

THIRTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FOURTH REGULAR SESSION, 2003

PUBLIC LAW NO. 13-63

H. B. NO. 13-325

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AN ACT

To enact a Comprehensive Readiness and Response System for emergency health threats, including those caused by Bio-Terrorism and for other purposes.

**BE IT ENACTED BY THE THIRTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:**

**Section 1. Short Title.** This Act may be cited as the “CNMI Emergency Health Powers Act of 2003.”

**Section 2. Legislative Findings.** The Legislature finds that more has to be done to ensure the health, safety and well being of the people of the CNMI. New and emerging dangers, including emergent and resurgent infectious diseases and incidents of civilian mass casualties, pose serious and immediate threats.

Emergency health threats, including those caused by bio-terrorism, may require the exercise of extraordinary government powers and functions. The CNMI must have the ability to respond rapidly and effectively to potential or actual public health emergencies. A renewed focus on the prevention, detection, management and containment of public health emergencies is needed.

**Section 3. Purpose.** The purpose of this Act is:

- (1) To develop a comprehensive plan to provide for a coordinated, appropriate response in the event of a public health emergency.
- (2) To authorize the reporting and collection of data and records, the management of property, the protection of persons, and access to communications.
- (3) To facilitate the early detection of a health emergency and allow for immediate investigation of such an emergency by granting access to individuals health information under specified circumstances.

(4) To grant the CNMI Government and local officials the authority to use and appropriate property as necessary for the care, treatment, vaccination and housing of patients and to destroy contaminated facilities and materials.

(5) To grant the CNMI Government and local officials the authority to provide care, treatment and vaccination to persons who are ill or who have been exposed to contagious diseases and to separate affected individuals from the population at large to interrupt disease transmission.

(6) To ensure that the needs of infected or exposed persons are properly addressed to the fullest extent possible, given the primary goal of controlling serious health threats.

(7) To provide the CNMI Government and local officials with the ability to prevent, detect, manage and contain emergency health threats without unduly interfering with civil rights and liberties.

**Section 4. Definitions.** As used in this Act, unless the context requires otherwise, the following definitions shall apply:

(1) **“Bio-terrorism”** means the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bio-engineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence the conduct of government or to intimidate or coerce a civilian population.

(2) **“Chain of custody”** means the methodology of tracking specimens for the purpose of maintaining control and accountability from initial collection to final disposition of the specimens and providing for accountability at each stage of collecting, handling, testing, storing and transporting the specimens and reporting test results.

(3) **“Contagious disease”** means an infectious disease that can be transmitted from person to person.

(4) **“Health care facility”** means any non-federal institution, building, or agency or portion thereof, whether public or private (for profit or non-profit) that is used, operated, or designed to provide health services, medical treatment, nursing,

rehabilitative, or preventive care to any person or persons. This includes but is not limited to: ambulatory surgical facilities, home health agencies, hospices, hospitals, infirmaries, intermediate care facilities, kidney treatment centers, long term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatment facilities, skilled nursing facilities and adult day-care centers. This also includes, but is not limited to, the following related property when used for or in connection with the foregoing: laboratories; research facilities; pharmacies; laundry facilities; health personnel training and lodging facilities; patient, guest, health personnel food service facilities; and offices and office buildings for persons engaged in health care professions or services.

(5) **“Health Care Provider”** means any person or entity that provides health care services including, but not limited to, physicians, pharmacists, dentists, physician assistants, nurse practitioners, registered and other nurses, paramedics, emergency medical or laboratory technicians, and ambulance and emergency medical workers.

(6) **“Infectious disease”** means a disease caused by a living organism or other pathogen, including a fungus, bacteria, parasite, protozoan, or virus. An infectious disease may, or may not, be transmissible from person to person, animal to person, or insect to person.

(7) **“Infectious waste”** means:

(A) A biological waste which includes blood and blood products, excretions, exudates, secretions, suctioning and other body fluids and waste materials saturated with blood or body fluids;

(B) **“Cultures and stocks”** includes etiologic agents and associated biologicals, including specimen cultures and dishes and devices used to transfer, inoculate, and mix cultures, wastes from production of biologicals and serums and discarded live and attenuated vaccines;

(C) **“Pathological waste”** means the inclusion of biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, necropsy or autopsy and laboratory procedures, and animal carcasses exposed to pathogens in research and the bedding and other waste

from such animals, but does not include teeth or formaldehyde or other preservative agents; and

(D) **“Sharps”** means the inclusion of needles, I.V. tubing with needles attached, scalpel blades, lancets, breakable glass tubes, and syringes that have been removed from their original sterile containers.

