

By: Van de Putte

S.B. No. 399

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the powers and duties of the governor and certain state
3 agencies relating to public health, including public health
4 emergencies.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 418.004, Government Code, is amended by
7 adding Subdivision (8) to read as follows:

8 (8) "Public health emergency" means an immediate
9 threat from a communicable disease as defined by Section 81.003,
10 Health and Safety Code, that:

11 (A) poses a high risk of death or serious
12 long-term disability to a large number of people; and

13 (B) creates a substantial risk of public exposure
14 because of the disease's high level of contagion or the method by
15 which the disease is transmitted.

16 SECTION 2. Section 418.014, Government Code, is amended by
17 amending Subsection (e) and adding Subsections (f), (g), and (h) to
18 read as follows:

19 (e) An executive order or proclamation shall be
20 disseminated promptly by means intended to bring its contents to
21 the attention of the general public. The order or proclamation
22 shall be disseminated in English and Spanish and in a manner
23 accessible to people with disabilities. An order or proclamation
24 shall be filed promptly with the division of emergency management,

1 the secretary of state, and the county clerk or city secretary in
2 each area to which it applies unless the circumstances attendant on
3 the disaster prevent or impede the filing.

4 (f) The governor, in consultation with the commissioner of
5 public health, may declare that a state of disaster constitutes a
6 public health emergency to which the public health emergency
7 provisions of Chapter 81, Health and Safety Code, and other laws
8 apply. Declaring a state of disaster that constitutes a public
9 health emergency activates the public health emergency aspects of
10 the state emergency management plan applicable to the area subject
11 to the declaration.

12 (g) A state of disaster that constitutes a public health
13 emergency may be renewed one time by the governor, in consultation
14 with the commissioner of public health, for an additional 30 days.
15 An additional renewal may be made by the governor only after
16 consulting with the commissioner of public health, the lieutenant
17 governor, and the speaker of the house.

18 (h) An executive order or proclamation declaring a state of
19 disaster that constitutes a public health emergency must identify
20 the primary public health authority responsible for responding to
21 the emergency.

22 SECTION 3. Subchapter C, Chapter 418, Government Code, is
23 amended by adding Section 418.0425 to read as follows:

24 Sec. 418.0425. PUBLIC HEALTH EMERGENCY PLAN. (a) As part of
25 the comprehensive state emergency management plan under Section
26 418.042, the division shall prepare and keep current a public
27 health emergency plan. The plan must include:

1 (1) a means of notifying and communicating with the
2 public during a state of public health emergency;

3 (2) centralized coordination of resources, manpower,
4 and services, including coordination of responses by state, local,
5 and federal agencies;

6 (3) the location, procurement, storage,
7 transportation, maintenance, and distribution of essential
8 materials, including medical supplies, drugs, vaccines, food,
9 shelter, and beds;

10 (4) provisions for the continued, effective operation
11 of the judicial system including, if necessary, the identification
12 and training of personnel to serve as emergency judges regarding
13 matters of isolation and quarantine;

14 (5) the method of evacuating persons and housing and
15 feeding the evacuated persons;

16 (6) provisions for the identification and training of
17 health care providers to diagnose and treat persons with infectious
18 diseases;

19 (7) guidelines for the vaccination of persons;

20 (8) guidelines for the treatment of persons who have
21 been exposed to or who are infected with diseases, including
22 anthrax, botulism, smallpox, plague, tularemia, and viral
23 hemorrhagic fevers, or health conditions caused by bioterrorism,
24 epidemic or pandemic disease, or novel and highly fatal infectious
25 agents or biological toxins, that pose a substantial risk of a
26 significant number of fatalities or incidents of permanent or
27 long-term disability;

1 (9) guidelines for the safe disposal of corpses and
2 infectious waste;

3 (10) guidelines for the safe and effective management
4 of persons isolated, quarantined, vaccinated, or treated during a
5 state of public health emergency;

6 (11) provisions tracking the source and outcomes of
7 infected persons;

8 (12) requirements that each municipality and county
9 within the state identify the following:

10 (A) sites where persons can be isolated or
11 quarantined using the least restrictive means for isolation and
12 quarantine, and the requirements for the safety, health, and
13 maintenance of personal dignity of those isolated or quarantined;

14 (B) sites where medical supplies, food, and other
15 essentials can be distributed to the public;

16 (C) sites where emergency workers can be housed
17 and fed; and

18 (D) routes and means of transportation of people
19 and materials; and

20 (13) plans for coordinating emergency response with
21 other states and the federal government.

