87R8397 SCL-D

By:  Kolkhorst S.B. No. 968

A BILL TO BE ENTITLED

AN ACT

relating to public health disaster and public health emergency preparedness and response; providing a civil penalty.

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

SECTION 1.  Subchapter C, Chapter 418, Government Code, is amended by adding Section 418.0435 to read as follows:

Sec. 418.0435.  PERSONAL PROTECTIVE EQUIPMENT CONTRACTS. (a) The division shall enter into a contract with a manufacturer of personal protective equipment that guarantees the division is given priority in the purchase of the equipment over other persons, including other states and local governments, during a public health disaster declared under Section 81.0813, Health and Safety Code.

(b)  The division may purchase personal protective equipment under a contract described by Subsection (a) only if:

(1)  a public health disaster is declared by the commissioner of state health services under Section 81.0813, Health and Safety Code; and

(2)  the division determines the state's supply of personal protective equipment will be insufficient based on an evaluation of the personal protective equipment:

(A)  held in reserve in this state; and

(B)  supplied by or expected to be supplied by the federal government.

(c)  The division shall pursue all available federal funding to cover the costs of personal protective equipment purchased under a contract described by Subsection (a).

SECTION 2.  Section 81.003, Health and Safety Code, is amended by amending Subdivision (7) and adding Subdivision (7-a) to read as follows:

(7)  "Public health disaster" means:

(A)  a declaration by the governor of a state of disaster; and

(B)  a determination by the commissioner that there exists an immediate threat from a communicable disease that:

(i)  poses a high risk of death or serious harm [~~long-term disability~~] to the public [~~a large number of people~~]; and

(ii)  creates a substantial risk of harmful public exposure [~~because of the disease's high level of contagion or the method by which the disease is transmitted~~].

(7-a)  "Public health emergency" means a determination by the commissioner, evidenced in an emergency order issued by the commissioner, that there exists an immediate threat from a communicable disease, health condition, or chemical, biological, radiological, or electromagnetic exposure that:

(A)  potentially poses a risk of death or severe illness or harm to the public; and

(B)  potentially creates a substantial risk of harmful exposure to the public.

SECTION 3.  The heading to Subchapter B, Chapter 81, Health and Safety Code, is amended to read as follows:

SUBCHAPTER B. PREVENTION AND PREPAREDNESS

SECTION 4.  Subchapter B, Chapter 81, Health and Safety Code, is amended by adding Sections 81.025 and 81.026 to read as follows:

Sec. 81.025.  PREPAREDNESS PLANNING WITH OTHER STATE AGENCIES. (a) The department, the commission, and the Texas Division of Emergency Management shall jointly:

(1)  conduct annual local and regional public health disaster and public health emergency planning; and

(2)  develop standard and uniform protocols for public health disasters and public health emergencies.

(b)  The department, the commission, and the Texas Division of Emergency Management shall develop and enter into a memorandum of understanding to clearly define the roles of each agency during a public health disaster and during a public health emergency.

Sec. 81.026.  HEALTH FACILITY PREPAREDNESS. (a) In this section, "facility" means a health facility licensed by the commission under Title 4.

(b)  The executive commissioner by rule shall establish:

(1)  a public health disaster and public health emergency plan for facilities;

(2)  minimum standards for the public health disaster and public health emergency plans developed by each facility; and

(3)  the minimum requirements for the amount of personal protective equipment to be held in reserve by each facility for use during a public health disaster or public health emergency.

(c)  Each facility shall develop and annually update a public health disaster and public health emergency plan for the facility.

SECTION 5.  Section 81.044, Health and Safety Code, is amended by adding Subsection (b-1) to read as follows:

(b-1)  In this subsection, "cycle threshold value" means for a communicable disease test the number of thermal cycles required for the fluorescent signal to exceed that of the background and cross the threshold for a positive test. The executive commissioner shall require the reports to contain the cycle threshold values and their reference ranges for the reportable disease that is the subject of the report.

