

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1508
Committee Substitute Favorable 6/12/02
Committee Substitute #2 Favorable 7/23/02
Senate Health Care Committee Substitute Adopted 8/15/02
Senate Judiciary II Committee Substitute Adopted 8/27/02

Short Title: Public Health Bioterrorism Preparedness.

(Public)

Sponsors:

Referred to:

June 4, 2002

A BILL TO BE ENTITLED

AN ACT TO PROMOTE READINESS FOR AND TO IMPROVE MANAGEMENT
OF A PUBLIC HEALTH THREAT THAT MAY RESULT FROM AN ACT OF
TERRORISM USING NUCLEAR, BIOLOGICAL, OR CHEMICAL AGENTS
AND TO AMEND THE NORTH CAROLINA MEDICAL CARE
COMMISSION'S RULE-MAKING AUTHORITY REGARDING STANDARDS
AND CRITERIA FOR THE EDUCATION AND CREDENTIALING OF
PERSONS TO ADMINISTER TREATMENT FOR ANAPHYLAXIS, AND TO
PROVIDE THAT MEDICAL REVIEW CONFIDENTIALITY APPLIES TO
AMBULATORY SURGICAL CENTERS, AND TO AMEND THE NORTH
CAROLINA HAZARDOUS MATERIALS EMERGENCY ACT TO PROVIDE
FOR REGIONAL RESPONSES TO TERRORIST INCIDENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 130A of the General Statutes is amended by adding
the following new Article to read:

"Article 22.

"Acts of Terrorism Using Nuclear, Biological, or Chemical Agents.

"§ 130A-475. Suspected terrorist attack.

(a) If the State Health Director reasonably suspects that a public health threat
may exist and that the threat may have been caused by an act of terrorism using nuclear,
biological, or chemical agents, the State Health Director is authorized to order any of
the following:

(1) Require any person or animal to submit to examinations and tests to
determine possible exposure to the nuclear, biological, or chemical
agents.

- 1 (2) Test any real or personal property necessary to determine the presence
2 of nuclear, biological, or chemical agents.
- 3 (3) Evacuate or close any real property, including any building, structure,
4 or land when necessary to investigate suspected contamination of the
5 property. The period of closure during an investigation shall not
6 exceed 10 calendar days. If the State Health Director determines that a
7 longer period of closure is necessary to complete the investigation, the
8 Director may institute an action in superior court to order the property
9 to remain closed until the investigation is completed.
- 10 (4) Limit the freedom of movement or action of a person or animal that is
11 contaminated with, or reasonably suspected of being contaminated
12 with, a chemical or nuclear agent that may be conveyed to other
13 persons or animals.
- 14 (5) Limit access by any person or animal to an area or facility that is
15 housing persons or animals whose movement or action has been
16 limited under subdivision (4) of this subsection or to an area or facility
17 that is contaminated with, or reasonably suspected of being
18 contaminated with, a chemical or nuclear agent that may be conveyed
19 to other persons or animals. Nothing in this subdivision shall be
20 construed to restrict the access of authorized health care, law
21 enforcement, or emergency medical services personnel to quarantine
22 or isolation premises as necessary in conducting their duties.
- 23 (6) Exercise quarantine authority and isolation authority under G.S.
24 130A-145.

25 (b) The authority under subsection (a) of this section shall be exercised only
26 when and so long as a public health threat may exist, all other reasonable means for
27 correcting the problem have been exhausted, and no less restrictive alternative exists.
28 Before applying the authority under subdivision (4) or (5) of subsection (a) of this
29 section to livestock or poultry for the purpose of preventing the direct or indirect
30 conveyance of a chemical or nuclear agent to persons, the State Health Director shall
31 consult with the State Veterinarian in the Department of Agriculture and Consumer
32 Services.

33 The period of limited freedom of movement or access under subdivisions (4) and (5)
34 of subsection (a) of this section shall not exceed 10 calendar days. Any person
35 substantially affected by that limitation may institute, in superior court in Wake County
36 or in the county in which the limitation is imposed, an action to review the limitation. If
37 a person or a person's representative requests a hearing, the hearing shall be held within
38 72 hours of the filing of the request, excluding Saturdays and Sundays. The person
39 substantially affected by that limitation is entitled to be represented by counsel of the
40 person's own choice or if the person is indigent, the person shall be represented by
41 counsel appointed in accordance with Article 36 of Chapter 7A of the General Statutes
42 and the rules adopted by the Office of Indigent Defense Services. The court shall reduce
43 the limitation if it determines, by the preponderance of the evidence, that the limitation
44 is not reasonably necessary to prevent or limit the conveyance of chemical or nuclear

1 agents to others, and may apply such conditions to the limitation as the court deems
2 reasonable and necessary.

