CHAPTER 222

AN ACT concerning emergency health powers, supplementing Title 26 of the Revised Statutes and amending R.S.26:4-2, 26:8-62, 34:15-43 and 34:15-75.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.26:13-1 Short title.

1. This act shall be known and may be cited as the "Emergency Health Powers Act."

C.26:13-2 Definitions relative to emergency health powers.

2. As used in this act:

"Biological agent" means any microorganism, virus, bacterium, rickettsiae, fungus, toxin, infectious substance or biological product that may be naturally occurring or engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, bacterium, rickettsiae, fungus, infectious substance or biological product, capable of causing death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism.

"Bioterrorism" means the intentional use or threat of use of any biological agent, to cause death, disease or other biological malfunction in a human, animal, plant or other living organism, or degrade the quality and safety of the food, air or water supply.

"Chemical weapon" means a toxic chemical and its precursors, except where intended for a lawful purpose as long as the type and quantity is consistent with such a purpose. Chemical weapon includes, but is not limited to: nerve agents, choking agents, blood agents and incapacitating agents.

"Commissioner" means the Commissioner of Health and Senior Services, or the commissioner's designee.

"Contagious disease" means an infectious disease that can be transmitted from person to person.

"Department" means the Department of Health and Senior Services.

"Health care facility" means any non-federal institution, building or agency, or portion thereof whether public or private for profit or nonprofit that is used, operated or designed to provide health services, medical or dental treatment or nursing, rehabilitative or preventive care to any person. Health care facility includes, but is not limited to: an ambulatory surgical facility, home health agency, hospice, hospital, infirmary, intermediate care facility, dialysis center, long-term care facility, medical assistance facility, mental health center, paid and volunteer emergency medical services, outpatient facility, public health center, rehabilitation facility, residential treatment facility, skilled nursing facility and adult day care center. Health care facility also includes, but is not limited to, the following related property when used for or in connection with the foregoing: a laboratory, research facility, pharmacy, laundry facility, health personnel training and lodging facility, patient, guest and health personnel food service facility, and the portion of an office or office building used by persons engaged in health care professions or services.

"Health care provider" means any person or entity who provides health care services including, but not limited to: a health care facility, bioanalytical laboratory director, perfusionist, physician, physician assistant, pharmacist, dentist, nurse, paramedic, respiratory care practitioner, medical or laboratory technician, and ambulance and emergency medical workers.

"Infectious disease" means a disease caused by a living organism or other pathogen, including a fungus, bacteria, parasite, protozoan, virus or prion. An infectious disease may, or may not, be transmissible from person to person, animal to person, or insect to person.

"Isolation" means the physical separation and confinement of an individual or groups of individuals who are infected or reasonably believed to be infected, on the basis of signs, symptoms or laboratory analysis, with a contagious or possibly contagious disease from non-isolated individuals, to prevent or limit the transmission of the disease to non-isolated individuals.

"Local health agency" means a county, regional, municipal or other governmental agency organized for the purpose of providing health services, administered by a full-time health officer and conducting a public health program pursuant to law.

"Local Information Network and Communications System Agency" or " LINCS agency" means the lead local public health agency in each county or identified city, as designated and

determined by the commissioner pursuant to section 21 of this act, responsible for providing central planning, coordination and delivery of specialized services within the designated county or city, in partnership with the other local health agencies within that jurisdiction, in order to prepare for and respond to acts of bioterrorism and other forms of terrorism or other public health emergencies or threats, and to discharge the activities as specified under this act.

"Microorganism" includes, but is not limited to, bacteria, viruses, fungi, rickettsiae, or protozoa.

"Nuclear or radiological device" means: any nuclear device which is an explosive device designed to cause a nuclear yield; an explosive radiological dispersal device used directly or indirectly to spread radioactive material; or a simple radiological dispersal device which is any act, container or any other device used to release radiological material for use as a weapon.

"Overlap agent or toxin" means: any microorganism or toxin that poses a risk to both human and animal health and includes:

Anthrax - Bacillus anthracis
Botulism - Clostridium botulinum toxin, Botulinum neurotoxins, Botulinum neurotoxin producing species of Clostridium
Plague - Yersinia pestis
Tularemia - Francisella tularensis
Viral Hemorrhagic Fevers - Ebola, Marburg, Lassa, Machupo
Brucellosis- Brucellosis species
Glanders - Burkholderia mallei
Melioidosis - Burkholderia pseudomallei
Psittacosis - Chlamydophila psittaci
Coccidiodomycosis - Coccidiodes immitis
Q Fever - Coxiella burnetii
Typhus Fever - Rickettsia prowazekii
Viral Encephalitis - VEE (Venezuelan equine encephalitis virus), EEE (Eastern equine encephalitis), WEE (Western equine encephalitis)
Toxins - Ricinus communis, Clostridium perfringens, Staph. Aureus, Staphylococcal enterotoxins, T-2 toxin, Shigatoxin
Nipah - Nipah virus
Hantavirus - Hantavirus
West Nile Fever - West Nile virus
Hendra - Hendra virus
Rift Valley Fever - Rift Valley Fever virus
Highly Pathogenic Avian Influenza

"Public health emergency" means an occurrence or imminent threat of an occurrence that:

a. is caused or is reasonably believed to be caused by any of the following: (1) bioterrorism or an accidental release of one or more biological agents; (2) the appearance of a novel or previously controlled or eradicated biological agent; (3) a natural disaster; (4) a chemical attack or accidental release of toxic chemicals; or (5) a nuclear attack or nuclear accident; and

b. poses a high probability of any of the following harms: (1) a large number of deaths, illness or injury in the affected population; (2) a large number of serious or long-term impairments in the affected population; or (3) exposure to a biological agent or chemical that poses a significant risk of substantial future harm to a large number of people in the affected population.

"Quarantine" means the physical separation and confinement of an individual or groups of individuals, who are or may have been exposed to a contagious or possibly contagious disease and who do not show signs or symptoms of a contagious disease, from non-quarantined individuals, to prevent or limit the transmission of the disease to non-quarantined individuals.

"Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi or infectious substances, or a recombinant molecule, whatever its origin or method of production, including:

a. any poisonous substance or biological product that may be engineered as a result of biotechnology or produced by a living organism; or

b. any poisonous isomer or biological product, homolog, or derivative of such a substance.

C.26:13-3 Declaration of public health emergency.

3. a. The Governor, in consultation with the commissioner and the Director of the State Office of Emergency Management, may declare a public health emergency. In declaring a public health emergency, the Governor shall issue an order that specifies:

(1) the nature of the public health emergency;

(2) the geographic area subject to the declaration;

(3) the conditions that have brought about the public health emergency to the extent known; and

(4) the expected duration of the state of public health emergency, if less than 30 days. Such order may also prescribe necessary actions or countermeasures to protect the public's health.

b. Any public health emergency declared pursuant to this act shall be terminated automatically after 30 days unless renewed by the Governor under the same standards and procedures set forth in subsection a. of this section.

c. The commissioner shall coordinate all matters pertaining to the public health response to a public health emergency, and shall have primary jurisdiction, responsibility and authority for:

(1) planning and executing public health emergency assessment, prevention, preparedness, response and recovery for the State;

(2) coordinating public health emergency response between State and local authorities;

(3) collaborating with relevant federal government authorities, elected officials and relevant agencies of other states, private organizations or companies;

(4) coordinating recovery operations and prevention initiatives subsequent to public health emergencies; and

(5) organizing public information activities regarding public health emergency response operations.

All such activities shall be taken in coordination with the State Office of Emergency Management and shall be executed in accordance with the State Emergency Operations Plan. The State Office of Emergency Management shall provide the commissioner with all required assistance.

d. In instances involving an overlap agent or toxin that causes or has the potential to cause a public health emergency, if the Commissioner of Health and Senior Services suspects or detects conditions that could potentially affect animals, plants or crops under the jurisdiction of the Department of Agriculture pursuant to the provisions of Title 4 of the Revised Statutes, he shall immediately notify the Secretary of Agriculture. If the Secretary of Agriculture suspects or detects conditions that could potentially affect humans, he shall immediately notify the commissioner. Information shared by each department shall be held confidential by the departments and their employees and their designees, and shall not be released without the approval of the department that was the source of the information.

e. To the fullest extent practicable, the commissioner shall also promptly notify the elected municipal officials and applicable health care facilities of the jurisdiction affected by the public health emergency of the nature and extent of the emergency.

f. All orders of the commissioner shall remain in effect during the period of the public health emergency until superseded by order of the Governor pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.). Upon the issuance of an order by the Governor pursuant to P.L.1942, c.251, the commissioner shall coordinate the public health emergency in accordance with the State Emergency Operations Plan. Upon declaration of a disaster pursuant to P.L.1942, c.251, the Governor may exercise the powers granted to the commissioner pursuant to this act.

C.26:13-4 Investigation of incident, imminent threat; reporting requirements.

