

Utah Pandemic Influenza Response Plan
Public Health-Related Legal Authorities

Revised August 24, 2007

TITLE	REFERENCE/ CODE	BRIEF DESCRIPTION	PARTNERS/AGENCIES
Definition of a Disaster	Title 63-5-2	"Disaster" means a situation causing, or threatening to cause, widespread damage, social disruption, or injury or loss of life or property resulting from attack, internal disturbance, natural phenomena or technological hazard.	
Period in which Authority may be Exercised	Title 63-5b-502	Persons authorized to act as governor, emergency interim successors, and special emergency judges shall exercise the powers and duties of the office to which they succeed only when a disaster has occurred. Emergency interim successors serve for 30 days after the governor or governor's successor calls the Legislature into special session unless the unavailability of the elected official ends or an emergency interim successor earlier in the order of succession becomes available. In the event a legislator is killed or resigns, the emergency interim successor shall serve until the legal replacement is sworn in. The Legislature has the ability to terminate the authority of any emergency interim successor(s) or special emergency judges and also to extend the time during which any or all emergency interim successors or judges may exercise their powers.	<ul style="list-style-type: none"> • Governor • Legislature • Emergency Interim Successors • Emergency Judges
UDOH General Powers	Title 26-1	Outlines the health functions for which the state is responsible for through the Utah Department of Health (UDOH). The department is responsible for establishing health policy for the state and to promote health, the quality of life, and contain costs in the health field.	<ul style="list-style-type: none"> • Local health departments (LHDs) • US Department of Health and Human Services (DHHS)
Communicable Disease Control Act	Title 26-6	Delegates to UDOH the authority to investigate and control the causes of epidemic infections and communicable disease within the state. UDOH shall provide for the detection, reporting, prevention, and control of communicable diseases, epidemic infections or any other health hazard which may affect public health.	<ul style="list-style-type: none"> • LHDs

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Detection of Public Health Emergencies	Title 26-23b	Legal statute mandates that all health care providers shall report any cases of any persons known or believed to have been infected due to: bioterrorism, epidemic/pandemic disease, or novel and highly fatal infections or toxins.	<ul style="list-style-type: none"> • Health care providers including primary care physicians, pharmacies and medical laboratories. • LHDs • Public safety authorities
LHD General Powers	Title 26A-1	Statute authorizing the governing body of each county to create and maintain a local health department which includes and serves all incorporated and unincorporated areas in the county. LHDs will be responsible for: public health administration and supportive services, maternal and child health, surveillance and epidemiology of communicable disease, food protection, solid and water waste management, and safe drinking water management. Allows for monitoring of performance by UDOH and approval of a corrective action plan created by the local health department if necessary.	<ul style="list-style-type: none"> • Utah Department of Environmental Quality • LHDs
LHD Minimum Performance Standards	R 380-40	Administrative code that allows LHDs and UDOH to negotiate specific measurable levels of performance not inconsistent with corresponding general performance standards, and record them in a negotiated standards document. Outlines qualifications and responsibilities for each local health officer.	<ul style="list-style-type: none"> • LHDs
Isolation & Quarantine	Title 26-6b	Outlines how involuntary examination, treatment, isolation, and quarantine actions can be applied to individuals or groups of individuals determined by UDOH or a local health department who have been determined to be a risk or potential risk to public health. Individuals or groups may be quarantined or isolated if they pose a risk to public health after failing to take actions required to prevent the spread of disease or if they have been infected or contaminated with a biological or chemical agent that poses a threat to public health without remedial action. The quarantine and/or isolation must be for the shortest amount of time necessary and in the least intrusive manner.	
Declaration of a Public Health Emergency	Title 26-23b-104(3)	This section of the code allows for the declaration of a public health emergency to trigger mandatory reporting requirements.	

