

**JOINT STATE
GOVERNMENT COMMISSION**
General Assembly of the Commonwealth of Pennsylvania

**PUBLIC HEALTH LAW
IN PENNSYLVANIA**

**REPORT of the ADVISORY COMMITTEE on
PUBLIC HEALTH LAW**

JANUARY 2013



JOINT STATE GOVERNMENT COMMISSION
Serving the Pennsylvania General Assembly Since 1937

The Joint State Government Commission was created by the act of July 1, 1937 (P.L.2460, No.459), as amended, as a continuing agency for the development of facts and recommendations on all phases of government for the use of the General Assembly.

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INTRODUCTION

The Joint State Government Commission

The Joint State Government Commission serves as the primary and central non-partisan, bicameral research and policy development agency for the General Assembly of Pennsylvania. The Commission has the power to conduct investigations, study issues and gather information, as directed by resolution. In performing its duties, the Commission may call upon any department or agency of the Commonwealth of Pennsylvania for pertinent information and may designate individuals, other than members of the General Assembly, to act in advisory capacities. The Commission periodically reports its findings and recommendations, along with any proposed legislation, to the General Assembly.

Senate Resolution No. 194 of 2007

Senate Resolution No. 194 of 2007¹ states that “Pennsylvania’s public health law is a patchwork of statutes mostly contained in Purdon’s Title 35 (Health and Safety), but also scattered throughout other titles, old case law and State and local regulations” with many of the Commonwealth’s public health statutes dating to the 1950s or earlier. In addition, “Pennsylvania’s public health case law dates primarily to the late 19th and early 20th centuries, predating contemporary constitutional due process standards.”² Therefore, “Pennsylvania’s public health law, including statutes, regulations and case law, should be reviewed so the law may be updated and codified to address modern public health issues.”³ Accordingly, the resolution directed “the Joint State Government Commission to establish a legislative task force with an advisory committee of experts to review, update and codify Pennsylvania’s public health law.”⁴ The Task Force was directed to “create an advisory committee composed of experts on public health law” with the goal of having the Task Force and Advisory Committee report to the Senate with recommended legislation.⁵

¹ Appendix, *infra* pp. 124-126.

² *Infra* p. 124.

³ *Infra* p. 125.

⁴ *Id.* Under the resolution, the task force would consist of two members appointed by the President pro tempore of the Senate and two members appointed by the Minority Leader of the Senate. *Id.*

⁵ *Id.*

The Task Force and Advisory Committee Process

The Task Force on Public Health Law, which is a bipartisan panel of Senators, consists of Senator Edwin B. Erickson (Chair), Senator James Ferlo, Senator Stewart J. Greenleaf and Senator Shirley M. Kitchen. On April 7, 2008, the Task Force held its organizational meeting to discuss the project generally and the prospective composition of the Advisory Committee.

Subsequently, the Advisory Committee on Public Health Law was appointed, and Margaret A. Potter was selected as the Chair. The Advisory Committee, which represents a broad range of expertise and background in law, medicine and education, includes attorneys, judges, professors, graduate school deans, physicians, nurses, public health administrators, medical directors and officers, an epidemiologist, and representatives from the court system and the Pennsylvania Department of Health.⁶

On December 5, 2008, the Advisory Committee held its organizational meeting. The Advisory Committee formally met in person or conducted teleconferences on seven other occasions: June 11, 2009; October 1, 2009; November 4, 2010; July 24, 2012; August 17, 2012; September 5, 2012; and December 12, 2012.

At the June 2009 meeting, the Advisory Committee gathered background information through presentations by the Pennsylvania Departments of Agriculture, Health and Environmental Protection and by the Pennsylvania Emergency Management Agency. Following this meeting, the Advisory Committee agreed to form five subcommittees to assist in reviewing specific topics and developing proposed legislation involving public health law: Behavioral Health, Data, Disease Prevention and Health Promotion, Emergency and Disaster Preparedness and Response, and the Public Health System. The Advisory Committee also discussed other topic areas to be codified, including food and drug laws, safety of medical supplies and laboratories, occupational health, environmental health, consumer product safety, animal safety, safe and sanitary housing, and safety of public accommodations. However, the Advisory Committee agreed that formal subcommittees did not need to be appointed to review these topic areas and recommend statutory language. Instead, the staff of the Joint State Government Commission was directed to prepare the codification of current laws regarding these topic areas, for subsequent review and approval by the Advisory Committee.

In October 2009, the Advisory Committee members discussed the progress of the subcommittees and specific issues for consideration.

⁶ Although an Advisory Committee member may represent a particular department, agency, association or group, such representation does not necessarily reflect the endorsement of the department, agency, association or group of all the findings and recommendations contained in this report.

During the November 2010 Advisory Committee meeting, representatives from the U.S. Senate Finance Committee shared information and background material regarding the recently-enacted federal health care reform law, the Patient Protection and Affordable Care Act.⁷

In July, August and September 2012, the Advisory Committee reviewed and extensively discussed proposed legislation developed by the Subcommittee on Emergency and Disaster Preparedness and Response regarding infectious disease prevention and control,⁸ along with the background information contained in this report. The Advisory Committee anticipated the release of one report containing this subcommittee's recommendations and the background information. Ultimately, however, the Advisory Committee favored the release a separate report containing the background information, to allow additional time for the Advisory Committee to continue its review of the subcommittee's proposed legislation and reach consensus on the recommendations.⁹

In January 2013, the Task Force authorized the publication of this report.¹⁰

With the ultimate goal of recommending the codification of all of Pennsylvania's public health laws, the Advisory Committee acknowledges that the codification process will necessarily unfold over multiple years. As each public health law topic area is completed through subcommittee or staff review and deliberation, the Advisory Committee as a whole will finalize the codification of each topic area, with ultimate consideration by the Task Force. It is anticipated that a separate report will be issued for each topic area.

Background Information

During its review and deliberations, the Advisory Committee specifically reviewed a number of public health laws, regulations, reports and publications, among them:

⁷ Pub. L. No. 111-148, 124 Stat. 119 (signed into law Mar. 23, 2010).

⁸ This subcommittee was able to produce proposed recommendations for the consideration of the Advisory Committee before the other four subcommittees.

⁹ Consensus does not necessarily reflect unanimity among the Advisory Committee members on each individual legislative recommendation. However, it does reflect the views of a substantial majority of the Advisory Committee, gained after lengthy review and discussion.

¹⁰ In addition to following the progress of the public health law project, the principal role of the Task Force is to determine whether to authorize the publication of each Advisory Committee report and the introduction of any proposed legislation contained in the report. Task Force authorization does not necessarily reflect endorsement of all the findings and recommendations contained in this report.

- The Disease Prevention and Control Law of 1955 (“DPCL”).¹¹
- The Counterterrorism Planning, Preparedness and Response Act (“CPPRA”).¹²
- The Emergency Management Services Code.¹³
- Regulations from Title 28 of the Pennsylvania Code (Health and Safety).¹⁴
- The special policy issue of Commonwealth: A Journal of Political Science titled *Public Health in Pennsylvania*.¹⁵
- The Public Health Law Bench Book.¹⁶
- *The Health Laws of Pennsylvania*.¹⁷
- The Turning Point Model State Public Health Act.¹⁸
- The Model State Emergency Health Powers Act.¹⁹
- Publications from the Trust for America’s Health.²⁰

¹¹ Act of Apr. 23, (1956) 1955 (P.L.1510, No.500); 35 P.S. §§ 521.1-521.21 (“DPCL”). *Infra* pp. 35-47. A summary of the DPCL (including its purpose and the topics of involuntary medical examinations, involuntary treatment, quarantine and isolation, and enforcement) is provided at *infra* pp. 31-34.

¹² Act of Dec. 16, 2002 (P.L.1967, No.227); 35 P.S. §§ 2140.101-2140.303 (“CPPRA”). *Infra* pp. 50-57. A summary of the CPPRA, including the topics of isolation and quarantine, is provided at *infra* pp. 49-50.

¹³ Part V of Title 35 of the Pennsylvania Consolidated Statutes (Health and Safety) (35 Pa.C.S. Part V).

¹⁴ Specifically, 28 Pa. Code §§ 15.1-15.32 (state aid to local health departments) & §§ 27.1-27.205 (communicable and noncommunicable diseases). This report contains 28 Pa. Code §§ 15.11-15.14 & 27.1 *et seq.* *Infra* pp. 59-72.

¹⁵ Pa. Pol. Sci. Ass’n & Legis. Off. of Res. Liaison, 14 Commonwealth: A Journal of Political Science (Dec. 2008).

¹⁶ Admin. Office of Pa. Courts & Univ. of Pittsburgh Graduate Sch. of Pub. Health Ctr. for Pub. Health Preparedness, *Pennsylvania Public Health Law Bench Book* (Feb. 2007) (“Public Health Law Bench Book”).

¹⁷ Howard A. Burde, ed. (Pa. Bar Inst. 2000).

¹⁸ Pub. Health Statute Modernization Nat’l Excellence Collaborative, *Turning Point: Collaborating for a New Century in Public Health, Model State Public Health Act: A Tool for Assessing Public Health Laws* (Sept. 2003), available at http://www.turningpointprogram.org/Pages/pdfs/statute_mod/MSPHAfinal.pdf (last accessed Apr. 16, 2012). This collaborative is a national program supported by the Robert Wood Johnson and W.K. Kellogg Foundations.

¹⁹ The Ctr. for Law & the Pub.’s Health, Georgetown and Johns Hopkins Univs., Model State Emergency Health Powers Act (as of Dec. 21, 2001), available at <http://www.publichealthlaw.net/MSEHPA/MSEHPA.pdf> (last accessed Apr. 16, 2012).

²⁰ Trust for America’s Health, *Blueprint for a Healthier America* (Oct. 2008) & *Ready or Not? Protecting the Public’s Health from Diseases, Disasters, and Bioterrorism* (Oct. 2008).

- Applicable provisions regarding public health responsibilities in various municipal codes.²¹

Contents of Report

This report contains the following:

- Background information regarding public health, the characteristics of public health systems, public health authorities in Pennsylvania, the public health landscape in Pennsylvania, statutory and regulatory authority in Pennsylvania, searches of property, temporary closures and evacuations, habeas corpus, emergency management, and municipal codes.²²
- Background information regarding the DPCL and the CPPRA, along with the text of the DPCL, the CPPRA, and various regulatory provisions from Title 28 of the Pennsylvania Code.²³
- A summary of the need to update and codify Pennsylvania law, specifically with respect to the DPCL, the CPPRA, temporary closures and evacuations, and habeas corpus.²⁴
- A summary of the progress of the Advisory Committee and its five subcommittees, as well as the general organization of 35 Pa.C.S.²⁵
- Tables setting forth Pennsylvania's public health laws, organized by the topics of behavioral health, data, disease prevention and health promotion, emergency and disaster preparedness and response, the public health system, environmental health, injury prevention and occupational health, and protection of the food supply.²⁶
- Senate Resolution No. 194 of 2007.²⁷

²¹ *Infra* pp. 19-29.

²² *Infra* pp. 7-29.

²³ *Infra* pp. 31-72.

²⁴ *Infra* pp. 73-81.

²⁵ *Infra* pp. 83-94.

²⁶ *Infra* pp. 95-122.

²⁷ *Infra* pp. 124-126.

PUBLIC HEALTH IN PENNSYLVANIA

Public Health

Public health concerns the protection of health, such as preventing illnesses and disease and promoting vigor and longevity. It involves (1) the assessment of population-wide health trends, including screenings and preventive care for individuals; (2) the development of policies and programs to optimize healthy conditions and (3) the assurance of access to basic services.²⁸

Characteristics of Public Health Systems

A public health system, acting in conjunction with the private sector, depends primarily on public oversight and accountability.²⁹ The system consists of organizations and individuals collectively sharing “the benefits, burdens, and responsibilities for the health of a defined population or community” and includes state and local public health agencies, health care providers, community-based organizations, emergency management and schools.³⁰ Accordingly, “[h]ealth protection depends on the strengths of these entities acting in coordination.”³¹ Local agencies are the hub of the public health system “because they can plan for the characteristic needs of local populations, prioritize resource allocation, and maintain accountability to local authorities.”³²

The quality and effectiveness of a public health system depend on its laws, financing and organizational structures: “[i]f the laws are unclear, the financing inadequate, and the organizations fragmented, then threats to health are likely to be unchecked.”³³ Therefore, critical to a well-functioning public health system are the following:

²⁸ Margaret A. Potter, *Public Health in Pennsylvania: Where Do We Go From Here?*, 14 *Commonwealth: A Journal of Political Science* 1 (Dec. 2008).

²⁹ *Id.*

³⁰ *Id.* at 2.

³¹ *Id.*

³² *Id.*

³³ *Id.*

- Governance and cohesion at the county and municipal levels, without which public health activities may be uninformed and resources may be misdirected.
- Local financing.
- Intergovernmental cooperation and partnerships with private-sector organizations.³⁴

An effective public health statute must provide a public health authority “with the tools necessary to respond to an outbreak of a communicable disease while at the same time limiting the likelihood of arbitrary actions.”³⁵

The law must specify who can take action to protect public health:

Government attempts to prevent the spread of communicable disease may very well necessitate action that significantly interferes with individual liberty and must always be based on sound judgment predicated on a high degree of scientific acumen. In turn, the government’s action has to be sufficiently accepted by the public to assure meaningful compliance and thus limit the scope of a public health threat. In such circumstances, clearly identifying the agencies or officials that are empowered to act to protect the public health is of critical importance. At a time of heightened public concern, not knowing who precisely is authorized to make potentially life-altering decisions, such as directing isolation or quarantine, or mandating diagnosis and treatment, could result in delayed or faulty action, potentially contradictory positions on the nature of the danger posed, or what must be done to respond to it, and a reluctance on the part of the community to follow directives or to accept the government’s position.³⁶

Fundamentally, the government should adopt a control measure to effectuate public health objectives only if the measure is the “least restrictive of individual liberty.”³⁷

³⁴ *Id.* at 3.

³⁵ John A. Bozza, *Crisis in the Making: What’s Wrong with Pennsylvania’s Public Health Law*, 14 *Commonwealth: A Journal of Political Science* 34 (Dec. 2008).

³⁶ *Id.* at 27-28.

³⁷ *Id.* at 34.

Public Health Authorities in Pennsylvania

Three different public health authorities have responsibility for public health matters in Pennsylvania: the Department of Health, county and municipal health departments and local health authorities.³⁸

Department of Health

The Department of Health shall “protect the health of the people of this Commonwealth, and . . . determine and employ the most efficient and practical means for the prevention and suppression of disease.”³⁹ To that end, the department shall:

- Declare certain diseases to be communicable and establish regulations to prevent the spread of such diseases as it deems necessary and appropriate.
- Establish and enforce quarantines to prevent the spread of communicable diseases.
- Administer and enforce the laws regarding vaccination and other means of preventing the spread of communicable diseases.⁴⁰

The department consists of a Secretary of Health, the Advisory Health Board and the Physician General.⁴¹

The Secretary of Health heads the department and must “be either a graduate of an accredited medical or osteopathic medical school who is a practicing physician licensed by the Commonwealth or an individual with professional experience in the field of public health, health services delivery or education or training of health service professionals.”⁴²

The Advisory Health Board consists of the Secretary of Health (or the Secretary’s authorized deputy) and twelve members, including five licensed physicians, a licensed dentist, a registered pharmacist, a registered nurse and a registered engineer who is experienced in sanitary engineering.⁴³ The board must:

³⁸ Public Health Law Bench Book, *supra* note 16, § 2.11.

³⁹ Act of Apr. 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, § 2102(a); 71 P.S. § 532(a). *See also* the act of Apr. 27, 1905 (P.L.312, No.218), § 8(a); 71 P.S. § 1403(a) (“Act 218”).

⁴⁰ The Admin. Code of 1929, *supra* note 39, § 2106; 71 P.S. § 536.

⁴¹ Act 218, *supra* note 39, § 1(a); 71 P.S. § 1401(a).

⁴² *Id.* § 1(b); 71 P.S. § 1401(b).

⁴³ The Admin. Code of 1929, *supra* note 39, § 448(f); 71 P.S. § 158(f).

- Advise the Secretary of Health.
- Make reasonable rules and regulations necessary for:
 - The prevention of disease.
 - The protection of the lives and health of Pennsylvanians.
 - The proper performance of the work of the department.
- Make and periodically revise a list of communicable diseases against which children must be immunized as a condition of attendance at any public, private or parochial school.
- Prescribe minimum health activities and standards of performance of health services for counties or other political subdivisions.⁴⁴

The Physician General must be a graduate of an accredited medical or osteopathic medical school and a practicing physician licensed in Pennsylvania.⁴⁵ Among other things, the Physician General must:

- Provide advice on health policy and medical and public health issues.
- Participate in the decision-making process on policies relating to medical and public health-related issues.
- Review professional standards and practices in medicine and public health.
- Consult with recognized experts on medical and public health matters.
- Coordinate educational, informational and other programs for the promotion of wellness, public health and related medical issues and serve as the primary advocate for these programs.
- Consult with experts regarding medical research, innovation and development.⁴⁶

Pennsylvania is divided into six community health districts, which provide public health services across the state: Southeast (based in Reading), Northeast (based in Wilkes-Barre), North Central (based in Williamsport), Northwest (based in Jackson Center), South Central (based in Harrisburg) and Southwest (based in Pittsburgh).⁴⁷

⁴⁴ *Id.* § 2111; 71 P.S. § 541.

⁴⁵ Act 218, *supra* note 39, § 1(c); 71 P.S. § 1401(c).

⁴⁶ *Id.*

⁴⁷ *Public Health Law Bench Book*, *supra* note 16, § 2.10, at 1 and § 4.12.

County and Municipal Health Departments

The Local Health Administration Law states that the protection and promotion of health

can be performed only when adequate local public health services are available to all the people of the Commonwealth, when these services are maintained at a high level of professional and technical performance, and when they are administered according to units of population sufficiently large to enable full time modern health services to be provided on the most economical basis by local communities working in partnership with the Commonwealth. . . . These aims can best be achieved by empowering counties to establish county departments of health, and by authorizing State grants to county departments of health and to certain municipalities to enable them to reach or maintain a high level of performance of health services.⁴⁸

A single-county or joint-county department of health may be authorized by resolution or referendum, or a combination of both methods, in conformity with the county health administration plan developed by the Secretary of Health (with the advice of the Advisory Health Board).⁴⁹

The Secretary of Health must “determine when a proposed county department of health is ready to exercise its powers and duties,” which is after the following conditions are met:

- Local funds have been appropriated.
- The organization of the county department of health has been completed.
- Personnel have been employed in accordance with Department of Health regulations.
- Required facilities and equipment have been obtained.
- The board of health has prepared necessary rules and regulations to achieve the purposes of the Local Health Administration Law.⁵⁰

⁴⁸ Act of Aug. 24, 1951 (P.L.1304, No.315), known as the Local Health Administration Law, § 2(b) & (c); 16 P.S. § 12002(b) & (c).

⁴⁹ *Id.* § 5(a); 16 P.S. § 12005(a).

⁵⁰ *Id.* § 9(b); 16 P.S. § 12009(b).

The county department of health may then exercise its powers and perform its duties, including (1) the prevention or removal of conditions that constitute a menace to public health and (2) the institution of programs “necessary for the promotion and preservation of the public health.”⁵¹

Each single-county department of health must have a board of health, appointed by the county commissioners and consisting of at least two physicians licensed to practice in Pennsylvania. With respect to a joint-county department of health, the combined boards of county commissioners of the several participating counties must make the appointments to the respective board of health.⁵² Each board of health “shall exercise the rule-making power conferred upon the county department of health by the formulation of rules and regulations for the prevention of disease, for the prevention and removal of conditions which constitute a menace to health, and for the promotion and preservation of the public health generally.”⁵³

In addition, each board of health in turn must then appoint a health director,⁵⁴ who is the administrator of the county department of health and who is tasked with “enforcing the health laws, rules and regulations of the Commonwealth and the county department of health.”⁵⁵ In doing so, the health director (or an authorized subordinate) “may enter and inspect at reasonable times and in a reasonable manner any places or conditions whatsoever within the jurisdiction of the county department of health” and takes steps to abate nuisances detrimental to the public health.⁵⁶

The Secretary of Health shall take charge of and direct the operation of a county department of health upon a finding that (1) the county department of health is failing to comply with state regulations prescribing minimum public health activities, minimum health service performance standards or personnel administration standards; (2) the county department of health is failing to accomplish the purposes of the Local Health Administration Law and (3) conditions exist that constitute a health menace.⁵⁷

The Local Health Administration Law also provides detailed provisions regarding state grants to county departments of health and certain municipalities.⁵⁸

⁵¹ *Id.* § 10; 16 P.S. § 12010.

⁵² *Id.* § 7; 16 P.S. § 12007.

⁵³ *Id.* § 11(c); 16 P.S. § 12011(c).

⁵⁴ *Id.* §§ 8 & 11(a); 16 P.S. §§ 12008 & 12011(a). Among other things, a board of health advises its health director on matters that the director brings before it. *Id.* § 11(b); 16 P.S. § 12011(b).

⁵⁵ *Id.* § 12(a) & (c); 16 P.S. § 12012(a) & (c).

⁵⁶ *Id.* § 12(c); 16 P.S. § 12012(c).

⁵⁷ *Id.* § 26; 16 P.S. § 12026.

⁵⁸ *Id.* § 25; 16 P.S. § 12025.

In Pennsylvania, only six of 67 counties⁵⁹ and four cities⁶⁰ have full-service local health departments.⁶¹ Therefore, public health services in the remaining 61 counties and 2,563 municipalities in Pennsylvania are implemented through either a municipal board of health created under the relevant municipal code or, if such a board does not exist, the Department of Health, through its six district offices and 60 health centers.

Local Health Authorities

Approximately 237 local boards or departments of health operate outside the structure and funding of the Local Health Administration Law. These local health authorities provide limited public health services and are governed by local regulations and ordinances.⁶² In addition, local health personnel duties and responsibilities may include inspections; assessments of community health needs; food service inspections; training and consultation for operators and personnel of food establishments; investigation and follow-up of public health complaints; communicable disease investigation and reporting; implementation of timely, effective and efficient control measures; participation in epidemiologic studies; and providing information to the community that promotes disease prevention and health promotion.⁶³

The Landscape in Pennsylvania

Pennsylvania ranks last among states in the number of public health workers per capita (37 per 100,000). This compares to a national average of 158 per 100,000.⁶⁴ Approximately one-half of Pennsylvania's population is dependent on the state's Department of Health, which employs less than one-third of the state's public health workforce.⁶⁵ It has been noted that "Pennsylvania's current public health system performs inadequately. The system itself is legally ambiguous, comparatively underfunded, and organizationally fragmented."⁶⁶ In addition, state, county and municipal authorities do not adequately harmonize their efforts: "their respective sources of authority are distributed without coordinated oversight and accountability among numerous agencies (Health, Welfare, Agriculture, Insurance, Environmental Protection, and Labor and Industry)."⁶⁷ One study found that in locales without a local health department, resident callers "found it more difficult to access health information, were transferred to non-public health entities, and did not speak to a health professional early

⁵⁹ Allegheny, Bucks, Chester, Erie, Montgomery and Philadelphia.

⁶⁰ Allentown, Bethlehem, Wilkes-Barre and York.

⁶¹ Potter, *supra* note 28, at 2.

⁶² *Public Health Law Bench Book*, *supra* note 16, § 2.14. See, e.g., *infra* pp. 19-29.

⁶³ *Public Health Law Bench Book*, *supra* note 16, § 2.14.

⁶⁴ Potter, *supra* note 28, at 1-2.

⁶⁵ *Id.* at 2.

⁶⁶ *Id.* at 3.

⁶⁷ *Id.*

in the inquiry.”⁶⁸ Finally, “the system is not only straining to meet everyday health-protection needs but is particularly vulnerable to failure during emergencies and disasters.”⁶⁹

Statutory and Regulatory Authority in Pennsylvania

Under Pennsylvania law, the control of communicable diseases is primarily governed by the Disease Prevention and Control Law of 1955 (DPCL);⁷⁰ the Counterterrorism Planning, Preparedness and Response Act (CPPRA)⁷¹ and health and safety regulations.⁷² However, there is no case law interpreting or applying key provisions of the DPCL, the CPPRA or these regulations.⁷³

Searches of Property

The Department of Health is charged with conducting investigations to protect public health:

The Department of Health shall have the power, and its duty shall be . . . [t]o cause examination to be made of nuisances, or questions affecting the security of life and health, in any locality, and, for that purpose, without fee or hindrance, to enter, examine and survey all grounds, vehicles, apartments, buildings, and places, within the Commonwealth, and all persons, authorized by the department to enter, examine and survey such grounds, vehicles, apartments, buildings and places, shall have the powers and authority conferred by law upon constables . . .⁷⁴

A public health authority may investigate any case or outbreak⁷⁵ of disease determined to be a potential threat to the public health. In addition, a person may not interfere with or obstruct a representative of the public health authority seeking to enter a

⁶⁸ *Id.* See Alberto J.F. Cardelle & Deidre Holland, *Public Health Shortage Areas in Pennsylvania: A Barrier to Health Information*, 14 *Commonwealth: A Journal of Political Science* 7-21 (Dec. 2008).

⁶⁹ Potter, *supra* note 28, at 4, summarizing Bozza, *supra* note 35.

⁷⁰ DPCL, *supra* note 11. *Infra* pp. 35-47.

⁷¹ CPPRA, *supra* note 12. *Infra* pp. 50-57.

⁷² 28 Pa. Code §§ 15.11-15.14 & 27.1 *et seq.* *Infra* pp. 59-72.

⁷³ Bozza, *supra* note 35, at 26.

⁷⁴ The Admin. Code of 1929, *supra* note 39, § 2102(b); 71 P.S. § 532(b).

⁷⁵ The term “outbreak” is defined as “[a]n unusual increase in the number of cases of a disease, infection or condition, whether reportable or not as a single case, above the number of cases that a person required to report would expect to see in a particular geographic area or among a subset of persons (defined by a specific demographic or other features).” 28 Pa. Code § 27.1.

house, health care facility, building or other premises to investigate the case or outbreak, if the representative presents proper documentation of his or her authorization.⁷⁶

However, the Fourth Amendment of the U.S. Constitution and the Pennsylvania Constitution guarantee protections against unreasonable searches and seizures:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.⁷⁷

The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed to by the affiant.⁷⁸

These Constitutional provisions “require a warrant supported by probable cause before searching private property in the absence of consent or emergency circumstances.”⁷⁹

Temporary Closures and Evacuations

The Emergency Management Services Code provides that the Governor may (1) commandeer or utilize private, public or quasi-public property if necessary to cope with a disaster emergency (subject to applicable compensation requirements) and (2) direct and compel an evacuation from a stricken or threatened area if necessary for the preservation of life or other disaster mitigation, response or recovery.⁸⁰ However, the public health laws of Pennsylvania do not contain specific statutory or regulatory provisions authorizing a public health authority to temporarily close a public or private area or evacuate an area.⁸¹

⁷⁶ *Id.* § 27.152(a) & (b).

⁷⁷ U.S. Const. amend. IV.

⁷⁸ Pa. Const. art. I, § 8.

⁷⁹ *Public Health Law Bench Book*, *supra* note 16, § 1.60, at 2.

⁸⁰ 35 Pa.C.S. § 7301(f)(4) & (5).

⁸¹ *Public Health Law Bench Book*, *supra* note 16, § 1.70, at 1. Nevertheless, a public health authority is broadly charged with disease prevention and control and with carrying out “appropriate control measures.” *Id.*

Habeas Corpus

A writ of habeas corpus is employed to bring an individual before a court to ensure that his or her detention is not illegal.⁸² The right to challenge a detention is deeply rooted in our Constitution: “The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.”⁸³

Under Pennsylvania law, “an application for habeas corpus to inquire into the cause of detention may be brought by or on behalf of any person restrained of his liberty within this Commonwealth under any pretense whatsoever.”⁸⁴ In addition, “[a]ny judge of a court of record may issue the writ of habeas corpus to inquire into the cause of detention of any person or for any other lawful purpose.”⁸⁵ Although no specific form is necessary for a petition for a writ of habeas corpus, the petition must contain some specificity, such as the name or description of the individual being detained, the name or identity of the person detaining the individual, the place where the individual is detained, and allegations of fact regarding why the detention is illegal.⁸⁶ The writ (or order to show cause why the writ should not issue) is directed to the person detaining the individual and must be returned within three days unless additional time is allowed for good cause shown. However, the additional time may not exceed 20 days. The person must “make a return certifying the true cause of the detention and, except as otherwise prescribed by general rules or by rule or order of court, shall produce at the hearing the body of the person detained.”⁸⁷

A person commits a misdemeanor of the second degree if the person (1) fails or refuses to respond to the writ or order; (2) changes the place of detention of the individual in order to defeat the writ; (3) recommits the individual, after the individual has been released from detention and without express authorization from the court, on substantially the same facts and circumstances or (4) performs an act to defeat the writ or order.⁸⁸ Due process may require the appointment of counsel for an indigent individual.⁸⁹

⁸² *Black’s Law Dictionary* 715 (7th ed. 1999).

⁸³ U.S. Const. art. I, § 9, cl. 2. *See also* Pa. Const. art. I, § 14; 42 Pa.C.S. § 6501.

⁸⁴ 42 Pa.C.S. § 6503(a).

⁸⁵ *Id.* § 6502(a). Venue for such matters is prescribed by general rule. *Id.* § 6502(b). Rule 1006 of the Rules of Civil Procedure governs. *Public Health Law Bench Book, supra* note 16, § 1.80, at 2.

⁸⁶ *Id.* at 2-3.

⁸⁷ 42 Pa.C.S. § 6504. The general rules governing service and notice apply. *See* Rule 400 *et seq.* of the Rules of Civil Procedure. *Public Health Law Bench Book, supra* note 16, § 1.80, at 4.

⁸⁸ 42 Pa.C.S. § 6505. In addition, the court has the inherent authority to enforce its orders through the sanction of contempt. *Public Health Law Bench Book, supra* note 16, § 1.80, at 5.

⁸⁹ *Id.* at 4.

Emergency Management

Gubernatorial Authority

The Governor is responsible for meeting the dangers to Pennsylvania that arise as a result of disasters⁹⁰ and “may issue, amend and rescind executive orders, proclamations and regulations which shall have the force and effect of law.”⁹¹ Specifically, the Governor may, among other things, do the following:

- Suspend the provisions of any regulatory statute prescribing the procedures for conduct of government business or suspend the orders, rules or regulations of a Commonwealth agency,⁹² if strict compliance of such would prevent, hinder or delay necessary action in coping with the emergency.
- Utilize all available governmental resources as reasonably necessary to cope with the disaster emergency.
- Commandeer or utilize any private, public or quasi-public property if necessary to cope with the disaster emergency (subject to applicable compensation requirements).
- Direct and compel an evacuation from a stricken or threatened area if necessary for the preservation of life or other disaster mitigation, response or recovery.
- Control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premises within the area.⁹³

In addition, if the Governor declares a state of emergency, a Commonwealth agency may implement its emergency assignment “without regard to procedures required by other laws (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials and expenditures of public funds.”⁹⁴ The same is true for “each political subdivision included in the declaration of disaster emergency declared by either the Governor or the governing body of the political subdivision affected by the disaster emergency,” which is authorized to exercise its vested powers “in light of the exigencies

⁹⁰ 35 Pa.C.S. § 7301(a).

⁹¹ *Id.* § 7301(b).

⁹² A Commonwealth agency includes the Pennsylvania Department of Health. *Public Health Law Bench Book*, *supra* note 16, § 2.42(A).

⁹³ 35 Pa.C.S. § 7301(f).

⁹⁴ *Id.* § 7308.

of the emergency situation without regard to time-consuming procedures and formalities prescribed by law.”⁹⁵

Pennsylvania Emergency Management Agency

The Pennsylvania Emergency Management Agency (PEMA) was created “[t]o assure prompt, proper and effective discharge of basic Commonwealth responsibilities relating to civil defense and disaster preparedness, operations and recovery.”⁹⁶ The primary responsibility for overall policy is vested in the Pennsylvania Emergency Management Council, consisting of the Governor, Lieutenant Governor, Adjutant General, Secretary of Health, Attorney General, General Counsel, Secretary of Community Affairs,⁹⁷ Secretary of Environmental Protection, Secretary of Transportation, Secretary of Agriculture, Secretary of Public Welfare, Commissioner of the Pennsylvania State Police, Chairman of the Public Utility Commission, State Fire Commissioner, Speaker of the House of Representatives, President pro tempore of the Senate, Minority Leader of the Senate and Minority Leader of the House of Representatives.⁹⁸ In addition, the Governor may appoint one or two representatives of business and industry, one or two representatives of labor, one or two public members at large and one representative respectively of the Pennsylvania State Association of County Commissioners, the Pennsylvania State Association of Township Commissioners, the Pennsylvania State Association of Township Supervisors, the Pennsylvania League of Cities and the Pennsylvania State Association of Boroughs to be nonvoting members of the council.⁹⁹ The Governor also appoints the PEMA director, who is charged with performing fiscal, planning, administrative and operational duties of the agency.¹⁰⁰

Among other things, PEMA must (1) prepare, maintain and update an emergency management plan to (i) prevent and minimize injury and damage caused by disaster and (ii) deliver prompt and effective response to disaster and disaster emergency relief and recovery; (2) provide an effective and integrated disaster communications system; (3) promulgate, adopt and enforce necessary rules, regulations and orders; (4) provide technical advice and assistance to agencies and political subdivisions; (5) administer grant programs to political subdivisions for disaster management and (6) provide emergency operational equipment, materials and supplies.¹⁰¹

⁹⁵ *Id.* § 7501(d).