4. a. In order to detect the occurrence or imminent threat of an occurrence of a public health emergency as defined in this act, the commissioner may take reasonable steps to investigate any incident or imminent threat of any human disease or health condition. Such investigation may include, and the commissioner may issue and enforce orders requiring, information from any health care provider or other person affected by, or having information related to, the incident

or threat, inspections of buildings and conveyances and their contents, laboratory analysis of samples collected during the course of such inspection, and where the commissioner has reasonable grounds to believe a public health emergency exists, requiring a physical examination or the provision of specimens of body secretions, excretions, fluids and discharge for laboratory examination of any person suspected of having a disease or health condition that necessitates an investigation under this subsection, except where such action would be reasonably likely to lead to serious harm to the affected person.

In instances involving an overlap agent or toxin, the Department of Agriculture shall be the lead agency with respect to surveillance, testing, sampling, detection and investigation related to animals, plants or crops under the jurisdiction of the Department of Agriculture pursuant to the provisions of Title 4 of the Revised Statutes, and shall coordinate its activities with all appropriate local, State and federal agencies.

b. A health care provider or medical examiner shall report to the department and to the local health official all cases of persons who harbor or are suspected of harboring any illness or health condition that may be reasonably believed to be potential causes of a public health emergency. Reportable illnesses and health conditions include, but are not limited to, any illnesses or health conditions identified by the commissioner.

c. In addition to the foregoing requirements for health care providers, a pharmacist shall, at the direction of the commissioner, report:

(1) an unusual increase in the number or type of prescriptions to treat conditions that the commissioner identifies by regulation;

(2) an unusual increase in the number of prescriptions for antibiotics; and

(3) any prescription identified by the commissioner that treats a disease that is relatively uncommon or may be associated with terrorism.

d. The reports shall be made to such State and local officials in accordance with the method and time frame as specified by the commissioner. The reports shall include the specific illness or health condition that is the subject of the report and a case number assigned to the report that is linked to the patient file in possession of the health care provider or medical examiner, along with the name and address of the health care provider or medical examiner. Based on any such report, where the commissioner has reasonable grounds to believe that a public health emergency exists, the health care provider or medical examiner shall provide a supplemental report including the following information: the patient's name, date of birth, sex, race, occupation, current home and work addresses, including city and county, and relevant telephone contact numbers; the name and address of the health care provider or medical examiner and of the reporting individual, if different; designated emergency contact; and any other information needed to locate the patient for follow-up.

e. The provisions of this section shall not be deemed or construed to limit, alter or impair in any way the authority of the Department of Environmental Protection pursuant to "The Radiation Accident Response Act," P.L.1981, c.302 (C. 26:2D-37 et seq.), or of the State Office of Emergency Management in the Division of State Police, Department of Law and Public Safety. Any powers of inspection of buildings and conveyances for sources of radiation that are granted to the commissioner shall only be exercised upon the concurrence of the Commissioner of Environmental Protection.

f. The provisions of this section shall not be deemed or construed to limit, alter or impair in any way the authority of the Department of Agriculture pursuant to its jurisdiction under the laws and policies governing that department.

C.26:13-5 Duties of commissioner relative to public health emergency.

5. Where the commissioner has reasonable grounds to believe a public health emergency exists, the commissioner shall: ascertain the existence of cases of an illness or health condition that may be potential causes of a public health emergency; investigate all such cases for sources of infection and ensure that they are subject to proper control measures; and define the distribution of the illness or health condition. To fulfill these duties, the commissioner shall identify exposed individuals as follows:

a. The commissioner shall identify individuals thought to have been exposed to an illness

or health condition that may be a potential cause of a public health emergency.

b. The commissioner shall counsel and interview such individuals where needed to assist in the positive identification of exposed individuals and develop information relating to the source and spread of the illness or health condition. The information shall include the name and address, including city and county, of any person from whom the illness or health condition may have been contracted and to whom the illness or health condition may have spread.

C.26:13-6 Emergency Health Care Provider Registry.

6. The commissioner may establish a registry of health care workers, public health workers and support services personnel who voluntarily consent to provide health care, public health services and support logistics during a public health emergency. This registry shall be known as the Emergency Health Care Provider Registry.

The commissioner may require training related to the provision of health care, public health services and support services in an emergency or crisis as a condition of registration.

a. The commissioner may issue identification cards to health care workers, public health workers and support services personnel included in the registry established under this section that:

(1) Identify the health care worker, public health worker or support services personnel;

(2) Indicate that the individual is registered as a New Jersey emergency health care worker, public health worker or support services personnel;

(3) Identify the professional license or certification held by the individual; and

(4) Identify the individual's usual area of practice if that information is available and the commissioner determines that it is appropriate to provide that information.

b. The commissioner shall establish a form for identification cards issued under this section.

c. The commissioner may identify all or part of a health care facility or other location as an emergency health care center. Upon the declaration of a public health emergency, an emergency health care center may be used for:

(1) Evaluation and referral of individuals affected by the emergency or crisis;

(2) Provision of health care services, including vaccination, mass prophylaxis, isolation and quarantine; and

(3) Preparation of patients for transportation.

The commissioner may direct designated LINCS agencies, or their successors, and local public health authorities to identify emergency health care centers under this subsection.

d. In the event the Governor declares a public health emergency, the commissioner may direct health care workers, public health workers and support services personnel registered under this section who are willing to provide health care services on a voluntary basis to proceed to any place in this State where health care services or public health services are required by reason of the public health emergency.

e. An emergency health care worker, public health worker and support services personnel registered under this section may volunteer to perform health care or public health services at any emergency health care center.

f. In the event the Governor declares a public health emergency, the commissioner may waive health care facility medical staff privileging requirements for individuals registered as emergency health care workers, and hospitals shall permit registered emergency health care workers to exercise privileges at the hospital for the duration of the public health emergency.

g. An emergency health care worker, public health worker and support services personnel registered under this section who provides health care services on a voluntary basis shall not be liable for any civil damages as a result of the person's acts or omissions in providing medical care or treatment related to the public health emergency in good faith and in accordance with the provisions of this act.

C.26:13-7 Actions during state of public health emergency, coordination.

7. During a state of public health emergency or in response to a public health emergency:

a. The commissioner, State Medical Examiner and Commissioner of Environmental Protection shall coordinate and consult with each other on the performance of their respective

functions regarding the safe disposition of human remains, to devise and implement measures which may include, but are not limited to, the following:

(1) To take actions or issue and enforce orders to provide for the safe disposition of human remains as may be reasonable and necessary to respond to the public health emergency. Such measures may include, but are not limited to, the temporary mass burial or other interment, cremation, disinterment, transportation and disposition of human remains. To the extent possible, religious, cultural, family, and individual beliefs of the deceased person or his family shall be considered when determining disposition of any human remains;

(2) To determine whether there is a need to investigate any human deaths related to the public health emergency, and take such steps as may be appropriate to enable the State Medical Examiner, or his designee, to take possession or control of any human remains and perform an autopsy of the body under protocols of the State Medical Examiner consistent with safety as the public health emergency may dictate;

(3) To direct or issue and enforce orders requiring any business or facility, including but not limited to, a mortuary or funeral director, authorized to hold, embalm, bury, cremate, inter, disinter, transport and dispose of human remains under the laws of this State to accept any human remains or provide the use of its business or facility if such actions are reasonable and necessary to respond to the public health emergency and are within the safety precaution capabilities of the business or facility; and

(4) To direct or issue and enforce orders requiring that every human remains prior to disposition be clearly labeled with all available information to identify the decedent, which shall include the requirement that any human remains of a deceased person with a contagious disease shall have an external, clearly visible tag indicating that the human remains are infected and, if known, the contagious disease.

b. The person in charge of disposition of any human remains shall maintain a written or electronic record of each human remains and all available information to identify the decedent and the circumstances of death and disposition. If human remains cannot be identified prior to disposition, a person authorized by the State Medical Examiner shall, to the extent possible, take fingerprints and photographs of the human remains, obtain identifying dental information, and collect a DNA specimen, under protocols of the State Medical Examiner consistent with safety as the public health emergency may dictate. All information gathered under this subsection shall be promptly forwarded to the State Medical Examiner who shall forward relevant information to the commissioner.

c. The commissioner and State Medical Examiner shall coordinate with the appropriate law enforcement agencies in any case where human remains may constitute evidence in a criminal investigation.

C.26:13-8 Powers of commissioner relative to facilities, property; hearing.

8. During a state of public health emergency, the commissioner may exercise the following powers over facilities or property:

a. Facilities. To close, direct and compel the evacuation of, or to decontaminate or cause to be decontaminated, any facility of which there is reasonable cause to believe that it may endanger the public health.

