

Committee Substitute for Senate Bill No. 1262

An act relating to public health; amending s. 381.0011, F.S.; revising the rulemaking authority of the Department of Health with respect to its power to impose quarantine, including requiring vaccination; amending s. 381.00315, F.S.; defining the terms “public health advisory” and “public health emergency”; specifying the terms under which a public health emergency is declared; providing for consultation for, notice, and duration of a declaration of a public health emergency; authorizing the State Health Officer to take specified actions upon the declaration of a public health emergency relating to shipping of specified drugs, directing the compounding of bulk prescription drugs, and specifying the use of such drugs; authorizing the State Health Officer to reactivate the inactive licenses of certain practitioners who request such reactivation; authorizing the State Health Officer to order that an individual be examined, tested, vaccinated, treated, or quarantined for certain communicable diseases under specified circumstances; specifying benefits to be made available to volunteers acting under a public health emergency; amending s. 768.13, F.S.; providing immunity from civil damages under the Good Samaritan Act for actions taken in response to situations during a declared public health emergency; revising the circumstances under which immunity from civil damages is extended to actions taken by persons licensed to practice medicine; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) of section 381.0011, Florida Statutes, is amended to read:

381.0011 Duties and powers of the Department of Health.—It is the duty of the Department of Health to:

(6) Declare, enforce, modify, and abolish quarantine of persons, animals, and premises as the circumstances indicate for controlling communicable diseases or providing protection from unsafe conditions that pose a threat to public health, except as provided in ss. 384.28 and 392.545-392.60.

(a) The department shall adopt rules to specify the conditions and procedures for imposing and releasing a quarantine. The rules must include provisions related to:

1. The closure of premises.
2. The movement of persons or animals exposed to or infected with a communicable disease.
3. The tests or ~~prophylactic~~ prophylactic treatment, including vaccination, for communicable disease required prior to employment or admission to the premises or to comply with a quarantine.

4. Testing or destruction of animals with or suspected of having a disease transmissible to humans.
5. Access by the department to quarantined premises.
6. The disinfection of quarantined animals, persons, or premises.
7. Methods of quarantine.

(b) Any health regulation that restricts travel or trade within the state may not be adopted or enforced in this state except by authority of the department.

Section 2. Section 381.00315, Florida Statutes, is amended to read:

381.00315 Public health advisories; public health emergencies.—The State Health Officer is responsible for declaring public health emergencies and issuing public health advisories.

(1) As used in this section, the term:

(a) “Public health advisory” means any warning or report giving information to the public about a potential public health threat. Prior to issuing any public health advisory, the State Health Officer must consult with any state or local agency regarding areas of responsibility which may be affected by such advisory. Upon determining that issuing a public health advisory is necessary to protect the public health and safety, and prior to issuing the advisory, the State Health Officer must notify each county health department within the area which is affected by the advisory of the State Health Officer’s intent to issue the advisory. The State Health Officer is authorized to take any action appropriate to enforce any public health advisory.

(b) “Public health emergency” means any occurrence, or threat thereof, whether natural or man made, which results or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters. Prior to declaring a public health emergency, the State Health Officer shall, to the extent possible, consult with the Governor and shall notify the Chief of Domestic Security Initiatives as created in s. 943.03. The declaration of a public health emergency shall continue until the State Health Officer finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and he or she terminates the declaration. However, a declaration of a public health emergency may not continue for longer than 60 days unless the Governor concurs in the renewal of the declaration. The State Health Officer, upon declaration of a public health emergency, may take actions that are necessary to protect the public health. Such actions include, but are not limited to:

1. Directing manufacturers of prescription drugs or over-the-counter drugs who are permitted under chapter 499 and wholesalers of prescription drugs located in this state who are permitted under chapter 499 to give priority to the shipping of specified drugs to pharmacies and health care providers within geographic areas that have been identified by the State

Health Officer. The State Health Officer must identify the drugs to be shipped. Manufacturers and wholesalers located in the state must respond to the State Health Officer's priority shipping directive before shipping the specified drugs.

2. Notwithstanding chapters 465 and 499 and rules adopted thereunder, directing pharmacists employed by the department to compound bulk prescription drugs and provide these bulk prescription drugs to physicians and nurses of county health departments or any qualified person authorized by the State Health Officer for administration to persons as part of a prophylactic or treatment regimen.

