

Title 26.
Chapter 13. (New)
Emergency Health
Powers
§§1-30 -
C.26:13-1 to
26:13-30
§35 - Note to §§1-30

P.L. 2005, CHAPTER 222, *approved September 14, 2005*
Senate, No. 2085 (*Fourth Reprint*)

1 **AN ACT** concerning emergency health powers, supplementing Title 26
2 of the Revised Statutes and amending R.S.26:4-2, 26:8-62, 34:15-
3 43 and 34:15-75.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. This act shall be known and may be cited as the "Emergency
9 Health Powers Act."

10

11 2. (New section) As used in this act:

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

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

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

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

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

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHH committee amendments adopted January 24, 2005.

² Senate SHH committee amendments adopted February 28, 2005.

³ Senate floor amendments adopted March 21, 2005.

⁴ Assembly floor amendments adopted May 16, 2005.

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

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

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

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

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

35 ³"Local health agency" means a county, regional, municipal or other
36 governmental agency organized for the purpose of providing health
37 services, administered by a full-time health officer and conducting a
38 public health program pursuant to law.³

39 "Local Information Network and Communications System Agency"
40 or "LINCS agency" means the lead local public health agency in each
41 county or identified city, as designated and determined by the
42 commissioner pursuant to section 21 of this act, responsible for
43 providing central planning, coordination and delivery of specialized
44 services within the designated county or city, in partnership with the
45 other local health agencies within that jurisdiction, in order to prepare
46 for and respond to acts of bioterrorism and other forms of terrorism

1 or other public health emergencies or threats, and to discharge the
2 activities as specified under this act.

3 ¹"Microorganism" includes, but is not limited to, bacteria, viruses,
4 fungi, rickettsiae, or protozoa.¹

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

11 ¹"Overlap agent or toxin" means: any microorganism or toxin that
12 poses a risk to both human and animal health and includes:

13 Anthrax - Bacillus anthracis

14 Botulism - Clostridium botulinum toxin, Botulinum neurotoxins,

15 Botulinum neurotoxin producing species of Clostridium

16 Plague - Yersinia pestis

17 Tularemia - Francisella tularensis

18 Viral Hemorrhagic Fevers - Ebola, Marburg, Lassa, Machupo

19 Brucellosis- Brucellosis species

20 Glanders - ³[Burkholderia] Burkholderia³ mallei

21 Melioidosis - Burkholderia pseudomallei

22 Psittacosis - Chlamydia psittaci

23 Coccidioidomycosis - Coccidioides immitis

24 Q Fever - Coxiella burnetii

25 Typhus Fever - Rickettsia prowazekii

26 Viral Encephalitis - VEE (Venezuelan equine encephalitis virus), EEE

27 (Eastern equine encephalitis), WEE ³(Western equine encephalitis)³

28 Toxins - Ricinus communis, Clostridium perfringens, Staph. Aureus,

29 Staphylococcal enterotoxins, T-2 toxin, Shigatoxin

30 Nipah - Nipah virus

31 Hantavirus - Hantavirus

32 West Nile Fever - West Nile virus

33 Hendra - Hendra virus

34 Rift Valley Fever - Rift Valley Fever virus

35 Highly Pathogenic Avian Influenza¹

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

38 a. is caused or is reasonably believed to be caused by any of the
39 following: (1) ⁴[biological or other form of terrorism] bioterrorism or
40 an accidental release of one or more biological agents⁴; (2) the
41 appearance of a novel or previously controlled or eradicated biological
42 agent; (3) a natural disaster ⁴[or accident]⁴; (4) a chemical attack or
43 accidental release of toxic chemicals; ⁴or⁴ (5) a nuclear attack or
44 nuclear accident; ⁴[or (6) an explosion;]⁴ and

45 b. poses a high probability of any of the following harms: (1) a
46 large number of deaths, illness or injury in the affected population; (2)

1 a large number of serious or long-term impairments in the affected
2 population; or (3) exposure to a biological agent or chemical that
3 poses a significant risk of substantial future harm to a large number of
4 people in the affected population.

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

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

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

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

20

21 3. (New Section) a. The Governor, in consultation with the
22 commissioner and the Director of the State Office of Emergency
23 Management, may declare a public health emergency. In declaring a
24 public health emergency, the Governor shall issue an order that
25 specifies:

26 (1) the nature of the public health emergency;

27 (2) the geographic area subject to the declaration;

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

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

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

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

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

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

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

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

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

5 All such activities shall be taken in coordination with the State
6 Office of Emergency Management³ [, which] and shall be executed in
7 accordance with the State Emergency Operations Plan. The State
8 Office of Emergency Management³ shall provide the commissioner
9 with all required assistance.

10 d. ¹In instances involving an overlap agent or toxin that causes or
11 has the potential to cause a public health emergency, if the
12 Commissioner of Health and Senior Services suspects or detects
13 conditions that could potentially affect animals, plants or crops under
14 the jurisdiction of the Department of Agriculture pursuant to the
15 provisions of Title 4 of the Revised Statutes, he shall immediately
16 notify the Secretary of Agriculture. If the Secretary of Agriculture
17 suspects or detects conditions that could potentially affect humans, he
18 shall immediately notify the commissioner. Information shared by each
19 department shall be held confidential by the departments and their
20 employees and their designees, and shall not be released without the
21 approval of the department that was the source of the information.

22 e.¹ To the fullest extent practicable, the commissioner shall also
23 promptly notify the elected municipal officials ¹and applicable health
24 care facilities¹ of the jurisdiction affected by the public health
25 emergency of the nature and extent of the emergency.