22 (b) The division shall distribute the public health
23 emergency plan and guidelines to those who will be responsible for
24 implementing the plan.

25 (c) In developing the public health emergency plan, the
26 division shall take into consideration any cultural norms, values,
27 and traditions that may be relevant.

1 SECTION 4. Chapter 418, Government Code, is amended by
2 adding Subchapter I to read as follows:

3 SUBCHAPTER I. PUBLIC HEALTH EMERGENCY

4 Sec. 418.201. DUTIES OF PUBLIC HEALTH AUTHORITY. During a
5 state of disaster that constitutes a public health emergency, the
6 public health authority designated by the governor under Section
7 418.014(h) shall coordinate all matters relating to the state's
8 response during the emergency. The public health authority has
9 primary jurisdiction, responsibility, and authority for:

10 (1) planning and executing public health emergency
11 assessment, mitigation, preparedness response, and recovery for
12 the state;

13 (2) coordinating public health emergency response
14 between state and local authorities;

15 (3) collaborating with relevant federal government
16 authorities, elected officials of other states, private
17 organizations, or private sector companies;

18 (4) coordinating recovery operations and mitigation
19 initiatives subsequent to public health emergencies; and

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

22 Sec. 418.202. IDENTIFICATION OF HEALTH PERSONNEL. (a)
23 After the declaration of a state of disaster that constitutes a
24 public health emergency, the public health authority shall issue
25 special identification for all public health personnel working
26 during the emergency.

27 (b) The identification shall indicate the authority of the

1 bearer to exercise public health functions and emergency powers
2 during the state of disaster that constitutes a public health
3 emergency.

4 (c) Public health personnel shall wear the identification
5 in plain view.

6 Sec. 418.203. SHARING INFORMATION BETWEEN HEALTH AUTHORITY
7 AND PUBLIC SAFETY AUTHORITY. Public health authority personnel and
8 public safety personnel may only share information relating to a
9 reportable disease, health condition, or other suspicious event to
10 the extent the information is needed for the treatment, control,
11 investigation, and prevention of a public health emergency.

12 Sec. 418.204. UNLICENSED HEALTH CARE PROFESSIONALS.
13 Notwithstanding any other law, a health care professional who does
14 not hold a license, certificate, or other permit issued by this
15 state at the time a public health emergency is declared may, subject
16 to the terms of the public health emergency declaration, provide
17 medical or health care services to a person in this state if:

18 (1) the person:

19 (A) holds a license, certificate, or permit
20 issued by another state that authorizes the person to provide the
21 medical or health care; or

22 (B) held a license, certificate, or permit issued
23 by this state or another state that authorized the person to render
24 the medical or health care;

25 (2) the license, certificate, or permit has never
26 been, during any period in which it was in force:

27 (A) revoked or suspended; or

1 (B) terminated while disciplinary charges or an
2 investigation was pending; and

3 (3) the holder of the license, certificate, or permit
4 has never been found civilly liable under a settlement agreement or
5 final judgment of any court for negligence arising from medical or
6 health care services.

7 Sec. 418.205. DISCIPLINARY ACTION. A regulatory agency of
8 this state shall revoke or suspend the license, certificate, or
9 other permit of an individual or facility that is regulated by the
10 agency if the individual or entity does not assist the public health
11 authority during a state of disaster that constitutes a public
12 health emergency declared under this chapter.

