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APPENDIX D. Descriptions of Selected Sections of Acts Related to Public Health Emergencies

This appendix includes sections of the Public Health Service Act; the Social Security Act; the Federal Food, Drug, and Cosmetic Act; and the Public Health Security and Bioterrorism Preparedness and Response Act.



TABLE 1: SPECIFIC SECTIONS OF THE PUBLIC HEALTH SERVICE ACT

TITLE/SECTION	KEY POINTS	DESCRIPTION
42 U.S.C. § 247(d) Declaration of a Public Health Emergency	Provides authority to: <ul style="list-style-type: none"> • Declare a public health emergency and take action • Make grants • Provide expense awards • Enter into contracts • Conduct/support investigations about prevention and treatment 	The Secretary of the U.S. Department of Health and Human Services (HHS) may declare a public health emergency and take appropriate actions, including making grants, providing awards for expenses, entering into contracts, and conducting/supporting investigations into the cause, prevention, or treatment of the disease or disorder that presents the emergency.
42 U.S.C. § 203–204, 214–216 Commissioned Corps and PHS Personnel <i>(http://www.usphs.gov)</i>	<ul style="list-style-type: none"> • Commissioned Corps (regular and reserved) established for duty • Public health personnel can be detailed 	The Commissioned Regular Corps and a Commissioned Reserve Corps are established for duty in time of emergency. Public health personnel can be detailed to other federal departments or to state health and mental health authorities.
42 U.S.C. § 233 Defense of Certain Malpractice and Negligence Suits, Smallpox Compensation	<ul style="list-style-type: none"> • Provides remedies for malpractice and negligence claims against the Public Health Service (PHS) under the Federal Tort Claims Act 	Provides that remedies under the Federal Tort Claims Act are the exclusive remedy for malpractice and negligence claims against Commissioned Corps officers and employees of PHS.
42 U.S.C. § 241 Research and Development	<ul style="list-style-type: none"> • Provides authority to conduct and support health research 	The Secretary is authorized to conduct and support research and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases.
42 U.S.C. § 247(d)-6(h) Accelerated Research and Development on Priority Pathogens and Countermeasures	<ul style="list-style-type: none"> • Provides authority to prioritize counter terrorism research • Secretary may designate counterterrorism medical products for priority review 	The Secretary may give priority funding to research related to countermeasures to pathogens of potential use in a bioterrorist attack or other agents that may cause a public health emergency. The Secretary may designate medical products for counterterrorism for priority review.
42 U.S.C. § 264 Prevention of Communicable Diseases	<ul style="list-style-type: none"> • Provides authority to quarantine or conditionally release individuals to prevent transmission of infectious diseases 	Executive Order 13295 (4/4/03) permits the apprehension, detention, or conditional release of individuals to prevent transmission of cholera, diphtheria, infectious tuberculosis, plague, smallpox, yellow fever, viral hemorrhagic fevers, and severe acute respiratory syndrome (SARS). The Secretary may quarantine individuals arriving into the United States, moving from one state or possession into another, or when individuals are a probable source of infection to other individuals moving between states.
42 U.S.C. § 243 Quarantine Enforcement and Temporary Assistance to States	<ul style="list-style-type: none"> • Local and state authorities may assist in enforcing federal regulations of quarantine • The Secretary may aid local and state authorities in enforcing quarantines 	The Secretary may accept assistance from local and state authorities in the enforcement of federal regulations of quarantine and to aid the local and state authorities in the enforcement of their quarantine or other prevention or suppression of communicable diseases.



TABLE 1: SPECIFIC SECTIONS OF THE PUBLIC HEALTH SERVICE ACT (cont.)