26 ¹[e.] f.¹ All orders of the commissioner shall remain in effect
27 during the period of the public health emergency until superseded by
28 order of the Governor pursuant to P.L.1942, c.251 (C.App.A:9-33 et
29 seq.). Upon the issuance of an order by the Governor pursuant to
30 P.L.1942, c.251, the commissioner shall coordinate the public health
31 emergency in accordance with the State Emergency Operations Plan.
32 Upon declaration of a disaster pursuant to P.L.1942, c.251, the
33 Governor may exercise the powers granted to the commissioner
34 pursuant to this act.

35
36 4. (New Section) a. In order to detect the ²[possible]² occurrence
37 ²or imminent threat of an occurrence² of a public health emergency as
38 defined in this act, the commissioner may take reasonable steps to
39 investigate any incident or imminent threat of any ¹human¹ disease or
40 health condition. Such investigation may include, and the
41 commissioner may issue and enforce orders requiring, information
42 from any health care provider or other person affected by, or having
43 information related to, the incident or threat, inspections of buildings
44 and conveyances and their contents, laboratory analysis of samples
45 collected during the course of such inspection, and where the
46 commissioner has reasonable grounds to believe a public health

1 emergency exists, requiring a physical examination or the provision of
2 specimens of body secretions, excretions, fluids and discharge for
3 laboratory examination of any person suspected of having a disease or
4 health condition that necessitates an investigation under this
5 subsection, except where such action would be reasonably likely to
6 lead to serious harm to the affected person.

7 ¹In instances involving an overlap agent or toxin, the Department
8 of Agriculture shall ²[have primary jurisdiction pertaining] be the lead
9 agency with respect² to surveillance, testing, sampling, detection and
10 investigation related to animals, plants or crops under the jurisdiction
11 of the Department of Agriculture pursuant to the provisions of Title
12 4 of the Revised Statutes, and shall coordinate its activities with all
13 appropriate local, State and federal agencies.¹

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

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

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

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

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

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

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

10 ¹f. The provisions of this section shall not be deemed or construed
11 to limit, alter or impair in any way the authority of the Department of
12 Agriculture pursuant to its jurisdiction under the laws and policies
13 governing that department.¹

14
15 5. (New Section) Where the commissioner has reasonable grounds
16 to believe a public health emergency exists, the commissioner shall:
17 ascertain the existence of cases of an illness or health condition that
18 may be potential causes of a public health emergency; investigate all
19 such cases for sources of infection and ensure that they are subject to
20 proper control measures; and define the distribution of the illness or
21 health condition. To fulfill these duties, the commissioner shall
22 identify exposed individuals as follows:

23 a. The commissioner shall identify individuals thought to have been
24 exposed to an illness or health condition that may be a potential cause
25 of a public health emergency.

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

33
34 6. (New Section) The commissioner may establish a registry of
35 health care ¹[providers] workers¹, public health workers and support
36 services personnel who voluntarily consent to provide health care,
37 public health services and support logistics during a public health
38 emergency. This registry shall be known as the Emergency Health
39 Care Provider Registry.

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

43 a. The commissioner may issue identification cards to health care
44 ¹[providers] workers¹, public health workers and support services
45 personnel included in the registry established under this section that:

46 (1) Identify the health care ¹[provider] worker¹, public health

- 1 worker or support services personnel;
- 2 (2) Indicate that the individual is registered as a New Jersey
3 emergency health care ¹[provider] worker¹, public health worker or
4 support services personnel;
- 5 (3) Identify the professional license or certification held by the
6 individual; and
- 7 (4) Identify the individual's usual area of practice if that information
8 is available and the commissioner determines that it is appropriate to
9 provide that information.
- 10 b. The commissioner shall establish a form for identification cards
11 issued under this section.
- 12 c. The commissioner may identify all or part of a health care
13 facility or other location as an emergency health care center. Upon the
14 declaration of a public health emergency, an emergency health care
15 center may be used for:
- 16 (1) Evaluation and referral of individuals affected by the emergency
17 or crisis;
- 18 (2) Provision of health care services, including vaccination, mass
19 prophylaxis, isolation and quarantine; and
- 20 (3) Preparation of patients for transportation.
- 21 The commissioner may direct designated LINCS agencies, or their
22 successors, and local public health authorities to identify emergency
23 health care centers under this subsection.
- 24 d. In the event the Governor declares a public health emergency,
25 the commissioner may direct health care ¹[providers] workers¹, public
26 health workers and support services personnel registered under this
27 section who are willing to provide health care services on a voluntary
28 basis to proceed to any place in this State where health care services
29 or public health services are required by reason of the ¹public health¹
30 emergency ¹[or crisis]¹.
- 31 e. An emergency health care ¹[provider] worker¹, public health
32 worker and support services personnel registered under this section
33 may volunteer to perform health care or public health services at any
34 emergency health care center.
- 35 f. In the event the Governor declares a public health emergency,
36 the commissioner may waive health care facility medical staff
37 privileging requirements for individuals registered as emergency health
38 care ¹[providers] workers¹, and hospitals shall permit registered
39 emergency health care ¹[providers] workers¹ to exercise privileges at
40 the hospital for the duration of the public health emergency.
- 41 g. An emergency health care ¹[provider] worker¹, public health
42 worker and support services personnel registered under this section
43 who provides health care services on a voluntary basis shall not be
44 liable for any civil damages as a result of the person's acts or omissions
45 in providing medical care or treatment related to the public health
46 emergency in good faith and in accordance with the provisions of this

1 act.