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Mutual Aid Compact	Title 53-2-202	<p>The compact provides for mutual assistance between the states, districts, commonwealths, and territories that implement the compact in the event of an emergency or disaster as declared by the governor of the state or territory. The compact also provides for cooperation between states during emergency- related trainings and exercises. In the event of a declared emergency or disaster the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans. States may withhold assistance to the extent necessary to provide reasonable protection of their own state.</p>	<ul style="list-style-type: none"> • Compact Signatories • Governor’s Office • National Guard
Mutual Aid Compact (continued)	Title 39-5-2	<p>One state’s civil defense forces operating within the boundaries of another state as part of the compact shall have the same powers as the forces of the state in which they are operating except for that of arrest, unless specifically authorized by the receiving state. Forces are granted the same rights, privileges and immunities as if they were operating within their home state. Civil defense forces will continue under their traditional control and command structure, but the organizational units will come under operational control of the receiving state. Any state delivering aid to another is entitled to be reimbursed in full for all services rendered and all equipment or supplies used.</p>	<ul style="list-style-type: none"> • Compact Signatories • Governor’s Office • National Guard
School Closure	Title 26a-1-114 Sub-sections (3), (4), (5)	<p>Allows LHDs to establish control of property or persons necessary to protect public health, including the ability to close theatres, schools and to prohibit public gatherings. LHDs must conduct regular inspections of the health-related conditions of all public and private schools. LHDs are to report back the findings of these investigations to UDOH, and to provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools. If those responsible for the school buildings do not carry out the instructions, LHDs may exercise incidental authority necessary to do so.</p>	<ul style="list-style-type: none"> • UDOH • LHDs

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Mass Gathering Closure	Title 26-1-12	If the executive director finds that a condition of filth, sanitation, or other health hazard exists which creates a clear present hazard to the public health and which requires immediate action to protect human health or safety, the executive director with the concurrence of the governor may order persons causing or contributing to the condition to reduce, discontinue, or ameliorate it to the extent that the public health hazard is eliminated.	<ul style="list-style-type: none"> • LHDs • Department of Environmental Quality
Medical Reserve Corps	Title 26-1-30 Subsection (2)(i)	The department shall exercise its authority to close theaters, schools, and other public places and forbid gatherings of people when necessary to protect the public health.	<ul style="list-style-type: none"> • Division of Occupational and Professional Licensing • LHDs
Volunteer Protection • State, Volunteer Government Workers Act	Title 67-20	A medical reserve corps may be established by LHDs to enable the local health authority to respond with appropriate health care professionals to a national, state or local emergency or to a declaration by the President of the United States or other federal official requesting public health related activities. The reserve corps can be made of current and former health care professionals whose licenses are or were in good standing. The act covers approved volunteers for a government agency, including volunteer safety officers, and compensatory service workers, defined as youth and adults who are performing public services for an agency as a condition of a sentence, diversion, probation or parole. Any volunteer or compensatory service worker is considered a government employee for purposes of receiving workers' compensation medical benefits, which is the exclusive remedy for all injuries and occupational diseases as provided under the Workers' Compensation Act and the Utah Occupational Disease Act.	

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Volunteer Protection • Private Organizations	Title 78-19	<p>Volunteers providing services for nonprofit organizations cannot incur legal liability for any act of omission if the volunteer was acting in good faith within the scope of his/her official responsibilities and the damage or injury was not caused by an intentional act which constitutes illegal conduct. The protection does not apply if the volunteer was operating a motor vehicle for which an operator's license is required, when a suit is brought by an officer of a state or local government to enforce a federal, state or local law or when the nonprofit organization fails to provide a financially secure source of recovery for individuals who suffer injuries as a result of an action by a volunteer.</p>	
Emergency System for Advanced Registration of Volunteer Health Professionals (ESAR-VHP)	PL 107-188 Title I Sec 107	<p>Establishes guidelines and funding at the federal level for the implementation of a state-based electronic database of health care personnel who volunteer to provide aid in an emergency. Each state's ESAR-VHP System must (1) register health volunteers, (2) apply emergency credentialing standards to registered volunteers, and (3) allow for the verification of the identity, credentials, and qualifications of registered volunteers in an emergency. A Health volunteer is a medical or healthcare professional that renders aid or performs health services, voluntarily, without pay. Each state's ESAR-VHP system will contain certain standards, allowing for information to be shared across states simply. Upon the completion of each state's system, they will be joined to create a nationwide ESAR-VHP system.</p>	<ul style="list-style-type: none"> • DHHS • Other States • Private health care system • Division of Occupational Licensure
American Red Cross	ESF 6	<p>Promotes the delivery of services and the implementation of programs to assist individuals, households and families impacted by potential or actual Incidents of National Significance in the areas of mass care (non-medical, emergency relief), housing, and human services. The American Red Cross functions as a primary organization in coordinating the use of Federal mass care resources in support of state and local efforts.</p>	<ul style="list-style-type: none"> • Department of Homeland Security, Federal Emergency Management Agency (FEMA) • State and Local government response organizations