(E) **“Isolation”** means the physical separation and confinement of an individual or groups of individuals who are infected or reasonably believed to be infected with a contagious or possibly contagious disease from non-isolated individuals, to prevent or limit the transmission of the disease to non-isolated individuals.

(F) **“Mental health support personnel”** means the inclusion, but not limited to, psychiatrists, psychologists, social workers and volunteers crisis counseling groups.

(G) **“Organized militia”** includes the CNMI National Guard or any other military force organized under the laws of the Commonwealth.

(H) **“Protected health information”** means any information, whether oral, written, electronic, visual or any other form, that relates to an individual's past, present, or future physical or mental health status, condition, treatment, service, products purchased, or provision of care, and reveals the identity of the individual whose health care is the subject of the information, or where there is a reasonable basis to believe such information could be utilized (either alone or with other information that is, or should reasonably be known to be, available to predictable recipients of such information) to reveal the identity of individual.

(I) **“Public health authority”** means the Department of Public Health; or any local government agency that acts principally to protect or preserve the public's health; or any person directly authorized to act on behalf of the Department of Public Health.

(J) **“Public health emergency”** is an occurrence or imminent threat of an illness or health condition that:

(i) Is believed to be caused by any of the following:

(a) Bio-terrorism;

- (b) The appearance of a novel or previously controlled or eradicated infectious agent or biological toxin;
- (c) A natural disaster relative to an act of God caused by a typhoon, earthquake, tsunami, flood or intra terrestrial collision;
- (d) A chemical attack or accidental release; or
- (e) A nuclear attack or incident; and
- (ii) Poses a high probability of any of the following harms:
  - (a) A large number of deaths in the affected population;
  - (b) A large number of serious or long term disabilities in the affected population; or
  - (c) Widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population.

(K) **“Public safety authority”** means the Commonwealth Department of Public Safety; or any local government agency that acts principally to protect or preserve the public safety; or any person directly authorized to act on behalf of the Department of Public Safety.

(L) **“Quarantine”** means the physical separation and confinement of an individual or groups of individuals, who are or may have been exposed to a contagious or possibly contagious disease and who do not show signs or symptoms of a contagious disease, from non-quarantined individuals, to prevent or limit the transmission of the disease to non-quarantined individuals.

(M) **“Specimens”** include, but are not limited to, blood, sputum, urine, stool, other bodily fluids, wastes, tissues, and cultures necessary to perform required tests.

(N) **“Tests”** include, but are not limited to, any diagnostic or investigative analyses necessary to prevent the spread of disease or protect the public's health, safety and welfare.

**Section 5. Declaring a State of Public Health Emergency.** The Governor upon the occurrence of a public health emergency shall declare a state of public health emergency.

Prior to making this declaration, the Governor shall consult with the public health authority and may consult with any additional public health and other experts as needed. The Governor may act to declare a public health emergency without this consultation if the circumstances require more expeditious action.

**Section 6. Content of Declaration.** A state of public health emergency shall be declared by an executive order that specifies:

- (1) The nature of the public health emergency;
  - (2) Any political subdivision(s) or geographic area(s) subject to the declaration;
  - (3) The conditions that have brought about the public health emergency;
- and
- (4) The primary public health authority responding to the emergency.

**Section 7. Effect of declaration.** The declaration of a state of public health emergency shall activate the disaster response and recovery aspects of the Commonwealth disaster emergency plans. The declaration shall authorize the deployment and use of any forces to which the plans apply and the use or distribution of any supplies, equipment, materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this Act.

**Section 8. Emergency powers.** During a state of public health emergency, the Governor may:

- (1) Suspend the provisions of any administrative regulation prescribing procedures for conducting Commonwealth business or the other order, rules, and administrative regulations of any other Commonwealth agency if strict compliance would prevent, hinder, or delay necessary action, including the making of emergency purchases, by the public health authority to respond to the public health emergency, or if strict compliance would increase the health threat to the population;
- (2) Utilize all available resources of the Commonwealth government and its political subdivisions as reasonably necessary to respond to the public health emergency;
- (3) Transfer the direction, personnel, or functions of departments and agencies to perform or facilitate response and recovery programs regarding the public emergency;

(4) Mobilize all or any part of the organized militia into service. An executive order directing the organized militia to report for active duty shall state the purpose for which it is mobilized and the objectives to be accomplished.