13 Sec. 418.206. DISPOSAL OF CORPSE. (a) The public health
14 authority shall clearly label every corpse with a communicable
15 disease before the corpse is cremated or buried. The label must
16 clearly identify the corpse as infected and include all available
17 information to identify the decedent and the circumstances of
18 death, including the disease.

19 (b) Every person in charge of disposing of a corpse with a
20 communicable disease shall maintain a written record of each corpse
21 and all available information to identify the decedent and the
22 circumstances of death and disposal. If the corpse cannot be
23 identified before disposal, a qualified person must:

24 (1) take fingerprints of the corpse;

25 (2) take one or more photographs of the corpse; and

26 (3) collect a DNA specimen from the corpse.

27 (c) All information gathered under this section shall be

1 promptly forwarded to the public health authority.

2 Sec. 418.207. LIABILITY EXEMPTION. (a) Except as provided
3 by Subsection (d), during a state of disaster that constitutes a
4 public health emergency, a person owning or controlling real estate
5 or other premises who voluntarily and without compensation grants a
6 license or privilege, or otherwise permits the designation or use
7 of the real estate or premises for the purpose of sheltering
8 persons, together with that person's successors in interest, if
9 any, is immune from civil liability for any act or omission
10 resulting in death, damage, or injury relating to the use of the
11 real estate or premises.

12 (b) Except as provided by Subsection (d), during a state of
13 disaster that constitutes a public health emergency, a person or
14 the person's agent performing a contract with, and under the
15 direction of, the state or a political subdivision of the state, is
16 immune from civil liability for any act or omission resulting in
17 death, damage, or injury relating to the performance of the
18 contract.

19 (c) Except as provided by Subsection (d), during a state of
20 disaster that constitutes a public health emergency, a person or
21 the person's agent who provides assistance or advice at the request
22 of the state or a political subdivision of the state under this
23 chapter is immune from civil liability for any act or omission
24 resulting in death, damage, or injury relating to the assistance or
25 advice.

26 (d) This section does not apply to:

27 (1) an act or omission that is intentional, wilfully

1 or wantonly negligent, or done with conscious indifference or
2 reckless disregard for the safety of others; or

3 (2) a person or the person's agent whose act or
4 omission caused in whole or in part the public health emergency and
5 who would otherwise be liable for that act or omission.

6 Sec. 418.208. INFECTIOUS WASTE. Public health authority
7 personnel working during a state of disaster that constitutes a
8 public health emergency who collect infectious waste shall clearly
9 label the waste as infectious waste and shall state on the label the
10 type of infectious waste, if known.

11 SECTION 5. Section 81.023(d), Health and Safety Code, is
12 transferred to Subchapter A, Chapter 81, Health and Safety Code,
13 redesignated as Section 81.011, Health and Safety Code, and amended
14 to read as follows:

15 Sec. 81.011. REQUEST FOR INFORMATION. [~~(d)~~] In times of
16 emergency or epidemic declared by the commissioner, the department
17 [~~board~~] is authorized to request information pertaining to names,
18 dates of birth, and most recent addresses of individuals from the
19 driver's license records of the Department of Public Safety for the
20 purpose of notification to individuals of the need to receive
21 certain immunizations or diagnostic, evaluation, or treatment
22 services for suspected communicable diseases.

23 SECTION 6. Section 81.041, Health and Safety Code, is
24 amended by amending Subsection (e) and adding Subsection (f) to
25 read as follows:

26 (e) Reportable diseases under this chapter for which the
27 board shall require reports include:

1 (1) acquired [~~Acquired~~] immune deficiency syndrome
2 and human immunodeficiency virus infection; and

3 (2) diseases caused by the biological agents listed in
4 42 C.F.R. Section 72, App. A [~~are reportable diseases under this~~
5 ~~chapter for which the board shall require reports~~].

6 (f) In a public health emergency, the commissioner may
7 require reports of communicable diseases or other health conditions
8 from providers without board rule or action.