3 If the State Health Director determines that a 10-calendar-day limitation on freedom
4 of movement or access is not adequate to protect the public health, the State Health
5 Director must institute in superior court in the county in which the limitation is
6 imposed, an action to obtain an order extending the period limiting the freedom of
7 movement or access. If the person substantially affected by the limitation has already
8 instituted an action in superior court in Wake County, the State Health Director must
9 institute the action in superior court in Wake County. The court shall continue the
10 limitation for a period not to exceed 30 days, subject to conditions it deems reasonable
11 and necessary, if it determines by the preponderance of the evidence, that additional
12 limitation is reasonably necessary to prevent or limit the conveyance of biological,
13 chemical, or nuclear agents to others. Before the expiration of an order issued under this
14 section, the State Health Director may move to continue the order for additional periods
15 not to exceed 30 days each.

16 (c) If the State Health Director reasonably suspects that there exists a public
17 health threat that may have been caused by an act of terrorism using nuclear, biological,
18 or chemical agents, the State Health Director shall notify the Governor and the
19 Secretary of Crime Control and Public Safety. If the Secretary of Crime Control and
20 Public Safety reasonably suspects that a public health threat may exist and that the
21 threat may have been caused by an act of terrorism using nuclear, biological, or
22 chemical agents, the Secretary shall notify the Governor and the State Health Director.

23 (d) For the purpose of this Article, the term "public health threat" means a
24 situation that is likely to cause an immediate risk to human life, an immediate risk of
25 serious physical injury or illness, or an immediate risk of serious adverse health effects.

26 (e) Nothing in this section shall limit any authority otherwise granted to local or
27 State public health officials under this Chapter.

28 **"§ 130A-476. Access to health information.**

29 (a) Notwithstanding any other provision of law, a health care provider, a person
30 in charge of a health care facility, or a unit of State or local government may report to
31 the State Health Director or a local health director any events that may indicate the
32 existence of a case or outbreak of an illness, condition, or health hazard that may have
33 been caused by an act of terrorism using nuclear, biological, or chemical agents. Events
34 that may be reported include unusual types or numbers of symptoms or illnesses
35 presented to the provider, unusual trends in health care visits, or unusual trends in
36 prescriptions or purchases of over-the-counter pharmaceuticals. To the extent
37 practicable, a person who makes a report under this subsection shall not disclose
38 personally identifiable information. A person disclosing or not disclosing information
39 pursuant to this subsection is immune from any civil or criminal liability that might
40 otherwise be incurred or imposed based on the disclosure or lack of disclosure provided
41 that the health care provider was acting in good faith and without malice. In any
42 proceeding involving liability, good faith and lack of malice are presumed.
43 Notwithstanding the foregoing, if a health care provider or unit of State or local
44 government willfully does not disclose information pursuant to this subsection, the

1 immunity from civil or criminal liability provided under this subsection shall not be
2 available if the person had actual knowledge that a condition or illness was caused by
3 use of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S.
4 14-288.21(c).

5 (b) The State Health Director may issue a temporary order requiring health care
6 providers to report symptoms, diseases, conditions, trends in use of health care services,
7 or other health-related information when necessary to conduct a public health
8 investigation or surveillance of an illness, condition, or health hazard that may have
9 been caused by an act of terrorism using nuclear, biological, or chemical agents. The
10 order shall specify which health care providers must report, what information is to be
11 reported, and the period of time for which reporting is required. The period of time for
12 which reporting is required pursuant to a temporary order shall not exceed 90 days. The
13 Commission may adopt rules to continue the reporting requirement when necessary to
14 protect the public health.

15 (c) The State Health Director and a local health director may examine, review,
16 and obtain a copy of records containing confidential or protected health information, or
17 a summary of pertinent portions of those records, that pertain to a report authorized by
18 subsection (a) or required by subsection (b) of this section.

19 (d) A person who makes a report pursuant to subsection (b) of this section or
20 permits examination, review, or copying of medical records pursuant to subsection (c)
21 of this section is immune from any civil or criminal liability that otherwise might be
22 incurred or imposed as a result of complying with those subsections.

23 (e) Confidential or protected health information received by the State Health
24 Director or a local health director pursuant to this section shall be confidential and shall
25 not be released, except when the release is:

26 (1) Made pursuant to any other provision of law;

27 (2) To another federal, state, or local public health agency for the purpose
28 of preventing or controlling a public health threat; or

29 (3) To a court or law enforcement official or law enforcement officer for
30 the purpose of enforcing the provisions of this Chapter or for the
31 purpose of investigating an act of terrorism using nuclear, biological,
32 or chemical agents. A court or law enforcement official or law
33 enforcement officer who receives the information shall not disclose it
34 further, except (i) when necessary to conduct an investigation of an act
35 of terrorism using nuclear, biological, or chemical agents, or (ii) when
36 the State Health Director or a local health director seeks the assistance
37 of the court or law enforcement official or law enforcement officer in
38 preventing or controlling the public health threat and expressly
39 authorizes the disclosure as necessary for that purpose.

40 (f) The State Health Director shall develop a voluntary pilot program for
41 hospitals and urgent care centers to provide emergency department data in order to
42 assist the State Health Director with public health surveillance. A hospital or urgent care
43 center that elects to participate in the program must provide all required emergency
44 department data as a condition of participation in the program. Upon receipt of such

1 information, the State Health Director shall remove name, street address, phone number,
2 social security number, date of birth, and any other information that might identify the
3 patient from all records.