TITLE/SECTION	KEY POINTS	DESCRIPTION
42 U.S.C. § 265 Prohibition of Entry and Imports	<ul style="list-style-type: none"> The Secretary may prohibit entry of individuals or property into the United States in the interest of public health 	If there is a serious danger of a communicable disease in a foreign country being introduced into the United States, in the interest of public health to avert such danger and in accordance with regulations approved by the President, the Secretary can prohibit people or property from entering the country.
42 U.S.C. § 266 War-Time Quarantine	<ul style="list-style-type: none"> Provides authority to apprehend and provide examination of any individual suspected likely to be a source of infection to military or war workers 	In time of war, to protect the military and war workers of the United States against specified communicable diseases, the Secretary, in consultation with the Surgeon General, is authorized to provide for the apprehension and examination of any individual believed to be infected with such disease and likely to be a source of infection to members of the armed forces or war workers.
42 U.S.C. § 267(a) Quarantine Stations	<ul style="list-style-type: none"> The Secretary controls, directs, and manages all quarantine stations The Secretary designates quarantine borders 	The Secretary shall control, direct, and manage all U.S. quarantine stations, designate their boundaries, and designate the quarantine officers to be in charge.
42 U.S.C. § 249 Care and Treatment for Persons Under Quarantine	<ul style="list-style-type: none"> PHS cares for person under quarantine PHS pays expenses for treatment 	PHS is responsible for the care and treatment of persons under quarantine or the expense of their treatment and care in public or private medical facilities if authorized by the officer in charge of the quarantine station.
42 U.S.C. § 248 Establishment of Hospitals	<ul style="list-style-type: none"> The Secretary may operate PHS hospitals 	The Secretary is able to operate PHS hospitals, including the management of hospitals, treatment of patients, transfer of patients between hospitals, disposal of articles produced by patients in the course of treatment, and disposal of money and effects of deceased patients.
42 U.S.C. § 290(aa) Crisis Counseling	<ul style="list-style-type: none"> Provides for awards to public entities to address emergency substance abuse or mental health needs 	The Secretary may make awards to public entities to address emergency substance abuse or mental health needs.
42 U.S.C. § 300 (hh)–12 Pharmaceutical Stockpile	<ul style="list-style-type: none"> Provides for maintenance of a stockpile of medical supplies and drugs for U.S. emergency health security 	The Secretary of the U.S. Department of Homeland Security, in coordination with the Secretary of HHS and the Secretary of Veterans Affairs, may maintain a stockpile of drugs, vaccines, and other biological products, medical devices, and other supplies in such numbers, types, and amounts as are determined by the Secretary of HHS to be appropriate and practicable to provide for the emergency health security of the United States, including children and other vulnerable populations.
42 U.S.C. § 262 Regulation of Biological Products	<ul style="list-style-type: none"> No person may introduce biological products into interstate commerce without a license, label, manufacturing identity, and expiration date 	No person may introduce or deliver for introduction into interstate commerce any biological product unless it is licensed and plainly marked with the name, identity of manufacturer, and expiration date.
42 U.S.C. § 242(p) National Disease Prevention Data Profile	<ul style="list-style-type: none"> The Secretary must compile and disseminate a national disease prevention profile to provide a database for emergencies Database includes morbidity rates and profiles of population segments 	The Secretary must compile and disseminate a national disease prevention data profile to provide a database for use in an emergency situation. This database includes such items as morbidity rates for diseases and health profiles on segments of the population.


TABLE 1: SPECIFIC SECTIONS OF THE PUBLIC HEALTH SERVICE ACT (cont.)

