

AUTHORITIES AND RESPONSIBILITIES OF LOCAL HEALTH OFFICERS IN DISASTERS

These references have been prepared strictly as a guide, and should not be construed as providing legal advice. To ensure compliance with applicable laws and regulations, city or county legal counsel should be consulted prior to invoking the authorities discussed in this document

HSC = Health and Safety Code
GC = Government Code
CCR = California Code of Regulations
PC = Penal Code

GENERAL DUTIES AND RESPONSIBILITIES OF COUNTY HEALTH OFFICER

The local health officer is delegated the responsibility for enforcement of public health laws and regulations.

HSC § 101000 County Health Officer Appointment

“Each board of supervisors shall appoint a health officer who is a county officer.”

HSC § 101460 City Health Officer; Appointment.

“Every governing body of a city shall appoint a health officer, except when the city has made other arrangements as specified in this code, for the county to exercise the same powers and duties within the city, as are conferred upon city health officers by law.”

HSC § 101400 Contracts For County Performance Of City Health Functions.

“The board of supervisors may contract with a city in the county, and the governing body of a city may contract with the county for the performance by health officers or other county employees of any or all enforcement functions within the city related to ordinances of public health and sanitation, and all inspections and other related functions.”

HSC § 101025 Duties Of Governing Body Of County

“The board of supervisors of each county shall take measures as may be necessary to preserve and protect the public health in the unincorporated territory of the county, including, if indicated, the adoption of ordinances, regulations and orders not in conflict with general laws, and provide for the payment of all expenses incurred in enforcing them.”

HSC § 101030 Enforcement Duties.

“The county health officer shall enforce and observe all of the following in the unincorporated area of the county:

- (a) Orders and ordinances of the board of supervisors pertaining to public health and sanitary matters;

(b) Orders including quarantine and other regulations prescribed by the department; and (c) Statutes related to public health.”

HSC § 101375 Consent Of City; Enforcement Duties Of County Health Officer.

“When the governing body of a city in the county consents by resolution or ordinance, the county health officer shall enforce and observe in the city all of the following:

(a) Orders and quarantine regulations prescribed by the department and other regulations issued under this code.

(b) Statutes relating to the public health.”

HSC § 101405 Powers Of County Health Officers In City.

“Whenever a contract has been duly entered into, the county health officer and his or her deputies shall exercise the same powers and duties in the city as are conferred upon city health officers by law.”

EMERGENCIES, EMERGENCY PROCLAMATIONS, AND HEALTH OFFICER AUTHORITY DURING A PROCLAIMED EMERGENCY

GC § 8558 Degrees Of Emergency.

“Three conditions or degrees of emergency are established by this chapter:

(a) **"State of war emergency"** means the condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.

(b) **"State of emergency"** means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a "state of war emergency," which conditions, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission.

(c) "Local emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission."

GC § 8630 Proclamation by local governing body.

"(a) A local emergency may be proclaimed only by the governing body of a city, county, or city and county, or by an official designated by ordinance adopted by that governing body.

(b) Whenever a local emergency is proclaimed by an official designated by ordinance, the local emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the governing body.

(c) (1) The governing body shall review, at its regularly scheduled meetings until the local emergency is terminated, the need for continuing the local emergency. However, in no event shall a review take place more than 21 days after the previous review.

(2) Notwithstanding paragraph (1), if the governing body meets weekly, it shall review the need for continuing the local emergency at least every 14 days, until the local emergency is terminated.

(d) The governing body shall proclaim the termination of the local emergency at the earliest possible date that conditions warrant."

County Declaration of Local Emergency Applies to the Cities within the County

GC § 8630 Proclamation By Local Governing Body. Notes Of Decisions:

62 Ops.Atty.Gen. 710, 11-16-79

1. In general. "When the county has declared the local emergency based upon conditions which include both incorporated and unincorporated territory of the county, it is not necessary for the cities to also declare the existence of a local emergency independently."

Health Officer's Authority During a Proclaimed Emergency

HSC § 101040 Authority To Take Preventive Measures During Emergency.

