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Short Title: Public Health Bioterrorism Preparedness.

(Public)

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Sponsors:

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Referred to:

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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 A TERRORIST INCIDENT 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.

"A Terrorist Incident 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 a terrorist incident 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 biological, chemical or nuclear agent that may be conveyed to  
13          other 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 biological, chemical or nuclear agent that may be  
19          conveyed to other persons or animals. Nothing in this subdivision shall  
20          be 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          (b)   The authority under subsection (a) of this section shall be exercised only  
24          when and so long as a public health threat may exist, all other reasonable means for  
25          correcting the problem have been exhausted, and no less restrictive alternative exists.  
26          Before applying the authority under subdivision (4) or (5) of subsection (a) of this  
27          section to livestock or poultry for the purpose of preventing the direct or indirect  
28          conveyance of a biological, chemical or nuclear agent to persons, the State Health  
29          Director shall consult with the State Veterinarian in the Department of Agriculture and  
30          Consumer Services.

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

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

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

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

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

26 **"§ 130A-476. Access to health information.**

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

1 use of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S.  
2 14-288.21(c).

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

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

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

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

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

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

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

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

1 social security number, date of birth, and any other information that might identify the  
2 patient from all records.

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

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

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

15 **"§ 130A-477. Abatement of public health threat.**

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

22 **"§ 130A-478. Tort liability.**

23 Article 31 of Chapter 143 applies to negligent acts committed by any officer,  
24 employee, involuntary servant or agent of the State acting pursuant to this Article."

25 **SECTION 2.(a)** G.S. 130A-149, "Biological agents registry; rules;  
26 penalties", is recodified as G.S. 130A-479.

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

28 "(10) Pertaining to the biological agents registry in accordance with  
29 ~~G.S. 130A-149~~ G.S. 130A-479."

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

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

32 **"§ 130A-2. Definitions.**

33 The following definitions shall apply throughout this Chapter unless otherwise  
34 specified:

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

36 (1a) "Communicable condition" means the state of being infected with a  
37 communicable agent but without symptoms.

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

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

- 1 (3) "Imminent hazard" means a situation ~~which~~ that is likely to cause an  
2 immediate threat to human life, an immediate threat of serious physical  
3 injury, an immediate threat of serious adverse health effects, or a  
4 serious risk of irreparable damage to the environment if no immediate  
5 action is taken.
- 6 (3a) "Isolation authority" means the authority to issue an order to limit the  
7 freedom of movement or action of a person or animal with a  
8 communicable disease or communicable condition for the period of  
9 communicability to prevent the direct or indirect conveyance of the  
10 infectious agent from the person or animal to other persons or animals  
11 who are susceptible or who may spread the agent to others.
- 12 (4) "Local board of health" means a district board of health or a public  
13 health authority board or a county board of health.
- 14 (5) "Local health department" means a district health department or a  
15 public health authority or a county health department.
- 16 (6) "Local health director" means the administrative head of a local health  
17 department appointed pursuant to this Chapter.
- 18 (6a) "Outbreak" means an occurrence of a case or cases of a disease in a  
19 locale in excess of the usual number of cases of the disease.
- 20 (7) "Person" means an individual, corporation, company, association,  
21 partnership, unit of local government or other legal entity.
- 22 (7a) "Quarantine authority" means the authority to issue an order to limit  
23 the freedom of movement or action of persons or animals which have  
24 been exposed to or are reasonably suspected of having been exposed to  
25 a communicable disease or communicable condition for a period of  
26 time as may be necessary to prevent the spread of that disease.  
27 Quarantine authority also means the authority to issue an order to limit  
28 access by any person or animal to an area or facility that may be  
29 contaminated with an infectious agent. The term also means the  
30 authority to issue an order to limit the freedom of movement or action  
31 of persons who have not received immunizations against a  
32 communicable disease when the State Health Director or a local health  
33 director determines that the immunizations are required to control an  
34 outbreak of that disease.
- 35 (8) "Secretary" means the Secretary of Health and Human Services.
- 36 (9) "Unit of local government" means a county, city, consolidated  
37 city-county, sanitary district or other local political subdivision,  
38 authority or agency of local government.
- 39 (10) "Vital records" means birth, death, fetal death, marriage, annulment  
40 and divorce records registered under the provisions of Article 4 of this  
41 Chapter."

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

43 "~~§ 130A-145. Local health director has quarantine~~ Quarantine and isolation  
44 authority.