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Health Care Facility Licensing and Inspection Act	Title 26-21	<p>Outlines the licensing of health-care facilities including abortion clinics, ambulatory health-care clinics, assisted living facilities, home health agencies, hospitals and freestanding clinics such as maternal health clinics and dialysis centers. Licensing is governed by the Health Facility Committee, comprised of 13 individuals knowledgeable about health care facilities and issues. The committee members must be approved by the senate, and no more than seven members can be of the same political party. UDOH must authorize an agent to conduct inspections of health-care facilities and must also collect information authorized by the committee that may be necessary to ensure that adequate healthcare facilities are available to the public.</p>	<ul style="list-style-type: none"> • Bureau of Licensing
Health Facility Licensing	R 432	<p>Defines the standards that health-care facilities and agencies must follow in order to obtain a license. Allows for inspections of all facilities to determine compliance with standards, regardless of accreditation. UDOH has the authority to approve or deny a Plan of Correction for the facility if deemed to be in violation of regulations. UDOH may revoke or refuse to renew a license in cases or chronic noncompliance. The Bureau of Licensing may review all complaint investigation findings.</p>	
Public Health and Medical Services Annex	ESF 8	<p>Outlines how the federal government, lead by DHHS, provides supplemental assistance to state, local and tribal governments in identifying and meeting public health needs during potential or actual Incidents of National Significance. Support can be provided in one of four areas: assessment of public health/medical needs, public health surveillance, medical care personnel and medical equipment and supplies. The American Red Cross is a support agency to DHHS under ESF 8, with specific responsibilities to provide support when requested.</p>	<ul style="list-style-type: none"> • DHHS • Department of Homeland Security • Department of Defense • Department of Veterans Affairs • American Red Cross

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Disaster Response and Recovery Act	Title 63-5a	Assists the governor of Utah and its political subdivisions in effectively providing emergency disaster response and recovery assistance. Authorizes the governor to utilize all necessary resources to cope with a state of emergency, and allows the governor to direct state and local officers and agencies as needed. Empowers the governor to recommend and direct evacuations of any threatened or stricken area, as necessary. Limits the length of any state of emergency to 30 days, unless authorized by the Legislature. Also allows chief executive officers of political subdivisions of the state to declare local states of emergency. The act gives the governor and other chief executive officers' declarations the force of law when not in conflict with existing laws, except as specifically provided, mainly to allow for the suspension of housing code for temporary housing.	
Disaster Emergency Advisory Council	Title 63-5-4	Establishes a council that meets at the call of the governor in order to provide advice and assistance during any emergency or disaster. The council is to be comprised of: lieutenant governor, attorney general, president of the Senate, speaker of the House of Representatives, representative of the National Guard appointed by the governor with the consent of the Senate, commissioner of agriculture and food, state planning coordinator, representatives from two statewide, nongovernmental service organizations appointed by the governor with the consent of the Senate, the executive directors of the Departments of Transportation, Human Services, Health, Environmental Quality, Community and Economic Development, and Natural Resources, and the heads of the following state agencies: Public Safety; Division of Emergency Services and Homeland Security, Building Board, and the Governor's Office of Planning and Budget.	

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Disaster Assistance for Crisis Counselors	42 CFR 38	During a declared disaster, a governor or state administrator may request from the Secretary of DHHS crisis counselors to provide counseling to disaster victims. The governor should identify the local organizations and agencies capable of providing such assistance, and also provide an estimate of the number of people needing counseling and the duration, location, and the total necessary funds to provide counseling. The Secretary may then provide the counselors, either through direct assistance or contract with local/national agencies.	<ul style="list-style-type: none"> • Secretary, DHHS • National Institute of Mental Health • Federal Disaster Assistance Administration • State Governor
Continuity of Management in Emergencies	Title 31A-5-411	Facilitates the continuation of a domestic insurance corporation in the event of an attack on the United States or nuclear or other disaster which makes continued operation in strict accordance with applicable laws, regulations or bylaws impractical. The board of any corporation may institute emergency bylaws during the national emergency which are necessary for operation during the emergency, notwithstanding any different provisions in the regular bylaws.	<ul style="list-style-type: none"> • Board of Directors for any Utah-based Insurance Corporation
Emergency Medical Services System	Title 26-8a	With the assistance of the Emergency Medical Services Committee, UDOH shall coordinate all emergency medical services and establish rules pursuant to it, including licensing and permitting.	
• Communications	Title 26-8a-202	The Department is the lead agency for coordinating the statewide emergency medical service communication systems under which emergency medical personnel, dispatch centers, and treatment facilities provide medical control and coordination between emergency medical service providers.	
• Data Collection	Title 26-8a-203	The Department must establish a data collection system to provide for the collection of information related to the treatment and care of those using emergency medical services, as defined by the EMS Committee. All emergency medical providers must report back all required information to the database.	