2

3 7. (New Section) ¹[a.]¹ During a state of public health emergency
4 or in response to a public health emergency¹ [, the]:

5 a. The¹ commissioner, State Medical Examiner and Commissioner
6 of Environmental Protection shall coordinate and consult with each
7 other on the performance of their respective functions regarding the
8 safe ¹[disposal] disposition¹ of human remains, to devise and
9 implement measures which may include, but are not limited to, the
10 following:

11 (1) To take actions or issue and enforce orders to provide for the
12 safe disposition of human remains as may be reasonable and necessary
13 to respond to the public health emergency. Such measures may
14 include, but are not limited to, the temporary mass burial or other
15 interment, cremation, disinterment, transportation and
16 ¹[disposal] disposition¹ of human remains. To the extent possible,
17 religious, cultural, family, and individual beliefs of the deceased person
18 or his family shall be considered when ¹[disposing] determining
19 disposition¹ of any human remains;

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

27 (3) To direct or issue and enforce orders requiring any business or
28 facility¹, including but not limited to, a mortuary or funeral director,¹
29 authorized to hold, embalm, bury, cremate, inter, disinter, transport
30 and dispose of human remains under the laws of this State to accept
31 any human remains or provide the use of its business or facility if such
32 actions are reasonable and necessary to respond to the public health
33 emergency and are within the safety precaution capabilities of the
34 business or facility; and

35 (4) To direct or issue and enforce orders requiring that every human
36 remains prior to ¹[disposal] disposition¹ be clearly labeled with all
37 available information to identify the decedent, which shall include the
38 requirement that any human remains of a deceased person with a
39 contagious disease shall have an external, clearly visible tag indicating
40 that the human remains are infected and, if known, the contagious
41 disease.

42 b. The person in charge of ¹[disposing] disposition¹ of any human
43 remains shall maintain a written or electronic record of each human
44 remains and all available information to identify the decedent and the
45 circumstances of death and ¹[disposal] disposition¹. If human remains

1 cannot be identified prior to ²[disposal] disposition², a person
2 authorized by the State Medical Examiner shall, to the extent possible,
3 take fingerprints and photographs of the human remains, obtain
4 identifying dental information, and collect a DNA specimen, under
5 protocols of the State Medical Examiner consistent with safety as the
6 public health emergency may dictate. All information gathered under
7 this subsection shall be promptly forwarded to the State Medical
8 Examiner who shall forward relevant information to the commissioner.

9 c. The commissioner and State Medical Examiner shall coordinate
10 with the appropriate law enforcement agencies in any case where
11 human remains may constitute evidence in a criminal investigation.
12

13 8. (New Section) During a state of public health emergency, the
14 commissioner may exercise the following powers over facilities or
15 property:

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

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

23 (a) the premises designated for decontamination or closure;

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

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

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

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

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

35 Upon receiving a request for a hearing, the court shall fix a date for
36 a hearing. The hearing shall be held within 72 hours of receipt of the
37 request by the court, excluding Saturdays, Sundays and legal holidays.
38 The court may proceed in a summary manner. At the hearing, the
39 burden of proof shall be on the commissioner to prove by a
40 preponderance of the evidence that the health care facility poses a
41 threat to the public health and the closure order issued by the
42 commissioner is warranted to address the threat.

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

46 (4) The manner in which the request for a hearing pursuant to this

1 subsection is filed and acted upon shall be in accordance with the
2 Rules of Court.¹

3 b. Property. To decontaminate or cause to be decontaminated, or
4 destroy, subject to the payment of reasonable costs ²as provided for
5 in sections 24 and 25 of this act², any material of which there is
6 reasonable cause to believe that it may endanger the public health.

7 ¹c. In instances involving an overlap agent or toxin that causes a
8 public health emergency, the department and the Department of
9 Agriculture shall be responsible for their roles under their respective
10 jurisdictions.¹

11

12 9. (New Section) During a state of public health emergency, the
13 commissioner may exercise, for such period as the state of public
14 health emergency exists, the following powers concerning health care
15 and other facilities, property, roads, or public areas:

16 a. Use of property and facilities. To procure, by condemnation or
17 otherwise, subject to the payment of reasonable costs ²as provided for
18 in sections 24 and 25 of this act², construct, lease, transport, store,
19 maintain, renovate or distribute property and facilities as may be
20 reasonable and necessary to respond to the public health emergency,
21 with the right to take immediate possession thereof. Such property
22 and facilities include, but are not limited to, communication devices,
23 carriers, real estate, ¹[fuels,]¹ food and clothing. This authority shall
24 also include the ability to accept and manage those goods and services
25 donated for the purpose of responding to a public health emergency.
26 ¹The authority provided to the commissioner pursuant to this section
27 shall not affect the existing authority or emergency response of other
28 State agencies.¹

29 b. Use of health care facilities.

30 ¹(1)¹ To require², subject to the payment of reasonable costs as
31 provided for in sections 24 and 25 of this act,² a health care facility to
32 provide services or the use of its facility if such services or use are
33 reasonable and necessary to respond to the public health emergency,
34 as a condition of licensure, authorization or the ability to continue
35 doing business in the State as a health care facility. ¹[The] After
36 consultation with the management of the health care facility, the
37 commissioner may determine that the¹ use of the ¹[health care]¹
38 facility may include transferring the management and supervision of
39 the ¹[health care]¹ facility to the commissioner for a limited or
40 unlimited period of time, but shall not exceed the duration of the
41 public health emergency. ¹In the event of such a transfer, the
42 commissioner shall use the existing management of the health care
43 facility.

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

- 1 (a) the premises designated for transfer;
2 (b) the date and time at which the transfer will commence;
3 (c) a statement of the terms and condition of the transfer;
4 (d) a statement of the basis upon which the transfer is justified; and
5 (e) the availability of a hearing to contest the order, as provided in
6 paragraph (3) of this subsection.

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

10 (a) Upon receiving a request for a hearing, the court shall fix a date
11 for a hearing. The hearing shall be held within 72 hours of receipt of
12 the request by the court, excluding Saturdays, Sundays and legal
13 holidays. The court may proceed in a summary manner. At the
14 hearing, the burden of proof shall be on the commissioner to prove by
15 a preponderance of the evidence that transfer of the management and
16 supervision of the health care facility is reasonable and necessary to
17 respond to the public health emergency and the order issued by the
18 commissioner is warranted to address the need.