⁹⁶ *Id.* § 7311.

⁹⁷ In 1996, the Department of Community Affairs was combined with the Department of Commerce to form the Department of Community and Economic Development. Act of June 27, 1996 (P.L.403, No.58), known as the Community and Economic Development Enhancement Act; 71 P.S. §§ 1709.101-1709.2106.

⁹⁸ 35 Pa.C.S. § 7312(a). Each legislative leader may authorize a fellow member of the General Assembly to serve in his or her stead. *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.* § 7312(e).

¹⁰¹ *Id.* § 7313.

Municipal Codes

Public health provisions are also scattered throughout the municipal codes, including The County Code,¹⁰² the Second Class County Code,¹⁰³ The First Class Township Code,¹⁰⁴ The Second Class Township Code,¹⁰⁵ the Second Class City Code,¹⁰⁶ The Third Class City Code,¹⁰⁷ The Borough Code¹⁰⁸ and those statutory provisions concerning incorporated towns¹⁰⁹ and Philadelphia.¹¹⁰ Several relevant statutory provisions are summarized below.

The County Code

The county commissioners of a county may provide “for the protection of the health, cleanliness, convenience, comfort and safety of the people of the county.”¹¹¹

¹⁰² Act of August 9, 1955 (P.L.323, No.130), known as The County Code; 16 P.S. §§ 101-2399.73. See The County Code §§ 2101-2199.8 (Article XXI); 16 P.S. §§ 2101-2199.8.

¹⁰³ Act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code; 16 P.S. §§ 3101-6302. See the Second Class County Code §§ 2301-2355 (Article XXIII); 16 P.S. §§ 5301-5355.

¹⁰⁴ Act of June 24, 1931 (P.L.1206, No.331), known as The First Class Township Code; 53 P.S. §§ 55101-58502. See The First Class Township Code §§ 1601-1627 (Article XVI); 53 P.S. §§ 56601-56627.

¹⁰⁵ Act of May 1, 1933 (P.L.103, No.69), known as The Second Class Township Code; 53 P.S. §§ 65101-68701. See The Second Class Township Code §§ 3001-3010 (Article XXX); 53 P.S. §§ 68001-68010.

¹⁰⁶ Act of June 26, 1895 (P.L.350, No.258), relating to second class cities, §§ 1-43; 53 P.S. §§ 24561-24691.

¹⁰⁷ Act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code, reenacted and amended June 28, 1951 (P.L.662, No.164); 53 P.S. §§ 35101-39701. See The Third Class City Code §§ 2301-2340 (Article XXIII); 53 P.S. §§ 37301-37340.

¹⁰⁸ Act of February 1, (1966) 1965 (P.L.1656, No.581), known as The Borough Code; 53 P.S. §§ 45101-48501. See The Borough Code §§ 3101-3114 (Article XXXI); 53 P.S. §§ 48101-48114.

¹⁰⁹ See, e.g., the act of December 6, 1972 (P.L.1443, No.321), § 1; 53 P.S. § 53175. This statutory provision enables an incorporated town to (1) prohibit and remove any nuisance or dangerous structure on public or private ground and (2) enforce any such prohibition or removal against the owner or occupier of the property.

¹¹⁰ The statutory provisions regarding Philadelphia are found in the following:

Act of April 20, 1905 (P.L.228, No.165), which is part of the First Class City Government Law; 53 P.S. §§ 14401-14613. See §§ 1-3 of Chapter 38, Article I of that act; 53 P.S. §§ 14401-14403.

Act of June 25, 1919 (P.L.581, No.274), which is part of the First Class City Government Law; 53 P.S. §§ 12101-12714. See §§ 1-4 of Chapter 31, Article VII of that act; 53 P.S. §§ 12291-12294.

Act of May 24, 1917 (P.L.297, No.160), which concerns the establishment of contagious disease hospitals. Section 2901 of The County Code, *supra* note 102, repealed the 1917 act insofar as it related to counties of the third through eighth class. Section 3301 of the Second Class County Code, *supra* note 103, repealed the 1917 act insofar as it related to counties of the second class. Therefore, the establishment of contagious disease hospitals in counties is now covered by the 1917 act, The County Code and the Second Class County Code. See 16 P.S. §§ 2378, 2379, 5310, 5313, 8201 & 8202.

¹¹¹ The County Code, *supra* note 102, § 2101; 16 P.S. § 2101.

The county must pay for contagious disease hospitals and facilities and for the cost of the care and treatment of indigent patients and those individuals who are unable to pay the entire cost of care and treatment in such hospitals and facilities.¹¹² A health authority may remove cases of contagious disease to a contagious disease hospital for treatment and isolation if proper quarantine measures cannot otherwise be enforced.¹¹³

The County Code contains specific provisions regarding a hospital established for the treatment of tuberculosis¹¹⁴ and regarding insect control.¹¹⁵

In general, the county commissioners of counties of the fourth, fifth, sixth, seventh and eighth classes have the power and duty to (1) erect, equip, maintain, repair, alter and add to institutions for the care of dependents;¹¹⁶ (2) equip, maintain, cultivate and improve farms, using their produce for the support of dependents; (3) pay the necessary expenses of land and buildings for the care of dependents and farms; (4) care for any dependent having a settlement in the county;¹¹⁷ (5) contract with another county or an individual, association, corporation or other entity for the care of any dependent; (6) provide services for individuals with special needs; (7) care for any dependent or other indigent individual referred to them by the Department of Public Welfare; (8) provide for the burial of dependents and other individuals; (9) treat indigent individuals in danger of suffering from hydrophobia and (10) protect and promote the welfare of children and youth.¹¹⁸

A county of the third class may create a board of health, which must appoint a health officer. The health officer must be certified by the Department of Health and must have had experience and training in public health work in accordance with rules and regulations established by the Advisory Health Board.¹¹⁹

The health officer has the responsibility to (1) quarantine places with communicable diseases present, (2) execute all laws and rules or regulations for the disinfection of quarantined places, (3) require the exclusion from school of children suffering from a communicable disease or residing with an individual suffering from a communicable disease, (4) make sanitary inspections and (5) execute the orders of the board of health.¹²⁰

¹¹² *Id.* § 2110; 16 P.S. § 2110.

¹¹³ *Id.* § 2112; 16 P.S. § 2112.

¹¹⁴ *Id.* §§ 2113-2119; 16 P.S. §§ 2113-2119.

¹¹⁵ *Id.* §§ 2150-2152; 16 P.S. §§ 2150-2152.

¹¹⁶ A “dependent” is “an indigent person requiring public care, including maintenance, medical care, clothing and incidentals, because of physical or mental infirmity.” *Id.* § 2160; 16 P.S. § 2160. An “institution” is “an infirmary, poorhouse, almshouse, hospital or sanitarium managed by the commissioners of the county.” *Id.*

¹¹⁷ The County Code discusses the matter of “settlement” generally at § 2175; 16 P.S. § 2175.

¹¹⁸ The County Code, *supra* note 102, §§ 2163-2168; 16 P.S. §§ 2163-2168.

¹¹⁹ *Id.* §§ 2185 & 2189; 16 P.S. §§ 2185 & 2189.

¹²⁰ *Id.* § 2190; 16 P.S. § 2190.

The board of health must enforce the laws of the Commonwealth and the rules, regulations and orders of the Department of Health. The board must take steps

to prevent or diminish the introduction or further spread of infectious or contagious diseases, and otherwise to protect and increase the public health by regulating communication with places of infection or contagion, by isolating carriers of infection or contagion or persons who have been exposed to any infectious or contagious disease, by abating or removing all nuisances which the board shall deem prejudicial to the public health, and by enforcing the vaccination laws . . .¹²¹

Specifically, the board of health has the authority, among other things, to (1) establish and staff emergency hospitals if there is a prevalence or threat of contagious or infectious disease or there is another serious peril to public health; (2) enter premises in the county where an infectious or contagious disease or a nuisance detrimental to the public health is suspected, for the purpose of examining the premises or of preventing, confining or abating the public nuisance; (3) conduct investigations and hold public hearings; (4) establish a force of sanitarians for the enforcement of its rules and regulations; (5) provide for or cooperate in providing for vaccination, disinfection, public health control programs generally, and medical relief to benefit the public health and (6) prevent, abate or remove conditions that are detrimental to the public health as public nuisances.¹²²

If the board of health determines “that a public nuisance exists or is about to exist, it may order the nuisance to be removed, abated, suspended, altered, or otherwise prevented or avoided.”¹²³ Notice of this order must (1) bear “the official title of the board and the number of days for compliance therewith and the alternative remedy of the board in case of non-compliance” and (2) be served on the person deemed responsible and the owner or abutting owner of the place where the nuisance or potential nuisance exists.¹²⁴ If the board cannot discover such person, the order must be served by posting a copy conspicuously on the premises for at least ten days.¹²⁵ The notice must clearly specify the following: (1) the place and manner of the nuisance or anticipated nuisance; (2) the nature or condition of the nuisance or anticipated nuisance; (3) the order regarding the nuisance or anticipated nuisance; (4) the names of the persons found to be responsible or concerned with the nuisance or anticipated nuisance, along with the name of the owner of the land or premises involved; (5) the date of the board’s order and the number of days allowed to comply with the order; (6) the alternative remedy of the board in case of non-

¹²¹ *Id.* § 2191; 16 P.S. § 2191. The board of health must also make rules and regulations for the preservation or improvement of the public health, consistent with the laws of the Commonwealth. *Id.*

¹²² *Id.* § 2192; 16 P.S. § 2192.

¹²³ *Id.* § 2197; 16 P.S. § 2197. A condition or usage in or about the buildings, structures, land, streets, private ways and other places (whether public or private) within a county of the third class that the board of health finds to be detrimental to the public health is classified as a public nuisance. *Id.* § 2196; 16 P.S. § 2196. The power to investigate and enter upon premises, which is vested in the board of health and its agents and employees, is available to determine whether a public nuisance exists. *Id.*

¹²⁴ *Id.* § 2197; 16 P.S. § 2197.

¹²⁵ *Id.*

compliance; (7) notice that the persons affected by the order may apply to the board for a hearing within the time set for compliance with the order and may request a stay of execution or modification or rescission of the order; and (8) the signature of the president of the board, attested by the secretary.¹²⁶

A person affected by the order may apply for a hearing within the time specified, and in such a case the board must promptly notify all interested parties of the time and place of the hearing. As a result of the hearing, the board may rescind, modify or reaffirm its order and direct the enforcement of the original, new or modified order. The person affected must be notified of the board's final order and may appeal. The appeal may operate as a supersedeas if (1) upon proper cause shown, the court so orders and (2) the person/appellant posts bond, approved by the court, for the use of the county, with sufficient surety to cover all the expenses and costs of enforcing the board's order.¹²⁷

If a person ordered by the board of health to abate or prevent a public nuisance or anticipated public nuisance refuses or neglects to do so within the specified time, then the board may direct its health officer and employees to enforce the order (unless the person's appeal acts as a supersedeas).¹²⁸ If the board of health (or the board of county commissioners as appropriate) "abates or prevents or causes the abatement or prevention of a public nuisance, the cost and expense of such work, services and materials shall be charged to the persons affected in their proper proportions"; upon non-payment of these charges, the county may file a lien on the affected premises.¹²⁹

If a person violates the foregoing provisions or an order of the board of health, interferes with the enforcement of an order or willfully fails to obey an order, then the person is subject to a fine not exceeding \$100 and/or imprisonment not exceeding 90 days.¹³⁰

Second Class County Code

The county commissioners of a second class county may provide "for the protection of the health, cleanliness, convenience, comfort and safety of the people of the county."¹³¹ The county may provide for a hospital (or a wing or unit at a general hospital) for the care and treatment of contagious diseases. Provisions must be made for the care and treatment of indigent patients and those individuals who are unable to pay

¹²⁶ *Id.* § 2198; 16 P.S. § 2198.

¹²⁷ *Id.* § 2199; 16 P.S. § 2199.

¹²⁸ *Id.* § 2199.1; 16 P.S. § 2199.1. If the enforcement of the order requires the grading, paving or repaving of private alleys or any similar work upon a property within the county or any other work or service that may best be performed or contracted for by the agencies and employees of the county itself, then the board must certify its order to the board of county commissioners, which must then "proceed to cause the execution of the order." *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.* § 2199.2; 16 P.S. § 2199.2.

¹³¹ Second Class County Code, *supra* note 103, § 2301; 16 P.S. § 5301.

the entire cost of their care and treatment.¹³² In addition, the county commissioners may “enter into contracts with the proper authorities of any city within the county for the hospitalization of persons suffering from any infectious disease.”¹³³

At the request of the county commissioners, the district attorney may bring an action to enjoin a defined nuisance or a person or municipality from constructing, keeping, maintaining or conducting a garbage disposal plant without a license. The court may issue a temporary injunction until the conclusion of the proceedings. If the court ultimately finds that a nuisance or prohibited conduct exists, it shall enter a decree ordering the abatement of the nuisance or enjoining such conduct.¹³⁴ Upon summary conviction, a person violating the Second Class County Code shall pay a fine of not more than \$100 and costs of prosecution for each offense; upon non-payment, the person is subject to imprisonment not exceeding 30 days. However, the person may appeal the summary conviction.¹³⁵

The First Class Township Code

In a first class township, a board of health (or a health officer) appointed by the township commissioners enforces health laws. A health officer must be certified by the Department of Health and must have had some experience or training in public health work in accordance with rules and regulations established by the Advisory Health Board.¹³⁶

Among other things, a health officer must (1) placard and quarantine all premises where cases of communicable disease exist, (2) disinfect premises upon the expiration of the quarantine period and the recovery of the last individual in the premises who suffered from the communicable disease, (3) require the exclusion from school of children suffering from a communicable disease or residing in the same premises with an individual suffering from a communicable disease, (4) make sanitary inspections and (5) execute the orders of the board of health.¹³⁷

The board of health has the power and duty to (1) enforce the laws of the Commonwealth, the regulations of the Department of Health and any township ordinances relating to health work; (2) make and enforce additional rules and regulations to prevent the introduction and spread of infectious or contagious diseases, by the regulation of intercourse with infected places, the separation of infected individuals and individuals exposed to infectious or contagious disease, and abating and removing nuisances to the public health; (3) mark infected houses or places; (4) prescribe rules for

¹³² *Id.* §§ 2310 & 2314; 16 P.S. §§ 5310 & 5314. *See also id.* § 2312; 16 P.S. § 5312. The Second Class County Code also provides for hospitals for the care and treatment of patients with tuberculosis. *See, e.g., id.* §§ 2315-2325; 16 P.S. §§ 5315-5325.

¹³³ *Id.* § 2355; 16 P.S. § 5355.

¹³⁴ *Id.* § 2192; 16 P.S. § 5192.

¹³⁵ *Id.* § 2191; 16 P.S. § 5191.

¹³⁶ The First Class Township Code, *supra* note 104, § 1601; 53 P.S. § 56601.

¹³⁷ *Id.* § 1605; 53 P.S. § 56605.

the construction and maintenance of house drains, wash pipes, soil pipes and cesspools and (5) make other rules and regulations necessary to preserve public health. The board of health also has the power to establish, maintain and manage emergency hospitals if there is a prevalence of infectious or contagious disease.¹³⁸

At any time, a health officer or member of the board of health may enter premises in the township where an infectious or contagious disease or a nuisance detrimental to the public health is suspected, for the purpose of examining and abating the disease or nuisance.¹³⁹ The board of health may (1) inspect any condition or place in the township that may constitute a nuisance or menace to public health and (2) issue and enforce an abatement order directed to the owner (or the agent of the owner) or the occupant of the premises.¹⁴⁰

The abatement order must (1) state that the conditions specified constitute a nuisance or menace to health and (2) specify when the conditions must be abated. If the order is not obeyed within the specified time, the board of health must issue a further written order directing the health officer to remove or abate the nuisance or menace to health, at the expense of the owner of the premises.¹⁴¹

In administering and enforcing health laws, a first class township may cooperate with the county in which it is located, another township, a city, a borough, a school district or the Department of Health.¹⁴²

The Second Class Township Code

The board of supervisors of a second class township “may appoint a township board of health and township health officer to administer and enforce the health and sanitation laws of the township.” The board of health may appoint a health officer or inspector to implement and enforce such laws and actions of the board of health, but the health officer or inspector must be certified by the Departments of Environmental Protection, Agriculture and Health.¹⁴³ A health officer or inspector must make inspections and execute the orders of the board of health.¹⁴⁴

¹³⁸ *Id.* § 1606; 53 P.S. § 56606.

¹³⁹ *Id.* § 1607; 53 P.S. § 56607.

¹⁴⁰ *Id.* § 1608; 53 P.S. § 56608.

¹⁴¹ *Id.*

¹⁴² *Id.* § 1610; 53 P.S. § 56610.

¹⁴³ The Second Class Township Code, *supra* note 105, § 3001; 53 P.S. § 68001. The code explicitly provides that “[t]he board of health shall enforce the health and sanitation laws of this Commonwealth and any regulations adopted under those laws and the health and sanitation laws and regulations of the township.” *Id.* § 3006(a); 53 P.S. § 68006(a).

¹⁴⁴ *Id.* § 3005; 53 P.S. § 68005.

At any time, the board of health, health officer or inspector may enter any premises within the township where a health hazard or violation is reasonably suspected to exist or where a condition exists that may give rise to a health hazard.¹⁴⁵ If it is determined that a health or sanitation hazard or violation exists, an abatement order may be issued and enforced. The order must specify the time in which the abatement and corrective action must be accomplished.¹⁴⁶ Furthermore,

[i]f the order is not complied with within the time provided, the board of health, health officer or inspectors may enter the premises and issue orders for the immediate termination of activities creating the violation, the potential violation and all acts of commerce conducted in, on or at the premises in question. In addition, the board of health, health officer or inspectors may proceed to enforce the law or regulation being violated the same as ordinances of the township.¹⁴⁷

A second class township may cooperate and contract with other municipalities in administering and enforcing health and sanitation laws.¹⁴⁸ In addition, the board of supervisors, the board of health or the health officer may request assistance from the Department of Environmental Protection, Agriculture or Health if the assistance is deemed necessary for the health and safety of township citizens.¹⁴⁹

Second Class City Code

A department of public health in a second class city has the duty to remove or correct all things and conditions that “have a tendency to imperil health.”¹⁵⁰ The department may enforce its order against any person whose premises contain the thing or condition that may adversely affect public health, and it may recover the costs of removing or abating the nuisance.¹⁵¹ To protect public health, an appointed officer has the duty to (1) carry out the orders of the department and any ordinance, rule or regulation regarding sanitation and (2) make thorough and systematic examinations of premises and “cause all nuisances to be abated with reasonable promptness.”¹⁵² The owner, occupant or agent of the lot, building or premises on which any nuisance,

¹⁴⁵ *Id.* § 3007; 53 P.S. § 68007. In addition, “[t]he board of supervisors may by ordinance require the owner to remove any nuisance or dangerous structure on public or private grounds after notice to the owner to do so.” *Id.* § 1533; 53 P.S. § 66533. If the owner fails to do so, “the board of supervisors may remove the nuisance or structure and collect the cost of the removal, together with the penalty imposed by the ordinance, from the owner by summary proceedings or under law for the collection of municipal liens.” *Id.*

¹⁴⁶ *Id.* § 3008; 53 P.S. § 68008.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.* § 3010(a); 53 P.S. § 68010(a).

¹⁴⁹ *Id.* § 3010(c); 53 P.S. § 68010(c).

¹⁵⁰ Second Class City Code, *supra* note 106, § 2; 53 P.S. § 24562. Section 1 of the June 26, 1895 act regarding health and safety in second class cities created a bureau of health for each second class city, but its powers and duties were transferred to a department of public health under § 4 of the act of April 1, 1909 (P.L.83, No.49); 53 P.S. § 22701.

¹⁵¹ Second Class City Code, *supra* note 106, §§ 2 & 6; 53 P.S. §§ 24562 & 24568.

¹⁵² *Id.* § 19; 53 P.S. § 24581.

offensive matter or substance is found must be provided written notice of the offense, which demands abatement within a specified and reasonable time. A person neglecting or refusing to comply with the requirements of the notice is subject to a fine of not less than \$5 or more than \$50 for each violation. Upon the expiration of the time period, the department must proceed to abate the nuisance. If, however, the owner, occupant or agent is unknown or cannot be found, the nuisance may be abated without notice, and the expenses associated with the abatement will subsequently be sought through an action of assumpsit or as otherwise provided by law.¹⁵³

The department may take measures to prevent the spread of any contagious disease that is dangerous to the community. It may forbid and prevent “all communication with the infected house or family, except by means of physicians, nurses or messengers to convey the necessary advice, medicines and provisions to the afflicted person” but must act in a manner that is “conducive to the public good, with the least private injury.”¹⁵⁴ The department may establish hospitals and facilities for individuals with a contagious disease and may isolate those individuals.¹⁵⁵

The Third Class City Code

A third class city must create a board of health or, in the alternative, the city council must serve as the board of health.¹⁵⁶ The board of health must appoint a health officer, who must be certified by the Department of Health and who has had some experience or training in public health work in accordance with rules and regulations established by the Advisory Health Board.¹⁵⁷

The health officer must (1) quarantine places with communicable diseases present, (2) execute all laws and rules or regulations for the disinfection of quarantined places, (3) require the exclusion from school of children suffering from a communicable disease or residing with an individual suffering from a communicable disease, (4) make sanitary inspections and (5) execute the orders of the board of health.¹⁵⁸

The board of health must enforce the laws of the Commonwealth and the rules, regulations and orders of the Department of Health. The board must take steps

to prevent or diminish the introduction or further spread of infectious or contagious diseases, and otherwise to protect and increase the public health by regulating communication with places of infection or contagion, by isolating carriers of infection or contagion or persons who have been exposed to any infectious or contagious disease, by abating or removing

¹⁵³ *Id.*

¹⁵⁴ *Id.* § 21; 53 P.S. § 24661.

¹⁵⁵ *Id.* §§ 25 & 26; 53 P.S. §§ 24667 & 24668.

¹⁵⁶ The Third Class City Code, *supra* note 107, § 2301; 53 P.S. § 37301.

¹⁵⁷ *Id.* § 2305; 53 P.S. § 37305.

¹⁵⁸ *Id.* § 2306; 53 P.S. § 37306.

all nuisances which the board shall deem prejudicial to the public health, and by enforcing the vaccination laws . . .¹⁵⁹

Specifically, the board of health has the authority, among other things, to (1) establish and staff emergency hospitals if there is a prevalence or threat of contagious or infectious disease or there is another serious peril to public health; (2) enter premises in the city where an infectious or contagious disease or a nuisance detrimental to the public health is suspected, for the purpose of examining the premises or of preventing, confining or abating the public nuisance; (3) conduct investigations and hold public hearings; (4) establish a force of sanitary police for the enforcement of its rules and regulations; (5) provide for or cooperate in providing for vaccination, disinfection, public health control programs generally, and medical relief to benefit the public health and (6) prevent, abate or remove conditions that are detrimental to the public health as public nuisances.¹⁶⁰

Statutory provisions regarding the procedure for the abatement of nuisances, the contents of the required notice, hearings and the disposition of matters mirror those under The County Code.¹⁶¹

Finally, a city of the third class may “establish or maintain hospitals . . . for the cure and treatment of the sick and injured . . . or for the treatment and separation of persons suffering with contagious or infectious diseases.”¹⁶²

The Borough Code

In a borough, a board of health (or a health officer) enforces health laws and ordinances. A health officer must be certified by the Department of Health and must have had some experience or training in public health work in accordance with rules and regulations established by the Advisory Health Board.¹⁶³ The board of health has the power and duty to (1) prevent the introduction and spread of infectious or contagious disease; (2) abate and remove nuisances to the public health; (3) mark infected houses or places; (4) recommend rules for the construction and maintenance of house-drains, wash-pipes, soil-pipes and cesspools and (5) recommend other rules and regulations to preserve the public health. The board of health also has the power to establish, maintain and manage emergency hospitals if there is a prevalence of infectious or contagious disease.¹⁶⁴

¹⁵⁹ *Id.* § 2307; 53 P.S. § 37307. The board of health must also make rules and regulations for the preservation or improvement of the public health, consistent with the laws of the Commonwealth. *Id.*

¹⁶⁰ *Id.* § 2308; 53 P.S. § 37308.

¹⁶¹ *Supra* pp. 27-28. See The Third Class City Code, *supra* note 107, §§ 2320-2324; 53 P.S. §§ 37320-37324.

¹⁶² The Third Class City Code, *supra* note 107, § 3601; 53 P.S. § 38601.

¹⁶³ The Borough Code, *supra* note 108, § 3101; 53 P.S. § 48101.

¹⁶⁴ *Id.* § 3106; 53 P.S. § 48106.

At any time, a health officer or member of the board of health may enter premises in the borough where an infectious or contagious disease or a nuisance detrimental to the public health is suspected, for the purpose of examining and abating the disease or nuisance.¹⁶⁵ The board of health may (1) inspect any condition or place in the borough that may constitute a nuisance or menace to public health and (2) issue and enforce an abatement order directed to the owner, or the agent of the owner, of the premises.¹⁶⁶

The abatement order must (1) state that the conditions specified constitute a nuisance or menace to health and (2) specify when the conditions must be abated. If the order is not obeyed within the specified time, the board of health must issue a further written order directing the health officer to remove or abate the nuisance or menace to health, at the expense of the owner of the premises (along with a penalty of 10%).¹⁶⁷

In administering and enforcing health laws, a borough may cooperate with the county in which it is located, another borough, a city, a township or the Department of Health.¹⁶⁸

Philadelphia

A department of health in a city of the first class has the power and duty to make rules and regulations for the protection of the public health from specified diseases.¹⁶⁹ The rules and regulations must include provisions regarding (1) the reports to be made to a health authority by a physician or another who attends to an individual afflicted with a specified disease; (2) the quarantining and disinfecting of individuals and premises and the placarding of notices; (3) the treatment or disposal of infected bedding, clothing or other articles; (4) the care and burial of an individual who may have died from a specified disease; (5) the disinfection of a conveyance used in the burial of an individual who may have died from a specified disease or used by the individual; (6) the admission and attendance of an individual at a public or private school, hospital and asylum, or any other public or private educational or charitable institution and (7) the compulsory vaccination of specified individuals.¹⁷⁰

A first class city must have a department of public health, of which the director of public health, appointed by the mayor, shall be the head.¹⁷¹ The department of public health must manage, administer and supervise city activities and facilities relating to

¹⁶⁵ *Id.* § 3107; 53 P.S. § 48107.

¹⁶⁶ *Id.* § 3108; 53 P.S. § 48108.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.* § 3110; 53 P.S. § 48110.

¹⁶⁹ Act of April 20, 1905 (P.L.228, No.165), § 1; 53 P.S. § 14401. The specified diseases are “cholera, yellow, malarial, typhoid, typhus, scarlet, puerperal and relapsing fevers, small-pox (variola or varioloid), chicken-pox (varicella), diphtheria, diphtheritic and membranous croups, cerebro-spinal meningitis, measles, mumps, whooping-cough, tuberculosis (in any of its diverse forms), pneumonia, erysipelas, plague (Bubonic), trachoma, leprosy, tetanus, glanders, hydrophobia (rabies) and anthrax.” *Id.*

¹⁷⁰ *Id.* § 2; 53 P.S. § 14402.

¹⁷¹ Act of June 25, 1919 (P.L.581, No.274), § 1; 53 P.S. § 12291.

public health, including hospitals, housing and sanitation.¹⁷² A hospital for the care and treatment of individuals suffering from contagious diseases may be constructed and maintained by Philadelphia.¹⁷³

A suitable location for a hospital for the care of contagious diseases may be designated.¹⁷⁴ If health authorities determine that proper quarantine measures cannot be otherwise enforced properly, the health authorities may remove cases of contagious disease from private residences and other places to such hospital for treatment and isolation until the cases are determined to be no longer contagious.¹⁷⁵

Other Provisions Regarding Hospitals and Diseases

A county and a city of the third class within that county may construct a joint county and municipal building for the county and city “as a hospital for general purposes, or as a hospital for the care and treatment of communicable diseases, or both.”¹⁷⁶ The municipal entities may enter into a joint contract or agreement “for the construction, repair, alteration, maintenance, and operation of such hospital building or buildings, and for the payment by each of the proportionate share of the cost thereof.”¹⁷⁷ They may also make agreements for the purchase of necessary equipment for the hospital and “for the employment and compensation of the required number of physicians, surgeons, nurses, and other employe[e]s, necessary for the proper conduct” of the hospital.¹⁷⁸

With respect to hospitals for contagious diseases, a county of the third class may enter into an agreement with a general hospital “within its boundaries for the care of indigent and part-pay patients affected with contagious diseases” if the hospital has a class A rating, is nonsectarian, is operated on a nonprofit basis and “definitely provide[s] free care for the indigent within [its] zone of influence.”¹⁷⁹

Any county may enter into an agreement with a general hospital “within its boundaries or, if the hospital is in another county, within any adjacent county for the care of indigent and part-pay patients affected with chronic diseases” if the hospital has a class A rating, is nonsectarian and is operated on a nonprofit basis.¹⁸⁰ The county may appropriate money to construct and equip any building, wing or unit at the hospital “for the care and treatment of chronic disease cases[,]” and “[t]he county shall be liable for the cost of the care and treatment of patients admitted by the county to the chronic disease wing.”¹⁸¹

¹⁷² *Id.* § 3; 53 P.S. § 12293.

¹⁷³ Act of May 24, 1917 (P.L.297, No.160), § 1; 16 P.S. § 8201.

¹⁷⁴ *Id.* § 2; *see also* 16 P.S. § 5310.

¹⁷⁵ Act of May 24, 1917, *supra* note 173, § 7; 16 P.S. § 8202.

¹⁷⁶ Act of May 23, 1919 (P.L.255, No.136), § 1; 16 P.S. § 12104.

¹⁷⁷ *Id.* § 4; 16 P.S. § 12114.

¹⁷⁸ *Id.* § 15; 16 P.S. § 12115.

¹⁷⁹ Act of June 12, 1939 (P.L.337, No.194), § 1; 16 P.S. § 12151.

¹⁸⁰ Act of Aug. 17, 1965 (P.L.350, No.184), § 1; 16 P.S. § 12211.

¹⁸¹ *Id.*

DISEASE PREVENTION AND CONTROL LAW OF 1955

Purpose of Act

The purpose of the Disease Prevention and Control Law of 1955 (DPCL) is “to assign primary responsibility for the prevention and control of diseases to local health departments, and to institute a system of mandatory reporting, examination, diagnosis, and treatment of communicable diseases.”¹⁸² The Advisory Health Board of the Department of Health may issue rules and regulations regarding, among other things, the following:

- Reportable communicable and non-communicable diseases.
- Methods of disease reporting, the contents of reports and the health authorities to whom diseases are to be reported.
- Communicable diseases that are subject to isolation,¹⁸³ quarantine¹⁸⁴ or other control measures.

¹⁸² *Public Health Law Bench Book*, *supra* note 16, § 1.10, at 1, n.1, quoting *Commonwealth v. Moore*, 584 A.2d 936, 940 (Pa. 1991). The DPCL defines “communicable disease” as “[a]n illness due to an infectious agent or its toxic products which is transmitted, directly or indirectly, to a well person from an infected person, animal or arthropod, or through the agency of an intermediate host, vector of the inanimate environment.” DPCL, *supra* note 11, § 2(c); 35 P.S. § 521.2(c). Department of Health regulations define the term as follows: “An illness which is capable of being spread to a susceptible host through the direct or indirect transmission of an infectious agent or its toxic product by an infected person, animal or arthropod, or through the inanimate environment.” 28 Pa. Code § 27.1. After receiving a report of a disease that is subject to a control measure, a local board or department of health or the Department of Health “shall carry out the appropriate control measures in such manner and in such place as is provided by rule or regulation.” DPCL, *supra* note 11, § 5; 35 P.S. § 521.5.

