



Budget Briefs

from the
Wisconsin Legislative Reference Bureau

Budget Brief 02-3

October 2002

BIOTERRORISM AND PUBLIC HEALTH EMERGENCIES

2001 Wisconsin Act 109, the budget adjustment act, passed by the legislature and signed by Governor Scott McCallum on July 26, 2002, creates new laws relating to public health emergencies and mandates terrorism response training for emergency medical personnel. Except as noted, the new laws took effect July 30, 2002.

BACKGROUND

In the aftermath of terrorist attacks on September 11, 2001, and the domestic mailings of anthrax, legislation was introduced in the 2001-02 Wisconsin Legislature to address the public health implications of bioterrorism. One of the bills, 2001 Assembly Bill 850, passed the assembly on March 7, 2002, but the senate did not act on the bill by the March 20 end-of-session deadline. AB-850 incorporated portions of the Model State Health Emergency Powers Act developed for the federal Centers for Disease Control and Prevention. Provisions of the bill, as amended, were incorporated into the budget adjustment bill, January 2002 Special Session Assembly Bill 1, which was amended and enacted as 2001 Wisconsin Act 109. Act 109 also includes provisions on terrorism response training that were not part of AB-850. A partial veto removed additional sum-sufficient appropriations for the Department of Health and Family Services (DHFS) and the State Laboratory of Hygiene.

DEFINITIONS AND GOVERNOR'S POWERS

Act 109 defines "bioterrorism" as "the intentional use of any biological, chemical, or radiological agent to cause death, disease or biological malfunction in a human, animal, plant, or other living organism to influence the policy of a governmental unit or to intimidate or coerce the civilian population." "Public health emergency" is defined as the "occurrence or imminent threat of an illness or health condition" believed to be caused by bioterrorism or a biological agent that poses a high probability of a large number of human deaths or serious or long-term disability or a high probability of "widespread exposure to a biological, chemical, or radiological agent" that creates a significant risk of future harm to large numbers of people.

Current law allows the governor to proclaim a state of emergency for up to 30 days in response to a natural or manmade disaster or up to 60 days in the event of enemy action, with a joint resolution of the legislature required to extend it. Current law also designates the Division of Emergency Management in the Department of Military Affairs (DMA) as the lead agency for emergency situations. The new law allows the governor to declare a state of emergency related to public health and to designate DHFS as the lead agency for that emergency. During a state of emergency related to public health, the governor is given power to suspend any administrative rule for which "strict compliance . . . would prevent, hinder, or delay necessary actions to respond to the emergency and increase the health threat to the population." The lead agency, either DHFS or DMA, must report to the governor and the legislature no later than 90 days after the declaration of the state of emergency and 90 days after its termination, on the exercise of emergency powers used and the expenses incurred.

PUBLIC HEALTH EMERGENCY POWERS

Act 109 gives DHFS several new powers in responding to public health emergencies.

Vaccinations. Act 109 allows DHFS to purchase, store, and distribute antitoxins, vaccines, and other pharmaceuticals or medical supplies that it deems advisable to control a public

health emergency. Effective December 1, 2002, DHFS also has new authority during a state of emergency related to public health to order compulsory vaccinations unless the vaccination “is reasonably likely to lead to serious harm to the individual” or the individual refuses for reasons of religion or conscience; DHFS may quarantine individuals who are unwilling or unable to receive vaccination. Violation of a quarantine is subject to a fine of up to \$10,000, imprisonment for up to nine months, or both. DHFS may promulgate emergency rules that specify exceptions to compulsory vaccination and must propose permanent administrative rules no later than January 1, 2003.

Public Information. DHFS is directed to inform state residents about the declaration or termination of a state of emergency related to public health, how to protect themselves, and the actions taken by the public health authority. DHFS shall communicate the information by all available and reasonable means, including making it accessible to persons with disabilities and in languages other than English. DHFS acts as the public health authority during the state of emergency and may designate local health departments as its agents, with the powers and duties of the public health authority, during a state of emergency.

Disposal of Human Remains. Act 109 gives DHFS new emergency powers and responsibilities for disposing of human remains. The public health authority may issue and enforce orders to provide for safe disposal; take possession and control of remains; order disposal within 24 hours of the remains of an individual who has died of a communicable disease, with feasible consideration for the religious, cultural, or individual beliefs of the deceased and the family; require a funeral establishment, as a condition of its permit, to accept remains or provide use of its facilities, including transfer of management to the public health authority for the duration of the state of emergency; and require labelling of remains with identifying information, including circumstances of death and communicable diseases, as well as requiring written or electronic records and, if necessary for identification, fingerprints, dental information, and DNA specimens. It also allows the public health authority to authorize a county medical examiner or coroner to appoint emergency assistants.

Reporting Requirements for Pharmacists, Coroners, and Medical Examiners. As a way of monitoring potential causes of public health emergency conditions, Act 109 requires pharmacists and pharmacies to report unusual sales increases for prescription or nonprescription drugs and antibiotics for treatment of medical conditions specified by rule or for diseases that are relatively uncommon or may be associated with bioterrorism. Pharmacists may not report personally identifying information except by request of DHFS. DHFS may promulgate emergency rules and must submit proposed permanent rules for the reporting requirements by January 1, 2003. Act 109 also requires coroners or medical examiners to report health conditions believed to be associated with bioterrorism or a previously controlled or eradicated biological agent.

EMERGENCY MEDICAL SERVICES TERRORISM RESPONSE TRAINING

For both initial licensing or certification and renewals starting on January 1, 2003, emergency medical technicians and certified first responders will be required to complete training for response to acts of terrorism, as defined in Act 109.

FOR MORE INFORMATION

For the text of 2001 Wisconsin Act 109’s changes to Chapters 146, 157, 166, 250, 252, and 440, Wisconsin Statutes, contact the Legislative Reference Bureau at (608) 266-0341 or access the Wisconsin Legislature’s Web site, <http://folio.legis.state.wi.us>.