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

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

26 (4) A health care facility which provides services or the use of its
27 facility or whose management or supervision is transferred to the
28 commissioner pursuant to this subsection shall not be liable for any
29 civil damages as a result of the commissioner's acts or omissions in
30 providing medical care or treatment or any other services related to
31 the public health emergency²[in good faith and in accordance with the
32 provisions of this act]².

33 (5) For the duration of a state of public health emergency, the
34 commissioner shall confer with the Commissioner of Banking and
35 Insurance to request that the Department of Banking and Insurance
36 waive regulations requiring compliance by a health care provider or
37 health care facility with a managed care plan's administrative
38 protocols, including but not limited to, prior authorization and pre-
39 certification.¹

40 c. Control of property. To inspect, control, restrict, and regulate
41 by rationing and using quotas, prohibitions on shipments, allocation or
42 other means, the use, sale, dispensing, distribution or transportation of
43 food, ¹[fuel,]¹ clothing and other commodities, as may be reasonable
44 and necessary to respond to the public health emergency.

45 d. To identify areas that are or may be dangerous to the public
46 health and to recommend to the Governor and the Attorney General

1 that movement of persons within that area be restricted, if such action
2 is reasonable and necessary to respond to the public health emergency.

3
4 10. (New Section) Notwithstanding the provisions of P.L.1989,
5 c.34 (C.13:1E-48.1 et seq.) to the contrary, during a state of public
6 health emergency the commissioner may exercise in consultation with,
7 and upon the concurrence of, the Commissioner of Environmental
8 Protection, for such period as the state of public health emergency
9 exists, the following powers regarding the safe disposal of infectious
10 waste including, but not limited to, regulated medical waste as defined
11 under P.L.1989, c.34.

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

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

31 c. To procure, by condemnation or otherwise, subject to the
32 payment of reasonable costs ²as provided for in sections 24 and 25 of
33 this act², any business or facility authorized to collect, store, handle,
34 destroy, treat, transport and dispose of infectious waste under the laws
35 of this State and any landfill business or other such property as may be
36 reasonable and necessary to respond to the public health emergency,
37 with the right to take immediate possession thereof.

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

41
42 11. (New Section) a. During a state of public health emergency,
43 the commissioner may purchase, obtain, store, distribute or take for
44 priority redistribution any anti-toxins, serums, vaccines, immunizing
45 agents, antibiotics and other pharmaceutical agents or medical supplies
46 as may be reasonable and necessary to respond to the public health

1 emergency, with the right to take immediate possession thereof.

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

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

15

16 12. (New Section) With respect to a declared state of public health
17 emergency, the commissioner may take all reasonable and necessary
18 measures to prevent the transmission of infectious disease or exposure
19 to toxins or chemicals and apply proper controls and treatment for
20 infectious disease or exposure to toxins or chemicals.

21

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

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

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

1 14. (New Section) During a state of public health emergency, the
2 commissioner may exercise the following powers as necessary to
3 address the public health:

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

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

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

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

17 b. Require and specify in consultation with and upon the
18 concurrence of the Department of Environmental Protection and the
19 State Office of Emergency Management, the procedures for the
20 decontamination of persons, personal property, property and facilities
21 exposed to or contaminated with biological agents, chemical weapons
22 or release of nuclear or radiological devices.

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

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

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

32
33 15. (New Section) The following isolation and quarantine
34 procedures shall be in effect during a state of public health emergency:

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

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

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

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

1 and caring for individuals in isolation or quarantine.

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

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

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

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

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

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

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

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

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

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

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

42 (b) the premises designated for isolation or quarantine;

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

45 (d) the suspected contagious disease, if known;

46 (e) a statement of the terms and conditions of isolation and

1 quarantine;

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

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

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

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

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

31 (b) the premises designated for isolation or quarantine;

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

34 (d) the suspected contagious disease, if known;

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

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

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

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

1 conspicuous place in the isolation or quarantine premises.

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

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

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

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

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

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

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

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

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

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

46 (3) If, upon a hearing, the court finds that the isolation or

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

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

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

12
13 16. (New section) a. Any person who has been placed in isolation
14 or quarantine pursuant to an order of the commissioner and who at the
15 time of quarantine or isolation was in the employ of any public or
16 private employer, other than a temporary position, shall be reinstated
17 to such employment or to a position of like seniority, status and pay,
18 unless the employer's circumstances have so changed as to make it
19 impossible or unreasonable to do so, if the person:

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

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

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

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

43 c. The Attorney General may apply to the Superior Court and the
44 court may grant additional relief to persons placed in isolation or
45 quarantine under section 15 of this act, which relief may include, but
46 is not limited to, relief similar to that accorded to military personnel

1 under P.L.1979, c.317 (C.38:23C-1 et seq.).

2

3 17. (New Section) ¹[a.] With respect to a state of public health
4 emergency:

5 a.¹ Access to medical information of individuals who have
6 participated in medical testing, treatment, vaccination, isolation or
7 quarantine programs or efforts by the commissioner pursuant to this
8 act shall be limited to those persons having a legitimate need to
9 acquire or use the information to:

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

12 (2) conduct epidemiologic research;

13 (3) investigate the causes of the transmission;

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

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

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

21 (1) directly to the individual;

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

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

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

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

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

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

36 ¹c. Strictly for the purposes of controlling and containing the
37 public health emergency, the commissioner may provide medical
38 information to a health care facility about an employee who has
39 participated in medical treatment or testing which may impact upon the
40 public health emergency. This information may include, but is not
41 limited to, medical testing, treatment, vaccination, isolation or
42 quarantine programs or efforts by the commission pursuant to this act
43 when the commissioner deems that the health care facility should be
44 advised of such medical information in order to take actions necessary
45 to protect the health and well being of its patients, residents or other
46 health care employees.