¹⁸³ The DPCL defines “isolation” as “[t]he separation for the period of communicability of infected persons or animals from other persons or animals in such places and under such conditions as will prevent the direct or indirect transmission of the infectious agent from infected persons or animals to other persons or animals who are susceptible or who may spread the disease to others.” DPCL, *supra* note 11, § 2(e); 35 P.S. § 521.2(e); 28 Pa. Code § 27.1 (the definition under the regulations is modified only slightly).

¹⁸⁴ The DPCL defines “quarantine” as follows:

The limitation of freedom of movement of persons or animals who have been exposed to a communicable disease for a period of time equal to the longest usual incubation period of the disease in such manner as to prevent effective contact with those not so exposed. Quarantine may be complete, or, as defined below, it may be modified, or it may consist merely of surveillance or segregation.

(1) Modified quarantine is a selected, partial limitation of freedom of movement, determined on the basis of differences in susceptibility or danger of

- The duration of the periods of isolation and quarantine.
- Enforcement of isolation, quarantine and other control measures.
- Immunization and vaccination of individuals and animals.
- The regulation of carriers.¹⁸⁵
- The prevention and control of non-communicable diseases.¹⁸⁶

Accordingly, a public health authority may take steps to protect the public's health and safety through involuntary medical examinations, involuntary treatment, quarantine and isolation.¹⁸⁷ However, "possession and control of one's body is the most highly protected privacy interest," and generally "a health officer seeking to infringe upon a diseased person's liberty by imposing detention, confinement, isolation or

disease transmission, which is designed to meet particular situations. Modified quarantine includes, but is not limited to, the exclusion of children from school and the prohibition or the restriction of those exposed to a communicable disease from engaging in particular occupations.

(2) Surveillance is the close supervision of persons and animals exposed to a communicable disease without restricting their movement.

(3) Segregation is the separation for special control or observation of one or more persons or animals from other persons or animals to facilitate the control of a communicable disease.

DPCL, *supra* note 11, § 2(e); 35 P.S. § 521.2(e). The regulations define "quarantine" as follows:

(i) The limitation of freedom of movement of a person or an animal that has been exposed to a communicable disease, for a period of time equal to the longest usual incubation period of the disease, or until judged noninfectious by a physician, in a manner designed to prevent the direct or indirect transmission of the infectious agent from the infected person or animal to other persons or animals.

(ii) The term does not exclude the movement of a person or animal from one location to another when approved by the Department or a local health authority under § 27.67 (relating to the movement of persons and animals subject to isolation or quarantine by action of a local health authority or the Department).

28 Pa. Code § 27.1. The regulations separately define the terms "segregation" ("[t]he separation for special control or observation of one or more persons or animals from other persons or animals to facilitate the control of a communicable disease") and "surveillance of disease" ("[t]he continuing scrutiny of all aspects of occurrence and spread of disease that are pertinent to effective control."). *Id.*

¹⁸⁵ The DPCL defines "carrier" as "[a] person who, without any apparent symptoms of a communicable disease, harbors a specific infectious agent and may serve as a source of infection." DPCL, *supra* note 11, § 2(b); 35 P.S. § 521.2(b). *See also* 28 Pa. Code § 27.1.

¹⁸⁶ DPCL, *supra* note 11, § 16(a); 35 P.S. § 521.16(a).

¹⁸⁷ If the public health authority is not the Department of Health or a county or municipal health department, it must consult with and receive approval from the department prior to taking any disease control measure (28 Pa. Code § 27.60(c)), requiring any medical examination or other approved diagnostic procedure (28 Pa. Code § 27.81), taking any action in response to an individual who refuses to submit to treatment for a communicable disease (28 Pa. Code § 27.87(a)(ii)), requiring isolation (28 Pa. Code § 27.61(1)), quarantining contacts (28 Pa. Code § 27.65(1)) or releasing an individual or animal from isolation or quarantine (28 Pa. Code § 27.68). Similarly, if more than one jurisdiction is involved, the public health authority may isolate the individual or animal only after consulting with and receiving approval from the department. 28 Pa. Code § 27.61(2).

quarantine, must first establish, by clear and convincing evidence, that the person poses a significant risk of transmitting disease to others with serious consequences.”¹⁸⁸

A public health authority is primarily responsible for the prevention and control of disease, including disease control in public and private schools, in accordance with the regulations of the Advisory Health Board and subject to the supervision and guidance of the Department of Health.¹⁸⁹ The Department of Health is responsible for the prevention and control of communicable and non-communicable disease in any municipality that is not served by a local board or department of health, including disease control in public and private schools.¹⁹⁰

A municipality that has a board or department of health, or a county department of health, may enact an ordinance or issue a rule or regulation relating to disease prevention and control, only if it is not less strict than the provisions of the DPCL or the rules and regulations issued by the Advisory Health Board.¹⁹¹

Involuntary Medical Examinations

Under the DPCL, if a public health authority has reasonable grounds to suspect an individual of being infected with a communicable disease, or of being a carrier, it shall require that the individual undergo a medical examination or other approved diagnostic procedure to determine whether the individual is infected or is a carrier. If the individual refuses to submit to the examination, the public health authority may (1) cause the individual to be quarantined until it is determined that he or she is not infected or not a carrier or (2) file a petition in the court of common pleas of the county where the individual is present. The petition must include a physician’s affidavit, averring that the individual is infected or is a carrier. The court must then hold a hearing within 24 hours after the individual is served a copy of the petition, to ascertain whether the individual has refused to submit to a medical examination to determine whether he or she is infected or is a carrier. If the individual has so refused and there is no valid reason for the refusal, the court will order the examination. The examination may be performed by a physician of the individual’s own choosing at his or her own expense. An individual who refuses to undergo the examination may be committed to an appropriate institution as determined by the Secretary of Health.¹⁹²

¹⁸⁸ *Public Health Law Bench Book*, *supra* note 16, § 1.10, at 3; § 1.20, at 3; § 1.30, at 4 & § 1.40, at 4.

¹⁸⁹ DPCL, *supra* note 11, § 3(a); 35 P.S. § 521.3(a).

¹⁹⁰ *Id.* § 3(b); 35 P.S. § 521.3(b).

¹⁹¹ *Id.* § 16(c); 35 P.S. § 521.16(c).

¹⁹² DPCL, *supra* note 11, § 7; 35 P.S. § 521.7; 28 Pa. Code §§ 27.81-27.83.

Involuntary Treatment

Under the DPCL, if a public health authority finds that an individual who is infected with a communicable disease in a communicable stage refuses to submit to approved treatment, the individual may be isolated in an appropriate institution “for safekeeping and treatment until the disease has been rendered non-communicable.”¹⁹³ A public health authority may file a petition in the court of common pleas where the individual is present to commit the individual to such institution. The court must then hold a hearing within 24 hours after the individual is served a copy of the petition, to ascertain whether the individual has refused to submit to treatment. If the individual has so refused, the court will order the individual to be committed to such institution.¹⁹⁴

Quarantine and Isolation

The DPCL provides that a public health authority may order the quarantine or isolation of an individual if (1) the individual has been exposed to or infected with a communicable disease and (2) quarantine or isolation is necessary to protect the public from the spread of the disease. If an individual refuses to abide by a public health order for quarantine or isolation, court action will likely be sought.¹⁹⁵

Enforcement

A person who violates any provision of the DPCL or its accompanying regulations commits a summary offense punishable by “a fine of not less than twenty-five dollars (\$25) and not more than three hundred dollars (\$300), together with costs.”¹⁹⁶ In default of such payment, the person may be imprisoned “for a period not to exceed thirty (30) days.”¹⁹⁷ A prosecution may be instituted by a public health authority “or by any person having knowledge of a violation” of the DPCL or its accompanying regulations.¹⁹⁸ In addition, the court has the inherent authority to enforce its orders through the sanction of contempt.¹⁹⁹

¹⁹³ DPCL, *supra* note 11, § 11(a.1); 35 P.S. § 521.11(a.1).

¹⁹⁴ *Id.* § 11(a.2); 35 P.S. § 521.11(a.2); 28 Pa. Code § 27.87. Implicit in the court’s determination is the requirement that the individual has no valid reason for refusing treatment. *Public Health Law Bench Book, supra* note 16, § 1.20, at 1, n.5.

¹⁹⁵ *Id.* § 1.30, at 1-2 & § 1.40, at 1.

¹⁹⁶ DPCL, *supra* note 11, § 20(a); 35 P.S. § 521.20(a).

¹⁹⁷ *Id.*

¹⁹⁸ *Id.* § 20(b); 35 P.S. § 521.20(b).

¹⁹⁹ *Public Health Law Bench Book, supra* note 16, § 1.10, at 6; § 1.20, at 6; § 1.30, at 7 & § 1.40, at 6.

Text of the Disease Prevention and Control Law of 1955

AN ACT

Providing for the prevention and control of communicable and non-communicable diseases including venereal diseases, fixing responsibility for disease prevention and control, requiring reports of diseases, and authorizing treatment of venereal diseases, and providing for premarital and prenatal blood tests; amending, revising and consolidating the laws relating thereto; and repealing certain acts. (Title amended July 5, 1957, P.L.495, No.279)

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Section 20.	Penalties, Prosecutions and Disposition of Fines.
Section 21.	Specific Repeals.
Section 22.	General Repealer.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.

This act shall be known and may be cited as the “Disease Prevention and Control Law of 1955.”

Section 2. Definitions.

The following terms, whenever used in this act, have the meanings indicated in this section, except where the context indicates a clearly different meaning:

(a) Board. The State Advisory Health Board.

(b) Carrier. A person who, without any apparent symptoms of a communicable disease, harbors a specific infectious agent and may serve as a source of infection.

(c) Communicable Disease. An illness due to an infectious agent or its toxic products which is transmitted, directly or indirectly, to a well person from an infected person, animal or arthropod, or through the agency of an intermediate host, vector of the inanimate environment.

(d) Department. The State Department of Health.

(d.1) HIV-related test. Any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of HIV infection. ((d.1) added Sept. 29, 1994, P.L.516, No.75)

(e) Isolation. The separation for the period of communicability of infected persons or animals from other persons or animals in such places and under such conditions as will prevent the direct or indirect transmission of the infectious agent from infected persons or animals to other persons or animals who are susceptible or who may spread the disease to others.

(f) Local board or department of health. The board of health or the department of public health of a city, borough, incorporated town or township of the first class, or a county department of health, or joint county department of health.

(g) Local health officer. The head of a local department of health.

(h) Municipality. A city, borough, incorporated town or township.

(i) Quarantine. The limitation of freedom of movement of persons or animals who have been exposed to a communicable disease for a period of time equal to the longest usual incubation period of the disease in such manner as to prevent effective contact with those not so exposed. Quarantine may be complete, or, as defined below, it may be modified, or it may consist merely of surveillance or segregation.

(1) Modified quarantine is a selected, partial limitation of freedom of movement, determined on the basis of differences in susceptibility or danger of disease transmission, which is designed to meet particular situations. Modified quarantine includes, but is not limited to, the exclusion of children from school and the prohibition or the restriction of those exposed to a communicable disease from engaging in particular occupations.

(2) Surveillance is the close supervision of persons and animals exposed to a communicable disease without restricting their movement.

(3) Segregation is the separation for special control or observation of one or more persons or animals from other persons or animals to facilitate the control of a communicable disease.

(j) Regulation. Any rule or regulation issued by the board, or any ordinance, rule or regulation enacted or issued by any municipality or county department of health, or joint county department of health, pursuant to this act.

(k) Reportable disease. (a) Any communicable disease declared reportable by regulation; (b) any unusual or group expression of illness which, in the opinion of the secretary, may be a public health emergency; and (c) such non-communicable diseases and conditions for which the secretary may authorize reporting to provide data and information which, in the opinion of the Advisory Health Board, are needed in order effectively to carry out those programs of the department designed to protect and promote the health of the people of the Commonwealth, or to determine the need for the establishment of such programs.

(l) Secretary. The State Secretary of Health.

Section 3. Responsibility for Disease Prevention and Control.

(a) Local boards and departments of health shall be primarily responsible for the prevention and control of communicable and non-communicable disease, including disease control in public and private schools, in accordance with the regulations of the board and subject to the supervision and guidance of the department.

(b) The department shall be responsible for the prevention and control of communicable and non-communicable disease in any municipality which is not served by a local board or department of health, including disease control in public and private schools.

(c) If the secretary finds that the disease control program carried out by any local board or department of health is so inadequate that it constitutes a menace to the health of the people within or without the municipalities served by the local board or department of health, he may appoint agents of the department to supervise or to carry out the disease control program of the particular local board or department of health until he determines that the menace to the health of the people no longer exists and that the local board or department of health is able to carry out an adequate disease control program. The secretary shall require that any reasonable expenses incident to the administration of a local disease control program under this subsection, which are incurred by the department, shall be paid to the State by the local board or department of health or by the municipalities or counties which it serves.

Section 4. Reports.

(a) Every physician who treats or examines any person who is suffering from or who is suspected of having a communicable disease, or any person who is or who is suspected of being a carrier, shall make a prompt report of the disease in the manner prescribed by regulation to the local board or department of health which serves the municipality where the disease occurs or where the carrier resides or to the department if so provided by regulation.

(b) The department or local boards or departments of health may require the heads of hospitals and other institutions, the directors of laboratories, school authorities, the proprietors of hotels, roentgenologists, lodging houses, rooming houses or boarding houses, nurses, midwives, householders, and other persons having knowledge or suspicion of any communicable disease, to make a prompt report of the disease in a

manner prescribed by regulation to the local board or department of health which serves the municipality where the disease occurs, or to the department if so provided by regulation.

(c) Local boards or departments of health shall make reports of the diseases reported to them to the department at such times and in such manner as shall be provided for by regulation.

(d) Every physician or every person in charge of any institution for the treatment of diseases shall be authorized, upon request of the secretary, to make reports of such diseases and conditions other than communicable diseases which in the opinion of the Advisory Health Board are needed to enable the secretary to determine and employ the most efficient and practical means to protect and to promote the health of the people by the prevention and control of such diseases and conditions other than communicable diseases. The reports shall be made upon forms prescribed by the secretary and shall be transmitted to the department or to local boards or departments of health as requested by the secretary.

Section 5. Control Measures.

Upon the receipt by a local board or department of health or by the department, as the case may be, of a report of a disease which is subject to isolation, quarantine, or any other control measure, the local board or department of health or the department shall carry out the appropriate control measures in such manner and in such place as is provided by rule or regulation.

Section 6. Financial Assistance to Typhoid Fever Carriers and to Persons Subject to Isolation and Quarantine. (6 repealed July 5, 1957, P.L.495, No.279)

Section 7. Examination and Diagnosis of Persons Suspected of Being Infected with Venereal Disease, Tuberculosis or any other Communicable Disease, or of Being a Carrier.

Whenever the secretary or a local qualified medical health officer has reasonable grounds to suspect any person of being infected with a venereal disease, tuberculosis or any other communicable disease, or of being a carrier, he shall require the person to undergo a medical examination and any other approved diagnostic procedure, to determine whether or not he is infected with a venereal disease, tuberculosis or any other communicable disease, or is a carrier. In the event that the person refuses to submit to the examination, the secretary or the local qualified medical health officer may (1) cause the person to be quarantined until it is determined that he is not infected with a venereal disease, tuberculosis or any other communicable disease, or of being a carrier, or (2) file a petition in the court of common pleas of the county in which the person is present, which petition shall have appended thereto a statement, under oath, by a physician duly licensed to practice in the Commonwealth, that such person is suspected of being infected with venereal disease, tuberculosis or any other communicable disease, or that such person is suspected of being a carrier. Upon filing of such petition, the court shall, within twenty-four hours after service of a copy thereof upon the respondent, hold a hearing, without a jury, to ascertain whether the person named in the petition has refused to submit to an examination to determine whether he or she is infected with venereal

disease, tuberculosis or any other communicable disease, or that such person is a carrier. Upon a finding that the person has refused to submit to such examination and that there was no valid reason for such person so to do, the court shall forthwith order such person to submit to the examination. The certificate of the physician appended to the petition shall be received in evidence and shall constitute prima facie evidence that the person therein named is suspected of being infected with venereal disease, tuberculosis or any other communicable disease, or that such person is a carrier. The examination ordered by the court may be performed by a physician of his own choice at his own expense. The examination shall include physical and laboratory tests performed in a laboratory approved by the secretary, and shall be conducted in accordance with accepted professional practices, and the results thereof shall be reported to the local health board or health department on forms furnished by the Department of Health. Any person refusing to undergo an examination, as herein provided, may be committed by the court to an institution in this Commonwealth determined by the Secretary of Health to be suitable for the care of such cases.

(7 amended Sept. 11, 1959, P.L.865, No.343)

Section 8. Venereal Disease.

(a) Any person taken into custody and charged with any crime involving lewd conduct or a sex offense, or any person to whom the jurisdiction of a juvenile court attaches, may be examined for a venereal disease by a qualified physician appointed by the department or by the local board or department of health or appointed by the court having jurisdiction over the person so charged.

(b) Any person convicted of a crime or pending trial, who is confined in or committed to any State or local penal institution, reformatory or any other house of correction or detention, may be examined for venereal disease by a qualified physician appointed by the department or by the local board or department of health or by the attending physician of the institution, if any.

(c) Any such persons noted in paragraph (a) or (b) of this section found, upon such examination, to be infected with any venereal disease shall be given appropriate treatment by duly constituted health authorities or their deputies or by the attending physician of the institution, if any.

(8 amended Sept. 11, 1959, P.L.868, No.345)

Section 9. Diagnosis and Treatment of Venereal Disease.

(a) Except as provided in subsection (b) of this section, the department shall provide or designate adequate facilities for the free diagnosis, including blood and other tests, of venereal disease and for the free treatment of persons infected with venereal disease when necessary for the preservation of the public health.

(b) Upon approval of the department, any local board or department of health may undertake to share the expense of furnishing free diagnosis and free treatment of venereal disease, or the local board or department of health may take over, entirely or in part, the furnishing of free diagnosis and free treatment of venereal disease with or without financial assistance from the department.

Section 10. Sale of Drugs for Venereal Diseases.

The sale of drugs or other remedies for the treatment of venereal disease is prohibited, except under prescription of physicians licensed to practice in this Commonwealth.

Section 11. Persons Refusing to Submit to Treatment for Venereal Diseases, Tuberculosis or Any Other Communicable Disease. (Hdg. amended Sept. 11, 1959, P.L.866, No.344)

(a) ((a) deleted by amendment Sept. 11, 1959, P.L.866, No.344)

(a.1) If the secretary or any local health officer finds that any person who is infected with venereal disease, tuberculosis or any other communicable disease in a communicable stage refuses to submit to treatment approved by the department or by a local board or department of health, the secretary or his representative or the local medical health officer may cause the person to be isolated in an appropriate institution designated by the department or by the local board or department of health for safekeeping and treatment until the disease has been rendered non-communicable. ((a.1) added Sept. 11, 1959, P.L.866, No.344)

(a.2) The secretary or the local health officer may file a petition in the court of common pleas of the county in which the person is present to commit such person to an appropriate institution designated by the department or by the local board or department of health for safekeeping and treatment until such time as the disease has been rendered non-communicable. Upon filing of such petition, the court shall, within twenty-four hours after service of a copy thereof upon the respondent, hold a hearing, without a jury, to ascertain whether the person named in the petition has refused to submit to treatment. Upon a finding that the person has refused to submit to such treatment, the court shall forthwith order such person to be committed to an appropriate institution or hospital designated by the department or by the local board or department of health. ((a.2) added Sept. 11, 1959, P.L.866, No.344)

(a.3) For the purpose of this section, it is understood that treatment approved by the department or by a local board or department of health shall include treatment by a duly accredited practitioner of any well recognized church or religious denomination which relies on prayer or spiritual means alone for healing: Provided, however, That all requirements relating to sanitation, isolation or quarantine are complied with. ((a.3) added Sept. 11, 1959, P.L.866, No.344)

(b) Any county jail or other appropriate institution may receive persons who are isolated or quarantined by the department or by a local board or department of health by reason of a venereal disease for the purpose of safekeeping and treatment. The department or the local board or department of health shall reimburse any institution which accepts such persons at the rate of maintenance that prevails in such institution, and shall furnish the necessary medical treatment to the persons committed to such institution.

Section 11.1. Human Immunodeficiency Virus (HIV) Testing of Certain Convicted Offenders.

(a) This section is enacted in order to comply with the requirements of section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90-351, 42 U.S.C. § 3756) which compels states to enact a law requiring administration of HIV-related tests

to individuals convicted of specified offenses when a victim requests that such a test be performed.

(b) When an individual has been convicted or adjudicated delinquent of one of the offenses listed in subsection (c), the victim of that offense may request that an HIV-related test be performed on the individual who has been convicted or adjudicated delinquent, and the results of that test shall be disclosed to the victim. If the victim requests a test within six weeks of the conviction or adjudication of delinquency, then the individual who has been convicted or adjudicated delinquent shall be deemed to have consented to the performance of an HIV-related test and to the release of the results of that test to the victim notwithstanding sections 5(a) and 7(a)(3) of the act of November 29, 1990 (P.L.585, No.148), known as the "Confidentiality of HIV-Related Information Act"; the test shall otherwise be administered and the results released to the victim in accordance with the provisions of the "Confidentiality of HIV-Related Information Act." As used in this subsection, the term "victim" shall include the parent or legal guardian of a minor or mentally disabled adult. As used in this subsection, the term "convicted" includes conviction by entry of a plea of guilty or nolo contendere, conviction after trial and a finding of not guilty due to insanity or a finding of guilty but mentally ill.

(c) The HIV-related test shall be performed at the request of a victim if the individual has been convicted or adjudicated delinquent under one of the following provisions of 18 Pa.C.S. (relating to crimes and offenses):

Section 3121 (relating to rape).

Section 3122 (relating to statutory rape).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3128 (relating to spousal sexual assault).

Section 4302 (relating to incest).

Section 6301 (relating to corruption of minors) if there has been sexual intercourse as defined in 18 Pa.C.S. § 3101 (relating to definitions) between the individual who has been convicted or adjudicated delinquent and the victim.

(d) When a victim requests that an HIV-related test be performed on an individual convicted or adjudicated delinquent of one of the offenses listed in subsection (c), the request shall be forwarded to the department or local board or local health department along with the name and current address of the victim and the individual convicted or adjudicated delinquent, if known. All information regarding the request shall be maintained as confidential in accordance with section 15 of this act.

(e) The department or local board or local health department shall make provisions for:

(1) The administration of the HIV-related test to the individual convicted or adjudicated delinquent in accordance with subsection (b) of this section.

(2) Notification to the victim of the results of the test administered to the individual convicted or adjudicated delinquent.

(3) HIV-related testing to and counseling of the victim in accordance with the "Confidentiality of HIV-Related Information Act" at no cost to the victim.

(4) Referral of the victim to appropriate health care and support services.

(11.1 added Sept. 29, 1994, P.L.516, No.75)

Section 12. Premarital Examination for Syphilis. (12 repealed June 25, 1997, P.L.331, No.35)

Section 13. Prenatal Examination for Syphilis.

(a) Every physician who attends, treats or examines any pregnant woman for conditions relating to pregnancy, during the period of gestation or at delivery, shall take or cause to be taken, unless the woman dissents, a sample of blood of such woman at the time of first examination, or within fifteen days thereof, and shall submit the sample to an approved laboratory for an approved serological test for syphilis. All other persons permitted by law to attend pregnant women, but not permitted by law to take blood samples, shall, unless the woman dissents, likewise cause a sample of the blood of every such pregnant woman attended by them to be taken by a physician licensed to practice in this Commonwealth and submit it to an approved laboratory for an approved serological test. In the event of dissent, it shall be the duty of the physician to explain to the pregnant woman the desirability of such a test. The serological test required by this section shall be made, without charge by the department, upon the request of the physician submitting the sample, if he submits a certificate that the patient is unable to pay.

(b) In reporting every birth and fetal death, physicians and others required to make such reports shall state upon the certificate whether or not the blood test required by this section was made. If the test was made, the date of the test shall be given. If the test was not made, it shall be stated whether it was not made because, in the opinion of the physician, the test was not advisable or because the woman dissented.

Section 14. Diagnostic Tests for Venereal Diseases.

For the purpose of this act, a standard or approved test procedure for each of the venereal diseases shall be a test approved by the department, and if a laboratory test is part of the approved procedure, it shall be made in a laboratory approved to make such tests by the department.

Section 14.1. Treatment of Minors.

Any person under the age of twenty-one years infected with a venereal disease may be given appropriate treatment by a physician. If the minor consents to undergo treatment, approval or consent of his parents or persons in loco parentis shall not be necessary and the physician shall not be sued or held liable for properly administering appropriate treatment to the minor.

(14.1 added Dec. 1, 1971, P.L.590, No.156)

Section 15. Confidentiality of Reports and Records.

State and local health authorities may not disclose reports of diseases, any records maintained as a result of any action taken in consequence of such reports, or any other records maintained pursuant to this act or any regulations, to any person who is not a member of the department or of a local board or department of health, except where necessary to carry out the purposes of this act. State and local health authorities may permit the use of data contained in disease reports and other records, maintained pursuant to this act, or any regulation, for research purposes, subject to strict supervision by the

health authorities to insure that the use of the reports and records is limited to the specific research purposes.

Section 16. Rules and Regulations.

(a) The Board may issue rules and regulations with regard to the following:

(1) the communicable and non-communicable diseases, which are to be reportable;

(2) the methods of reporting of diseases, the contents of reports and the health authorities to whom diseases are to be reported;

(3) the communicable diseases which are to be subject to isolation, quarantine, or other control measures;

(4) the duration of the periods of isolation and quarantine;

(5) the enforcement of isolation quarantine and other control measures;

(6) the immunization and vaccination of persons and animals;

(7) the prevention and control of disease in public and private schools;

(8) the regulation of carriers;

(9) The advertisement of treatment, prophylaxis, diagnosis, and cure of venereal diseases and the information which physicians must convey to persons being treated for a venereal disease in a communicable stage;

(10) ((10) repealed July 5, 1957, P.L.495, No.279)

(11) the prevention and control of non-communicable diseases; and

(12) any other matters it may deem advisable for the prevention and control of disease and for carrying out the provisions and purposes of this act.

(b) The Secretary shall, from time to time, review the rules and regulations and make recommendations to the Board for any changes which he deems advisable.

(c) Municipalities which have boards or departments of health or county departments of health may enact ordinances or issue rules and regulations relating to disease prevention and control, which are not less strict than the provisions of this act or the rules and regulations issued thereunder by the board. Local ordinances, rules or regulations relating to disease prevention and control, which are in effect on the effective date of this act, shall not be deemed to be repealed, unless they are less strict than the provisions of this act or the rules and regulations issued thereunder by the board.

Section 17. Saving Clause.

The provisions of this act, so far as they are the same as those of acts repealed by this act, are intended as a continuation of such acts and not as new enactments. The provisions of this act shall not affect anything done or any right accrued, or affect any suit or prosecution pending or to be instituted to enforce any right or penalty or punish any offense, under the authority of any act repealed by this act. All rules and regulations issued by the board pursuant to any act repealed by this act shall continue, until changed, with the same force and effect as if such acts had not been repealed.

Section 18. Severability.

If any provision of this act or the application of any provision to particular circumstances is held invalid, the remainder of the act or the application of such provision to other circumstances shall not be affected.

Section 19. Penalties, Prosecutions and Disposition of Fines.

(a) Any person afflicted with communicable tuberculosis, quarantined or caused to be quarantined in a State institution, who leaves without the consent of the medical director of the institution, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or undergo imprisonment for not less than thirty days nor more than six months, or both.

(b) Any person afflicted with communicable tuberculosis, quarantined or caused to be quarantined under the provisions of this act in a State institution, who leaves without the consent of the medical director of the institution may be apprehended and returned thereto by any sheriff, constable or police officer or any health officer, at the expense of the county.

(c) Whoever delivers, or causes to be delivered, any alcoholic or other intoxicating or narcotic substance to any patient in any State sanatoria used for the treatment of tuberculosis without the knowledge of the medical director thereof, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50), or to undergo imprisonment for not less than fifteen days nor more than three months, or both.

Section 20. Penalties, Prosecutions and Disposition of Fines.

(a) Any person who violates any of the provisions of this act or any regulation shall, for each offense, upon conviction thereof in a summary proceeding before any magistrate, alderman or justice of the peace in the county wherein the offense was committed, be sentenced to pay a fine of not less than twenty-five dollars (\$25) and not more than three hundred dollars (\$300), together with costs, and in default of payment of the fine and costs, to be imprisoned in the county jail for a period not to exceed thirty (30) days.

(b) Prosecutions may be instituted by the department, 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.

(c) Any fine imposed for a violation occurring in a municipality which has its own local board or department of health shall be paid to the municipality. Any fine imposed for a violation occurring in a municipality served by a county department of health shall be paid to the county wherein the offense was committed. All other fines shall be paid into the General Fund of the Commonwealth. This disposition of fines shall be controlling regardless of the party instituting the prosecution.

Section 21. Specific Repeals.

The following acts and all amendments thereto are hereby repealed absolutely:

(1) The act, approved the first day of April, one thousand eight hundred thirty-four (Pamphlet Laws 161), entitled "An act to protect the citizens of this Commonwealth from injuries arising from Mad Dogs running at large."

(2) The act, approved the fifth day of June, one thousand nine hundred thirteen (Pamphlet Laws 443), entitled "An act for the prevention of blindness, by requiring the reporting of cases of ophthalmia neonatorum (inflammation of the eyes of infants)

by physicians, midwives and others, and requiring the reporting of results of treatment of each case of said disease, and fixing a penalty for violation thereof.”

(3) The act, approved the twenty-sixth day of April, one thousand nine hundred twenty-one (Pamphlet Laws 299), Act No. 150, entitled “An act requiring the examination and treatment for venereal diseases of prisoners convicted of crime or pending trial, and authorizing the State Department of Health to make suitable rules and regulations for its enforcement.”

(4) The act, approved the sixteenth day of May, one thousand nine hundred twenty-one (Pamphlet Laws 636), entitled “A supplement to an act, approved the twenty-second day of June, one thousand eight hundred and ninety-one (Pamphlet Laws three hundred and seventy-nine), entitled ‘An act to provide for the selection of a site and the erection of a State asylum for the chronic insane, to be called the State Asylum for the Chronic Insane of Pennsylvania, and making an appropriation therefor;’ providing for the quarantine, and for the reception, detention, care, and treatment, at said asylum, of persons suffering with syphilis, and for their commitment thereto; and providing for the payment of the cost of commitment, care, and maintenance of such persons, in the same manner as insane persons.”

(5) The act, approved the twenty-eighth day of June, one thousand nine hundred twenty-three (Pamphlet Laws 888), entitled “An act to safeguard human life and health throughout the Commonwealth by providing for the reporting, quarantining, and control of diseases declared communicable by this act or by regulation of the Department of Health; providing for the prevention of infection therefrom; and prescribing penalties.”

(6) The act, approved the twenty-fourth day of March, one thousand nine hundred twenty-seven (Pamphlet Laws 60), entitled “An act to amend sections nine and ten of the act, approved the twenty-eighth day of June, one thousand nine hundred twenty-three (Pamphlet Laws 888), entitled ‘An act to safeguard human life and health throughout the Commonwealth by providing for the reporting, quarantining, and control of diseases declared communicable by this act or by regulation of the Department of Health; providing for the prevention of infection therefrom; and prescribing penalties.’”

(7) The act, approved the twentieth day of May, one thousand nine hundred thirty-seven (Pamphlet Laws 751), entitled “An act to amend sections one, two, three and section nine, as amended, of the act, approved the twenty-eighth day of June, one thousand nine hundred twenty-three (Pamphlet Laws 888), entitled ‘An act to safeguard human life and health throughout the Commonwealth by providing for the reporting, quarantining, and control of diseases declared communicable by this act or by regulation of the Department of Health; providing for the prevention of infection therefrom; and prescribing penalties,’ by eliminating lists of communicable diseases, and giving authority to the Department of Health to declare by regulation what diseases are communicable or communicable and quarantinable; shortening reports required of physicians in such cases; clarifying the duration of placarding; and empowering the Department of Health to obtain additional information from local health authorities.”

(8) The act, approved the fifteenth day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 363), entitled “An act to amend sections two, three, four and six

of the act, approved the fifth day of June, one thousand nine hundred and thirteen (Pamphlet Laws 443), entitled ‘An act for the prevention of blindness, by requiring the reporting of cases of ophthalmia neonatorum (inflammation of the eyes of infants) by physicians, midwives and others, and requiring the reporting of results of treatment of each case of said disease, and fixing a penalty for violation thereof,’ by imposing duties on public health nurses, social workers, county medical directors and physicians and increasing penalties for violation of said act.”

(9) The act approved the twenty-fourth day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 808), entitled “An act for the prevention of congenital syphilis; providing for and regulating the taking of serological tests of certain women pregnant with child and requiring notation thereof on the birth and still-birth certificates of their children; imposing duties upon the Department of Health and upon physicians and other persons attending women pregnant with child and imposing penalties.”