TITLE/SECTION	KEY POINTS	DESCRIPTION
42 U.S.C. § 247(d)-1 National Needs to Combat Threats to Public Health	<ul style="list-style-type: none"> Provides authority to improve/expand response capacities of local, state, and national public health agencies 	The Secretary is authorized to establish reasonable capacities to improve, enhance, or expand the abilities of local, state, and national public health agencies to detect and respond to public health threats.
42 U.S.C. § 247(d)-2 Assessment of Public Health Needs	<ul style="list-style-type: none"> Provides authority to award grants to perform evaluations of the response capabilities of local and state public health agencies 	The Secretary is authorized to award grants to perform evaluations of the capabilities of local and state public health agencies to respond to public health threats.
42 U.S.C. § 300(hh) Public Health Response and Recovery Preparations	<ul style="list-style-type: none"> Provides authority to develop and implement a state-coordinated strategy for planning and responding to emergencies Provides authority to develop and implement an emergency response plan and assist local and state governments 	The Secretary is authorized to develop and implement a coordinated strategy for carrying out health-related preparations, response, and recovery to public health emergencies and do so in coordination with states. The Secretary is also authorized to develop and implement a preparedness and response plan and provide effective assistance to local and state governments to ensure that they have the appropriate capabilities to coordinate emergency response.
42 U.S.C. § 300(ff)-81 Protection of Emergency Response Workers	<ul style="list-style-type: none"> Provides authority to create a list of life-threatening infectious diseases to protect first responders 	The Secretary is authorized to complete a detailed list of potentially life-threatening infectious diseases to which emergency response workers may be exposed in responding to emergencies.
42 U.S.C. § 247-7c Supplies and Equipment	<ul style="list-style-type: none"> The Secretary may provide supplies and equipment for HHS, local, and state agencies in response to emergencies 	The Secretary may provide supplies, equipment, and services and detail HHS officers and employees to deal with, among other things, action in response to public health emergencies and support capacity building of local and state public health systems to detect and respond to public health threats.
42 U.S.C. § 247(d)-6(g)(1) Emergency Response Personnel Training	<ul style="list-style-type: none"> Provides authority to develop educational and training materials for public health and medical professionals The Secretary may develop curricula for proficiency testing of laboratory testing for bioweapons 	The Secretary is authorized to develop teaching materials and curricula to be given to public health officials, medical professionals, and other personnel working in health care facilities for the following reasons: (1) for identifying potential bioweapons and other agents that may create a public health emergency, describing the care of victims of such an emergency, and recognizing the special needs of children and other vulnerable populations; (2) for community-wide planning by local and state governments, health care facilities, and appropriate public and private sector entities to respond to a bioterrorist attack or other public health emergency; and (3) for proficiency testing of laboratory and other public health personnel for the recognition and identification of potential bioweapons and other agents that may create a public health emergency.
42 U.S.C. § 247(d)-7b Credentialing of Health Professionals	<ul style="list-style-type: none"> Provides authority to maintain a system of credentialing for health professionals The Secretary may encourage states to provide authority to health professionals authorized in another state to practice in the state 	The Secretary is authorized to maintain a system for advance registration of health professionals to verify credentials, licenses, accreditations, and hospital privileges when such professionals volunteer to provide services during public health emergencies. The Secretary may encourage, but not require, each state to provide legal authority during a public health emergency for health professionals authorized in another state to provide such services in the state.

TABLE 1: SPECIFIC SECTIONS OF THE PUBLIC HEALTH SERVICE ACT (cont.)

TITLE/SECTION	KEY POINTS	DESCRIPTION
42 U.S.C. § 300(aa)-10 National Vaccine Injury Compensation Program	<ul style="list-style-type: none"> Establishment of the National Vaccine Injury Compensation Program 	This section establishes the National Vaccine Injury Compensation Program, administered by the Secretary, under which compensation may be paid for a vaccine-related injury or death from covered childhood vaccines.
42 U.S.C. 247(d)-3a Improvement of Hospital Preparedness	<ul style="list-style-type: none"> Provides authority to award grants to develop and implement regional plans to improve hospital and health system capacity to respond to terrorism and other public health emergencies 	The Secretary is authorized to award grants to states and other entities to develop and implement regional plans to improve the capacity of hospitals and other health system components to respond to incidents requiring mass immunization, isolation, decontamination, diagnosis, and treatment in the aftermath of terrorism or other public health emergencies.

TABLE 2: SPECIFIC SECTION OF THE SOCIAL SECURITY ACT

TITLE/SECTION	KEY POINTS	DESCRIPTION
42 U.S.C. § 1320(b)-5 Waiver of Medicare, Medicaid, or SCHIP Requirements	<ul style="list-style-type: none"> The Secretary may ensure that health services are available for Medicare, Medicaid, and SCHIP enrollees Health care personnel who cannot comply with program requirements yet provide services will be reimbursed and exempt from sanctions 	The Secretary may ensure, to the maximum extent feasible, that health care services are available to meet the needs of individuals enrolled in the Medicare, Medicaid, and SCHIP programs. Health care personnel who provide services in good faith but are unable to comply with specific program requirements are reimbursed and exempted from sanctions for noncompliance, save for fraud or abuse.