1 Nothing in this subsection shall be construed to allow for the
2 release of medical information that is not related to the public health
3 emergency or is protected under federal or State law.¹

4
5 18. (New Section) During a state of public health emergency, the
6 commissioner may exercise, for such period as the state of public
7 health emergency exists, the following emergency powers regarding
8 health care personnel:

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

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

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

22 (2) The commissioner may waive any State licensing requirements,
23 permits, fees, applicable orders, rules and regulations concerning
24 professional practice in this State by health care providers from other
25 jurisdictions; and

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

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

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

43 d. (1) An in-State health care provider required to assist pursuant
44 to subsection a. of this section and an out-of-State emergency health
45 care provider appointed pursuant to subsection b. of this section shall
46 not be liable for any civil damages as a result of the provider's acts or

1 omissions in providing medical care or treatment related to the public
2 health emergency in good faith and in accordance with the provisions
3 of this act.

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

12

13 19. (New Section) a. As used in this section:

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

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

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

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

34 (2) ¹[No] A¹ public entity or agent, officer, employee, servant or
35 representative or volunteer, shall ¹not¹ be liable for an injury arising
36 out of property of any kind that is donated or acquired according to
37 the provisions of this or any other act for use in connection with a
38 public health emergency. An agent, officer, employee, servant,
39 representative or volunteer is not immune under this section, however,
40 for an injury that results from an act that is outside the scope of the
41 authority granted by this act or for conduct that constitutes a crime,
42 actual fraud, actual malice, gross negligence or willful misconduct.

43 c. (1) A person or ¹private¹ entity who¹:

44 (a)¹ owns, manages or controls property that is used in connection
45 with a public health emergency shall ¹[be immune from liability] not
46 be liable¹ for an injury with respect to the property, unless the injury

1 is a result of gross negligence or willful misconduct. The immunity
2 applies whether the person or entity owning, managing or controlling
3 the property permits the use of the property voluntarily, with or
4 without compensation, or the State or another public entity exercises
5 the condemnation powers in this or any other act with respect to the
6 use of the property¹ [.

7 (2) A person or entity who];

8 (b)¹ is acting in the performance of a contract with a public entity
9 in connection with a public health emergency shall ¹[be immune from
10 liability] not be liable¹ for an injury caused by the person or entity's
11 negligence in the course of performing the contract¹ [. (3) A person or
12 entity who,], unless the injury is a result of gross negligence or willful
13 misconduct; and

14 (c)¹ in connection with a public health emergency, renders
15 assistance or advice to a public entity or public employee or donates
16 goods and services shall ¹[be immune from liability] not be liable¹ for
17 an injury arising out of the person or entity's assistance, advice or
18 services, or associated with the donated goods, unless the injury is a
19 result of gross negligence or willful misconduct.

20 ¹[(4)] (2) A person or private entity and the employees of the
21 entity shall not be liable for an injury caused by any act or omission in
22 connection with a public health emergency, or preparatory activities,
23 provided that the action of the person or entity is undertaken pursuant
24 to the exercise of the authority provided pursuant to this act, including
25 any order, rule or regulation adopted pursuant thereto. A person,
26 entity or employee of the entity is not immune under this section,
27 however, for an injury that results from an act that is outside the scope
28 of the authority granted by this act or for conduct that constitutes a
29 crime, actual fraud, actual malice, gross negligence or willful
30 misconduct.

31 (3)¹ The immunities established under this subsection shall not
32 apply to a person ¹or private entity¹ whose act or omission caused or
33 contributed to the public health emergency.

34 ¹(4) As used in this subsection, "private entity" includes, but is not
35 limited to, a health care provider.¹

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

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

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

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

13

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

20 b. The commissioner, either directly or through the LINCS
21 agencies, shall ²[direct] coordinate² the activities of all local health
22 agencies in the county with regard to public health protection related
23 to preparing for and responding to public health emergencies. ³The
24 LINCS agency shall notify each local health agency in its jurisdiction
25 of the nature and extent of the emergency, except that nothing in this
26 subsection shall be construed to prevent the commissioner from
27 notifying a local health agency directly.³

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

32 d. The LINCS agencies shall be responsible for performing
33 ¹human¹ disease surveillance, terrorism response and public health
34 emergency response-related activities in such a manner as the
35 commissioner may direct, and for reporting to the commissioner on the
36 conduct of these activities as performed in the county or city, as
37 applicable.

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

44 f. The commissioner is authorized to use available federal funds
45 received by the State to offset the costs incurred by LINCS agencies
46 in implementing the provisions of this act, and shall reimburse local

1 health agencies, subject to the approval of the State Treasurer and in
2 accordance with the provisions of this act.

3

4 22. (New Section) a. As used in this section:

5 "Biological Agent" means:

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

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

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

17 (4) high consequence livestock pathogens and toxins as determined
18 by the U.S. Department of Agriculture ¹and the New Jersey
19 Department of Agriculture¹;

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

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

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

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

29 b. The commissioner¹, in coordination with the Secretary of
30 Agriculture,¹ shall establish a Biological Agent Registry and
31 administer a program for the registration of biological agents. The
32 registry shall identify the biological agents possessed or maintained by
33 any person in this State and shall contain such other information as
34 required by regulation of the commissioner pursuant to this section.

35 c. A person who possesses or maintains any biological agent
36 required to be registered under this section shall report the information
37 to the department ²[in a form and manner required by the
38 commissioner] by submitting a duplicate of the form required under
39 Part 331 of Title 7, Part 121 of Title 9, and Parts 72 and 73 of Title 42
40 of the Code of Federal Regulations. Forms submitted pursuant to
41 these provisions shall not be reproduced by photographic, electronic
42 or other means, and shall be stored in a manner that is both
43 confidential and secure².