(10) The act approved the eleventh day of April, one thousand nine hundred forty-five (Pamphlet Laws 203), entitled “An act to provide assistance for typhoid fever carriers and persons having typhoid fever carriers in their households and imposing certain responsibilities upon the Secretary of Health, the Secretary of Public Assistance, and the Secretary of Welfare in connection therewith.”

(11) The act, approved the sixteenth day of May, one thousand nine hundred forty-five (Pamphlet Laws 577), entitled “An act for the prevention, control and cure of venereal diseases by requiring certain persons to submit to physical examination and blood tests; providing for the treatment of certain persons; requiring reports to be made to the State Department of Health; imposing duties upon and authorizing and directing the Secretary of Health to make rules and regulations, and to disseminate certain information; regulating the advertisement and restricting the sale of certain drugs and remedies and imposing penalties.”

(12) The act, approved the eighth day of May, one thousand nine hundred forty-seven (Pamphlet Laws 177), entitled “An act to amend section two of the act, approved the eleventh day of April, one thousand nine hundred forty-five (Pamphlet Laws 203), entitled ‘An act to provide assistance for typhoid fever carriers and persons having typhoid fever carriers in their households and imposing certain responsibilities upon the Secretary of Health, the Secretary of Public Assistance, and the Secretary of Welfare, in connection therewith,’ by fixing the date on which financial assistance shall begin.”

(13) The act, approved the tenth day of June, one thousand nine hundred forty-seven (Pamphlet Laws 491), entitled “An act to amend section five of the act, approved the sixteenth day of May, one thousand nine hundred forty-five (Pamphlet Laws 577), entitled ‘An act for the prevention, control and cure of venereal diseases by requiring certain persons to submit to physical examination and blood tests; providing for the treatment of certain persons; requiring reports to be made to the State Department of Health; imposing duties upon and authorizing and directing the Secretary of Health to make rules and regulations, and to disseminate certain information; regulating the advertisement and restricting the sale of certain drugs and remedies and imposing penalties,’ authorizing county jails to receive persons under quarantine, and providing for reimbursement by the Commonwealth.”

(14) The act, approved the twenty-fourth day of August, one thousand nine hundred fifty-one (Pamphlet Laws 1333), entitled “An act to amend sections one, two, three and five of the act, approved the fifth day of June, one thousand nine hundred and thirteen (Pamphlet Laws 443), entitled ‘An act for the prevention of blindness, by requiring the reporting of cases of ophthalmia neonatorum (inflammation of the eyes of infants) by physicians, midwives and others, and requiring the reporting of results of treatment of each case of said disease, and fixing a penalty for violation thereof,’ by adding county departments of health or joint-county departments of health to the health authorities to which cases of ophthalmia neonatorum must be reported.”

(15) The act, approved the twenty-sixth day of September, one thousand nine hundred fifty-one (Pamphlet Laws 1499), entitled “An act to amend sections one and two, as amended, sections four, five, six, seven and eight, and sections nine and ten, as amended, of the act, approved the twenty-eighth day of June, one thousand nine hundred and twenty-three (Pamphlet Laws 888), entitled ‘An act to safeguard human life and health throughout the Commonwealth by providing for the reporting, quarantining, and control of diseases declared communicable by this act or by regulation of the Department of Health; providing for the prevention of infection therefrom; and prescribing penalties,’ by changing the method of approval of communicable disease regulations by the advisory health board, and by adding counties which have established a county department of Health or joint-county department of health to the political subdivisions required or empowered to perform certain duties relating to the reporting, quarantining, and control of diseases declared communicable by law or regulation.”

Section 22. General Repealer.

All other acts and parts of acts inconsistent herewith are hereby repealed.

COUNTERTERRORISM PLANNING, PREPAREDNESS AND RESPONSE ACT

Isolation and Quarantine

The Counterterrorism Planning, Preparedness and Response Act (CPPRA) grants the Governor the authority to order the temporary isolation or quarantine of an individual or groups of individuals under certain circumstances:

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, may temporarily isolate or quarantine an individual or groups of individuals through a written order if delay in imposing the isolation or quarantine through judicial proceedings currently available to the department and local health departments would significantly jeopardize the department's ability to prevent or limit the transmission of a contagious or potentially contagious disease to others. This subsection shall not require a declaration of disaster emergency by the Governor in order to be effective.²⁰⁰

In order to continue the quarantine or isolation order, the department or local health department must file a petition with the court within 24 hours or the next court business day after the issuance of the order. The court must then hold a hearing within 72 hours after the filing of the petition to determine whether the isolation or quarantine should continue. The isolated or quarantined individual must be given reasonable notice of the hearing, including its time, place and purpose. The court may determine the manner in which the hearing will occur. Closed-circuit television may be used. The individual is entitled to legal counsel, and the court will provide counsel if the individual lacks adequate financial resources. If the court determines that the isolation or quarantine should continue, it must set the time and duration, which may not exceed 30 days. If the individual has been isolated or quarantined for 30 days, the department must request that the court further review the case to determine whether further isolation or quarantine is warranted. The department or local health department must provide the court with ongoing reports on the individual during the period of isolation or quarantine.²⁰¹

²⁰⁰ CPPRA, *supra* note 12, § 301(a); 35 P.S. § 2140.301(a).

²⁰¹ *Id.* § 301(b); 35 P.S. § 2140.301(b).

Although government action under the CPPRA is triggered by an “actual or suspected bioterrorist or biohazardous event,” the terms “bioterrorist” and “biohazardous event” are not defined. Therefore, uncertainty may develop “as to both the conditions that may give rise to government action and the character of the government’s response.”²⁰²

***Text of the Counterterrorism Planning,
Preparedness and Response Act***

AN ACT

Providing for counterterrorism planning, preparedness and response; imposing powers and duties on the Pennsylvania Emergency Management Agency, the Department of Health, counties and municipalities; and providing for the organization of various response teams.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

²⁰² Bozza, *supra* note 35, at 27.

CHAPTER 1
GENERAL PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Counterterrorism Planning, Preparedness and Response Act.

Section 102. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Agency.” The Pennsylvania Emergency Management Agency.

“Department.” The Department of Health of the Commonwealth.

“Disaster medical assistance teams.” A complement of individuals organized in accordance with standards developed by the Pennsylvania Emergency Management Agency and applicable Federal agencies to provide medical service at the scene of natural and manmade disasters and mass casualty incidents.

“Disaster mortuary teams.” A complement of individuals organized in accordance with standards developed by the Pennsylvania Emergency Management Agency and applicable Federal agencies to provide mortuary service at the scene of natural and manmade disasters and mass casualty incidents.

“FEMA.” The Federal Emergency Management Agency.

“Letter of agreement.” A written agreement between a regional counterterrorism task force and a public, semipublic, private or nonprofit corporation, business, association, partnership, authority, individual or other entity that agrees to provide personnel, equipment, supplies, training facilities or other resources either directly to or in support of the task force’s specialized regional counterterrorism response team. All letters of agreement entered into under the provisions of this act must, at a minimum, address all of the following:

- (1) Workers’ compensation and death benefits.
- (2) Use of county 911 communications centers, county emergency management agencies or the State Emergency Operations Center.
- (3) Member participation in training exercises, drills and actual activation and deployment.

“Local health department.” A county department of health under the act of August 24, 1951 (P.L.1304, No.315), known as the Local Health Administration Law, or a department of health in a municipality approved for a Commonwealth grant to provide local health services under section 25 of the Local Health Administration Law.

“Manmade disaster.” Any biological, chemical, nuclear, radiological, industrial, commercial or transportation accident, attack, explosion, conflagration, contamination, power failure, computer or communications failure, natural resource shortage or other condition, including enemy or terrorist act, which threatens or causes substantial property damage, human suffering and hardship or loss of life.

“Municipal or municipality.” A city, borough, incorporated town, township or home rule municipality of this Commonwealth.

“Mutual aid.” A county’s, municipality’s or volunteer service organization’s affirmative act of sending its personnel, equipment or resources to the scene of an actual

or potential natural or manmade disaster, whether inside or outside the boundaries of this Commonwealth, in response to an official dispatch request from a county 911 communications center, county emergency management agency or the State emergency operations center.

“Mutual aid agreement.” A written agreement between a regional counterterrorism task force and a county, municipality or volunteer service organization whereby the county, municipality or volunteer service organization agrees to provide personnel, equipment or other resources in response to an actual or potential natural or manmade disaster. All mutual aid agreements entered into under the provisions of this act must, at a minimum, address all of the following:

- (1) Workers’ compensation and death benefits.
- (2) Use of county 911 communications centers, county emergency management agencies or the State emergency operations center.
- (3) Member participation in training exercises, drills and actual activation and deployment.

“Natural disaster.” Any hurricane, tornado, storm, flood, high water, earthquake, landslide, mudslide, snowstorm, drought, insect infestation, fire, explosion or other natural catastrophe which results in substantial property damage, human suffering and hardship or loss of life.

“Regional counterterrorism task force.” A complement of Federal, State, county and municipal emergency management, health, law enforcement, public safety and other officials and representatives from volunteer service organizations, private business and industry, hospitals and medical care facilities and other entities within a multicounty area as determined by the agency that is responsible for conducting counterterrorism planning, training preparedness and response activities.

“Specialized regional counterterrorism response team.” A complement of individuals established by a regional counterterrorism task force and organized in accordance with standards developed by the Pennsylvania Emergency Management Agency and applicable Federal agencies to respond to emergencies involving an actual or potential natural or manmade disaster. Such teams may include disaster medical assistance teams and disaster mortuary response teams.

“Specialized Statewide response team.” A complement of individuals organized by the Commonwealth to provide specialized personnel, equipment and other support capabilities in response to an actual or potential natural or manmade disaster in this Commonwealth. Such teams may include disaster medical assistance teams and disaster mortuary response teams.

“Terrorism.” The unlawful use of force or violence committed by a group or individual against persons or property to intimidate or coerce a government, the civilian population or any segment thereof in furtherance of political or social objectives.

“Urban search and rescue task force.” A complement of individuals organized by the agency in accordance with standards developed by the agency and the Federal Emergency Management Agency to provide emergency response and search and rescue capabilities and resources at the scene of a natural or manmade disaster.

“Volunteer service organization.” A volunteer fire company, volunteer ambulance or medical company, volunteer rescue squad or any other volunteer entity organized and chartered or incorporated in this Commonwealth or chartered by Congress for the primary purpose of providing emergency services as defined in 35 Pa.C.S. § 7102 (relating to definitions).

CHAPTER 2 COUNTERTERRORISM PLANNING, PREPAREDNESS AND RESPONSE

Section 201. Counterterrorism planning, preparedness and response program.

(a) Program. The Pennsylvania Emergency Management Agency shall coordinate and consult with other State agencies, departments and offices, including the Office of Homeland Security of the Commonwealth, to establish, develop and maintain a counterterrorism planning, preparedness and response program to promote and protect the health, safety and welfare of emergency responders, public officials and the general public from actual or potential natural or manmade disasters in this Commonwealth.

(b) Agency responsibilities. The agency shall:

(1) Define the necessary components and composition of regional counterterrorism task forces and specialized regional counterterrorism response teams and the respective regional counterterrorism zones for each. The agency shall not be responsible for appointing individual members to the regional counterterrorism task forces or the specialized regional counterterrorism response teams.

(2) Provide training and technical assistance for counterterrorism planning, preparedness and response.

(3) Establish guidelines and policies to coordinate emergency response activities with Federal, State, county and municipal emergency management, health, law enforcement, public safety and other officials and representatives from volunteer service organizations, private business and industry, hospitals and medical care facilities and other entities responsible for the health, safety and welfare of the citizens of this Commonwealth. The agency shall consult with representatives of the regional counterterrorism task forces to develop such policies and guidelines and those necessary to carry out the provisions of this chapter.

(4) Require the counterterrorism task force to prepare counterterrorism emergency response plans or protocols, readiness evaluation reports or other documents deemed necessary by the agency.

(5) Provide grants and other funding assistance as required by the provisions of this chapter.

(6) Conduct terrorist incident exercises.

(7) Provide technical assistance to regional counterterrorism task forces in developing and entering into mutual aid agreements and letters of agreement.

(8) Establish a certification program for specialized regional counterterrorism response teams which may include standards for the administration, composition, training and equipping of the teams.

Section 202. Regional counterterrorism task forces.

(a) Establishment. The agency, in coordination with State, county and municipal emergency management, health, law enforcement, public safety and other officials and representatives from volunteer service organizations, private business and industry, hospitals and medical care facilities and other entities responsible for the health, safety and welfare of the citizens of this Commonwealth, shall establish regional counterterrorism task forces throughout this Commonwealth.

(b) Response plans. Each regional counterterrorism task force shall prepare a counterterrorism preparedness and response plan in accordance with guidelines developed by the agency. The plan shall be submitted to the agency within 180 days of the effective date of this act. The agency shall review and approve each plan in a timely manner, but no later than 90 days after its submission to the agency. The task force shall review and update the plan on an annual basis.

(c) Meetings. Regional counterterrorism task force meetings that are called to discuss sensitive or classified law enforcement, terrorist threat assessment or other confidential public and/or private facility safety information shall not be subject to the provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings).

Section 203. Regional counterterrorism response and preparedness.

(a) Specialized regional counterterrorism response teams. A regional counterterrorism task force shall establish specialized regional counterterrorism response teams.

(b) Regional counterterrorism response zones. The agency shall establish primary and secondary regional response zones within this Commonwealth for specialized regional counterterrorism response teams. The regional response zones may consist of multiple counties or portions of several adjoining counties as determined by the agency.

(c) Activation and deployment. A specialized regional counterterrorism response team may be activated and deployed by the Governor, his designee or an official designated by the appropriate regional counterterrorism task force.

Section 204. Urban search and rescue task force.

(a) Establishment of task forces. The agency shall establish urban search and rescue task forces. The task forces shall also provide professional, logistical, material and other forms of support to regional counterterrorism task forces and specialized regional counterterrorism response teams.

(b) Organization. An urban search and rescue task force shall be organized in accordance with guidelines developed by the agency in coordination with FEMA and members of the task force.

(c) Responsibilities. An urban search and rescue task force shall respond to actual or potential natural or manmade disasters in this Commonwealth and shall also perform search and rescue functions as delineated in The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, 42 U.S.C. § 5121 et seq.), the Federal Response Plan or its successor and the counterterrorism preparedness and response plans created in accordance with the provisions of this chapter.

(d) Activation and deployment. An urban search and rescue task force or any of its components, subgroups or regional elements may only be activated and deployed to the scene of a disaster by either the Governor or his designee, the President of the United States or a FEMA-designated official. During an activation and deployment by the Governor, the administrative and operational costs of the task force, its individual members and their employers, State agencies and other parties shall be paid under the provisions of the Governor's declaration of disaster emergency, including paying or reimbursing any parties for workers' compensation and death benefits in the event of injury or death of a task force member.

(e) Workers' compensation and death benefits. A member of an urban search and rescue task force shall be eligible to receive workers' compensation and death benefits in the event of injury or death that occurs during the period of activation or deployment.

(f) Funding, grants and donations. In addition to any funds that are provided to a task force under section 206 or the authority of 35 Pa.C.S. § 7307 (relating to use and appropriation of unused Commonwealth funds), the urban search and rescue task force may be eligible to receive grants, donations of equipment and supplies and other funds from any source. As an agent of the Commonwealth, a task force is entitled to tax-exempt status from the Federal Government.

Section 205. Specialized Statewide response teams.

(a) Establishment. The Commonwealth may establish one or more specialized Statewide response teams. These teams shall also provide professional, logistical, material and other forms of support to the regional counterterrorism task forces and specialized regional counterterrorism response teams organized in this Commonwealth. The Commonwealth may enter into an agreement with a One Call System as defined in the act of December 10, 1974 (P.L.852, No.287), referred to as the Underground Utility Line Protection Law, for the provision of specialized communications services.

(b) Organization and responsibilities. Specialized Statewide response teams shall be organized in accordance with guidelines developed by the Commonwealth in consultation with applicable Federal or State agencies.

(c) Activation. Specialized Statewide response teams may only be activated and deployed to the scene of a disaster by the Governor or his designee.

Section 206. Grant program.

(a) Authorization. The agency shall have the authority to make grants to regional counterterrorism task forces, specialized regional counterterrorism response teams, specialized Statewide response teams and urban search and rescue task forces to assist them in carrying out the provisions of this act, including, but not limited to, entering into letters of agreement or mutual aid agreements or providing mutual aid.

(b) Grants and funding. Regional counterterrorism task forces, specialized regional counterterrorism response teams, specialized Statewide response teams and urban search and rescue task forces may receive grants and funding from the Federal Government and the Commonwealth through application to the agency or another entity providing grants or funding for the purposes of this act.

(c) Limitation. Grants shall only be made by the agency to the extent that funding is available.

Section 207. Miscellaneous provisions.

(a) Immunity from liability. The provisions of 42 Pa.C.S. § 8331 (relating to medical good Samaritan civil immunity), 8332 (relating to nonmedical good Samaritan civil immunity) or 8332.4 (relating to volunteer-in-public-service negligence standard) shall apply to members of a specialized regional counterterrorism response team, an urban search and rescue task force or a specialized Statewide response team and individuals who provide logistical, material or other forms of emergency response support to such a team or task force during activation or deployment of a team or task force to a potential or actual manmade or natural disaster or while engaged in a task force or team drill or training exercise.

(b) Effect on workers' compensation premiums. Nothing in this act shall be construed to permit an insurer to raise workers' compensation premiums due to the participation or membership of a county, municipality, volunteer service organization, individual or employer on a regional counterterrorism task force, specialized regional counterterrorism response team, specialized Statewide response team or urban search and rescue task force.

Section 208. Commonwealth indemnification.

The Commonwealth shall indemnify a county or municipality for any costs related to damaged county or municipal property which results from participation in a regional counterterrorism task force, specialized regional counterterrorism response team or specialized Statewide response team response only when all of the following are met:

- (1) the county or municipality is responding upon activation or deployment by the Governor;
- (2) the damage to county or municipal property occurs outside of the primary regional counterterrorism response zone;
- (3) the county or municipality's insurance does not cover the property damage; and
- (4) the property damage was not caused by the willful misconduct of the county or municipality or any of its employees or agents.

CHAPTER 3
PUBLIC HEALTH EMERGENCY MEASURES

Section 301. Temporary isolation and quarantine without notice.

(a) Temporary isolation or quarantine. 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, may temporarily isolate or quarantine an individual or groups of individuals through a written order if delay in imposing the isolation or quarantine through judicial proceedings currently available to the department and local health departments would significantly jeopardize the department's ability to prevent or limit the transmission of a contagious or potentially contagious disease to others. This subsection shall not require a declaration of disaster emergency by the Governor in order to be effective.

(b) Judicial review.

(1) After issuing the written order, the department or local health department shall promptly file a petition with the court within 24 hours or the next court business day after the issuance of the order for a hearing to authorize the continued isolation or quarantine.

(2) The court shall hold a hearing on the petition not more than 72 hours after the filing of the petition to determine whether continued isolation or quarantine is warranted.

(3) Reasonable notice, either oral or written, stating the time, place and purpose of the hearing shall be given to the isolated or quarantined individual. The court may determine the manner in which the hearing shall occur, including through the use of closed-circuit television.

(4) An isolated or quarantined individual is entitled to representation by legal counsel at all stages of any proceedings under this section and, if the individual is without financial resources or otherwise unable to employ counsel, the court shall provide counsel for him.

(5) If the court determines continued isolation or quarantine is warranted, the court shall so order the continued isolation or quarantine and shall fix the time and duration of the isolation or quarantine, which in no case shall exceed 30 days except as set forth in paragraph (6).

(6) Where an individual has been isolated or quarantined for a period of 30 days, the department shall ask the court to review the order to determine if further isolation or quarantine is warranted.

(7) The department or local health department shall provide the court with ongoing reports on the isolated or quarantined individual during the period of isolation or quarantine.

(c) Relation to other laws. Nothing in this section shall be construed to limit the existing authority of the Secretary of Health or the department or a local health department.

Section 302. Immunity from liability.

The provisions of 42 Pa.C.S. § 8331 (relating to medical good Samaritan civil immunity), 8332 (relating to nonmedical good Samaritan civil immunity) or 8332.4 (relating to volunteer-in-public-service negligence standard) shall apply to any person who provides assistance in carrying out the provisions of this chapter.

Section 303. Effective date.

This act shall take effect in 30 days.

SELECT HEALTH AND SAFETY REGULATIONS

This section replicates select provisions from Title 28 (Health and Safety) of the Pennsylvania Code.

Chapter 15. State Aid to Local Health Departments

§ 15.11. Minimum public health programs.

Local health departments^[203] shall provide public health programs in the following areas: administrative and supportive services; personal health services; and environmental health services.

§ 15.12. Administrative and supportive services.

Administrative and supportive services shall include, but need not be limited to, the following: administration and program direction; budget; accounting; personnel administration including merit system supervision; public health education, public health statistics, public health laboratory services. Administrative staff shall include a director and necessary professional, technical and clerical personnel.

§ 15.13. Personal health services.

Personal health services shall include, but need not be limited to the following: chronic disease; communicable disease control, including tuberculosis control and venereal disease control; maternal and child health services; and public health nursing services.

§ 15.14. Environmental health services.

Environmental health services shall include, but need not be limited to, the following: food protection, water supply, water pollution control, bathing places, vector control, solid wastes, institutional environment, recreational environment and housing environment.

²⁰³ A “local health department” is “[a] county health department created pursuant to the [Local Health Administration Law, *supra* note 48] or the health department or board of health of any municipality entitled to receive Commonwealth grants under the [Local Health Administration Law].” 28 Pa. Code § 15.1.

Chapter 27. Communicable and Noncommunicable Diseases

§ 27.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

ACIP—The Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, United States Department of Health and Human Services.

AIDS (Acquired Immune Deficiency Syndrome)—As defined by the CDC case definition published in the CDC *Morbidity and Mortality Weekly Report* (MMWR). (The Department will publish in the Pennsylvania Bulletin a reference to a CDC update of the case definition within 30 days of its publication in the MMWR).

Act—The Disease Prevention and Control Law of 1955 (35 P.S. §§ 521.1—521.21).

Anonymous HIV Testing—HIV testing performed at a State-designated HIV testing site for an individual who chooses not to provide his name in giving consent for the testing.

Board—The Advisory Health Board of the Department.

CDC—Centers for Disease Control and Prevention.

Caregiver—The entity or individual responsible for the safe and healthful care or education of a child in a child care group setting.

Carrier—A person who, without any apparent symptoms of a communicable disease, harbors a specific infectious agent and may serve as a source of infection.

Case—A person or animal that is determined to have or suspected of having a disease, infection or condition.

Case report form—The form designated by the Department for reporting a case or a carrier.

Central office—Department headquarters located in Harrisburg.

Child—A person under 18 years of age.

Child care group setting—The premises in which care is provided at any one time to four or more children, unrelated to the operator.

Clinical laboratory—A laboratory for which a permit has been issued to operate as a clinical laboratory under the Clinical Laboratory Act (35 P.S. §§ 2151—2165).

Communicable disease—An illness which is capable of being spread to a susceptible host through the direct or indirect transmission of an infectious agent or its toxic product by an infected person, animal or arthropod, or through the inanimate environment.

Communicable period—The time during which an etiologic agent may be transferred directly or indirectly from an infected person to another person, or from an infected animal to a person.

Confidential HIV testing—HIV testing performed for an individual who, in giving his consent for the testing, provides his name and other personal or demographic identifiers.

Contact—A person or animal known to have had an association with an infected person or animal which presented an opportunity for acquiring the infection.

County morbidity reporting area—A county so designated by the Board wherein initial reports for communicable and noncommunicable diseases are to be reported to the State health center of the Department.

Department—The Department of Health of the Commonwealth.

District office—One of the district headquarters of the Department located within this Commonwealth.

FDA—Food and Drug Administration.

HIV services—The range of services, including prevention, counseling, testing, treatment, case management, support and referral services, which are provided to persons infected with or affected by HIV or AIDS, and are intended to alleviate physical and psychosocial problems created by these diseases and conditions.

Health care facility—

(i) A chronic disease, or other type of hospital, a home health care agency, a hospice, a long-term care nursing facility, a cancer treatment center using radiation therapy on an ambulatory basis, an ambulatory surgical facility, a birth center, and an inpatient drug and alcohol treatment facility, regardless of whether the health care facility is operated for profit, nonprofit or by an agency of the Commonwealth or local government.

(ii) The term does not include:

(A) An office used primarily for the private practice of a health care practitioner.

(B) A facility providing treatment solely on the basis of prayer or spiritual means in accordance with the tenets of any church or religious denomination.

(C) A facility conducted by a religious organization for the purpose of providing health care services exclusively to clergy or other persons in a religious profession who are members of a religious denomination.

Health care practitioner—An individual who is authorized to practice some component of the healing arts by a license, permit, certificate or registration issued by a Commonwealth licensing agency or board.

Health care provider—An individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies and insurance companies), the Commonwealth, or a political subdivision, or instrumentality (including a municipal corporation or authority) thereof, that operates a health care facility.

Household contact—A person living in the same residence as a case, including a spouse, child, parent, relation or other person, whether or not related to the case.

Infectious agent—Any organism, such as a virus, bacterium, fungus or parasite, that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease.

Isolation—The separation for the communicable period of an infected person or animal from other persons or animals, in such a manner as to prevent the direct or indirect transmission of the infectious agent from infected persons or animals to other persons or animals who are susceptible or who may spread the disease to others.

LMRO—Local morbidity reporting office—A district office of the Department or a local health department.

Local health authority—A county or municipal department of health, or board of health of a municipality that does not have a department of health. The term includes a sanitary board.

Local health department—Each county department of health under the Local Health Administration Law (16 P.S. §§ 12001—12028), and each department of health in a municipality approved for a Commonwealth grant to provide local health services under section 25 of the Local Health Administration Law (16 P.S. § 12025).

Local health officer—The person appointed by a local health authority to head the daily administration of duties imposed upon or permitted of local health authorities by State laws and regulations.

Medical record—An account compiled by physicians and other health professionals including a patient's medical history; present illness; findings on physical examination; details of treatment; reports of diagnostic tests; findings and

conclusions from special examinations; findings and diagnoses of consultants; diagnoses of the responsible physician; notes on treatment, including medication, surgical operations, radiation, and physical therapy; and progress notes by physicians, nurses and other health professionals.

Modified quarantine—A selected, partial limitation of freedom of movement determined on the basis of differences in susceptibility or danger of disease transmission which is designated to meet particular situations. The term includes the exclusion of children from school and the prohibition, or the restriction, of those exposed to a communicable disease from engaging in particular activities.

Monitoring of contacts—The close supervision of persons and animals exposed to a communicable disease without restricting their movement.

Municipality—A city, borough, incorporated town or township.

Operator—The legal entity that operates a child care group setting or a person designated by the legal entity to serve as the primary staff person at a child care group setting.

Outbreak—An unusual increase in the number of cases of a disease, infection or condition, whether reportable or not as a single case, above the number of cases that a person required to report would expect to see in a particular geographic area or among a subset of persons (defined by a specific demographic or other features).

Perinatal exposure of a newborn to HIV—The potential perinatal transmission of HIV to a newborn indicated by a positive HIV test result for the pregnant woman or mother of a newborn.

Physician—An individual licensed to practice medicine or osteopathic medicine within this Commonwealth.

Placarding—The posting on a home or other building of a sign or notice warning of the presence of communicable disease within the structure and the danger of infection therefrom.

Quarantine—

(i) The limitation of freedom of movement of a person or an animal that has been exposed to a communicable disease, for a period of time equal to the longest usual incubation period of the disease, or until judged noninfectious by a physician, in a manner designed to prevent the direct or indirect transmission of the infectious agent from the infected person or animal to other persons or animals.

(ii) The term does not exclude the movement of a person or animal from one location to another when approved by the Department or a local health authority under § 27.67 (relating to the movement of persons and animals subject to isolation or quarantine by action of a local health authority or the Department).

Reportable disease, infection, or condition—A disease, infection, or condition, made reportable by § 27.2 (relating to specific identified reportable diseases, infections and conditions).

SHC—State Health Center—The official headquarters of the Department in a county, other than a district office.

Secretary—The Secretary of the Department.

Segregation—The separation for special control or observation of one or more persons or animals from other persons or animals to facilitate the control of a communicable disease.

Sexually transmitted disease—A disease which, except when transmitted perinatally, is transmitted almost exclusively through sexual contact.

State-designated anonymous HIV testing site—An HIV testing site supported by the Department either through direct funding or payment for testing, which provides anonymous and confidential testing and which agrees to adhere to the CDC's counseling and testing standards and guidelines issued by the Department.

Surveillance of disease—The continuing scrutiny of all aspects of occurrence and spread of disease that are pertinent to effective control.

Volunteer—A person who provides services to a school or child care group setting without receiving remuneration.

§ 27.4. Reporting cases.

(a) Except for reporting by a clinical laboratory, a case is to be reported to the LMRO serving the area in which a case is diagnosed or identified unless another provision of this chapter directs that a particular type of case is to be reported elsewhere. A clinical laboratory shall make reports to the appropriate office of the Department.

(b) Upon the Department's implementation of its electronic disease surveillance system for certain types of case reports, persons who make those reports shall do so electronically using an application and reporting format provided by the Department. At least 6 months in advance of requiring a type of case report to be reported electronically, the Department will publish a notice in the Pennsylvania Bulletin announcing when electronic reporting is to begin.

(c) This section does not prohibit a reporter from making an initial report of a case to the Department or an LMRO by telephone. The reporter will be instructed on how to make a complete case report at the time of the telephone call.

(d) Department offices to which this chapter requires specified case reports to be filed are as follows:

(1) Cancer Registry, Division of Health Statistics, Bureau of Health Statistics and Research.

(2) Division of Infectious Disease Epidemiology, Bureau of Epidemiology.

(3) HIV/AIDS Epidemiology Section, Division of Infectious Disease Epidemiology, Bureau of Epidemiology.

(4) Division of Newborn Disease Prevention and Identification, Bureau of Family Health.

(e) A case shall be reported using the appropriate case report format. Information solicited by the case report form shall be provided by the reporter, irrespective of whether the report is made by submitting the form directly in hard copy or by telecommunication or electronic submission. An appropriate case report form or format may be procured from the office to which the type of case is reportable.

§ 27.5a. Confidentiality of case reports.

Case reports submitted to the Department or to an LMRO are confidential. Neither the reports, nor any information contained in them which identifies or is perceived by the Department or the LMRO as capable of being used to identify a person named in a report, will be disclosed to any person who is not an authorized employe or agent of the Department or the LMRO, and who has a legitimate purpose to access case information, except for any of the following reasons:

(1) When disclosure is necessary to carry out a purpose of the act, as determined by the Department or LMRO, and disclosure would not violate another act or regulation.

(2) When disclosure is made for a research purpose for which access to the information has been granted by the Department or an LMRO. Access shall be granted only when disclosure would not violate another act or regulation. The research shall be subject to strict supervision by the LMRO to ensure that the use of information disclosed is limited to the specific research purpose and will not involve the further disclosure of information which identifies or is perceived as being able to be used to identify a person named in a report.

§ 27.24a. Reporting of cases by veterinarians.

A veterinarian is required to report a case, as specified in § 27.4 (relating to reporting cases), only if the veterinarian treats or examines an animal which the veterinarian suspects of having a disease set forth in § 27.35(a) (relating to reporting cases of disease in animals).

§ 27.60. Disease control measures.

(a) The Department or local health authority shall direct isolation of a person or an animal with a communicable disease or infection; surveillance, segregation, quarantine or modified quarantine of contacts of a person or an animal with a communicable disease or infection; and any other disease control measure the Department or the local health authority considers to be appropriate for the surveillance of disease, when the disease control measure is necessary to protect the public from the spread of infectious agents.

(b) The Department and local health authority will determine the appropriate disease control measure based upon the disease or infection, the patient's circumstances, the type of facility available and any other available information relating to the patient and the disease or infection.

(c) If a local health authority is not an LMRO, it shall consult with and receive approval from the Department prior to taking any disease control measure.

§ 27.61. Isolation.

When the isolation of a person or animal that is suspected of harboring an infectious agent is appropriate, the Department or local health authority shall cause the isolation to be done promptly following receipt of the case report.

(1) If the local health authority is not an LMRO, the local health officer shall consult with and receive approval from the Department prior to requiring isolation.

(2) If more than one jurisdiction is involved, the local health officer shall cause a person or animal to be isolated only after consulting with and receiving approval from the Department.

(3) The Department or local health authority shall ensure that instructions are given to the case or persons responsible for the care of the case and to members of the household or appropriate living quarters, defining the area within which the case is to be isolated and identifying the measures to be taken to prevent the spread of disease.

§ 27.65. Quarantine.

