81.085(c). Those measures should be clearly stated in the orders, instructions, and notices referenced above.

The commissioner of health does not have similar authority to impose additional measures in an area quarantine but could impose control measures on an individual, property, or carrier as described elsewhere in this handbook.

Q **Who has the authority to quarantine or impose control measures on a common carrier or conveyance?**

A Section 81.086 allows the department or health authority to apply control measures to private or common carriers or private conveyances in this state in two different circumstances: 1) if “the department or health authority has reasonable cause to believe that a carrier or conveyance has departed from or traveled through an area infected or contaminated with a communicable disease” (§ 81.086(b)) or 2) if “the department or health authority has reasonable cause to believe that a carrier or conveyance is transporting cargo or an object that is or may be infected or contaminated with a communicable disease” (§ 81.086(h)).

The first provision allows the department or health authority to order the owner, operator, or agent of the carrier or conveyance to stop the carrier or conveyance “at a port of entry or place of first landing or first arrival in this state” and to provide a statement that includes information on the condition of the passengers or cargo, and the details of any illness suspected of being communicable that occurred during the journey. The information requested is to be provided on a form approved by the Board of Health (§ 81.086(b)). Duties have been delegated to the commissioner of health, who has approved the form included in this manual. After inspection, the department or health authority may impose necessary control measures on individuals or property as discussed above.

The second provision of this statute allows conditions such as sealed transportation, alternative unloading location, or quarantine or other control measures to be imposed on the object or cargo that is being transported (§81.086(h)).

Q To impose control measures on a common carrier, does the health authority issue an order? Does this have to be approved by a city, county, or district judge?

A The statute does not explicitly require the involvement of a court or prior consultation with any governmental entity before the department or local health authority initially acts. However, if control measures on individuals or property are imposed after inspection under the first provision above, the approval and order requirements for imposing such control measures will apply.

The law does not specify any format for an order or other documentation. The department has developed order forms covering the provisions described above which are included in this manual.

Q Must a health authority or the department issue one of the orders previously discussed in order to perform control measures to address a bio-terrorism event involving a communicable disease?

A If the local health authority or department receives full cooperation on all activities required to address the suspected or actual communicable disease from all necessary parties, such as the individual exposed, the owner of infected property, or the operator of a common carrier, the orders described above may not be necessary. In weighing whether appropriate orders should be issued, rather than relying on future voluntary cooperation on all matters, one should consider such issues as whether all necessary parties will continue to cooperate over time, whether orders are necessary to ensure any possible later court action, and whether orders are necessary for law enforcement to provide adequate assistance.

Q In case of a bio-terrorism event, does anyone have authority to mandate the allocation or reallocation of medical resources including hospital beds, professional staff (doctors, nurses, etc.), medical supplies, and other health resources?

A In the case of an area quarantine, § 81.085(g) allows a county commissioners court, a city council, or the board of directors of a hospital district to “suspend the admission of patients desiring admission for elective care and treatment” with certain exceptions. Such an action would make isolation and quarantine facilities available during the area quarantine.

When the governor declares a state of disaster, he or she has the authority to use all available state and local governmental resources, reassign state governmental resources and personnel, and “commandeer or use any private property if the governor finds it necessary to cope with a disaster, subject to the compensation requirements of this chapter” (Government Code, § 418.017).

The Government Code, § 418.016 gives the governor authority to suspend any regulatory statute prescribing procedures for the conduct of state business or the orders or rules of a state agency if strict compliance would in any way prevent, hinder, or delay necessary action in coping with a disaster. This could be applied to regulatory requirements relating to the licensing of health care professionals.

The Government Code, § 418.171 allows a professional person licensed by another state to render aid in Texas to meet an emergency or disaster.

Q In the event of an emergency, can hospital licensing laws and rules be waived or modified?

A As stated above, if the governor declares a state of disaster, he or she has the authority to waive regulatory requirements, including licensing laws and rules.

Section 241.026(c) provides a process by which the Board of Health may waive or modify hospital licensing laws or rules if it is determined that the waiver or modification will facilitate the operation of the hospital, and the action is in the best interest of the individuals served or to be served by the hospital. The board has delegated to the commissioner of health the authority to exercise this power.

The procedures for obtaining a waiver are found at Title 25 T.A.C. § 133.81. This rule is written for consideration of requests from individual hospitals but is broad enough to allow the commissioner to apply a particular waiver to all hospitals in an area that is affected.

The waiver request should be in writing and include all pertinent information about why the hospital needs the waiver. The hospital should address the following:

1. the affect of the waiver or lack of waiver on the health and safety of the hospital patients, employees and the public;
2. the impact of the waiver or lack of waiver on the hospital's Medicare or JCAHO or AOA participation;
3. the potential effect on the hospital if the waiver is denied;
4. the way the waiver will facilitate the creation or operation of the hospital;
5. why the waiver is appropriate when balanced against the best interest of the individuals served by the hospital.

If the hospital has not addressed these issues, you should request that the hospital do so.

Forward the hospital waiver request and any back-up documentation or direct any questions regarding hospital waivers to: Hospital Licensing Director, Texas Department of Health, 1100 West 49th Street, Austin, TX 78756, telephone (512) 834-6648, fax (512) 834-6709, e-mail lianoing@tdh.state.tx.us.

Q Do public health authorities have access to medical and health records involving communicable disease or suspected communicable disease of individuals?

A Most health care professionals who have information on patients with certain suspected or diagnosed diseases, such as anthrax and smallpox, are required to report to the local health authority, who then reports to the department. See §§ 81.042 and 81.043 and Title 25 T.A.C. §§ 97.2 and 97.3.

In addition, and without regard to whether information was received through such a report, the department may investigate the existence of communicable disease in the state in order to formulate control measures. The law requires a person to provide records and other information to the department on request according to the department's written instructions. See § 81.061. Patient consent is not required.

Licensing laws generally provide a specific exception from confidentiality for information being provided to a governmental agency if required or authorized by law. For example, see § 241.153 concerning hospital records, and Occupations Code, § 159.004 concerning physician records. In such cases patient consent is not required. In an instance of control measures imposed by a health authority, the health authority is authorized by law to receive records because a health authority must perform each duty that is necessary to implement and enforce a law to protect the public health. See § 121.024(b).

Q What authority do public health authorities have in the case of individuals who have been or may have been subject to a chemical attack?

A The department has many of the same powers to conduct epidemiologic and toxicologic investigations as it does to conduct communicable disease investigations. See §§ 161.0211-161.0212. The requirements relating to the provision of records and other information upon the department's request is the same.

Q In the event of a large scale disease outbreak, who has the ability to control or ration the use of antibiotics or vaccines when there is a mass demand for them? Can state or local public health officials procure or confiscate medicines or vaccines?

A If the governor declares a state of disaster, he or she has authority to use all available state and local government resources and to commandeer or use private property subject to certain compensation requirements. (Government Code § 418.017).

If mass treatment or prophylaxis is mandatory instead of voluntary, the department or health authority must issue an order mandating such a control measure under § 81.085(c) relating to area quarantine or under § 81.083 relating to each individual. See also § 81.009(b), which suspends the normal right to claim exemption from

treatment on religious grounds in the event of an emergency, an area quarantine, or a declaration of a state of disaster. None of these laws allow the department to take control of or confiscate medicines or vaccines.

Q Does the local health authority have any liability in civil court for losses that individuals or businesses suffer because of an order imposing control measures?

A Though the state has had little opportunity to use most of these laws, if the health authority follows the procedures required by state law, the authority's liability should be nonexistent or nominal. The concept of official immunity will protect governmental officials from lawsuit and liability in many cases. Protection from liability is one of the important reasons why the local health authority should ensure that he or she is properly appointed as described above.

In addition, the liability of state or local government entities or their officers, agents, and employees for use of tangible property (e.g., giving a vaccine) is governed by the Tort Claims Act, Civil Practice and Remedies Code, Chapter 101. It is relevant to note that a "health authority is a state officer when performing duties prescribed by state law" (§ 121.024(a)), and therefore may be entitled to defense by the Texas Attorney General in such cases.

Local health authorities should consult with the authority's city or county attorney on the protections within the Local Government Code and case law on local government liability and immunity if more specific information is needed.

Q How would these laws be enforced? Is there a criminal penalty for violating them?

A The Communicable Disease Prevention and Control Act has several criminal provisions. Those below are Class B misdemeanors (up to 180 days in jail and/or up to \$2000 fine) unless otherwise indicated. It is a criminal offense to:

1. knowingly conceal or attempt to conceal the fact that a person has, has been exposed to, or is the carrier of a communicable disease or that their minor child has a disease (§ 81.066);
2. knowingly conceal an infected or contaminated animal, object, vehicle, watercraft, or aircraft that is the subject of an investigation by the department, a health authority, or a peace officer (§81.067);
3. knowingly refuse entry to the department, a health authority or a peace officer on presentation of a valid search warrant to conduct a disease investigation (Class A misdemeanor of up to one year in jail and/or up to \$4000 fine) (§ 81.068);

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4. knowingly refuse to perform or allow the performance of control measures on individuals, property, areas, or carriers as ordered by a health authority or the department (§ 81.087);
 5. knowingly remove, alter, or destroy a quarantine device (§ 81.088);
 6. knowingly transport into this state an object, individual, or animal that is known to be infected or contaminated with a communicable disease. If done with intent to harm it may be a third degree felony with 2-10 years in prison and/or up to \$10,000 fine (§ 81.089); and
 7. knowingly fail or refuse to obey a rule, order or instruction of the Board of Health or health authority during an area quarantine (third degree felony of 2-10 years in prison and/or up to \$10,000 fine) (§ 81.085(h)).

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Would law enforcement be authorized to use force to enforce these laws?

The decision to use force would not belong to the department or local health authority. Law enforcement authorities have or would establish procedures for enforcing these laws.

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Are specimens or other physical material considered evidence, and if so, how is that evidence to be treated?

You should consult with law enforcement and use common sense to determine whether any material or specimen would be useful to law enforcement authorities. If you determine that it is, you should document carefully the names, times, and dates of those who have access to the material. Law enforcement officials can advise you more specifically on how to document this “chain of custody.”

Instructions For Preparing Health Authority Orders

The statute allows control measures to be implemented whenever the department or a health authority has reasonable cause to believe that an individual is ill with, has been exposed to, or is the carrier of a communicable disease.

The order must be in writing and delivered *personally* or by *registered* or *certified mail*.

Steps

1. Read §§ 81.082 and 81.083 carefully. Consult with your city, county, or district attorney on the statutory requirements.
2. Determine that you have reasonable cause to believe the conditions in §81.083(b) exist.
3. Consult with, if necessary, your staff communicable disease expert or the state epidemiologist ((512) 458-7268) to determine the appropriate control measure.
4. Using the attached sample, draft and deliver the order.

Health Authority Order

To: Individual, parent, legal guardian or managing conservator

(Health Authority) finds that (name of individual) is within my jurisdiction and has reasonable cause to believe that (name of individual) is ill with, has been exposed to, or is the carrier of a communicable disease, (name of disease scientific and common name).

The (Health Authority) finds control measures are reasonable and necessary to prevent the introduction, transmission, and spread of the disease in the State of Texas. By authority of Section 81.083 of the Texas Health and Safety Code, the (Health Authority) *orders* that (name of individual) immediately: *(Choose one or all that apply from below)*

1. be immunized with (name of vaccine)
2. be detained until (individual) is (choose (a) or (b))
 - a. no longer infected with (common name of disease)
 - b. the longest period of incubation for (common name of disease) or (number of days of longest incubation period of disease has expired).
3. be restricted to (area or place of restriction) i.e. her house at (complete address) institution (complete address)
4. be disinfected for (name of disease) by (name of disinfecting ingredient or process)
5. be decontaminated by (name of process)
6. be isolated to (exact area or address of place of isolation or persons to be isolated from)
7. be quarantined by admission to (name of institution)
8. be disinfected by (name of process of disinfestations)
9. receive chemoprophylaxis by (name of process or chemoprophylactic agent)
10. receive preventive therapy by (name of therapy)
11. receive prevention by (name of method of prevention)
12. receive education by (name of disease and of the educational course and time and place if applicable)
13. be subject to (any other control measure that is reasonable and necessary to prevent the introduction, transmission, or spread of the disease in this state)

Violation of this order is a criminal offense and could result in confinement for 180 days, a fine of \$2,000, or both. Violation of this order could also result in court ordered management, which may include involuntary incarceration in a treatment facility or other location as determined by the court.

Signature: _____

Date: _____

Printed name: _____

Physical address: _____

Mailing address: _____

Telephone: _____

Email: _____

Fax: _____

No. _____

THE STATE OF TEXAS § IN THE _____DISTRICT COURT
FOR THE BEST INTEREST §
AND PROTECTION § IN AND FOR
 §
_____ § _____COUNTY, TEXAS

HEALTH AUTHORITY’S AFFIDAVIT OF MEDICAL EVALUATION

I, the undersigned, a local Health Authority in the State of Texas, under the Texas Health and Safety Code, Section 121.021, do hereby certify to the best of my knowledge:

1. The name and address of the physician who examined the proposed patient is:

_____.

2. The name and address of the proposed patient is: _____.

3. On the _____ day of _____, _____, the proposed patient

was examined at the following location: _____.

4. A brief diagnosis of the physical and mental condition of the proposed patient on said date is: The proposed patient has a contagious form of (name disease, ex: tuberculosis) and is refusing medical treatment.

5. An accurate description of the health treatment, if any, given by or administered by the examining physician is as follows: See Exhibit _____, which is attached and incorporated by reference.

6. I am of the opinion that the proposed patient is infected with a communicable disease that presents a threat to the public health, and as a result of that communicable disease, the proposed patient is likely to cause serious harm to himself, and will if not observed, isolated, and treated, continue to endanger the public health. The detailed basis for this opinion is as follows: (Example: The proposed patient is infected with tuberculosis in a contagious stage. The proposed patient works as a male prostitute and is exposing his partners and any other contacts to tuberculosis.)

7. I am further of the opinion that the proposed patient presents a substantial risk of serious harm to self or others if not immediately restrained. The detailed basis for this opinion being: See Exhibit ____, which is attached and is incorporated by reference.

8. (NOTE: COMPLETE THIS ITEM ONLY IF THIS CERTIFICATE IS TO BE OFFERED IN SUPPORT OF EXTENDED ORDERS FOR THE MANAGEMENT OF A PERSON WITH A COMMUNICABLE DISEASE.)

I am further of the opinion that the proposed patient's condition is expected to continue for more than 90 days. The detailed basis for that opinion is as follows: Opinion of _____, see Exhibit ____, which is attached and is incorporated by reference.

Signed: _____
Health Authority

SUBSCRIBED AND SWORN TO before me on this _____ day of _____,
_____.

Notary Public, _____ County, Texas

My Commission Expires: _____

No. _____

THE STATE OF TEXAS
FOR THE BEST INTEREST
AND PROTECTION

§
§
§
§
§

IN THE _____ DISTRICT COURT

IN AND FOR

_____ COUNTY, TEXAS

COMMISSIONER'S DESIGNATION OF HEALTH FACILITY

Pursuant to Chapter 81 of the Texas Health and Safety Code, the undersigned Commissioner of Health, of the State of Texas, does hereby designate the following appropriate in-patient health facility as a suitable place for detention of the person who is the subject of this suit.

Done at _____, _____ County, Texas, on this the
_____ day of _____, 20_____.

Commissioner of Health

Instructions on use of the “Notice to Person Who Owns or Controls Property: Quarantine of Property”

1. This notice is used when a local health authority has reasonable cause to believe that property in his or her jurisdiction is or may be infected or contaminated with a communicable disease. Property means an object, a parcel of land or a structure, an animal, or other property on a parcel of land.
2. If the above description fits the situation, review the Health and Safety Code, Section 81.084 relating to the application of control measures to property. Also review Section 81.003, which defines communicable disease and other terms, and Section 81.082, relating to the administration of control measures. Note that the control measures stated in the latter section are not an exclusive list of control measures that may be imposed.
3. Consult with your city, county, or district attorney on the statutory requirements.
4. Determine whether you have reasonable cause to believe that property in your jurisdiction is or may be infected or contaminated with a communicable disease. Note that you do not have to be absolutely sure that a communicable disease exists, but you must have reasonable cause to believe that it may exist.
5. Consult with Texas Department of Health personnel relating to communicable disease issues or procedures. Contact the state epidemiologist, Texas Department of Health, Bureau of Epidemiology at (512) 458-7111, extension 7268, fax (512) 458-7689. The department has the same authority as you to issue a notice to quarantine property, and you and the department may agree which procedure is more appropriate in a specific situation.
6. If it is necessary for a medical examination or technical analysis of samples to be taken from the property to determine if the property is infected or contaminated, you should issue the attached notice. If the property owner is and will continue to be fully cooperative, you may determine that a notice is not required; however, if you issue the “Order of Control Measures to be Imposed on Property”, you must issue a notice.
7. Assuming that a notice is necessary, determine the name and address of the person who owns or controls the property. Ownership may be determined by contacting the county appraisal district. The person in control of the property may be more difficult to determine, particularly if the property is a building leased to multiple tenants. In that case the person in control of the property may be a management company or individual manager, if there is one.

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8. The person who owns or controls the property may be an individual or some type of business entity. If the owner or person in control is a Texas corporation, you may determine the registered agent and registered office for a Texas corporation by calling the Office of the Secretary of State at (512) 463-5555 or (512) 463-5701. The registered agent at the registered office should be the person to whom the notice is directed in the case of a corporate entity.
 9. Insert in the form the name of the person, the address where notice will be sent, and the date. If you find out later that you issued the notice to the wrong person, issue a new notice to the correct person.
 10. Insert in the form the appropriate county or city under your jurisdiction.
 11. Identify whether you are notifying the owner, person in control of the property, the registered agent for the corporate owner, or the registered agent for the corporate person in charge of the property by deleting the language that is not applicable.
 12. Fill in the property description. You may use the legal description provided by the appraisal district for real property, but you are not required to use that legal description. Real property could also be described by a street address or by specific street boundaries or other descriptive language. Other objects, other than real property, should be adequately described, including the location of the object, so that the reader is reasonably notified of the property affected by the notice. Remember that property can mean an object, a parcel of land or a structure, an animal, or other property on a parcel of land.
 13. Briefly describe the communicable disease that you believe may exist. You may, but are not required to, provide any additional information relating to the possible infection or contamination.
 14. You may keep the language in the form relating to medical examination or technical analysis of samples or choose between the two if you definitely know that one or the other is appropriate in your situation.
 15. You may also describe the medical examination or technical analysis of samples in more detail if you wish to do so. You may include an estimate of the time frame or time line for performing the medical examination or technical analysis of samples. In an emergency, the timeframe may be very short.

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16. The law allows you to tag an object for identification of possible infection or contamination. If you will be doing this, describe the object to be tagged. If this does not apply, delete this sentence from the notice.
 17. Decide whether ingress and/or egress should be forbidden and include the language if appropriate.
 18. Insert in the form the county of the courthouse where the notice will be posted, if posting notice is required.
 19. Determine who the contact person will be and complete the appropriate information.
 20. Insert the appropriate county or city reflecting your authority.
 21. Complete the signature block on the form.
 22. No further approvals are necessary before you issue the notice. For example, there is no requirement for approval of the Texas Department of Health, a city council, a county commissioners court, or a court of law.
 23. Send a copy of the notice by registered or certified mail to the person to whom the notice is addressed. You may also hand-deliver a copy of the notice to the person. There is no requirement that your actions to make the notice effective must wait until the person receives the notice. Keep the original notice for your files. You may distribute copies of the notice as needed to law enforcement authorities or other appropriate persons.
 24. If the property is land, or a structure, or an animal, or other property on the land, post the notice on the land in a reasonably visible location and post the notice on the county courthouse door. If posting on the county courthouse door is impossible, post at the courthouse as near as possible to the courthouse door.
 25. Perform or arrange for the performance of the medical examination or technical analysis of samples from the property to determine if the property is infected or contaminated. Consult with the state epidemiologist of the Texas Department of Health as needed for your examination or analysis. Coordination between your office and the department will be crucial.
 26. Notify your local law enforcement agency of any need that you have or foresee to secure the property or to enhance your ability to perform the medical examination or analysis of samples. Share this manual with law enforcement in order to assist them in developing a better understanding of the criminal offenses described in this manual.