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

46 (1) The commissioner may, in accordance with rules adopted by the
47 commissioner, ²[release] utilize² information contained in the registry

1 for the purpose of conducting or aiding in a communicable disease
2 investigation.

3 (2) The commissioner shall cooperate, and may share information
4 contained in the registry, with the United States Centers for Disease
5 Control and Prevention, the Department of Homeland Security¹, the
6 New Jersey Department of Agriculture,¹ and State and federal law
7 enforcement agencies pursuant to a communicable disease
8 investigation commenced or conducted by the department, the New
9 Jersey Domestic Security Preparedness Task Force established
10 pursuant to P.L.2001, c.246 (C.App. A:9-64 et seq.), or other State
11 or federal law enforcement agency having investigatory authority, or
12 in connection with any investigation involving the release, theft or loss
13 of a registered biological agent. ²Access to this information shall
14 terminate upon the completion of the investigation.²

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

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

27 f. The commissioner shall adopt rules and regulations pursuant to
28 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.) ²that are consistent with Part 331 of Title 7, Part 121 of Title 9,
30 and Parts 72 and 73 of Title 42 of the Code of Federal Regulations²,
31 to carry out the purposes of this section; except that, notwithstanding
32 any provision of P.L.1968, c.410 to the contrary, the commissioner
33 may adopt, immediately upon filing with the Office of Administrative
34 Law, such regulations as he deems necessary to implement the
35 provisions of this section, which shall be effective for a period not to
36 exceed six months and thereafter be amended, adopted or readopted
37 by the commissioner in accordance with the requirements of P.L.1968,
38 c.410.

39 The regulations shall include, but not be limited to:

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

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

45 (3) provisions for the release of information in the registry to State
46 and federal law enforcement agencies, the Centers for Disease Control

1 and Prevention² [and],² the Department of Homeland Security ²and
2 the New Jersey Department of Agriculture² pursuant to paragraph (2)
3 of subsection d. of this section;

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

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

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

16

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

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

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

30 (2) procedures for the distribution and administration of vaccines
31 that shall apply to physicians, nurses, health care facilities, pharmacies
32 and others that dispense vaccines. The procedures shall include, but
33 not be limited to, a definition of high-risk groups for priority
34 protection or treatment in the event a vaccine shortage is imminent or
35 existent; and

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

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

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

42 d. A person who willfully or knowingly violates the New Jersey
43 Vaccine Education and Prioritization Plan or any procedures contained
44 therein shall be liable for a civil penalty of \$500 for each violation.
45 The penalty shall be sued for and collected by the commissioner in a
46 summary proceeding before the Superior Court pursuant to the

1 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et
2 seq.).

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

7
8 ²24. (New Section) a. There is hereby established in the
9 Department of Health and Senior Services a State Public Health
10 Emergency Claim Reimbursement Board. The board shall include the
11 following members: the Commissioner of Health and Senior Services,
12 who shall be the presiding officer, the Attorney General, the Adjutant
13 General of the Department of Military and Veterans' Affairs, the State
14 Director of Emergency Management, the Secretary of Agriculture, the
15 Commissioner of Banking and Insurance, the Commissioner of
16 Environmental Protection, the Commissioner of Community Affairs,
17 the State Medical Examiner, and the State Treasurer, or their
18 designees. The members of the board shall serve without pay in
19 connection with all such duties as are prescribed in this act.

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

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

33 d. All awards shall be paid from any funds appropriated by the
34 State, any political subdivision of the State, or the federal government,
35 for such purpose. In awarding reimbursement under this section, the
36 board shall take into account any funds, or any other thing of value,
37 received by a claimant from any other source, including but not limited
38 to private donations, contributions and insurance proceeds. The board
39 shall not award reimbursement unless the claimant has demonstrated,
40 to the satisfaction of the board, that the claimant has first sought
41 reimbursement for any loss incurred due to the declaration of a public
42 health emergency from any and all appropriate third party payers.²

43
44 ²25. (New Section) a. Any person making a claim for
45 reimbursement for private property or services employed, taken or
46 used for a public purpose under this act shall, subsequent to the

1 termination of the public health emergency, file a petition for an award
2 with the State Public Health Emergency Claim Reimbursement Board,
3 established pursuant to section 24 of this act, through the
4 Commissioner of Health and Senior Services. The petition shall be
5 signed by the claimant and shall set forth the following:

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

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

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

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

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

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

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

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

39 e. Notwithstanding the provisions of this section to the contrary,
40 in the event funds are otherwise made available for reimbursement, a
41 person shall not be required to file a petition for an award with the
42 board pursuant to this section.²

43
44 ²[24.] 26.² (New Section) Any correspondence, records, reports
45 and medical information made, maintained, received or filed pursuant
46 to this act shall not be considered a public or government record

1 under P.L.1963, c.73 (C. 47:1A-1 et seq.) and P.L.2001, c.404
2 (C.47:1A-5 et al.).

3

4 ²[25.] 27.² (New section) The commissioner shall have the power
5 to enforce the provisions of this act through the issuance of orders and
6 such other remedies as are provided by law.

7

8 ²[26.] 28.² (New Section) The provisions of this act do not
9 explicitly preempt other laws or regulations that preserve to a greater
10 degree the powers of the Governor or commissioner, provided such
11 laws or regulations are consistent and do not otherwise restrict or
12 interfere with the operation or enforcement of the provisions of this
13 act.

14

15 ²[27.] 29.² (New Section) The powers granted in the act are in
16 addition to, and not in derogation of, powers otherwise granted by law
17 to the State Medical Examiner.

18

19 ²30. (New section) The provisions of this act shall not be
20 construed to abrogate the effect or status of the "New Jersey Highway
21 Traffic Safety Act of 1987," P.L.1987, c.284 (C.27:5F-18 et seq.).²

22

23 ²[28.] 31.² R.S.26:4-2 is amended to read as follows:

24 26:4-2. Powers of state department and local board

25 In order to prevent the spread of disease ¹affecting humans¹, the
26 [state department of health] Department of Health and Senior
27 Services, and the local boards of health within their respective
28 jurisdictions and subject to the [state] State sanitary code, shall have
29 power to:

30 **[Defining communicable disease.]** a. Declare what diseases are
31 communicable.