If the disease is one which the Department, or a local health authority which is also an LMRO, determines to require the quarantine of contacts in addition to isolation of the case, the Department or local health officer of the LMRO shall determine which contacts shall be quarantined, specify the place to which they shall be quarantined, and issue appropriate instructions.

(1) When any other local health authority is involved, the local health officer shall quarantine contacts only after consulting with and receiving approval from the Department.

(2) The Department or local health officer shall ensure that provisions are made for the medical observation of the contacts as frequently as necessary during the quarantine period.

§ 27.66. Placarding.

Whenever the Department or a local health officer has 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 and the Department or local health officer deems it necessary to use placards, placards may be utilized. Placards may be utilized by a local health officer of a local health authority that is not an LMRO only if the specific use is approved by the Department.

§ 27.67. Movement of persons and animals subject to isolation or quarantine by action of a local health authority or the Department.

(a) A person or animal subject to isolation or quarantine by action of a local health authority or the Department may be removed to another location only with permission of the local health authority or the Department. If the local health authority is not an LMRO, the local health authority shall consult with and receive approval from the Department prior to permitting removal. Permission for removal may be given by the Department if the local health officer is not available.

(b) Removal of a person or animal under isolation or quarantine by action of the Department or a local health authority, from the jurisdiction of the Department or a local health authority to the jurisdiction of the Department or another local health authority may occur only with permission of the Department, if it is involved, and with the permission of the local health authorities concerned. If both of the local health authorities involved are not LMROs, the local health authorities shall consult with and receive approval from the Department prior to permitting removal. Permission for removal may be given by the Department if a local health officer from whom permission would otherwise be required is not available.

(c) Interstate transportation to or from this Commonwealth of a person or animal under isolation or quarantine may be made only with permission of the Department.

(d) Transportation of a person or animal under isolation or quarantine shall be made by private conveyance or as otherwise ordered by the local health authority or the Department. If the local health authority is not an LMRO, it shall consult with the Department prior to issuing an order. The sender, the receiver and the transporter of the person or animal shall be responsible to take due care to prevent the spread of the disease.

(e) When a person or animal under isolation or quarantine is transported, isolation or quarantine shall be resumed for the period of time required for the specific disease immediately upon arrival of the person or animal at the point of destination.

§ 27.68. Release from isolation or quarantine.

The Department or a local health authority may order that a person or animal isolated or quarantined under the direction of the Department or to the appropriate health authority be released from isolation or quarantine when the Department or the local health authority determines that the person or animal no longer presents a public health threat. If the local health authority involved is not an LMRO, it shall consult with, and receive approval from, the Department prior to making the order.

§ 27.81. Examination of persons suspected of being infected.

Whenever the Department or a local health authority has reasonable grounds to suspect a person of being infected with an organism causing a sexually transmitted disease, tuberculosis or other communicable disease, or of being a carrier, but lacks confirmatory medical or laboratory evidence, the Department or the local health authority may require the person to undergo a medical examination and any other approved diagnostic procedure to determine whether or not the person is infected or is a carrier. If the local health authority involved is not an LMRO, the local health authority shall consult with and receive approval from the Department prior to requiring any medical examination or other approved diagnostic procedure.

§ 27.82. Refusal to submit to examination.

(a) If a person refuses to submit to the examination required in § 27.81 (relating to examination of persons suspected of being infected), the Department or the local health authority may direct the person to be quarantined until it is determined that the person does not pose a threat to the public health by reason of being infected with a disease causing organism or being a carrier.

(b) If the person refuses to abide by an order issued under subsection (a), the Department or local health authority may file a petition in the court of common pleas of the county in which the person is present. The petition shall have a statement attached, given under oath by a physician licensed to practice in this Commonwealth, that the person is suspected of being infected with an organism causing a sexually transmitted disease, tuberculosis or other communicable disease, or that the person is suspected of being a carrier.

(1) Upon the filing of the petition, the court shall, within 24 hours after service of a copy upon the respondent, hold a hearing without a jury to ascertain whether the person named in the petition has refused to submit to an examination to determine whether the person is infected with the suspected disease causing organism, or that the person is a carrier.

(2) Upon a finding that the person has refused to submit to an examination and that there is no valid reason for the person to do so, the court may forthwith order the person to submit to the examination.

(3) The certificate of the physician attached to the petition shall be received in evidence and shall constitute prima facie evidence that the person named is suspected of being infected with the disease causing organism, or that the person is a carrier.

(c) A person refusing to undergo an examination as required under subsections (a) and (b) may be committed by the court to an institution in this Commonwealth determined by the Department to be suitable for the care of persons infected with the suspected disease causing organism.

§ 27.83. Court ordered examinations.

The examination ordered by the court under § 27.82 (relating to refusal to submit to examination) may be performed by a physician chosen by the person at the person's own expense. The examination shall include an appropriate physical examination and

laboratory tests performed in a clinical laboratory approved by the Department to conduct the tests, and shall be conducted in accordance with accepted professional practices. The results shall be reported to the local health authority or the Department on case report forms furnished by the Department.

§ 27.84. Examination for a sexually transmitted disease of persons detained by police authorities.

(a) A person taken into custody and charged with a crime involving lewd conduct or a sex offense, or a person to whom the jurisdiction of a juvenile court attaches may be examined for a sexually transmitted disease by a qualified physician appointed by the Department, by the local health authority or by the court having jurisdiction over the person so charged. If the person refuses to permit an examination or provide a specimen for laboratory tests as requested by the physician designated by the Department, a local health authority or a court, judicial action may be pursued by the Department or local health authority to secure an appropriate remedy.

(b) A person convicted of a crime or pending trial, who is confined in or committed to a State or local penal institution, reformatory or other house of correction or detention, may be examined for a sexually transmitted disease by a qualified physician appointed by the Department or by the local health authority. If the person refuses to permit an examination or provide a specimen for laboratory tests as requested by the physician, judicial action may be pursued by the Department or local health authority to secure an appropriate remedy.

(c) A person described in subsection (a) or (b) found, upon examination, to be infected with a sexually transmitted disease shall be given appropriate treatment by the local health authority, the Department or the attending physician of the institution.

§ 27.85. Diagnosis and treatment of a sexually transmitted disease.

(a) The Department will provide or designate adequate facilities for the free diagnosis and, where necessary for the preservation of public health, free treatment of persons infected with sexually transmitted diseases.

(b) Upon approval of the Department, a local health authority shall undertake to share the expense of furnishing free diagnosis and free treatment of a sexually transmitted disease, or shall furnish free diagnosis and free treatment of the sexually transmitted disease without financial assistance from the Department.

§ 27.87. Refusal to submit to treatment for communicable diseases.

(a) If the Department or a local health authority finds that a person who is infected with a sexually transmitted disease, tuberculosis or other communicable disease in a communicable stage refuses to submit to treatment approved by the Department or by a local health authority, the Department or the local health authority, if it determines the action advances public health interests, shall order the person to be isolated in an appropriate institution designated by the Department or by the local health authority for safekeeping and treatment until the disease has been rendered noncommunicable.

(i) If the disease is one which may be significantly reduced in its communicability following short-term therapy, but is likely to significantly increase in its communicability if that therapy is not continued, such as tuberculosis, the Department or local health authority may order the person to complete therapy which is designed to prevent the disease from reverting to a communicable stage, including completion of an inpatient treatment regimen. See, also, § 27.161 (relating to special requirements for tuberculosis).

(ii) If the local health authority involved is not an LMRO, the local health authority shall consult with and receive approval from the Department prior to taking any action under this subsection.

(b) If a person refuses to comply with an order issued under subsection (a), the Department or local health authority may file a petition in the court of common pleas of the county in which the person is present to commit the person to an appropriate institution designated by the Department or by the local health authority for safekeeping and treatment as specified in subsection (a). Upon the filing of a petition, the court shall, within 24 hours after service of a copy upon the respondent, hold a hearing without a jury to ascertain whether the person named in the petition has refused to submit to treatment. Upon a finding that the person has refused to submit to treatment, the court shall issue an appropriate order.

(c) For the purpose of this section, treatment approved by the Department or by a local health authority may include treatment by an accredited practitioner of a well recognized church or religious denomination which relies on prayer or spiritual means alone for healing, if requirements relating to sanitation, isolation or quarantine are satisfied.

§ 27.88. Isolation and quarantine in appropriate institutions.

(a) When the Department or a local health authority orders a person with or suspected of having a sexually transmitted disease to be isolated or quarantined for the purpose of safekeeping and treatment, it may order that the isolation or quarantine take place in an institution where the person's movement is physically restricted.

(b) The Department or the local health authority shall reimburse an institution which accepts the person at the rate of maintenance that prevails in the institution, and shall furnish the necessary medical treatment to the person isolated or quarantined within the institution.

§ 27.89. Examinations for syphilis.

(a) Prenatal examination for syphilis.

(1) Blood sample.

(i) A physician who attends, treats or examines a pregnant woman for conditions relating to pregnancy during the period of gestation or delivery shall inform the woman that he intends to take or cause to be taken, unless the woman objects, a sample of her blood at the time of the first examination (including the initial visit when a pregnancy test is positive), or within 15 days after the first

examination, and shall submit the sample to a clinical laboratory for an approved test for syphilis.

(ii) A physician shall similarly collect and have tested a sample of the pregnant woman's blood during the third trimester of her pregnancy, in those counties of this Commonwealth where the annual rate of infectious syphilis is at a rate of syphilis occurring in a given population for which the CDC has determined it is cost-effective to require special precautions.

(iii) The Department will publish the list of those counties in which this rate is occurring in the Pennsylvania Bulletin as necessary.

(iv) Other persons permitted by law to attend pregnant women, but not permitted by law to take blood samples, shall, unless the woman objects, cause a blood sample to be taken and submitted to a clinical laboratory for an approved test for syphilis.

(v) If the pregnant woman objects, it shall be the duty of the person attending the pregnant woman and seeking to have the woman give a blood sample to explain to her the desirability of the test.

(2) Charge for test. The serological test required by paragraph (1) will be made without charge, by the Department, upon the request of the physician submitting the blood sample and the submission of a certificate by the physician that the patient is unable to pay.

(b) Examination for syphilis in mother of newborn. A test for syphilis shall be done, unless the mother objects, on the blood of the mother of every newborn delivered in those counties of this Commonwealth where the annual rate of infectious syphilis is at a rate of syphilis occurring in a given population for which the CDC has determined it is cost-effective to require special precautions.

(1) The Department will publish the list of counties in which this rate is occurring in the Pennsylvania Bulletin as necessary.

(2) The results of the test shall be recorded both in the mother's medical record and in the newborn's medical record prior to discharge.

(c) Examination for syphilis in mother of stillborn.

(i) A test for syphilis shall be done, unless the mother objects, on the blood of the mother of every stillborn child delivered in those counties of this Commonwealth where the annual rate of infectious syphilis is at a rate of syphilis occurring in a given population for which the CDC has determined it is cost-effective to require special precautions.

(ii) The Department will publish the list of counties in which this rate is occurring in the Pennsylvania Bulletin as necessary.

(iii) The Department will be responsible for alerting physicians about this standard.

(iv) The blood shall be collected within 2 hours after delivery and the result entered into the mother's medical record prior to discharge. See also, § 27.95 (relating to reporting syphilis examination information for births and fetal deaths).

§ 27.95. Reporting syphilis examination information for births and fetal deaths.

In reporting a birth or fetal death, physicians and others required to make the reports shall state in the medical record whether or not the blood tests required by § 27.89(b) (relating to examinations for syphilis) were made. If a test was made, the date of the test shall be given, and if a test was not made, the reason the test was not made shall be given.

§ 27.96. Diagnostic tests for sexually transmitted diseases.

(a) When testing for a sexually transmitted disease is required by the act or this chapter, the test used shall be a test approved by the Food and Drug Administration, and if a laboratory test is part of the approved procedure, it shall be conducted in a clinical laboratory approved by the Department to perform the test.

(b) The diagnostic tests that have been approved to test for each sexually transmitted disease may be ascertained by contacting the Division of Clinical Microbiology, Bureau of Laboratories.

THE NEED TO UPDATE AND CODIFY PENNSYLVANIA LAW

The Disease Prevention and Control Law of 1955

The Advisory Committee acknowledged that the DPCL established (1) a uniform process for reporting communicable and non-communicable diseases, (2) processes for isolation and quarantine and (3) a structure for joint disease control efforts, by vesting varying degrees of responsibility with the Pennsylvania Department of Health and numerous local and municipal health authorities. However, 57 years after the passage of the DPCL, the system created under the DPCL has become jumbled, with overlapping and sometime inconsistent assignments of responsibility. Hundreds of public health statutes must be interpreted and applied. Some tasks are set forth in the DCPL, while others are found scattered throughout the various municipal codes, with different tasks and procedures depending on the type of municipality having jurisdiction over a particular public health matter. Several hundred stand-alone statutes address specific areas of public health concern. Additionally, while the majority of governmental public health functions rest with the Department of Health, various other state agencies are also involved, including the Departments of Aging, Agriculture, Community and Economic Development, Education, Environmental Protection, Insurance, Labor and Industry, Public Welfare, and State, as well as the Attorney General's Office, the Health Care Cost Containment Council, the Patient Safety Authority and the Pennsylvania Emergency Management Agency, among others.

The Advisory Committee cited a number of specific shortcomings regarding the DPCL:

Regulations

Although the DPCL provides a broad authorization for the Advisory Health Board to issue rules and regulations concerning the prevention and control of diseases, “[v]ery few have been promulgated and so there is much about the application of the DPCL that remains uncertain. And those rules that have been formulated are more on the order of broad mandates rather than narrow prescriptions for government action.”²⁰⁴

²⁰⁴ Bozza, *supra* note 35, at 26. Although “the DPCL does provide some limited guidance, the manner in which and place where control measures may be carried out are issues explicitly left to rule making . . . [but] the regulations . . . do not materially clarify either of these questions.” *Id.* at 34. With the exception of authorizing placarding, the regulations “do not expand the list of acceptable control measures.” *Id.*

Preemption

The ability of a municipality to enact an ordinance or issue a rule or regulation concerning disease prevention and control (if it is not less strict than the DPCL or its accompanying rules and regulations) constitutes an “exercise in limited state preemption” that “sets the stage for considerable conflict and disparity.”²⁰⁵

Authority of Department

Because the DPCL specifies that a public health authority is “subject to the supervision and guidance of the department,” the law suggests that the Department of Health “is the true decision-maker” but

this begs the question as to whether the Department can either compel a local authority to act or forbid it from doing so or alternatively simply shape the character of a local PHA’s [public health authority’s] response to a public health issue. This role ambiguity has the potential for leading to divergent positions or strategies and diminishing the public’s confidence in decision-makers.²⁰⁶

Definitions

Although the DPCL refers to a “local qualified medical health officer” and “local medical health officer,”²⁰⁷ those terms are undefined.²⁰⁸ The definition of “communicable disease” in the DPCL is different from the one in the Department of Health regulations.²⁰⁹ The legal distinction between a “disease” and an “infection” is not evident.²¹⁰

Consultation

The Department of Health regulations provide that if a public health authority is not the Department of Health or a county or municipal health department, the public health authority must consult with and receive approval from the department in certain instances.²¹¹ However, the regulations do not indicate whether the duty to consult requires the public health authority to follow the advice of the department.²¹²

²⁰⁵ *Id.* at 26.

²⁰⁶ *Id.* at 28.

²⁰⁷ *See, e.g.*, DPCL, *supra* note 11, §§ 7 & 11(a.1); 35 P.S. §§ 521.7 & 521.11(a.1).

²⁰⁸ Bozza, *supra* note 35, at 28-29. The DPCL, however, does define the term “local health officer” as “[t]he head of a local department of health.” DPCL, *supra* note 11, § 2(g); 35 P.S. § 521.2(g).

²⁰⁹ Bozza, *supra* note 35, at 33. *See* note 182.

²¹⁰ Bozza, *supra* note 35, at 33.

²¹¹ *See* note 187.

²¹² Bozza, *supra* note 35, at 29-30.

Characteristics of an Illness

Although the DPCL defines the term “communicable disease,” it does not specify the characteristics of an illness that allow or require governmental action; for example, “there is no requirement that the illness be serious or life threatening or rise to some level of contagion except that with regard to the isolation of an ‘infected’ person, the disease must be in a ‘communicable stage’ . . .”²¹³

Mandatory and Discretionary Actions

The DPCL contains “divergent and perhaps conflicting provisions.”²¹⁴ In addition, it is unclear whether a public health authority is required to compel treatment for an individual diagnosed with a communicable disease.²¹⁵

Venue

The DPCL does not address venue with respect to involuntary medical examinations, involuntary treatment, quarantine and isolation.²¹⁶

Service and Notice

The DPCL does not address specific service requirements (such as expedited service) or the form of notice with respect to involuntary medical examinations, involuntary treatment, quarantine and isolation.²¹⁷

Burden of Proof

The DPCL is silent, although the burden of proof logically is on the public health authority that is seeking the medical examination, treatment, quarantine or isolation.²¹⁸

²¹³ *Id.* at 30. See note 182 & note 183 for the definitions of “communicable disease” and “isolation.”

²¹⁴ Bozza, *supra* note 35, at 31. The DPCL shifts between “shall” and “may” regarding the authority of a public health authority. See, e.g., DPCL, *supra* note 11, §§ 5, 7 & 11(a.1); 35 P.S. §§ 521.5, 521.7 & 521.11(a.1).

²¹⁵ Bozza, *supra* note 35, at 32.

²¹⁶ *Public Health Law Bench Book*, *supra* note 16, § 1.10, at 2; § 1.20, at 2; § 1.30, at 3; & § 1.40, at 3. Rule 1006 of the Rules of Civil Procedure governs. *Id.*

²¹⁷ *Id.* § 1.10, at 2; § 1.20, at 2-3; § 1.30, at 3-4; & § 1.40, at 3. Rule 400 *et seq.* of the Rules of Civil Procedure governs. *Id.*

²¹⁸ *Id.* § 1.10, at 3; § 1.20, at 3; § 1.30, at 4; & § 1.40, at 4.

Standard of Proof

With respect to involuntary medical examinations, the law is unclear. Some suggest that the standard is a “reasonable suspicion” to believe that the individual is infected with, or a carrier of, a communicable disease, while others argue that the standard is “clear and convincing evidence” that the individual poses a significant risk of transmitting disease to others with serious consequences.²¹⁹ With respect to involuntary treatment, quarantine or isolation, the DPCL does not explicitly provide for the standard of proof. However, by analogy to involuntary civil commitment under the Mental Health Procedures Act,²²⁰ the public health authority must satisfy its burden by clear and convincing evidence.²²¹

Right to Counsel

The DPCL does not address the right to counsel or court-appointed counsel.²²²

Conduct of Hearings

Although hearings would be conducted pursuant to the Rules of Civil Procedure, the rules do not address taking testimony by telephone or advanced communication technology. In addition, the DPCL does not dictate that a hearing be held on the record.²²³

Costs

The DPCL is silent as to who pays for the medical examination or the medical treatment if the individual does not choose the physician or facility, although in that instance the burden presumably falls on the public health authority seeking the examination or treatment.²²⁴ Presumably, the governmental authority seeking the quarantine or isolation must pay the expenses related to the quarantine or isolation.²²⁵

²¹⁹ *Id.* § 1.10, at 3-4.

²²⁰ Act of July 9, 1976 (P.L.817, No.143); 50 P.S. §§ 7101-7503.

²²¹ *Public Health Law Bench Book*, *supra* note 16, § 1.20, at 3; § 1.30, at 4; & § 1.40, at 4.

²²² *Id.* § 1.10, at 4; § 1.20, at 4; § 1.30, at 5; & § 1.40, at 4. With respect to involuntary medical examinations, due process may require the appointment of counsel for an indigent individual if he or she may be deprived of a fundamental right, such as liberty. Such appointment may depend on the type of medical examination sought and the existence and duration of any restraints on the individual’s freedom or degree of privacy intrusion. *Id.* § 1.10, at 4. Similarly, due process may require the appointment of counsel for an indigent person facing involuntary treatment, quarantine or isolation. *Id.* § 1.20, at 4; § 1.30, at 5; & § 1.40, at 4.

²²³ *Id.* § 1.10, at 4-5; § 1.20, at 4; § 1.30, at 5; & § 1.40, at 4-5.

²²⁴ *Id.* § 1.10, at 6; § 1.20, at 7.

²²⁵ *Id.* § 1.30, at 8 & § 1.40, at 7.

Procedures and Standards

The DPCL does not statutorily require that involuntary medical treatment be allowed only when there is no lesser restrictive means of protecting public health.²²⁶ In addition, the DPCL does not establish what must be alleged or proven regarding a court-ordered quarantine or isolation.²²⁷

Filing a Petition

There is no Pennsylvania case law, statutory authority or court rule that establishes specifically (1) who can bring a petition to compel a quarantine or isolation or (2) what procedure to follow under the DPCL.²²⁸

Jurisdiction

The DPCL does not address jurisdictional criteria regarding quarantine or isolation.²²⁹

²²⁶ *Id.* § 1.20, at 2 & 5.

²²⁷ *Id.* § 1.30, at 2 & § 1.40, at 2. By analogy to § 7 of the DPCL (35 P.S. § 521.7), regarding involuntary medical examinations, a public health authority must show the following to obtain a court order for quarantine or isolation: (1) the individual named in the petition was exposed to, or has been infected with, a communicable disease; and (2) the individual refused to be quarantined or isolated and had no valid reason for the refusal. *Id.* Courts in other jurisdictions have only permitted quarantine and isolation when, because of the disease, the individual “poses a significant threat to the health and safety of others and there are *no lesser restrictive means* of protecting the public’s health.” *Id.* (emphasis in original). Pennsylvania does not statutorily require this standard. *Id.* See also Bozza, *supra* note 35, at 34 (“In general, there is broad authority vested in public health officials . . . [but] there is no requirement . . . that the government adopts the control measures least restrictive of individual liberty, to effectuate public health objectives.”).

In addition, “the definition of quarantine is similar but not identical to that found in the DPCL.” *Id.* at 39. Under 28 Pa. Code § 27.1, “a quarantine may last for ‘a period of time equal to the longest usual incubation period of the disease, or *until judged non-infectious by a physician*’” but the italicized language “does not appear in the DPCL and is not further explained in the regulations.” *Id.* The reference to the term physician “raises the prospect that the opinion of any physician, notwithstanding the expression of a contrary view or for that matter an incorrect conclusion, may control the decision of the PHA [public health authority]. Moreover, the failure to adopt a more exacting standard sets the stage for potential conflict between a patient’s physician and the government’s physician.” *Id.* at 39-40.

²²⁸ *Public Health Law Bench Book*, *supra* note 16, § 1.30, at 3 & § 1.40, at 2-3. The DPCL implicitly provides that a public health authority may bring such a petition. *Id.* See, e.g., DPCL, *supra* note 11, §§ 3, 5, 7 & 11; 35 P.S. §§ 521.3, 521.5, 521.7 & 521.11. Note that § 521.11 of the DPCL permits a public health authority to file a petition for isolation but is silent with respect to quarantine. Presumably, the public health authority would file request a court-ordered quarantine by petition. *Public Health Law Bench Book*, *supra* note 16, § 1.30, at 3.

²²⁹ *Id.* § 1.30, at 3 & § 1.40, at 3. By analogy, the court of common pleas of the county where the individual is present would have jurisdiction to adjudicate a petition for quarantine or isolation. *Id.*

Duration of Order

The DPCL offers no statutory guidance for the duration of a quarantine or isolation order, and “[t]he court may need to determine this on a case-by-case basis.”²³⁰

Standards for Pre-Hearing Detentions

The DPCL contemplates the need for and authorizes the use of quarantine and isolation without court approval (pending a hearing),²³¹ but the statute and its accompanying regulations have not been tested in the courts.²³²

Warrants

The DPCL and its accompanying regulations do not refer to an administrative search warrant²³³ or to a procedure for obtaining a warrant.²³⁴ Therefore, a court may decide to turn to the Rules of Criminal Procedure for guidance as to how to resolve issues concerning who may seek a warrant, notice, the contents of the warrant application and the warrant itself, jurisdiction, venue, the standard of proof (probable cause standards), the right to counsel, and execution of the warrant.²³⁵

The Counterterrorism Planning, Preparedness and Response Act

The Advisory Committee also discussed several problems with § 301 of the CPPRA (temporary isolation and quarantine without notice), including the following:

²³⁰ *Id.* § 1.30, at 5 & § 1.40, at 5. *But see* the definitions of “isolation” (isolation should be “for the period of communicability”) and “quarantine” (quarantine should be “for a period of time equal to the longest usual incubation period of the disease in such manner as to prevent effective contact with those not so exposed”), *supra* note 183 & note 184.

²³¹ DPCL, *supra* note 11, §§ 7 & 11(a.1); 35 P.S. § 521.7 & 521.11(a.1); 28 Pa. Code §§ 27.82(a) & 27.87(a).

²³² *Public Health Law Bench Book*, *supra* note 16, § 1.30, at 7 and § 1.40, at 6-7. Presumably, the court may order an individual to be quarantined or isolated pending hearing and disposition of the petition if: (1) a public health authority has made a prima facie showing of the existence of a dangerous communicable disease and a substantial threat to others if the individual is not quarantined or isolated and (2) no lesser-restrictive means exists to protect the public’s health. *Id.*

²³³ An administrative search warrant allows a government official to inspect premises for health and safety purposes. *Id.* § 1.60, at 2, n.5.

²³⁴ *Id.* at 2.

²³⁵ *Id.* at 3-6.

Standards

The CPPRA does not set forth what must be proven for the court to determine whether an isolation or quarantine order should be continued. By analogy to the DPCL, a public health authority must show that the individual has been exposed to or infected with a communicable disease.²³⁶ The CPPRA also does not require “that the government adopts the control measure least restrictive of individual liberty, to effectuate public health objectives.”²³⁷

Jurisdiction

The CPPRA does not address jurisdiction. By analogy to the DPCL, a court of common pleas of the county where the individual is present has jurisdiction to adjudicate a petition for continued isolation or quarantine.²³⁸

Venue

The CPPRA does not address venue.²³⁹

Service and Notice

Except for the requirement of “[r]easonable notice, either oral or written, stating the time, place and purpose of the hearing,”²⁴⁰ the CPPRA does not address specific service requirements (such as expedited service) or the form of notice.²⁴¹

Burden of Proof

The CPPRA is silent, although the burden of proof logically is on the public health authority that is seeking a continuation of the isolation or quarantine.²⁴²

²³⁶ *Public Health Law Bench Book*, *supra* note 16, § 1.50, at 2.

²³⁷ Bozza, *supra* note 35, at 34.

²³⁸ *Public Health Law Bench Book*, *supra* note 16, § 1.50, at 3.

²³⁹ *Id.* Rule 1006 of the Rules of Civil Procedure governs. *Id.*

²⁴⁰ CPPRA, *supra* note 12, § 301(b)(3); 35 P.S. § 2140.301(b)(3).

²⁴¹ *Public Health Law Bench Book*, *supra* note 16, § 1.50, at 4. Rule 400 *et seq.* of the Rules of Civil Procedure governs. *Id.*

²⁴² *Id.*

Standard of Proof

The CPPRA does not explicitly provide for the standard of proof. However, by analogy to involuntary civil commitment under the Mental Health Procedures Act,²⁴³ the public health authority must satisfy its burden by clear and convincing evidence.²⁴⁴

Conduct of Hearings

Although hearings would be conducted pursuant to the Rules of Civil Procedure, the rules do not address taking testimony by telephone or advanced communication technology. The CPPRA only references closed-circuit television. In addition, the CPPRA does not dictate that a hearing be held on the record.²⁴⁵

Duration of Order

The CPPRA offers no statutory guidance for the duration of a quarantine or isolation order, and “[t]he court may need to determine this on a case-by-case basis.”²⁴⁶

Enforcement

The CPPRA does not provide any specific enforcement mechanisms. However, the court has the inherent authority to enforce its orders through the sanction of contempt.²⁴⁷

Costs

Presumably, the public health authority seeking the isolation or quarantine must pay the expenses related to the isolation or quarantine.²⁴⁸

²⁴³ *Supra* note 220.

²⁴⁴ *Public Health Law Bench Book*, *supra* note 16, § 1.50, at 4.

²⁴⁵ *Id.* at 5.

²⁴⁶ *Id.* at 6. *See* note 230, which references note 183 & note 184.

²⁴⁷ *Id.* at 7.

²⁴⁸ *Id.*

Temporary Closures and Evacuations

Several specific topics regarding temporary closures and evacuations are not covered by any statutory authority: when a court may issue an order,²⁴⁹ what must be proven for a court to issue an order,²⁵⁰ how to raise the issue with the court,²⁵¹ jurisdiction,²⁵² venue,²⁵³ service and notice,²⁵⁴ whether a hearing must be expedited,²⁵⁵ burden of proof,²⁵⁶ standard of proof,²⁵⁷ right to counsel,²⁵⁸ how a hearing is conducted,²⁵⁹ and enforcement.²⁶⁰

Habeas Corpus

With respect to habeas corpus, there is no specific statutory authority regarding the burden of proof and persuasion²⁶¹ and the conduct of a hearing.²⁶²

²⁴⁹ *Id.* § 1.70, at 2. If a public health authority determines that “the most efficient and practical means for the prevention and suppression of disease” requires a temporary closure or evacuation, it may so order, and if an individual or group of individuals refuses to abide by the order, the public health authority may seek a court order to compel the control measure. *Id.* at 2-3.

²⁵⁰ *Id.* at 3. Presumably, “[a] public health authority would have the burden of proving that a condition is present which significantly threatens the public’s health and that the requested action is necessary as a reasonable and appropriate disease control measure.” *Id.* at 3. Historically, a public health authority has been afforded broad discretion in determining an appropriate disease control measure. *Id.* n.11.

²⁵¹ *Id.* In other public health matters, an action is brought before the court by petition. However, a public health authority may also request an injunction, pursuant to Rule 1531 of the Pennsylvania Rules of Civil Procedure. *Id.* at 3.

²⁵² *Id.* at 4.

²⁵³ *Id.* Rule 1006 of the Rules of Civil Procedure governs. *Id.*

²⁵⁴ *Id.* Rule 400 *et seq.* of the Rules of Civil Procedure governs. *Id.*

²⁵⁵ *Id.* at 5. The court may need to determine on a case by case basis whether to require an expedited hearing. *Id.*

²⁵⁶ *Id.* The burden of proof logically is on the public health authority that is seeking the temporary closure or evacuation. *Id.*

²⁵⁷ *Id.* The “clear and convincing” standard may apply. *Id.*

²⁵⁸ *Id.*

²⁵⁹ *Id.* at 6. A hearing would be conducted pursuant to the Rules of Civil Procedure. However, the rules do not address taking testimony by telephone or advanced communication technology. In addition, a hearing should be held on the record. *Id.*

²⁶⁰ *Id.* at 6-7. The court has the inherent authority to enforce its orders through the sanction of contempt. *Id.* at 6.

²⁶¹ *Id.* § 1.80, at 4. The law is unclear as to the standard of proof in a habeas corpus proceeding challenging a public health order. However, the standard is at least by a preponderance of the evidence. Initially, the petitioner bears the burden of proving the facts entitling the individual to relief, and some courts have held that once this burden is met, the burden then shifts to the public health authority to show that the detention is lawful. *Id.*

²⁶² *Id.* The Rules of Civil Procedure do not address conducting hearings by telephone or advanced communication technology. *Id.*

PROGRESS OF THE ADVISORY COMMITTEE AND THE SUBCOMMITTEES

The following summarizes the progress of the Advisory Committee and the Subcommittees on Behavioral Health, Data, Disease Prevention and Health Promotion, Emergency and Disaster Preparedness and Response, and the Public Health System.

Subcommittee on Behavioral Health

The Subcommittee on Behavioral Health conducted teleconferences in September 2009, January 2010 and June 2010.

The Subcommittee identified several issues for consideration, including confidentiality, insurance parity,²⁶³ and licensing requirements and standards for providers of mental health and intellectual disability services and for providers of drug and alcohol services.

The Subcommittee observed that confidentiality statutes are not consistent for mental health and intellectual disability service providers and drug and alcohol service providers. In addition, the Federal government also regulates confidentiality for drug and alcohol providers that receive Federal monies. Although previous attempts to craft consistent regulations have not advanced, the Subcommittee acknowledges that the issue of confidentiality should be addressed in light of health information technology, health information exchanges, and electronic medical records.