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27. If you determine that the property is not infected or contaminated, you must remove the quarantine and return control of the property to the person who owns or controls it. There is no formal written document required in order to do this; however, it is recommended that you document removal of the quarantine and return control of the property at least through a brief letter to the owner or person in control.
 28. If the property is infected or contaminated, the order of control measures to be imposed on property would be your next step.

NOTICE TO PERSON WHO OWNS OR CONTROLS PROPERTY: QUARANTINE OF PROPERTY

To: (name of person and address to which notice will be sent)

Date: _____

This notice is issued under the Texas Health and Safety Code, § 81.084 relating to the application of control measures to property. I am the local health authority for the (County of _____) (City of _____) (public health district for the City of _____ and/or County of _____). As the local health authority, I am authorized by law to issue this notice.

Based on information available, you have been identified as the (owner) (person in control) (registered agent for the corporate owner) (registered agent for the corporate person in control) of the following property located within the (County of _____) (City of _____): (describe property).

As the local health authority, I have reasonable cause to believe that the described property is or may be infected or contaminated with a communicable disease. Specifically, (briefly describe disease and information relating to the possible infection or contamination).

The property is hereby placed in quarantine for the period of time necessary for a medical examination or technical analysis of samples taken from the property to determine if the property is infected or contaminated. The examination or analysis will be performed by my office or under the direction of my office. The Texas Department of Health may also be involved in the examination or analysis. You are not required to perform the examination or analysis. You will not be required to pay for the examination or analysis.

(In addition, I have or will shortly tag the following object(s) for identification of possible infection or contamination: (describe objects).)

You must cooperate in allowing this notice to be put into effect. If the property is not infected or contaminated, the quarantine will be removed and control of the property will be returned to you. If the property is infected or contaminated, I will issue a written order under which control measures to disinfect or decontaminate the property, to secure the property, or to destroy the property may be required.

(All ingress to and egress from the property is forbidden, except for authorized health and law enforcement personnel.)

If the property is land or a structure or an animal or other property on land, this notice shall be posted on the land and on the courthouse door for the County of _____.

There are penalties for noncompliance with this notice. It is a crime to knowingly refuse to perform or allow the performance of control measures on property as ordered by a local health authority or the Texas Department of Health or to knowingly conceal an infected object that is the subject of an investigation by either. Both crimes are Class B misdemeanors and could result in up to 180 days in jail and/or up to a \$2,000 fine.

If you have any questions, please contact (me by the means described below) _____).

This notice is issued under my authority as the local health authority for the (County of _____) (City of _____) (public health district for County of _____ and/or City of _____).

(This notice is issued under my authority as the Texas Department of Health regional director for the region that encompasses the described property. I am authorized by law to perform the duties of the local health authority because there is no appointed local health authority for the jurisdiction that includes the property.)

Signature: _____

Date: _____

Printed name: _____

Physical address: _____

Mailing address: _____

Telephone: _____

Email: _____

Fax: _____

Instructions on use of the “Order of Control Measures to be Imposed on Property”

If you determine that property previously addressed in a “Notice to Person Who Owns or Controls Property: Quarantine of Property” is infected or contaminated with a communicable disease, by written order you may require the person who owns or controls the property to impose control measures that are technically feasible to disinfect or decontaminate the property. If there is not a technically feasible control measure available for use, you may order the person who owns or controls the property to take certain actions to secure the property or destroy the property. In addition, if you have issued one order of control measures to be imposed on the property and those control measures have been ineffective, you may issue a further order to destroy the property or secure the property. The attached form may be used under any of those circumstances.

1. Make sure that you continue to be aware of the provisions in Section 81.084 relating to the application of control measures to property and the other provisions cited in the instructions on the notice. Make sure you issued the proper notice. In an emergency situation, it is possible that the notice and any previous order may have been issued very shortly before this order, e.g., earlier in the same day.
2. Once the property is determined to be infected or contaminated, determine which situation applies in this case: (1) there are control measures that are technically feasible to disinfect or decontaminate the property; (2) there are not technically feasible control measures available for use; or (3) a previous order for control measures has been issued but those control measures have been ineffective. Keep the applicable provision in mind as you complete the order.
3. Insert in the form the name and address of the person to whom the order will be sent. This should be the same person who was listed on the notice. The address may or may not be the same as the address on the notice.
4. Insert in the form the date and the appropriate county or city.
5. Determine whether the notice is going to the owner, person in control, registered agent for the corporate owner, or registered agent for the corporate person in control of the property and delete the language that is not applicable. Attach a copy of the notice issued for the property to the executed order.

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6. Insert in the form a brief description of the communicable disease. You may include any information relating to the infection or contamination. If the property to which this order will apply is less than all of the property included in the original notice, you should describe adequately the property to which the order will apply.
 7. If controls measures are technically feasible to disinfect or decontaminate, choose option 1 on the form below, which contains 2 paragraphs, and delete option 2, which has 2 paragraphs.
 8. In option 1 describe the control measures that the person is required to impose.
 9. In option 1 describe the expectations of who will conduct or perform the control measures and how the imposition of the control measures will be funded, to the extent known.
 10. If there is not a technically feasible control measure available for use on the property, choose option 2, and delete the option 1 paragraphs.
 11. Under option 2, determine whether destruction of the property, secure fencing of the property, or secure sealing off of the property is necessary. You may choose a combination of any of these measures.
 12. Under option 2, you may determine that destruction, fencing, or sealing should apply to only a portion of the property.
 13. Under option 2, adequately describe the destruction, fencing, or sealing that you are ordering.
 14. If you have previously issued an order under option 1, and the control measures previously ordered for this property have been ineffective, choose option 2 and delete the option 1 paragraphs.
 15. Under option 2, describe any expectations relating to how the control measures will be conducted, performed or funded, to the extent known.
 16. Determine who the contact person will be and complete the appropriate information.
 17. Insert the appropriate county or city reflecting your authority.
 18. Complete the signature block on the form.
 19. No further approvals are necessary before you issue the order. For example, there is no requirement for approval of the Texas Department of Health, a city council, a county commissioners court, or a court of law.

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20. Send a copy of the order by registered or certified mail to the person to whom the order is addressed. Include the previous notice as an attachment to the order. You should also hand-deliver a copy of the order to the person. You will not be able to enforce any requirement for the person to perform control measures until the person actually receives a copy of the order. Keep the original order for your files. You may distribute copies of the order as needed to law enforcement authorities or other appropriate persons.
 21. Perform or monitor the performance of the control measures that you ordered.
 22. Consult with the state epidemiologist at the Texas Department of Health as needed.
 23. Notify your local law enforcement agency of any need that you have or foresee to secure the property or to enhance your ability to enforce your order. Share this manual with law enforcement in order to assist them in developing a better understanding of the criminal offenses described in this manual.
 24. If you determine that the property is no longer infected or contaminated, you must remove the quarantine and return control of the property to the person who owns or controls it. There is no formal written document required in order to do this; however, it is recommended that you document removal of the quarantine and return control of the property at least through a brief letter to the owner or person in control.
 25. If you have reason to believe that the property is or may be infected or contaminated with a communicable disease that presents an immediate threat to the public health, and a person has failed or refused to comply with an order from you, you may petition a county or district court of the county in which the property is located for orders necessary for public health. There is no specific form required to petition the court. Your city, county, or district attorney should be able to quickly put together a petition for a temporary restraining order citing the reasonable belief that the property may be infected with a communicable disease, the immediate threat to the public health, and the previous order.

ORDER OF CONTROL MEASURES TO BE IMPOSED ON PROPERTY

To: (name of person and address where order will be sent)

Date issued: _____

This order is issued under the Texas Health and Safety Code, § 81.084 relating to the application of control measures to property. I am the local health authority for the (County of _____) (City of _____) (public health district for the City of _____ and/or County of _____). As the local health authority, I am authorized by law to issue this order.

You have previously been issued a notice of the quarantine of certain property for which you are the (owner) (person in control) (registered agent for the corporate owner) (registered agent for the corporate person in control) of the property. A copy of the notice, including the property description, is attached and made a part of this order.

A medical examination or technical analysis of samples taken from the described property has been performed. The property is infected or contaminated with a communicable disease. Specifically, (briefly describe disease and information relating to the infection or contamination).

Option 1: You are ordered to impose the following control measures that are technically feasible to disinfect or decontaminate the property: (describe control measures that the person is required to impose). You are required to put these control measures into place or ensure that they are put into place. You are required to pay for these control measures (except as follows: describe any of the measures which the city, county, district, or other entity will conduct and/or fund.)

If the control measures are effective, this quarantine shall be removed and control of the property will be returned to you. If the control measures are ineffective, or if it is determined that there is not a technically feasible control measure available for use, further orders, including court orders, may be issued. A court order may also be issued if there is an immediate threat to the public health.

Option 2: It has been determined that there is not a technically feasible control measure available for use to disinfect or decontaminate the property (or the control measures previously ordered for this property have been ineffective). Therefore, the quarantine is continued and you are ordered to do the following: (to destroy the property in a manner that disinfects or decontaminates the property to prevent the spread of infection or contamination by the following means: _____) (to securely fence the perimeter of the property) (to securely fence the following part of the property: _____) (to securely seal off the following infected or contaminated structure or other property on the described property to prevent entry into the infected or contaminated area until the quarantine is removed: _____).

You are required to put these control measures into place or ensure that they are put into place. You are required to pay for these control measures (except as follows: describe any of the measures which the city, county, district, or other entity will conduct and/or fund.)

There are penalties for noncompliance with this order. You may be assessed all expenses of implementing control measures, court costs, and other justifiable expenses. You may be assessed expenses for the costs of control measures performed by the Texas Department of Health's or local health authority's employees. No assessment of such costs or expenses is being made at this time.

Criminal penalties are also possible. It is a crime to knowingly refuse to perform or allow the performance of control measures on property as ordered by a local health authority or the Texas Department of Health or to knowingly conceal an infected object that is the subject of an investigation by either. Both crimes are Class B misdemeanors and could result in up to 180 days in jail and/or up to a \$2,000 fine.

If you have any questions, please contact (me by the means described below) (_____).

This order is issued under my authority as the local health authority for the (County of _____) (City of _____) (public health district for County of _____ and/or City of _____).

(This order is issued under my authority as the Texas Department of Health regional director for the region that encompasses the described property. I am authorized by law to perform the duties of the local health authority because there is no appointed local health authority for the jurisdiction that includes the property.)

Signature: _____

Date: _____

Printed name: _____

Physical address: _____

Mailing address: _____

Telephone: _____

Email: _____

Fax: _____

Instructions on use of the “Order declaring an Area Quarantine”

1. This order can be used when a local health authority determines that an outbreak of communicable disease has occurred in the state and that an area within the health authority’s jurisdiction is affected by the outbreak.
2. If the above description fits the situation, review the Texas Health and Safety Code, Section 81.085 relating to area quarantine. Also review Section 81.003, which defines communicable disease and other terms, and Section 81.082, relating to the administration of control measures. Note that the control measures stated in the latter section are not an exclusive list of control measures that may be imposed.
3. Consult with your city, county, or district attorney on the statutory requirements.
4. Determine that an outbreak of communicable disease has occurred in Texas and that the area that you are considering for quarantine has been affected. The law does not explain what is meant by the term “affected.” The statute does not say that the outbreak must have actually occurred in the area to be quarantined; it simply requires that the area be somehow affected by the outbreak. A health authority issuing this order should be prepared to justify his or her decision that the quarantined area was affected by the outbreak.
5. Consult with Texas Department of Health personnel relating to communicable disease issues or procedures. Contact the state epidemiologist at the Texas Department of Health, the Bureau of Epidemiology, at (512) 458-7111, extension 7268, fax (512) 458-7689. The Commissioner of Health has similar, but not identical, authority to you to issue an order imposing an area quarantine. You and the department may agree that a commissioner order is more appropriate to a specific situation.
6. The area to be quarantined must be within the boundaries of the city, county, or district for which you are the local health authority. If there is an area outside your jurisdiction that is affected by an outbreak, contact the local health authority in that jurisdiction, or the state epidemiologist so that activities within your jurisdiction and the other jurisdiction can be coordinated.

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7. You may not impose an area quarantine (execute the order) until you have consulted with and obtained the approval of the Commissioner of Health and of the city council and county commissioners court within your jurisdiction that has territory in the affected area.
 8. You may obtain approval of the Commissioner of Health by contacting the state epidemiologist or by contacting the Commissioner of Health at (512) 458-7375, fax (512) 458-7477.
 9. Obtaining the approval of the appropriate city council or county commissioner court will require an open meeting of each governmental body. In the case of a public health emergency, each governing body is authorized to call an emergency meeting with as little as two hours notice under the Open Meetings Act, Government Code, Section 551.045. Such an emergency meeting may also be held by a telephone conference call under Section 551.125
 10. The requirement to consult with and obtain these approvals does not appear to require approval of the order itself. Approval could be given through a motion stating that it is appropriate for you to impose an area quarantine in this situation; however, approval of the completed order is recommended.
 11. Insert in the form the appropriate county or city under your jurisdiction.
 12. Insert in the form a description of the quarantined area. You may use the legal descriptions of real property provided by your appraisal district, but you are not required to use those legal descriptions. Real property could also be described by a street address or by specific street boundaries or other descriptive language. The area could encompass property owned by different property owners.
 13. State what communicable disease has occurred. If you wish, you may describe the outbreak further, but there is no requirement that such a description be included in the order.
 14. Describe the control measures that individuals must follow. You may be specific as to the actual measure, time frame for compliance, reporting requirements, or any other duties or obligations you are ordering individuals to meet.
 15. After execution and publication of the order you may decide that additional control measures need to be imposed. The law does not require that you issue a second order, but your instructions on those additional control measures should be in writing so that appropriate notice can be given to the affected individuals.

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16. Decide whether ingress and egress will be restricted and revise the language if necessary.
 17. You may describe the reasonable means of communication to inform persons of your orders and instructions if you wish to include further description.
 18. Determine who the contact person will be and complete the appropriate information.
 19. Describe when the appropriate city council and/or county commissioners court and the Commissioner of Health gave approval to issue the order.
 20. Insert the appropriate county or city reflecting your authority.
 21. Complete the signature block on the form.
 22. No further approvals are necessary before you issue the order.
 23. You must publish notice of the order at least once each week during the area quarantine period. The notice must be published in a newspaper of general circulation in the area, and must include the order and any further instructions, with a brief explanation of their meaning and affect. Notice by publication is sufficient to inform persons in the area of their rights, duties, and obligations under your orders or instructions.
 24. You may use all reasonable means of communication to inform persons in the quarantine area of your order and instructions during the period of area quarantine. There is no requirement to notify individual property owners, although that is recommended.
 25. Keep the original order for your files. You may distribute copies of the order as needed to persons in the quarantine area, law enforcement authorities, or appropriate persons.
 26. Monitor the performance of the necessary control measures that you ordered. Perform other duties necessary to address the communicable disease outbreak.
 27. Consult with the state epidemiologist at the Texas Department of Health as needed.
 28. Notify your local law enforcement agency of any need that you have or foresee to enforce your order. Share this manual with law enforcement in order to assist them in developing a better understanding of the criminal offenses described in this manual.

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29. If you determine that an area quarantine is no longer necessary, you must first obtain the consent of the Commissioner of Health. Approval by the city council and/or county commissioners court is not required.
 30. When the area quarantine is terminated, you may publish a notice in a local area newspaper or notify persons in any manner you wish.

ORDER DECLARING AN AREA QUARANTINE

This order is issued under the Texas Health and Safety Code, § 81.085 relating to an area quarantine. I am the local health authority for the (County of _____) (City of _____) (public health district for the City of _____ and/or County of _____). As the local health authority, I am authorized by law to issue this order.

By this order I am imposing an area quarantine covering: (describe quarantined area)

This order is necessary because an outbreak of a communicable disease has occurred and the described area is affected by the outbreak. The communicable disease is: _____.

By this order individuals in the quarantined area must: (describe control measures that individuals must follow).

Individuals currently in the quarantined area must continue to follow my instructions during the duration of this area quarantine. Additional control measures may be imposed that are necessary and appropriate to arrest, control, and eradicate the threat to public health. Any additional control measures will be stated in further written instructions that I may issue.

Individuals in the quarantined area will not be allowed to leave the area without proper authorization from health or law enforcement authorities. Individuals outside the quarantine area will not be allowed to enter the area without proper authorization from health or law enforcement authorities.

The quarantine will continue for the period of time necessary to arrest, control, and eradicate the threat to public health. Once the area has been determined not to pose a threat to public health, the area quarantine will be terminated.

Notice of this order and any further instructions shall be published at least once each week during the area quarantine period in a newspaper of general circulation in the area and will include a brief explanation of the meaning and effect of this order and instructions. I may use other reasonable means of communication to inform persons in the quarantine area of my orders and instructions.

There are penalties for noncompliance with this order. It is a criminal offense to knowingly fail or refuse to obey this order. This offense is a felony of the third degree and could result in up to 2-10 years in prison and/or up to a \$10,000 fine. It is also a crime to knowingly refuse to perform or allow the performance of control measures ordered here which could result in up to 180 days in jail and/or up to a \$2,000 fine.

If you have questions, please contact (me by the means described below) (_____).

The outbreak of the communicable disease may affect an area(s) that is outside my jurisdiction. In such a case, the local health authority for that area or the Texas Department of Health may issue an order declaring an area quarantine.

The issuance of this order was approved by the city council of the City of _____ at an open meeting on _____.

The issuance of this order was approved by the county commissioners court of the County of _____ at an open meeting on _____.

The issuance of this order was approved by the Commissioner of Health of the Texas Department of Health on _____.

This order is issued under my authority as the local health authority for the (County of _____) (City of _____) (public health district for County of _____ and/or City of _____).

(This order is issued under my authority as the Texas Department of Health regional director for the region that encompasses the described area. I am authorized by law to perform the duties of the local health authority because there is no appointed local health authority for the jurisdiction that includes the area.)

Signature: _____

Date: _____

Printed name: _____

Physical address: _____

Mailing address: _____

Telephone: _____

Email: _____

Fax: _____

Instructions on using the forms for carrier or conveyance control measures (§81.086)

This statute assumes that a vehicle, cargo, or person with a communicable disease has unknowingly come into this state. A separate statute covers the actions of a person who “knowingly or intentionally transports or causes to be transported into this state,” a person, animal or object. Depending on the circumstances this may be a Class A misdemeanor, or a third degree felony (up to 10 years and/or \$10,000). If you suspect this may have occurred, you should involve local law enforcement immediately.