9 SECTION 7. Section 81.042(e), Health and Safety Code, is
10 amended to read as follows:

11 (e) The following persons shall report to the local health
12 authority or the department a suspected case of a reportable
13 disease and all information known concerning the person who has or
14 is suspected of having the disease if a report is not made as
15 required by Subsections (a)-(d):

16 (1) a professional registered nurse;

17 (2) an administrator or director of a public or
18 private temporary or permanent child-care facility;

19 (3) an administrator or director of a nursing home,
20 personal care home, maternity home, adult respite care center, or
21 adult day-care center;

22 (4) an administrator of a home health agency;

23 (5) an administrator or health official of a public or
24 private institution of higher education;

25 (6) an owner or manager of a restaurant, dairy, or
26 other food handling or processing establishment or outlet;

27 (7) a superintendent, manager, or health official of a

1 public or private camp, home, or institution;

2 (8) a parent, guardian, or householder;

3 (9) a health professional; [~~or~~]

4 (10) an administrator or health official of a penal or
5 correctional institution; or

6 (11) emergency medical service personnel, a peace
7 officer, or a firefighter.

8 SECTION 8. Section 81.044(b), Health and Safety Code, is
9 amended to read as follows:

10 (b) The board may require the reports to contain any
11 information relating to a case that is necessary for the purposes of
12 this chapter, including:

13 (1) the patient's name, home and work address,
14 including city and county, age, date of birth, sex, race, and
15 occupation;

16 (2) the date of onset of the disease or condition;

17 (3) the probable source of infection; [~~and~~]

18 (4) the name and address of the attending physician or
19 dentist; and

20 (5) for diseases transmitted by insect or animal
21 bites, the location of the insect or animal and the name and address
22 of the owner of the animal.

23 SECTION 9. Section 81.046, Health and Safety Code, is
24 amended by amending Subsection (b) and adding Subsection (f) to
25 read as follows:

26 (b) Reports, records, and information relating to cases or
27 suspected cases of diseases or health conditions are not public

1 information under Chapter 552, Government Code, and may not be
2 released or made public on subpoena or otherwise except as provided
3 by Subsections (c), ~~[and]~~ (d), and (f).

4 (f) Reports, records, and information relating to cases or
5 suspected cases of diseases or health conditions may be released to
6 the extent necessary during a public health emergency to law
7 enforcement personnel solely for the purpose of protecting the
8 health or life of the person identified in the report, record, or
9 information.

10 SECTION 10. Section 81.048, Health and Safety Code, is
11 amended by adding Subsection (g) to read as follows:

12 (g) If the department or a local health authority learns of
13 a case of a reportable disease, health condition, or other
14 suspicious event that it reasonably believes has the potential to
15 be caused by bioterrorism, the department or local health authority
16 shall immediately notify the Texas Department of Public Safety and
17 federal health and public safety authorities.

18 SECTION 11. Section 81.061, Health and Safety Code, is
19 amended by adding Subsection (d) to read as follows:

20 (d) A health authority may investigate the existence of
21 communicable disease within the boundaries of the health
22 authority's jurisdiction to determine the nature and extent of the
23 disease and to formulate and evaluate the control measures used to
24 protect the public health. A person shall provide records and other
25 information to the health authority on request according to the
26 health authority's written instructions. Confidential or
27 privileged records or other information remain confidential or

1 privileged in the hands of the health authority.

2 SECTION 12. Section 81.062(a), Health and Safety Code, is
3 amended to read as follows:

4 (a) For the purpose of an investigation under Section
5 81.061(c) or (d), the department or a health authority may
6 administer oaths, summon witnesses, and compel the attendance of a
7 witness or the production of a document. The department or a
8 health authority may request the assistance of a county or district
9 court to compel the attendance of a summoned witness or the
10 production of a requested document at a hearing.

