



EMERGENCY LEGAL PREPAREDNESS & RESPONSE

Issue Brief

Summary of Authority and Actions Regarding Public Health Emergencies

The [Ohio Revised Code](#) provides an array of actions that state and local health officers can use to respond to a public health emergency. More detailed guidance for implementing some of these provisions is found in the [Ohio Administrative Code](#). This document is intended to assist health officers and their attorneys by identifying potential actions and linking to the applicable statute. Though the details of this document apply only in Ohio, the legal provisions likely have similar counterparts in all other states. Lawyers in other states may have developed, or could develop, comparable summaries for their states.

Abbreviations:

ORC: Ohio Revised Code

LHD: Local health department (county, city, or combined health district)

BOH: Board of health of a local health department

ODH: Ohio Department of Health

Local Health Department Authority in Infectious Disease Emergencies

Authority/Action	Law ¹	Comments
Quarantine of vehicles	ORC 3707.04 ORC 3707.05	BOH may quarantine “vessels, railroads, or other public or private vehicles” when there is an “epidemic or threatened epidemic.” BOH must obtain permission from ODH before closing any public highway.

Isolation and quarantine of individuals	ORC 3707.07 ORC 3707.08 ORC 3707.09 ORC 3707.14 ORC 3707.16	<p>Health Commissioner may inspect any “home or locality” when “complaint is made or reasonable belief exists” that infectious disease is present.</p> <p>BOH may isolate persons with an “infectious or contagious disease” in home or may send such persons to a hospital or other designated place.</p> <p>Individuals “known to have been exposed to a communicable disease declared quarantinable” by the BOH or ODH may be quarantined in home or “other suitable place.”</p> <p>BOH may employ “quarantine guards” to enforce the isolation and quarantine orders.</p> <p>BOH must provide for “food, fuel, and all other necessities of life, including medical attendance” to persons who are quarantined or isolated.</p> <p>The quarantined or isolated individual must pay for the LHD’s costs if able to do so; if not, the local government is responsible for the costs.</p> <p>Isolated or quarantined individual shall not attend school or public gatherings until released from isolation or quarantine.</p>
Destruction of infected property	ORC 3707.12 ORC 3707.13	<p>BOH may destroy any infected items that cannot be safely disinfected. When home cannot be safely disinfected, BOH may order it to be appraised and destroyed.</p> <p>Local government must provide compensation for articles or houses destroyed.</p>
Social distancing measures	ORC 3707.26	<p>In time of “epidemic or threatened epidemic,” BOH may “close any school and prohibit public gatherings for such time as is necessary.”</p>
Seizure of property for quarantine hospital	ORC 3707.31	<p>“When great emergency exists,” BOH may seize “a suitable vacant house or building within its jurisdiction” to use as a quarantine hospital.</p>
Emergency action for isolation or quarantine	ORC 3707.34	<p>BOH may authorize health commissioner to act on its behalf with respect to isolation and quarantine orders if it is impossible for board to meet or if delay would compromise public health.</p>
Emergency Actions	ORC 3707.48 ORC 3707.99	<p>Violations of isolation or quarantine orders constitute a minor misdemeanor for the first offense and fourth degree misdemeanor for each subsequent offense.</p>

State Health Department Authority in Infectious Disease Emergencies

Authority/Action	Law ²	Comments
Isolation and quarantine – state authority	ORC 3701.13	<p>ODH shall have “ultimate authority in matters of quarantine and isolation.”</p> <p>ODH can declare and enforce quarantines, or “modify, relax, or abolish” orders issued by BOHs.</p>
State authority over local matters in emergencies	ORC 3701.13 ORC 3701.28	<p>ODH may “make and enforce orders in local matters” or reassign authority to another LHD when emergency exists or when BOH has “neglected or refused to act with sufficient promptness or efficiency.”</p>

		When “contagious or infectious disease becomes or threatens to become epidemic” and local authorities fail to take or enforce preventive measures, the Director of ODH may appoint a medical or sanitary officer and “authorize him to enforce such orders or regulations as the director deems necessary.”
Infectious disease prevention, investigation and response	ORC 3701.13 ORC 3701.14	ODH can issue “special or standing orders...for preventing the spread of contagious or infectious diseases.” Director of ODH “shall investigate . . . the cause of disease or illness, including contagious, infectious, epidemic, pandemic, or endemic conditions, and take prompt action to control and suppress it.”
Storage and distribution of pharmaceuticals and medical supplies	ORC 3701.16	ODH may “purchase, store, and distribute” pharmaceuticals and medical supplies to prepare for or respond to a public health emergency.
Emergency regulations	ORC 3709.20 ORC 3709.21	In public health emergencies, BOH may issue orders and regulations that take immediate effect.
Distributing pharmaceuticals during public health emergencies	ORC 3701.048	Director of ODH to develop protocols for emergency distribution of pharmaceuticals, in consultation with professional regulatory boards and the Ohio Emergency Management Agency. Protocols may be implemented during governor-declared emergencies that affect public health.
Emergency Volunteer Training	ORC 3701.04 ORC 5502.281	Jointly with the Ohio Emergency Management Agency and local governments, ODH shall “establish and maintain a statewide system for recruiting, registering, training, and deploying volunteers reasonably necessary to respond to an emergency declared by the state or a political subdivision.” Volunteers acting within the scope of their responsibilities in an emergency are immune from tort or other civil liability, except in cases of “willful or wanton misconduct.”