Section 81.086(b) allows authorities to stop a carrier or conveyance and gather information when there is reasonable cause to believe it has departed from or traveled through an area infected or contaminated with a communicable disease. The statute allows control measures to be imposed in three distinct circumstances: 1) where there is reasonable cause to believe the carrier has “departed from or traveled through an area infected” and “is or may be infected or contaminated with a communicable disease” (81.086(c)); 2) where there is reasonable cause to believe the carrier is “is transporting cargo or an object that is or may be infected” (81.086(h)); or, 3) where “an individual [is] transported by carrier or conveyance who the department or health authority has reasonable cause to believe has been exposed to or is the carrier of a communicable disease...” (81.086(i)). Instructions that conform to each of these circumstances are provided below.

Steps

1. Read §81.086 carefully. Also, review § 81.003, which defines communicable disease and other terms, and § 81.082 relating to the administration of control measures. Note that the control measures articulated in the latter section are not an exclusive list of control measures that may be imposed. Consult with your city, county, or district attorney on the statutory requirements.
2. Determine that you have “reasonable cause” to believe in the presence of circumstances described in §81.086 (b), (h), or (i).
3. If necessary, consult your staff communicable disease expert, or the state epidemiologist with the Texas Department of Health (512) 458-7111, ext. 7268), and determine the appropriate control measure(s).
4. The “owner, operator, or authorized agent in control of the carrier or conveyance” should be ordered to stop “at a port of entry or place of first landing or first arrival in this state.” (§81.086(b)(1))

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5. Insert in the form the name of the person and the address where notice will be sent, if appropriate.
 6. Insert in the form the appropriate county or city under your jurisdiction.
 7. The “owner, operator, or authorized agent in control of the carrier or conveyance” should be ordered to “provide a statement in a form approved by the board that includes information required the board” (§ 81.086(b)(2)) (see form below).
 8. Notify your local law enforcement agency of any need that you have or foresee for security of the carrier or conveyance. Share this manual with law enforcement in order to assist them in developing a better understanding of the criminal offenses described in this manual.
 9. The remaining steps you take will depend on which provisions of the statute you are invoking.
 10. If you are invoking §81.086(c) (you have “...reasonable cause to believe that a carrier or conveyance that has departed from or traveled through an infected or contaminated area is or may be infected or contaminated with a communicable disease”), you should take the following additional steps to impose the control measures after inspection.
 11. You may “impose necessary technically feasible control measures” on the carrier or any item or individual transported by the carrier (§ 81.086(c)) (see form below). These control measures should be those provided for under §81.083 (application of control measures to an individual) or §81.084 (application of control measures to property).
 12. If you are invoking §81.086(h) (you have “...reasonable cause to believe that a carrier or conveyance is transporting cargo or an object that is or may be infected or contaminated with a communicable disease”), you should take the following additional steps to impose the control measures.
 13. The “owner, operator, or authorized agent in control of the carrier or conveyance” should be ordered to place the “cargo or object (to) be transported in secure confinement or sealed in a car, trailer, hold, or compartment, as appropriate” (§81.086(h)(1)) or you can “require that the cargo or object be unloaded at an alternate location” (§81.086(h)(2)). The form labeled “(Cargo Contaminated)” has alternate wording depending on which of these alternatives are selected.

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14. A third alternative is to “investigate and, if necessary, quarantine the cargo or object and any required control measure as authorized by Section 81.084.” (§81.086(h)(3)). A form labeled “(Cargo Control Measures)” is provided for this option. This provision relies on §81.084 for its authority, and the notice and form for invoking this statute should be used. It has provisions that allow control measures up to and including destruction of the property, but requires that notice be given to the owner.

If you are invoking §81.086(i) (“...an individual transported by carrier or conveyance who the...health authority has reasonable cause to believe has been exposed to or is the carrier of a communicable disease”), you should follow the same steps as you would for any other imposition of control measures on an individual. Section 81.083 authorizes you to take any such steps “...reasonable and necessary to prevent the introduction, transmission, and spread of disease in this state.” Subsection 81.086(i) allows you to “...require an individual...to be isolated from other travelers and to disembark with the individual’s personal effects and baggage at the first location equipped with adequate investigative and disease control facilities...” but you also have the authority to issue such orders under §81.083. The reference, in the final sentence, to §81.084, appears to be an error. The reference should be to §81.083.

ORDER FOR COLLECTION OF INFORMATION ON DETAINED COMMON CARRIER (§81.086(b)(2))

To:

This order is issued under the Texas Health and Safety Code, §81.086 relating to the application of control measures to Private and Common Carriers and Private Conveyances. I am the local health authority for the (County of _____) (City of _____) (public health district for the County of _____ and/or City of _____).

You have been identified as the owner, operator, or authorized agent in control of the carrier or conveyance identified below:

[Describe carrier or vehicle as particularly as possible, including license numbers or other identifying numbers or markings]

As required by Texas Health and Safety Code §81.086(b), please provide the following information in writing from your own knowledge, or documents, cargo manifests, etc.:

- 1) List each passenger carried.
- 2) Describe all cargo carried.
- 3) Describe any illness or suspected illness experienced by any operator, crew, or passenger.
- 4) Describe any condition on board the carrier or conveyance during the journey that may lead to the spread of disease.
- 5) Describe any medical or health instructions provided to you or imposed on the carrier or conveyance, its passengers or crew, or its cargo or any other object on board during the journey.

You must provide this information to me by _____ (p.m.) (a.m.) on _____, 2002. You may be issued a written order to require you to impose necessary technically feasible control measures to prevent the introduction and spread of communicable disease in this state.

If you have any questions, please contact (me by the means described below) (_____)

Issued under my authority as the local health authority for the (County of _____) (City of _____) (public health district for the County of _____ and/or City of _____)

(Issued under my authority as the Texas Department of Health regional director for the region in which the described carrier is located. I am authorized by law to perform the duties of the local health authority because there is no appointed local health authority for the jurisdiction that includes the property.)

Signature: _____

Date: _____

Printed name: _____

Physical address: _____

Mailing address: _____

Telephone: _____

Email: _____

Fax: _____

ORDER OF CONTROL MEASURE APPLIED TO COMMON CARRIER OR PRIVATE CONVEYANCE (Transit Through Contaminated Area)

To:

This order is issued under the Texas Health and Safety Code, §81.086 relating to the application of control measures to Private and Common Carriers and Private Conveyances. I am the local health authority for the (County of _____) (City of _____) (public health district for the County of _____ and/or City of _____). As the local health authority, I am authorized by law to issue this order.

Based on information available you have been identified as the owner, operator, or authorized agent in control of the carrier or conveyance identified below:

[Describe carrier or vehicle as particularly as possible, including license numbers or other identifying numbers or markings]

As the local health authority and after inspection, I have reasonable cause to believe that the carrier or conveyance described above has departed from or traveled through an area that is infected or contaminated with a communicable disease and is or may be infected or contaminated with a communicable disease.

You are hereby ordered to quarantine or isolate the vehicle, aircraft, or watercraft. It should be moved or relocated only after receiving a written order from the Texas Department of Health or me. You are hereby ordered to allow further inspection of the vehicle, aircraft, or watercraft or any cargo or object contained therein by me, or the Texas Department of Health, or persons designated by the Texas Department of Health or me.

You are further ordered to impose the following necessary technically feasible control measures:

Following inspection, further control measures as necessary to control the spread of communicable disease may be ordered.

The imposition of this order is necessary as a precautionary control measure associated with an outbreak of _____, a communicable disease.

There are penalties for noncompliance with this notice. It is a crime to knowingly refuse to perform or allow the performance of control measures on property as ordered by a local health authority or the Texas Department of Health or to knowingly conceal an infected object that is the subject of an investigation by either. Both crimes are Class B misdemeanors and could result in up to 180 days in jail and/or up to a \$2,000 fine.

If you have any questions, please contact (me by the means described below) (_____)

Issued under my authority as the local health authority for the (County of _____) (City of _____) (public health district for the County of _____ and/or City of _____)

(Issued under my authority as the Texas Department of Health regional director for the region in which the described carrier is located. I am authorized by law to perform the duties of the local health authority because there is no appointed local health authority for the jurisdiction that includes the property.)

Signature: _____

Date: _____

Printed name: _____

Physical address: _____

Mailing address: _____

Telephone: _____

Email: _____

Fax: _____

ORDER OF CONTROL MEASURE APPLIED TO COMMON CARRIER OR PRIVATE CONVEYANCE (Cargo Contaminated)

To:

This order is issued under the Texas Health and Safety Code, §81.086 relating to the application of control measures to Private and Common Carriers and Private Conveyances. I am the local health authority for the (County of _____) (City of _____) (public health district for the County of _____ and/or City of _____). As the local health authority, I am authorized by law to issue this order.

Based on information available you have been identified as the owner, operator, or authorized agent in control of the carrier or conveyance identified below:

[Describe carrier or vehicle as particularly as possible, including license numbers or other identifying numbers or markings]

As the local health authority I have reasonable cause to believe that the carrier or conveyance described above is transporting cargo or an object that is or may be infected or contaminated with a communicable disease. [If possible, describe the specific cargo or object.]

You are hereby ordered to place the cargo or object in secure confinement or seal it in a car, trailer, hold, or compartment as appropriate, and specified below by my orders, while the cargo or object is being transported through the State of Texas. It should not be moved or relocated from such seal or confinement unless you receive a written order from the Texas Department of Health or me. You are hereby ordered to allow inspection of the vehicle, aircraft, or watercraft or any cargo or object contained therein by me, or the Texas Department of Health, or persons designated by the Texas Department of Health or me. [This language should be accompanied with more specific orders on how the cargo or object should be sealed or inspected or both.]

OR

You are hereby ordered to unload the cargo or object at an alternate location equipped with adequate investigative and disease control facilities if the cargo or object is being transported to an intermediate or ultimate destination in the State of Texas that cannot provide the necessary facilities. It should not be moved or relocated from this facility unless you receive a written order from the Texas Department of Health or me. You are hereby ordered to allow inspection of the vehicle, aircraft, or watercraft or any cargo or object contained therein by me, or the Texas Department of Health, or persons designated by the Texas Department of Health or me. [This language should be accompanied with more specific orders on how and where the cargo or object should be detained.]

Following inspection, further quarantine and control measures as necessary to control the spread of communicable disease may be ordered.

There are penalties for noncompliance with this order. It is a crime to knowingly refuse to perform or allow the performance of control measures on property as ordered by a local health authority or the Texas Department of Health or to knowingly conceal an infected object that is the subject of an investigation by either. Both crimes are Class B misdemeanors and could result in up to 180 days in jail and/or up to a \$2,000 fine.

If you have any questions, please contact (me by the means described below) (_____)

Issued under my authority as the local health authority for the (County of _____) (City of _____) (public health district for the County of _____ and/or City of _____)

(Issued under my authority as the Texas Department of Health regional director for the region in which the described carrier is located. I am authorized by law to perform the duties of the local health authority because there is no appointed local health authority for the jurisdiction that includes the property.)

Signature: _____

Date: _____

Printed name: _____

Physical address: _____

Mailing address: _____

Telephone: _____

Email: _____

Fax: _____

ORDER OF CONTROL MEASURE APPLIED TO COMMON CARRIER OR PRIVATE CONVEYANCE (Cargo Control Measures)

To:

This order is issued under the Texas Health and Safety Code, §81.086 relating to the application of control measures to Private and Common Carriers and Private Conveyances, and §81.084 relating to the application of Control Measures to Property. I am the local health authority for the (County of _____) (City of _____) (public health district for the County of _____ and/or City of _____). As the local health authority, I am authorized by law to issue this order.

Based on information available you have been identified as the owner, operator, or authorized agent in control of the carrier or conveyance identified below:

[Describe carrier or vehicle as particularly as possible, including license numbers or other identifying numbers or markings]

As the local health authority I have reasonable cause to believe that a carrier or conveyance described above is transporting cargo or an object that is or may be infected or contaminated with a communicable disease. [If possible, describe the specific cargo or object]

You are hereby ordered to isolate and quarantine the cargo and impose upon it the following control measures. [this language should be accompanied with more specific orders on the control measures imposed on the cargo or object: e.g., disinfection, destruction, detention for a specific period, etc.]

Following inspection, further quarantine and control measures as necessary to control the spread of communicable disease may be ordered.

There are penalties for noncompliance with this order. It is a crime to knowingly refuse to perform or allow the performance of control measures on property as ordered by a local health authority or the Texas Department of Health or to knowingly conceal an infected object that is the subject of an investigation by either. Both crimes are Class B misdemeanors and could result in up to 180 days in jail and/or up to a \$2,000 fine.

If you have any questions, please contact (me by the means described below) (_____)

Issued under my authority as the local health authority for the (County of _____) (City of _____) (public health district for the County of _____ and/or City of _____)

(Issued under my authority as the Texas Department of Health regional director for the region in which the described carrier is located. I am authorized by law to perform the duties of the local health authority because there is no appointed local health authority for the jurisdiction that includes the property.)

Signature: _____

Date: _____

Printed name: _____

Physical address: _____

Mailing address: _____

Telephone: _____

Email: _____

Fax: _____

Statutes & Rules

These laws are provided for your convenience and are believed to be accurate at the time they were compiled (2002). However, statutes and rules may be changed or their provisions construed by courts. Please consult your attorney to make sure the law has not changed.

Health and Safety Code Chapter 81. COMMUNICABLE DISEASES (pertinent provisions).

SUBCHAPTER A. GENERAL PROVISIONS

§ 81.001. Short Title

This chapter may be cited as the Communicable Disease Prevention and Control Act.

§ 81.002. Responsibility of State and Public

The state has a duty to protect the public health. Each person shall act responsibly to prevent and control communicable disease.

§ 81.003. Definitions

In this chapter:

- (1) “Communicable disease” means an illness that occurs through the transmission of an infectious agent or its toxic products from a reservoir to a susceptible host, either directly, as from an infected person or animal, or indirectly through an intermediate plant or animal host, a vector, or the inanimate environment.
- (2) “Health authority” means a physician appointed as such under Chapter 121 (Local Public Health Reorganization Act).

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- (3) “Health professional” means an individual whose:
 - (A) vocation or profession is directly or indirectly related to the maintenance of the health of another individual or of an animal; and
 - (B) duties require a specified amount of formal education and may require a special examination, certificate or license, or membership in a regional or national association.
 - (4) “Local health department” means a department created under Chapter 121 (Local Public Health Reorganization Act).
 - (5) “Physician” means a person licensed to practice medicine by the Texas State Board of Medical Examiners.
 - (6) “Public health district” means a district created under Chapter 121 (Local Public Health Reorganization Act).
 - (7) “Regional director” means a physician appointed as such under Chapter 121 (Local Public Health Reorganization Act).
 - (8) “Reportable disease” includes only a disease or condition included in the list of reportable diseases.
 - (9) “Resident of this state” means a person who:
 - (A) is physically present and living voluntarily in this state;
 - (B) is not in the state for temporary purposes; and
 - (C) intends to make a home in this state, which may be demonstrated by the presence of personal effects at a specific abode in the state; employment in the state; possession of a Texas driver’s license, motor vehicle registration, voter registration, or other similar documentation; or other pertinent evidence.
 - (10) “School authority” means:
 - (A) the superintendent of a public school system or the superintendent’s designee; or
 - (B) the principal or other chief administrative officer of a private school.
 - (11) “Sexually transmitted disease” means an infection, with or without symptoms or clinical manifestations, that may be transmitted from one person to another during, or as a result of, sexual relations between two persons and that may:

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- (A) produce a disease in, or otherwise impair the health of, either person; or
 - (B) cause an infection or disease in a fetus in utero or a newborn.

§ 81.007. Limitation on Liability

A private individual performing duties in compliance with orders or instructions of the department or a health authority issued under this chapter is not liable for the death of or injury to a person or for damage to property, except in a case of wilful misconduct or gross negligence.

§ 81.009. Exemption From Medical Treatment

- (a) This chapter does not authorize or require the medical treatment of an individual who chooses treatment by prayer or spiritual means as part of the tenets and practices of a recognized church of which the individual is an adherent or member. However, the individual may be isolated or quarantined in an appropriate facility and shall obey the rules, orders, and instructions of the department or health authority while in isolation or quarantine.
- (b) An exemption from medical treatment under this section does not apply during an emergency or an area quarantine or after the issuance by the governor of an executive order or a proclamation under Chapter 418, Government Code (Texas Disaster Act of 1975)

SUBCHAPTER C. REPORTS AND REPORTABLE DISEASES

§ 81.042. Persons Required to Report

- (a) A report under Subsection (b), (c), or (d) shall be made to the local health authority or, if there is no local health authority, the regional director.
- (b) A dentist or veterinarian licensed to practice in this state or a physician shall report, after the first professional encounter, a patient or animal examined that has or is suspected of having a reportable disease.

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- (c) A local school authority shall report a child attending school who is suspected of having a reportable disease. The board by rule shall establish procedures to determine if a child should be suspected and reported and to exclude the child from school pending appropriate medical diagnosis or recovery.
 - (d) A person in charge of a clinical or hospital laboratory, blood bank, mobile unit, or other facility in which a laboratory examination of a specimen derived from a human body yields microscopical, cultural, serological, or other evidence of a reportable disease shall report the findings, in accordance with this section and procedures adopted by the board, in the jurisdiction in which:
 - (1) the physician's office is located, if the laboratory examination was requested by a physician; or
 - (2) the laboratory is located, if the laboratory examination was not requested by a physician.
 - (e) The following persons shall report to the local health authority or the department a suspected case of a reportable disease and all information known concerning the person who has or is suspected of having the disease if a report is not made as required by Subsections (a)–(d):
 - (1) a professional registered nurse;
 - (2) an administrator or director of a public or private temporary or permanent child-care facility;
 - (3) an administrator or director of a nursing home, personal care home, maternity home, adult respite care center, or adult day-care center;
 - (4) an administrator of a home health agency;
 - (5) an administrator or health official of a public or private institution of higher education;
 - (6) an owner or manager of a restaurant, dairy, or other food handling or processing establishment or outlet;
 - (7) a superintendent, manager, or health official of a public or private camp, home, or institution;
 - (8) a parent, guardian, or householder;
 - (9) a health professional; or
 - (10) an administrator or health official of a penal or correctional institution.

§ 81.043. Records and Reports of Health Authority and Regional Director

- (a) Each health authority or regional director shall keep a record of each case of a reportable disease that is reported to the authority or director.
- (b) A health authority or regional director shall report reportable diseases to the department's central office at least as frequently as the interval set by board rule.

SUBCHAPTER D. INVESTIGATION AND INSPECTION

§ 81.061. Investigation

- (a) The department shall investigate the causes of communicable disease and methods of prevention.
- (b) The department may require special investigations of specified cases of disease to evaluate the status in this state of epidemic, endemic, or sporadic diseases. Each health authority shall provide information on request according to the department's written instructions.
- (c) The department may investigate the existence of communicable disease in the state to determine the nature and extent of the disease and to formulate and evaluate the control measures used to protect the public health. A person shall provide records and other information to the department on request according to the department's written instructions.

§ 81.066. Concealing Communicable Disease or Exposure to Communicable Disease; Criminal Penalty

- (a) A person commits an offense if the person knowingly conceals or attempts to conceal from the board, a health authority, or a peace officer, during the course of an investigation under this chapter, the fact that:
 - (1) the person has, has been exposed to, or is the carrier of a communicable disease that is a threat to the public health; or
 - (2) a minor child or incompetent adult of whom the person is a parent, managing conservator, or guardian has, has been exposed to, or is the carrier of a communicable disease that is a threat to the public health.
- (b) An offense under this section is a Class B misdemeanor.