(5) Provide aid to and seek aid from the federal government in accordance with any emergency compact made with the Commonwealth Government.

(6) Seek aid from the federal government in accordance with federal programs or requirements.

**Section 9. Coordination.** The Secretary of Public Health shall coordinate all matters pertaining to the public health emergency response of the CNMI. The Secretary Public Health shall have primary jurisdiction, responsibility, and authority for:

(1) Planning and executing public health emergency assessment, mitigation, preparedness response, and recovery for the CNMI.

(2) Coordinating public health emergency response between Federal and local authorities;

(3) Collaborating with relevant federal government authorities, private organizations or companies;

(4) Coordinating recovery operations and mitigation initiatives subsequent to public health emergencies; and

(5) Organizing public information activities regarding public health emergency response operations.

**Section 10. Identification.** After the declaration of a state of public health emergency, special identification for all public health personnel working during the emergency shall be issued as soon as possible. The identification shall indicate the authority of the bearer to exercise public health functions and emergency power during the state of public health emergency. Public health personnel shall wear the identification in plain view.

**Section 11. Enforcement.** During a state of public health emergency, the Secretary of Public Health may request assistance in enforcing orders pursuant to this Act from the public safety authority. The DPS Commissioner may request assistance from the organized militia in enforcing the orders of the Secretary of Public Health.

**Section 12. Termination of declaration.**

(1) **Executive order.** The Governor shall terminate the declaration of a state of public health emergency by executive order upon finding that the occurrence

of an illness or health condition that caused the emergency no longer poses a high probability of a large number of incidents of serious permanent or long-term disability in the affected population, or a significant risk of substantial future harm to a large number of people in the affected population.

(2) **Automatic termination.** Notwithstanding any other provision this Act, the declaration of a state of public health emergency shall be terminated automatically after thirty (30) days unless renewed by the Governor under the same standards and procedures set forth in this Act. Any such renewal shall also be terminated automatically after (30) days unless renewed by the Governor under the same standards and procedures set forth in this Act.

**Section 13. Access to and control of facilities and property.** The Secretary of Public Health in consultation with the Department of Public Safety, Department of Public Works and the Emergency Management Office, may exercise, for such period as the state of public health emergency exists, the following powers concerning facilities, materials, roads, or public areas.

(1) **Use of materials and facilities.** To procure, by condemnation or otherwise, construct, lease, transport, store, maintain, renovate, or distribute materials and facilities as may be reasonable and necessary to respond to the public health emergency, with the right to take immediate possession thereof. Such materials and facilities include, but are not limited to, communication devices, carriers, real estate, fuels, food and clothing.

(2) **Use of health care facilities.** To require a health care facility to provide services of the use of its facility if such services or use are reasonable and necessary to respond to the public health emergency as a condition of licensure, authorization or the ability to continue doing business in the CNMI as a health care facility. The use of the health care facility may include transferring the management and supervision of the health care facility to the public health authority for a limited or unlimited period of time, but shall not exceed the termination of the declaration of a state of public health emergency.

(3) **Control of materials.** To inspect, control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, allocation, or other means, the use, sale, dispensing, distribution, or transportation of food, fuel, clothing and other

commodities, as may be reasonable and necessary to respond to the public health emergency.

(4) **Control of roads and public areas.**

(A) To prescribe routes, modes of transportation, and destinations in consultation with public safety authorities or the provision of emergency services.

(B) To control or limit ingress and egress to and from any stricken or threatened public area, the movement of persons within the area, and the occupancy of premises therein, if such action is reasonable and necessary to respond to the public health emergency.

**Section 14. Public Health Emergency Planning Commission.** The Governor shall appoint a Public Health Emergency Planning Commission (“the Commission”), consisting of the department heads, or designees, of agencies the Governor deems relevant to public health emergency preparedness, a representative group of CNMI legislators, members of the judiciary, and any other persons chosen by the Governor. The Governor shall also designate the chair of the Commission.