(1) Concurrent with or within 24 hours of decontamination or closure of a facility, the commissioner shall provide the facility with a written order notifying the facility of:

(a) the premises designated for decontamination or closure;

(b) the date and time at which the decontamination or closure will commence;

(c) a statement of the terms and conditions of the decontamination or closure;

(d) a statement of the basis upon which the decontamination or closure is justified; and

(e) the availability of a hearing to contest a closure order of a health care facility, as provided in paragraph (2) of this subsection.

(2) A health care facility subject to a closure order pursuant to this section may request a hearing in the Superior Court to contest the order.

Upon receiving a request for a hearing, the court shall fix a date for a hearing. The hearing shall be held within 72 hours of receipt of the request by the court, excluding Saturdays, Sundays

and legal holidays. The court may proceed in a summary manner. At the hearing, the burden of proof shall be on the commissioner to prove by a preponderance of the evidence that the health care facility poses a threat to the public health and the closure order issued by the commissioner is warranted to address the threat.

(3) If, upon a hearing, the court finds that the closure of the health care facility is not warranted, the facility shall be released immediately from the closure order and reopened.

(4) The manner in which the request for a hearing pursuant to this subsection is filed and acted upon shall be in accordance with the Rules of Court.

b. Property. To decontaminate or cause to be decontaminated, or destroy, subject to the payment of reasonable costs as provided for in sections 24 and 25 of this act, any material of which there is reasonable cause to believe that it may endanger the public health.

c. In instances involving an overlap agent or toxin that causes a public health emergency, the department and the Department of Agriculture shall be responsible for their roles under their respective jurisdictions.

C.26:13-9 Powers of commissioner relative to health care, other facilities, property, roads, public areas.

9. During a state of public health emergency, the commissioner may exercise, for such period as the state of public health emergency exists, the following powers concerning health care and other facilities, property, roads, or public areas:

a. Use of property and facilities. To procure, by condemnation or otherwise, subject to the payment of reasonable costs as provided for in sections 24 and 25 of this act, construct, lease, transport, store, maintain, renovate or distribute property and facilities as may be reasonable and necessary to respond to the public health emergency, with the right to take immediate possession thereof. Such property and facilities include, but are not limited to, communication devices, carriers, real estate, food and clothing. This authority shall also include the ability to accept and manage those goods and services donated for the purpose of responding to a public health emergency. The authority provided to the commissioner pursuant to this section shall not affect the existing authority or emergency response of other State agencies.

b. Use of health care facilities.

(1) To require, subject to the payment of reasonable costs as provided for in sections 24 and 25 of this act, a health care facility to provide services or the use of its facility if such services or use are reasonable and necessary to respond to the public health emergency, as a condition of licensure, authorization or the ability to continue doing business in the State as a health care facility. After consultation with the management of the health care facility, the commissioner may determine that the use of the facility may include transferring the management and supervision of the facility to the commissioner for a limited or unlimited period of time, but shall not exceed the duration of the public health emergency. In the event of such a transfer, the commissioner shall use the existing management of the health care facility.

(2) Concurrent with or within 24 hours of the transfer of the management and supervision of a health care facility, the commissioner shall provide the facility with a written order notifying the facility of:

(a) the premises designated for transfer;

(b) the date and time at which the transfer will commence;

(c) a statement of the terms and condition of the transfer;

(d) a statement of the basis upon which the transfer is justified; and

(e) the availability of a hearing to contest the order, as provided in paragraph (3) of this subsection.

(3) A health care facility subject to an order to transfer management and supervision to the commissioner pursuant to this section may request a hearing in the Superior Court to contest the order.

(a) Upon receiving a request for a hearing, the court shall fix a date for a hearing. The hearing shall be held within 72 hours of receipt of the request by the court, excluding Saturdays, Sundays and legal holidays. The court may proceed in a summary manner. At the hearing, the burden of proof shall be on the commissioner to prove by a preponderance of the evidence that

transfer of the management and supervision of the health care facility is reasonable and necessary to respond to the public health emergency and the order issued by the commissioner is warranted to address the need.

(b) If, upon a hearing, the court finds that the transfer of the management and supervision of the health care facility is not warranted, the facility shall be released immediately from the transfer order.

(c) The manner in which the request for a hearing pursuant to this subsection is filed and acted upon shall be in accordance with the Rules of Court.

(4) A health care facility which provides services or the use of its facility or whose management or supervision is transferred to the commissioner pursuant to this subsection shall not be liable for any civil damages as a result of the commissioner's acts or omissions in providing medical care or treatment or any other services related to the public health emergency.

(5) For the duration of a state of public health emergency, the commissioner shall confer with the Commissioner of Banking and Insurance to request that the Department of Banking and Insurance waive regulations requiring compliance by a health care provider or health care facility with a managed care plan's administrative protocols, including but not limited to, prior authorization and pre-certification.

c. Control of property. To inspect, control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, allocation or other means, the use, sale, dispensing, distribution or transportation of food, clothing and other commodities, as may be reasonable and necessary to respond to the public health emergency.

d. To identify areas that are or may be dangerous to the public health and to recommend to the Governor and the Attorney General that movement of persons within that area be restricted, if such action is reasonable and necessary to respond to the public health emergency.

C.26:13-10 Powers of commissioner relative to safe disposal of infectious waste.

10. Notwithstanding the provisions of P.L.1989, c.34 (C.13:1E-48.1 et seq.) to the contrary, during a state of public health emergency the commissioner may exercise in consultation with, and upon the concurrence of, the Commissioner of Environmental Protection, for such period as the state of public health emergency exists, the following powers regarding the safe disposal of infectious waste including, but not limited to, regulated medical waste as defined under P.L.1989, c.34.

a. To issue and enforce orders to provide for the safe disposal of infectious waste as may be reasonable and necessary to respond to the public health emergency. Such orders may include, but are not limited to, the collection, storage, handling, destruction, treatment, transportation, and disposal of infectious waste, including specific wastes generated in a home setting or in isolation or quarantine facilities.

b. To require any business or facility authorized to collect, store, handle, destroy, treat, transport and dispose of infectious waste under the laws of this State, and any landfill business or other such property, to accept infectious waste, or provide services or the use of the business, facility or property if such action is reasonable and necessary to respond to the public health emergency, as a condition of licensure, authorization or the ability to continue doing business in the State as such a business or facility. The use of the business, facility or property may include transferring the management and supervision of such business, facility or property to the department for a limited or unlimited period of time, but shall not exceed the duration of the public health emergency.

c. To procure, by condemnation or otherwise, subject to the payment of reasonable costs as provided for in sections 24 and 25 of this act, any business or facility authorized to collect, store, handle, destroy, treat, transport and dispose of infectious waste under the laws of this State and any landfill business or other such property as may be reasonable and necessary to respond to the public health emergency, with the right to take immediate possession thereof.

d. To require that all bags, boxes or other containers for infectious waste shall be clearly identified as containing infectious waste, and if known, the type of infectious waste.

C.26:13-11 Powers of commissioner relative to medications, medical supplies; rationing.

11. a. During a state of public health emergency, the commissioner may purchase, obtain, store, distribute or take for priority redistribution any anti-toxins, serums, vaccines, immunizing agents, antibiotics and other pharmaceutical agents or medical supplies as may be reasonable and necessary to respond to the public health emergency, with the right to take immediate possession thereof.

b. If a state of public health emergency results in a Statewide or regional shortage or threatened shortage of any product under subsection a. of this section, the commissioner may issue and enforce orders to control, restrict and regulate by rationing and using quotas, prohibitions on shipments, allocation or other means, the use, sale, dispensing, distribution or transportation of the relevant product necessary to protect the public health, safety and welfare of the people of the State.

c. In making rationing or other supply and distribution decisions, the commissioner may give preference to health care providers, disaster response personnel, mortuary staff and such other persons as the commissioner deems appropriate in order to respond to the public health emergency.

C.26:13-12 Measures to prevent transmission, exposure.

12. With respect to a declared state of public health emergency, the commissioner may take all reasonable and necessary measures to prevent the transmission of infectious disease or exposure to toxins or chemicals and apply proper controls and treatment for infectious disease or exposure to toxins or chemicals.

C.26:13-13 Orders to submit specimen for diagnostic purposes.

13. a. During a state of public health emergency, the commissioner may issue and enforce orders to any person to submit a specimen for physical examinations or tests as may be necessary for the diagnosis or treatment of individuals to prevent the spread of a contagious or possibly contagious disease, except where such actions are reasonably likely to lead to serious harm to the affected person, and to conduct an investigation as authorized under section 5 of this act.

b. Any person subject to an order to submit a specimen or for physical examination may request a hearing in the Superior Court to contest such order. The commissioner shall provide notice of the right to contest the order. The court may proceed in a summary manner. At the hearing, the burden of proof shall be on the commissioner to prove by a preponderance of the evidence that the person poses a threat to the public health and that the order issued by the commissioner is warranted to address such threat.

c. The commissioner may issue and enforce orders for the isolation or quarantine, pursuant to section 15 of this act, of any person whose refusal of medical examination or testing, or the inability to conduct such medical examination or testing due to the reasonable likelihood of serious harm caused to the person thereby, results in uncertainty regarding whether the person has been exposed to or is infected with a contagious or possibly contagious disease or otherwise poses a danger to public health.