§ 81.067. Concealing, Removing, or Disposing of an Infected or Contaminated Animal, Object, Vehicle, Watercraft, or Aircraft; Criminal Penalty

- (a) A person commits an offense if the person knowingly conceals, removes, or disposes of an infected or contaminated animal, object, vehicle, watercraft, or aircraft that is the subject of an investigation under this chapter by the board, a health authority, or a peace officer.
- (b) An offense under this Section is a Class B misdemeanor.

§ 81.068. Refusing Entry; Criminal Penalty

- (a) A person commits an offense if the person knowingly refuses or attempts to refuse entry to the board, a health authority, or a peace officer on presentation of a valid search warrant to investigate, inspect, or take samples on premises controlled by the person or by an agent of the person acting on the person's instruction.
- (b) An offense under this section is a Class A misdemeanor.

SUBCHAPTER E. CONTROL

§ 81.081. Board's Duty

The board shall impose control measures to prevent the spread of disease in the exercise of its power to protect the public health.

§ 81.082. Administration of Control Measures

- (a) A health authority has supervisory authority and control over the administration of communicable disease control measures in the health authority's jurisdiction unless specifically preempted by the board. Control measures imposed by a health authority must be consistent with, and at least as stringent as, the control measure standards in rules adopted by the board.

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- (b) A communicable disease control measure imposed by a health authority in the health authority's jurisdiction may be amended, revised, or revoked by the board if the board finds that the modification is necessary or desirable in the administration of a regional or statewide public health program or policy. A control measure imposed by the department may not be modified or discontinued until the department authorizes the action.
 - (c) The control measures may be imposed on an individual, animal, place, or object, as appropriate.
 - (d) In this section, "control measures" includes:
 - (1) immunization;
 - (2) detention;
 - (3) restriction;
 - (4) disinfection;
 - (5) decontamination;
 - (6) isolation;
 - (7) quarantine;
 - (8) disinfestation;
 - (9) chemoprophylaxis;
 - (10) preventive therapy;
 - (11) prevention; and
 - (12) education.

§ 81.083. Application of Control Measures to Individual

- (a) Any person, including a physician, who examines or treats an individual who has a communicable disease shall instruct the individual about:
 - (1) measures for preventing reinfection and spread of the disease; and
 - (2) the necessity for treatment until the individual is cured or free from the infection.

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- (b) If the department or a health authority has reasonable cause to believe that an individual is ill with, has been exposed to, or is the carrier of a communicable disease, the department or health authority may order the individual, or the individual's parent, legal guardian, or managing conservator if the individual is a minor, to implement control measures that are reasonable and necessary to prevent the introduction, transmission, and spread of the disease in this state.
 - (c) An order under this section must be in writing and be delivered personally or by registered or certified mail to the individual or to the individual's parent, legal guardian, or managing conservator if the individual is a minor.
 - (d) An order under this section is effective until the individual is no longer infected with a communicable disease or, in the case of a suspected disease, expiration of the longest usual incubation period for the disease.
 - (e) An individual may be subject to court orders under Subchapter G if:
 - (1) the individual, or the individual's parent, legal guardian, or managing conservator if the individual is a minor, does not comply with the written orders of the department or a health authority under this section; and
 - (2) the individual is infected or is reasonably suspected of being infected with a communicable disease that presents an immediate threat to the public health.
 - (f) An individual who is the subject of court orders under Subchapter G shall pay the expense of the required medical care and treatment except as provided by Subsections (g)–(i).
 - (g) A county or hospital district shall pay the medical expenses of a resident of the county or hospital district who is:
 - (1) indigent and without the financial means to pay for part or all of the required medical care or treatment; and
 - (2) not eligible for benefits under an insurance contract, group policy, or prepaid health plan, or benefits provided by a federal, state, county, or municipal medical assistance program or facility.
 - (h) The state may pay the medical expenses of a nonresident individual who is:

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- (1) indigent and without the financial means to pay for part or all of the required medical care and treatment; and
 - (2) not eligible for benefits under an insurance contract, group policy, or prepaid health plan, or benefits provided by a federal, state, county, or municipal medical assistance program.
 - (i) The provider of the medical care and treatment under Subsection (h) shall certify the reasonable amount of the required medical care to the comptroller. The comptroller shall issue a warrant to the provider of the medical care and treatment for the certified amount.
 - (j) The department may:
 - (1) return a nonresident individual involuntarily hospitalized in this state to the program agency in the state in which the individual resides; and
 - (2) enter into reciprocal agreements with the proper agencies of other states to facilitate the return of individuals involuntarily hospitalized in this state.

§ 81.084. Application of Control Measures to Property

- (a) If the department or a health authority has reasonable cause to believe that property in its jurisdiction is or may be infected or contaminated with a communicable disease, the department or health authority may place the property in quarantine for the period necessary for a medical examination or technical analysis of samples taken from the property to determine if the property is infected or contaminated. The department or health authority may tag an object for identification with a notice of possible infection or contamination.
- (b) The department or health authority shall send notice of its action by registered or certified mail to the person who owns or controls the property. If the property is land or a structure or an animal or other property on the land, the department or health authority shall also post the notice on the land and on the courthouse door.
- (c) The department or health authority shall remove the quarantine and return control of the property to the person who owns or controls it if the property is found not to be infected or contaminated. The department or health authority by written order may require the person

who owns or controls the property to impose control measures that are technically feasible to disinfect or decontaminate the property if the property is found to be infected or contaminated.

- (d) The department or health authority shall remove the quarantine and return control of the property to the person who owns or controls it if the control measures are effective. If the control measures are ineffective or if there is not a technically feasible control measure available for use, the department or health authority may continue the quarantine and order the person who owns or controls the property:
 - (1) to destroy the property, other than land, in a manner that disinfects or decontaminates the property to prevent the spread of infection or contamination;
 - (2) if the property is land, to securely fence the perimeter of the land or any part of the land that is infected or contaminated; or
 - (3) to securely seal off an infected or contaminated structure or other property on land to prevent entry into the infected or contaminated area until the quarantine is removed by the board or health authority.
- (e) The department or health authority may petition the county or district court of the county in which the property is located for orders necessary for public health if:
 - (1) a person fails or refuses to comply with the orders of the department or health authority as required by this section; and
 - (2) the department or health authority has reason to believe that the property is or may be infected or contaminated with a communicable disease that presents an immediate threat to the public health.
- (f) After the filing of a petition, the court may grant injunctive relief for the health and safety of the public.
- (g) The person who owns or controls the property shall pay all expenses of implementing control measures, court costs, storage, and other justifiable expenses. The court may require the person who owns or controls the property to execute a bond in an amount set by the court to ensure the performance of any control measures, restoration, or destruction ordered by the court. If the property is an object, the bond may not exceed the value of the object in a noninfected or noncontaminated state. The

bond shall be returned to the person when the department or health authority informs the court that the property is no longer infected or contaminated or that the property has been destroyed.

- (h) If the court finds that the property is not infected or contaminated, it shall order the department or health authority to:
 - (1) remove the quarantine;
 - (2) if the property is an object, remove the quarantine tags; and
 - (3) release the property to the person who owns or controls it.
- (i) The department or health authority, as appropriate, shall charge the person who owns or controls the property for the cost of any control measures performed by the department's or health authority's employees. The department shall deposit the payments received to the credit of the general revenue fund to be used for the administration of this chapter. A health authority shall distribute payments received to each county, municipality, or other jurisdiction in an amount proportional to the jurisdiction's contribution to the quarantine and control expense.
- (j) In this section, "property" means:
 - (1) an object;
 - (2) a parcel of land; or
 - (3) a structure, animal, or other property on a parcel of land.

§ 81.085 Area Quarantine; Criminal Penalty

- (a) If an outbreak of communicable disease occurs in this state, the commissioner or one or more health authorities may impose an area quarantine coextensive with the area affected. A health authority may impose the quarantine only within the boundaries of the health authority's jurisdiction.
- (b) A health authority may not impose an area quarantine until the authority consults with and obtains the approval of the commissioner and of the governing body of each county and municipality in the health authority's jurisdiction that has territory in the affected area.
- (c) Absent preemptive action by the board under this chapter or by the governor under Chapter 418, Government Code (Texas Disaster Act of 1975), a health authority may impose in a quarantine area under the

authority's jurisdiction additional disease control measures that the health authority considers necessary and most appropriate to arrest, control, and eradicate the threat to the public health.

- (d) If an affected area includes territory in an adjacent state, the department may enter into cooperative agreements with the appropriate officials or agencies of that state to:
 - (1) exchange morbidity, mortality, and other technical information;
 - (2) receive extrajurisdictional inspection reports;
 - (3) coordinate disease control measures;
 - (4) disseminate instructions to the population of the area, operators of interstate private or common carriers, and private vehicles in transit across state borders; and
 - (5) participate in other public health activities appropriate to arrest, control, and eradicate the threat to the public health.
- (e) The department or health authority may use all reasonable means of communication to inform persons in the quarantine area of the board's or health authority's orders and instructions during the period of area quarantine. The department or health authority shall publish at least once each week during the area quarantine period, in a newspaper of general circulation in the area, a notice of the orders or instructions in force with a brief explanation of their meaning and effect. Notice by publication is sufficient to inform persons in the area of their rights, duties, and obligations under the orders or instructions.
- (f) The commissioner or, with the commissioner's consent, a health authority may terminate an area quarantine.
- (g) To provide isolation and quarantine facilities during an area quarantine, the commissioner's court of a county, the governing body of a municipality, or the governing body of a hospital district may suspend the admission of patients desiring admission for elective care and treatment, except for needy or indigent residents for whom the county, municipality, or district is constitutionally or statutorily required to care.
- (h) A person commits an offense if the person knowingly fails or refuses to obey a rule, order, or instruction of the board or an order or instruction of a health authority issued under a board rule and published during an area quarantine under this section. An offense under this subsection is a felony of the third degree.

§ 81.086. Application of Control Measures to Private and Common Carriers and Private Conveyances

- (a) This section applies to any private or common carrier or private conveyance, including a vehicle, aircraft, or watercraft, while the vehicle or craft is in this state.
- (b) If the department or health authority has reasonable cause to believe that a carrier or conveyance has departed from or traveled through an area infected or contaminated with a communicable disease, the department or health authority may order the owner, operator, or authorized agent in control of the carrier or conveyance to:
 - (1) stop the carrier or conveyance at a port of entry or place of first landing or first arrival in this state; and
 - (2) provide a statement in a form approved by the board that includes information required by board rules, including information on passengers and cargo manifests, and that includes the details of:
 - (A) any illness suspected of being communicable that occurred during the journey;
 - (B) any condition on board the carrier or conveyance during the journey that may lead to the spread of disease; and
 - (C) any control measures imposed on the carrier or conveyance, its passengers or crew, or its cargo or any other object on board during the journey.
- (c) The department or health authority may impose necessary technically feasible control measures under Section 81.083 or 81.084 to prevent the introduction and spread of communicable disease in this state if the department or health authority, after inspection, has reasonable cause to believe that a carrier or conveyance that has departed from or traveled through an infected or contaminated area:
 - (1) is or may be infected or contaminated with a communicable disease;
 - (2) has cargo or an object on board that is or may be infected or contaminated with a communicable disease; or
 - (3) has an individual on board who has been exposed to, or is the carrier of, a communicable disease.

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- (d) The owner or operator of a carrier or conveyance placed in quarantine by order of the department or health authority, or of a county or district court under Section 81.083 or 81.084, shall bear the expense of the control measures employed to disinfect or decontaminate the carrier or conveyance. The department or health authority, as appropriate, shall charge and be reimbursed for the cost of control measures performed by the department's or health authority's employees. The board shall deposit the reimbursements to the credit of the general revenue fund to be used to administer this chapter. A health authority shall distribute the reimbursements to each county, municipality, or other governmental entity in an amount proportional to that entity's contribution to the quarantine and control expense.
 - (e) The owner or claimant of cargo or an object on board the carrier or conveyance shall pay the expense of the control measures employed in the manner provided by Section 81.084. The cost of services rendered or provided by the board or health authority is subject to reimbursement as provided by Subsection (d).
 - (f) A crew member, passenger, or individual on board the carrier or conveyance shall pay the expense of control measures employed under Section 81.083. The state may pay the expenses of an individual who is:
 - (1) without the financial means to pay for part or all of the required medical care or treatment; and
 - (2) not eligible for benefits under an insurance contract, group policy, or prepaid health plan, or benefits provided by a federal, state, or local medical assistance program, as provided by Section 81.083.
 - (g) A carrier, a conveyance, cargo, an object, an animal, or an individual placed in quarantine under this section may not be removed from or leave the area of quarantine without the department's or health authority's permission.
 - (h) If the department or health authority has reasonable cause to believe that a carrier or conveyance is transporting cargo or an object that is or may be infected or contaminated with a communicable disease, the department or health authority may:
 - (1) require that the cargo or object be transported in secure confinement or sealed in a car, trailer, hold, or compartment, as appropriate, that is secured on the order and instruction of the board or health authority, if the cargo or object is being transported through this state;

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- (2) require that the cargo or object be unloaded at an alternate location equipped with adequate investigative and disease control facilities if the cargo or object is being transported to an intermediate or ultimate destination in this state that cannot provide the necessary facilities; and
 - (3) investigate and, if necessary, quarantine the cargo or object and impose any required control measure as authorized by Section 81.084.
 - (i) The department or health authority may require an individual transported by carrier or conveyance who the department or health authority has reasonable cause to believe has been exposed to or is the carrier of a communicable disease to be isolated from other travelers and to disembark with the individual's personal effects and baggage at the first location equipped with adequate investigative and disease control facilities, whether the person is in transit through this state or to an intermediate or ultimate destination in this state. The department or health authority may investigate and, if necessary, isolate or involuntarily hospitalize the individual until the department or health authority approves the discharge as authorized by Section 81.084.

§ 81.087. Violation of Control Measure Orders; Criminal Penalty

- (a) A person commits an offense if the person knowingly refuses to perform or allow the performance of certain control measures ordered by a health authority or the department under Sections 81.083–81.086.
- (b) An offense under this section is a Class B misdemeanor.

§ 81.088. Removal, Alteration, or Destruction of Quarantine Devices; Criminal Penalty

- (a) A person commits an offense if the person knowingly or intentionally:
 - (1) removes, alters, or attempts to remove or alter an object the person knows is a quarantine device in a manner that diminishes the device's effectiveness; or
 - (2) destroys an object the person knows is a quarantine device.
- (b) An offense under this section is a Class B misdemeanor.

§ 81.089. Transportation; Criminal Penalty

- (a) A person commits an offense if, before notifying the board or health authority at a port of entry or a place of first landing or first arrival in this state, the person knowingly or intentionally:
 - (1) transports or causes to be transported into this state an object the person knows or suspects may be infected or contaminated with a communicable disease that is a threat to the public health;
 - (2) transports or causes to be transported into this state an individual who the person knows has or is the carrier of a communicable disease that is a threat to the public health; or
 - (3) transports or causes to be transported into this state a person, animal, or object in a private or common carrier or a private conveyance that the person knows is or suspects may be infected or contaminated with a communicable disease that is a threat to the public health.
- (b) An offense under this section is a Class A misdemeanor, except that if the person acts with the intent to harm or defraud another, the offense is a felony of the third degree.

**SUBCHAPTER G. COURT ORDERS FOR MANAGEMENT
OF PERSONS WITH COMMUNICABLE DISEASES**

§ 81.151. Application for Court Order

- (a) At the request of the health authority, a municipal, county, or district attorney shall file a sworn written application for a court order for the management of a person with a communicable disease. At the request of the department, the attorney general shall file a sworn written application for a court order for the management of a person with a communicable disease.
- (b) The application must be filed with the district court in the county in which the person:
 - (1) resides;
 - (2) is found; or

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- (3) is receiving court-ordered health services.
 - (c) If the application is not filed in the county in which the person resides, the court may, on request of the person or the person's attorney and if good cause is shown, transfer the application to that county.
 - (d) A copy of written orders made under Section 81.083 and a medical evaluation must be filed with the application, except that a copy of the written orders need not be filed with an application for outpatient treatment.

§ 81.152. Form of Application

- (a) An application for a court order for the management of a person with a communicable disease must be styled using the person's initials and not the person's full name.
- (b) The application must state whether the application is for temporary or extended management of a person with a communicable disease.
- (c) Any application must contain the following information according to the applicant's information and belief:
 - (1) the person's name and address;
 - (2) the person's county of residence in this state;
 - (3) a statement that the person is infected with or is reasonably suspected of being infected with a communicable disease that presents a threat to public health and that the person meets the criteria of this chapter for court orders for the management of a person with a communicable disease; and
 - (4) a statement, to be included only in an application for inpatient treatment, that the person fails or refuses to comply with written orders of the department or health authority under Section 81.083.

§ 81.153. Appointment of Attorney

- (a) The judge shall appoint an attorney to represent a person not later than the 24th hour after the time an application for a court order for the management of a person with a communicable disease is filed if the

person does not have an attorney. The judge shall also appoint a language or sign interpreter if necessary to ensure effective communication with the attorney in the person's primary language.

- (b) The person's attorney shall receive all records and papers in the case and is entitled to have access to all hospital and physicians' records.

§ 81.154. Setting on Application

- (a) The judge or a magistrate designated under this chapter shall set a date for a hearing to be held within 14 days after the date on which the application is served on the person.
- (b) The hearing may not be held within the first three days after the application is filed if the person or the person's attorney objects.
- (c) The court may grant one or more continuances of the hearing on the motion by a party and for good cause shown or on agreement of the parties. However, the hearing shall be held not later than the 30th day after the date on which the original application is served on the person.

§ 81.155. Notice

- (a) The person and the person's attorney are entitled to receive a copy of the application and written notice of the time and place of the hearing immediately after the date for the hearing is set.
- (b) A copy of the application and the written notice shall be delivered in person or sent by certified mail to:
 - (1) the person's parent, if the person is a minor;
 - (2) the person's appointed guardian, if the person is the subject of a guardianship; or
 - (3) each managing and possessory conservator, that has been appointed for the person.
- (c) The court shall appoint a guardian ad litem for a minor if the parent cannot be located and a guardian or conservator has not been appointed.

§ 81.156. Disclosure of Information

- (a) The person's attorney may request information from the attorney general or the municipal, county, or district attorney, as appropriate, in accordance with this section if the attorney cannot otherwise obtain the information. The attorney must request the information at least 48 hours before the time set for the hearing.
- (b) If the person's attorney requests the information in accordance with Subsection (a), the attorney general or the municipal, county, or district attorney shall, within a reasonable time before the hearing, provide the attorney with a statement that includes:
 - (1) the provisions of this chapter that will be relied on at the hearing to establish that the person requires a court order for the temporary or extended management of a person with a communicable disease;
 - (2) the name, address, and telephone number of each witness who may testify at the hearing;
 - (3) a brief description of the reasons why temporary or extended management is required; and
 - (4) a list of any acts committed by the person that the applicant will attempt to prove at the hearing.
- (c) At the hearing, the judge may admit evidence or testimony that relates to matters not disclosed under this chapter if the admission would not deprive the person of a fair opportunity to contest the evidence or testimony.

§ 81.157. District Court Jurisdiction

- (a) A proceeding under this chapter must be held in a district court of the county in which the person is found, resides, or is receiving court-ordered health services.
- (b) If a person subject to an order for temporary management is receiving services in a county other than the county in which the court that entered the temporary order is located and requires extended management, the county in which the temporary order was issued shall pay the expenses of transporting the person back to the county for the hearing unless the court that entered the temporary order arranges with

the appropriate court in the county in which the person is receiving services to hold the hearing on the application for extended order before the temporary order expires.