4 (g) In this section the following terms shall include:

5 (1) "Health care provider" includes a physician licensed to practice
6 medicine in North Carolina or a person who is licensed, certified, or
7 credentialed to practice or provide health care services, including, but
8 not limited to, pharmacists, dentists, physician assistants, registered
9 nurses, licensed practical nurses, advanced practice nurses,
10 chiropractors, respiratory care therapists, and emergency medical
11 technicians; and

12 (2) "Health care facility" includes hospitals, skilled nursing facilities,
13 intermediate care facilities, psychiatric facilities, rehabilitation
14 facilities, home health agencies, ambulatory surgical facilities, or any
15 other health care related facility, whether publicly or privately owned.

16 **"§ 130A-477. Abatement of public health threat.**

17 If it is determined that a public health threat may exist because of the contamination
18 of property caused by an act of terrorism using nuclear, biological, or chemical agents,
19 the State Health Director may order any action to abate that public health threat. To the
20 extent that any owner, lessee, operator, or other person in control of the property is
21 innocent of culpability in the creation of the public health threat, that person shall not be
22 responsible for the costs of abating the public health threat."

23 **SECTION 2.(a)** G.S. 130A-149, "Biological agents registry; rules;
24 penalties", is recodified as G.S. 130A-477.

25 **SECTION 2.(b)** G.S. 130A-29(c)(10) reads as rewritten:

26 "(10) Pertaining to the biological agents registry in accordance with
27 ~~G.S. 130A-149~~ G.S. 130A-477."

28 **SECTION 3.** G.S. 130A-133 is repealed.

29 **SECTION 4.** G.S. 130A-2 reads as rewritten:

30 **"§ 130A-2. Definitions.**

31 The following definitions shall apply throughout this Chapter unless otherwise
32 specified:

33 (1) "Commission" means the Commission for Health Services.

34 (1a) "Communicable condition" means the state of being infected with a
35 communicable agent but without symptoms.

36 (1b) "Communicable disease" means an illness due to an infectious agent or
37 its toxic products which is transmitted directly or indirectly to a person
38 from an infected person or animal through the agency of an
39 intermediate animal, host, or vector, or through the inanimate
40 environment.

41 (2) "Department" means the Department of Health and Human Services.

42 (3) "Imminent hazard" means a situation ~~which~~ that is likely to cause an
43 immediate threat to human life, an immediate threat of serious physical
44 injury, an immediate threat of serious adverse health effects, or a

1 serious risk of irreparable damage to the environment if no immediate
2 action is taken.

3 (3a) "Isolation authority" means the authority to issue an order to limit the
4 freedom of movement or action of a person or animal with a
5 communicable disease or communicable condition for the period of
6 communicability to prevent the direct or indirect conveyance of the
7 infectious agent from the person or animal to other persons or animals
8 who are susceptible or who may spread the agent to others.

9 (4) "Local board of health" means a district board of health or a public
10 health authority board or a county board of health.

11 (5) "Local health department" means a district health department or a
12 public health authority or a county health department.

13 (6) "Local health director" means the administrative head of a local health
14 department appointed pursuant to this Chapter.

15 (6a) "Outbreak" means an occurrence of a case or cases of a disease in a
16 locale in excess of the usual number of cases of the disease.

17 (7) "Person" means an individual, corporation, company, association,
18 partnership, unit of local government or other legal entity.

19 (7a) "Quarantine authority" means the authority to issue an order to limit
20 the freedom of movement or action of persons or animals which have
21 been exposed to or are reasonably suspected of having been exposed to
22 a communicable disease or communicable condition for a period of
23 time as may be necessary to prevent the spread of that disease.
24 Quarantine authority also means the authority to issue an order to limit
25 access by any person or animal to an area or facility that may be
26 contaminated with an infectious agent. The term also means the
27 authority to issue an order to limit the freedom of movement or action
28 of persons who have not received immunizations against a
29 communicable disease when the State Health Director or a local health
30 director determines that the immunizations are required to control an
31 outbreak of that disease.

32 (8) "Secretary" means the Secretary of Health and Human Services.

33 (9) "Unit of local government" means a county, city, consolidated
34 city-county, sanitary district or other local political subdivision,
35 authority or agency of local government.

36 (10) "Vital records" means birth, death, fetal death, marriage, annulment
37 and divorce records registered under the provisions of Article 4 of this
38 Chapter."

39 **SECTION 5.** G.S. 130A-145 reads as rewritten:

40 "**§ 130A-145. ~~Local health director has quarantine~~ Quarantine and isolation**
41 **authority.**

42 (a) The State Health Director and a local health director ~~and the State Health~~
43 ~~Director~~ are empowered to exercise quarantine and isolation authority. Quarantine and
44 isolation authority shall be exercised only when and so long as the public health is

1 endangered, all other reasonable means for correcting the problem have been exhausted,
2 and no less restrictive alternative exists.

3 (b) No person other than a person authorized by the State Health Director or local
4 health director shall enter quarantine or isolation premises. Nothing in this subsection
5 shall be construed to restrict the access of authorized health care, law enforcement, or
6 emergency medical services personnel to quarantine or isolation premises as necessary
7 in conducting their duties.