32 **[Epidemics.]** b. Declare when any communicable disease has
33 become epidemic.

34 **[Reporting diseases.]** c. Require the reporting of communicable
35 diseases.

36 **[Isolation and quarantine.]** d. Maintain and enforce proper and
37 sufficient quarantine, wherever deemed necessary.

38 **[Removal of infected person.]** e. Remove any person infected with
39 a communicable disease to a suitable place, if in its judgment removal
40 is necessary and can be accomplished without any undue risk to the
41 person infected.

42 **[Disinfection.]** f. Disinfect any premises when deemed necessary.

43 **[Removal and destruction of property.]** g. Remove to a proper
44 place to be designated by it all articles within its jurisdiction, which,
45 in its opinion, shall be infected with any matter likely to communicate

1 disease and to destroy such articles, when in its opinion the safety of
2 the public health requires it.

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

7 (R.S.26:4-2)

8

9 ²[29.] ²32. R.S.26:8-62 is amended to read as follows:

10 26:8-62. a. The State registrar or local registrar shall, upon request,
11 supply to a person who establishes himself as one of the following:
12 the subject of the record of a birth, death, fetal death, certificate of
13 birth resulting in stillbirth, domestic partnership or marriage, as
14 applicable; the subject's parent, legal guardian or other legal
15 representative; the subject's spouse, child, grandchild or sibling, if of
16 legal age, or the subject's legal representative; an agency of State or
17 federal government for official purposes; a person possessing an order
18 of a court of competent jurisdiction; or a person who is authorized
19 under other emergent circumstances as determined by the
20 commissioner, a [certification or] certified copy, or release of the data
21 and information of that record registered under the provisions of
22 R.S.26:8-1 et seq., or any domestic partnership registered under the
23 provisions of P.L.2003, c.246 (C.26:8A-1 et al.), for any of which,
24 except as provided by R.S.26:8-63, the State registrar shall be entitled
25 to a search fee, if any, as provided by R.S.26:8-64, to be paid by the
26 person. A certification may be issued in other circumstances and shall
27 state that it is for informational purposes only, and is not to be used
28 for identification purposes. The registrar shall authenticate the identity
29 of the requestor and the requestor's relationship with the subject of the
30 vital record. For the purposes of this subsection, any employee of a
31 mortuary registered pursuant to P.L.1952, c.340 (C.45:7-32 et seq.),
32 or a funeral director licensed pursuant to that act who is affiliated with
33 a registered mortuary, if the mortuary was recorded on the original
34 certificate of death, shall be construed to be the subject's legal
35 representative and entitled to obtain full and complete copies of death
36 certificates or certifications thereof.

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

42 c. For each death registration initiated on the NJ-EDRS on or
43 after the first day of the first month following the date of enactment of
44 P.L.2003, c.221 but before the first day of the thirty-seventh month
45 following the date of enactment of P.L.2003, c.221, the State registrar
46 shall be paid a recording fee for each record filed, whether by means

1 of the current paper process or electronically, in an amount to be
2 determined by the State registrar but not exceeding \$10, from the
3 account of the funeral home, which may include this amount in the
4 funeral expenses charged to the estate or person accepting
5 responsibility for the disposition of the deceased's human remains and
6 the costs associated therewith; provided however, this fee shall not
7 apply to the death registration of a person who died while in the
8 military or naval or maritime or merchant marine service of the United
9 States whose death is recorded pursuant to section 1 of P.L.1950,
10 c.299 (C.26:6-5.2). The State registrar shall deposit the proceeds
11 from the recording fee into the New Jersey Electronic Death
12 Registration Support Fund established pursuant to section 17 of
13 P.L.2003, c.221 (C.26:8-24.2).

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

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

26 (cf: P.L.2003, c.246, s.24)

27

28 ²[30.] 33.² R.S.34:15-43 is amended to read as follows:

29 34:15-43. Every officer, appointed or elected, and every employee
30 of the State, county, municipality or any board or commission, or any
31 other governing body, including boards of education, and governing
32 bodies of service districts, individuals who are under the general
33 supervision of the Palisades Interstate Park Commission and who work
34 in that part of the Palisades Interstate Park which is located in this
35 State, and also each and every member of a volunteer fire company
36 doing public fire duty and also each and every active volunteer, first
37 aid or rescue squad worker, including each and every authorized
38 worker who is not a member of the volunteer fire company within
39 which the first aid or rescue squad may have been created, doing
40 public first aid or rescue duty under the control or supervision of any
41 commission, council, or any other governing body of any municipality,
42 any board of fire commissioners of such municipality or of any fire
43 district within the State, or of the board of managers of any State
44 institution, every county fire marshal and assistant county fire marshal,
45 every special, reserve or auxiliary policeman doing volunteer public
46 police duty under the control or supervision of any commission,

1 council or any other governing body of any municipality, every
2 emergency management volunteer doing emergency management
3 service for the State, every health care ¹[provider] worker¹, public
4 health worker and support services personnel, registered with the
5 Emergency Health Care Provider Registry pursuant to section 6
6 of P.L. , c. (C.)(pending before the Legislature as this bill),
7 and any person doing volunteer work for the Division of Parks and
8 Forestry, the Division of Fish and Wildlife, or the New Jersey Natural
9 Lands Trust, as authorized by the Commissioner of Environmental
10 Protection, or for the New Jersey Historic Trust, ¹and any person
11 doing work related to bioterrorism, or volunteering, for the
12 Department of Agriculture, as authorized by the Secretary of
13 Agriculture,¹ who may be injured in line of duty shall be compensated
14 under and by virtue of the provisions of this article and article 2 of this
15 chapter (R.S.34:15-7 et seq.). No former employee who has been
16 retired on pension by reason of injury or disability shall be entitled
17 under this section to compensation for such injury or disability;
18 provided, however, that such employee, despite retirement, shall,
19 nevertheless, be entitled to the medical, surgical and other treatment
20 and hospital services as set forth in R.S.34:15-15.