With respect to licensing requirements, the Subcommittee noted that, in general, the Department of Public Welfare licenses mental health/intellectual disability (MH/ID) service providers, while the Department of Health licenses drug and alcohol service providers. However, certain MH/ID service providers must be separately licensed by

²⁶³ Insurance parity seeks to address the inequity in health care plans regarding benefits provided for mental health care and substance abuse services. Some plans set stricter treatment limitations or impose higher out-of-pocket costs, for example, for those services than they do for medical and surgical care services. The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (act of Oct. 3, 2008, Public Law 110-343) was intended to end this inequity for plans involving more than 50 employees (or coverage offered in connection with such plan). Although the act imposed no requirement as to what conditions must be covered, it specifically prohibited plans that offer coverage for mental health care and substance abuse services from treating the benefits associated with those services in a more restrictive fashion than those associated with medical and surgical care services. Mental Health Am., © 2010 Mental Health Am., available at http://takeaction.mentalhealthamerica.net/site/PageServer?pagename=Equity_Campaign_parity_legislation (last accessed Sept. 19, 2012) & http://takeaction.mentalhealthamerica.net/site/PageServer?pagename=Equity_Campaign_detailed_summary (last accessed Sept. 19, 2012).

both departments. Different standards exist for licensure, and funding streams are controlled by the different licensing requirements. Consequently, it is difficult to integrate programs between MH/ID and drug and alcohol service providers.

In addition, the Subcommittee also discussed the need to examine residential treatment facilities for children, crisis response (including psychiatric care and other mental health services following a disaster or emergency), behavioral health needs that are untreated or under-treated, the difficulty in delivering community services, and the perceived over-reliance on administrative bulletins.²⁶⁴

Throughout its teleconferences, the Subcommittee reviewed the New Mexico Behavioral Health Collaborative²⁶⁵ and preliminarily considered which agencies, offices or bureaus in Pennsylvania could function as part of a behavioral health collaborative model similar to that in New Mexico.

The Subcommittee also reviewed the Virginia Department of Behavioral Health and Developmental Services, which is the central licensing authority for behavioral health providers in the Commonwealth.²⁶⁶ The members discussed the consolidation of licensing functions in Pennsylvania to avoid duplication and confusion and to streamline the administrative process. Specifically, the Subcommittee suggested that the Office of Deputy Secretary for Quality Assurance within the Department of Health may be the entity best equipped to handle licensing oversight.

²⁶⁴ The administrative bulletins tend to substitute for regulatory provisions that are codified in the Pennsylvania Code. They are subject to different interpretations by departments and may be altered more easily than regulatory provisions, particularly when gubernatorial administrations change.

²⁶⁵ The Collaborative was created in 2004 by state statute, which allowed “several state agencies and resources involved in behavioral health prevention, treatment and recovery to work as one in an effort to improve mental health and substance abuse services in New Mexico. This cabinet-level group represents 15 state agencies and the Governor’s office.” N.M. Behavioral Health Collaborative, *available at* <http://www.bhc.state.nm.us/> (last accessed Sept. 24, 2012). The Collaborative seeks

to be a single statewide behavioral health delivery system in which funds are managed effectively and efficiently and to create an environment in which the support of recovery and development of resiliency is expected, mental health is promoted, the adverse effects of substance abuse and mental illness are prevented or reduced, and behavioral health consumers are assisted in participating fully in the lives of their communities.

Id. The Collaborative must (1) inventory all expenditures for mental health and substance abuse services; (2) emphasize prevention, early intervention, resiliency, recovery and rehabilitation; (3) recognize regional, cultural, rural, frontier, urban, border and Native American issues; (4) contract with a single, statewide services purchasing entity; (5) monitor service capabilities and utilization to achieve desired performance measures and outcomes; (6) make decisions regarding funds, interdepartmental staff, grant writing, and grant management; (7) plan comprehensively and meet federal and state requirements; (8) oversee systems of care, data management, performance and outcome indicators and rate setting; (9) consider consumer, family and citizen input; (10) monitor training; (11) assure that evidence-based practices receive priority; (12) provide oversight to prevent fraud or abuse; and (13) provide oversight regarding licensing and certification. *Id.*

²⁶⁶ Dep’t of Behavioral Health & Developmental Servs., *available at* <http://www.dbhds.virginia.gov/OL-ApplicationChild.htm> (last accessed Sept. 19, 2012).

Finally, the Subcommittee agreed that its deliberations should include a review of the Health Insurance Portability and Accountability Act of 1996,²⁶⁷ the Genetic Information Nondiscrimination Act of 2008,²⁶⁸ the Pennsylvania Drug and Alcohol Abuse Control Act,²⁶⁹ the Independent Living Services Act,²⁷⁰ The Administrative Code of 1929,²⁷¹ Title 28 of the Pennsylvania Code (Health and Safety), and Title 55 of the Pennsylvania Code (Public Welfare). Furthermore, the Subcommittee thought that it would be beneficial to use the National Association of State Mental Health Program Directors as a resource.²⁷²

Subcommittee on Data

The Subcommittee on Data conducted teleconferences in September 2009 and January 2010. In addition, staff of the Joint State Government Commission conducted separate teleconferences in April 2010 with representatives of the Pennsylvania Health Care Cost Containment Council and the Department of Health to gather additional information for the Subcommittee.

The Subcommittee began by surveying current practices regarding data collection and sharing, including (1) the identification of health information exchanges and how they operate with regard to disease surveillance and (2) the effects of Federal and State privacy laws on data collection and the implications for research.²⁷³ The Subcommittee noted that recommendations should address existing and potential problems regarding the fragmentation of information systems, how a public health authority reacts to a specific public health threat based on its surveillance data, and data sharing by and among agencies and governmental entities.

The Subcommittee recognized the importance of the following:

- Improving data collection involving communicable diseases, chronic diseases, inpatient and outpatient services and other public health information, with data that are needs-based, linked to necessary resources and reported in “real time.”²⁷⁴

²⁶⁷ Pub. Law 104-191, 110 Stat. 1936.

²⁶⁸ Pub. Law 110-233, 122 Stat. 881.

²⁶⁹ Act of Apr. 14, 1972 (P.L.221, No.63).

²⁷⁰ Act of Dec. 12, 1994 (P.L.1023, No.139).

²⁷¹ *Supra* note 39.

²⁷² See Nat'l Ass'n of State Mental Health Program Dirs., *available at* <http://www.nasmhpd.org/index.aspx> (last accessed Sept. 24, 2012).

²⁷³ See, e.g., the Health Insurance Portability and Accountability Act of 1996, *supra* note 267.

²⁷⁴ During the teleconferences, the Subcommittee members discussed the recommendations of the Governor's Office of Health Care Reform and the Pennsylvania Health Information Exchange (PHIX). They recognized the concern that health care providers in many parts of Pennsylvania do not have access to necessary technology and that the development of local health information exchanges (e.g., among hospitals in one city or region) may become a higher priority than a statewide network.

- Addressing the problem of agencies and governmental entities that view as proprietary their own collection of data.
- Exploring incentives for insurance carriers to share data with public health officials and researchers.
- Developing sophisticated data management systems and an integrated health information system.
- Utilizing regional health information organizations in areas not served by a local public health authority.
- Specifying who has access to data²⁷⁵ and removing identifying information from data.

The Subcommittee agreed that the Association of State and Territorial Health Officials (ASTHO) will be a beneficial resource to determine whether there is any specific state statute or regulation that may serve as a model for Pennsylvania with respect to data collection and the sharing of information.²⁷⁶

The Subcommittee has reviewed the operation of several databases maintained by the Department of Health, including the Pennsylvania Statewide Immunization Information System (PASIIS),²⁷⁷ the Pennsylvania National Electronic Disease Surveillance System (PANEDSS)²⁷⁸ the Real-Time Outbreak Disease Surveillance System (RODSS), the Health Alert Network, and one for infant screening. The Subcommittee intends to further research data collection and administration in Pennsylvania.

²⁷⁵ The Subcommittee recognized that this may entail defining who is a “state employee” for access purposes. In addition, the Subcommittee noted that it may be beneficial for specified employees at certain Pennsylvania universities to have access to data.

²⁷⁶ Preliminarily, the Subcommittee agreed to review the laws of Ind., Minn., N.C., Utah & Wis. to determine how its system of data collection and the sharing of information developed. The Subcommittee will analyze matters related to budget and funding, staffing, oversight, the relationship with Federal programs such as Medicare and Medicaid, and the interplay with the Health Information Technology for Economic and Clinical Health (HITECH) Act.

²⁷⁷ PASIIS is an immunization database that is accessible to physicians across the Commonwealth. Participation in the database is voluntary, except for physicians in Philadelphia. Participating physicians benefit in the use of PSIIS as an inventory management tool. In addition, a number of school districts also have access to immunization records in PASIIS. The Department of Health assists database participants in complying with Federal inventory reporting requirements by providing technical assistance.

²⁷⁸ PANEDSS, which is a database that maintains records of reportable diseases, functions as an information exchange between health care providers and is intended to facilitate case management.

Finally, the Subcommittee researched the role of the Pennsylvania Health Care Cost Containment Council (PHC4),²⁷⁹ which primarily collects hospital discharge data, and ambulatory service facility discharge data for more than two million individuals each year. The data include demographics, types of procedures, diagnoses, information from the expected payer, and charges expected to be paid.

Subcommittee on Disease Prevention and Health Promotion

The Subcommittee on Disease Prevention and Health Promotion conducted teleconferences in September 2009, January 2010 and April 2010.

The Subcommittee identified a number of topics for review, which may entail discussions with other subcommittees:

- Immunizations and vaccinations.
- Intervention and prevention programs, including school nutrition, exercise activities and mandatory testing (*e.g.*, newborn screenings).
- Education and research, including disease registries and disease surveillance.
- Taxes and regulations to the extent that they support disease prevention and health promotion (*e.g.*, efforts to decrease smoking).
- Substance abuse prevention.
- The effect of the provisions under the Public School Code of 1949.²⁸⁰
- Injury prevention and occupational health.
- Clean air and water, food safety, and safe housing.
- The treatment of chronic diseases.

The Subcommittee initially began to develop statutory recommendations regarding the vaccination of adult individuals to prevent the introduction or spread of an infectious disease. This proposed legislation under consideration addresses such issues as

²⁷⁹ Under the act of July 8, 1986 (P.L.408, No.89), known as the Health Care Cost Containment Act, the PHC4 is assigned the following responsibilities, among others: (1) collect, analyze and make available to the public data regarding the cost and quality of health care in Pennsylvania; (2) study, upon request, the issue of access to care for those Pennsylvanians who are uninsured and (3) review and make recommendations about proposed or existing mandated health insurance benefits.

²⁸⁰ Act of Mar. 10, 1949 (P.L.30, No.14); 24 P.S. §§ 1-101 through 27-2702.

the general authority of the Department of Health, how an individual can opt out of the vaccination, waivers, educational materials, vaccination standards, eligible older persons, long-term care facility residents, long-term care facility employees, institutions of higher education, and documentation regarding vaccinations. In crafting the specific provisions, the Subcommittee reviewed the College and University Student Vaccination Act,²⁸¹ the Elderly Immunization Act,²⁸² the Long-Term Care Resident and Employee Immunization Act,²⁸³ and the Hepatitis B Prevention Act.²⁸⁴

Subcommittee on Emergency and Disaster Preparedness and Response

The Subcommittee on Emergency and Disaster Preparedness and Response conducted teleconferences in August 2009, January 2010, March 2010, April 2010, January 2012, March 2012 and May 2012.

The Subcommittee focused on statutory provisions regarding infectious disease prevention and control, emergency and disaster preparedness, and counterterrorism planning, preparedness and response. Specifically, the Subcommittee reviewed the following:

- The Disease Prevention and Control Law of 1955 (DPCL).²⁸⁵
- The Counterterrorism Planning, Preparedness and Response Act (CPPRA).²⁸⁶
- The Emergency Management Services Code.²⁸⁷
- Regulations from Title 28 of the Pennsylvania Code (Health and Safety).²⁸⁸
- The Turning Point Model State Public Health Act.²⁸⁹
- The Model State Emergency Health Powers Act.²⁹⁰
- The Mental Health Procedures Act.²⁹¹

²⁸¹ Act of June 28, 2002 (P.L.492, No.83); 35 P.S. §§ 633.1-633.3.

²⁸² Act of July 15, 2004 (P.L.731, No.85); 35 P.S. §§ 634.1-634.4.

²⁸³ Act of Dec. 13, 2001 (P.L.871, No.95); 35 P.S. §§ 632.1-632.7.

²⁸⁴ Act of Mar. 29, 1996 (P.L.46, No.15); 35 P.S. §§ 630.1-630.3.

²⁸⁵ *Supra* note 11.

²⁸⁶ *Supra* note 12.

²⁸⁷ *Supra* note 13.

²⁸⁸ Specifically, 28 Pa. Code §§ 15.1-15.32 (state aid to local health departments) & §§ 27.1-27.205 (communicable and noncommunicable diseases). *Supra* note 15.

²⁸⁹ *Supra* note 18.

²⁹⁰ *Supra* note 19.

²⁹¹ *Supra* note 220.

- The Administrative Code of 1929.²⁹²
- Applicable provisions regarding public health responsibilities in various municipal codes.²⁹³

The Subcommittee has considered a statutory framework involving the following:²⁹⁴

- General provisions, with sections regarding the scope of the proposed new chapter, definitions, and how existing rules and regulations are impacted.
- Public health powers and duties, with sections regarding control measure requirements, municipal regulations, and the public health powers and duties of the Department of Health, local health authorities, municipal health authorities, and the Advisory Health Board of the Department of Health.
- General public health procedures, with sections regarding data, reporting, epidemiologic investigations, counseling and referral services, public health nuisances, and searches and inspections.
- Implementation of control measures, with sections regarding participation in an action or control measure; medical examination, testing and other approved diagnostic procedures; isolation or quarantine; and sexually transmitted infections.
- Transmission from animals, with sections regarding applicability; participation by an animal owner; medical examination, testing and other approved diagnostic procedures on animals; and animal isolation or quarantine.

The Subcommittee has also considered whether to include into this statutory framework provisions regarding public health emergency measures, based on Chapter 3 of the CPPRA. Consequently, Chapters 1 and 2 of the CPPRA (general provisions and

²⁹² *Supra* note 39.

²⁹³ *Supra* pp. 19-29.

²⁹⁴ This statutory framework would necessitate the repeal of the DPCL. In addition, the Subcommittee specifically considered the following:

(1) The repeal of the act of May 5, 1897 (P.L.42, No.37) regulating the employment and providing for the health and safety of persons employed where clothing, cigarettes, cigars and certain other articles are made or partially made, and providing that said articles be made under clean and healthful conditions.

(2) Conforming amendments to § 3 of the act of Feb. 13, 1970 (P.L.19, No.10) enabling certain minors to consent to medical, dental and health services and declaring consent unnecessary under certain circumstances.

counterterrorism planning, preparedness and response) would be codified into the Emergency Management Services Code.

Subcommittee on the Public Health System

The Subcommittee on the Public Health System conducted teleconferences in September 2009, January 2010 and May 2010.

The Subcommittee identified several topics for review and discussion, including the following:

- The relationship between the Department of Health and local health authorities, with respect to such areas as financing, communication and governance.
- The designation of an independent Secretary of Health, who would be appointed by and answerable to a governing board, with authority to serve beyond any particular gubernatorial administration and to make high-level staff appointments.
- The overall structure of the Department of Health, including staffing and program responsibility.²⁹⁵
- The operation of public health systems nationwide, given their centralized or de-centralized nature.²⁹⁶
- Funding streams.
- Public health responsibilities of governmental entities within Pennsylvania, other than the Department of Health.²⁹⁷

²⁹⁵ The Subcommittee specifically reviewed the administrative structure of the Department of Health and the jurisdiction of the Deputy Secretaries of Health Planning and Assessment, Health Promotion, Administration, and Quality Assurance.

²⁹⁶ The Subcommittee's initial goal was to determine the centralized or de-centralized nature of other states' administrative structures for providing public health services. In this regard, Texas provided a model for an integrated, effective and accessible system. The Subcommittee also reviewed the administrative structures in California, Florida, New Jersey, New York, North Carolina and Washington, as well as for the Centers for Disease Control and Prevention. Finally, the Subcommittee considered organizational charts and statutory provisions of a number of states with boards of health or other related entities, including Alabama, Alaska, Arkansas, Colorado, Idaho, Illinois, Iowa, Massachusetts, Missouri, Mississippi, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Texas, Virginia and Washington.

²⁹⁷ These entities include (1) the Departments of Aging, Agriculture, Community and Economic Development, Education, Environmental Protection, Insurance, Labor and Industry, Military and Veterans Affairs, Public Welfare, Revenue, State, and Transportation; (2) the Offices of Attorney General, Inspector General, State Fire Commissioner, and Strategic Services; (3) the Pennsylvania Emergency Management Agency; (4) the Governor's Office of Health Care Reform; (5) the Commission on Crime and Delinquency;

In addressing improvements to the structure of the public health system within Pennsylvania, the Subcommittee examined the organization and responsibilities of the Allegheny County Health Department, the Erie County Department of Health, the Allentown Health Bureau, and the Montgomery County Health Department. In addition, the Subcommittee reviewed background information regarding the Bethlehem Health Bureau, the Public Health Department of the City of Wilkes-Barre, the Bucks County Health Department, the York City Bureau of Health, and the Chester County Health Department.

General Organization of Title 35 of the Pennsylvania Consolidated Statutes

In order to improve public health law in Pennsylvania and create a statutory framework that is clearer, more concise and more consistent, the Advisory Committee first discussed the current general organization of Title 35 of the Pennsylvania Consolidated Statutes.²⁹⁸ Part III (Public Safety), Part V (Emergency Management Services) and Part VI (Emergency Medical Services). The Advisory Committee then began to consider additional provisions under 35 Pa.C.S. to accommodate the proposed statutory recommendations of the Advisory Committee and its five subcommittees. The Advisory Committee tentatively settled on the following statutory framework of 35 Pa.C.S.:²⁹⁹

PART I. PUBLIC HEALTH SYSTEM.

Subpart A. Public Health Infrastructure.

Chapter 1. Public Health Delivery System.³⁰⁰

Chapter 3. Fiscal Matters.³⁰¹

(6) the Fish and Boat Commission; (7) the Game Commission; (8) the Pennsylvania Commission for Women; (9) the Governor's Advisory Commissions on African American Affairs, Asian American Affairs, and Latino Affairs; (10) the Governor's Commission on Children and Families; (11) the Governor's Council on Physical Fitness and Sports; (12) the Governor's Advisory Council on Rural Affairs; (13) the Pennsylvania Health Care Cost Containment Council; and (14) the Patient Safety Authority. The Subcommittee began to discuss which public health programs should be transferred to the Department of Health (or other comparable entity recommended by the Subcommittee).

²⁹⁸ 35 Pa.C.S. (Health and Safety).

²⁹⁹ Other topics may be codified in other titles of the Pennsylvania Consolidated Statutes. For example, food and drug provisions and animal safety provisions belong in Title 3 (Agriculture).

³⁰⁰ The Advisory Committee anticipates that this chapter will include subchapters regarding general provisions (such as the scope of the chapter and definitions), powers and duties (such as those concerning the Department of Health), intergovernmental cooperation, public health facilities, and health care providers.

³⁰¹ The Advisory Committee anticipates that this chapter will include subchapters regarding financing and tax credits.

Subpart B. Data.

- Chapter 5. Reporting and Confidentiality.
- Chapter 7. Health Care Cost Containment Council.
- Chapter 9. Vital Statistics.

PART II. PUBLIC HEALTH.

Subpart A. Control Measures.

- Chapter 11. Infectious Diseases and Conditions Adverse to the Public Health.³⁰²

Subpart B. Health Promotion.

- Chapter 13. Prevention.³⁰³
- Chapter 15. Chronic Diseases.
- Chapter 17. Abuse Detection and Reporting.

PART III. PUBLIC SAFETY.³⁰⁴

Subpart A. Occupational Health.

Subpart B. Environmental Health.

Subpart C. Safety of Medical Products and Supplies.³⁰⁵

Subpart D. Consumer Product Safety.

Subpart E. Safe and Sanitary Housing.

Subpart F. Public Accommodations.

Subpart G. Communications and Public Information.³⁰⁶

³⁰² The Advisory Committee anticipates that this chapter will include subchapters regarding general provisions, public health responsibilities, investigative procedures, examinations, testing, diagnoses, treatment, isolation, quarantine, sexually transmitted infections, and transmission from animals.

³⁰³ The Advisory Committee anticipates that this chapter will include subchapters regarding general provisions, methods (such as screenings and interventions), vaccinations (adult and voluntary), and public education and awareness.

³⁰⁴ Part III (Public Safety) is currently part of the statutory framework of 35 Pa.C.S., but it only contains Chapter 53 (emergency telephone services).

³⁰⁵ The Advisory Committee anticipates that this chapter will include subchapters regarding drugs, devices and cosmetics; and laboratories.

³⁰⁶ The Advisory Committee anticipates that this subpart will include provisions regarding the Pennsylvania Amber Alert System Law and current 35 Pa.C.S. Ch.. 53 (emergency telephone service).

PART IV. BEHAVIORAL HEALTH.

Subpart A. Mental Health and Intellectual Disability Services.

Subpart B. Drug and Alcohol Services.

Proposed Part I (Public Health System) will include the recommendations first considered by the Subcommittee on the Public Health System and the Subcommittee on Data. Part II (Public Health) will include the recommendations first considered by the Subcommittee on Emergency and Disaster Preparedness and the Subcommittee on Disease Prevention and Health Promotion. Part IV (Behavioral Health) will include the recommendations first considered by the Subcommittee on Behavioral Health.

The Advisory Committee does not recommend any changes to the existing statutory framework of the remainder of 35 Pa.C.S.:

PART V. EMERGENCY MANAGEMENT SERVICES

Chapter 71. General Provisions

Subchapter A. Preliminary Provisions

Subchapter B. Interstate Civil Defense and Disaster Compact

Chapter 73. Commonwealth Services

Subchapter A. The Governor and Disaster Emergencies

Subchapter B. Pennsylvania Emergency Management Agency

Subchapter C. Intrastate Mutual Aid

Subchapter D. State Firemen's Training School

Subchapter E. Volunteer Fire Company, Ambulance Service and Rescue Squad Assistance

Subchapter F. State Fire Commissioner

Chapter 74. Volunteer Firefighters

Subchapter A. Preliminary Provisions

Subchapter B. Relief Association

Subchapter C. Employment Sanctions

Subchapter D. Special Fire Police

Chapter 75. Local Organizations and Services

Subchapter A. General Provisions

Subchapter B. Payment of Expenses

Chapter 76. Emergency Management Assistance Compact

Chapter 77. Miscellaneous Provisions

Chapter 78. Grants to Fire Companies and Volunteer Services

Subchapter A. Preliminary Provisions

Subchapter B. Fire Company Grant Program

Subchapter C. Volunteer Ambulance Service Grant Program

Subchapter D. Grant Funding Provisions

Subchapter E. Miscellaneous Provisions

PART VI. EMERGENCY MEDICAL SERVICES

Chapter 81. Emergency Medical Services System

Subchapter A. Preliminary Provisions

Subchapter B. Program

Subchapter C. Miscellaneous Provisions

PENNSYLVANIA’S PUBLIC HEALTH LAWS

A critical part of the public health law codification project is the collection and review of the multitude of acts relating to the topic area. The Advisory Committee will ultimately recommend which acts should be repealed and which should be codified into 35 Pa.C.S. (and amended as necessary). The following acts have been accumulated by the Joint State Government Commission, and they are organized by subject matter consistent with the subcommittee structure of the Advisory Committee and with those areas designated for staff review.³⁰⁷

Behavioral Health

DRUG AND ALCOHOL ABUSE

Title/Subject	Official Citation	Provision	Provision Summary	Purdon’s Citation
House of Correction Act	Act of June 2, 1871 P.L.1301, No.1209	§ 14	Philadelphia asylum for inebriates	61 P.S. § 683
The Insurance Company Law of 1921	Act of May 17, 1921 P.L.682, No.284	Art. VI-A	Mandatory health insurance coverage	40 P.S. §§ 908-1 through 908-8
The Administrative Code of 1929	Act of Apr. 9, 1929 P.L.177, No.175	§ 2114	DOH to compile and maintain statistics on the effectiveness of certain alcoholism rehabilitation programs	71 P.S. § 544
		§§ 2123 & 2124	DOH to make grants or agreements to provide residential drug and alcohol treatment programs for pregnant women and mothers and their dependent children	71 P.S. §§ 553 & 554
		§ 2334	Continuum of drug and alcohol detoxification and rehabilitation services for medical assistance-eligible persons	71 P.S. § 611.14
		§ 2335	Admission to drug and alcohol facilities licensed by DOH	71 P.S. § 611.15
Alcohol treatment	Act of Aug. 20, 1953 P.L.1212, No.338	§§ 1 & 4	DOH to establish hospitals and clinical facilities; duties transferred to Governor’s Council on Drug and Alcohol Abuse	50 P.S. §§ 2101 & 2104
Pennsylvania Drug and Alcohol Abuse Control Act	Act of Apr. 14, 1972 P.L.221, No.63			71 P.S. §§ 1690.101 through 1690.115

³⁰⁷ “DOH” refers to the Department of Health, and “DPW” refers to the Department of Public Welfare.

Title/Subject	Official Citation	Provision	Provision Summary	Purdon's Citation
Drug and alcohol programs in schools	Act of July 12, 1972 P.L.765, No.181			24 P.S. § 5311

PERSONS WHO ARE MENTALLY OR PHYSICALLY DISABLED

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Aid and education	Act of Apr. 4, 1838 P.L.263, No.49 ³⁰⁸	§ 11	Preference given for residents at certain institutions	24 P.S. § 2602
Indigent insane	Act of June 26, 1895 P.L.321, No.238 ³⁰⁹	§ 1	Same allowance for treatment of the indigent insane as is given to State hospitals for the insane	
Insane persons	Act of June 1, 1915 P.L.661, No.293 ³¹⁰	§§ 1, 3 & 4	Maintenance of insane, feeble-minded, and other persons confined in various institutions	71 P.S. §§ 1781, 1783 & 1784
DPW created	Act of May 25, 1921 P.L.1144, No.425			71 P.S. §§ 1461-1499
The Administrative Code of 1929	Act of April 9, 1929 P.L.177, No.175	§ 2313	Licensing and regulation of mental health institutions by DPW; care, prevention, early recognition and treatment of mental illnesses and conditions	71 P.S. § 603
		§ 2313.4	Operation of Eastern Pennsylvania Psychiatric Institute transferred to The Medical College of Pennsylvania	71 P.S. § 603.4
Pennsylvania School for Mental Defectives	Act of May 24, 1951 P.L.392, No.86			50 P.S. §§ 589.1-589.5
Mental Health and Mental Retardation Act of 1966 ³¹¹	Act of Oct. 20, 1966 Special Session 3 P.L.96, No.6 ³¹²			50 P.S. §§ 4101-4704
Public Welfare Code	Act of June 13, 1967 P.L.31, No.21	§ 1101	Powers and duties relative to mental health and mental retardation	62 P.S. § 1101
	Act of July 9, 1987 P.L.207, No.32	§ 1	Appointment of Commissioner of Mental Health	62 P.S. § 1111.1
	Act of June 13, 1967 P.L.207, No.32	§§ 1121-1126	Interstate Compact on Mental Health	62 P.S. §§ 1121-1126
		§ 1131	Reciprocal agreements with other states regarding transfers of patients	62 P.S. § 1131

³⁰⁸ Only part of the statute is still in existence.

³⁰⁹ Also see the act of May 13, 1909 (P.L.533, No.294), § 1.

³¹⁰ Repealed insofar as it was inconsistent with the act of June 12, 1951 (P.L.533), known as the Mental Health Act of 1951, pursuant § 1001 of that act. See now 50 P.S. §§ 4101-4704.

³¹¹ Now the Mental Health and Intellectual Disability Act of 1966. See the act of Nov. 22, 2011 (P.L.420, No.105).

³¹² Section 502 of the act of July 9, 1976 (P.L.817, No. 143) (50 P.S. § 7502), known as the Mental Health Procedures Act, repealed certain sections of the Mental Health and Mental Retardation Act of 1966, except insofar as they relate to mental retardation or to persons who are mentally retarded.

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
		§§ 1141-1148	Commonwealth Mental Health Research Foundation	62 P.S. §§ 1141-1148
Mental Health Procedures Act	Act of July 9, 1976 P.L.817, No.143			50 P.S. §§ 7101-7503
Parklands Payback Pilot Project Act	Act of Dec. 29, 1972 P.L.1451, No.362			50 P.S. §§ 6001-6014
Down's Syndrome	Act of Oct. 10, 1980 P.L.799, No.149			35 P.S. § 10031
Attendant Care Services Act	Act of Dec. 10, 1986 P.L.1477, No.150			62 P.S. §§ 3051-3058
Family Caregiver Support Act	Act of Dec. 19, 1990 P.L.1234, No.204			62 P.S. §§ 3061-3068
Independent Living Services Act	Act of Dec. 12, 1994 P.L.1023, No.139			62 P.S. §§ 3201-3212
Mental Health or Mental Retardation Facility Closure Act	Act of Apr. 28, 1999 P.L.24, No.3			50 P.S. §§ 8001-8006
Consumers' Continuity of Care Act	Act of Oct. 3, 2003 P.L.177, No.28			50 P.S. §§ 9001-9007
Family Support for Persons with Disabilities Act	Act of Nov. 30, 2004 P.L.1561, No.198			62 P.S. §§ 3301-3311

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Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Midwives in Philadelphia	Act of Mar. 27, 1819 P.L.197, Ch. CXXVI	§ 2	Mandatory reporting of births	53 P.S. § 16333
Death of prisoners in Philadelphia	Act of Mar. 29, 1819 P.L.232, No.146	§ 2	Mandatory reporting of deaths	61 P.S. § 638
Lying-in hospitals	Act of Apr. 26, 1893 P.L.24, No.19	§ 2	Mandatory reporting of births	35 P.S. § 322
The Administrative Code of 1929	Act of April 9, 1929 P.L.177, No.175	§ 2104	DOH to collect vital statistics	71 P.S. § 534
Commissioner of Health annual reports	Act of June 9, 1911 P.L.754, No.317			71 P.S. § 1651
Vital records in First Class Cities	Act of July 11, 1941 P.L.114, No.55	§ 1	Fees for certified copies and searches of certain records	35 P.S. § 475
Substitute birth records	Act of July 16, 1941 P.L.405, No.154			35 P.S. § 491
Vital records in First Class Cities	Act of Apr. 6, 1945 P.L.165, No.74	§ 1	Free copies of certain records for disabled war veterans and their dependents	35 P.S. § 476
Vital Statistics Law of 1953	Act of June 29, 1953 P.L.304, No.66			35 P.S. §§ 450.101-450.1003

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
The County Code	Act of Aug. 9, 1955 P.L.323, No.130	§ 2171	Fourth through eighth class counties to file reports with DOH of persons applying for treatment in county institutions	16 P.S. § 2171
Minors' consent to medical, dental and health services	Act of Feb. 13, 1970 P.L.19, No.10			35 P.S. §§ 10101-10105
Pennsylvania Cancer Control, Prevention and Research Act	Act of Dec. 18, 1980 P.L.1241, No.224 ³¹³			35 P.S. §§ 5631-5637
Rural Issues Task Force	Act of July 6, 1984 P.L.645, No.133 ³¹⁴			71 P.S. §§ 1190.51-1190.56
Health Care Cost Containment Act	Act of July 8, 1986 P.L.408, No.89 ³¹⁵			35 P.S. §§ 449.1-449.19
Rural Pennsylvania Revitalization Act	Act of June 30, 1987 P.L.163, No.16			71 P.S. §§ 1190.101- 1190.1101
Vietnam Veterans Health Initiative Act	Act of July 13, 1987 P.L.348, No.67 ³¹⁶			51 P.S. §§ 20201-20212
Confidentiality of HIV-Related Information Act	Act of Nov. 29, 1990 P.L.585, No.148			35 P.S. §§ 7601-7612
Public Health Child Death Act	Act of Oct. 8, 2008 P.L.1073, No.87			11 P.S. §§ 2150.1-2150.20
Pennsylvania eHealth Information Technology Act	Act of July 5, 2012 P.L.1042, No.121			
HIV-Related Testing for Sex Offenders Act	Act of Oct. 25, 2012 No.201			

Disease Prevention and Health Promotion

INTERVENTION

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Human gift registry	Act of June 13, 1883 P.L.119, No.106			35 P.S. §§ 1091-1097
Permits for cremations	Act of June 8, 1891 P.L.212, No.184			35 P.S. §§ 1121-1123
State Board of Undertakers' Law ³¹⁷	Act of June 7, 1895 P.L.167, No.107			71 P.S. §§ 1161-1164

³¹³ Reenacted and amended by the act of Nov. 25, 1988 (P.L.1086, No.126).

³¹⁴ Expired Dec. 31, 1987, pursuant to the act of July 6, 1984 (P.L.645, No.133), § 5.

³¹⁵ Re-enacted by the act of June 10, 2009 (P.L.10, No.3).

³¹⁶ Expired. See the act of June 30, 1993 (P.L.189, No.43), § 1, effective June 30, 1996.