8 (c) Before applying quarantine or isolation authority to livestock or poultry for
9 the purpose of preventing the direct or indirect conveyance of an infectious agent to
10 persons, the State Health Director or a local health director shall consult with the State
11 Veterinarian in the Department of Agriculture and Consumer Services.

12 (d) When quarantine or isolation limits the freedom of movement of a person or
13 animal or of access to a person or animal whose freedom of movement is limited, the
14 period of limited freedom of movement or access shall not exceed 10 calendar days.
15 Any person substantially affected by that limitation may institute in superior court in
16 Wake County or in the county in which the limitation is imposed an action to review
17 that limitation. If a person or a person's representative requests a hearing, the hearing
18 shall be held within 72 hours of the filing of that request, excluding Saturdays and
19 Sundays. The person substantially affected by that limitation is entitled to be
20 represented by counsel of the person's own choice or if the person is indigent, the
21 person shall be represented by counsel appointed in accordance with Article 36 of
22 Chapter 7A of the General Statutes and the rules adopted by the Office of Indigent
23 Defense Services. The court shall reduce the limitation if it determines, by the
24 preponderance of the evidence, that the limitation is not reasonably necessary to prevent
25 or limit the conveyance of a communicable disease or condition to others.

26 If the State Health Director or the local health director determines that a
27 10-calendar-day limitation on freedom of movement or access is not adequate to protect
28 the public health, the State Health Director or local health director must institute in
29 superior court in the county in which the limitation is imposed an action to obtain an
30 order extending the period of limitation of freedom of movement or access. If the
31 person substantially affected by the limitation has already instituted an action in
32 superior court in Wake County, the State Health Director must institute the action in
33 superior court in Wake County. The court shall continue the limitation for a period not
34 to exceed 30 days if it determines, by the preponderance of the evidence, that the
35 limitation is reasonably necessary to prevent or limit the conveyance of a communicable
36 disease or condition to others. Before the expiration of an order issued under this
37 section, the State Health Director or local health director may move to continue the
38 order for additional periods not to exceed 30 days each."

39 **SECTION 6.** G.S. 130A-20 reads as rewritten:

40 **"§ 130A-20. Abatement of an imminent hazard.**

41 (a) If the Secretary or a local health director determines that an imminent hazard
42 exists, the Secretary or a local health director may order the owner, lessee, operator, or
43 other person in control of the property to abate the imminent hazard or may, after notice
44 to or reasonable attempt to notify the owner, lessee, operator, or other person in control

1 of the property enter upon any property and take any action necessary to abate the
2 imminent hazard. If the Secretary or a local health director abates the imminent hazard,
3 the ~~The~~ Department or the local health department shall have a lien on the property for
4 the cost of the abatement of the imminent hazard in the nature of a mechanic's and
5 materialmen's lien as provided in ~~Chapter 44A~~ Chapter 44A of the General Statutes, and
6 the lien may be enforced as provided ~~therein~~ in that Chapter. The lien may be defeated
7 by a showing that an imminent hazard did not exist at the time the Secretary or the local
8 health director took the action.

9 (b) The Secretary of Environment and Natural Resources and a local health
10 director shall have the same rights enumerated in subsection (a) of this section to
11 enforce the provisions of Articles 8, 9, 10, 11, and 12 of this Chapter."

12 **SECTION 7.** G.S. 130A-143 reads as rewritten:

13 **"§ 130A-143. Confidentiality of records.**

14 All information and records, whether publicly or privately maintained, that identify a
15 person who has AIDS virus infection or who has or may have a disease or condition
16 required to be reported pursuant to the provisions of this Article shall be strictly
17 confidential. This information shall not be released or made public except under the
18 following circumstances:

- 19 (1) Release is made of specific medical or epidemiological information for
20 statistical purposes in a way that no person can be identified;
- 21 (2) Release is made of all or part of the medical record with the written
22 consent of the person or persons identified or their guardian;
- 23 (3) Release is made to health care personnel providing medical care to the
24 patient;
- 25 (4) Release is necessary to protect the public health and is made as
26 provided by the Commission in its rules regarding control measures
27 for communicable diseases and conditions;
- 28 (5) Release is made pursuant to other provisions of this Article;
- 29 (6) Release is made pursuant to subpoena or court order. Upon request of
30 the person identified in the record, the record shall be reviewed in
31 camera. In the trial, the trial judge may, during the taking of testimony
32 concerning such information, exclude from the courtroom all persons
33 except the officers of the court, the parties and those engaged in the
34 trial of the ~~ease~~ case;
- 35 (7) Release is made by the Department or a local health department to a
36 court or a law enforcement ~~officer~~ official for the purpose of enforcing
37 ~~the provisions of this Article pursuant to Article 1, Part 2 of this~~
38 Chapter, this Article or Article 22 of this Chapter, or investigating an
39 act of terrorism using nuclear, biological, or chemical agents. A law
40 enforcement official who receives the information shall not disclose it
41 further, except (i) when necessary to enforce this Article or Article 22
42 of this Chapter, or when necessary to conduct an investigation of an
43 act of terrorism using nuclear, biological, or chemical agents, or (ii)
44 when the Department or a local health department seeks the assistance

1 of the law enforcement official in preventing or controlling the spread
2 of the disease or condition and expressly authorizes the disclosure as
3 necessary for that purpose;

4 (8) Release is made by the Department or a local health department to
5 another federal, state or local public health agency for the purpose of
6 preventing or controlling the spread of a communicable disease or
7 communicable condition;

8 (9) Release is made by the Department for bona fide research purposes.
9 The Commission shall adopt rules providing for the use of the
10 information for research purposes;

11 (10) Release is made pursuant to G.S. 130A-144(b); or

12 (11) Release is made pursuant to any other provisions of law that
13 specifically authorize or require the release of information or records
14 related to AIDS."