C.26:13-14 Powers of commissioner during public health emergency.

14. During a state of public health emergency, the commissioner may exercise the following powers as necessary to address the public health:

a. Require the vaccination of persons as protection against infectious disease and to prevent the spread of a contagious or possibly contagious disease, except as provided in paragraph (3) of this subsection.

(1) Vaccination may be performed by any person authorized to do so under State law.

(2) No vaccine shall be administered without obtaining the informed consent of the person to be vaccinated.

(3) To prevent the spread of a contagious or possibly contagious disease, the commissioner may issue and enforce orders for the isolation or quarantine, pursuant to section 15 of this act, of persons who are unable or unwilling to undergo vaccination pursuant to this section.

b. Require and specify in consultation with and upon the concurrence of the Department of Environmental Protection and the State Office of Emergency Management, the procedures for

the decontamination of persons, personal property, property and facilities exposed to or contaminated with biological agents, chemical weapons or release of nuclear or radiological devices.

c. Require, direct, provide, specify or arrange for the treatment of persons exposed to or infected with disease.

(1) Treatment may be administered by any person authorized to do so under State law.

(2) To prevent the spread of a contagious or possibly contagious disease, the commissioner may issue and enforce orders for the isolation or quarantine, pursuant to section 15 of this act, of persons who are unable or unwilling for reasons of health, religion or conscience to undergo treatment pursuant to this section.

C.26:13-15 Isolation, quarantine procedures.

15. The following isolation and quarantine procedures shall be in effect during a state of public health emergency:

a. The commissioner may exercise, for such period as the state of public health emergency exists, the following emergency powers over persons:

(1) to designate, including an individual's home when appropriate, and establish and maintain suitable places of isolation and quarantine;

(2) to issue and enforce orders for the isolation or quarantine of individuals subject to the procedures specified in this section; and

(3) to require isolation or quarantine of any person by the least restrictive means necessary to protect the public health, subject to the other provisions of this section. All reasonable means shall be taken to prevent the transmission of infection among the isolated or quarantined individuals, as well as among the personnel maintaining and caring for individuals in isolation or quarantine.

b. The following standards shall apply for quarantine or isolation.

(1) Persons shall be isolated or quarantined if it is determined by a preponderance of the evidence that the person to be isolated or quarantined poses a risk of transmitting an infectious disease to others. A person's refusal to accept medical examination, vaccination, or treatment pursuant to section 13 or 14 of this act shall constitute prima facie evidence that the person should be quarantined or isolated.

(2) Isolation or quarantine of any person shall be terminated by the commissioner when the person no longer poses a risk of transmitting an infectious disease to others.

c. (1) To the extent possible, the premises in which persons are isolated or quarantined shall be maintained in a safe and hygienic manner, designed to minimize the likelihood of further transmission of infection or other harm to persons subject to isolation or quarantine. Adequate food, clothing, medication, means of communication, other necessities and competent medical care shall be provided.

(2) An isolated person shall be confined separately from a quarantined person, unless otherwise determined by the commissioner.

(3) The health status of isolated and quarantined persons shall be monitored regularly to determine if their status should change. If a quarantined person subsequently becomes infected or is reasonably believed to have become infected with a contagious or possibly contagious disease, the person shall promptly be moved to isolation.

d. (1) A person subject to isolation or quarantine shall obey the commissioner's orders, shall not go beyond the isolation or quarantine premises, and shall not put himself in contact with any person not subject to isolation or quarantine other than a physician or other health care provider, or person authorized to enter the isolation or quarantine premises by the commissioner.

(2) No person, other than a person authorized by the commissioner, may enter the isolation or quarantine premises. Any person entering an isolation or quarantine premises may be isolated or quarantined.

e. (1) Except as provided in paragraph (4) of this subsection, the commissioner shall petition the Superior Court for an order authorizing the isolation or quarantine of a person or groups of persons.

(2) A petition pursuant to paragraph (1) of this subsection shall specify the following:

(a) the identity of the person or group of persons, by name or shared characteristics, subject to isolation or quarantine;

(b) the premises designated for isolation or quarantine;

(c) the date and time at which the commissioner requests isolation or quarantine to commence;

(d) the suspected contagious disease, if known;

(e) a statement of the terms and conditions of isolation and quarantine;

(f) a statement of the basis upon which isolation or quarantine is justified; and

(g) a statement of what effort, if any, has been made to give notice of the hearing to the person or group of persons to be isolated or quarantined, or the reason supporting the claim that notice should not be required.

(3) Except as provided in paragraph (4) of this subsection, before isolating or quarantining a person, the commissioner shall obtain a written order, which may be an ex parte order, from the Superior Court authorizing such action. The order shall be requested as part of a petition filed in compliance with paragraphs (1) and (2) of this subsection. The court shall grant an order upon finding by a preponderance of the evidence that isolation or quarantine is warranted pursuant to the provisions of this section. A copy of the authorizing order shall be provided to the person ordered to be isolated or quarantined, along with notification that the person has a right to a hearing pursuant to paragraph (5) of this subsection.

(4) Notwithstanding the provisions of paragraphs (1) through (3) of this subsection to the contrary, the commissioner may issue a verbal order, to be followed by a written order requiring the immediate, temporary isolation or quarantine of a person or group of persons, including those persons who have entered an isolation or quarantine premises, without first obtaining an order from the court if the commissioner determines that any delay in the isolation or quarantine of the person would significantly jeopardize the ability to prevent or limit the transmission of infectious or possibly infectious disease to others. The commissioner's written order shall specify:

(a) the identity of the person or group of persons, by name or shared characteristics, subject to isolation or quarantine;

(b) the premises designated for isolation or quarantine;

(c) the date and time at which the isolation or quarantine commences;

(d) the suspected contagious disease, if known;

(e) a statement of the terms and conditions of isolation and quarantine;

(f) a statement of the basis upon which isolation or quarantine is justified; and

(g) the availability of a hearing to contest the order.

The commissioner shall provide notice of the order for isolation or quarantine upon the person or group of persons specified in the order. If the commissioner determines that service of the notice required is impractical because of the number of persons or geographical areas affected, or other good cause, the commissioner shall ensure that the affected persons are fully informed of the order using the best possible means available. A copy of the order shall also be posted in a conspicuous place in the isolation or quarantine premises.

Following the issuance of the commissioner's order directing isolation or quarantine, the commissioner shall file a petition pursuant to paragraphs (1) through (3) of this subsection as soon as possible, but not later than 72 hours thereafter.

(5) The court shall grant a hearing within 72 hours of the filing of a petition when a person has been isolated or quarantined pursuant to paragraph (3) or (4) of this subsection. In any proceedings brought for relief under this subsection, the court may extend the time for a hearing upon a showing by the commissioner that extraordinary circumstances exist that justify the extension.

(6) The court may order consolidation of individual claims into a group of claims where:

(a) the number of persons involved or to be affected is so large as to render individual participation impractical;

(b) there are questions of law or fact common to the individual claims or rights to be determined;

(c) the group claims or rights to be determined are typical of the affected individuals' claims

or rights; and

(d) the entire group will be adequately represented in the consolidation, giving due regard to the rights of affected individuals.

f. (1) Following a hearing as provided for in paragraph (5) of subsection e. of this section, on or after a period of time of no less than 10 days but not more than 21 days, as determined by the commissioner based on the generally recognized incubation period of the infectious disease warranting the isolation or quarantine, a person isolated or quarantined pursuant to the provisions of this section may request a court hearing to contest his continued isolation or quarantine. The court may proceed in a summary manner.

The hearing shall be held within 72 hours of receipt of the request, excluding Saturdays, Sundays and legal holidays. A request for a hearing shall not act to stay the order of isolation or quarantine. At the hearing, the commissioner must show by a preponderance of the evidence that continuation of the isolation or quarantine is warranted because the person poses a significant risk of transmitting a disease to others with serious consequences.

(2) A person isolated or quarantined pursuant to the provisions of this section may request at any time a hearing in the Superior Court for injunctive relief regarding his treatment and the terms and conditions of the quarantine or isolation. Upon receiving a request for either type of hearing described in this paragraph, the court shall fix a date for a hearing. The court may proceed in a summary manner. The hearing shall be held no later than 10 days after the receipt of the request by the court. A request for a hearing shall not act to stay the order of isolation or quarantine.

(3) If, upon a hearing, the court finds that the isolation or quarantine of the individual is not warranted under the provisions of this section, then the person shall be immediately released from isolation or quarantine. If the court finds that the isolation or quarantine of the person is not in compliance with the provisions of subsection c. of this section, the court may fashion remedies appropriate to the circumstances of the state of public health emergency and in keeping with the provisions of this section.

g. (1) The petitioner shall have the right to be represented by counsel.