³¹⁷ Now the State Board of Funeral Directors. See § 19 of the act of Jan. 14, (1952) 1951 (P.L.1898, No.522), known as the Funeral Director Law.

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Seizure of clothing made in unhealthy or unsanitary places	Act of May 5, 1897 P.L.42, No.37	§ 4		43 P.S. § 9
Tenement houses in cities of the second class	Act of Mar. 30, 1903 P.L.110, No.87 ³¹⁸			53 P.S. §§ 25001-25016
Protection of public health in cities of the first class	Act of Apr. 20, 1905 P.L.228, No.165		Control and care of persons with certain diseases or conditions (and their burial); sanitary control and disinfection of premises	53 P.S. §§ 14401-14403
Procedures for undertakers	Act of May 7, 1907 P.L.173, No.135		Preparation of bodies for shipment by common carrier or regarding those dying of certain communicable diseases	35 P.S. § 1098
Protection of public health in cities of the second class	Act of Apr. 29, 1911 P.L.103, No.98		Authorization to vacate or destroy buildings dangerous to public health	53 P.S. §§ 24611-24616
Protection of public health in cities of the second class	Act of June 1, 1915 P.L.660, No.291		Prohibition against the construction of vaults, crypts or mausoleums wholly or partially above ground	53 P.S. § 25111
Barbers' License Law	Act of June 19, 1931 P.L.589, No.202	§ 15	Penalties for spreading diseases	63 P.S. § 565
The Third Class City Code	Act of June 23, 1931 P.L.932, No.317 ³¹⁹	§§ 2320-2324	Abatement of public nuisances	53 P.S. §§ 37320-37324
Beauty Culture Law	Act of May 3, 1933 P.L.242, No.86	§ 14	Prevention of the creation and spread of infectious and contagious diseases in beauty salons	63 P.S. § 520
Mosquito eradication	Act of July 10, 1935 P.L.641, No.226 ³²⁰			16 P.S. § 11851
Bedding and Upholstery	Act of May 27, 1937 P.L.926, No.249			35 P.S. §§ 972-984
The County Code	Act of Aug. 9, 1955 P.L.323, No.130	§§ 1250-2152	Pest control; elimination and abatement of larvae breeding places	16 P.S. §§ 2150-2152
Disease Prevention and Control Law of 1955	Act of Apr. 23, (1956) 1955 P.L.1510, No.500			35 P.S. §§ 521.1-521.21
Autopsies	Act of May 24, (1956) 1955 P.L.1702, No.575			35 P.S. §§ 1111-1114
Smoking in hospitals	Act of Dec. 1, 1977 P.L.236, No.75	§ 1		35 P.S. § 361
Older Adult Protective Services Act	Act of Nov. 6, 1987 P.L.381, No.79			35 P.S. §§ 10225.101-10225.5102

³¹⁸ Also see the act of Mar. 25, 1903 (P.L.54, No.57); 53 P.S. §§ 25017-25029.

³¹⁹ Re-enacted and amended by the act of June 28, 1951 (P.L.662, No.164).

³²⁰ Repealed as to counties of the third through eighth classes by the act of Aug. 9, 1955 (P.L.323, No.130).

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Older Adult Daily Living Centers Licensing Act	Act of July 11, 1990 P.L.499, No.118			62 P.S. §§ 1511.1-1511.22
The Insurance Company Law of 1921	Act of May 17, 1921 P.L.682, No. 284	Art. XI ³²¹	Long-term care insurance	40 P.S. §§ 991.1101-991.1115
Domestic Violence Health Care Response Act	Act of Dec. 3, 1998 P.L.925, No.115			35 P.S. §§ 7661.1-7661.3

IMMUNIZATIONS

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Public School Code of 1949	Act of Mar. 10, 1949 P.L.30, No.14	§ 1303	Immunizations required to attend school	24 P.S. § 13-1303a
Childhood Immunization Insurance Act	Act of May 21, 1992 P.L.239, No.35			40 P.S. §§ 3501-3508
Hepatitis B Prevention Act	Act of Mar. 29, 1996 P.L.46, No.15			35 P.S. §§ 630.1-630.3
Medical Foods Insurance Coverage Act	Act of Dec. 20, 1996 P.L.1492, No.191			40 P.S. §§ 3901-3909
Long-Term Care Resident and Employee Immunization Act	Act of Dec. 13, 2001 P.L.871, No.95			35 P.S. §§ 632.1-632.7
College and University Student Vaccination Act	Act of June 28, 2002 P.L.492, No.83			35 P.S. §§ 633.1-633.3
Elderly Immunization Act	Act of July 15, 2004 P.L.731, No.85			35 P.S. §§ 634.1-634.4

PROGRAMS, SERVICES AND SCREENINGS FOR SPECIFIC HEALTH CONDITIONS

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Venereal diseases	Act of Mar. 31, 1921 P.L.88, No.50			72 P.S. § 3464
The Administrative Code of 1929	Act of April 9, 1929 P.L.177, No.175	Art. XX § 2116	Cystic fibrosis program	71 P.S. § 546
		Art. XXI-A	Osteoporosis prevention and education program	71 P.S. §§ 531-A through 538-A
Home nursing care services	Act of Sept. 26, 1961 P.L.1660, No.691			35 P.S. §§ 445.1-445.6
Newborn Child Testing Act	Act of Sept. 9, 1965 P.L.497, No.251			35 P.S. §§ 621-625
Renal Disease Treatment Act	Act of June 23, 1970 P.L.419, No.140			35 P.S. §§ 6201-6208
Medical staff treatment of rape victims	Act of July 30, 1975 P.L.131, No.65	§ 1		35 P.S. § 10171

³²¹ Added by the act of Dec. 15, 1992 (P.L.1129, No.148).

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Ramps at crosswalks for handicapped persons	Act of May 20, 1976 P.L.129, No.56			53 P.S. §§ 1898-1899
Insurance reimbursement for licensed certified nurse midwife services	Act of Dec. 23, 1981 P.L.583, No.168			40 P.S. §§ 3001-3003
Women's, Infants' and Children's Nutrition Improvement Act	Act of July 10, 1986 P.L.1396, No.121			62 P.S. §§ 2951-2955
Steroid control and education	Act of Dec. 22, 1989 P.L.702, No.93			35 P.S. §§ 807.1-807.5
Women's Preventative Health Services Act	Act of Apr. 22, 1994 P.L.136, No.20			40 P.S. §§ 1571-1577
Diethylstilbestrol Public Information and Education Act	Act of Oct. 13, 1994 P.L.594, No.89			35 P.S. §§ 6211-6216
Lead Certification Act	Act of July 6, 1995 P.L.291, No.44			35 P.S. §§ 5901-5916
Health Security Act	Act of July 2, 1996 P.L.514, No.85			40 P.S. §§ 1581-1584
Emergency medical services	Act of July 11, 1996 P.L.655, No.112			40 P.S. §§ 3041-3042
Domestic Violence Health Care Response Act	Act of Dec. 3, 1998 P.L.925, No.115			35 P.S. §§ 7661.1-7661.3
Tobacco Settlement Agreement	Act of June 20, 2000 P.L.394, No.54			35 P.S. §§ 5671-5675
Tobacco Settlement Act	Act of June 26, 2001 P.L.755, No.77			35 P.S. §§ 5701.101-5701.5103
Infant Hearing Education Assessment Reporting and Referral Act (IHEARR) Act	Act of Nov. 30, 2001 P.L.849, No.89			11 P.S. §§ 876-1 through 876-9o
Shaken Baby Syndrome Education Act	Act of Dec. 9, 2002 P.L.1406, No.176			11 P.S. §§ 2121-2126
Reflex Sympathetic Dystrophy Syndrome Education Act	Act of Dec. 30, 2003 P.L.434, No.62			35 P.S. §§ 6221-6225
Pennsylvania Breast and Cervical Cancer Early Screening Act	Act of Nov. 22, 2005 P.L.407, No.74			35 P.S. §§ 5703.101-5703.106
Ounce of Prevention Program Act	Act of Apr. 12, 2006 P.L.71, No.23			35 P.S. §§ 635.1-635.9
Sexual Assault Testing and Evidence Collection Act	Act of Nov. 29, 2006 P.L.1471, No.165			35 P.S. §§ 10172.1-10172.4
Healthy Farms and Healthy Schools Act	Act of Nov. 29, 2006 P.L.1621, No.184			3 P.S. §§ 2501-2510
Freedom to Breastfeed Act	Act of July 8, 2007 P.L.90, No.28			35 P.S. §§ 636.1-636.4
Umbilical Cord Blood Banking Education and Donation Act	Act of Apr. 3, 2008 P.L.54, No.12			35 P.S. §§ 6530.1-6530.6

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Primary Stroke Center Recognition Act	Act of May 29, 2012 P.L.549, No.54			
Sudden Cardiac Arrest Prevention Act	Act of May 30, 2012 P.L.574, No.59			

MEDICAL PRODUCTS AND SUPPLIES

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Adulteration of medicines	Act of May 25, 1897 P.L.85, No.68			
Control of the sale of cocaine and eucaine	Act of May 8, 1909 P.L.487, No.270			35 P.S. §§ 821-826
Disposition of seized illegal drugs	Act of May 20, 1921 P.L.939, No.328		Delivery of confiscated drugs by district attorney to DOH or a county health board	35 P.S. §§ 828 & 829
The Administrative Code of 1929	Act of Apr. 9, 1929 P.L.177, No.175	§ 2108	DOH to regulate narcotic drugs	71 P.S. § 538
		§ 2120	DOH powers and duties from controlled substances law	71 P.S. § 550
		§ 2125	Anatomical gifts (organ donation)	71 P.S. § 555
Clinical Laboratory Act	Act of Sept. 26, 1951 P.L.1539, No.389			35 P.S. §§ 2151-2165
The Pennsylvania Cancer Law	Act of Aug. 14, 1963 P.L.824, No.402			35 P.S. §§ 5601-5610
Eyeglass frames and flammable material	Act of Jan. 10, (1971) 1972 P.L.664, No.176			35 P.S. §10051
The Controlled Substance, Drug, Device and Cosmetic Act	Act of Apr. 14, 1972 P.L.233, No.64			35 P.S. §§ 780-101 through 780-144
Pennsylvania Blood Bank Act	Act of Dec. 6, 1972 P.L.1614, No.335			35 P.S. §§ 6501-6523
Generic equivalent drugs	Act of Nov. 24, 1976 P.L.1163, No.259			35 P.S. §§ 960.1-960.7
Hearing Aid Sales Registration Law	Act of Nov. 24, 1976 P.L.1182, No.262			35 P.S. §§ 6700-101 through 6700-802
Prescriptions	Act of July 2, 1980 P.L.344, No.86			35 P.S. §§ 806.1-806.2
Organ & nonregenerative tissue purchases	Act of Dec. 18, 1984 P.L.1064, No.210			35 P.S. § 10025
Informed consent for treatment of breast disease	Act of Dec. 18, 1984 P.L.1068, No.213			35 P.S. §§ 5641-5642
Noncontrolled Substances Reporting and Registration Act	Act of Feb. 14, 1990 P.L.62, No.11			35 P.S. §§ 881-888
Mammography Quality Assurance Act	Act of July 9, 1992 P.L.449, No.93			35 P.S. §§ 5651-5664

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Universal Telecommunications and Print Media Access Act	Act of July 6, 1995 P.L.255, No.34			35 P.S. §§ 6701.1-6701.4
Unused Property Market Act	Act of June 22, 2000 P.L.367, No.46	§ 3(a)	Sale of baby food, cosmetics, personal care products, nonprescription drugs or medical devices	69 P.S. § 2613
Bloodborne Pathogen Standard Act	Act of Dec. 13, 2001 P.L.873, No.96			35 P.S. §§ 631.1-631.6
Denture labeling	Act of Nov. 19, 2004 P.L.835, No.101			63 P.S. §§ 130aa-130dd
Donation of blood by minors	Act of Nov. 20, 2007 P.L.426, No.63			35 P.S. § 10002
Cancer Drug Repository Program Act	Act of May 13, 2008 P.L.139, No.14			62 P.S. §§ 2921-2927
Long-Term Care Patient Access to Pharmaceuticals Act	Act of Oct. 9, 2008 P.L.1413, No.114			35 P.S. §§ 960.11-960.18

PATIENT SAFETY AND MEDICAL ERROR PREVENTION

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Identification of newborns	Act of Apr. 29, 1925 P.L.358, No.209			35 P.S. §§ 351-353
The Dental Law	Act of May 1, 1933 P.L.216, No.76	§§ 11.2 & 11.3	Reports of adverse occurrences involving anesthesia and drugs	63 P.S. §§ 130c & 130d
State aid to hospitals	Act of July 10, 1935 P.L.645, No.230			35 P.S. §§ 435-436
Identification devices by persons with certain conditions that may result in unconsciousness	Act of Nov. 25, 1970 P.L.769, No.254			35 P.S. § 10011
Uniform Determination of Death Act	Act of Dec. 17, 1982 P.L.1401, No.323			35 P.S. §§ 10201-10203
Continuing-Care Provider Registration and Disclosure Act	Act of June 18, 1984 P.L.391, No.82			40 P.S. §§ 3201-3225
Volunteer Health Services Act	Act of Dec. 4, 1996 P.L.893, No.141			35 P.S. §§ 449.41-449.53
Medical Care Availability and Reduction of Error (MCARE) Act	Act of Mar. 20, 2002 P.L.154, No.13	Ch. 3	Patient Safety Authority	40 P.S. §§ 1303.301-1303.315
		Ch. 4	Health care associated infections	40 P.S. §§ 1303.401-1303.411
Prohibition of Excessive Overtime in Health Care Act	Act of Oct. 9, 2008 P.L.1376, No.102			43 P.S. §§ 932.1-932.6
Preventable Serious Adverse Events Act	Act of June 10, 2009 P.L.1, No.1			35 P.S. §§ 449.91-449.97

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Professional licensure laws			Treatment programs for impaired professionals	
	Act of May 1, 1933 P.L.216, No.76	§ 11.6	The Dental Law	63 P.S. § 130g
	Act of May 22, 1951 P.L.317, No.69	§ 14.1	The Professional Nursing Law	63 P.S. § 224.1
	Act of Mar. 2, (1956) 1955 P.L.1206, No.375	§ 21.1	Podiatry Practice Act	63 P.S. § 42.21b
	Act of Mar. 2, (1956) 1955 P.L.1211, No.376	§ 16.2	Practical Nurse Law	63 P.S. § 666.2
	Act of Mar. 23, 1972 P.L.136, No.52	§ 18	Professional Psychologists Practice Act	63 P.S. § 1218
	Act of Oct. 10, 1975 P.L.383, No.110	§ 13	Physical Therapy Practice Act	63 P.S. § 1313
	Act of Oct. 5, 1978 P.L.1109, No.261	§ 16.3	Osteopathic Medical Practice Act	63 P.S. § 271.16c
	Act of June 6, 1980 P.L.197, No.57	§ 7.1	Optometric Practice and Licensure Act	63 P.S. § 244.7a
	Act of Dec. 21, 1984 P.L.1253, No.238	§ 17.1	Speech-Language and Hearing Licensure Act	63 P.S. § 1717.1
	Act of Dec. 20, 1985 P.L.457, No.112	§ 4	Medical Practice Act of 1985	63 P.S. § 422.4
	Act of Dec. 16, 1986 P.L.1646, No.188	§ 509	Chiropractic Practice Act	63 P.S. § 625.509
	Act of July 9, 1987 P.L.220, No.39	§ 15	Social Workers, Marriage and Family Therapists and Professional Counselors Act	63 P.S. § 1915
			Supervision of radiological procedures to ensure patient safety	
	Act of May 1, 1933 P.L.216, No.76	§ 11.4	The Dental Law	63 P.S. § 130e
	Act of Mar. 2, (1956) 1955 P.L.1206, No.375	§ 21.2	Podiatry Practice Act	63 P.S. § 42.21c
	Act of Oct. 5, 1978 P.L.1109, No.261	§ 16.4	Osteopathic Medical Practice Act	63 P.S. § 271.16d
	Act of Dec. 20, 1985 P.L.457, No.112	§ 45	Medical Practice Act of 1985	63 P.S. § 422.45
	Act of Dec. 16, 1986 P.L.1646, No.188	§ 522	Chiropractic Practice Act	63 P.S. § 625.522

SAFE AND SANITARY HOUSING³²²

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Condemnation of unsanitary tenements, lodgings and boarding houses	Act of July 24, 1913 P.L.1015, No.459			71 P.S. §§ 1431-1435
Adoption of municipal building ordinances	Act of Apr. 14, 1937 P.L.313, No.87			53 P.S. § 4101
Housing Cooperation Law	Act of May 26, 1937 P.L.888, No.232			35 P.S. §§ 1581-1588
Housing Authorities Law	Act of May 28, 1937 P.L.955, No.265			35 P.S. §§ 1541-1565
Leasing and conveying slum areas	Act of Sept. 14, 1938 Spec. Sess. No. 1 P.L.34, No.12			35 P.S. §§ 1571-1575
National Defense Housing Law	Act of July 31, 1941 P.L.644, No.264			35 P.S. §§ 1595.1-1595.9
Redevelopment Cooperation Law	Act of May 24, 1945 P.L.982, No.383			35 P.S. §§ 1741-1747
Urban Development Law	Act of May 24, 1945 P.L.991, No.385			35 P.S. §§ 1701-1719.2
Housing for veterans	Act of June 10, 1947 P.L.486, No.216			35 P.S. §§ 1641-1643
Veterans' Housing Authority Act	Act of July 7, 1947 P.L.1414, No.549			35 P.S. §§ 1590.1-1590.21
State Planning Code	Act of May 20, 1949 P.L.1608, No.485		Responsibility for safe and sanitary housing	71 P.S. § 1049.3a
Housing and Redevelopment Assistance Law	Act of May 20, 1949 P.L.1633, No.493			35 P.S. §§ 1661-1676
Acquisition of Federal housing projects	Act of Aug. 22, 1953 P.L.1359, No.385			35 P.S. § 1695
Housing Finance Agency Law	Act of Dec. 3, 1959 P.L.1688, No.621			35 P.S. §§ 1680.101-1680.603a
Landlord and tenant rights when dwelling unfit for habitation	Act of Jan. 24, (1966) 1955 P.L.1534, No.536			35 P.S. §§ 1700-1
Pennsylvania Urban Assistance Act of 1969	Act of Mar. 21, 1970 P.L.195, No.77			71 P.S. §§ 1049.101-1049.105
Industrialized Housing Act	Act of May 11, 1972 P.L.286, No.70			35 P.S. §§ 1651.1-1651.12
Manufactured Housing Construction and Safety Standards Authorization Act	Act of Nov. 17, 1982 P.L.676, No.192			35 P.S. §§ 1656.1-1656.9

³²² With respect to the references in the law to the Department of Community Affairs, the act of June 27, 1996 (P.L.403, No.58) transferred the functions of that department into the Department of Community and Economic Development (formerly known as the Department of Commerce) and other agencies.

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Neighborhood Housing Services Act	Act of July 11, 1990 P.L.421, No.102			62 P.S. §§ 2090.11-2090.16
Affordable Housing Ac	Act of Dec. 18, 1992 P.L.1376, No.172			35 P.S. §§ 1691.1-1691.6
Conservation and Natural Resources Act	Act of June 28, 1995 P.L.89, No.18	§ 505	Nuisances arising from unsanitary conditions of tenements, lodgings or boarding houses	71 P.S. § 1340.505
Construction Code Act	Act of Nov. 10, 1999 P.L.491, No.45			35 P.S. §§ 7210.101-7210.1103
Manufactured Housing Improvement Act	Act of Nov. 29, 2004 P.L.1282, No.158			35 P.S. §§ 1658.1-1658.6

ANIMAL HEALTH

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Bone boiling establishments and depositories of dead animals	Act of May 19, 1897 P.L.77, No.56			35 P.S. §§ 1061-1062
Diseases of domestic animals	Act of June 18, (1901) 1900 P.L.711, No.413			
The County Code	Act of Aug. 9, 1955 P.L.323, No.130	§ 2167	Hydrophobia; fourth through eighth class counties to provide for indigents	16 P.S. § 2167
Importation and sale of live turtles	Act of Mar. 3, 1972 P.L.102, No.37			35 P.S. §§ 1071-1077
Rabies Prevention and Control In Domestic Animals and Wildlife Act	Act of Dec. 15, 1986 P.L.1610, No.181			3 P.S. §§ 455.1-455.12
Animal Health and Diagnostic Act	Act of Dec. 14, 1988 P.L.1198, No.148			3 P.S. §§ 430.1-430.7
Domestic Animal Law	3 Pa.C.S. §§ 2301-2389			3 Pa.C.S. §§ 2301-2389

Emergency and Disaster Preparedness and Response

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
State Quarantine Board abolished	Act of June 14, 1919 P.L.640, No.276			55 P.S. § 241
The Administrative Code of 1929	Act of Apr. 9, 1929 P.L.177, No.175	§ 2102.1	Recovery of blood plasma proteins for immunization, treatment, research and disaster-stockpiling	71 P.S. § 532.1
		§ 2106	Quarantines, vaccinations and other means of preventing the spread of communicable diseases	71 P.S. § 536
The Sabotage Prevention Act	Act of Apr. 13, 1942 Spec. Sess. No. 1 P.L.32, No.13			35 P.S. §§ 2101-2109
Air Raid Precautions Act	Act of Apr. 13, 1942 Spec. Sess. No. 1 P.L.37, No.14			35 P.S. §§ 2001-2011
Disease Prevention and Control Law of 1955	Act of Apr. 23, (1956) 1955 P.L.1510, No.500			35 P.S. §§ 521.1-521.21
The County Code	Act of Aug. 9, 1955 P.L.323, No.130	§§ 1947-1948	Prevention and control of floods; disaster cleanup	16 P.S. §§ 1947-1948
Emergency Medical Services System Act ³²³	35 Pa.C.S. §§ 8101-8157			35 Pa.C.S. §§ 8101-8157
Emergency Telephone Service ³²⁴	35 Pa.C.S. §§ 5301-5398			35 Pa.C.S. §§ 5301-5398
Hazardous Material Emergency Planning and Response Act	Act of Dec. 7, 1990 P.L.639, No.165			35 P.S. §§ 6022.101-6022.307
Flood Insurance Education and Information Act	Act of July 11, 1996 Spec. Sess. No. 2 P.L.27, No.11			40 P.S. §§ 1620.1- 1620.3
Counterterrorism Planning, Preparedness and Response Act	Act of Dec. 16, 2002 P.L.1967, No.227			35 P.S. §§ 2140.101-2140.303
Fire companies and volunteer ambulance services ³²⁵	35 Pa.C.S. §§ 7801-7842			35 Pa.C.S. §§ 7801-7842

³²³ This act supersedes the act of July 3, 1985 (P.L.164, No.45) (formerly 35 P.S. §§ 6921-6938), known as the Emergency Medical Services Act, which was repealed by § 6(2) of the act of Aug. 18, 2009 (P.L.308, No.37), effective immediately.

³²⁴ These provisions supersede the act of July 9, 1990 (P.L.340, No.78) (formerly 35 P.S. §§ 7011-7021.1), known as the Public Safety Emergency Telephone Act, which was repealed by § 7(a)(10.1) of the act of Nov. 23, 2010 (P.L.1181, No.118), effective Jan. 1, 2011.

³²⁵ These provisions supersede the act of July 31, 2003 (P.L.73, No.17) (formerly 35 P.S. §§ 6942.101-6942.903), known as the Volunteer Fire Company and Volunteer Ambulance Service Grant Act, which was repealed by § 7(a)(14) of the act of Nov. 23, 2010 (P.L.1181, No.118), effective Jan. 24, 2011.

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Pennsylvania trauma systems stabilization ³²⁶	Act of Oct. 22, 2010 P.L.829, No.84	Art. VIII-H	Pennsylvania trauma systems stabilization	62 P.S. §§ 801-H through 807-H
Amber Alert System	Act of Nov. 24, 2004 P.L.1270, No.153			35 P.S. §§ 7025.1-7025.5
Public Utility Confidential Security Information Disclosure Protection Act	Act of Nov. 29, 2006 P.L.1435, No.156			35 P.S. §§ 2141.1-2141.6

The Public Health System

INFRASTRUCTURE

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Board of Health in the City of Philadelphia	Act of Jan. 29, 1818 P.L.38, No.30		Health inspectors of ships and vessels at the port	
	Act of Mar. 29, 1824 P.L.125, No.75		Authority extended to cover smallpox infections	53 P.S. § 16335
Pennsylvania Institute for the Deaf and Dumb in Philadelphia	Act of Feb. 8, 1821 P.L.30, No.25			24 P.S. § 2601
Board of Health in the City of Philadelphia	Act of Apr. 4, 1866 P.L.487, No.454		Removal of certain nuisances on public highways	53 P.S. § 16603
Prison and almshouse visitors	Act of Apr. 17, 1867 P.L.87, No.68			61 P.S. § 51
Board of Public Charities created ³²⁷	Act of Apr. 24, 1869 P.L.90, No.66			
State hospital for injured persons in the anthracite coal region (Ashland State Hospital)	Act of June 11, 1879 P.L.157, No.169			35 P.S. §§ 1-3
	Act of May 19, 1887 P.L.135, No.80	§§ 1-2	Contributions and payments	35 P.S. §§ 4-5
State hospital for injured persons in Luzerne County	Act of June 14, 1887 P.L.399, No.264 ³²⁸			35 P.S. §§ 91-95

³²⁶ These provisions supersede the act of Mar. 24, 2004 (P.L.148, No.15) (formerly 35 P.S. §§ 6943.1-6943.7), known as the Pennsylvania Trauma System Stabilization Act, which was repealed by § 7(2) of the act of Oct. 22, 2010 (P.L.829, No.84), effective immediately.

³²⁷ Abolished by the act of May 25, 1921 (P.L.1144, No.425).

³²⁸ Repealed insofar as they are inconsistent with the act of June 7, 1923 (P.L.498, No.274), known as The Administrative Code. See 71 P.S. §§ 1, 2, 11-13, 21, 31, 32, 66 note, 69 note & 70 note.

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
State hospitals for injured persons in the bituminous and semi-bituminous coal regions (Blossburg, Connellsville and Philipsburg State Hospitals)	Act of June 14, 1887 P.L.401, No.265 ³²⁹			35 P.S. §§ 31-34
Home for training deaf children	Act of June 20, 1891 P.L.371, No.296			24 P.S. §§ 2621-2623
Municipal boards of health	Act of June 18, 1895 P.L.203, No.124			53 P.S. § 3751
Boards of health in cities and boroughs	Act of June 24, 1895 P.L.232, No.133			53 P.S. §§ 3752-3755
Bureau of Health in cities of the second class	Act of June 26, 1895 P.L.350, No.258			53 P.S. §§ 24561-24691
Home for training deaf children in Philadelphia	Act of July 18, 1901 P.L.683, No.349			24 P.S. § 2624
State hospital for the northern anthracite coal region (Scranton State Hospital)	Act of July 18, 1901 P.L.775, No.482			35 P.S. §§ 181-183
Hospitals for the treatment of contagious and infectious diseases in cities of the second class	Act of Mar. 16, 1903 P.L.27, No.33			53 P.S. § 23148
Miners' Home of Pennsylvania	Act of Apr. 22, 1903 P.L.248, No.184			52 P.S. §§ 1411-1422
DOH created	Act of Apr. 27, 1905 P.L.312, No.218			71 P.S. §§ 1401-1435
Tuberculosis sanitoria	Act of May 14, 1907 P.L.197, No.157			35 P.S. §§ 381-382
State hospital for injured persons in Northumberland County (Shamokin State Hospital)	Act of June 13, 1907 P.L.699, No.601			35 P.S. §§ 221-225
Department of Public Health in cities of the second class	Act of Apr. 1, 1909 P.L.83, No.49			53 P.S. § 22701
DOH fiscal affairs	Act of Apr. 23, 1909 P.L.137, No.86			71 P.S. §1 412
Contracts for supplies at Ashland State Hospital	Act of May 13, 1909 P.L.814, No.629			35 P.S. § 6
Philadelphia Institution for the Feeble-Minded	Act of June 11, 1911 App. Act p. 308, §5			53 P.S. §§ 16337-16338
Panther Creek Valley Hospital (Coaldale State Hospital)	Act of June 14, 1911 P.L.921, No.724			35 P.S. §§ 61-62
Nanticoke State Hospital	Act of June 14, 1911 P.L.933, No.735			35 P.S. §§ 151-152

³²⁹ Repealed insofar as they are inconsistent with the act of June 7, 1923 (P.L.498, No.274), known as The Administrative Code. See 71 P.S. §§ 1, 2, 11-13, 21, 31, 32, 66 note, 69 note & 70 note.

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Pennsylvania Oral School for the Deaf	Act of May 8, 1913 P.L.163, No.112			71 P.S. §§ 1071-1072
Contagious disease hospitals in counties of the first class	Act of May 24, 1917 P.L.297, No.160			16 P.S. §§ 8201-8202
Joint county and city hospitals in counties with a city of the third class	Act of May 23, 1919 P.L.255, No.136			16 P.S. §§ 12101-12116; 53 P.S. §§ 39901-39916
DPW created	Act of May 25, 1921 P.L.1144, No.425			71 P.S. §§ 1461-1499
Locust Mountain State Hospital	Act of May 11, 1923 P.L.199, No.145			35 P.S. §§ 121-123
Crippled children	Act of June 7, 1923 P.L.677, No.276			11 P.S. §§ 871-872
Acquisition of state-owned hospitals	Act of June 7, 1923 P.L.681, No.279	§ 4	Prohibition against refusal to admit based solely on a patient's inability to pay	35 P.S. §§ 251-256
		§ 6	Compensation for services rendered to indigent patients	35 P.S. §§ 251-256
County tuberculosis hospitals	Act of Mar. 23, 1925 P.L.65, No.44	§§ 12-13		16 P.S. §§ 12151-12152
County health associations	Act of Apr. 10, 1925 P.L.223, No.148		Boards of health in cities of the third class, boroughs and townships of the first class	53 P.S. §§ 3781-3783
Elizabethtown Hospital for Children and Youth	Act of May 14, 1925 P.L.749, No.408			35 P.S. §§ 421-423
Intergovernmental cooperation in the administration and enforcement of health laws, rules and regulations	Act of Mar. 24, 1927 P.L.61, No.41			71 P.S. § 1410
Municipal ownership and maintenance of motor ambulances	Act of Apr. 27, 1927 P.L.460, No.293			53 P.S. § 3811
Shamokin State Hospital	Act of Mar. 28, 1929 P.L.88, No.98			71 P.S. §§ 1772-1773
The Administrative Code of 1929	Act of Apr. 9, 1929 P.L.177, No.175	§ 202	DPW assigned state hospital boards of trustees	71 P.S. § 62
		§ 203	DOH assigned Advisory Health Board; DPW assigned Advisory Committee for General and Special Hospitals and Advisory Committee for Mental Health and Mental Retardation	71 P.S. § 63
		§ 206	Secretary of Health designated head of DOH	71 P.S. § 66
		§ 401	Membership of boards of trustees of state institutions	71 P.S. § 11
		§ 448(f)	Advisory Health Board membership	71 P.S. § 158(f)
		§ 2105	State health districts	71 P.S. § 535

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
		§ 2107	DOH to maintain tuberculosis sanatoria	71 P.S. § 537
		§ 2111	Advisory Health Board	71 P.S. § 541
		§ 2115	Speech and hearing rehabilitation centers	71 P.S. § 545
		§§ 2117-2119	Center for treatment of physical and neuro-developmental disabilities	71 P.S. §§ 547-549
		§ 2313	DPW assigned licensing and regulation of mental health institutions	71 P.S. § 603
		§ 2313.4	Eastern Pennsylvania Psychiatric Institute	71 P.S. § 603.4
		§ 2334	Drug and alcohol detoxification and rehabilitation services and medical assistance payments	71 P.S. § 611.14
		§ 2335	Admission to drug and alcohol facilities	71 P.S. § 611.15
Commission to investigate schools for blind and deaf	Act of May 15, 1929 P.L.1764, No.573			24 P.S. §§ 2605-2607
Municipal hospitals	Act of May 17, 1929 P.L.1805, No.598 ³³⁰			53 P.S. §§ 3812-3814
The Third Class City Code	Act of June 23, 1931 P.L.932, No.317	Art. XXIII	Boards of Health	53 P.S. §§ 37301-37340
		Art. XXXVI	Hospitals for the treatment of the sick and injured and treatment and separation of persons suffering from contagious or infectious diseases	53 P.S. §§ 38601-38612
The First Class Township Code	Act of June 24, 1931 P.L.1206, No.331	Art. XVI	Boards of Health	53 P.S. §§ 56601-56627
The Second Class Township Code	Act of May 1, 1933 P.L.103, No.69	Art. XXX	Boards of Health	53 P.S. §§ 68001-68010
Hospitalization of indigent veterans	Act of May 17, 1933 P.L.803, No.121			35 P.S. §§ 257-259
State sanatoria	Act of July 1, 1937 P.L.2685, No.538	§§ 1-2		35 P.S. §§ 383-384
Establishment of new institutions	Act of May 18, 1945 P.L.815, No.325			71 P.S. § 1519.31
Public School Code of 1949	Act of Mar. 10, 1949 P.L.30, No.14	§ 923.1-A	Psychological services	24 P.S. §§ 9-973.1
		§ 923.2-A	Visual services	24 P.S. §§ 9-973.2
		Art. XIV	School health services	24 P.S. §§ 14-401 to 14-1423
		§ 1512.1	Physical education	24 P.S. § 15-1512.1
		§ 1513	Physiology and hygiene	24 P.S. § 15-1513
		§ 1524	American sign language	24 P.S. § 15-1524
		§ 1547	Alcohol, chemical and tobacco abuse program	24 P.S. § 15-1547

³³⁰ Repealed as to cities of the third class by § 4701 of the act of June 23, 1931 (P.L.932, No.317). See 53 P.S. § 39503.