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Emergency Medical Services System (continued)			
<ul style="list-style-type: none"> • Disaster Coordination Plan 	Title 26-8a-204	<p>The Department shall develop plans to provide emergency medical services during times of disaster or emergency, in coordination with all federal, state and local disaster response agencies.</p>	
<ul style="list-style-type: none"> • Persons and Activities Exempt from Civil Liabilities 	Title 26-8a-601	<p>Any certified paramedic, medical director, emergency medical service instructor or other types of emergency personnel as the EMS Committee deems necessary as well as licensed physicians, physician’s assistants, and registered nurses acting in good faith are exempt from civil liabilities in the event they provide emergency medical care or instruction, except in the case of willful neglect or gross negligence.</p>	
Disaster Preparedness for Clinics, Rehab Agencies, and Public Health Agencies as Providers of Outpatient Physical Therapy and Speech-Pathology Services	42 CFR 485 Sec 727	<p>In order to be certified as a comprehensive outpatient rehabilitation facility, all facilities must have a written disaster plan which is regularly rehearsed. The plan must account for the following in the event of an emergency: the transfer of casualties and records, the location and use of an alarm system and signals, the methods of containing fire and the proper channels for notification of appropriate persons relevant to the facility.</p>	
Major Disaster Assistance Programs	42 USC 68 Sec 5170a	<p>In any major disaster the President may direct any federal agency, with or without reimbursement, to utilize its authorities and resources in support of state and local efforts. The President may coordinate all disaster relief assistance, including voluntary assistance, and provide any technical and advisory assistance to affected state and local governments for the provision of services, warnings and information. The President may direct any federal agency to assist state and local governments in the distribution of medicine, food, other consumable supplies and emergency assistance.</p>	<ul style="list-style-type: none"> • President of the United States • Any necessary federal agency • Governor • Local governments

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Requests for Major Disaster Declarations	44 CFR 206.36	When a catastrophe occurs, the Governor/Acting Governor may request a major disaster declaration by submitting a request to the President within 30 days of the disaster, through the appropriate channels. The request must show the disaster is beyond the scope of state capabilities and that federal assistance is needed. The request must indicate the Governor has taken all appropriate steps, an estimate of damages, a description of state resources used or planned to be used, estimates of the types and amounts of assistance needed and certification of cost-sharing requirements.	<ul style="list-style-type: none"> • President of the United States • Federal Emergency Management Agency • Regional Director, FEMA • Governor/Acting Governor
Community Disaster Loans	42 USC 68 IV Sec 5184	The President is authorized to dispense loans to any local government which may suffer a substantial loss of tax or other revenue as a result of a major disaster, based on need. The loan may not exceed more than 25% of annual operating budget, or \$5,000,000, whichever is smaller.	<ul style="list-style-type: none"> • President of the United States • Local governments
General Hospital Standards— Emergency and Disaster Plan	R432-100-38	Hospital administrator or designee is responsible for developing a disaster plan, coordinated with state and local disaster response personnel in order to assure the safety of hospital staff and patients during an emergency. The plan shall outline an evacuation plan, deliver of essential care and services to hospital occupants regardless of setting, deliver of essential care and services when additional persons are house in the hospital during an emergency, deliver of essential care and services when staff is reduced by an emergency, and maintenance of safe ambient air temperatures within the hospital. The plan shall delineate the persons with decision making authority for fiscal, medical and personnel management, how to acquire additional equipment and help after a disaster, the assignment of personnel to specific tasks, methods of communicating with local emergency agencies, telephone numbers of individuals to be notified and order of priority, methods of transporting and evacuating patients and conversion of the hospital for emergency use. A hospital may exceed its licensed capacity by up to 20% in the event of an emergency, assuming it notifies UDOH by fax or telephone.	<ul style="list-style-type: none"> • Local emergency and fire agencies

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Nursing Care Facilities Emergency Response and Preparedness Plan	R432-150-29	Nursing care facilities are responsible for the safety and well-being of their residents during a disaster or emergency. The facility must develop an emergency and disaster plan that is approved by the governing board. The plan shall delineate the persons with decision-making authority for fiscal, medical and personnel management, how to acquire additional equipment and help after a disaster, the assignment of personnel to specific tasks, methods of communicating with local emergency agencies, telephone numbers of individuals to be notified and order of priority and methods of transporting and evacuating patients.	<ul style="list-style-type: none"> • Local emergency and fire agencies