All-Hazards Cross-Sector Emergency Management

Authority/Action	Law ³	Comments
Emergency declaration	ORC 5502.21	Emergency provisions in § 5502 take effect when the president, governor, board of county commissioners, board of township trustees, or mayor declares an emergency in the affected area.
State emergency management rules	ORC 5502.25	Ohio Department of Public Safety to develop and enforce rules for emergency management “for the purpose of providing protection for its people against any hazard.”
Emergency management plans	ORC 5502.26 ORC 5502.27	Counties and their political subdivisions may form a “regional authority for emergency management,” adopt an all-hazards emergency operations plan, conduct an annual training exercise, and hire a director/coordinator. In lieu of joining a regional authority, a county and its political subdivisions may form a “countywide emergency management agency” and engage in the same planning activities. A city may opt to develop and implement its own emergency management plan, so long as it is not inconsistent with the countywide or regional plan pertaining to the county in which it is located.

	ORC 5502.271	
Emergency incident management	ORC 5502.28	The National Incident Management System (NIMS) is adopted as the procedure for incident management that all government entities must use. Every state agency and city, countywide, or regional emergency management authority must implement and enforce any orders issued by the Director of Public Safety and must comply with requests for assistance issued by the governor or the Director of the Ohio Emergency Management Agency.
Mutual aid agreements	ORC 5502.29	Political subdivisions may enter into agreements for reciprocal emergency management assistance. Political subdivisions may enter into agreements to accept emergency aid from private companies.
Authority and immunity of emergency responders	ORC 5502.30 ORC 5502.35	Those engaged in “good faith” in authorized emergency management activities, including volunteers, are immune from liability for any damage, injury, or death; immunity does not extend to “willful misconduct.” Government employees engaged in emergency management outside of their home jurisdiction are deemed to have the “same powers, duties, immunities, and privileges they would ordinarily possess” in their home jurisdiction.
Suspension of contracting requirements	ORC 125.061	In a declared emergency, the Department of Administrative Services may suspend otherwise-applicable contracting requirements.
Suspension of rulemaking authority	ORC 119.03	In an emergency, the governor may suspend rulemaking procedures and allow an agency rule to take immediate effect. Such rules are only valid for 120 days, unless readopted as a non-emergency rule. (An emergency rule or amendment adding a substance to a controlled substance schedule is valid for 180 days.)

Other General Public Health Authority

Authority/Action	Law ⁴	Comments
Nuisance authority	ORC 3707.01 ORC 3707.02 ORC 3707.021	BOH has authority to abate and remove all nuisances or compel persons to do so. Individuals who fail to comply with nuisance abatement orders may be arrested or prosecuted. BOH may also seek injunctive relief from the courts.
General BOH authority	ORC 3709.20 ORC 3709.211	BOH has general authority to make such orders as are necessary “for the public health, the prevention or restriction of disease, and the prevention, abatement, or suppression of nuisances.” ⁵ BOH may seek injunctive relief to ensure compliance.



SUPPORTERS



Robert Wood Johnson Foundation

The Network for Public Health Law is a national initiative of the Robert Wood Johnson Foundation.

This document was developed by Micah Berman, JD, Associate Professor, The Ohio State University College of Public Health and Michael E. Moritz College of Law, with research assistance from Lauren Tonti, Case Western Reserve University School of Law (Class of 2017). The document is based on a brief developed by Denise Chrysler, J.D., Director for the Network for Public Health Law - Mid-States Region Office at the University of Michigan School of Public Health, while employed by the Michigan Department of Community Health.

The Network for Public Health Law provides information and technical assistance on issues related to public health — inquiries about this document can be submitted at networkforphl.org/assistance. The legal information and assistance provided in this document does not constitute legal advice or legal representation. For legal advice, please consult specific legal counsel.

April 2020

- ¹ Some of these provisions may have been limited or invalidated by prior judicial decisions. Others may not have undergone judicial review and may be vulnerable to constitutional or other legal challenges.
- ² Some of these provisions may have been limited or invalidated by prior judicial decisions. Others may not have undergone judicial review and may be vulnerable to constitutional or other legal challenges.
- ³ Some of these provisions may have been limited or invalidated by prior judicial decisions. Others may not have undergone judicial review and may be vulnerable to constitutional or other legal challenges.
- ⁴ Some of these provisions may have been limited or invalidated by prior judicial decisions. Others may not have undergone judicial review and may be vulnerable to constitutional or other legal challenges.
- ⁵ Scope of this authority limited by *D.A.B.E. v. Toledo-Lucas County Board of Health*, 96 Ohio St. 3d 250 (2002).