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
		Art. XXII-A	Medical education loan assistance	24 P.S. §§ 22-2201-A to 22-2234-A
Local Health Administration Law	Act of Aug. 24, 1951 P.L.1304, No.315			16 P.S. §§ 12001-12028
Tuberculosis Sanatorium (Hamburg)	Act of Jan. 14, (1952) 1951 P.L.2078, No.583			35 P.S. § 391
Second Class County Code	Act of July 28, 1953 P.L.723, No.230	§§ 2310-2325	County and joint county hospitals	16 P.S. §§ 5310-5325
		§§ 2350-2355	Management of county and city hospitals	16 P.S. §§ 5350-5355
The County Code	Act of Aug. 9, 1955 P.L.323, No.130	§§ 2110-2119	County and joint county hospitals	16 P.S. §§ 2110-2119
		§§ 2185-2199.2	County boards of health	16 P.S. §§ 2185-2199.2
		§§ 2199.5-2199.8	Acquisition of general hospitals	16 P.S. §§ 2199.5-2199.8
Pittsburgh tuberculosis sanatorium	Act of May 23, (1956) 1955 P.L.1662, No.558			35 P.S. §§ 401-403
Hamburg State School and Hospital	Act of Dec. 1, 1959 P.L.1664, No.611			71 P.S. §§ 1519.51-1519.52
Public Welfare Code	Act of June 13, 1967 P.L.31, No.21	§§ 321-323	State general hospitals declared to be hospitals for the care and treatment of ill persons	62 P.S. §§ 321-323
		§§ 331-333	Geriatric centers	62 P.S. §§ 331-333
		Art. IX & Art. X	DPW licensing authority	62 P.S. §§ 901-922 & 62 P.S. §§ 1001-1088
Health Care Facilities Act	Act of July 19, 1979 P.L.130, No.48			35 P.S. §§ 448.101-448.904b
Prescribed Pediatric Extended Care Centers Act	Act of Nov. 24, 1999 P.L.884, No.54			35 P.S. §§ 449.61-449.77

HEALTH INSURANCE ACCESS, AFFORDABILITY AND PORTABILITY

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
The Insurance Company Law of 1921	Act of May 17, 1921 P.L.682, No.284	Art. X-A	Health care insurance individual accessibility	40 P.S. §§ 981-1 to 981-12
		Art. XXI	Quality health care accountability and protection	40 P.S. §§ 991.2101-991.2194
Pennsylvania Health Care Insurance Portability Act	Act of June 25, 1997 P.L.295, No.29			40 P.S. §§ 1302.1-1302.7

FISCAL MATTERS

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
State aid to institutions	Act of June 10, 1885 P.L.83, No.59			72 P.S. § 4382
County commissioners' support of tuberculosis sanatoria	Act of June 1, 1911 P.L.623, No.233 ³³¹			See 16 P.S. § 2131
Liability for support of inmates	Act of June 1, 1915 P.L.661, No.293			71 P.S. §§ 1781-1788
World War I veterans	Act of Mar. 30, 1921 P.L.66, No.36			72 P.S. § 3461
The Fiscal Code	Act of Apr. 9, 1929 P.L.343, No.176	§ 1716-I ³³²	Community Health Reinvestment Restricted Account in the Tobacco Settlement Fund	72 P.S. § 1716-I
Merger of state supported institutions	Act of Apr. 11, 1931 P.L.29, No.26			72 P.S. § 3425
Political Subdivision Joint Purchases Law	Act of Apr. 29, 1937 P.L.526, No.118			53 P.S. § 5431
Hospitals for the care of contagious disease cases in counties of the third class	Act of June 12, 1939 P.L.337, No.194			16 P.S. § 12141
Second Class County Code	Act of July 28, 1953 P.L.723, No.230	§ 2199.16	Federal funds for local programs to promote health or welfare	16 P.S. § 5199.16
		§ 2301	Funds to protect health, cleanliness, convenience, comfort and safety	16 P.S. § 5301
		§§ 2330-2333	County health aid to institutions and political subdivisions	16 P.S. §§ 5330-5333
The County Code	Act of Aug. 9, 1955 P.L.323, No.130	§ 1999b	Federal funds for local programs to promote health or welfare	16 P.S. § 1999b
		§ 2101	Funds to protect health, cleanliness, convenience, comfort and safety	16 P.S. § 2101
		§§ 2130-2132	County health aid to institutions and political subdivisions	16 P.S. §§ 2130-2132
		§ 2169	Funds to support public institutions in counties of the fourth through eighth classes	16 P.S. § 2169
County support of hospitals for chronic diseases	Act of Aug. 17, 1965 P.L.350, No.184			16 P.S. § 12211
The Borough Code	Act of Feb. 1, (1966) 1965 P.L.1656, No.581	Art. XXXI		53 P.S. §§ 48101-48114
Public Welfare Code	Act of June 13, 1967 P.L.31, No.21	Art. VIII-A	Nursing facility assessments	62 P.S. §§ 801-A to 815-A

³³¹ Superseded by § 2131 of the act of Aug. 9, 1955 (P.L.323, No.130), known as The County Code; 16 P.S. § 2131.

³³² Added by § 8 of the act of July 4, 2008 (P.L.629, No.53).

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
		Art. VIII-C	Assessments for intermediate care facilities for mental retarded persons	62 P.S. §§ 801-C to 811-C
		Art. VIII-E	Municipal hospital assessments	62 P.S. §§ 801-E to 808-E
		Art. VIII-F	Medicaid managed care organization assessments	62 P.S. §§ 801-F to 811-F
		Art. XIV	Medical assistance fraud and abuse control	62 P.S. §§ 1401-1417
State Lottery Law	Act of Aug. 26, 1971 P.L.351, No.91	Ch. 5	Pharmaceutical assistance for the elderly	72 P.S. § 3761-501
Senior Center Grant Program Act	Act of Dec. 17, 1984 P.L.999, No.201			35 P.S. §§ 7401-7409
Children's Health Care Act	Act of Dec. 2, 1992 P.L.741, No.113			62 P.S. §§ 5001.1301-5001.1302
Human Services Development Fund Act	Act of Oct. 5, 1994 P.L.531, No.78			62 P.S. §§ 3101-3107
Children's Health Care Act ³³³	Act of June 17, 1998 P.L.464, No.68	Art. XXIII		40 P.S. §§ 991.2301-991.2362
Elder Care Payment Restitution Act	Act of Dec. 9, 2002 P.L.1388, No.171			35 P.S. §§ 10226.101-10226.107
Medicare Hospital Service Payment Designation Act	Act of June 30, 2003 P.L.15, No.7			35 P.S. §§ 449.81-449.82
Organ and Bone Marrow Donor Act	Act of July 2, 2006 P.L.292, No.65			35 P.S. §§ 6120.1-6120.6
Community health reinvestment program ³³⁴	Act of July 9, 2008 P.L.885, No.62	Art. XXV		40 P.S. §§ 991.2501-991.2504

Environmental Health

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Water pollution in Philadelphia	Act of Apr. 11, 1866 P.L.635, No.619			53 P.S. § 16553
Fairmount Park	Act of March 26, 1867 P.L.547, No.525	§§ 1-5	Purposes (health and enjoyment of people, preservation of purity of water supply), membership, eminent domain, improvements and maintenance, administrative duties	53 P.S. §§ 16471-16473, 16489 & 16500

³³³ These provisions are part of the act of May 17, 1921, known as The Insurance Company Law of 1921 (P.L.682, No.284).

³³⁴ These provisions are part of the act of May 17, 1921, known as The Insurance Company Law of 1921 (P.L.682, No.284).

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Protection of health in Philadelphia	Act of Apr. 17, 1869 P.L.1120, No.1110	§ 1	Use of salt on railway tracks	53 P.S. § 16804
Cremation of human bodies	Act of June 8, 1891 P.L.212, No.184	§§ 1-3	Permits and certificates	35 P.S. §§ 1121-1123
Protection of water supplies of cities from pollution from burial sites	Act of June 24, 1895 P.L.244, No.151			9 P.S. § 10
Domestic water supplies for Philadelphia	Act of May 2, 1899 P.L.176, No.116			53 P.S. §§ 14461-14469
Municipal corporation water systems	Act of May 7, 1907 P.L.167, No.129 ³³⁵			53 P.S. §§ 2991-2993
Smoke emissions regulated in cities of the second class	Act of June 6, 1911 P.L.667, No.257			53 P.S. § 23164
Toilets in foundries	Act of June 7, 1911 P.L.673, No.264			43 P.S. §§ 1-3
Prevention of water pollution regarding coal mining runoff	Act of June 27, 1913 P.L.640, No.375			52 P.S. §§ 631-632
Sanitary inspection and control of certain houses	Act of July 24, 1913 P.L.1015, No.459	§§ 2-6 ³³⁶	Tenements, lodging and boarding houses	71 P.S. §§ 1431-1435
Dwellings in cities of the first class	Act of June 3, 1915 P.L.954, No.420			53 P.S. §§ 14931 & 15062
Public Bathing Law	Act of June 23, 1931 P.L.899, No.299			35 P.S. §§ 672-680d
Water pollution from coal mining	Act of May 7, 1935 P.L.141, No.55			52 P.S. §§ 809-813
The Clean Streams Law	Act of June 22, 1937 P.L.1987, No.394			35 P.S. §§ 691.1-691.1001
Natural lakes or ponds that are the source of water for human consumption	Act of Jan. 18, (1952) 1951 P.L.2148, No.607			35 P.S. §§ 731-732
Air Pollution Control Act	Act of Jan. 8, (1960) 1959 P.L.2119, No.787			35 P.S. §§ 4001-4015
Abandoned mines	Act of Dec. 15, 1965 P.L.1075, No.410			35 P.S. §§ 760.1-760.2
Pennsylvania Sewage Facilities Act	Act of Jan. 24, (1966) 1965 P.L.1535, No.537			35 P.S. §§ 750.1-750.20a
Coal Refuse Disposal Control Act	Act of Sept. 24, 1968 P.L.1040, No.318			52 P.S. §§ 30.51-30.66
Uniform Interstate Air Pollution Agreements Act	Act of Feb. 17, 1972 P.L.64, No.22			35 P.S. §§ 4101-4106
Pennsylvania Pesticide Control Act of 1973	Act of Mar. 1, 1974 P.L.90, No.24			3 P.S. §§ 111.21-111.61

³³⁵ Repealed as to cities of the third class by § 4701 of the act of June 23, 1931 (P.L.932, No.317) (*see* 53 P.S. § 39503); repealed as to boroughs by § 1301(c) of the act of May 14, 1915 (P.L.312, No.192).

³³⁶ Sections 1 and 7 were repealed by the act of July 7, 1923 (P.L.498, No.274), known as The Administrative Code, which was subsequently repealed by the act of Apr. 9, 1929 (P.L.177, No. 175), known as The Administrative Code of 1929.

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Solid Waste Management Act	Act of July 7, 1980 P.L.380, No.97			35 P.S. §§ 6018.101-6018.1003
Pennsylvania Safe Drinking Water Act	Act of May 1, 1984 P.L.206, No.43			35 P.S. §§ 721.1-721.17
Radiation Protection Act	Act of July 10, 1984 P.L.688, No.147			35 P.S. §§ 7110.101-7110.703
Worker and Community Right-to-Know Act	Act of Oct. 5, 1984 P.L.734, No.159			35 P.S. §§ 7301-7320
Appalachian States Low Level Radioactive Waste Compact	Act of Dec. 25, 1985 P.L.539, No.120			35 P.S. §§ 7125.1-7125.4
Radon Gas Demonstration Project and Home Improvement Loan Act	Act of May 16, 1986 P.L.203, No.62			35 P.S. §§ 7501-7515
Radon Certification Act	Act of July 9, 1987 P.L.238, No.43			63 P.S. §§ 2000-2014
Low-Level Radioactive Waste Disposal Act	Act of Feb. 9, 1988 P.L.31, No.12			35 P.S. §§ 7130.101-7130.905
Infectious and Chemotherapeutic Waste Law	Act of July 13, 1988 P.L.525, No.93			35 P.S. §§ 6019.1-6019.6
Environmental Hearing Board Act	Act of July 13, 1988 P.L.530, No.94			35 P.S. §§ 7511-7516
Municipal Waste Planning, Recycling and Waste Reduction Act	Act of July 28, 1988 P.L.556, No.101			53 P.S. §§ 4000.101-4000.1904
Hazardous Sites Cleanup Act	Act of Oct. 18, 1988 P.L.756, No.108			35 P.S. §§ 6020.101-6020.1305
Phosphate Detergent Act	Act of July 5, 1989 P.L.166, No.31			35 P.S. §§ 722.1-722.10
Storage Tanks and Spill Prevention Act	Act of July 6, 1989 P.L.169, No.32			35 P.S. §§ 6021.101-6021.2104
Plumbing System Lead Ban and Notification Act	Act of July 6, 1989 P.L.207, No.33			35 P.S. §§ 723.1-723.17
Low Level Radioactive Waste Disposal Regional Facility Act	Act of July 11, 1990 P.L.436, No.107			35 P.S. §§ 7131.101-7131.1101
Publicly Owned Treatment Works Penalty Law	Act of Mar. 26, 1992 P.L.23, No.9			35 P.S. §§ 752.1-752.8
Sewage Systems Cleaner Control Act	Act of May 28, 1992 P.L.249, No.41			35 P.S. §§ 770.1-770.15
Oil Spill Responder Liability Act	Act of June 11, 1992 P.L.303, No.52			35 P.S. §§ 6023.1-6023.3
Environmental Education Act	Act of June 22, 1993 P.L.105, No.24			35 P.S. §§ 7521-7528
Household Hazardous Waste Funding Act	Act of Dec. 27, 1994 P.L.1346, No.155			35 P.S. §§ 6025.1-6025.4

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Land Recycling and Environmental Remediation Standards Act	Act of May 19, 1995 P.L.4, No.2			35 P.S. §§ 6026.101-6026.908
Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act	Act of May 19, 1995 P.L.33, No.3			35 P.S. §§ 6027.1-6027.14
Industrial Sites Environmental Assessment Act	Act of May 19, 1995 P.L.43, No.4			35 P.S. §§ 6028.1-6028.5
Waste Tire Recycling Act	Act of Dec. 19, 1996 P.L.1478, No.190	§§ 101-114 ³³⁷	Waste tire recycling	35 P.S. §§ 6029.101-6029.116
Small Business and Household Pollution Prevention Program Act	Act of Dec. 19, 1996 P.L.1478, No.190	§§ 201-209	Small business and household pollution prevention	35 P.S. §§ 6029.201-6029.209
Chesapeake Watershed Education Program Act	Act of Dec. 1, 2004 P.L.1775, No.231			35 P.S. §§ 7531-7537
Hazardous Sites Cleanup Fund Funding Act	Act of Dec. 18, 2007 P.L.486, No.77			35 P.S. §§ 6021.1-6021.7
Clean Indoor Air Act	Act of June 13, 2008 P.L.182, No.27			35 P.S. §§ 637.1-637.11
H2O PA Act	Act of July 9, 2008 P.L.908, No.63			32 P.S. §§ 694.101-694.5104
Mercury-Free Thermostat Act	Act of Oct. 9, 2008 P.L.1346, No.97			35 P.S. §§ 6030.1-6030.7
Diesel Powered Motor Vehicle Idling Act	Act of Oct. 9, 2008 P.L.1511, No.124			35 P.S. §§ 4601-4610

Injury Prevention and Occupational Health

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Public halls and places of amusement in Philadelphia	Act of Mar. 14, 1867 P.L.440, No.415			53 P.S. §§ 4231-4235
Coal mine accidents	Act of May 9, 1871 P.L.261, No.242	§ 3	Coal mine operators to report to Auditor General all mine accidents in counties with no appointed mine inspector	52 P.S. § 1443
Elevators and automatic locking devices	Act of May 30, 1895 P.L.129, No.99			35 P.S. §§ 1381-1382
Public auditoriums and theatres in cities of the second class	Act of June 7, 1895 P.L.135, No.105	Art. V	Theaters	53 P.S. § 24931-24973

³³⁷ Subsequent amendments to this act added sections to the statutory framework.

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Employment of minor children in or about an anthracite coal mine or colliery	Act of May 2, 1905 P.L.344, No.222			52 P.S. § 31
Scaffolding safety in cities of the first and second classes	Act of Apr.15, 1907 P.L.81, No.67			53 P.S. §§ 4201-4204
Elevator safety in cities of the first and second classes ³³⁸	Act of May 28, 1907 P.L.297, No.225			53 P.S. §§ 4141-4144
Minors working in bituminous coal mines and anthracite collieries or breakers	Act of May 1, 1909 P.L.375, No.210			52 P.S. §§ 33, 35, 38 & 40
Plastering in buildings in cities of the first and second classes	Act of May 20, 1913 P.L.238, No.164			53 P.S. §§ 4171-4179
Department of Labor and Industry created	Act of June 2, 1913 P.L.396, No.267 ³³⁹			
Employee Injury Reporting Law	Act of July 19, 1913 P.L.843, No.408			43 P.S. §§ 12-16
Female Labor Law	Act of July 25, 1913 P.L.1024, No.466			43 P.S. §§ 101-121
Occupational Disease Prevention Law	Act of July 26, 1913 P.L.1363, No.851			43 P.S. §§ 471-480
Child Labor Law	Act of May 13, 1915 P.L.286, No.177			43 P.S. §§ 31-66.1
Worker's compensation insurers to provide accident and illness prevention services	Act of June 2, 1915 P.L.736, No.338			77 P.S. §§ 1038.1-1038.2
Employment at compressed air works	Act of July 19, 1917 P.L.1088, No.364			43 P.S. §§ 441-453
Sale of acids	Act of May 7, 1923 P.L.139, No.105			35 P.S. §§ 931-933
Fire prevention	Act of May 12, 1925 P.L.590, No.317			35 P.S. §§ 1451-1452
Fire and Panic Act	Act of Apr. 27, 1927 P.L.465, No.299	§§ 1, 3.3, 3.4, 3.5, 3.6, 13, 14, 15 & 15.1	Hotel and motel safety, teletypewriters at police stations to communicate with deaf persons, smoke detectors in family child day care homes	35 P.S. §§ 1221, 1223.3, 1223.4, 1223.5, 1223.6, 1233, 1234, 1235 & 1235. 1
Labor by migrant children	Act of June 23, 1931 P.L. 923, No.309			43 P.S. §§ 67-71
Work Relief	Act of June 3, 1933 P.L.1515, No.328			77 P.S. §§ 444-450

³³⁸ Repealed by implication by the act of May 2, 1929 (P.L.1518, No.452) and re-enacted and amended Apr. 8, 1937 (P.L.277, No.69).

³³⁹ Repealed by § 2901 of the act of June 7, 1923 (P.L.498, No.274), known as The Administrative Code.

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Mandatory rest periods for firemen in certain cities ³⁴⁰	Act of Apr. 25, 1935 P.L.82, No.36			53 P.S. § 23404
Mandatory rest periods for policemen in certain cities ³⁴¹	Act of May 16, 1935 P.L.176, No.82			53 P.S. § 23403
Mandatory rest periods for firemen in cities of the first class	Act of July 10, 1935 P.L.639, No.224			53 P.S. § 13346
Mandatory rest periods for policemen in cities of the first class	Act of July 18, 1935 P.L.1168, No.377			53 P.S. § 13347
Mandatory day of rest for motion picture theater workers	Act of Mar. 31, 1937 P.L.159, No.42			43 P.S. §§ 481-483
Health and morals of employees regarding factories and labor camps	Act of May 18, 1937 P.L.654, No.174			43 P.S. §§ 25-1 to 25-15
Industrial Homework Law	Act of May 18, 1937 P.L.665, No.176			43 P.S. §§ 491-1 to 491-24
Fireworks	Act of May 15, 1939 P.L.134, No.65 ³⁴²			35 P.S. §§ 1271-1278
The Pennsylvania Occupational Disease Act	Act of June 21, 1939 P.L.566, No.284			77 P.S. §§ 1201-2626
First aid and mine rescue training	Act of May 29, 1945 P.L.1132, No.404 ³⁴³			52 P.S. §§ 27.1-27.3
Second Class County Code	Act of July 28, 1953 P.L.723, No.230	§ 1524	Mandatory rest periods for policemen	16 P.S. § 4524
Organized camps for children, youth and adults	Act of Nov. 10, 1959 P.L.1400, No.497			35 P.S. §§ 3001-3004
Stuffed toys	Act of July 25, 1961 P.L.857, No.372			35 P.S. §§ 5201-5209
Apprenticeship and Training Act	Act of July 14, 1961 P.L.604, No.304			43 P.S. §§ 90.1-90.10
Guards posted at manholes	Act of Aug. 22, 1961 P.L.1034, No.467			35 P.S. §§ 5401-5402
Protective eyewear	Act of July 19, 1965 P.L.215, No.116			24 P.S. § 5301
Anthracite Coal Mine Act of 1965	Act of Nov. 10, 1965 P.L.721, No.346	Art. IX	Ambulances, hospitals and care of the injured	52 P.S. §§ 70-901 to 70-910
Model rockets	Act of July 8, 1970 P.L.451, No.155			35 P.S. §§ 1281-1289

³⁴⁰ Not applicable to cities of the first class and second class A and repealed as to cities of the third class by § 2 of the act of Mar. 16, 1937 (P.L.103, No.31)

³⁴¹ Repealed as to cities of the third class by § 4701 of the act of June 28, 1951 (P.L.662, No.164).

³⁴² Subsequent amendments to this act added a section to the statutory framework. *See* § 8 of the act of Nov. 30, 2004 (P.L.1598, No.204).

³⁴³ Repealed insofar as it relates to anthracite coal mines by § 1404(b) of the act of Nov. 10, 1965 (P.L.721, No.346); repealed insofar as it relates to bituminous coal mines by § 705(b) of the act of July 17, 1961 (P.L.659, No.339). The 1961 act was repealed by § 3101(a)(2) of the act of July 7, 2008 (P.L.654, No.55).

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Safety glazing materials	Act of June 2, 1971 P.L.115, No.5			35 P.S. §§ 5811-5818
High-voltage power lines	Act of Dec. 16, 1975 P.L.491, No.147			43 P.S. §§ 26-1 to 26-7
Handicapped ramps	Act of May 20, 1976 P.L.129, No.56			53 P.S. §§ 1898-1899
Emergency medical personnel in mines	Act of July 9, 1976 P.L.931, No.178 ³⁴⁴			52 P.S. §§ 27.7-1 to 27.7-9
Seasonal Farm Labor Act	Act of June 23, 1978 P.L.537, No.93			43 P.S. §§ 1301.101- 1301.606
Downhill skiing	Act of Dec. 19, 1985 P.L.343, No.97			40 P.S. § 2051
Radon Certification Act	Act of July 9, 1987 P.L.238, No.43			63 P.S. §§ 2001-2014
Antique Boiler Law	Act of Oct. 21, 1988 P.L.1046, No.119			35 P.S. §§ 1330.1-1330.9
Vocational Rehabilitation Act	Act of Dec. 20, 1988 P.L.1306, No.167			43 P.S. §§ 682.1-682.18
Asbestos Occupations Accreditation and Certification Act	Act of Dec. 19, 1990 P.L.805, No.194			63 P.S. §§ 2101-2112
Amusement Rider Safety and Liability Act	Act of July 1, 1994 P.L.383, No.58			4 P.S. §§ 501-507
Safe Packaging Act	Act of Dec. 7, 1994 P.L.797, No.112			35 P.S. §§ 6024.101- 6024.905
Farm Safety and Occupational Health Act	Act of Dec. 12, 1994 P.L.944, No.134			3 P.S. §§ 1901-1915
Lead Certification Act	Act of July 9, 1995 P.L.291, No.44			35 P.S. §§ 5901-5916
Nurse Aide Resident Abuse Prevention Training Act	Act of June 9, 1997 P.L.169, No.14			63 P.S. §§ 671-680
Combustible and Flammable Liquids Act	Act of Feb. 11, 1998 P.L.58, No.15			35 P.S. §§ 1241-1252
Boiler and Unfired Pressure Vessel Law	Act of June 18, 1998 P.L.655, No.85			35 P.S. §§ 1331.1-1331.19
Infant Crib Safety Act	Act of June 22, 2000 P.L.339, No.39			35 P.S. §§ 991-999
Propane and Liquified Petroleum Gas Act	Act of June 19, 2002 P.L.421, No.61			35 P.S. §§ 1329.1-1329.19
Cigarette Fire Safety and Firefighter Protection Act	Act of July 4, 2008 P.L.518, No.42			35 P.S. §§ 1254.1-1254.11
Bituminous Coal Mine Safety Act	Act of July 7, 2008 P.L.654, No.55			52 P.S. §§ 690-101 to 690-708

³⁴⁴ Repealed insofar as it relates to bituminous coal mines by § 3101(b)(4) of the act of July 7, 2008 (P.L.654, No.55).

Protection of the Food Supply

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
Furnishing impure milk to butter factories	Act of June 10, 1881 P.L.116, No.134			31 P.S. § 526
Imitations of butter and cheese	Act of May 24, 1883 P.L.43, No.34			31 P.S. §§ 841-843
Department of Agriculture duties	Act of May 26, 1893 P.L.152, No.96			71 P.S. §§ 1231-1237
Secretary of Agriculture duties	Act of Mar. 13, 1895 P.L.17, No.8	§ 3	Administration of laws regarding fraud or adulteration of food, transportation of agricultural products or imitations, diseases of domestic animals and manufacture and inspection of commercial fertilizers	71 P.S. § 1202
Apple products	Act of July 5, 1895 P.L.605, No.457			71 P.S. §§ 2141-2146
Food adulteration	Act of Apr. 27, 1903 P.L.324, No.254			31 P.S. §§ 10-13
Slaughter-houses in cities of the first class	Act of Apr. 26, 1907 P.L.123, No.101			53 P.S. §§ 14421-14425
Cleaning of milk cans and vessels	Act of May 25, 1907 P.L.233, No.186			31 P.S. §§ 681-683
Sale of rabbit or Belgian hare	Act of June 6, 1907 P.L.422, No.291			31 P.S. § 982
Egg Law	Act of Mar. 11, 1909 P.L.13, No.9			31 P.S. §§ 294a-299
Food contamination	Act of May 20, 1913 P.L.240, No.165			3 P.S. §§ 81-82
Milk and cream testing	Act of May 23, 1919 P.L.278, No.147			31 P.S. §§ 671-675
Sale of fresh eggs	Act of July 10, 1919 P.L.900, No.356			31 P.S. §§ 321-325
Shipping of young live pigeons for market	Act of May 4, 1927 P.L.720, No.371			31 P.S. § 98
Slaughtering animals	Act of Apr. 30, 1929 P.L.899, No.397			31 P.S. §§ 501-504
Milk Sanitation Law	Act of July 2, 1935 P.L.589, No.210			31 P.S. §§ 645-660g
Uniform method of taking food samples	Act of May 15, 1945 P.L.557, No.218			31 P.S. § 984
Public Eating and Drinking Places Law	Act of May 23, 1945 P.L.926, No.369			35 P.S. §§ 655.1-655.13
The Second Class County Code	Act of July 28, 1953 P.L.723, No.230	§ 2138	Controlling and suppressing dangerous infectious diseases of livestock and poultry, plant diseases, insect pests and diseases to honeybees	16 P.S. § 5138

Title/Subject	Official Citation	Specific Provision	Provision Summary	Purdon's Citation
The County Code	Act of Aug. 9, 1955 P.L.323, No.130	§ 1938	Controlling and suppressing dangerous infectious diseases of livestock and poultry, plant diseases, insect pests and diseases to honeybees	16 P.S. § 1938
Milk Adulteration and Labeling Act	Act of Aug. 8, 1961 P.L.975, No.436			31 P.S. §§ 520-1.1 to 520.9
The Frozen Dessert Law	Act of Sept. 1, 1965 P.L.420, No.215			31 P.S. §§ 417-1 to 417.14
Pennsylvania Meat and Poultry Hygiene Law of 1968	Act of June 9, 1968 P.L.304, No.151			31 P.S. §§ 483.1 to 483.24
Institutional Safe Meat Act	Act of Mar. 9, 1970 P.L.166, No.65			31 P.S. §§ 491.1 to 491.4
Adulteration of honey	Act of July 20, 1974 P.L.537, No.184			31 P.S. §§ 381-384
Donated Food Limited Liability Act	Act of July 10, 1981 P.L.234, No.76			10 P.S. §§ 351-358
Pennsylvania Safe Drinking Water Act	Act of May 1, 1984 P.L.206, No.43			35 P.S. §§ 721.1 to 721.17
Egg Refrigeration Law	Act of Aug. 6, 1991 P.L.321, No.32			31 P.S. §§ 300.1-300.9
Food Act	Act of July 7, 1994 P.L.421, No.70			31 P.S. §§ 20.1-20.18
Safe Packaging Act	Act of Dec. 7, 1994 P.L.797, No.112			35 P.S. §§ 6024.101 to 6024.905

APPENDIX:
SENATE RESOLUTION NO. 194 of 2007

The text of the resolution begins on the next page.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 194 Session of
2007

INTRODUCED BY GREENLEAF, ERICKSON, PILEGGI, ORIE, COSTA,
TARTAGLIONE, MUSTO, WASHINGTON, O'PAKE, FONTANA, KITCHEN AND
BROWNE, OCTOBER 16, 2007

REFERRED TO PUBLIC HEALTH AND WELFARE, OCTOBER 16, 2007

A RESOLUTION

1 Directing the Joint State Government Commission to establish a
2 legislative task force with an advisory committee of experts
3 to review, update and codify Pennsylvania's public health
4 law.

5 WHEREAS, Pennsylvania's public health law is a patchwork of
6 statutes mostly contained in Purdon's Title 35 (Health and
7 Safety), but also scattered throughout other titles, old case
8 law and State and local regulations; and

9 WHEREAS, Many of Pennsylvania's public health statutes date
10 to the 1950s or earlier, such as the very significant act of
11 April 23, 1956 (1955 P.L.1510, No.500), known as the Disease
12 Prevention and Control Law of 1955; and

13 WHEREAS, Pennsylvania's public health case law dates
14 primarily to the late 19th and early 20th centuries, predating
15 contemporary constitutional due process standards; and

16 WHEREAS, The Administrative Office of Pennsylvania Courts and
17 the University of Pittsburgh Graduate School of Public Health
18 Center for Public Health Preparedness developed a Pennsylvania

1 Public Health Law Bench Book for judges, showing the need to
2 substantially upgrade Pennsylvania's public health law; and

3 WHEREAS, Increased global travel and emerging biological
4 threats have the potential for creating serious Statewide public
5 health concerns; and

6 WHEREAS, Pennsylvania's public health law, including
7 statutes, regulations and case law, should be reviewed so the
8 law may be updated and codified to address modern public health
9 issues; and

10 WHEREAS, The emergency management services provisions of 35
11 Pa.C.S. (relating to health and safety) are the only provisions
12 of the title that have been codified; and

13 WHEREAS, Codification is the process of revising and
14 restating statutes into a concise code of law that is clear,
15 consistent and organized; and

16 WHEREAS, The public health law provisions of 35 Pa.C.S.
17 should be codified so that they are consolidated with the
18 emergency management services provisions of the title; therefore
19 be it

20 RESOLVED, That the Senate direct the Joint State Government
21 Commission to establish a legislative task force with an
22 advisory committee of experts to review, update and codify
23 Pennsylvania's public health law; and be it further

24 RESOLVED, That a legislative task force be created consisting
25 of two members appointed by the President pro tempore of the
26 Senate and two members appointed by the Minority Leader of the
27 Senate; and be it further

28 RESOLVED, That the task force create an advisory committee
29 composed of experts on public health law; and be it further

30 RESOLVED, That the task force and advisory committee report

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1 to the Senate with recommended legislation.