(2) The manner in which the request for a hearing under this section is filed and acted upon shall be in accordance with the Rules of Court.

C.26:13-16 Reinstatement of employment after isolation, quarantine.

16. a. Any person who has been placed in isolation or quarantine pursuant to an order of the commissioner and who at the time of quarantine or isolation was in the employ of any public or private employer, other than a temporary position, shall be reinstated to such employment or to a position of like seniority, status and pay, unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so, if the person:

(1) receives a certificate of completion of isolation or quarantine issued by the department or the authorized local health department;

(2) is still qualified to perform the duties of such position; and

(3) makes application for reemployment within 90 days after being released from isolation or quarantine.

b. If a public or private employer fails or refuses to comply with the provisions of this section, the Superior Court may, upon the filing of a complaint by the person entitled to the benefits of this section, specifically require the employer to comply with the provisions of this section, and may, as an incident thereto, order the employer to compensate the person for any loss of wages or benefits suffered by reason of the employer's unlawful action. A person claiming to be entitled to the benefits of this section may appear and be represented by counsel, or, upon application to the Attorney General, request that the Attorney General appear and act on his behalf. If the Attorney General is reasonably satisfied that the person so applying is entitled to the benefits, he shall appear and act as attorney for the person in the amicable adjustment of the claim, or in the filing of any complaint and the prosecution thereof. No fees or court costs shall be assessed against a person so applying for the benefits under this section. Attorney fees shall be awarded to the Attorney General or to the counsel for a person entitled to benefits under this section, who prevails in the proceeding.

c. The Attorney General may apply to the Superior Court and the court may grant additional relief to persons placed in isolation or quarantine under section 15 of this act, which relief may include, but is not limited to, relief similar to that accorded to military personnel under P.L.1979, c.317 (C.38:23C-1 et seq.).

C.26:13-17 Access to medical information.

17. With respect to a state of public health emergency:

a. Access to medical information of individuals who have participated in medical testing, treatment, vaccination, isolation or quarantine programs or efforts by the commissioner pursuant to this act shall be limited to those persons having a legitimate need to acquire or use the information to:

(1) provide treatment to the individual who is the subject of the health information;

(2) conduct epidemiologic research;

(3) investigate the causes of the transmission;

(4) assist law enforcement agencies in the identification and location of victims of the public health emergency; or

(5) provide payment by a responsible party for treatment or services rendered.

b. Medical information held by the commissioner shall not be disclosed to others without individual written, specific informed consent, except for disclosures made:

(1) directly to the individual;

(2) to the individual's immediate family members or personal representative;

(3) to appropriate federal agencies or authorities pursuant to federal law;

(4) to local health departments assisting in the epidemiological investigation or disease containment countermeasures;

(5) to law enforcement agencies, including the State Medical Examiner, investigating the circumstances giving rise to the public health emergency, or in the identification and location of victims of the public health emergency;

(6) pursuant to a court order to avert a clear danger to an individual or the public health; or

(7) to identify a deceased individual or determine the manner or cause of death.

c. Strictly for the purposes of controlling and containing the public health emergency, the commissioner may provide medical information to a health care facility about an employee who has participated in medical treatment or testing which may impact upon the public health emergency. This information may include, but is not limited to, medical testing, treatment, vaccination, isolation or quarantine programs or efforts by the commission pursuant to this act when the commissioner deems that the health care facility should be advised of such medical information in order to take actions necessary to protect the health and well being of its patients, residents or other health care employees.

Nothing in this subsection shall be construed to allow for the release of medical information that is not related to the public health emergency or is protected under federal or State law.

C.26:13-18 Emergency powers regarding health care personnel.

18. During a state of public health emergency, the commissioner may exercise, for such period as the state of public health emergency exists, the following emergency powers regarding health care personnel:

a. To require in-State health care providers to assist in the performance of vaccination, treatment, examination or testing of any individual;

b. To appoint and prescribe the duties of such out-of-State emergency health care providers as may be reasonable and necessary to respond to the public health emergency, as provided in this subsection.

(1) The appointment of out-of-State emergency health care providers may be for such period of time as the commissioner deems appropriate, but shall not exceed the duration of the public health emergency. The commissioner may terminate the out-of-State appointments at any time or for any reason if the termination will not jeopardize the health, safety and welfare of the people of this State.

(2) The commissioner may waive any State licensing requirements, permits, fees, applicable

orders, rules and regulations concerning professional practice in this State by health care providers from other jurisdictions; and

c. To authorize the State Medical Examiner, during the public health emergency, to appoint and prescribe the duties of county medical examiners, regional medical examiners, designated forensic pathologists, their assistants, out-of-State medical examiners and others as may be required for the proper performance of the duties of the office.

(1) The appointment of persons pursuant to this subsection may be for a limited or unlimited time, but shall not exceed the duration of the public health emergency. The State Medical Examiner may terminate the out-of-State appointments at any time or for any reason.

(2) The State Medical Examiner may waive any licensing requirements, permits or fees otherwise required for the performance of these duties, so long as the appointed emergency assistant medical examiner is competent to properly perform the duties of the office. In addition, if from another jurisdiction, the appointee shall possess the licensing, permit or fee requirement for medical examiners or assistant medical examiners in that jurisdiction.

d. (1) An in-State health care provider required to assist pursuant to subsection a. of this section and an out-of-State emergency health care provider appointed pursuant to subsection b. of this section shall not be liable for any civil damages as a result of the provider's acts or omissions in providing medical care or treatment related to the public health emergency in good faith and in accordance with the provisions of this act.

(2) An in-State health care provider required to assist pursuant to subsection a. of this section and an out-of-State emergency health care provider appointed pursuant to subsection b. of this section shall not be liable for any civil damages as a result of the provider's acts or omissions in undertaking public health preparedness activities, which activities shall include but not be limited to pre-event planning, drills and other public health preparedness efforts, in good faith and in accordance with the provisions of this act.

C.26:13-19 Definitions relative to, and immunity from liability.

19. a. As used in this section:

"Injury" means death, injury to a person or damage to or loss of property.

"Public entity" includes the State, and any county, municipality, district, public authority, public agency, and any other political subdivision or public body in the State. Public entity also includes any foreign governmental body, which is acting in this State under the authority of this act.

"State" means the State and any office, department, division, bureau, board, commission or agency of the State.

b. (1) A public entity and the agents, officers, employees, servants or representatives of a public entity, including volunteers, shall not be liable for an injury caused by any act or omission in connection with a public health emergency, or preparatory activities, that is within the scope of the authority granted under this act, including any order, rule or regulation adopted pursuant thereto. An agent, officer, employee, servant, representative or volunteer is not immune under this section, however, for an injury that results from an act that is outside the scope of the authority granted by this act or for conduct that constitutes a crime, actual fraud, actual malice, gross negligence or willful misconduct.

(2) A public entity or agent, officer, employee, servant or representative or volunteer, shall not be liable for an injury arising out of property of any kind that is donated or acquired according to the provisions of this or any other act for use in connection with a public health emergency. An agent, officer, employee, servant, representative or volunteer is not immune under this section, however, for an injury that results from an act that is outside the scope of the authority granted by this act or for conduct that constitutes a crime, actual fraud, actual malice, gross negligence or willful misconduct.

c. (1) A person or private entity who:

(a) owns, manages or controls property that is used in connection with a public health emergency shall not be liable for an injury with respect to the property, unless the injury is a result of gross negligence or willful misconduct. The immunity applies whether the person or entity owning, managing or controlling the property permits the use of the property voluntarily,

with or without compensation, or the State or another public entity exercises the condemnation powers in this or any other act with respect to the use of the property;

(b) is acting in the performance of a contract with a public entity in connection with a public health emergency shall not be liable for an injury caused by the person or entity's negligence in the course of performing the contract, unless the injury is a result of gross negligence or willful misconduct; and

(c) in connection with a public health emergency, renders assistance or advice to a public entity or public employee or donates goods and services shall not be liable for an injury arising out of the person or entity's assistance, advice or services, or associated with the donated goods, unless the injury is a result of gross negligence or willful misconduct.

(2) A person or private entity and the employees of the entity shall not be liable for an injury caused by any act or omission in connection with a public health emergency, or preparatory activities, provided that the action of the person or entity is undertaken pursuant to the exercise of the authority provided pursuant to this act, including any order, rule or regulation adopted pursuant thereto. A person, entity or employee of the entity is not immune under this section, however, for an injury that results from an act that is outside the scope of the authority granted by this act or for conduct that constitutes a crime, actual fraud, actual malice, gross negligence or willful misconduct.

(3) The immunities established under this subsection shall not apply to a person or private entity whose act or omission caused or contributed to the public health emergency.