§ 81.158. Affidavit of Medical Evaluation

- (a) An affidavit of medical evaluation must be dated and signed by the commissioner or the commissioner's designee, or by a health authority with the concurrence of the commissioner or the commissioner's designee. The certificate must include:
 - (1) the name and address of the examining physician, if applicable;
 - (2) the name and address of the person examined or to be examined;
 - (3) the date and place of the examination, if applicable;
 - (4) a brief diagnosis of the examined person's physical and mental condition, if applicable;
 - (5) the period, if any, during which the examined person has been under the care of the examining physician;
 - (6) an accurate description of the health treatment, if any, given by or administered under the direction of the examining physician; and
 - (7) the opinion of the health authority or department and the reason for that opinion, including laboratory reports, that:
 - (A) the examined person is infected with or is reasonably suspected of being infected with a communicable disease that presents a threat to public health; and
 - (B) as a result of that communicable disease the examined person:
 - (i) is likely to cause serious harm to himself; or
 - (ii) will, if not examined, observed, or treated, continue to endanger public health.
- (b) The department or health authority must specify in the affidavit each criterion listed in Subsection (a)(7)(B) that in the opinion of the department or health authority applies to the person.

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- (c) If the affidavit is offered in support of an application for extended management, the affidavit must also include the department's or health authority's opinion that the examined person's condition is expected to continue for more than 90 days.
 - (d) If the affidavit is offered in support of a motion for a protective custody order, the affidavit must also include the department's or health authority's opinion that the examined person presents a substantial risk of serious harm to himself or others if not immediately restrained. The harm may be demonstrated by the examined person's behavior to the extent that the examined person cannot remain at liberty.
 - (e) The affidavit must include the detailed basis for each of the department's or health authority's opinions under this section.

§ 81.159. Designation of Facility

- (a) The commissioner shall designate health care facilities throughout the state that are capable of providing services for the examination, observation, isolation, or treatment of persons having or suspected of having a communicable disease. However, the commissioner may not designate a nursing home or custodial care home required to be licensed under Chapter 242.
- (b) The health authority shall select a designated facility in the county in which the application is filed. If no facility is designated in the county, the commissioner shall select the facility.
- (c) This section does not relieve a county of its responsibility under other provisions of this chapter or applicable law for providing health care services.
- (d) A designated facility must comply with this section only to the extent that the commissioner determines that the facility has sufficient resources to perform the necessary services.
- (e) This section does not apply to a person for whom treatment in a private health facility is proposed.

§ 81.160. Liberty Pending Hearing

The person who is the subject of an application for management is entitled to remain at liberty pending the hearing on the application unless the person is detained under an appropriate provision of this chapter.

§ 81.161. Motion for Order of Protective Custody

- (a) A motion for an order of protective custody may be filed only in the court in which an application for a court order for the management of a person with a communicable disease is pending.
- (b) The motion may be filed by the municipal, county, or district attorney on behalf of the health authority. The motion shall be filed by the attorney general at the request of the department.
- (c) The motion must state that:
 - (1) the department or health authority has reason to believe and does believe that the person meets the criteria authorizing the court to order protective custody; and
 - (2) the belief is derived from:
 - (A) the representations of a credible person;
 - (B) the conduct of the person who is the subject of the motion; or
 - (C) the circumstances under which the person is found.
- (d) The motion must be accompanied by an affidavit of medical evaluation.
- (e) The judge of the court in which the application is pending may designate a magistrate to issue protective custody orders in the judge's absence.

§ 81.162. Issuance of Order

- (a) The judge or designated magistrate may issue a protective custody order if the judge or magistrate determines:
 - (1) that the health authority or department has stated its opinion and the detailed basis for its opinion that the person is infected with or is reasonably suspected of being infected with a communicable disease that presents an immediate threat to the public health; and

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- (2) that the person fails or refuses to comply with the written orders of the health authority or the department under Section 81.083.
 - (b) Noncompliance with orders issued under Section 81.083 may be demonstrated by the person's behavior to the extent that the person cannot remain at liberty.
 - (c) The judge or magistrate may consider only the application and affidavit in making a determination that the person meets the criteria prescribed by Subsection (a). If only the application and certificate are considered the judge or magistrate must determine that the conclusions of the health authority or department are adequately supported by the information provided.
 - (d) The judge or magistrate may take additional evidence if a fair determination of the matter cannot be made from consideration of the application and affidavit only.
 - (e) The judge or magistrate may issue a protective custody order for a person who is charged with a criminal offense if the person meets the requirements of this section and the head of the facility designated to detain the person agrees to the detention.

§ 81.163. Apprehension Under Order

- (a) A protective custody order shall direct a peace officer to take the person who is the subject of the order into protective custody and transport the person immediately to an appropriate inpatient health facility that has been designated by the commissioner as a suitable place.
- (b) If an appropriate inpatient health facility is not available, the person shall be transported to a facility considered suitable by the health authority.
- (c) The person shall be detained in the facility until a hearing is held under Section 81.165.
- (d) A facility must comply with this section only to the extent that the commissioner determines that the facility has sufficient resources to perform the necessary services.
- (e) A person may not be detained in a private health facility without the consent of the head of the facility.

§ 81.164. Appointment of Attorney

- (a) The judge or designated magistrate shall appoint an attorney to represent a person who is the subject of a protective custody order who does not have an attorney when the order is signed.
- (b) Within a reasonable time before a hearing is held under Section 81.165, the court that ordered the protective custody shall provide the person and the person's attorney with a written notice that states:
 - (1) that the person has been placed under a protective custody order;
 - (2) the grounds for the order; and
 - (3) the time and place of the hearing to determine probable cause.

§ 81.165. Probable Cause Hearing

- (a) A hearing must be held to determine if:
 - (1) there is probable cause to believe that a person under a protective custody order presents a substantial risk of serious harm to himself or others to the extent that the person cannot be at liberty pending the hearing on a court order for the management of a person with a communicable disease; and
 - (2) the health authority or department has stated its opinion and the detailed basis for its opinion that the person is infected with or is reasonably suspected of being infected with a communicable disease that presents an immediate threat to public health.
- (b) The hearing must be held not later than 72 hours after the time that the person was detained under the protective custody order. If the period ends on a Saturday, Sunday, or legal holiday, the hearing must be held on the next day that is not a Saturday, Sunday, or legal holiday. The judge or magistrate may postpone the hearing for an additional 24 hours if the judge or magistrate declares that an extreme emergency exists because of extremely hazardous weather conditions that threaten the safety of the person or another essential party to the hearing.
- (c) A magistrate or a master appointed by the presiding judge shall conduct the hearing. The master is entitled to reasonable compensation.

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- (d) The person and his attorney shall have an opportunity at the hearing to appear and present evidence to challenge the allegation that the person presents a substantial risk of serious harm to himself or others.
 - (e) The magistrate or master may consider evidence that may not be admissible or sufficient in a subsequent commitment hearing, including letters, affidavits, and other material.
 - (f) The state may prove its case on the health authority's or department's affidavit of medical evaluation filed in support of the initial motion.

§ 81.166. Order for Continued Detention

- (a) The magistrate or master shall order that a person remain in protective custody if the magistrate or master determines after the hearing that an adequate factual basis exists for probable cause to believe that the person presents a substantial risk of serious harm to himself or others to the extent that the person cannot remain at liberty pending the hearing on the application.
- (b) The magistrate or master shall arrange for the person to be returned to the health facility or other suitable place, along with copies of the affidavits and other material submitted as evidence in the hearing and the notification prepared as prescribed by Subsection (d).
- (c) A copy of the notification of probable cause hearing and the supporting evidence shall be filed with the district court that entered the original order of protective custody.
- (d) The notification of probable cause hearing shall read as follows:
(Style of Case)

NOTIFICATION OF PROBABLE CAUSE HEARING

On this the ____ day of _____, 19__, the undersigned hearing officer heard evidence concerning the need for protective custody of _____ (hereinafter referred to as proposed patient). The proposed patient was given the opportunity to challenge the allegations that (s)he presents a substantial risk of serious harm to self or others.

The proposed patient and his or her attorney _____ have been given written notice that the proposed patient was placed under an order of protective custody and the reasons for such order on _____ (date of notice).

I have examined the affidavit of medical evaluation and _____ (other evidence considered). Based on this evidence, I find that there is probable cause to believe that the proposed patient presents a substantial risk of serious harm to himself or herself (yes ____ or no ____) or others (yes ____ or no ____) such that (s)he cannot be at liberty pending final hearing because (s)he is infected with or is reasonably suspected of being infected with a communicable disease that presents an immediate threat to the public health and (s)he has failed or refused to comply with the orders of the health authority or the Texas Department of Health delivered on _____ (date of service) _____.

§ 81.167. Detention in Protective Custody

- (a) The head of a facility or the facility head's designee shall detain a person under a protective custody order in the facility pending a court order for the management of a person with a communicable disease or until the person is released or discharged under Section 81.168.
- (b) A person under a protective custody order shall be detained in an appropriate inpatient health facility that has been designated by the commissioner and selected by the health authority under Section 81.159.
- (c) A person under a protective custody order may be detained in a nonmedical facility used to detain persons who are charged with or convicted of a crime only with the consent of the medical director of the facility and only if the facility has respiratory isolation capability for airborne communicable diseases. The person may not be detained in a nonmedical facility under this subsection for longer than 72 hours, excluding Saturdays, Sundays, legal holidays, and the period prescribed by Section 81.165(b) for an extreme weather emergency. The person must be isolated from any person who is charged with or convicted of a crime.
- (d) The health authority shall ensure that proper isolation methods are used and medical care is made available to a person who is detained in a nonmedical facility under Subsection (c).

§ 81.168. Release From Detention

- (a) The magistrate or master shall order the release of a person under a protective custody order if the magistrate or master determines after the hearing under Section 81.165 that no probable cause exists to believe that the person presents a substantial risk of serious harm to himself or others.
- (b) Arrangements shall be made to return a person released under Subsection (a) to:
 - (1) the location at which the person was apprehended;
 - (2) the person's place of residence in this state; or
 - (3) another suitable location.
- (c) The head of a facility shall discharge a person held under a protective custody order if:
 - (1) the head of the facility does not receive notice within 72 hours after detention begins, excluding Saturdays, Sundays, legal holidays, and the period prescribed by Section 81.165(b) for an extreme weather emergency that a probable cause hearing was held and the person's continued detention was authorized;
 - (2) a final court order for the management of a person with a communicable disease has not been entered within the time prescribed by Section 81.154; or
 - (3) the health authority or commissioner determines that the person no longer meets the criteria for protective custody prescribed by Section 81.162.

§ 81.169. General Provisions Relating to Hearing

- (a) Except as provided by Subsection (b), the judge may hold a hearing on an application for a court order for the management of a person with a communicable disease at any suitable location in the county. The hearing should be held in a physical setting that is not likely to have a harmful effect on the public or the person.
- (b) On the request of the person or the person's attorney, the hearing on the application shall be held in the county courthouse.

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- (c) The health authority shall advise the court on appropriate control measures to prevent the transmission of the communicable disease alleged in the application.
 - (d) The person is entitled to be present at the hearing. The person or the person's attorney may waive this right.
 - (e) The hearing must be open to the public unless the person or the person's attorney requests that the hearing be closed and the judge determines that there is good cause to close the hearing.
 - (f) The Texas Rules of Evidence apply to the hearing unless the rules are inconsistent with this chapter.
 - (g) The court may consider the testimony of a nonphysician health professional in addition to medical testimony.
 - (h) The hearing is on the record, and the state must prove each element of the application criteria by clear and convincing evidence.

§ 81.170. Right to Jury

- (a) A hearing for temporary management must be before the court unless the person or the person's attorney requests a jury.
- (b) A hearing for extended management must be before a jury unless the person or the person's attorney waives the right to a jury.
- (c) A waiver of the right to a jury must be in writing, under oath, and signed by the person and the person's attorney.
- (d) The court may permit a waiver of the right to a jury to be with-drawn for good cause shown. The withdrawal must be made at least seven days before the date on which the hearing is scheduled.
- (e) A court may not require a jury fee.
- (f) The jury shall determine if the person is infected with or is reasonably suspected of being infected with a communicable disease that presents a threat to the public health and, if the application is for inpatient treatment, has refused or failed to follow the orders of the health authority. The jury may not make a finding about the type of services to be provided to the person.

§ 81.171. Release After Hearing

- (a) The court shall enter an order denying an application for a court order for temporary or extended management if after a hearing the judge or jury fails to find, from clear and convincing evidence, that the person:
 - (1) is infected with or is reasonably suspected of being infected with a communicable disease that presents a threat to the public health;
 - (2) has refused or failed to follow the orders of the health authority if the application is for inpatient treatment; and
 - (3) meets the applicable criteria for orders for the management of a person with a communicable disease.
- (b) If the court denies the application, the court shall order the immediate release of a person who is not at liberty.

§ 81.172. Order for Temporary Management

- (a) The judge or jury may determine that a person requires court-ordered examination, observation, isolation, or treatment only if the judge or jury finds, from clear and convincing evidence, that:
 - (1) the person is infected with or is reasonably suspected of being infected with a communicable disease that presents a threat to the public health and, if the application is for inpatient treatment, has failed or refused to follow the orders of the health authority or department; and
 - (2) as a result of the communicable disease the person:
 - (A) is likely to cause serious harm to himself; or
 - (B) will, if not examined, observed, isolated, or treated, continue to endanger public health.
- (b) The judge or jury must specify each criterion listed in Subsection (a)(2) that forms the basis for the decision.
- (c) The person or the person's attorney, by a written document filed with the court, may waive the right to cross-examine witnesses, and the court may admit, as evidence, the affidavit of medical evaluation. The affidavit admitted under this subsection constitutes competent medical testimony, and the court may make its findings solely from the affidavit.

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- (d) An order for temporary management shall state that examinations, treatment, and surveillance are authorized for a period not longer than 90 days.
 - (e) The department, with the cooperation of the head of the facility, shall submit to the court a general program of treatment to be provided. The program must be submitted not later than the 14th day after the date the order is issued and must be incorporated into the court order.

§ 81.173. Order for Extended Management

- (a) The jury, or the judge if the right to a jury is waived, may determine that a proposed patient requires court-ordered examination, observation, isolation, or treatment only if the jury or judge finds, from clear and convincing evidence, that:
 - (1) the person is infected with a communicable disease that presents a threat to the public health and, if the application is for inpatient treatment, has failed to follow the orders of the health authority or department;
 - (2) as a result of that communicable disease the person:
 - (A) is likely to cause serious harm to himself; or
 - (B) will, if not examined, observed, isolated, or treated, continue to endanger public health; and
 - (3) the person's condition is expected to continue for more than 90 days.
- (b) The jury or judge must specify each criterion listed in Subsection (a)(2) that forms the basis for the decision.
- (c) The court may not make findings solely from the affidavit of medical evaluation, but shall hear testimony. The court may not enter an order for extended management unless appropriate findings are made and are supported by testimony taken at the hearing. The testimony must include competent medical testimony.
- (d) An order for extended management shall state that examination, treatment, and surveillance are authorized for not longer than 12 months.

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- (e) The department, with the cooperation of the head of the facility, shall submit to the court a general program of treatment to be provided. The program must be submitted not later than the 14th day after the date the order is issued and must be incorporated into the court order.

§ 81.174. Order of Care or Commitment

- (a) The judge shall dismiss the jury, if any, after a hearing in which a person is found:
 - (1) to be infected with or reasonably suspected of being infected with a communicable disease;
 - (2) to have failed or refused to follow the orders of a health authority or the department if the application is for inpatient treatment; and
 - (3) to meet the criteria for orders for the management of a patient with a communicable disease.
- (b) The judge may hear additional evidence relating to alternative settings for examination, observation, treatment, or isolation before entering an order relating to the setting for the care the person will receive.
- (c) The judge shall consider in determining the setting for care the recommendation for the appropriate health care facility filed under this chapter.
- (d) The judge may enter an order:
 - (1) committing the person to a health care facility for inpatient care; or
 - (2) requiring the person to participate in other communicable disease management programs.

§ 81.175. Court-Ordered Outpatient Services

- (a) The court, in an order that directs a person to participate in an outpatient communicable disease program, shall designate a health authority to monitor the person's compliance. The head of a health care facility or an individual involved in providing the services in which the person is to participate under the order shall cooperate with the health authority in implementing the court orders.

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- (b) The health authority or the department, with the cooperation of the head of the facility, shall submit to the court within two weeks after the court enters the order a general program of the treatment to be provided. The program must be incorporated into the court order.
 - (c) The health authority or department shall inform the court:
 - (1) if the person fails to comply with the court order; and
 - (2) of any substantial change in the general program of treatment that occurs before the order expires.
 - (d) A facility must comply with this section to the extent that the commissioner determines that the designated facility has sufficient resources to perform the necessary services.
 - (e) A person may not be detained in a private health care facility without the consent of the facility head.

§ 81.176. Designation of Facility

In a court order for the temporary or extended management of a person with a communicable disease specifying inpatient care, the court shall commit the person to a health care facility designated by the commissioner in accordance with Section 81.159.

§ 81.177. Commitment to Private Facility

The court may order a person committed to a private health care facility at no expense to the state if the court receives:

- (1) an application signed by the person or the person's guardian or next friend requesting that the person be placed in a designated private health care facility at the person's or applicant's expense; and
- (2) written agreement from the head of the private health care facility to admit the person and to accept responsibility for the person in accordance with this chapter.

§ 81.178. Commitment to Federal Facility

- (a) A court may order a person committed to a federal agency that operates a health care facility if the court receives written notice from the agency that facilities are available and that the person is eligible for care or treatment in the facility. The court may place the person in the agency's custody for transportation to the health care facility.
- (b) A person admitted under court order to a health care facility operated by a federal agency, regardless of location, is subject to the agency's rules and regulations.
- (c) The head of the health care facility has the same authority and responsibility with respect to the person as the head of a facility.
- (d) The appropriate courts of this state retain jurisdiction to inquire at any time into the person's mental condition and the necessity of the person's continued commitment.

§ 81.179. Transportation of Person

- (a) The court shall order the sheriff or constable to transport the person to the designated health care facility.
- (b) A female shall be accompanied by a female attendant during conveyance to the health care facility.
- (c) The health authority or department shall instruct the sheriff or constable on procedures that may be necessary in transporting the person to prevent the spread of the disease.

§ 81.180. Writ of Commitment

The court shall direct the court clerk to issue to the individual authorized to transport the person two writs of commitment requiring the individual to take custody of and transport the person to the designated health care facility.

§ 81.181. Acknowledgement of Delivery

The head of the facility, after receiving a copy of the writ of commitment and after admitting the person, shall:

- (1) give the individual transporting the person a written statement acknowledging acceptance of the person and of any personal property belonging to the person; and
- (2) file a copy of the statement with the clerk of the committing court.

§ 81.182. Modification of Order for Inpatient Treatment

- (a) At the request of the health authority, a municipal, county, or district attorney, as appropriate, shall request the court that entered the commitment order to modify the order to provide for outpatient care. At the request of the department, the attorney general shall request the court that entered the commitment order to modify the order to provide for outpatient care.
- (b) The request must explain in detail the reason for the request. The request must be accompanied by an affidavit of a physician who examined the person during the preceding seven days.
- (c) The person shall be given notice of the request.
- (d) On the request of the person or any other interested individual, the court shall hold a hearing on the request. The court shall appoint an attorney to represent the person at the hearing. The hearing shall be held before the court without a jury and as prescribed by Section 81.169. The person shall be represented by an attorney and receive proper notice.
- (e) If a hearing is not requested, the court may make the decision solely from the request and the supporting affidavit.
- (f) If the court modifies the order, the court shall designate the health authority to monitor the person's compliance.
- (g) The head of a health care facility or an individual involved in providing the services in which the person is to participate under the order shall cooperate with the health authority and shall comply with Section 81.175(b).
- (h) A modified order may not extend beyond the term of the original order.