1       (a) ~~The State Health Director and a~~ local health director ~~and the State Health~~  
2 ~~Director~~ are empowered to exercise quarantine and isolation authority. Quarantine and  
3 isolation authority shall be exercised only when and so long as the public health is  
4 endangered, all other reasonable means for correcting the problem have been exhausted,  
5 and no less restrictive alternative exists.

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

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

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

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

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

43       **"§ 130A-20. Abatement of an imminent hazard.**

1 (a) If the Secretary or a local health director determines that an imminent hazard  
2 exists, the Secretary or a local health director may order the owner, lessee, operator, or  
3 other person in control of the property to abate the imminent hazard or may, after notice  
4 to or reasonable attempt to notify the owner, lessee, operator, or other person in control  
5 of the property enter upon any property and take any action necessary to abate the  
6 imminent hazard. If the Secretary or a local health director abates the imminent hazard,  
7 the ~~The~~ Department or the local health department shall have a lien on the property for  
8 the cost of the abatement of the imminent hazard in the nature of a mechanic's and  
9 materialmen's lien as provided in ~~Chapter 44A~~ Chapter 44A of the General Statutes, and  
10 the lien may be enforced as provided ~~therein~~ in that Chapter. The lien may be defeated  
11 by a showing that an imminent hazard did not exist at the time the Secretary or the local  
12 health director took ~~action~~ action, or if any owner, lessee, operator or other person in  
13 control of the property is innocent of culpability.

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

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

18 **"§ 130A-143. Confidentiality of records.**

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

- 24 (1) Release is made of specific medical or epidemiological information for  
25 statistical purposes in a way that no person can be identified;
- 26 (2) Release is made of all or part of the medical record with the written  
27 consent of the person or persons identified or their guardian;
- 28 (3) Release is made to health care personnel providing medical care to the  
29 patient;
- 30 (4) Release is necessary to protect the public health and is made as  
31 provided by the Commission in its rules regarding control measures  
32 for communicable diseases and conditions;
- 33 (5) Release is made pursuant to other provisions of this Article;
- 34 (6) Release is made pursuant to subpoena or court order. Upon request of  
35 the person identified in the record, the record shall be reviewed in  
36 camera. In the trial, the trial judge may, during the taking of testimony  
37 concerning such information, exclude from the courtroom all persons  
38 except the officers of the court, the parties and those engaged in the  
39 trial of the ~~ease~~ case;
- 40 (7) Release is made by the Department or a local health department to a  
41 court or a law enforcement ~~officer~~ official for the purpose of enforcing  
42 ~~the provisions of this Article pursuant to Article 1, Part 2 of this~~  
43 ~~Chapter, this Article or Article 22 of this Chapter, or investigating a~~  
44 terrorist incident using nuclear, biological, or chemical agents. A law



1 enforcement official who receives the information shall not disclose it  
2 further, except (i) when necessary to enforce this Article or Article 22  
3 of this Chapter, or when necessary to conduct an investigation of a  
4 terrorist incident using nuclear, biological, or chemical agents, or (ii)  
5 when the Department or a local health department seeks the assistance  
6 of the law enforcement official in preventing or controlling the spread  
7 of the disease or condition and expressly authorizes the disclosure as  
8 necessary for that purpose;

9 (8) Release is made by the Department or a local health department to  
10 another federal, state or local public health agency for the purpose of  
11 preventing or controlling the spread of a communicable disease or  
12 communicable condition;

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

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

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

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

21 **"§ 106-24.1. Confidentiality of information collected and published.**

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

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

34 **"§ 106-307.2. Reports of infectious disease in livestock and poultry to State**  
35 **Veterinarian.**

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

41 (b) The State Veterinarian shall notify the State Health Director and the Director  
42 of the Division of Environmental Health in the Department of Environment and Natural  
43 Resources when the State Veterinarian receives a report indicating an occurrence or  
44 potential outbreak of anthrax, arboviral infections, brucellosis, epidemic typhus,

1 hantavirus infections, murine typhus, plague, psittacosis, Q fever, hemorrhagic fever,  
2 virus infections, and any other disease or condition transmissible to humans that the  
3 State Veterinarian determines may have been caused by a terrorist act."

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

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

6 **"§ 143-518. Confidentiality of patient information.**

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

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

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

1 e. Contains procedures to remove or destroy at the earliest  
2 opportunity, consistent with the purposes of the project,  
3 information that would enable the patient to be identified,  
4 unless an institutional review board authorizes retention of  
5 identifying information for purposes of another research  
6 project.