"The county health officer may take any preventive measure that may be necessary to protect and preserve the public health from any public health hazard during any "state of war emergency," "state of emergency," or "local emergency," as defined by Section 8558 of the Government Code, within his or her jurisdiction. "Preventive measure" means abatement, correction, removal or any other protective step that may be taken against any public health hazard that is caused by a disaster and affects the public health. Funds for these measures may be allowed pursuant to Sections 29127 to 29131, inclusive, and 53021 to 53023, inclusive, of the Government Code and from any other money appropriated by a county board of supervisors or a city governing body to carry out the purposes of this section. The county health officer, upon consent of the county board of supervisors or a city governing body, may certify any public health hazard resulting from any disaster condition if certification is required for any federal or state disaster relief program."

Health Emergency

HSC § 101080 Declaration Of Health Emergency; Conditions; Duration; Review.

"Whenever a release, spill, escape, or entry of waste occurs as described in paragraph (2) of subdivision (b) of Section 101075 and the director or the local health officer reasonably determines that the waste is a hazardous waste or medical waste, or that it may become a hazardous waste or medical waste because of a combination or reaction with other substances or materials, and the director or local health officer reasonably determines that the release or escape is an immediate threat to the public health, the director may declare a health emergency and the local health officer may declare a county health emergency in the county or any area thereof affected by the threat to the public health. Whenever a local health emergency is declared by a local health officer pursuant to this section, the local health emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the board of supervisors. The board of supervisors shall review, at least every 14 days until the local health emergency is terminated, the need for continuing the local health emergency and shall proclaim the termination of the local health emergency at the earliest possible date that conditions warrant the termination."

Health Officer's Authority During a Declared Health Emergency

HSC §101085 Health Emergencies; Powers Of Health Officials.

"(a) After the declaration of a health emergency or a county health emergency pursuant to Section 101080, the director or local health officer may do any or all of the following:

- (1) Require any person or organization that the director or local health officer shall specify to furnish any information known relating to the properties, reactions, and identity of the material that has been released, spilled, or escaped. The director or local health officer may require information to be furnished, under penalty of perjury, by the person,

company, corporation, or other organization that had custody of the material, and, if the material is being transferred or transported, by any person, company, corporation, or organization that caused the material to be transferred or transported. This information shall be furnished to the director or local health officer upon request in sufficient detail, as determined by the director or local health officer, as required to take any action necessary to abate the health emergency or county health emergency or protect the health of persons in the county, or any area thereof, who are, or may be affected. However, the burden, including costs, of furnishing the information shall bear a reasonable relationship to the need for the information and the benefits to be obtained there from.

(2) Provide the information, or any necessary portions thereof, or any other necessary information available to the director or local health officer to state or local agencies responding to the health emergency or county health emergency or to medical and other professional personnel treating victims of the local health emergency.

(3) Sample, analyze, or otherwise determine the identifying and other technical information relating to the health emergency or county health emergency as necessary to respond to or abate the county health emergency and protect the public health.

(b) This section does not limit or abridge any of the powers or duties granted to the State Water Resources Control Board and to each regional water quality control board by Division 7 (commencing with Section 13000) of the Water Code. This section also does not limit or abridge the powers or duties granted to the State Air Resources Board or to any air pollution control district by Division 26 (commencing with Section 39000). This section does not limit or abridge any of the powers or duties granted to the Director of Food and Agriculture or to any county agricultural commissioner by Division 6 commencing with Section 11401) or by Division 7 (commencing with Section 12501) of the Food and Agricultural Code.”

Personnel Resources Available to the Health Officer During a Health or Local Emergency

HSC § 101310 Health Emergencies.

“In the event a health emergency is declared by the board of supervisors in a county, or in the event a county health emergency is declared by the county health officer pursuant to Section

101080, the local health officer shall have supervision and control over all environmental health and sanitation programs and personnel employed by the county during the state of emergency”.

Note: A "health emergency" that is declared by the board of supervisors under HSC §101310 is a "local emergency" which has been proclaimed for a health-related reasons as defined under

GC § 8558 (c) pursuant to GC § 8630. Historically, this has been interpreted to include emergencies with public health consequences such as an earthquake, flood, or other disaster

The Authority To Order An Evacuation

PC § 409.5

“(a) Whenever a menace to the public health or safety is created by a calamity including a flood, storm, fire, earthquake, explosion, accident, or other disaster, officers of the Department of the California Highway Patrol, police departments, marshal's office or sheriff's office, any officer or employee of the Department of Forestry and Fire Protection designated a peace officer by subdivision (g) of Section 830.2, any officer or employee of the Department of Parks and Recreation designated a peace officer by subdivision (f) of Section 830.2, any officer or employee of the Department of Fish and Game designated a peace officer under subdivision (e) of Section 830.2, and any publicly employed full-time lifeguard or publicly employed full-time marine safety officer while acting in a supervisory position in the performance of his or her official duties, may close the area where the menace exists for the duration thereof by means of ropes, markers, or guards to any and all persons not authorized by the lifeguard or officer to enter or remain within the enclosed area. **If the calamity creates an immediate menace to the public health, the local health officer may close the area where the menace exists pursuant to the conditions set forth in this section.** (emphasis added)