(4) As used in this subsection, "private entity" includes, but is not limited to, a health care provider.

d. The immunities established under this section shall be liberally construed to carry out the purposes of this act and shall apply to all public health preparedness activities, including pre-event planning, drills or other public health preparedness efforts. The immunities are in addition to, and shall not limit or abrogate in any way, other statutory immunities, common law immunities, statutory conditions on maintaining a lawsuit such as the notice provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., or other defenses available to those who participate in responding to, or preparing for, a public health emergency.

C.26:13-20 Protective action relative to radiological emergency, conditions.

20. The commissioner may authorize any school, health care facility, child care center or youth camp to provide potassium iodide as a supplemental protective action during a radiological emergency to residents, staff members, minors or other persons present in such facility, if:

a. prior written permission has been obtained from each resident or representative of a resident, staff member, or parent or guardian of a minor for providing the potassium iodide; and

b. each person providing permission has been advised, in writing: (1) that the ingestion of potassium iodide is voluntary only, (2) about the contraindications of taking potassium iodide and (3) about the potential side effects of taking potassium iodide.

C.26:13-21 LINCS agencies to serve as planning, coordinating agency for local government entity.

21. a. In order to assist the department with comprehensive Statewide planning and coordination of all activities related to public health preparedness, LINCS agencies shall, at the direction of the commissioner, serve as the planning and coordinating agency for all municipalities and local health agencies within the county or city, as applicable.

b. The commissioner, either directly or through the LINCS agencies, shall coordinate the activities of all local health agencies in the county with regard to public health protection related to preparing for and responding to public health emergencies. The LINCS agency shall notify each local health agency in its jurisdiction of the nature and extent of the emergency, except that nothing in this subsection shall be construed to prevent the commissioner from notifying a local health agency directly.

c. The LINCS agency and all other local health agencies within the county shall be subject to the direction and authority of the commissioner, and shall perform such activities as are directed by the commissioner, in accordance with the provisions of this act.

d. The LINCS agencies shall be responsible for performing human disease surveillance, terrorism response and public health emergency response-related activities in such a manner as the commissioner may direct, and for reporting to the commissioner on the conduct of these activities as performed in the county or city, as applicable.

e. The commissioner may utilize the LINCS agencies to disseminate such information to the other local health agencies in the county, and to collect such information from those agencies, as the commissioner deems necessary; and the LINCS agencies shall transmit the information to the commissioner or the other local health agencies as directed by the commissioner.

f. The commissioner is authorized to use available federal funds received by the State to offset the costs incurred by LINCS agencies in implementing the provisions of this act, and shall reimburse local health agencies, subject to the approval of the State Treasurer and in accordance with the provisions of this act.

C.26:13-22 Definitions relative to biological agents, Biological Agent Registry.

22. a. As used in this section:

"Biological Agent" means:

(1) any select agent that is a microorganism, virus, bacterium, fungus, rickettsia or toxin listed in Appendix A of Part 72 of Title 42 of the Code of Federal Regulations;

(2) any genetically modified microorganism or genetic element from an organism listed in Appendix A of Part 72 of Title 42 of the Code of Federal Regulations, shown to produce or encode for a factor associated with a disease;

(3) any genetically modified microorganism or genetic element that contains nucleic acid sequences coding for any of the toxins listed in Appendix A of Part 72 of Title 42 of the Code of Federal Regulations, or their toxic subunits;

(4) high consequence livestock pathogens and toxins as determined by the U.S. Department of Agriculture and the New Jersey Department of Agriculture;

(5) any agents defined pursuant to R.S. 4:5-107 et seq. and N.J.A.C. 2:6-1.1 et seq. and the Secretary of Agriculture;

(6) any other agent as determined by the commissioner to represent a significant risk to human and animal health.

"Possess or maintain" includes, but is not limited to, any of the following: development, production, acquisition, transfer, receipt, stockpiling, retention, ownership or use of a biological agent.

"Registry" means the Biological Agent Registry established pursuant to this section.

b. The commissioner, in coordination with the Secretary of Agriculture, shall establish a Biological Agent Registry and administer a program for the registration of biological agents. The registry shall identify the biological agents possessed or maintained by any person in this State and shall contain such other information as required by regulation of the commissioner pursuant to this section.

c. A person who possesses or maintains any biological agent required to be registered under this section shall report the information to the department by submitting a duplicate of the form required under Part 331 of Title 7, Part 121 of Title 9, and Parts 72 and 73 of Title 42 of the Code of Federal Regulations. Forms submitted pursuant to these provisions shall not be reproduced by photographic, electronic or other means, and shall be stored in a manner that is both confidential and secure.

d. Except as otherwise provided in this section, information prepared for or maintained in the registry shall be confidential.

(1) The commissioner may, in accordance with rules adopted by the commissioner, utilize information contained in the registry for the purpose of conducting or aiding in a communicable disease investigation.

(2) The commissioner shall cooperate, and may share information contained in the registry, with the United States Centers for Disease Control and Prevention, the Department of Homeland Security, the New Jersey Department of Agriculture, and State and federal law enforcement agencies pursuant to a communicable disease investigation commenced or conducted by the department, the New Jersey Domestic Security Preparedness Task Force established pursuant

to P.L.2001, c.246 (C.App. A:9-64 et seq.), or other State or federal law enforcement agency having investigatory authority, or in connection with any investigation involving the release, theft or loss of a registered biological agent. Access to this information shall terminate upon the completion of the investigation.

(3) Release of information from the registry as authorized under this section shall not render the information released or information prepared for or maintained in the registry a public or government record under P.L.1963, c.73 (C. 47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.).

e. Any person who willfully or knowingly violates any provision of this section is liable for a penalty not to exceed $10,000 per day of the violation, and each day the violation continues shall constitute a separate and distinct violation. A penalty imposed under this section may be recovered with costs in a summary proceeding before the Superior Court pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

f. The commissioner shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) that are consistent with Part 331 of Title 7, Part 121 of Title 9, and Parts 72 and 73 of Title 42 of the Code of Federal Regulations, to carry out the purposes of this section; except that, notwithstanding any provision of P.L.1968, c.410 to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such regulations as he deems necessary to implement the provisions of this section, which shall be effective for a period not to exceed six months and thereafter be amended, adopted or readopted by the commissioner in accordance with the requirements of P.L.1968, c.410.

The regulations shall include, but not be limited to:

(1) a list of the biological agents required to be registered pursuant to this section;

(2) designation of the persons required to make reports, the specific information required to be reported, time limits for reporting, the form of the reports, and the person to whom the report shall be submitted;

(3) provisions for the release of information in the registry to State and federal law enforcement agencies, the Centers for Disease Control and Prevention, the Department of Homeland Security and the New Jersey Department of Agriculture pursuant to paragraph (2) of subsection d. of this section;

(4) establishment of a system of safeguards that requires a person who possesses or maintains a biological agent required to be registered under this section to comply with the federal standards that apply to a person registered to possess or maintain the agent under federal law;

(5) establishment of a process for a person that possesses or maintains a registered biological agent to alert appropriate authorities of unauthorized possession or attempted possession of a registered biological agent, and designation of appropriate authorities for receipt of the alerts; and

(6) establishment of criteria and procedures for the commissioner to grant exemptions to the requirements if it is determined that the public benefit of such exemption outweighs the need for regulation.

C.26:13-23 New Jersey Vaccine Education and Prioritization Plan.

23. a. The commissioner shall develop and implement a New Jersey Vaccine Education and Prioritization Plan, as provided in subsection b. of this section, when the commissioner determines that: (1) an emergent condition exists and there is clear evidence that adverse and avoidable health outcomes from a preventable and acute communicable disease are expected to affect identifiable categories of high-risk individuals throughout the State; and (2) in order to protect or treat such individuals, assistance with the administration of vaccine is warranted due to a vaccine shortage.

b. To protect the public health during a vaccine shortage, the commissioner shall issue an order to implement a New Jersey Vaccine Education and Prioritization Plan, which shall comprise:

(1) procedures for the assessment of available vaccine Statewide;

(2) procedures for the distribution and administration of vaccines that shall apply to

physicians, nurses, health care facilities, pharmacies and others that dispense vaccines. The procedures shall include, but not be limited to, a definition of high-risk groups for priority protection or treatment in the event a vaccine shortage is imminent or existent; and

(3) procedures for: (a) mobilizing public and private health resources to assist in vaccine distribution and administration; and

(b) reallocating available supplies of vaccine to most effectively meet the needs of the State's high-risk groups, if necessary.

c. As used in this section, "vaccine" includes vaccines, immune products and chemoprophylactic and treatment medications.

d. A person who willfully or knowingly violates the New Jersey Vaccine Education and Prioritization Plan or any procedures contained therein shall be liable for a civil penalty of $500 for each violation. The penalty shall be sued for and collected by the commissioner in a summary proceeding before the Superior Court pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

e. The commissioner shall notify the appropriate professional or occupational licensing board or licensing authority, in the case of a facility, of repeated violations of the procedures by a health care professional or licensed facility.

C.26:13-24 State Public Health Emergency Claim Reimbursement Board.