11 SECTION 13. Section 81.083(e), Health and Safety Code, is
12 amended to read as follows:

13 (e) An individual may be subject to court orders under
14 Subchapter G if the individual is infected or is reasonably
15 suspected of being infected with a communicable disease that
16 presents an immediate threat to the public health and either:

17 (1) the individual, or the individual's parent, legal
18 guardian, or managing conservator if the individual is a minor,
19 does not comply with the written orders of the department or a
20 health authority under this section; or ~~and~~

21 (2) a public health emergency exists, regardless of
22 whether the department or health authority has issued a written
23 order ~~[the individual is infected or is reasonably suspected of~~
24 ~~being infected with a communicable disease that presents an~~
25 ~~immediate threat to the public health]~~.

26 SECTION 14. Section 81.084, Health and Safety Code, is
27 amended by amending Subsection (b) and adding Subsections (d-1) and

1 (k) to read as follows:

2 (b) The department or health authority shall send notice of
3 its action by registered or certified mail or by personal delivery
4 to the person who owns or controls the property. If the property is
5 land or a structure or an animal or other property on the land, the
6 department or health authority shall also post the notice on the
7 land and at a place convenient to the public in [en] the county
8 courthouse [door]. If the property is infected or contaminated as a
9 result of a public health emergency, the department or health
10 authority is not required to provide notice under this subsection.

11 (d-1) In a public health emergency, the department or health
12 authority by written order may require a person who owns or controls
13 property to impose control measures that are technically feasible
14 to disinfect or decontaminate the property or, if technically
15 feasible control measures are not available, may order the person
16 who owns or controls the property:

17 (1) to destroy the property, other than land, in a
18 manner that disinfects or decontaminates the property to prevent
19 the spread of infection or contamination;

20 (2) if the property is land, to securely fence the
21 perimeter of the land or any part of the land that is infected or
22 contaminated; or

23 (3) to securely seal off an infected or contaminated
24 structure or other property on land to prevent entry into the
25 infected or contaminated area until the department or health
26 authority authorizes entry into the structure or property.

27 (k) In a public health emergency, the department or a health

1 authority may impose additional control measures the department or
2 health authority considers necessary and most appropriate to
3 arrest, control, and eradicate the threat to the public health.

4 SECTION 15. Section 81.085, Health and Safety Code, is
5 amended by amending Subsections (a), (b), (c), (e), (f), and (h) and
6 adding Subsection (i) to read as follows:

7 (a) If an outbreak of communicable disease occurs in this
8 state, the commissioner or one or more health authorities may
9 impose an area quarantine coextensive with the area affected. The
10 commissioner may impose an area quarantine, if the commissioner has
11 reasonable cause to believe that individuals or property in the
12 area may be infected or contaminated with a communicable disease,
13 for the period necessary to determine whether an outbreak of
14 communicable disease has occurred. A health authority may impose
15 the quarantine only within the boundaries of the health authority's
16 jurisdiction.

17 (b) A health authority may not impose an area quarantine
18 until the authority consults with [~~and obtains the approval of~~] the
19 department [~~commissioner and of the governing body of each county~~
20 ~~and municipality in the health authority's jurisdiction that has~~
21 ~~territory in the affected area~~].

22 (c) The department may impose additional disease control
23 measures in a quarantine area that the department considers
24 necessary and most appropriate to arrest, control, and eradicate
25 the threat to the public health. Absent preemptive action by the
26 department [~~board~~] under this chapter or by the governor under
27 Chapter 418, Government Code (Texas Disaster Act of 1975), a health

1 authority may impose in a quarantine area under the authority's
2 jurisdiction additional disease control measures that the health
3 authority considers necessary and most appropriate to arrest,
4 control, and eradicate the threat to the public health.

5 (e) The department or health authority may use all
6 reasonable means of communication to inform persons in the
7 quarantine area of the department's [~~board's~~] or health authority's
8 orders and instructions during the period of area quarantine. The
9 department or health authority shall publish at least once each
10 week during the area quarantine period, in a newspaper of general
11 circulation in the area, a notice of the orders or instructions in
12 force with a brief explanation of their meaning and effect. Notice
13 by publication is sufficient to inform persons in the area of their
14 rights, duties, and obligations under the orders or instructions.