§ 81.183. Motion for Modification of Order for Outpatient Treatment

- (a) The court that entered an order directing a person to participate in outpatient health services may set a hearing to determine if the order should be modified in a way that is a substantial deviation from the original program of treatment incorporated in the court's order. The court may set the hearing on its own motion, on the motion of a municipal, county, or district attorney at the request of the health authority, on the motion of the attorney general at the request of the department, or at the request of any other interested person.
- (b) The court shall appoint an attorney to represent the person if a hearing is scheduled. The person shall be given notice of the matters to be considered at the hearing. The notice must comply with the requirements of Section 81.155 for notice before a hearing on an application for court orders for the management of a person with a communicable disease.
- (c) The hearing shall be held before the court, without a jury, and as prescribed by this chapter. The person shall be represented by an attorney and receive proper notice.

§ 81.184. Order for Temporary Detention

- (a) At the request of the health authority, a municipal, county, or district attorney, as appropriate, shall file a sworn application for the person's temporary detention pending a modification hearing under Section 81.183. At the request of the department, the attorney general shall file a sworn application for the person's temporary detention pending a modification hearing under Section 81.183.
- (b) The application must state the applicant's opinion and detail the reason for the applicant's opinion that:
 - (1) the person meets the criteria described by this chapter; and
 - (2) detention in an inpatient health care facility is necessary to evaluate the appropriate setting for continued court-ordered care.
- (c) The court shall decide from the information in the application. The court may issue an order for temporary detention if a modification hearing is set and the court finds that there is probable cause to believe that the opinions stated in the application are valid.

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- (d) The judge shall appoint an attorney to represent a person who does not have an attorney when the order for temporary detention is signed.
 - (e) Within 24 hours after the time detention begins, the court that issued the temporary detention order shall provide to the person and the person's attorney a written notice that contains:
 - (1) a statement that the person has been placed under a temporary detention order;
 - (2) the grounds for the order; and
 - (3) the time and place of the modification hearing.

§ 81.185. Apprehension and Release Under Order for Temporary Detention

- (a) The order for temporary detention shall direct a peace officer to take the person into custody and immediately transport the person to an appropriate inpatient health care facility. The person shall be transported to a facility considered suitable by the health authority if an appropriate inpatient health care facility is not available.
- (b) A person may be detained under a temporary detention order for not longer than 72 hours, excluding Saturdays, Sundays, legal holidays, and the period prescribed by Section 81.165(b) for an extreme weather emergency.
- (c) A facility head shall immediately release a person held under an order for temporary detention if the facility head does not receive notice that a modification hearing was held within the time prescribed by Subsection (b) at which the patient's continued detention was authorized.
- (d) A person released from custody under Subsection (c) continues to be subject to the terms of the outpatient orders for the management of the person issued before the order for temporary detention, if the orders have not expired.

§ 81.186. Order of Modification of Order for Outpatient Services

- (a) The court may modify an order for outpatient services at the modification hearing if the court determines that the person continues to meet the applicable criteria for court orders for the management of a person with a communicable disease and that:

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- (1) the person has not complied with the court's order; or
 - (2) the person's condition has deteriorated to the extent that outpatient services are no longer appropriate.
 - (b) The court's decision to modify an order must be supported by an affidavit of medical evaluation prepared by the health authority or department.
 - (c) A court may refuse to modify the order and may direct the person to continue to participate in outpatient health services in accordance with the original order even if the criteria prescribed by Subsection (a) have been met.
 - (d) A modification may include:
 - (1) incorporating in the order a revised treatment program and providing for continued outpatient health services under the modified order, if a revised general program of treatment was submitted to and accepted by the court; or
 - (2) providing for examination, observation, isolation, or treatment at an appropriate inpatient health care facility.

§ 81.187. Renewal of Order for Extended Management

- (a) A municipal, county, or district attorney, as appropriate, at the request of the health authority, shall file an application to renew an order for extended management. At the request of the department, the attorney general shall file an application to renew an order for extended management.
- (b) The application must explain in detail why the person requests renewal. An application to renew an order committing the person to extended inpatient services must also explain in detail why a less restrictive setting is not appropriate.
- (c) The application must be accompanied by an affidavit of medical evaluation dated and signed by the health authority or department according to an examination conducted within the preceding 30 days.
- (d) The court shall appoint an attorney to represent the person when an application is filed.

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- (e) The person or the person's attorney may request a hearing on the application. The court may set a hearing on its own motion. An application for which a hearing is requested or set is considered an original application for a court order for the extended management of a person with a communicable disease.
 - (f) A court may not renew an order unless the court finds that the patient meets the criteria for extended management required by this chapter. The court must make the findings prescribed by this subsection to renew an order, regardless of whether a hearing is requested or set. A renewed order authorizes treatment for not more than 12 months.
 - (g) The court may admit into evidence the affidavit of medical evaluation if a hearing is not requested or set. The affidavit constitutes competent medical testimony and the court may make its findings solely from the affidavit and the detailed request for renewal.
 - (h) The court, after renewing an order for extended inpatient health services, may modify the order to provide for outpatient health services in accordance with this chapter.

§ 81.188. Motion for Rehearing

- (a) The court may set aside an order for the management of a person with a communicable disease and grant a motion for rehearing for good cause shown.
- (b) The court may stay the order and release the person from custody before the hearing if the court is satisfied that the person does not meet the criteria for protective custody under this chapter.
- (c) The court may require an appearance bond in an amount set by the court.

§ 81.189. Request for Reexamination

- (a) A person subject to an order for extended management, or any interested person on the person's behalf and with the person's consent, may file a request with a court for a reexamination and a hearing to determine if the person continues to meet the criteria for the court order.

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- (b) The request must be filed in the county in which the person is receiving the services.
 - (c) The court may, on good cause shown:
 - (1) require that the patient be reexamined;
 - (2) schedule a hearing on the request; and
 - (3) notify the health authority, department, and the head of the facility providing health services to the person.
 - (d) A court is not required to order a reexamination or hearing if the request is filed within six months after an order for extended management is entered or after a similar request is filed.
 - (e) The head of the facility shall arrange for the person to be reexamined after receiving the court's notice.
 - (f) The head of the facility shall immediately discharge the person if the health authority or department determines that the person no longer meets the criteria for court-ordered extended health services.
 - (g) If the health authority or department determines that the person continues to meet the criteria for a court order for extended management, the health authority or department shall file an affidavit of medical evaluation with the court within 10 days after the request for reexamination and hearing is filed.

§ 81.190. Hearing on Request for Reexamination

- (a) A court that required a patient's reexamination under Section 81.189 may set a date and place for a hearing on the request if, not later than the 10th day after the request is filed:
 - (1) an affidavit of medical evaluation stating that the patient continues to meet the criteria for extended management has been filed; or
 - (2) an affidavit has not been filed and the person has not been discharged.
- (b) When the hearing is set, the judge shall appoint an attorney to represent the person if the person does not already have an attorney. The judge shall also give notice of the hearing to the person, the person's attorney, the health authority or department, and the facility head.

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- (c) The judge shall appoint a physician who is not on the staff of the health care facility in which the person is receiving services to examine the person and file an affidavit with the court setting out the person's diagnosis and recommended treatment. The court shall ensure that the person may be examined by a physician of the person's choice and own expense if requested by the person.
 - (d) The hearing is held before the court and without a jury. The hearing must be held in accordance with the requirements for a hearing on an application for a court order for the management of a person with a communicable disease.
 - (e) The court shall dismiss the request if the court finds from clear and convincing evidence that the person continues to meet the criteria for extended management.
 - (f) The judge shall order the head of the facility to discharge the person if the court fails to find from clear and convincing evidence that the person continues to meet the criteria.

§ 81.191. Appeal

- (a) An appeal from an order for the management of a person with a communicable disease, or from a renewal or modification of an order, must be filed in the court of appeals for the county in which the order is entered.
- (b) Notice of appeal must be filed not later than the 10th day after the date on which the order is signed.
- (c) When an appeal is filed the clerk shall immediately send a certified transcript of the proceedings to the court of appeals.
- (d) The trial judge in whose court the cause is pending may:
 - (1) stay the order and release the person from custody before the appeal if the judge is satisfied that the person does not meet the criteria for protective custody under this chapter; and
 - (2) if the person is at liberty, require an appearance bond in an amount set by the court.

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- (e) The court of appeals and supreme court shall give an appeal under this section preference over all other cases and shall advance the appeal on the docket. The courts may suspend all rules relating to the time for filing briefs and docketing cases.

§ 81.192. Continuing Care Plan Before Discharge

The health authority or department, in consultation with the person, shall prepare a continuing care plan for a person who is scheduled to be discharged if the person requires continuing care.

§ 81.193. Pass From Inpatient Care

- (a) The head of a facility may permit a person admitted to the facility under order for extended inpatient management of a person with a communicable disease to leave the facility under a pass.
- (b) A pass authorizes the person to leave the facility for not more than 72 hours.
- (c) The pass may be subject to specified conditions.
- (d) A pass may not be authorized without the concurrence of the health authority or department.

§ 81.194. Return to Facility

- (a) If a person is permitted to leave a facility under Section 81.193, the head of the facility may have the person taken into custody, detained, and returned to the facility by:
 - (1) signing a certificate authorizing the person's return; or
 - (2) filing the certificate with a magistrate and requesting the magistrate to order the person's return.
- (b) The health authority or department may also have a person returned by signing the certificate authorized by Subsection (a)(1).
- (c) A magistrate may issue an order directing a peace officer to take a person into custody and return the person to the facility if the head of the facility, health authority, or department files the certificate as prescribed by this section.

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- (d) The head of the facility, health authority, or department may sign or file the certificate on a reasonable belief that:
 - (1) the person is absent without authority from the facility;
 - (2) the person has violated the conditions of a pass; or
 - (3) the person's condition has deteriorated to the extent that the person's continued absence from the facility under a pass is inappropriate.
 - (e) A peace officer shall take the person into custody and return the person to the facility as soon as possible if the person's return is authorized by the certificate or the court order.
 - (f) The peace officer may take the person into custody without having the certificate or court order in the officer's possession.

§ 81.195. Discharge on Expiration of Court Order

The head of a facility to which a person was committed or from which a person was required to receive temporary or extended inpatient or outpatient health services shall discharge the person when the court order expires.

§ 81.196. Discharge Before Expiration of Court Order

- (a) The health authority or department may direct the head of a facility to which a person was committed for inpatient health services or that provides outpatient health services to discharge the person at any time before the court order expires if the health authority or department determines that the person no longer meets the criteria for court-ordered health services.
- (b) The health authority or department shall consider before discharging the person whether the person should receive outpatient health services in accordance with:
 - (1) a court order; or
 - (2) a modified order under Section 81.182 that directs the person to participate in outpatient health services.
- (c) A discharge under Subsection (a) terminates the court order.

§ 81.197. Certificate of Discharge

Before a person is discharged under Section 81.195 or 81.196, the health authority or department shall prepare a discharge certificate, file it with the court that entered the order, and notify the head of the facility.

§ 81.198. Authorization for Admission

The head of a health care facility may admit and detain a person under the procedures prescribed by this subchapter.

§ 81.199. Transfer to Federal Facility

The health authority or department may authorize the head of a health care facility to transfer a person to a federal agency if:

- (1) the federal agency sends notice that facilities are available and that the patient is eligible for care or treatment in the facility;
- (2) notice of the transfer is sent to the committing court; and
- (3) the committing court enters an order approving the transfer.

§ 81.200. Transfer of Records

The head of the transferring inpatient health care facility shall send the person's appropriate medical records, or a copy of the records, to the head of the health care facility to which the person is transferred.

§ 81.201. Writ of Habeas Corpus

This subchapter does not limit a person's right to obtain a writ of habeas corpus.

§ 81.202. Effect on Guardianship

This subchapter, or an action taken or a determination made under this subchapter, does not affect a guardianship established under law.

§ 81.203. Confidentiality of Records

Records of a health care facility that directly or indirectly identify a present, former, or proposed patient are confidential unless disclosure is permitted by this chapter or other state law.

§ 81.204. Rights Subject to Limitation by Head of Facility

- (a) A person in an inpatient health care facility has the right to:
 - (1) receive visitors;
 - (2) communicate with a person outside the facility; and
 - (3) communicate by uncensored and sealed mail with legal counsel, the department, the courts, and the state attorney general.
- (b) The rights provided in Subsection (a) are subject to facility rules. The head of the facility may restrict a right to the extent the head of the facility determines that the restriction is necessary to the public health or the person's welfare but may not restrict the right to communicate with legal counsel if an attorney-client relationship has been established.
- (c) A restriction imposed by the head of the facility for the public health or the person's welfare and the reasons for the restriction shall be made a part of the person's clinical record.

§ 81.205. Notification of Rights

A person receiving inpatient health services shall be informed of the rights provided by Section 81.206:

- (1) orally, in simple, nontechnical terms;
- (2) in writing that, if possible, is in the person's primary language; and
- (3) through the use of a means reasonably calculated to communicate with a hearing impaired or visually impaired person, if applicable.

§ 81.206. General Rights Relating to Treatment

A person receiving health services under this subchapter has the right to:

- (1) appropriate treatment for the person's illness in an appropriate setting consistent with the protection of the person and the community;
- (2) not receive unnecessary or excessive medication;
- (3) refuse to participate in a research program; and
- (4) a humane treatment environment that provides reasonable protection from harm and appropriate privacy for personal needs.

§ 81.207. Adequacy of Treatment

- (a) The head of an inpatient health care facility shall provide adequate medical care and treatment to every patient in accordance with accepted standards of medical practice.
- (b) The head of the facility is responsible for the detention of the patient and for providing suitable security to prevent the patient from transmitting the communicable disease.

§ 81.208. Periodic Examination

The head of a health care facility is responsible for the examination by a physician of each person admitted to the facility under this subchapter at least once every seven days and more frequently as necessary.

§ 81.209. Use of Physical Restraint

- (a) A physical restraint may not be applied to a person unless a physician prescribes the restraint.
- (b) A physical restraint shall be removed as soon as possible.
- (c) Each use of a physical restraint and the reason for the use shall be made a part of the patient's clinical record. The physician who prescribed the restraint shall sign the record.

§ 81.210. Costs

- (a) A county shall pay the costs for a hearing or proceeding under this subchapter if a health authority:
 - (1) initiates an application for a court order under Section 81.151; or
 - (2) has an application for court-ordered management transferred to it under Section 81.157.
- (b) Costs under this section include:
 - (1) attorney's fees;
 - (2) physician examination fees;
 - (3) compensation for court-ordered personal services;
 - (4) security; and
 - (5) expenses of transportation to a designated facility.
- (c) A county is entitled to reimbursement for costs actually paid by the county from:
 - (1) the person who is the subject of the application; or
 - (2) a person or estate liable for the person's support.
- (d) The department shall pay the costs of returning a person absent without authorization unless the person is able to pay the costs.

CHAPTER 121. LOCAL PUBLIC HEALTH REORGANIZATION ACT

SUBCHAPTER A. GENERAL PROVISIONS

§ 121.001. Short Title

This chapter may be cited as the Local Public Health Reorganization Act.

§ 121.002. Definitions

In this chapter:

- (1) “Essential public health services” means services to:
 - (A) monitor the health status of individuals in the community to identify community health problems;
 - (B) diagnose and investigate community health problems and community health hazards;
 - (C) inform, educate, and empower the community with respect to health issues;
 - (D) mobilize community partnerships in identifying and solving community health problems;
 - (E) develop policies and plans that support individual and community efforts to improve health;
 - (F) enforce laws and rules that protect the public health and ensure safety in accordance with those laws and rules;
 - (G) link individuals who have a need for community and personal health services to appropriate community and private providers;
 - (H) ensure a competent workforce for the provision of essential public health services;
 - (I) research new insights and innovative solutions to community health problems; and

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- (J) evaluate the effectiveness, accessibility, and quality of personal and population-based health services in a community.
 - (2) “Physician” means a person licensed to practice medicine by the Texas State Board of Medical Examiners.

§ 121.003. Powers of Municipalities and Counties

- (a) The governing body of a municipality or the commissioners court of a county may enforce any law that is reasonably necessary to protect the public health.
- (b) The governing bodies of municipalities and the commissioners courts of counties may cooperate with one another in making necessary improvements and providing services to promote the public health in accordance with The Interlocal Cooperation Act (Article 4413(32c), Vernon’s Texas Civil Statutes).
- (c) The commissioners court of a county may grant authority under this subsection to a county employee who is trained by a health authority appointed by the county under Section 121.021, by a local health department established under Section 121.031, or by a public health district established under Section 121.041 and who is not a peace officer. The court may grant to the employee the power to issue a citation in an unincorporated area of the county to enforce any law or order of the commissioners court that is reasonably necessary to protect the public health. A citation issued under this subsection must state the name of the person cited, the violation charged, and the time and place the person is required to appear in court. If a person who receives a citation under this subsection fails to appear on the return date of the citation, the court may issue a warrant for the person’s arrest for the violation described in the citation.

§ 121.004. Local Health Units

A local health unit is a division of municipal or county government that provides public health services but does not provide each service required of a local health department under Section 121.032(a) or of a public health district under Section 121.043(a).

§ 121.005. State and Local Affiliation; Contracts

- (a) A local health unit, local health department, or public health district may become affiliated with the department to facilitate the exchange of information and the coordination of public health services.
- (b) To be affiliated with the department, a local health unit, local health department, or public health district must annually provide to the department information relating to:
 - (1) services provided;
 - (2) staffing patterns; and
 - (3) funding sources and budget.
- (c) The department may contract with a local health unit, local health department, or public health district for the provision of public health services.
- (d) The board may adopt rules necessary to implement this section.

§ 121.006. Public Health Services Fees; State Support

- (a) The governing body of a municipality, the commissioners court of a county, or the administrative board of a public health district may adopt ordinances or rules to charge fees for public health services.
- (b) A municipality, county, or public health district may not deny public health services to an individual because of inability to pay for the services. A municipality, county, or public health district shall provide for the reduction or waiver of a fee for an individual who cannot pay for services in whole or in part.
- (c) The Uniform Grant and Contract Management Act of 1981 (Article 4413(32g), Vernon's Texas Civil Statutes) and standards adopted under that Act control, if applicable, if the local health unit, local health department, or public health district receives state support for the provision of public health services.
- (d) In this section, "public health services" means:
 - (1) personal health promotion and maintenance services;
 - (2) infectious disease control and prevention services;

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- (3) environmental and consumer health programs;
 - (4) public health education and information services;
 - (5) laboratory services; and
 - (6) administrative services.

§ 121.0065. Grants for Essential Public Health Services

- (a) Subject to the availability of funds, the department shall administer a program under which appropriated money may be granted to counties, municipalities, public health districts, and other political subdivisions for use by the counties, municipalities, public health districts, and other political subdivisions to provide or pay for essential public health services.
- (b) The grants authorized by Subsection (a) shall be distributed equally between urban and rural areas of the state.
- (c) The board shall adopt rules governing:
 - (1) the allocation formula for grants awarded under this section;
 - (2) the manner in which a municipality, county, public health district, or other political subdivision applies for a grant;
 - (3) the procedures for awarding grants; and
 - (4) the minimum essential public health services to be provided under the grant and other standards applicable to the services to be provided under the grant.
- (d) A municipality, county, public health district, or other political subdivision that receives a grant under this section, in consultation with the department, shall develop a plan to evaluate the effectiveness, accessibility, and quality of the essential public health services that are provided under the grant. The plan must:
 - (1) identify the outcomes that are intended to result from the use of the grant money and establish a mechanism to measure those outcomes; and
 - (2) establish performance standards for the delivery of essential public health services and a mechanism to measure compliance with those standards.
- (e) The governing body of the municipality, the commissioners court of the county, or the members of a public health district may appoint a local health board to monitor the use of the money received under this section.

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- (f) A public health board established under Section 121.034 or 121.046 may serve as the local health board authorized under Subsection (e).
 - (g) The governing body of the municipality or the commissioners court of a county may serve as the local health board authorized under Subsection (e). If the governing body of the municipality or the commissioners court of the county elects to serve as the local health board, the governing body or commissioners court may appoint an advisory committee to advise the governing body or commissioners court with respect to the use of the money granted under this section.
 - (h) Chapter 783, Government Code, and standards adopted under that chapter control if applicable to a grant made under this section.

§ 121.0066. Essential Public Health Services Provided by Department

- (a) Subject to the availability of funds, the department may provide essential public health services for a population for which a municipality, county, public health district, or other political subdivision is not receiving a grant to provide those services under Section 121.0065.
- (b) Subject to the availability of funds, the department shall develop a plan that complies with Section 121.0065(d) to evaluate the effectiveness, accessibility, and quality of essential public health services provided under this section.

§ 121.0067. Evaluation and Report of Delivery of Essential Public Health Services

- (a) The department, in cooperation with municipalities, counties, public health districts, and other political subdivisions that receive grants under Section 121.0065, and the consortium established under Subchapter F, shall evaluate:
 - (1) the effectiveness, accessibility, and quality of essential public health services provided under the grant program established by Section 121.0065 and under Section 121.0066; and
 - (2) the adequacy of funding for those services.

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- (b) Not later than January 1 of each odd-numbered year, the department shall file with the governor and the presiding officer of each house of the legislature a report detailing the results of the evaluation conducted under Subsection (a). The report must include recommendations relating to:
 - (1) legislation to improve the effectiveness, accessibility, and quality of essential public health services; and
 - (2) appropriate funding for those services.

§ 121.007. Public Health Regions

- (a) The board may designate geographic areas of the state as public health regions to provide public health services.
- (b) The board shall appoint a physician to serve as regional director for each public health region. The regional director is the chief administrative officer of the region. The board shall establish the qualifications and terms of employment of a regional director.
- (c) The board or its designee may require a regional director to perform the duties of a health authority. The regional director may perform those duties, as authorized by the board or commissioner, in a jurisdiction in the region in which the health authority fails to perform duties prescribed by the board under Section 121.024. The regional director shall perform the duties of a health authority in a jurisdiction in the region in which there is not a health authority.

§ 121.008. Annual Conference

- (a) The board shall hold an annual conference for health authorities and for directors of local health departments and public health districts. The commissioner or the commissioner's designee shall preside over the conference.
- (b) A county or municipality may pay necessary expenses incurred by its health authority or director in attending the conference.

SUBCHAPTER B. HEALTH AUTHORITIES

§ 121.021. Health Authority

A health authority is a physician appointed under the provisions of this chapter to administer state and local laws relating to public health within the appointing body's jurisdiction.

§ 121.022. Qualifications

- (a) A health authority must be:
 - (1) a competent physician with a reputable professional standing who is legally qualified to practice medicine in this state; and
 - (2) a resident of this state.
- (b) To be qualified to serve as a health authority, the appointee must:
 - (1) take and subscribe to the official oath; and
 - (2) file a copy of the oath and appointment with the board.

§ 121.023. Term of Office

A health authority serves for a term of two years and may be appointed to successive terms.

§ 121.024. Duties

- (a) A health authority is a state officer when performing duties prescribed by state law.
- (b) A health authority shall perform each duty that is:
 - (1) necessary to implement and enforce a law to protect the public health;
or
 - (2) prescribed by the board.
- (c) The duties of a health authority include:
 - (1) establishing, maintaining, and enforcing quarantine in the health authority's jurisdiction;

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- (2) aiding the board in relation to local quarantine, inspection, disease prevention and suppression, birth and death statistics, and general sanitation in the health authority's jurisdiction;
 - (3) reporting the presence of contagious, infectious, and dangerous epidemic diseases in the health authority's jurisdiction to the board in the manner and at the times prescribed by the board;
 - (4) reporting to the board on any subject on which it is proper for the board to direct that a report be made; and
 - (5) aiding the board in the enforcement of the following in the health authority's jurisdiction:
 - (A) proper rules, requirements, and ordinances;
 - (B) sanitation laws;
 - (C) quarantine rules; and
 - (D) vital statistics collections.

§ 121.025. Removal From Office

A health authority may be removed from office for cause under the personnel procedures applicable to the heads of departments of the local government that the health authority serves.

**SUBCHAPTER C. MUNICIPALITIES AND COUNTIES WITHOUT ORGANIZED
LOCAL PUBLIC HEALTH DEPARTMENTS OR DISTRICTS**

§ 121.028. Appointment of Health Authority

- (a) The governing body of a municipality or the commissioners court of a county that has not established a local health department or a public health district may appoint a physician as health authority to administer state and local laws relating to public health in the municipality's or county's jurisdiction.
- (b) The governing body of a municipality or the commissioners court of a county described by Subsection (a) that is receiving a grant under Section 121.0065 shall appoint a physician as health authority.

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- (c) An individual appointed to serve as health authority for a county or municipality may serve as the health authority for one or more other jurisdictions under an interlocal contract made in accordance with Chapter 791, Government Code.

§ 121.029. Delegation of Authority

- (a) A health authority, unless otherwise restricted by law, may delegate a power or duty imposed on the health authority by the board, or by this or any other law, to a properly qualified physician to act while the health authority is absent or incapacitated.
- (b) The physician designated by the health authority must:
 - (1) meet the qualifications set out in Section 121.022(a);
 - (2) be appointed as a designee in the same manner as the appointment of the health authority;
 - (3) take, subscribe, and file the official oath and appointment with the board as required by Section 121.022(b); and
 - (4) file a certified copy of the written delegation with the board.
- (c) The delegation is effective during the term of the health authority who made the delegation; however, the health authority may limit the time to a shorter duration in the written delegation of authority.
- (d) The health authority is responsible for the acts of the physician to whom the health authority has delegated the power or duty.
- (e) The entity that appoints the health authority and the designee health authority must adopt procedures for the service of the designee as health authority under this section. The procedures shall prevent duplication of authority between the health authority and the designee and provide notice to the department when authority is transferred.

SUBCHAPTER D. LOCAL HEALTH DEPARTMENTS

§ 121.033. Department Director

- (a) The governing body of a municipality or the commissioners court of a county shall appoint the director of the municipality's or county's local health department.
- (b) The director is the chief administrative officer of the local health department, and if the director is a physician, the director is the health authority in the local health department's jurisdiction.
- (c) The governing body of a municipality or the commissioners court of a county may designate a person to perform its appointment duties under this section.
- (d) A director of a local health department who is not a physician shall appoint a physician as the health authority in the local health department's jurisdiction, subject to the approval of the governing body or the commissioners court, as appropriate, and the board.
- (e) The governing body or the commissioners court, as appropriate, shall set the compensation of the director and the health authority in its jurisdiction, except that the compensation, including a salary, may be allowed only for services actually rendered.

SUBCHAPTER E. PUBLIC HEALTH DISTRICTS

§ 121.045. District Director

- (a) The members of a public health district shall appoint the director of the district.
- (b) The director is the chief administrative officer of the public health district, and if the director is a physician, the director is the health authority in the district's jurisdiction.
- (c) A member may designate a person to perform its appointment duties under this section.

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- (c) A director of a public health district who is not a physician shall appoint a physician as the health authority for the district, subject to the approval of the members and the board.

CHAPTER 161 PUBLIC HEALTH PROVISIONS

SUBCHAPTER C. PROVISION OF INFORMATION RELATING TO CERTAIN HEALTH CONDITIONS

§ 161.0211. Epidemiologic or Toxicologic Investigations

- (a) Under its duty to protect the public health, the department shall conduct epidemiologic or toxicologic investigations of human illnesses or conditions and of environmental exposures that are harmful or believed to be harmful to the public health.
- (b) The department may conduct those investigations to determine the nature and extent of the disease or environmental exposure believed to be harmful to the public health. Any findings or determinations from such investigations that relate to environmental exposures believed to be harmful to the public shall be reported in writing to the Texas Natural Resource Conservation Commission and the two agencies shall coordinate corrective measures as appropriate. The department shall use generally accepted methods of epidemiology or toxicology in the conduct of an investigation.
- (c) A person shall provide medical, demographic, epidemiologic, toxicologic, or environmental information to the department as described by Section 81.061(c).
- (d) A person is not liable for damages or other relief for providing medical or other confidential information to the department during an epidemiologic or toxicologic investigation.

§ 161.0212. Right of Entry

To conduct an epidemiologic or toxicologic investigation, the commissioner or the commissioner's designee has the same authority to investigate, sample, inspect, and enter as that described by Sections 81.061, 81.063, 81.064, and 81.065.

CHAPTER 241 HOSPITALS

SUBCHAPTER B. HOSPITAL LICENSES

§ 241.026. Rules and Minimum Standards

- (a) The board shall adopt and enforce rules to further the purposes of this chapter. The rules at a minimum shall address:
 - (1) minimum requirements for staffing by physicians and nurses;
 - (2) hospital services relating to patient care;
 - (3) fire prevention, safety, and sanitation requirements in hospitals;
 - (4) patient care and a patient bill of rights;
 - (5) compliance with other state and federal laws affecting the health, safety, and rights of hospital patients; and
 - (6) compliance with nursing peer review under Subchapter I, Chapter 301, and Chapter 303 Occupations Code, and the rules of the Board of Nurse Examiners relating to peer review.
- (b) In adopting rules, the board shall consider the conditions of participation for certification under Title XVIII of the Social Security Act (42 U.S.C. Section 1395 et seq.) and the standards of the Joint Commission on Accreditation of Healthcare Organizations and will attempt to achieve consistency with those conditions and standards.
- (c) Upon the recommendation of the hospital licensing director and the council, the board by order may waive or modify the requirement of a particular provision of this Act or minimum standard adopted by board rule under this section to a particular general or special hospital if the board determines that the waiver or modification will facilitate the creation or operation of the hospital and that the waiver or modification is in the best interests of the individuals served or to be served by the hospital.
- (d) The board shall adopt rules establishing procedures and criteria for the issuance of the waiver or modification order. The criteria must include at a minimum a statement of the appropriateness of the waiver or

modification against the best interests of the individuals served by the hospital.

- (e) If the board orders a waiver or modification of a provision or standard, the licensing record of the hospital granted the waiver or modification shall contain documentation to support the board's action. The board's rules shall specify the type and specificity of the supporting documentation that must be included.
- (f) A comprehensive medical rehabilitation hospital or a pediatric and adolescent hospital shall have an emergency treatment room but is not required to have an emergency department.

SUBCHAPTER G. DISCLOSURE OF HEALTH CARE INFORMATION

§ 241.153. Disclosure Without Written Authorization

A patient's health care information may be disclosed without the patient's authorization if the disclosure is:

- (1) directory information, unless the patient has instructed the hospital not to make the disclosure or the directory information is otherwise protected by state or federal law;
- (2) to a health care provider who is rendering health care to the patient when the request for the disclosure is made;
- (3) to a transporting emergency medical services provider for the sole purpose of determining the patient's diagnosis and the outcome of the patient's hospital admission;
- (4) to a member of the clergy specifically designated by the patient;
- (5) to a qualified organ or tissue procurement organization as defined in Section 692.002 for the purpose of making inquiries relating to donations according to the protocol referred to in Section 692.013(d);
- (6) to a prospective health care provider for the purpose of securing the services of that health care provider as part of the patient's continuum of care, as determined by the patient's attending physician;

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- (7) to a person authorized to consent to medical treatment under Chapter 313 or to a person in a circumstance exempted from Chapter 313 to facilitate the adequate provision of treatment;
 - (8) to an employee or agent of the hospital who requires health care information for health care education, quality assurance, or peer review or for assisting the hospital in the delivery of health care or in complying with statutory, licensing, accreditation, or certification requirements and if the hospital takes appropriate action to ensure that the employee or agent:
 - (A) will not use or disclose the health care information for any other purpose; and
 - (B) will take appropriate steps to protect the health care information;
 - (9) to a federal, state, or local government agency or authority to the extent authorized or required by law;
 - (10) to a hospital that is the successor in interest to the hospital maintaining the health care information;
 - (11) to the American Red Cross for the specific purpose of fulfilling the duties specified under its charter granted as an instrumentality of the United States government;
 - (12) to a regional poison control center, as the term is used in Chapter 777, to the extent necessary to enable the center to provide information and education to health professionals involved in the management of poison and overdose victims, including information regarding appropriate therapeutic use of medications, their compatibility and stability, and adverse drug reactions and interactions;
 - (13) to a health care utilization review agent who requires the health care information for utilization review of health care under Article 21.58A, Insurance Code;
 - (14) for use in a research project authorized by an institutional review board under federal law;
 - (15) to health care personnel of a penal or other custodial institution in which the patient is detained if the disclosure is for the sole purpose of providing health care to the patient;

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- (16) to facilitate reimbursement to a hospital, other health care provider, or the patient for medical services or supplies;
 - (17) to a health maintenance organization for purposes of maintaining a statistical reporting system as required by a rule adopted by a state agency or regulations adopted under the federal Health Maintenance Organization Act of 1973, as amended (42 U.S.C. Section 300 et seq.);
 - (18) to satisfy a request for medical records of a deceased or incompetent person pursuant to Section 4.01(e), Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes);
 - (19) to comply with a court order except as provided by Subdivision (20); or
 - (20) related to a judicial proceeding in which the patient is a party and the disclosure is requested under a subpoena issued under:
 - (A) the Texas Rules of Civil Procedure or Code of Criminal Procedure; or
 - (B) Chapter 121, Civil Practice and Remedies Code.

Pertinent provisions of Government Code, Chapter 418

SUBCHAPTER A. GENERAL PROVISIONS

§ 418.001. Short Title

This chapter may be cited as the Texas Disaster Act of 1975.

§ 418.004. Definitions

In this chapter:

- (1) “Disaster” means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, terrorist activity, hostile military or paramilitary action, other public calamity requiring emergency action, or energy emergency.
- (2) “Division” means the division of emergency management in the office of the governor.
- (3) “Energy emergency” means a temporary statewide, regional, or local shortage of petroleum or liquid fuels energy supplies that makes emergency measures necessary to reduce demand or allocate supply.
- (4) “Interjurisdictional agency” means a disaster agency maintained by and serving more than one political subdivision.
- (5) “Organized volunteer group” means an organization such as the American National Red Cross, the Salvation Army, the Civil Air Patrol, the Radio Amateur Civil Emergency Services, a volunteer fire department, a volunteer rescue squad, or other similar organization recognized by federal or state statute, regulation, or memorandum.
- (6) “Political subdivision” means a county or incorporated city.
- (7) “Temporary housing” has the meaning assigned by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93–288, as amended.

SUBCHAPTER B. POWERS AND DUTIES OF THE GOVERNOR

§ 418.014. Declaration of State of Disaster

- (a) The governor by executive order or proclamation may declare a state of disaster if the governor finds a disaster has occurred or that the occurrence or threat of disaster is imminent.
- (b) Except as provided by Subsection (c), the state of disaster continues until the governor:
 - (1) finds that:
 - (A) the threat or danger has passed; or
 - (B) the disaster has been dealt with to the extent that emergency conditions no longer exist; and
 - (2) terminates the state of disaster by executive order.
- (c) A state of disaster may not continue for more than 30 days unless renewed by the governor. The legislature by law may terminate a state of disaster at any time. On termination by the legislature, the governor shall issue an executive order ending the state of disaster.
- (d) An executive order or proclamation issued under this section must include:
 - (1) a description of the nature of the disaster;
 - (2) a designation of the area threatened; and
 - (3) a description of the conditions that have brought the state of disaster about or made possible the termination of the state of disaster.
- (e) An executive order or proclamation shall be disseminated promptly by means intended to bring its contents to the attention of the general public. An order or proclamation shall be filed promptly with the division of emergency management, the secretary of state, and the county clerk or city secretary in each area to which it applies unless the circumstances attendant on the disaster prevent or impede the filing.

§ 418.015. Effect of Disaster Declaration

- (a) An executive order or proclamation declaring a state of disaster:
 - (1) activates the disaster recovery and rehabilitation aspects of the state emergency management plan applicable to the area subject to the declaration; and
 - (2) authorizes the deployment and use of any forces to which the plan applies and the use or distribution of any supplies, equipment, and materials or facilities assembled, stockpiled, or arranged to be made available under this chapter or other law relating to disasters.
- (b) The preparedness and response aspects of the state emergency management plan are activated as provided by that plan.
- (c) During a state of disaster and the following recovery period, the governor is the commander in chief of state agencies, boards, and commissions having emergency responsibilities. To the greatest extent possible, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or plans, but this chapter does not restrict the governor's authority to do so by orders issued at the time of the disaster.

§ 418.016. Suspension of Procedural Laws and Rules

The governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.

§ 418.017. Use of Public and Private Resources

- (a) The governor may use all available resources of state government and of political subdivisions that are reasonably necessary to cope with a disaster.
- (b) The governor may temporarily reassign resources, personnel, or functions of state executive departments and agencies or their units for the purpose of performing or facilitating emergency services.
- (c) The governor may commandeer or use any private property if the governor finds it necessary to cope with a disaster, subject to the compensation requirements of this chapter.

§ 418.018. Movement of People

- (a) The governor may recommend the evacuation of all or part of the population from a stricken or threatened area in the state if the governor considers the action necessary for the preservation of life or other disaster mitigation, response, or recovery.
- (b) The governor may prescribe routes, modes of transportation, and destinations in connection with an evacuation.
- (c) The governor may control ingress and egress to and from a disaster area and the movement of persons and the occupancy of premises in the area.

SUBCHAPTER H. MISCELLANEOUS PROVISIONS

§ 418.171. Qualifications for Rendering Aid

A person who holds a license, certificate, or other permit issued by a state or political subdivision of any state evidencing the meeting of qualifications for professional, mechanical, or other skills may render aid involving the skill in this state to meet an emergency or disaster. This state shall give due consideration to the license, certificate, or other permit.

CHAPTER 551. OPEN MEETINGS

SUBCHAPTER C. NOTICE OF MEETINGS

§ 551.045. Exception to General Rule: Notice of Emergency Meeting or Emergency Addition to Agenda

- (a) In an emergency or when there is an urgent public necessity, the notice of a meeting or the supplemental notice of a subject added as an item to the agenda for a meeting for which notice has been posted in accordance with this subchapter is sufficient if it is posted for at least two hours before the meeting is convened.
- (b) An emergency or an urgent public necessity exists only if immediate action is required of a governmental body because of:
 - (1) an imminent threat to public health and safety; or
 - (2) a reasonably unforeseeable situation.
- (c) The governmental body shall clearly identify the emergency or urgent public necessity in the notice or supplemental notice under this section.
- (d) A person who is designated or authorized to post notice of a meeting by a governmental body under this subchapter shall post the notice taking at face value the governmental body's stated reason for the emergency or urgent public necessity.

OCCUPATIONS CODE CHAPTER 159.

PHYSICIAN-PATIENT COMMUNICATION

§ 159.004. Exceptions to Confidentiality in Other Situations

An exception to the privilege of confidentiality in a situation other than a court or administrative proceeding, allowing disclosure of confidential information by a physician, exists only with respect to the following:

- (1) a governmental agency, if the disclosure is required or authorized by law;
- (2) medical or law enforcement personnel, if the physician determines that there is a probability of:
 - (A) imminent physical injury to the patient, the physician, or another person; or
 - (B) immediate mental or emotional injury to the patient;
- (3) qualified personnel for research or for a management audit, financial audit, or program evaluation, but the personnel may not directly or indirectly identify a patient in any report of the research, audit, or evaluation or otherwise disclose identity in any manner;
- (4) those parts of the medical records reflecting charges and specific services provided if necessary in the collection of fees for medical services provided by a physician, professional association, or other entity qualified to provide or arrange for medical services;
- (5) a person who has consent as provided by Section 159.005;
- (6) a person, corporation, or governmental agency involved in the payment or collection of fees for medical services provided by a physician;
- (7) another physician or other personnel acting under the direction of the physician who participate in the diagnosis, evaluation, or treatment of the patient;
- (8) an official legislative inquiry regarding state hospitals or state schools, if:

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- (A) information or a record that identifies a patient or client is not released for any purpose unless proper consent to the release is given by the patient; and
 - (B) only records created by the state hospital or school or its employees are included; or
 - (9) health care personnel of a penal or other custodial institution in which the patient is detained if the disclosure is for the sole purpose of providing health care to the patient.

TEXAS ADMINISTRATIVE CODE

TITLE 25 HEALTH SERVICES PART 1 TEXAS DEPARTMENT OF HEALTH CHAPTER 85 COMMUNITY HEALTH SERVICES

SUBCHAPTER A. LOCAL PUBLIC HEALTH

RULE § 85.1 HEALTH AUTHORITIES

- (a) A health authority is a physician appointed under the Local Public Health Reorganization Act, Health and Safety Code, Chapter 121 by the governing body of a city, county, or public health district to administer the state and local laws relating to public health.
- (b) A health authority must be appointed in a municipality or county that has established a local health department or public health district.
 - (1) The director of a local health department or public health district, if the director is a physician, shall be the health authority within the jurisdiction of the local health department or district.
 - (2) If a non-physician serves as the director of a local health department or public health district, the director shall appoint a physician to serve as the health authority within the jurisdiction of such local health department or district subject to the approval of the governing body of the local health department or public health district. No action is required by the Board of Health (board) to further approve the appointment.
- (c) A health authority may be appointed, but is not required to be appointed, in a municipality or county that has not established a local health department or public health district unless it falls under subsection (d) of this section. The governing body of the municipality or the commissioners court of the county may appoint the health authority within its jurisdiction.
- (d) A health authority serves for a term of two years and may be appointed to successive terms.
- (e) A regional director of the department shall perform the duties of a health authority for a municipality, county, public health district, or entity authorized to appoint a health authority in a jurisdiction in the regional director's region in which there is

no health authority. A regional director is a physician who is employed by the department and serves as the chief administrative officer of a region. A region is a geographic area of the State of Texas designated by the department.

- (f) A regional director of the department may perform some or all of the duties of a health authority if an appointed health authority fails to perform duties prescribed by the board in this section. At the request of the appointing authority, a regional director may serve as a health authority because of the absence or incapacity of the appointed health authority. No action by the board is necessary to further approve a regional director's performance or service.
- (g) A health authority shall perform each duty that is necessary to implement and enforce a law to protect the public health as stated in the Health and Safety Code, §121.024.
- (h) An appointed health authority shall take the official oath required by the Texas Constitution, Article 16, §1, including the statement of appointed officer and file a copy of the oath and appointment with the appropriate regional office within ten working days of the date of taking the oath.
- (i) If a health authority ceases to hold office for any reason, the appointing authority shall immediately notify the department and appropriate regional director. When a new health authority has been appointed, the person will take the action outlined in subsection (i) of this section and notify the appropriate regional office of the change.

TEXAS ADMINISTRATIVE CODE

TITLE 25 HEALTH SERVICES PART 1 TEXAS DEPARTMENT OF HEALTH CHAPTER 97 COMMUNITY HEALTH SERVICES

SUBCHAPTER A. CONTROL OF COMMUNICABLE DISEASES

RULE § 97.2 WHO SHALL REPORT

- (a) A physician, dentist, veterinarian, chiropractor, advanced practice nurse, physician assistant, or person permitted by law to attend a pregnant woman during gestation or at the delivery of an infant shall report, as required by these sections, each patient (person or animal) he or she shall examine and who has or is suspected of having any notifiable condition, and shall report any outbreak, exotic disease, or unusual group expression of illness of any kind whether or not the disease is known to be communicable or reportable. An employee from the clinic or office staff may be designated to serve as the reporting officer. A physician, dentist, veterinarian, or chiropractor who can assure that a designated or appointed person from the clinic or office is regularly reporting every occurrence of these diseases or health conditions in their clinic or office does not have to submit a duplicate report.
- (b) The chief administrative officer of a hospital shall appoint one reporting officer who shall be responsible for reporting each patient who is medically attended at the facility and who has or is suspected of having any notifiable condition. Hospital laboratories may report through the reporting officer or independently in accordance with the hospital's policies and procedures.
- (c) Except as provided in subsection (b) of this section, any person who is in charge of a clinical laboratory, blood bank, mobile unit, or other facility in which a laboratory examination of any specimen derived from a human body yields microscopic, bacteriologic, virologic, parasitologic, serologic, or other evidence of a notifiable condition, shall report as required by this section.
- (d) School authorities, including a superintendent, principal, teacher, school health official, or counselor of a public or private school and the administrator or health official of a public or private institution of higher learning should report as required by these sections those students attending school who are suspected of having a notifiable condition. School administrators who are not medical directors

meeting the criteria described in §97.132 of this title (relating to Who Shall Report Sexually Transmitted Diseases) are exempt from reporting sexually transmitted diseases.

- (e) Any person having knowledge that a person or animal is suspected of having a notifiable condition should notify the local health authority or the department and provide all information known to them concerning the illness and physical condition of such person or persons.
- (f) Sexually transmitted diseases including HIV and AIDS shall be reported in accordance with §97.132 of this title.
- (g) Failure to report a notifiable condition is a Class B misdemeanor under the Texas Health and Safety Code, §81.049.

TEXAS ADMINISTRATIVE CODE

TITLE 25 HEALTH SERVICES PART 1 TEXAS DEPARTMENT OF HEALTH

CHAPTER 97 COMMUNITY HEALTH SERVICES

SUBCHAPTER A. CONTROL OF COMMUNICABLE DISEASES

RULE § 97.3 WHAT CONDITION TO REPORT AND WHAT ISOLATES TO REPORT OR SUBMIT

- (a) Humans.
 - (1) Identification of notifiable conditions.
 - (A) The most current edition of the Texas Department of Health's (department) publication titled "Identification, Confirmation, and Reporting of Notifiable Conditions" shall be reported under these sections based on a specific diagnosis, test procedure, and/or confirmatory test. Copies are available upon request to the Materials Acquisition and Management Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Copies are filed in the Infectious Disease Epidemiology and Surveillance Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756 and are available for public inspection during regular working hours.
 - (B) Repetitive test results from the same patient do not need to be reported except those for mycobacterial infections.
 - (2) Notifiable conditions or isolates.
 - (A) Confirmed and suspected human cases of the following diseases/infections are reportable: acquired immune deficiency syndrome (AIDS); amebiasis; anthrax; botulism-adult and infant; brucellosis; campylobacteriosis; chancroid; chickenpox (varicella); Chlamydia trachomatis infection; Creutzfeldt-Jakob disease (CJD); cryptosporidiosis; cyclosporiasis; dengue; diphtheria; ehrlichiosis; encephalitis (specify etiology); Escherichia coli , enterohemorrhagic infection; gonorrhea; Hansen's disease (leprosy); Haemophilus influenzae type b infection, invasive; hantavirus infection; hemolytic uremic syndrome (HUS); hepatitis A, B, D, E, and unspecified (acute); hepatitis C (newly diagnosed infection, effective 1/1/00);

hepatitis B, (chronic) identified prenatally or at delivery as described in §97.135 of this title (relating to Serologic Testing during Pregnancy and Delivery; human immunodeficiency virus (HIV) infection; legionellosis; listeriosis; Lyme disease; malaria; measles (rubeola); meningitis (specify type); meningococcal infection, invasive; mumps; pertussis; plague; poliomyelitis, acute paralytic; Q fever; rabies; relapsing fever; rubella (including congenital); salmonellosis, including typhoid fever; shigellosis; smallpox; spotted fever group rickettsioses (such as Rocky Mountain spotted fever); streptococcal disease, invasive (group A or B); syphilis; tetanus; trichinosis; tuberculosis; tularemia; typhus; Vibrio infection, including cholera (specify species); viral hemorrhagic fevers; yellow fever; and yersiniosis.

- (B) In addition to individual case reports, any outbreak, exotic disease, or unusual group expression of disease which may be of public health concern should be reported by the most expeditious means.
- (C) The following organisms shall be reported: Enterococcus species; vancomycin resistant Enterococcus species; vancomycin resistant Staphylococcus aureus; vancomycin resistant coagulase negative Staphylococcus species; Streptococcus pneumoniae; and penicillin-resistant Streptococcus pneumoniae.
- (3) Minimal reportable information requirements. The minimal information that shall be reported for each disease is as follows:
 - (A) AIDS, chancroid, Chlamydia trachomatis infection, gonorrhea, HIV infection, and syphilis shall be reported in accordance with §§97.132-97.135 of this title (relating to Sexually Transmitted Diseases, including AIDS and HIV infection);
 - (B) for tuberculosis - name, present address, present telephone number, age, date of birth, sex, race and ethnicity, physician, disease, type of diagnosis, date of onset, antibiotic susceptibility results, initial antibiotic therapy, and any change in antibiotic therapy;
 - (C) for hepatitis B, (chronic and acute) identified prenatally or at delivery - name, present address, present telephone number, age, date of birth, sex, race and ethnicity, estimated delivery date (for prenatal diagnoses), name of baby and location of delivery (for diagnoses made at delivery), physician or other person in attendance, disease, type of diagnosis, date of onset, address, telephone number;
 - (D) for all other notifiable conditions listed in subsection (b)(1) of this section - name, present address, present telephone number, age, date of birth, sex, race and ethnicity, physician, disease, type of diagnosis, date of onset, address, and telephone number;
 - (E) for all isolates of Enterococcus species and all isolates of Streptococcus pneumoniae regardless of resistance patterns - numeric totals at least quarterly; and

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- (F) for vancomycin resistant *Enterococcus* species; penicillin resistant *Streptococcus pneumoniae*; vancomycin resistant *Staphylococcus aureus*; vancomycin resistant coagulase negative *Staphylococcus* species, - name, city of submitter, date of birth or age, sex, anatomic site of culture, and date of culture.
 - (4) Diseases requiring submission of cultures. For all *Neisseria meningitidis* from normally sterile sites, all vancomycin resistant *Staphylococcus aureus*, and vancomycin resistant coagulase negative *Staphylococcus* species—pure cultures shall be submitted accompanied by a Specimen Submission Form G-1.
 - (b) Animals.
 - (1) Clinically diagnosed or laboratory-confirmed animal cases of the following diseases are reportable: anthrax, arboviral encephalitis, *Mycobacterium tuberculosis* infection in animals other than those housed in research facilities, plague, and psittacosis. Also, all non-negative rabies tests performed on animals from Texas at laboratories located outside of Texas shall be reported; all non-negative rabies tests performed in Texas will be reported by the laboratory conducting the testing. In addition to individual case reports, any outbreak, exotic disease, or unusual group expression of disease which may be of public health concern should be reported by the most expeditious means.
 - (2) The minimal information that shall be reported for each disease includes species and number of animals affected, disease or condition, and the veterinarian's name and phone number.

TEXAS ADMINISTRATIVE CODE

TITLE 25 HEALTH SERVICES PART 1 TEXAS DEPARTMENT OF HEALTH CHAPTER 97 COMMUNITY HEALTH SERVICES

SUBCHAPTER A. CONTROL OF COMMUNICABLE DISEASES

RULE § 97.8 GENERAL CONTROL MEASURES for NOTIFIABLE CONDITIONS

Except for diseases for which equivalent measures of investigation and control are specifically provided in other sections in this chapter, the commissioner of health (commissioner), a health authority, or a duly authorized representative of the commissioner or a health authority may proceed as follows.

- (1) Investigation shall be made, as the circumstances may require, for verifying the diagnosis, ascertaining the source of the causative agent, disclosing unreported cases, and finding contacts. On request, a person shall provide the Texas Department of Health (department) or health authority with records, data, and other information according to the written instruction of the department or health authority. The health authority and the department shall keep this information confidential.
- (2) Laboratory specimens of the body tissues, fluids, or discharges and of materials directly or indirectly associated with the case, as may be necessary or desirable in confirmation of the diagnosis or for ascertaining the source of the infection, shall be collected and submitted to a laboratory for examination.
- (3) Control techniques, including disinfection, environmental sanitation, immunization, chemoprophylaxis, isolation, preventive therapy, quarantine, education, prevention, and other accepted measures shall be instituted as necessary to reduce morbidity and mortality. In establishing quarantine or isolation, the health authority shall designate and define the limits of the areas in which the persons are quarantined or isolated.
- (4) Information concerning the disease and its prevention shall be given to the patient or a responsible member of the patient's household to prevent further spread of the disease.

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- (5) Control measures implemented by the health authority shall be consistent with and at least as stringent as those control measure standards imposed by the department. Individual control measures implemented by the health authority are subject to review and modification or change by the commissioner.

TEXAS ADMINISTRATIVE CODE

TITLE 25 HEALTH SERVICES PART 1 TEXAS DEPARTMENT OF HEALTH CHAPTER 97 COMMUNITY HEALTH SERVICES

SUBCHAPTER A. CONTROL OF COMMUNICABLE DISEASES

RULE § 97.9 QUARANTINE OF SPECIFIC PREMISES

A health authority may declare a house, building, apartment, room, or place within the health authority's jurisdiction to be a place of quarantine whenever a case of communicable disease occurs therein, and, in the health authority's opinion, it is necessary to do so in order to protect the public health. No person shall leave or enter the place during the period of quarantine except with specific permission of the health authority.

TEXAS ADMINISTRATIVE CODE

TITLE 25 HEALTH SERVICES PART 1 TEXAS DEPARTMENT OF HEALTH CHAPTER 133 HOSPITAL LICENSING

SUBCHAPTER E. WAIVERS

RULE § 133.81 WAIVER PROVISIONS

- (a) Request for a waiver. A hospital may submit a written request to the director for a waiver or modification of a particular provision of the Texas Hospital Licensing Act (Act) or a minimum standard in this chapter, except fire safety requirements. The written request shall specify the section(s) of the Act or this chapter for which a waiver is requested.
- (b) Consideration. In considering the waiver or modification request, the director shall consider whether the waiver or modification:
 - (1) will adversely affect the health and safety of the hospital patients, employees, or the general public;
 - (2) will adversely impact the hospital's participation in the federal Medicare program or accreditation by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association;
 - (3) if not granted, would impose an unreasonable hardship on the hospital in providing adequate care for patients;
 - (4) will facilitate the creation or operation of the hospital; and
 - (5) is appropriate when balanced against the best interests of the individuals served or to be served by the hospital.
- (c) Supporting documentation. The director may request written documentation from the hospital to support the waiver or modification including, but not limited to:
 - (1) a statement addressing each of the criteria in subsection (b) of this section;
 - (2) evidence of approval by the local building and fire authorities;
 - (3) evidence of provisions in the Act or this chapter which will mitigate any adverse effect of the waiver or modification; and

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- (4) evidence of any mitigating act in excess of the Act or this chapter which will be used by the hospital to offset any adverse effect of the waiver or modification.
 - (d) Written recommendation. The director shall submit his written recommendation for granting or denying the waiver to the commissioner of health (commissioner). The director's recommendation shall address each of the criteria in subsection (b) of this section.
 - (e) Granting order. If the director recommends that the waiver or modification be granted, the commissioner may issue a written order granting the waiver or modification.
 - (f) Denial of order. If the director recommends that the waiver or modification be denied, the commissioner may issue a written order denying the waiver or modification.
 - (g) File documentation. The licensing file for the hospital maintained by the Texas Department of Health shall contain a copy of the request, the documents requested in subsection (c) of this section (if applicable), the written recommendation of the director, and the order.

The Texas Constitution

Article 16 - GENERAL PROVISIONS

Section 1 — OFFICIAL OATH

- (a) All other elected and appointed officers, before they enter upon the duties of their offices, shall take the following Oath or Affirmation: “I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.”
- (b) All elected or appointed officers, before taking the Oath or Affirmation of office prescribed by this section and entering upon the duties of office, shall subscribe to the following statement: “I, _____, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.”
- (c) Members of the Legislature, the Secretary of State, and all other elected and appointed state officers shall file the signed statement required by Subsection (b) of this section with the Secretary of State before taking the Oath or Affirmation of office prescribed by Subsection (a) of this section. All officers shall retain the signed statement required by Subsection (b) of this section with the official records of the office.

UNITED STATES CODE

TITLE 42- THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A- PUBLIC HEALTH SERVICE

SUBCHAPTER II – GENERAL POWERS AND DUTIES

PART B – FEDERAL-STATE COOPERATION

§ 243. General grant of authority for cooperation

- (a) Enforcement of quarantine regulations; prevention of communicable diseases.

The Secretary is authorized to accept from State and local authorities any assistance in the enforcement of quarantine regulations made pursuant to this chapter which such authorities may be able and willing to provide. The Secretary shall also assist States and their political subdivisions in the prevention and suppression of communicable diseases and with respect to other public health matters, shall cooperate with and aid State and local authorities in the enforcement of their quarantine and other health regulations, and shall advise the several States on matters relating to the preservation and improvement of the public health.

- (b) Comprehensive and continuing planning; training of personnel for State and local health work; fees

The Secretary shall encourage cooperative activities between the States with respect to comprehensive and continuing planning as to their current and future health needs, the establishment and maintenance of adequate public health services, and otherwise carrying out public health activities. The Secretary is also authorized to train personnel for State and local health work. The Secretary may charge only private entities reasonable fees for the training of their personnel under the preceding sentence.

- (c) Development of plan to control epidemics and meet emergencies or problems resulting from disasters; cooperative planning; temporary assistance; reimbursement of United States

- (1) The Secretary is authorized to develop (and may take such action as may be necessary to implement) a plan under which personnel, equipment, medical supplies, and other resources of the Service and other agencies under the jurisdiction of the Secretary may be effectively used to control epidemics of any

disease or condition and to meet other health emergencies or problems. The Secretary may enter into agreements providing for the cooperative planning between the Service and public and private community health programs and agencies to cope with health problems (including epidemics and health emergencies).

- (2) The Secretary may, at the request of the appropriate State or local authority, extend temporary (not in excess of six months) assistance to States or localities in meeting health emergencies of such a nature as to warrant Federal assistance. The Secretary may Require such reimbursement of the United States for assistance provided under this paragraph as he may determine to be reasonable under the circumstances. Any reimbursement so paid shall be credited to the applicable appropriation for the Service for the year in which such reimbursement is received.