15 **SECTION 8.** G.S. 106-24.1 reads as rewritten:

16 **"§ 106-24.1. Confidentiality of information collected and published.**

17 All information published by the Department of Agriculture and Consumer Services
18 pursuant to this Part shall be classified so as to prevent the identification of information
19 received from individual farm operators. All information received pursuant to this Part
20 from individual farm operators shall be held confidential by the Department and its
21 employees. Information collected by the Department from individual farm operators for
22 the purposes of its animal health programs may be disclosed by the State Veterinarian
23 when, in his judgment, the disclosure will assist in the implementation of these
24 programs. Animal disease diagnostic tests that identify the owner of the animal shall not
25 be disclosed without the permission of the owner unless the State Veterinarian
26 determines that disclosure is necessary to prevent the spread of an animal disease or to
27 protect the public health."

28 **SECTION 9.** G.S. 106-307.2 reads as rewritten:

29 **"§ 106-307.2. Reports of infectious disease in livestock and poultry to State**
30 **Veterinarian.**

31 (a) All persons practicing veterinary medicine in North Carolina shall report
32 promptly to the State Veterinarian the existence of any reportable contagious or
33 infectious disease in livestock and poultry. The Board of Agriculture shall establish by
34 rule a list of animal diseases and conditions to be reported and the time and manner of
35 reporting.

36 (b) The State Veterinarian shall notify the State Health Director and the Director
37 of the Division of Environmental Health in the Department of Environment and Natural
38 Resources when the State Veterinarian receives a report indicating an occurrence or
39 potential outbreak of anthrax, arboviral infections, brucellosis, epidemic typhus,
40 hantavirus infections, murine typhus, plague, psittacosis, Q fever, hemorrhagic fever,
41 virus infections, and any other disease or condition transmissible to humans that the
42 State Veterinarian determines may have been caused by a terrorist act."

43 **SECTION 10.** G.S. 130A-152(b) is repealed.

44 **SECTION 11.** G.S. 143-518 reads as rewritten:

1 **"§ 143-518. Confidentiality of patient information.**

2 (a) Medical records compiled and maintained by the Department or EMS
3 providers in connection with dispatch, response, treatment, or transport of individual
4 patients or in connection with the statewide trauma system pursuant to Article 7 of
5 Chapter 131E of the General Statutes may contain patient identifiable data which will
6 allow linkage to other health care-based data systems for the purposes of quality
7 management, peer review, and public health initiatives.

8 These medical records and data shall be strictly confidential and shall not be
9 considered public records within the meaning of G.S. 132-1 and shall not be released or
10 made public except under any of the following conditions:

- 11 (1) Release is made of specific medical or epidemiological information for
12 statistical purposes in a way that no person can be identified.
- 13 (2) Release is made of all or part of the medical record with the written
14 consent of the person or persons identified or their guardians.
- 15 (3) Release is made to health care personnel providing medical care to the
16 patient.
- 17 (4) Release is made pursuant to a court order. Upon request of the person
18 identified in the record, the record shall be reviewed in camera. In the
19 trial, the trial judge may, during the taking of testimony concerning
20 such information, exclude from the courtroom all persons except the
21 officers of the court, the parties, and those engaged in the trial of the
22 case.
- 23 (5) Release is made to a Medical Review Committee as defined in G.S.
24 131E-95, 90-21.22A, or 130A-45.7 or to a peer review committee as
25 defined in G.S. 131E-108, 122C-30, or 131D-21.1.
- 26 (6) Release is made for use in a health research project under rules
27 adopted by the North Carolina Medical Care Commission. The
28 Commission shall adopt rules that allow release of information when
29 an institutional review board, as defined by the Commission, has
30 determined that the health research project:
 - 31 a. Is of sufficient scientific importance to outweigh the intrusion
32 into the privacy of the patient that would result from the
33 disclosure;
 - 34 b. Is impracticable without the use or disclosure of identifying
35 health information;
 - 36 c. Contains safeguards to protect the information from
37 redisclosure;
 - 38 d. Contains safeguards against identifying, directly or indirectly,
39 any patient in any report of the research project; and
 - 40 e. Contains procedures to remove or destroy at the earliest
41 opportunity, consistent with the purposes of the project,
42 information that would enable the patient to be identified,
43 unless an institutional review board authorizes retention of

1 identifying information for purposes of another research
2 project.