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

29 As used in this section, the terms "doing public fire duty" and "who
30 may be injured in line of duty," as applied to members of volunteer fire
31 companies, county fire marshals or assistant county fire marshals, and
32 the term "doing public first aid or rescue duty," as applied to active
33 volunteer first aid or rescue squad workers, shall be deemed to include
34 participation in any authorized construction, installation, alteration,
35 maintenance or repair work upon the premises, apparatus or other
36 equipment owned or used by the fire company or the first aid or rescue
37 squad, participation in any State, county, municipal or regional search
38 and rescue task force or team, participation in any authorized public
39 drill, showing, exhibition, fund raising activity or parade, and to
40 include also the rendering of assistance in case of fire and, when
41 authorized, in connection with other events affecting the public health
42 or safety, in any political subdivision or territory of another state of
43 the United States or on property ceded to the federal government
44 while such assistance is being rendered and while going to and
45 returning from the place in which it is rendered.

46 Also, as used in this section, "doing public police duty" and "who

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

11 As used in this section, the terms "doing emergency management
12 service" and "who may be injured in the line of duty," as applied to
13 emergency management volunteers and health care
14 ¹[providers] workers¹, public health workers and support services
15 personnel registered with the Emergency Health Care Provider
16 Registry pursuant to section 6 of P.L. , c. (C.)(pending before the
17 Legislature as this bill), mean participation in any activities authorized
18 pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.), including
19 participation in any State, county, municipal or regional search and
20 rescue task force or team, except that the terms shall not include
21 activities engaged in by a member of an emergency management
22 agency of the United States Government or of another state, whether
23 pursuant to a mutual aid compact or otherwise.

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

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

1 if such first aid or rescue squad has been or hereafter shall be
2 designated by ordinance as the first aid or rescue squad of the
3 municipality.

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

11 A member of a volunteer fire company, active volunteer first aid or
12 rescue squad worker, county fire marshal, assistant county fire
13 marshal, special, reserve or auxiliary policeman or emergency
14 management volunteer serving a volunteer organization duly created
15 and under the control or supervision of any commission, council or any
16 other governing body of any municipality, any board of fire
17 commissioners of that municipality or of any fire district within the
18 State, or of the board of managers of any State institution, who
19 participated in a search and rescue task force or team in response to
20 the terrorist attacks of September 11, 2001 without the authorization
21 of that volunteer organization's governing body and who suffered
22 injury or death as a result of participation in that search and rescue
23 task force or team shall be deemed an employee of this State for the
24 purpose of workers' compensation benefits as would have accrued if
25 the injury or death had occurred in the performance of the duties of
26 the volunteer company or squad of which he was a member.

27 Whenever a member of a volunteer fire company, active volunteer
28 first aid or rescue squad worker, county fire marshal, assistant county
29 fire marshal, special, reserve or auxiliary policeman or emergency
30 management volunteer serving a volunteer organization duly created
31 and under the control or supervision of any commission, council or any
32 other governing body of any municipality, any board of fire
33 commissioners of that municipality or of any fire district within the
34 State, or of the board of managers of any State institution, participates
35 in a national, multi-state, State, municipal or regional search and
36 rescue task force or team without the authorization of that volunteer
37 organization's governing body but pursuant to a Declaration of
38 Emergency by the Governor of the State of New Jersey specifically
39 authorizing volunteers to respond immediately to the emergency
40 without requiring the authorization of the volunteer company or
41 squad, and the member of the volunteer fire company, active volunteer
42 first aid or rescue squad worker, county fire marshal, assistant county
43 fire marshal, special, reserve or auxiliary policeman or emergency
44 management volunteer suffers injury or death as a result of
45 participation in that search and rescue task force or team, he shall be
46 deemed an employee of this State for the purpose of workers'

1 compensation benefits as would have accrued if the injury or death had
2 occurred in the performance of the duties of the volunteer company or
3 squad of which he was a member.

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

8 (cf: P.L.2001, c.325, s.1)

9

10 ²[31.] 34.² R.S. 34:15-75 is amended to read as follows:

11 34:15-75. Compensation for injury and death, either or both, of any
12 volunteer fireman, county fire marshal, assistant county fire marshal,
13 volunteer first aid or rescue squad worker, volunteer driver of any
14 municipally-owned or operated ambulance, forest fire warden or forest
15 fire fighter employed by the State of New Jersey, member of a board
16 of education, special reserve or auxiliary policeman doing volunteer
17 public police duty under the control or supervision of any commission,
18 council or any other governing body of any municipality, emergency
19 management volunteer doing emergency management service, health
20 care¹ [providers] workers¹, public health workers and support services
21 personnel registered with the Emergency Health Care Provider
22 Registry pursuant to section 6 of P.L. , c. (C.)(pending before the
23 Legislature as this bill) and doing emergency management service for
24 the State, or any volunteer worker for the Division of Parks and
25 Forestry, the Division of Fish and Wildlife, the New Jersey Natural
26 Lands Trust or the New Jersey Historic Trust, shall:

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

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

33 (cf: P.L.2001, c.328, s.2)

34

35 ²[32.] 35.² The commissioner shall adopt rules and regulations
36 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
37 (C.52:14B-1 et seq.) in order to carry out the purpose of this act.

38

39 ²[33.] 36.² This act shall take effect immediately.

40

41

42

43

44 "Emergency Health Powers Act."