24. a. There is hereby established in the Department of Health and Senior Services a State Public Health Emergency Claim Reimbursement Board. The board shall include the following members: the Commissioner of Health and Senior Services, who shall be the presiding officer, the Attorney General, the Adjutant General of the Department of Military and Veterans' Affairs, the State Director of Emergency Management, the Secretary of Agriculture, the Commissioner of Banking and Insurance, the Commissioner of Environmental Protection, the Commissioner of Community Affairs, the State Medical Examiner, and the State Treasurer, or their designees. The members of the board shall serve without pay in connection with all such duties as are prescribed in this act.

b. The board shall meet at such times as may be necessary to fulfill the requirements set forth herein. The Commissioner of Health and Senior Services shall convene the board within 45 days of the filing of a complete petition. The concurrence of six members of the board shall be necessary for the validity of all acts of the board.

c. Subject to available appropriations, the board shall have the authority to award reasonable reimbursement, as determined by the board, for any services required of any person under the provisions of this act, which shall be paid at the prevailing established rate for services of a like or similar nature as determined by the board. Subject to available appropriations, the board shall have the authority to award reasonable reimbursement, as determined by the board, for any property employed, taken or used under the provisions of this act.

d. All awards shall be paid from any funds appropriated by the State, any political subdivision of the State, or the federal government, for such purpose. In awarding reimbursement under this section, the board shall take into account any funds, or any other thing of value, received by a claimant from any other source, including but not limited to private donations, contributions and insurance proceeds. The board shall not award reimbursement unless the claimant has demonstrated, to the satisfaction of the board, that the claimant has first sought reimbursement for any loss incurred due to the declaration of a public health emergency from any and all appropriate third party payers.

C.26:13-25 Claims for reimbursement.

25. a. Any person making a claim for reimbursement for private property or services employed, taken or used for a public purpose under this act shall, subsequent to the termination of the public health emergency, file a petition for an award with the State Public Health Emergency Claim Reimbursement Board, established pursuant to section 24 of this act, through the Commissioner of Health and Senior Services. The petition shall be signed by the claimant and shall set forth the following:

(1) a description of the services or property employed, taken or used;

(2) the dates of the employment, taking or usage;

(3) the person or entity ordering the employment, taking or usage;

(4) such additional information as the petitioner deems relevant to a full consideration of the claim; and

(5) any additional information that the board may require.

b. The board may establish such forms, documents and procedures as may be necessary to expedite the processing of claims, and all claimants shall utilize and follow the forms, documents and procedures, if so established. Subsequent to the filing of an initial petition, the board may request such additional information as it deems necessary from any claimant and may require the claimant, and any other person with knowledge of facts and circumstances relevant to the claim, to appear before the board for a hearing. No petition shall be filed with the board more than 180 days from the last date the services or property were employed, taken or used, except that this deadline may be extended by the board as is necessary to further the purposes of this act.

c. The board's determination concerning a claimant's petition for reimbursement shall be transmitted to the claimant in writing. The claimant may appeal the decision to the Superior Court subject to the Rules of Court regarding the review of State agency actions.

d. Any person seeking reimbursement under this act shall proceed in accordance with the provisions of this section unless the declaration of public health emergency which gives rise to the claim or petition for reimbursement is superseded by order of the Governor pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.). Upon the declaration of an emergency by the Governor pursuant to P.L.1942, c.251 which supersedes the declaration of a public health emergency, the person shall proceed in accordance with the provisions of P.L.1942, c.251 and the person's rights, remedies and entitlement to reimbursement shall be limited to that which is afforded in that act.

e. Notwithstanding the provisions of this section to the contrary, in the event funds are otherwise made available for reimbursement, a person shall not be required to file a petition for an award with the board pursuant to this section.

C.26:13-26 Material not considered public, government record.

26. Any correspondence, records, reports and medical information made, maintained, received or filed pursuant to this act shall not be considered a public or government record under P.L.1963, c.73 (C. 47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.).

C.26:13-27 Power of enforcement.

27. The commissioner shall have the power to enforce the provisions of this act through the issuance of orders and such other remedies as are provided by law.

C.26:13-28 Laws, regulations not preempted by act.

28. The provisions of this act do not explicitly preempt other laws or regulations that preserve to a greater degree the powers of the Governor or commissioner, provided such laws or regulations are consistent and do not otherwise restrict or interfere with the operation or enforcement of the provisions of this act.

C.26:13-29 Additional powers of State Medical Examiner.

29. The powers granted in the act are in addition to, and not in derogation of, powers otherwise granted by law to the State Medical Examiner.

C.26:13-30 Construction of act relative to Highway Traffic Safety Act.

30. The provisions of this act shall not be construed to abrogate the effect or status of the "New Jersey Highway Traffic Safety Act of 1987," P.L.1987, c.284 (C.27:5F-18 et seq.).

31. R.S.26:4-2 is amended to read as follows:

Powers of State department and local board.

26:4-2. In order to prevent the spread of disease affecting humans, the Department of Health

and Senior Services, and the local boards of health within their respective jurisdictions and subject to the State sanitary code, shall have power to:

a. Declare what diseases are communicable.

b. Declare when any communicable disease has become epidemic.

c. Require the reporting of communicable diseases.

d. Maintain and enforce proper and sufficient quarantine, wherever deemed necessary.

e. Remove any person infected with a communicable disease to a suitable place, if in its judgment removal is necessary and can be accomplished without any undue risk to the person infected.

f. Disinfect any premises when deemed necessary.

g. Remove to a proper place to be designated by it all articles within its jurisdiction, which, in its opinion, shall be infected with any matter likely to communicate disease and to destroy such articles, when in its opinion the safety of the public health requires it.

In the event the Governor declares a public health emergency, the department shall oversee the uniform exercise of these powers in the State and the local board of health shall be subject to the department's exercise of authority under this section.

32. R.S.26:8-62 is amended to read as follows:

Certification, certified copy of records, search fee; uniform forms for vital records.

26:8-62. a. The State registrar or local registrar shall, upon request, supply to a person who establishes himself as one of the following: the subject of the record of a birth, death, fetal death, certificate of birth resulting in stillbirth, domestic partnership or marriage, as applicable; the subject's parent, legal guardian or other legal representative; the subject's spouse, child, grandchild or sibling, if of legal age, or the subject's legal representative; an agency of State or federal government for official purposes; a person possessing an order of a court of competent jurisdiction; or a person who is authorized under other emergent circumstances as determined by the commissioner, a certified copy, or release of the data and information of that record registered under the provisions of R.S.26:8-1 et seq., or any domestic partnership registered under the provisions of P.L.2003, c.246 (C.26:8A-1 et al.), for any of which, except as provided by R.S.26:8-63, the State registrar shall be entitled to a search fee, if any, as provided by R.S.26:8-64, to be paid by the person. A certification may be issued in other circumstances and shall state that it is for informational purposes only, and is not to be used for identification purposes. The registrar shall authenticate the identity of the requestor and the requestor's relationship with the subject of the vital record. For the purposes of this subsection, any employee of a mortuary registered pursuant to P.L.1952, c.340 (C.45:7-32 et seq.), or a funeral director licensed pursuant to that act who is affiliated with a registered mortuary, if the mortuary was recorded on the original certificate of death, shall be construed to be the subject's legal representative and entitled to obtain full and complete copies of death certificates or certifications thereof.

b. The State registrar shall, upon request, supply to any applicant a certified transcript of any entry contained in the records of the New Jersey State census for which, except as provided by R.S.26:8-63, he shall be entitled to a search fee as provided by R.S.26:8-64, to be paid by the applicant.

c. For each death registration initiated on the NJ-EDRS on or after the first day of the first month following the date of enactment of P.L.2003, c.221 but before the first day of the thirty-seventh month following the date of enactment of P.L.2003, c.221, the State registrar shall be paid a recording fee for each record filed, whether by means of the current paper process or electronically, in an amount to be determined by the State registrar but not exceeding $10, from the account of the funeral home, which may include this amount in the funeral expenses charged to the estate or person accepting responsibility for the disposition of the deceased's human remains and the costs associated therewith; provided however, this fee shall not apply to the death registration of a person who died while in the military or naval or maritime or merchant marine service of the United States whose death is recorded pursuant to section 1 of P.L.1950, c.299 (C.26:6-5.2). The State registrar shall deposit the proceeds from the recording fee into

the New Jersey Electronic Death Registration Support Fund established pursuant to section 17 of P.L.2003, c.221 (C.26:8-24.2).

d. Notwithstanding any other provision of this section to the contrary, the Commissioner of Health and Senior Services shall designate specifications for uniform forms for the issuance of all vital records, which shall be used by registrars beginning on a date established by the commissioner. The form designated for certified copies of vital records shall contain safety features for authentication purposes and to deter forgery, and shall be readily distinguishable from the form designated for certifications of vital records. Local registrars may include in the fee for a certified copy the additional cost of the form containing such safety features.