3 (7) Release is made to a statewide data processor, as defined in Article
4 11A of Chapter 131E of the General Statutes, in which case the data is
5 deemed to have been submitted as if it were required to have been
6 submitted under that Article.

7 (8) Release is made pursuant to any other law.

8 (b) Charges, accounts, credit histories, and other personal financial records
9 compiled and maintained by the Department or EMS providers in connection with the
10 admission, treatment, and discharge of individual patients are strictly confidential and
11 shall not be released."

12 **SECTION 12.** G.S. 166A-5(3) is amended by adding a new sub-subdivision
13 to read:

14 "b1. Coordination with the State Health Director to amend or revise
15 the North Carolina Emergency Operations Plan regarding
16 public health matters. At a minimum, the revisions to the Plan
17 shall provide for the following:

18 1. The epidemiologic investigation of a known or suspected
19 threat caused by nuclear, biological, or chemical agents.

20 2. The examination and testing of persons and animals that
21 may have been exposed to a nuclear, biological, or
22 chemical agent.

23 3. The procurement and allocation of immunizing agents
24 and prophylactic antibiotics.

25 4. The allocation of the National Pharmaceutical Stockpile.

26 5. The appropriate conditions for quarantine and isolation
27 in order to prevent further transmission of disease.

28 6. Immunization procedures.

29 7. The issuance of guidelines for prophylaxis and treatment
30 of exposed and affected persons."

31 **SECTION 13.** G.S. 143-508(d)(11) reads as rewritten:

32 "(11) Establish standards and criteria for the education and credentialing of
33 persons trained to administer lifesaving treatment to a person who
34 suffers a severe adverse reaction to ~~insect stings~~ agents that might
35 cause anaphylaxis."

36 **SECTION 14.** G.S. 15A-401(b) reads as rewritten:

37 "(b) Arrest by Officer Without a Warrant. –

38 (1) Offense in Presence of Officer. – An officer may arrest without a
39 warrant any person who the officer has probable cause to believe has
40 committed a criminal offense in the officer's presence.

41 (2) Offense Out of Presence of Officer. – An officer may arrest without a
42 warrant any person who the officer has probable cause to believe:

43 a. Has committed a felony; or

44 b. Has committed a misdemeanor, and:

- 1 1. Will not be apprehended unless immediately arrested, or
2 2. May cause physical injury to himself or others, or
3 damage to property unless immediately arrested; or
4 c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3,
5 20-138.1, or 20-138.2; or
6 d. Has committed a misdemeanor under G.S. 14-33(a),
7 14-33(c)(1), 14-33(c)(2), or 14-34 when the offense was
8 committed by a person with whom the alleged victim has a
9 personal relationship as defined in G.S. 50B-1; or
10 e. Has committed a misdemeanor under G.S. 50B-4.1(a).
11 (3) Repealed by Session Laws 1991, c. 150.
12 (4) A law enforcement officer may detain an individual arrested for
13 violation of an order limiting freedom of movement or access issued
14 pursuant to G.S. 130A-475 or G.S. 130A-145 in the area designated by
15 the State Health Director or local health director pursuant to such
16 order. The person may be detained in such area until the initial
17 appearance before a judicial official pursuant to G.S. 15A-511 and
18 G.S. 15A-534.5."

19 **SECTION 15.** Article 26 of Chapter 15A is amended by adding a new
20 section to read:

21 **§ 15A-534.5. Detention to protect public health.**

22 If a judicial official conducting an initial appearance finds by clear and convincing
23 evidence that a person arrested for violation of an order limiting freedom of movement
24 or access issued pursuant to G.S. 130A-475 or G.S. 130A-145 poses a threat to the
25 health and safety of others, the judicial official shall deny pretrial release and shall order
26 the person to be confined in an area or facility designated by the judicial official. Such
27 pretrial confinement shall terminate when a judicial official determines that the confined
28 person does not pose a threat to the health and safety of others. These determinations
29 shall be made only after the State Health Director or local health director has made
30 recommendations to the court."

31 **SECTION 16.** G.S. 7A-451(a) is amended by adding the following new
32 subdivision:

- 33 "(17) A proceeding involving limitation on freedom of movement or access
34 pursuant to G.S. 130A-475 or G.S. 130A-145."

35 **SECTION 17.** G.S. 130A-157 reads as rewritten:

36 **§ 130A-157. Religious exemption.**

37 If the bona fide religious beliefs of an adult or the parent, guardian or person in loco
38 parentis of a child are contrary to the immunization requirements contained in this ~~Part,~~
39 Chapter, the adult or the child shall be exempt from the requirements. Upon submission
40 of a written statement of the bona fide religious beliefs and opposition to the
41 immunization requirements, the person may attend the college, university, school or
42 facility without presenting a certificate of immunization."

