



EMERGENCY LEGAL PREPAREDNESS AND RESPONSE
Issue Brief

Summary of Authority and Actions Regarding Public Health Emergencies

Pennsylvania’s Public Health Laws

This document is intended to assist health officers and their attorneys by identifying potential actions during a health emergency, who may act, and what is required of the officers taking action. [Title 28](#) of the Pennsylvania Code deals primarily with the health and safety of the commonwealth, and, along with some [Pennsylvania statutes](#), describes actions that state and local health officers can use to respond to a public health emergency. Though the details of this document apply only in Pennsylvania, the legal provisions have similar counterparts in all other states.

1	AUTHORITY/ACTION	LAW	COMMENTS
	Declaration of Disaster Emergency	35 Pa.C.S. § 7102 § 7301 § 7501	<p>The Governor may declare a “disaster emergency” when a man-made, natural, or war-caused disaster has occurred or is imminent. The disaster emergency remains in effect for 90 days unless the Governor terminates it through an executive order or proclamation. After 90 days, the Governor has the option to renew the declaration as needed.</p> <p>Any executive order or proclamation is required to “indicate the nature of the disaster, the area or areas threatened and the conditions which have brought the disaster about or which make possible termination of the state of disaster emergency.” With this order, the Governor retains significant emergency powers, such as, among others, commandeering any property, compelling evacuation, suspending rules or regulations of an agency which “would in any way prevent, hinder or delay necessary action in coping with the emergency.” 35 Pa.C.S. § 7301(f)(1-9).</p> <p>A local governing body may authorize the chief executive of its political subdivision to declare a disaster emergency, subject to ratification by the governing body. This declaration, however, would only be allowed to continue for seven days without the consent of the governing body to renew it. “Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly with the [Pennsylvania Emergency Management Agency].”</p>



2	Public Health Emergency Measures	35 P.S. § 2140.301	“In the case of an actual or suspected outbreak of a contagious disease or epidemic due to an actual or suspected bioterrorist or biohazardous event,” the Governor, in consultation with the Secretary of Health, “[m]ay temporarily isolate or quarantine an individual or groups of individuals ... if delay in imposing the isolation or quarantine through” other means would jeopardize the ability to limit disease transmission. Within 24 hours of issuing this order, a petition for a hearing to authorize continued isolation must be filed in court.
3	Order to Abate a Nuisance	71 P.S. § 1403-04 71 P.S. § 510-17 71 P.S. § 1340.505 53 P.S. § 14611 53 P.S. § 24562 8 Pa.C.S. § 3108 11 Pa.C.S. § 127A07 53 Pa.C.S. § 6111 35 P.S. § 672 et seq.	<p>In Pennsylvania, both the Department of Health (DOH) and the Department of Environmental Protection (DEP) have the power to protect the public from unsanitary conditions and other nuisances. The DOH has the duty “to determine and employ the most efficient and practical means for the prevention and suppression of disease” and the broad authority to examine nuisances and questions of life or health in any locality, without fee or hindrance. The authority to address nuisances arising from the condition of tenements, lodging and boarding houses rests exclusively with the DOH. The Departments may order the nuisance to be abated or removed, can investigate, and can enter private premises and remove the nuisance, after which the expenses may be recovered or a claim can be filed. When making authorized examinations, the DEP has a duty to cooperate with the DOH for the purpose of avoiding any duplication of inspection or overlapping of functions.</p> <p>Local authority to address nuisances depends on the designation of the municipality, township or borough in which the nuisance is located. The laws are generally similar and allow local health officers similar abatement and investigative authority as the DOH and DEP, and include requirements of notice and the issuance of an order. For the most part, these can be found in Title 53 of Purdon’s Pennsylvania Statutes, although some are in the Consolidated Statutes. In addition to any other remedy available at law or in equity, a municipality may also issue an order to the owner of any real property to correct a violation and recover remediation and penalties.</p>
4	Procedures for Control of Disease	28 Pa. Code § 27.1 § 27.60-68 § 27.71-77	<p>The DOH or a local health authority has the power to socially distance a person or an animal with a communicable disease or infection. If more than one jurisdiction is involved, a local health authority seeking to act shall consult with and receive approval from the DOH prior to taking action. The DOH has broad authority to engage in surveillance, isolation, and quarantine of a person or an animal with a communicable disease or infection. The DOH or local health officer may use placards, which are a sign or notice warning of communicable disease within a structure, whenever there is reason to believe that a case, a contact or others will not fully comply with the isolation or quarantine as required for the protection of the public health.</p> <p>All Pennsylvania schools are required to refuse entrance to any child or staff who is suspected of having any of the communicable diseases, infections, conditions or symptoms listed in 28 Pa. Code § 27.71, which include, among others, diphtheria, measles, and ringworm. To return to school, a school nurse or physician must verify that the risk of transmission no longer exists.</p>
5	Inspection or Investigation Authority	28 Pa. Code § 27.152	State and local health authorities are authorized to inspect or investigate any case or outbreak of disease that threatens public health. A representative of these authorities may enter a house, health care facility, or other building to investigate a case or outbreak, provided that they present appropriate documentation. The authorized representative may also review confidential medical records during an investigation.
6	Inspection or Investigative Warrant	35 P.S. § 521 - DPCL 71 P.S. § 532 - powers and	The Disease Prevention and Control Law of 1955 (DPCL) and its accompanying regulations do not define who may issue or request an inspection or investigative warrant. The relevant rules are listed generally in the Pennsylvania Rules of Criminal Procedure in Title 234 of the Pennsylvania Code .



		duties of DOH 234 Pa. Code	
7	Criminal Prosecution	35 P.S. §§ 521.19-20 521.3	Violating the DPCL or accompanying regulations may result in a fine of not less than twenty-five dollars (\$25) and not more than three hundred dollars (\$ 300), in addition to costs. Failure to pay such a fine may result in imprisonment in the county jail for a period not to exceed thirty (30) days. "Prosecutions may be instituted by the [DOH], by a local board or department of health or by any person having knowledge of a violation of any provisions of this act or any regulation." There is a different set of penalties for individuals who had been quarantined with communicable tuberculosis. 35 P.S. § 521.19.
8	Injunction	Pa. R.C.P. No. 1531	Rule 1531 [Special Relief. Injunctions.] of the Pennsylvania Rules of Civil Procedure deals with departments issuing injunctions without specifying the Department of Health. Specifically, the DOH need not file a bond or deposit for a preliminary or special injunction to be granted.

SUPPORTERS



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This document was developed on behalf of the Network by Jason Sloan, University of Pennsylvania School of Law, JD, MPH, and reviewed by Evan Anderson, JD, PhD, University of Pennsylvania. The Network for Public Health Law provides information and technical assistance on issues related to public health. 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.

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