SECTION 6.  Section 81.081, Health and Safety Code, is amended to read as follows:

Sec. 81.081.  DEPARTMENT'S DUTY. The department shall coordinate statewide or regional efforts and collaborate with local elected officials, including county officials, [~~impose control measures~~] to prevent the spread of disease and [~~in the exercise of its power to~~] protect the public health.

SECTION 7.  Subchapter E, Chapter 81, Health and Safety Code, is amended by adding Sections 81.0813, 81.0814, 81.0815, and 81.0816 to read as follows:

Sec. 81.0813.  AUTHORITY TO DECLARE PUBLIC HEALTH DISASTER OR ORDER PUBLIC HEALTH EMERGENCY. (a) The commissioner may declare a statewide or regional public health disaster or order a statewide or regional public health emergency if the commissioner determines an occurrence or threat to public health is imminent. The commissioner may declare a public health disaster only if the governor declares a state of disaster under Chapter 418, Government Code, for the occurrence or threat.

(b)  Except as provided by Subsection (c), a public health disaster or public health emergency continues until the governor or commissioner terminates the disaster or emergency on a finding that:

(1)  the threat or danger has passed; or

(2)  the disaster or emergency has been managed to the extent emergency conditions no longer exist.

(c)  A public health disaster or public health emergency expires on the 30th day after the date the disaster or emergency is declared or ordered unless the disaster or emergency is renewed by the commissioner. A public health disaster or public health emergency renewed by the commissioner expires on the 60th day after the date the disaster or emergency is declared or ordered unless the disaster or emergency is renewed by the legislature or a designated legislative board.

(d)  A declaration or order issued under this section must include:

(1)  a description of the nature of the disaster or emergency;

(2)  a designation of the area threatened by the disaster or emergency;

(3)  a description of the condition that created the disaster or emergency; and

(4)  if applicable:

(A)  the reason for renewing the disaster or emergency; or

(B)  the reason for terminating the disaster or emergency.

(e)  A declaration or order issued under this section must be disseminated promptly by means intended to bring its contents to the public's attention. A statewide or regional declaration or order shall be filed promptly with the office of the governor and the secretary of state. A regional declaration or order shall be filed with the county clerk or municipal secretary in each area to which it applies, unless the circumstances attendant on the disaster or emergency prevent or impede the filing.

Sec. 81.0814.  EFFECT OF PUBLIC HEALTH DISASTER. (a) During a public health disaster, the commissioner may:

(1)  require without the adoption of a rule and in the format and manner prescribed by the commissioner:

(A)  reports of communicable diseases or other health conditions; and

(B)  additional reporting of information related to the disaster from local health authorities, health care providers, health care facilities, and laboratories;

(2)  waive the fee required under Section 12.033 for any type of vaccine, serum, or therapeutic the commissioner determines is needed to respond to the disaster;

(3)  authorize the issuance of control measure orders under Section 81.083 or 81.084 by electronic delivery in accordance with this section if necessary to respond to the disaster; and

(4)  in accordance with rules adopted by the Texas Medical Board and subject to Subsection (d), issue a statewide or regional standing delegation order for the performance of acts necessary to respond to the disaster.

(b)  During a public health disaster, the commissioner shall:

(1)  to the extent possible, collaborate with an entity required to report under Subsection (a)(1)(B) to plan and implement a standardized and efficient method for submitting information to the department; and

(2)  determine the information in the reports and records related to the cases or suspected cases of communicable diseases or health conditions that are the subject of the disaster that may be released to:

(A)  a local health authority or public health region designated by the department under Section 121.007;

(B)  law enforcement personnel, first responders, and computer-aided dispatch systems solely for the purpose of protecting the health or life of a first responder or the person identified in the report, record, or information;

(C)  a county judge or the mayor of a municipality; or

(D)  a local emergency management coordinator of a political subdivision.

(c)  Electronic delivery of a control measure order authorized under Subsection (a)(3) is in addition to a delivery method authorized under Section 81.083 or 81.084, as applicable. To issue a control measure order electronically, the commissioner must obtain the consent of the individual to whom the order is issued.

(d)  If the commissioner is not a physician licensed to practice medicine in this state, the department's chief medical executive may issue a standing delegation order under Subsection (a)(4). The Texas Medical Board may not take disciplinary action against the commissioner or executive for issuing a standing delegation order in accordance with this section. The commissioner or executive is not liable for an act performed under a standing delegation order issued in accordance with this section.