43 **SECTION 18.** G.S. 90-21.22A(c) reads as rewritten:

1 (c) The proceedings of a medical review committee, the records and materials it
2 produces, and the materials it considers shall be confidential and not considered public
3 records within the meaning of G.S. 132-1, 131E-309, or 58-2-100; and shall not be
4 subject to discovery or introduction into evidence in any civil action against a provider
5 of health care services who directly provides services and is licensed under this Chapter,
6 a PSO licensed under Article 17 of Chapter 131E of the General Statutes, an ambulatory
7 surgical facility licensed under Chapter 131E of the General Statutes, or a hospital
8 licensed under Chapter 122C or Chapter 131E of the General Statutes or that is owned
9 or operated by the State, which civil action results from matters that are the subject of
10 evaluation and review by the committee. No person who was in attendance at a meeting
11 of the committee shall be required to testify in any civil action as to any evidence or
12 other matters produced or presented during the proceedings of the committee or as to
13 any findings, recommendations, evaluations, opinions, or other actions of the committee
14 or its members. However, information, documents, or records otherwise available are
15 not immune from discovery or use in a civil action merely because they were presented
16 during proceedings of the committee. A member of the committee may testify in a civil
17 action but cannot be asked about his or her testimony before the committee or any
18 opinions formed as a result of the committee hearings."

19 **SECTION 19.** G.S. 131E-95(b) reads as rewritten:

20 (b) The proceedings of a medical review committee, the records and materials it
21 produces and the materials it considers shall be confidential and not considered public
22 records within the meaning of G.S. 132-1, "Public records' defined," and shall not be
23 subject to discovery or introduction into evidence in any civil action against a ~~hospital~~
24 hospital, an ambulatory surgical facility licensed under Chapter 131E of the General
25 Statutes, or a provider of professional health services which results from matters which
26 are the subject of evaluation and review by the committee. No person who was in
27 attendance at a meeting of the committee shall be required to testify in any civil action
28 as to any evidence or other matters produced or presented during the proceedings of the
29 committee or as to any findings, recommendations, evaluations, opinions, or other
30 actions of the committee or its members. However, information, documents, or records
31 otherwise available are not immune from discovery or use in a civil action merely
32 because they were presented during proceedings of the committee. A member of the
33 committee or a person who testifies before the committee may testify in a civil action
34 but cannot be asked about his testimony before the committee or any opinions formed as
35 a result of the committee hearings."

36 **SECTION 20.(a)** Article 1 of Chapter 90 is amended by adding a new
37 section to read:

38 "§ 90-12.2. Disasters and emergencies.

39 In the event of an occurrence which the Governor of the State of North Carolina has
40 declared a disaster or when the Governor has declared a state of emergency, or in the
41 event of an occurrence for which a county or municipality has enacted an ordinance to
42 deal with states of emergency under G.S. 14-288.12, 14-288.13, or 14-288.14, or to
43 protect the public health, safety, or welfare of its citizens under Article 22 of Chapter
44 130A of the General Statutes, G.S. 160A-174(a) or G.S. 153A-121(a), as applicable, the

1 Board may waive the requirements of this Article in order to permit the provision of
2 emergency health services to the public."

3 **SECTION 20.(b)** G.S. 166A-14(d) reads as rewritten:

4 "(d) As used in this section, the term "emergency management worker" shall
5 include any full or part-time paid, volunteer or auxiliary employee of this State or other
6 states, territories, possessions or the District of Columbia, of the federal government or
7 any neighboring country or of any political subdivision thereof or of any agency or
8 organization performing emergency management services at any place in this State,
9 subject to the order or control of or pursuant to a request of the State government or any
10 political subdivision thereof. The term "emergency management worker" under this
11 section shall also include a person performing emergency health care services under
12 G.S. 90-12.2."

13 **SECTION 21.(a)** G.S. 166A-20(b) reads as rewritten:

14 "(b) The purpose of this Article is to establish a system of regional response to
15 hazardous materials emergencies and terrorist incidents in the State to protect the health
16 and safety of its citizens."

17 **SECTION 21.(b)** G.S. 166A-21 is amended by adding a new subdivision to
18 read:

19 "(7) 'Terrorist incident' means activities that occur within the territorial
20 jurisdiction of the United States, involve acts dangerous to human life
21 that are a violation of the criminal laws of the United States or of any
22 state, and are intended to do one of the following:

23 a. Intimidate or coerce a civilian population.

24 b. Influence the policy of a government by intimidation or
25 coercion.

26 c. Affect the conduct of a government by mass destruction,
27 assassination, or kidnapping."

28 **SECTION 21.(c)** G.S. 166A-22(a) reads as rewritten:

29 "(a) The Secretary shall adopt rules establishing a regional response program for
30 hazardous materials emergencies and terrorist incidents, to be administered by the
31 Division of Emergency Management. To the extent possible, the regional response
32 program shall be coordinated with other emergency planning activities of the State. The
33 regional response program shall include at least six hazmat teams located strategically
34 across the State that are available to provide regional response to hazardous materials or
35 terrorist incidents requiring technician-level entry capability and 24-hour dispatch and
36 communications capability at the Division of Emergency Management Operations
37 Center. The rules for the program shall include:

38 (1) Standards, including training, equipment, and personnel standards
39 required to operate a regional response team with technician-level
40 entry capability.

41 (2) Guidelines for the dispatch of a regional response team to a hazardous
42 materials or terrorist incident.

43 (3) Guidelines for the on-site operations of a regional response team.