**Section 15. Public Health Emergency Plan.**

(1) **Content.** The Commission shall, within six month of its appointment, deliver to the Governor a plan for responding to a public health emergency, that includes provision or guidelines on the following:

(A) Notifying and communicating with the population during a state of public health emergency in compliance with this Act;

(B) Central coordination of resources, manpower, and services, including coordination of responses by CNMI government, and federal agencies;

(C) The location, procurement, storage, transportation, maintenance, and distribution of essential materials, including but not limited to medical supplies, drugs, vaccines, food, shelter, clothing and beds;

(D) The continued, effective operation of the judicial system including, if deemed necessary, the identification and training of personnel to serve as emergency judges regarding matters of isolation and quarantine as described in this Act;

(E) The method of evacuating populations, and housing and feeding the evacuated populations;

(F) The identification and training of health care providers to diagnose and treat persons with infectious diseases;

(G) The vaccination of persons, in compliance with the provisions of this Act;

(H) The treatment of persons who have been exposed to or who are infected with diseases or health conditions that may be the cause of a public health emergency.

(I) The safe disposal of infectious wastes and human remains in compliance with the provisions of this Act;

(J) The safe and effective control of persons isolated, quarantined, vaccinated, tested, or treated during a state of public health emergency;

(K) Tracking the source and outcome of infected persons;

(L) Ensuring that each island within the Commonwealth identifies the following:

(i) sites where persons can be isolated or quarantined in compliance with the conditions and principles for isolation or quarantines of this Act;

(ii) sites where medical supplies, food, and other essentials can be distributed to the population;

(iii) sites where public health and emergency workers can be housed and fed; and

(iv) routes and means of transportation of people and materials;

(M) Cultural norms, values, religious principles, and traditions that may be relevant; and

(N) Other measures necessary to carry out the purpose of this Act.

(2) **Distribution.** The Commission shall distribute this plan to those who will be responsible for its implementation, other interested persons, and the public, and seek their review and comments.

(3) **Review.** The Commission shall annually review its plan for responding to a public health emergency.

**Section 16. Dissemination of information.** The Secretary of Public Health authority shall inform the people of the CNMI when a state of public health emergency has been declared or terminated, how to protect themselves during a state of public health emergency, and what actions are being taken to control the emergency.

(1) **Means of dissemination.** The Secretary of Public Health shall provide information by all available and reasonable means calculated to bring the information promptly to the attention of the general public.

(2) **Languages.** If the public health authority has reason to believe there are large numbers of people in the CNMI who lack sufficient skills in English, the Secretary of Public Health shall make reasonable efforts to provide the information in the primary languages of those people as well as in English.

(3) **Accessibility.** The provision of information shall be made in manner accessible to individuals with disabilities.

**Section 17. Rules and Regulations.** The Secretary of Public Health and other affected agencies are authorized to promulgate and implement such rules and regulations as are reasonable and necessary to implement and effectuate the provisions of this Act. The Secretary of Public Health and other affected agencies shall have the power to enforce the provisions of this Act through the imposition of fines and penalties, the issuance of orders, and such other remedies as are provided by law, but nothing in this Section shall be construed to limit specific enforcement power enumerated in this Act.

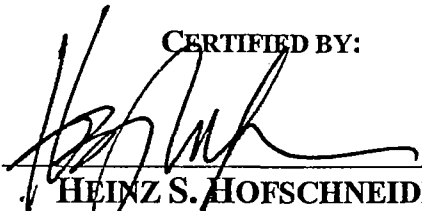
**Section 18. Severability.** If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

**Section 19. Savings Clause.** This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying,

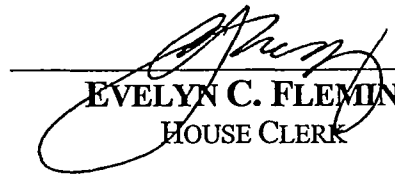
any liability, civil or criminal, which shall already be in existence at the date this Act, becomes effective.

Section 20. Effective Date. This Act shall take effect upon its approval by the Governor or upon becoming law without such approval.

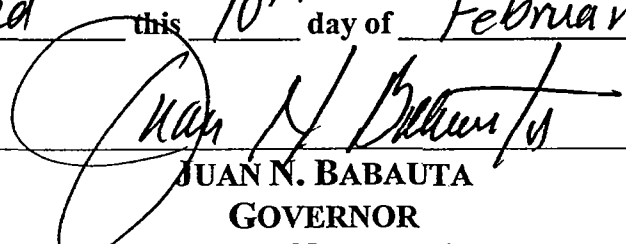
CERTIFIED BY:

  
HEINZ S. HOFSCHEIDER  
SPEAKER OF THE HOUSE

ATTESTED TO BY:

  
EVELYN C. FLEMING  
HOUSE CLERK

Approved this 10<sup>th</sup> day of February, 2004

  
JUAN N. BABAUTA  
GOVERNOR  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS