

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 633 Session of 2019

INTRODUCED BY COSTA, BARTOLOTTA, FARNESE, FONTANA, LEACH, MUTH, YUDICHAK, SCHWANK, TARTAGLIONE, HUGHES, BREWSTER, L. WILLIAMS AND HAYWOOD, MAY 10, 2019

SENATOR BROOKS, HEALTH AND HUMAN SERVICES, AS AMENDED, JUNE 4, 2019

AN ACT

1 Providing for the declaration of a public health emergency, for
2 duties of the Department of Health, for temporary regulations
3 and for immunity from liability.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Public Health
8 Emergency Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Department." The Department of Health of the Commonwealth.

14 "Executive agency." A department, board, commission,
15 authority, officer or agency or the Executive Department,
16 subject to the policy, supervision and control of the Governor.

17 "Government agency." Any of the following:

1 (1) An agency of the Commonwealth, including
2 departments, boards, commissions or authorities.

3 (2) A political subdivision or agency of a political
4 subdivision.

5 (3) A local or municipal authority or other local
6 government unit.

7 (4) A court or related agency.

8 "Public health emergency." An occurrence or imminent threat
9 of a disease or condition of public health importance with both
10 of the following characteristics:

11 (1) Is believed to be caused by any of the following:

12 (i) A bioterrorist event, a biological, chemical or
13 nuclear agent, a chemical attack or a nuclear attack.

14 (ii) The appearance of a novel or previously
15 controlled or eradicated infectious agent or biological
16 toxin.

17 (iii) A natural disaster, an accidental chemical
18 release or a nuclear incident.

19 (iv) A disease outbreak, including an outbreak of
20 substance use disorder or unusual expression of illness.

21 (2) Poses a high probability of any of the following in
22 the affected population:

23 (i) Death.

24 (ii) Serious or long-term disabilities.

25 (iii) Widespread exposure to an infectious or toxic
26 agent that poses a significant risk of substantial
27 present or future harm to the public health.

28 "Public health worker." A person employed by, under contract
29 with or serving as a registered volunteer of the department or a
30 local health department to carry out prophylaxis, treatment,

1 notification and prevention services to individuals AT RISK OF <--
2 CONTRACTING, OR reported to the department or local health
3 departments as having, a reportable disease under the act of <--
4 April 23, 1956 (1955 P.L.1510, No.500), known as the Disease
5 Prevention and Control Law of 1955.

6 "Secretary." The Secretary of Health of the Commonwealth.
7 Section 3. Declaration of a public health emergency.

8 ~~(a) Authorization. The secretary may declare a public~~ <--

9 (A) AUTHORIZATION.-- <--

10 (1) THE GOVERNOR, ON THE RECOMMENDATION OF THE
11 SECRETARY, MAY DECLARE A PUBLIC health emergency by
12 disseminating the declaration promptly by means calculated to
13 bring its contents to the attention of the general public and
14 shall file it with the Legislative Reference Bureau for
15 publication under 45 Pa.C.S. Pt. II (relating to publication
16 and effectiveness of Commonwealth documents); AND WITH THE <--
17 DIRECTOR OF THE PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY.

18 (2) WITHIN 72 HOURS OF RECEIPT OF A DECLARATION UNDER
19 PARAGRAPH (1), THE DIRECTOR OF THE PENNSYLVANIA EMERGENCY
20 MANAGEMENT AGENCY SHALL CONVENE THE PENNSYLVANIA EMERGENCY
21 MANAGEMENT COUNCIL TO PERFORM ITS DUTIES UNDER 35 PA.C.S. CH.
22 73 (RELATING TO COMMONWEALTH SERVICES) AND CONSISTENT WITH
23 DISASTER DECLARATIONS ISSUED BY THE GOVERNOR.

24 (b) Declaration, renewal and termination.--

25 (1) The declaration of a public health emergency shall
26 be valid for a period of up to 90 days unless ~~renewed or~~ <--
27 ~~terminated by the GOVERNOR, ON THE RECOMMENDATION OF THE~~
28 ~~secretary by publishing a subsequent declaration in the~~
29 ~~Pennsylvania Bulletin.~~ EXTENDED BY AFFIRMATIVE APPROVAL BY A <--
30 MAJORITY OF BOTH HOUSES OF THE GENERAL ASSEMBLY.

1 (2) The General Assembly by concurrent resolution may
2 terminate a public health emergency at any time. If the
3 Governor approves the concurrent resolution, or if
4 disapproved, the General Assembly repasses the concurrent
5 resolution by two-thirds of both houses, the Governor shall
6 issue an executive order or proclaim ending the public health
7 emergency declaration.

8 (c) Duties of department.--Upon a declaration under
9 subsection (a), the department is authorized to perform the
10 following duties:

11 (1) Suspend departmental regulations.

12 (2) Promulgate temporary regulations under subsection
13 (f) to address the public health emergency.

14 (3) Require reporting, in the manner and form prescribed
15 by the department, relating to a disease, infection or
16 condition.

17 (4) Set forth the requirements for health care
18 facilities and licensed health care practitioners, INCLUDING <--
19 PHARMACISTS, to manage a disease outbreak or unusual
20 expression of illness.

21 ~~(5) Authorize public health workers to dispense, <--
22 administer, furnish or otherwise provide prescription
23 medication for prophylaxis or treatment of a reportable
24 disease or condition as necessary to prevent and control the
25 spread of disease or condition.~~

26 (5) AUTHORIZE APPROPRIATELY TRAINED, LICENSED OR <--
27 CERTIFIED PUBLIC HEALTH WORKERS TO DISPENSE, ADMINISTER,
28 FURNISH OR OTHERWISE PROVIDE PROPHYLAXIS OR TREATMENT FOR A
29 REPORTABLE DISEASE OR CONDITION AS NECESSARY TO PREVENT AND
30 CONTROL THE SPREAD OF DISEASE OR CONDITION.

1 (d) Requirements.--Notwithstanding any other provision of
2 law, all government agencies shall, at the request of the
3 department and to the extent not prohibited by Federal law,
4 provide information as prescribed by the department during a
5 public health emergency. The department shall provide for the
6 frequency and format, which may include automated data
7 exchanges, for the collection of the information required under
8 this subsection.

9 (e) Confidentiality of information.--Any information
10 provided or collected under this section, EXCEPT FOR <--
11 NONIDENTIFIABLE AGGREGATED DATA, shall be confidential and is
12 not subject to public access under the act of February 14, 2008
13 (P.L.6, No.3), known as the Right-to-Know Law, and is neither
14 discoverable nor admissible as evidence in any civil, criminal
15 or administrative action or proceeding.

16 (f) Temporary regulations.--The department may promulgate
17 temporary regulations regarding measures to reduce harm and
18 control disease. The temporary regulations are not subject to:

19 (1) Sections 201, 202, 203, 204 and 205 of the act of
20 July 31, 1968 (P.L.769, No.240), referred to as the
21 Commonwealth Documents Law.

22 (2) Section 204(b) of the act of October 15, 1980
23 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

24 (3) The act of June 25, 1982 (P.L.633, No.181), known as
25 the Regulatory Review Act.

26 (g) Expiration and subsequent promulgation.--The temporary
27 regulations promulgated under subsection (f) shall expire 90
28 days following the ~~end~~ EXPIRATION OR TERMINATION of the <--
29 declaration of a public health emergency. Regulations adopted
30 after this period shall be promulgated as provided by law.

1 (h) Suspension of regulations.--An executive agency, in
2 consultation with the department, may suspend a regulation that
3 prevents, hinders or delays necessary action in responding to a
4 public health emergency.

5 Section 4. Immunity from liability.

6 The provisions of 42 Pa.C.S. § 8331 (relating to medical good
7 Samaritan civil immunity), 8332 (relating to emergency response
8 provider and bystander good Samaritan civil immunity) or 8332.4
9 (relating to volunteer-in-public-service negligence standard)
10 shall apply to any person who provides assistance in carrying
11 out the provisions of this act.

12 Section 5. Prohibitions.

13 The prohibitions under 18 Pa.C.S. § 6107 (relating to
14 prohibited conduct during emergency) do not apply to a
15 declaration of a public health emergency under this act.

16 Section 6. Effective date.

17 This act shall take effect immediately.