7 (7) Release is made to a statewide data processor, as defined in Article  
8 11A of Chapter 131E of the General Statutes, in which case the data is  
9 deemed to have been submitted as if it were required to have been  
10 submitted under that Article.

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

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

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

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

- 22 1. The epidemiologic investigation of a known or suspected  
23 threat caused by nuclear, biological, or chemical agents.
- 24 2. The examination and testing of persons and animals that  
25 may have been exposed to a nuclear, biological, or  
26 chemical agent.
- 27 3. The procurement and allocation of immunizing agents  
28 and prophylactic antibiotics.
- 29 4. The allocation of the National Pharmaceutical Stockpile.
- 30 5. The appropriate conditions for quarantine and isolation  
31 in order to prevent further transmission of disease.
- 32 6. Immunization procedures.
- 33 7. The issuance of guidelines for prophylaxis and treatment  
34 of exposed and affected persons."

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

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

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

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

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

- 1 (2) Offense Out of Presence of Officer. – An officer may arrest without a  
2 warrant any person who the officer has probable cause to believe:  
3 a. Has committed a felony; or  
4 b. Has committed a misdemeanor, and:  
5 1. Will not be apprehended unless immediately arrested, or  
6 2. May cause physical injury to himself or others, or  
7 damage to property unless immediately arrested; or  
8 c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3,  
9 20-138.1, or 20-138.2; or  
10 d. Has committed a misdemeanor under G.S. 14-33(a),  
11 14-33(c)(1), 14-33(c)(2), or 14-34 when the offense was  
12 committed by a person with whom the alleged victim has a  
13 personal relationship as defined in G.S. 50B-1; or  
14 e. Has committed a misdemeanor under G.S. 50B-4.1(a).

15 (3) Repealed by Session Laws 1991, c. 150.

16 (4) A law enforcement officer may detain an individual arrested for  
17 violation of an order limiting freedom of movement or access issued  
18 pursuant to G.S. 130A-475 or G.S. 130A-145 in the area designated by  
19 the State Health Director or local health director pursuant to such  
20 order. The person may be detained in such area until the initial  
21 appearance before a judicial official pursuant to G.S. 15A-511 and  
22 G.S. 15A-534.5."

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

25 **"§ 15A-534.5. Detention to protect public health.**

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

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

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

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

40 **"§ 130A-157. Religious exemption.**

41 If the bona fide religious beliefs of an adult or the parent, guardian or person in loco  
42 parentis of a child are contrary to the immunization requirements contained in this ~~Part,~~  
43 Chapter, the adult or the child shall be exempt from the requirements. Upon submission  
44 of a written statement of the bona fide religious beliefs and opposition to the

1 immunization requirements, the person may attend the college, university, school or  
2 facility without presenting a certificate of immunization."

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

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

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

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

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

41 **"§ 90-12.2. Disasters and emergencies.**

42 In the event of an occurrence which the Governor of the State of North Carolina has  
43 declared a disaster or when the Governor has declared a state of emergency, or in the  
44 event of an occurrence for which a county or municipality has enacted an ordinance to

1 deal with states of emergency under G.S. 14-288.12, 14-288.13, or 14-288.14, or to  
2 protect the public health, safety, or welfare of its citizens under Article 22 of Chapter  
3 130A of the General Statutes, G.S. 160A-174(a) or G.S. 153A-121(a), as applicable, the  
4 Board may waive the requirements of this Article in order to permit the provision of  
5 emergency health services to the public."

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

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

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

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

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

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

26 a. Intimidate or coerce a civilian population.

27 b. Influence the policy of a government by intimidation or  
28 coercion.

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

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

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

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

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

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

21 **"§ 166A-23. Contracts; equipment loans.**

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

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

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

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

1 (c) Any contract entered into between the Secretary and a unit of local  
2 government for the provision of a regional response team shall specify that the members  
3 of the regional response team, when performing their duties under the contract, shall not  
4 be employees of the State and shall not be entitled to benefits under the Teachers' and  
5 State Employees' Retirement System or for the payment by the State of federal social  
6 security, employment insurance, or workers' compensation.

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

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

13 **"§ 166A-24. Immunity of Regional Response Team Personnel.**

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

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

18 **"§ 166A-25. Right of entry.**

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

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

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

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



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

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