Sec. 81.0815.  EFFECT OF PUBLIC HEALTH EMERGENCY ORDER. (a) During a public health emergency, the commissioner may:

(1)  require, without the adoption of a rule and in the format and manner prescribed by the commissioner, reports of communicable diseases or other health conditions;

(2)  waive the fee required under Section 12.033 for any type of vaccine, serum, or therapeutic the commissioner determines is needed to respond to the emergency; and

(3)  in accordance with rules adopted by the Texas Medical Board and subject to Subsection (b), issue a statewide or regional standing delegation order for the performance of acts necessary to respond to the emergency.

(b)  If the commissioner is not a physician licensed to practice medicine in this state, the department's chief medical executive may issue a standing delegation order under Subsection (a)(3). The Texas Medical Board may not take disciplinary action against the commissioner or chief medical executive for issuing a standing delegation order in accordance with this section. The commissioner or executive is not liable for an act performed under a standing delegation order issued in accordance with this section.

Sec. 81.0816.  FAILURE TO REPORT; CIVIL PENALTY. (a) A person who fails to submit a report required under Section 81.0814 or 81.0815 is liable to this state for a civil penalty of not more than $1,000 for each failure.

(b)  The attorney general at the request of the department may bring an action to collect a civil penalty imposed under this section.

SECTION 8.  Subchapter C, Chapter 1001, Health and Safety Code, is amended by adding Section 1001.0515 to read as follows:

Sec. 1001.0515.  OFFICE OF CHIEF STATE EPIDEMIOLOGIST. (a) The commissioner shall:

(1)  establish an Office of Chief State Epidemiologist within the department to provide expertise in public health activities and policy in this state by:

(A)  evaluating epidemiologic, medical, and health care information; and

(B)  identifying pertinent research and evidence-based best practices; and

(2)  appoint a physician licensed to practice medicine in this state as the chief state epidemiologist to administer the Office of Chief State Epidemiologist.

(b)  The chief state epidemiologist must:

(1)  be board certified in a medical specialty; and

(2)  have significant experience in public health and an advanced degree in public health, epidemiology, or a related field.

(c)  The chief state epidemiologist serves as:

(1)  the department expert on epidemiological matters and on communicable and noncommunicable diseases; and

(2)  the department's senior science representative and primary contact for the Centers for Disease Control and Prevention and other federal agencies related to epidemiologic science and disease surveillance.

(d)  The chief state epidemiologist may provide professional and scientific consultation regarding epidemiology and disease control, harmful exposure, and injury prevention to state agencies, health facilities, health service regions, local health authorities, local health departments, and other entities.

(e)  Notwithstanding any other law, the chief state epidemiologist may access information from the department to implement duties of the epidemiologist's office. Reports, records, and information provided to the Office of Chief State Epidemiologist that relate to an epidemiologic or toxicologic investigation of human illness or conditions and of environmental exposure that are harmful or believed to be harmful to the public health are confidential and not subject to disclosure under Chapter 552, Government Code, and may not be released or made public on subpoena or otherwise, except for statistical purposes if released in a manner that prevents identification of any person.

SECTION 9.  The following provisions of the Health and Safety Code are repealed:

(1)  Section 12.033(d);

(2)  Section 81.041(f); and

(3)  Sections 81.082(d) and (e).

SECTION 10.  (a) In this section, "council" means the Preparedness Coordinating Council advisory committee established by the Health and Human Services Commission under Section 1001.035, Health and Safety Code, for the Department of State Health Services.

(b)  The council shall conduct a study on this state's response to the 2019 novel coronavirus disease. The council may collaborate with an institution of higher education in this state to conduct the study.

(c)  Not later than December 1, 2022, the council shall prepare and submit a written report to the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the legislature on the results of the study conducted under Subsection (b) of this section. The report must include recommendations for legislative improvements for public health disaster and public health emergency response and preparedness.

(d)  This section expires September 1, 2023.

SECTION 11.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.