15 (f) The department [~~commissioner~~] or, with the department's
16 [~~commissioner's~~] consent, a health authority may terminate an area
17 quarantine.

18 (h) A person commits an offense if the person knowingly
19 fails or refuses to obey a rule, order, or instruction of the
20 department [~~board~~] or an order or instruction of a health authority
21 issued under a department [~~board~~] rule and published during an area
22 quarantine under this section. An offense under this subsection is
23 a felony of the third degree.

24 (i) An area quarantine must be accomplished by the least
25 restrictive means necessary to protect the public health
26 considering the availability of resources.

27 SECTION 16. Sections 81.086(b) and (i), Health and Safety

1 Code, are amended to read as follows:

2 (b) If the department or health authority has reasonable
3 cause to believe that a carrier or conveyance has departed from or
4 traveled through an area infected or contaminated with a
5 communicable disease, the department or health authority may order
6 the owner, operator, or authorized agent in control of the carrier
7 or conveyance to:

8 (1) stop the carrier or conveyance at a port of entry
9 or place of first landing or first arrival in this state; and

10 (2) provide [~~a statement in a form approved by the~~
11 ~~board that includes information required by board rules, including~~]
12 information on passengers and cargo manifests[~~, and~~] that includes
13 the details of:

14 (A) any illness suspected of being communicable
15 that occurred during the journey;

16 (B) any condition on board the carrier or
17 conveyance during the journey that may lead to the spread of
18 disease; and

19 (C) any control measures imposed on the carrier
20 or conveyance, its passengers or crew, or its cargo or any other
21 object on board during the journey.

22 (i) The department or health authority may require an
23 individual transported by carrier or conveyance who the department
24 or health authority has reasonable cause to believe has been
25 exposed to or is the carrier of a communicable disease to be
26 isolated from other travelers and to disembark with the
27 individual's personal effects and baggage at the first location

1 equipped with adequate investigative and disease control
2 facilities, whether the person is in transit through this state or
3 to an intermediate or ultimate destination in this state. The
4 department or health authority may investigate and, if necessary,
5 isolate or involuntarily hospitalize the individual until the
6 department or health authority approves the discharge as authorized
7 by Section 81.083 [~~81.084~~].

8 SECTION 17. Section 81.088(a), Health and Safety Code, is
9 amended to read as follows:

10 (a) A person commits an offense if the person knowingly or
11 intentionally:

12 (1) removes, alters, or attempts to remove or alter an
13 object the person knows is a quarantine device, notice, or security
14 item in a manner that diminishes the [~~device's~~] effectiveness of
15 the device, notice, or item; or

16 (2) destroys an object the person knows is a
17 quarantine device, notice, or security item.

18 SECTION 18. Section 81.151(d), Health and Safety Code, is
19 amended to read as follows:

20 (d) A copy of written orders made under Section 81.083, if
21 applicable, and a medical evaluation must be filed with the
22 application, except that a copy of the written orders need not be
23 filed with an application for outpatient treatment.

24 SECTION 19. Section 81.152(c), Health and Safety Code, is
25 amended to read as follows:

26 (c) Any application must contain the following information
27 according to the applicant's information and belief:

1 (1) the person's name and address;

2 (2) the person's county of residence in this state;

3 (3) a statement that the person is infected with or is
4 reasonably suspected of being infected with a communicable disease
5 that presents a threat to public health and that the person meets
6 the criteria of this chapter for court orders for the management of
7 a person with a communicable disease; and

8 (4) a statement, to be included only in an application
9 for inpatient treatment, that the person fails or refuses to comply
10 with written orders of the department or health authority under
11 Section 81.083, if applicable.