3. Notwithstanding s. 456.036, temporarily reactivating the inactive license of the following health care practitioners, when such practitioners are needed to respond to the public health emergency: physicians licensed under chapter 458 or chapter 459; physician assistants licensed under chapter 458 or chapter 459; licensed practical nurses, registered nurses, and advanced registered nurse practitioners licensed under part I of chapter 464; respiratory therapists licensed under part V of chapter 468; and emergency medical technicians and paramedics certified under part III of chapter 401. Only those health care practitioners specified in this paragraph who possess an unencumbered inactive license and who request that such license be reactivated are eligible for reactivation. An inactive license that is reactivated under this paragraph shall return to inactive status when the public health emergency ends or prior to the end of the public health emergency if the State Health Officer determines that the health care practitioner is no longer needed to provide services during the public health emergency. Such licenses may only be reactivated for a period not to exceed 90 days without meeting the requirements of s. 456.036 or chapter 401, as applicable.

4. Ordering an individual to be examined, tested, vaccinated, treated, or quarantined for communicable diseases that have significant morbidity or mortality and present a severe danger to public health. Individuals who are unable or unwilling to be examined, tested, vaccinated or treated for reasons of health, religion or conscience may be subjected to quarantine.

a. Examination, testing, vaccination, or treatment may be performed by any qualified person authorized by the State Health Officer.

b. If the individual poses a danger to the public health, the State Health Officer may subject the individual to quarantine. If there is no practical method to quarantine the individual, the State Health Officer may use any means necessary to vaccinate or treat the individual.

Any order of the State Health Officer given to effectuate this paragraph shall be immediately enforceable by a law enforcement officer under s. 381.0012.

(2) Individuals who assist the State Health Officer at his or her request on a volunteer basis during a public health emergency are entitled to the benefits specified in s. 110.504 (2), (3), (4), and (5).

Section 3. Paragraphs (a) and (b) of subsection (2) of section 768.13, Florida Statutes, are amended to read:

768.13 Good Samaritan Act; immunity from civil liability.—

(2)(a) Any person, including those licensed to practice medicine, who gratuitously and in good faith renders emergency care or treatment either in direct response to emergency situations related to and arising out of a public health emergency declared pursuant to s. 381.00315, a state of emergency which has been declared pursuant to s. 252.36 or at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment, without objection of the injured victim or victims thereof, shall not be held liable for any civil damages as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.

(b)1. Any hospital licensed under chapter 395, any employee of such hospital working in a clinical area within the facility and providing patient care, and any person licensed to practice medicine who in good faith renders medical care or treatment necessitated by a sudden, unexpected situation or occurrence resulting in a serious medical condition demanding immediate medical attention, for which the patient enters the hospital through its emergency room or trauma center, or necessitated by a public health emergency declared pursuant to s. 381.00315 shall not be held liable for any civil damages as a result of such medical care or treatment unless such damages result from providing, or failing to provide, medical care or treatment under circumstances demonstrating a reckless disregard for the consequences so as to affect the life or health of another.

2. The immunity provided by this paragraph does not apply to damages as a result of any act or omission of providing medical care or treatment:

a. Which occurs after the patient is stabilized and is capable of receiving medical treatment as a nonemergency patient, unless surgery is required as a result of the emergency within a reasonable time after the patient is stabilized, in which case the immunity provided by this paragraph applies to any act or omission of providing medical care or treatment which occurs prior to the stabilization of the patient following the surgery; or

b. Unrelated to the original medical emergency.

3. For purposes of this paragraph, "reckless disregard" as it applies to a given health care provider rendering emergency medical services shall be such conduct which a health care provider knew or should have known, at the time such services were rendered, would be likely to result in injury so as to affect the life or health of another, taking into account the following to the extent they may be present;

a. The extent or serious nature of the circumstances prevailing.

b. The lack of time or ability to obtain appropriate consultation.

- c. The lack of a prior patient-physician relationship.
- d. The inability to obtain an appropriate medical history of the patient.
- e. The time constraints imposed by coexisting emergencies.

4. Every emergency care facility granted immunity under this paragraph shall accept and treat all emergency care patients within the operational capacity of such facility without regard to ability to pay, including patients transferred from another emergency care facility or other health care provider pursuant to Pub. L. No. 99-272, s. 9121. The failure of an emergency care facility to comply with this subparagraph constitutes grounds for the department to initiate disciplinary action against the facility pursuant to chapter 395.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor May 23, 2002.

Filed in Office Secretary of State May 23, 2002.