- 1 (4) Standards for administration of a regional response team, including
2 procedures for reimbursement of response costs.
- 3 (5) Refresher and specialist training for members of regional response
4 teams.
- 5 (6) Procedures for recovering the costs of a response to a hazardous
6 materials or terrorist incident from persons determined to be
7 responsible for the emergency.
- 8 (7) Procedures for bidding and contracting for the provision of a hazmat
9 team for the regional response program.
- 10 (8) Criteria for evaluating bids for the provision of a hazmat team for
11 regional response.
- 12 (9) Delineation of the roles of the regional response team, local fire
13 department and local public safety personnel, the Division of
14 Emergency Management's area coordinator, and other State agency
15 personnel responding to the scene of a hazardous materials or terrorist
16 incident."

17 **SECTION 21.(d)** G.S. 166A-23 reads as rewritten:

18 **"§ 166A-23. Contracts; equipment loans.**

19 (a) The Secretary may contract with any unit or units of local government for the
20 provision of a regional response team to implement the regional response program.
21 Contracts are to be let consistent with the bidding and contract standards and procedures
22 adopted pursuant to G.S. 166A-22(a)(7) and (8). In entering into contracts with units of
23 local government, the Secretary may agree to provide:

- 24 (1) A loan of equipment, including a hazmat vehicle, necessary for the
25 provision technician-level entry capability;
- 26 (2) Reimbursement of personnel costs when a regional response team is
27 authorized by the Department to respond to a hazmat or terrorist
28 incident, including the cost of call-back personnel;
- 29 (3) Reimbursement for use of equipment and vehicles owned by the
30 regional response team;
- 31 (4) Replacement of disposable materials and damaged equipment;
- 32 (5) Costs of medical surveillance for members of the regional response
33 team, including baseline, maintenance, and exit physicals;
- 34 (6) Training expenses; and
- 35 (7) Other provisions agreed to by the Secretary and the regional response
36 team.

37 (b) The Secretary shall not agree to provide reimbursement for:

- 38 (1) Costs of clean-up activities, after a spill or leak has been contained;
- 39 (2) Local response not requiring technician-level entry capability; or
- 40 (3) Standby time.

41 (c) Any contract entered into between the Secretary and a unit of local
42 government for the provision of a regional response team shall specify that the members
43 of the regional response team, when performing their duties under the contract, shall not
44 be employees of the State and shall not be entitled to benefits under the Teachers' and

1 State Employees' Retirement System or for the payment by the State of federal social
2 security, employment insurance, or workers' compensation.

3 (d) Regional response teams that have the use of a State hazmat vehicle may use
4 the vehicle for local purposes. Where a State vehicle is used for purposes other than
5 authorized regional response to a hazardous materials or terrorist incident, the regional
6 response team shall be liable for repairs or replacements directly attributable to the
7 nonauthorized response."

8 **SECTION 21.(e)** G.S. 166A-24 reads as rewritten:

9 "**§ 166A-24. Immunity of Regional Response Team Personnel.**

10 Members of a regional response team shall be protected from liability under the
11 provisions of G.S. 166A-14(a) while responding to a hazardous materials or terrorist
12 incident pursuant to authorization from the Division of Emergency Management."

13 **SECTION 21.(f)** G.S. 166A-25 reads as rewritten:

14 "**§ 166A-25. Right of entry.**

15 A regional response team, when authorized to respond to a release or threatened
16 release of hazardous ~~materials, materials or when authorized to respond to a terrorist or~~
17 threatened or imminent terrorist incident, may enter onto any private or public property
18 on which the release or terrorist incident has occurred or on which there is an imminent
19 threat of such ~~release, release or terrorist incident~~. A regional response team may also
20 enter, under such circumstances, any adjacent or surrounding property in order to
21 respond to the release or threatened release of hazardous material or to monitor, control,
22 and contain the release or perform any other action in mitigation of a hazardous
23 materials or terrorist incidents."

24 **SECTION 21.(g)** G.S. 166A-26(a) reads as rewritten:

25 "(a) The Regional Response Team Advisory Committee is created. The Secretary
26 shall appoint the members of the Committee and shall designate the chair. In making
27 appointments, the Secretary shall take into consideration the expertise of the appointees
28 in the management of hazardous materials emergencies. The Secretary shall appoint one
29 representative from:

- 30 (1) The Division of Emergency Management;
- 31 (2) The North Carolina Highway Patrol;
- 32 (3) The State Fire and Rescue Commission; Commission of the
33 Department of Insurance;
- 34 (4) The Department of Environment and Natural Resources;
- 35 (5) The Department of Transportation;
- 36 (6) The Department of Agriculture and Consumer Services;
- 37 (7) The Chemical Industry Council of North Carolina;
- 38 (8) The N.C. Association of Hazardous Materials Responders;
- 39 (9) Each regional response ~~team~~team;
- 40 (10) The State Bureau of Investigation.

41 In addition to the persons listed above, the Secretary shall appoint to the Advisory
42 Committee three persons designated jointly by the North Carolina Fire Chiefs
43 Association and the North Carolina State Firemen's Association."

44 **SECTION 22.** This act becomes effective October 1, 2002.