12 SECTION 20. Section 81.162(a), Health and Safety Code, is
13 amended to read as follows:

14 (a) The judge or designated magistrate may issue a
15 protective custody order if the judge or magistrate determines:

16 (1) that the health authority or department has stated
17 its opinion and the detailed basis for its opinion that the person
18 is infected with or is reasonably suspected of being infected with a
19 communicable disease that presents an immediate threat to the
20 public health; and

21 (2) that the person fails or refuses to comply with the
22 written orders of the health authority or the department under
23 Section 81.083, if applicable.

24 SECTION 21. Section 161.011, Health and Safety Code, is
25 amended to read as follows:

26 Sec. 161.011. PERMISSION REQUIRED. A person, including an
27 officer or agent of this state or of an instrumentality or political

1 subdivision of this state, may not enter a private residence to
2 conduct a health inspection without first receiving:

3 (1) permission obtained from a lawful adult occupant
4 of the residence; or

5 (2) an authorization to inspect the residence for a
6 specific public health purpose by a magistrate or by an order of a
7 court of competent jurisdiction on a showing of a probable
8 violation of a state health law, a control measure under Chapter 81,
9 or a health ordinance of a political subdivision.

10 SECTION 22. Article 49.10(d), Code of Criminal Procedure,
11 is amended to read as follows:

12 (d) A justice of the peace may not order a person to perform
13 an autopsy on the body of a deceased person whose death was caused
14 by Asiatic cholera, bubonic plague, typhus fever, or smallpox. A
15 justice of the peace may not order a person to perform an autopsy on
16 the body of a deceased person whose death was caused by a
17 communicable disease designated by order of the commissioner of
18 public health during a public health emergency or disaster under
19 Chapter 418, Government Code.

20 SECTION 23. Sections 10 and 10a, Article 49.25, Code of
21 Criminal Procedure, are amended to read as follows:

22 Sec. 10. When a body upon which an inquest ought to have
23 been held has been interred, the medical examiner may cause it to be
24 disinterred for the purpose of holding such inquest.

25 Before any body, upon which an inquest is authorized by the
26 provisions of this Article, can be lawfully cremated, an autopsy
27 shall be performed thereon as provided in this Article, or a

1 certificate that no autopsy was necessary shall be furnished by the
2 medical examiner. Before any dead body can be lawfully cremated,
3 the owner or operator of the crematory shall demand and be furnished
4 with a certificate, signed by the medical examiner of the county in
5 which the death occurred showing that an autopsy was performed on
6 said body or that no autopsy thereon was necessary. It shall be the
7 duty of the medical examiner to determine whether or not, from all
8 the circumstances surrounding the death, an autopsy is necessary
9 prior to issuing a certificate under the provisions of this
10 section. No autopsy shall be required by the medical examiner as a
11 prerequisite to cremation in case death is caused by the
12 pestilential diseases of Asiatic cholera, bubonic plague, typhus
13 fever, or smallpox. All certificates furnished to the owner or
14 operator of a crematory by any medical examiner, under the terms of
15 this Article, shall be preserved by such owner or operator of such
16 crematory for a period of two years from the date of the cremation
17 of said body. A medical examiner is not required to perform an
18 autopsy on the body of a deceased person whose death was caused by a
19 communicable disease designated by order of the commissioner of
20 public health during a public health emergency or disaster under
21 Chapter 418, Government Code.

22 Sec. 10a. The body of a deceased person shall not be
23 cremated within 48 [~~forty-eight~~] hours after the time of death as
24 indicated on the regular death certificate, unless the death
25 certificate indicates death was caused by the pestilential diseases
26 of Asiatic cholera, bubonic plague, typhus fever, or smallpox, or
27 unless the time requirement is waived in writing by the county

1 medical examiner or, in counties not having a county medical
2 examiner, a justice of the peace. In a disaster or public health
3 emergency under Chapter 418, Government Code, the commissioner of
4 public health by order may designate other communicable diseases
5 for which cremation within 48 hours of the time of death is
6 authorized.