The commissioner may issue and enforce orders to implement the provisions of this subsection.

33. R.S.34:15-43 is amended to read as follows:

Compensation for injury in line of duty.

34:15-43. Every officer, appointed or elected, and every employee of the State, county, municipality or any board or commission, or any other governing body, including boards of education, and governing bodies of service districts, individuals who are under the general supervision of the Palisades Interstate Park Commission and who work in that part of the Palisades Interstate Park which is located in this State, and also each and every member of a volunteer fire company doing public fire duty and also each and every active volunteer, first aid or rescue squad worker, including each and every authorized worker who is not a member of the volunteer fire company within which the first aid or rescue squad may have been created, doing public first aid or rescue duty under the control or supervision of any commission, council, or any other governing body of any municipality, any board of fire commissioners of such municipality or of any fire district within the State, or of the board of managers of any State institution, every county fire marshal and assistant county fire marshal, every special, reserve or auxiliary policeman doing volunteer public police duty under the control or supervision of any commission, council or any other governing body of any municipality, every emergency management volunteer doing emergency management service for the State, every health care worker, public health worker and support services personnel, registered with the Emergency Health Care Provider Registry pursuant to section 6 of P.L.2005, c.222 (C.26:13-6), and any person doing volunteer work for the Division of Parks and Forestry, the Division of Fish and Wildlife, or the New Jersey Natural Lands Trust, as authorized by the Commissioner of Environmental Protection, or for the New Jersey Historic Trust, and any person doing work related to bioterrorism, or volunteering, for the Department of Agriculture, as authorized by the Secretary of Agriculture, who may be injured in line of duty shall be compensated under and by virtue of the provisions of this article and article 2 of this chapter (R.S.34:15-7 et seq.). No former employee who has been retired on pension by reason of injury or disability shall be entitled under this section to compensation for such injury or disability; provided, however, that such employee, despite retirement, shall, nevertheless, be entitled to the medical, surgical and other treatment and hospital services as set forth in R.S.34:15-15.

Benefits available under this section to emergency management volunteers and volunteers participating in activities of the Division of Parks and Forestry, the Division of Fish and Wildlife, the New Jersey Natural Lands Trust or the New Jersey Historic Trust, shall not be paid to any claimant who has another single source of injury or death benefits that provides the claimant with an amount of compensation that exceeds the compensation available to the claimant under R.S.34:15-1 et seq.

As used in this section, the terms "doing public fire duty" and "who may be injured in line of duty," as applied to members of volunteer fire companies, county fire marshals or assistant county fire marshals, and the term "doing public first aid or rescue duty," as applied to active volunteer first aid or rescue squad workers, shall be deemed to include participation in any authorized construction, installation, alteration, maintenance or repair work upon the premises, apparatus or other equipment owned or used by the fire company or the first aid or rescue squad, participation in any State, county, municipal or regional search and rescue task force or team,

participation in any authorized public drill, showing, exhibition, fund raising activity or parade, and to include also the rendering of assistance in case of fire and, when authorized, in connection with other events affecting the public health or safety, in any political subdivision or territory of another state of the United States or on property ceded to the federal government while such assistance is being rendered and while going to and returning from the place in which it is rendered.

Also, as used in this section, "doing public police duty" and "who may be injured in line of duty" as applied to special, reserve or auxiliary policemen, shall be deemed to include participation in any authorized public drill, showing, exhibition or parade, and to include also the rendering of assistance in connection with other events affecting the public health or safety in the municipality, and also, when authorized, in connection with any such events in any political subdivision or territory of this or any other state of the United States or on property ceded to the federal government while such assistance is being rendered and while going to and returning from the place in which it is rendered.

As used in this section, the terms "doing emergency management service" and "who may be injured in the line of duty," as applied to emergency management volunteers and health care workers, public health workers and support services personnel registered with the Emergency Health Care Provider Registry pursuant to section 6 of P.L.2005, c.222 (C.26:13-6), mean participation in any activities authorized pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.), including participation in any State, county, municipal or regional search and rescue task force or team, except that the terms shall not include activities engaged in by a member of an emergency management agency of the United States Government or of another state, whether pursuant to a mutual aid compact or otherwise.

Every member of a volunteer fire company shall be deemed to be doing public fire duty under the control or supervision of any such commission, council, governing body, board of fire commissioners or fire district or board of managers of any State institution within the meaning of this section, if such control or supervision is provided for by statute or by rule or regulation of the board of managers or the superintendent of such State institution, or if the fire company of which he is a member receives contributions from, or a substantial part of its expenses or equipment are paid for by, the municipality, or board of fire commissioners of the fire district or if such fire company has been or hereafter shall be designated by ordinance as the fire department of the municipality.

Every active volunteer, first aid or rescue squad worker, including every authorized worker who is not a member of the volunteer fire company within which the first aid or rescue squad may have been created, shall be deemed to be doing public first aid or rescue duty under the control or supervision of any such commission, council, governing body, board of fire commissioners or fire district within the meaning of this section if such control or supervision is provided for by statute, or if the first aid or rescue squad of which he is a member or authorized worker receives or is eligible to receive contributions from, or a substantial part of its expenses or equipment are paid for by, the municipality, or board of fire commissioners of the fire district, or if such first aid or rescue squad has been or hereafter shall be designated by ordinance as the first aid or rescue squad of the municipality.

As used in this section and in R.S.34:15-74, the term "authorized worker" shall mean and include, in addition to an active volunteer fireman and an active volunteer first aid or rescue squad worker, any person performing any public fire duty or public first aid or rescue squad duty, as the same are defined in this section, at the request of the chief or acting chief of a fire company or the president or person in charge of a first aid or rescue squad for the time being.

A member of a volunteer fire company, active volunteer first aid or rescue squad worker, county fire marshal, assistant county fire marshal, special, reserve or auxiliary policeman or emergency management volunteer serving a volunteer organization duly created and under the control or supervision of any commission, council or any other governing body of any municipality, any board of fire commissioners of that municipality or of any fire district within the State, or of the board of managers of any State institution, who participated in a search and rescue task force or team in response to the terrorist attacks of September 11, 2001 without the authorization of that volunteer organization's governing body and who suffered injury or death

as a result of participation in that search and rescue task force or team shall be deemed an employee of this State for the purpose of workers' compensation benefits as would have accrued if the injury or death had occurred in the performance of the duties of the volunteer company or squad of which he was a member.

Whenever a member of a volunteer fire company, active volunteer first aid or rescue squad worker, county fire marshal, assistant county fire marshal, special, reserve or auxiliary policeman or emergency management volunteer serving a volunteer organization duly created and under the control or supervision of any commission, council or any other governing body of any municipality, any board of fire commissioners of that municipality or of any fire district within the State, or of the board of managers of any State institution, participates in a national, multi-state, State, municipal or regional search and rescue task force or team without the authorization of that volunteer organization's governing body but pursuant to a Declaration of Emergency by the Governor of the State of New Jersey specifically authorizing volunteers to respond immediately to the emergency without requiring the authorization of the volunteer company or squad, and the member of the volunteer fire company, active volunteer first aid or rescue squad worker, county fire marshal, assistant county fire marshal, special, reserve or auxiliary policeman or emergency management volunteer suffers injury or death as a result of participation in that search and rescue task force or team, he shall be deemed an employee of this State for the purpose of workers' compensation benefits as would have accrued if the injury or death had occurred in the performance of the duties of the volunteer company or squad of which he was a member.

Nothing herein contained shall be construed as affecting or changing in any way the provisions of any statute providing for sick, disability, vacation or other leave for public employees or any provision of any retirement or pension fund provided by law.

34. R.S. 34:15-75 is amended to read as follows:

Compensation for injury, death for certain volunteers.

34:15-75. Compensation for injury and death, either or both, of any volunteer fireman, county fire marshal, assistant county fire marshal, volunteer first aid or rescue squad worker, volunteer driver of any municipally-owned or operated ambulance, forest fire warden or forest fire fighter employed by the State of New Jersey, member of a board of education, special reserve or auxiliary policeman doing volunteer public police duty under the control or supervision of any commission, council or any other governing body of any municipality, emergency management volunteer doing emergency management service, health care workers, public health workers and support services personnel registered with the Emergency Health Care Provider Registry pursuant to section 6 of P.L.2005, c.222 (C.26:13-6) and doing emergency management service for the State, or any volunteer worker for the Division of Parks and Forestry, the Division of Fish and Wildlife, the New Jersey Natural Lands Trust or the New Jersey Historic Trust, shall:

a. Be based upon a weekly salary or compensation conclusively presumed to be received by such person in an amount sufficient to entitle him, or, in the event of his death, his dependents, to receive the maximum compensation by this chapter authorized; and

b. Not be subject to the seven-day waiting period provided in R.S.34:15-14.

35. The commissioner shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in order to carry out the purpose of this act.

36. This act shall take effect immediately.

Approved September 14, 2005.