TABLE 3: SPECIFIC SECTIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

TITLE/SECTION	KEY POINTS	DESCRIPTION
21 U.S.C. § 334 Detention of Food; Seizure of Food	<ul style="list-style-type: none"> HHS and the Food and Drug Administration (FDA) may detain food if there is credible evidence of an adverse health consequence The United States may seize adulterated food introduced into the interstate commerce or obtained by the U.S. Customs and Border Protection 	FDA may, by Administrative Order, detain food (which includes live food animals) for up to 30 days if it has credible evidence that it presents a threat of serious adverse health consequences or death to humans or other animals. The United States may seize any adulterated article of food that has been introduced into interstate commerce or in the custody of the U.S. Customs and Border Protection.
42 U.S.C. 247(d)-3a Improvement of Hospital Preparedness	<ul style="list-style-type: none"> Provides authority to award grants to develop and implement regional plans to improve hospital and health system capacity to respond to terrorism and other public health emergencies 	Food is adulterated if it bears or contains any added poisonous or deleterious substance that may render it injurious to health; is unfit for food; or has been prepared, packed, or held under unsanitary conditions, whereby it may have been rendered injurious to health.


TABLE 3: SPECIFIC SECTIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT (cont.)

TITLE/SECTION	KEY POINTS	DESCRIPTION
21 U.S.C. § 350(c), 372, 374 Inspections and Investigations	<ul style="list-style-type: none"> Provides authority to inspect food facilities and vehicles used in all points of food production 	FDA is authorized to inspect any location or vehicle where foods are manufactured, processed, packed, or held for introduction into interstate commerce or after such introduction, and this inspection extends to records of such persons (excluding farms and restaurants) who manufacture, process, pack, transport, distribute, hold, or import food when HHS/FDA has a reasonable belief that the food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals.
21 U.S.C. § 381 Imports and Exports	<ul style="list-style-type: none"> The United States may refuse all foods or cosmetics that appear to be adulterated 	Imports of food or cosmetics that appear to be adulterated are subject to refusal of admission to the United States.


TABLE 4: SPECIFIC SECTIONS OF THE PUBLIC HEALTH SECURITY AND BIOTERRORISM PREPAREDNESS AND RESPONSE ACT

TITLE/SECTION	KEY POINTS	DESCRIPTION
Title I: National Preparedness for Bioterrorism and Other Public Health Emergencies	<ul style="list-style-type: none"> Federal, state, and local coordination Strategic National Stockpile Improving state, local, and hospital preparedness 	Directs the Secretary to further develop and implement a coordinated strategy for carrying out health-related activities to prepare for and respond to bioterrorism or other public health emergencies. Provides support for the National Disaster Medical System, an integrated system of public health alert communication and surveillance; Strategic National Stockpile; and development of priority countermeasures. The act also requires grants for state- and community-wide plans for responding to bioterrorism or other public health emergencies; to address deficiencies in those plans; to provide materials, training, surveillance, and detection and communication systems; and to support state, local, and hospital preparedness. Expands authority of the Secretary, under certain conditions, to specify communicable diseases subject to individual detention orders.
Title II-Subtitle A: Enhancing Controls on Dangerous Biological Agents and Toxins	<ul style="list-style-type: none"> Provides for enhanced control of certain biological agents and toxins 	Directs the Secretary to establish a list of biological agents and toxins with potential to pose a severe threat to public health and safety. Regulates transfer of those agents. Requires standards and procedures for their use, registration for their use, and safeguards and security requirements for their possession, use, or transfer.
Title III: Protecting Safety and Security of Food and Drug Supply	<ul style="list-style-type: none"> Protects imported foods Requires linkages across federal agencies and with states and tribal governments to protect the food supply Establishes research to improve food safety testing Requires regulation of foreign drug manufacturers and importers 	Directs the Secretary to increase port inspections of foods and extends authority of FDA to temporarily detain food that may present a serious threat to humans or animals. Improves FDA information management systems relating to imported foods. Improves linkages with other federal regulatory agencies dealing with food safety and state and Indian tribes. Provides research to develop tests and methodologies to rapidly detect adulteration of food. Mandates the annual registration of foreign manufacturers engaged in food import into the United States.