7 SECTION 24. Subchapter B, Chapter 562, Occupations Code, is
8 amended by adding Section 562.055 to read as follows:

9 Sec. 562.055. REPORT TO TEXAS DEPARTMENT OF HEALTH. A
10 pharmacist shall report any unusual or increased prescription
11 rates, unusual types of prescriptions, or unusual trends in
12 pharmacy visits that may be caused by bioterrorism, epidemic or
13 pandemic disease, or novel and highly fatal infectious agents or
14 biological toxins, that might pose a substantial risk of a
15 significant number of human fatalities or incidents of permanent or
16 long-term disability. Prescription-related events that require a
17 report include:

18 (1) an unusual increase in the number of prescriptions
19 to treat fever, respiratory, or gastrointestinal complaints;

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

22 (3) an unusual increase in the number of requests for
23 information on over-the-counter pharmaceuticals to treat fever,
24 respiratory, or gastrointestinal complaints; and

25 (4) any prescription that treats a disease that is
26 relatively uncommon and has bioterrorism potential.

27 SECTION 25. Sections 161.101(a), (b), and (c), Agriculture

1 Code, are amended to read as follows:

2 (a) A veterinarian, a veterinary diagnostic laboratory, or
3 a person having care, custody, or control of an animal shall report
4 the existence of the following diseases among livestock, exotic
5 livestock, bison, domestic fowl, or exotic fowl to the commission
6 within 24 hours after diagnosis of the disease:

- 7 (1) anthrax;
- 8 (2) avian infectious laryngotracheitis;
- 9 (3) avian influenza;
- 10 (4) avian tuberculosis;
- 11 (5) chronic wasting disease;
- 12 (6) duck virus enteritis;
- 13 (7) duck virus hepatitis;
- 14 (8) equine encephalomyelitis;
- 15 (9) equine infectious anemia;
- 16 (10) infectious encephalomyelitis in poultry or other
17 fowl;
- 18 (11) ornithosis;
- 19 (12) paramyxovirus infection in poultry or other fowl;
- 20 or
- 21 (13) scabies in sheep or cattle.

22 (b) In addition to reporting required by Subsection (a), the
23 commission may adopt rules that require a veterinarian, a
24 veterinary diagnostic laboratory, or a person having care, custody,
25 or control of an animal to report the existence of a disease other
26 than bluetongue in an animal to the commission within 24 hours after
27 diagnosis if the disease:

1 (1) is recognized by the United States Department of
2 Agriculture as a foreign animal disease;

3 (2) is the subject of a cooperative eradication
4 program with the United States Department of Agriculture;

5 (3) is named on "List A" of the Office International
6 Des Epizooties; or

7 (4) is the subject of a state of emergency, as declared
8 by the governor.

9 (c) The commission may adopt rules that require a
10 veterinarian, a veterinary diagnostic laboratory, or a person
11 having care, custody, or control of an animal to report a disease
12 not covered by Subsection (a) or (b) if the commission determines
13 that action to be necessary for the protection of animal health in
14 this state. The commission shall immediately deliver a copy of a
15 rule adopted under this subsection to the appropriate legislative
16 oversight committees. A rule adopted by the commission under this
17 subsection expires on the first day after the last day of the first
18 regular legislative session that begins after adoption of the rule
19 unless the rule is continued in effect by act of the legislature.

20 SECTION 26. Not later than November 1, 2004, the division of
21 emergency management in the office of the governor shall review and
22 develop, as necessary, the public health emergency plan as required
23 by Section 418.0425, Government Code, as added by this Act.

24 SECTION 27. This Act takes effect September 1, 2003.

25 SECTION 28. (a) The change in law made by this Act to
26 Section 81.085(h), Health and Safety Code, applies only to an
27 offense committed on or after the effective date of this Act. For

1 purposes of this section, an offense is committed before the
2 effective date of this Act if any element of the offense occurs
3 before that date.

4 (b) An offense committed before the effective date of this
5 Act is covered by the law in effect when the offense was committed,
6 and the former law is continued in effect for that purpose.