(b) Officers of the Department of the California Highway Patrol, police departments, marshal's office or sheriff's office, officers of the Department of Fish and Game designated as peace officers by subdivision (e) of Section 830.2, or officers of the Department of Forestry and Fire Protection designated as peace officers by subdivision (g) of Section 830.2 may close the immediate area surrounding any emergency field command post or any other command post activated for the purpose of abating any calamity enumerated in this section or any riot or other civil disturbance to any and all unauthorized persons pursuant to the conditions set forth in this section whether or not the field command post or other command post is located near to the actual calamity or riot or other civil disturbance.

(c) Any unauthorized person who willfully and knowingly enters an area closed pursuant to subdivision (a) or (b) and who willfully remains within the area after receiving notice to evacuate or leave shall be guilty of a misdemeanor.

(d) Nothing in this section shall prevent a duly authorized representative of any news service, newspaper, or radio or television station or network from entering the areas closed pursuant to this section.”

The Authority To Order An Evacuation As a Result of An Avalanche

PC § 409.6.

“(a) Whenever a menace to the public health or safety is created by an avalanche, officers of the Department of the California Highway Patrol, police departments, or sheriff’s offices, any officer or employee of the Department of Forestry and Fire Protection designated a peace officer by subdivision (g) of Section 830.2, and any officer or employee of the Department of Parks and Recreation designated a peace officer by subdivision (f) of Section 830.2, may close the area where the menace exists for the duration thereof by means of ropes, markers, or guards to any and all persons not authorized by that officer to enter or remain within the closed area. **If an avalanche creates an immediate menace to the public health, the local health officer may close the area where the menace exists pursuant to the conditions which are set forth above in this section.** (emphasis added)

(b) Officers of the Department of the California Highway Patrol, police departments, or sheriff’s offices, or officers of the Department of Forestry and Fire Protection designated as peace officers by subdivision (g) of Section 830.2, may close the immediate area surrounding any emergency field command post or any other command post activated for the purpose of abating hazardous conditions created by an avalanche to any and all unauthorized persons pursuant to the conditions which are set forth in this section whether or not that field command post or other command post is located near the avalanche.

(c) Any unauthorized person who willfully and knowingly enters an area closed pursuant to subdivision (a) or (b) and who willfully remains within that area, or any unauthorized person who willfully remains within an area closed pursuant to subdivision (a) or (b), after receiving notice to evacuate or leave from a peace officer named in subdivision (a) or (b), shall be guilty of a misdemeanor. If necessary, a peace officer named in subdivision (a) or (b) may use reasonable force to remove from the closed area any unauthorized person who willfully remains within that area after receiving notice to evacuate or leave.

(d) Nothing in this section shall prevent a duly authorized representative of any news service, newspaper, or radio or television station or network from entering the areas closed pursuant to this section.”

COMMUNICABLE DISEASE PREVENTION AND CONTROL

HSC §120100. Definition of Health Officer

"Health Officer," as used in the Communicable Disease Prevention and Control Act (§27) includes county, city, and district health officers, and city and district health boards, but does not include advisory health boards.

HSC §120130 Isolation and Quarantine

...A health officer may require isolation (strict or modified) or quarantine for any case of contagious, infectious, or communicable disease when this action is necessary for the protection of the public health.

HSC §120175 Measures to Prevent Spread of Disease

Each health officer knowing or having reason to believe that any case of the disease made reportable by regulation of the department, or any other contagious, infectious or communicable disease may exist, or has recently existed, within the territory under his or her jurisdiction, shall take measures as may be necessary to prevent the spread of the disease or occurrence or additional cases.

HSC §120275 Violation of Isolation or Quarantine Order

Any person who, after notice, violates, or who, upon the demand of any health officer, refuses or neglects to conform to, any rule, order, or regulation prescribed by the department respecting a quarantine or disinfection of persons, animals, things, or places, is guilty of a misdemeanor.