

THE THIRTIETH LEGISLATURE OF AMERICAN SAMOA

Second Regular Session

Begun and held at Fagatogo, Tutuila, American Samoa  
on Monday, the ninth day of July  
two thousand and seven

AN ACT ESTABLISHING A NEW PUBLIC HEALTH LAW FOR AMERICAN SAMOA; REPEALING THE PRECEDING PUBLIC HEALTH ACT; AND ESTABLISHING THE AMERICAN SAMOA EMERGENCY POWERS ACT; CREATING A NEW CHAPTER 02 AND 03 UNDER TITLE 13 A.S.C.A.; AND REPEALING CHAPTERS 02 AND 03 CURRENTLY UNDER TITLE 13 A.S.C.A..

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

**Section 1.** There is created a new Chapter 02 under Title 13 A.S.C.A. which reads:

**“Chapter 02**

**AMERICAN SAMOA PUBLIC HEALTH ACT**

**Sections:**

- 13.0201** Short title.
- 13.0202** Purposes.
- 13.0203** Definitions.
- 13.0204** Mission statement.
- 13.0205** Public health infrastructure.
- 13.0206** Public health department powers.
- 13.0207** Guiding principles for director and department.
- 13.0208** Public planning and priority setting.
- 13.0209** Declaration of reportable diseases or conditions.
- 13.0210** Reporting requirements for reportable diseases or conditions.
- 13.0211** Penalty for failure to report required disease or condition.
- 13.0212** Inspection and investigation of communicable disease or condition of public health importance.
- 13.0213** Epidemiologic investigation.
- 13.0214** Compulsory medical treatment.
- 13.0215** Quarantine and isolation.

- 13.0216 Health information system, statistics, surveillance activities, source of information.
- 13.0217 Acquisition of identifiable health information.
- 13.0218 Use of identifiable health information.
- 13.0219 Disclosure of identifiable health information.
- 13.0220 Security safeguards for identifiable health information.
- 13.0221 Individual access to identifiable health information.
- 13.0222 Denial of request by department.
- 13.0223 Accuracy and correction of identifiable health information.
- 13.0224 Public health nuisances.
- 13.0225 Administrative searches and inspections to determine existence of a public health nuisance.
- 13.0226 Vaccinations and vaccination program.
- 13.0227 Testing, examination, and screening.
- 13.0228 Department agents and inspectors.
- 13.0229 Counseling and referral services program.
- 13.0230 Relationships between the department and federal agencies, ASG agencies, public and private sector partners and volunteers.
- 13.0231 Disbursement of monies.
- 13.0232 Community health centers.
- 13.0233 Demonstration projects.
- 13.0234 Development of a public health workforce.
- 13.0235 Incentives, evaluations and recognition for public health workforce.
- 13.0236 Maintenance and inspection of food records.
- 13.0237 Immunities.
- 13.0238 Severability.
- 13.0239 Civil enforcement.
- 13.0240 Legal representation of department and/or director.
- 13.0241 Adoption, amendment and revisions of regulations.

**13.0201 Short title.**

This chapter shall be known as, and may be cited as, the American Samoa Public Health Act.

**13.0202 Purposes.**

The purpose of this act is to:

- (a) Identify and strengthen the public health infrastructure to improve the public's health;
- (b) Establish the department's mission for providing essential public health services and functions through the department and in collaboration

with federal agencies, American Samoa Government (ASG) agencies, public and private sector partners and volunteers;

(c) Identify roles and responsibilities of the department to provide essential public health services and functions while also respecting individual rights;

(d) Establish operational standards for the department that are directly related to improvements in public health outcomes or other measures;

(e) Develop and provide effective training and credentialing for department personnel and other members of the public health workforce in the Territory;

(f) Comprehensively plan and set priorities for improving and sustaining the public's health through the performance of essential public health services and functions using ongoing, inclusive, and systematic planning processes;

(g) Promote and build strong relationships between the department, ASG agencies, public and private sector partners and volunteers;

(h) Promote cooperation and formal collaborative agreements between the department and federal, ASG agencies, public and private sector partners and volunteers regarding public health planning, priority setting, information and data sharing, reporting, resource allocation, funding, service delivery, jurisdiction, and other matters addressed in this act;

(i) Create scientifically-sound, legally-sound and effective operating procedures for the department for the prevention and control of conditions of public health importance at the individual and community levels that are consistent with guiding principles authorizing the responsible use of procedures and respect for individual rights;

(j) Address privacy and security issues arising from the acquisition, use, disclosure, and storage of identifiable health information by the department;

(k) Require regular reporting and accountability for the department.

#### **13.0203 Definitions.**

As used in this act, these terms shall be defined as follows:

(1) "Acquire", "acquired" or "acquisition" means to collect or gain possession or control of.

(2) "Act" means the American Samoa Public Health Act.

(3) "ALJ" means the Office of the Administrative Law Judge.

(4) "Amend", "amends", "amendment" means to change without obliterating the original information.

(5) "ASG" means the American Samoa Government.

(6) "Condition of public importance" means a disease, syndrome, symptom, or other threat to public health that is identifiable on an individual

or community level and can reasonably be expected to lead to adverse health effects in the community.

(7) "Confidentiality statement" means a written statement dated and signed by an applicable individual, which certifies the individual's agreement to abide by the privacy and security policy of the department.

(8) "Contact" means an individual who has been identified as having been exposed, or potentially been exposed, to a contagious or possibly contagious disease through another individual or nonhuman source with the contagious or possibly contagious disease.

(9) "Contagious disease" means an infectious disease that affects humans that can be transmitted from individual to individual, animal to animal, or animal to individual.

(10) "Counseling and referral services" or "CRS" means outreach activities for finding contacts to inform them of their possible exposure to contagious diseases and provide counseling, testing, and referral services to prevent the further spread of the disease.

(11) "Court" means any American Samoa court of competent jurisdiction.

(12) "Decontaminate", "decontaminated", or "decontamination" means to remove or neutralize chemical, radiological, or biological substances or residues from individuals, buildings, objects, or areas.

(13) "Demonstration project" means a community health center established by the department pursuant to Section 330(e) of the Public Health Services Act, 42 U.S.C. §254b, or other such project initiated to provide community health services in a manner distinctly different from other government community health centers for the purpose of demonstrating improved health benefits to the Territory.

(14) "Department" means the Department of Health.

(15) "Director" means the Director of the Department of Health.

(16) "Disclose", "disclosed" or "disclosure" means to release, transfer, disseminate, provide access to, or otherwise communicate or divulge all or any part of.

(17) "Disease outbreak" means the sudden and rapid increase in the number of cases of a disease or other condition of public health importance in a population.

(18) "Epidemic" means the occurrence in a community or region of a condition or group of similar conditions of public health importance that are in excess of normal expectancy and derived from a common or propagated source.

(19) "Essential public health services and functions" means services and functions to:

(A) monitor health status to identify and solve public health problems;

(B) investigate and diagnose health problems and health hazards in a community;

(C) inform, educate, and empower individuals about health issues;

(D) mobilize public and private sector partner and volunteer collaboration and action to identify and solve public health problems;

(E) develop policies, and plans, and programs that support individual and community health efforts;

(F) enforce laws and regulations that protect public health and ensure public safety;

(G) direct individuals to needed personal health services and assure the provision of health care when otherwise unavailable;

(H) assure a competent department workforce;

(I) evaluate effectiveness, accessibility, and quality of personal and population-based health services; and

(J) research for new insights and innovative solutions to public health problems.

(20) "Exam", "examining" or "examination" means the same as "test" or "testing".

(21) "Expunge", "expunged" or "expunging" means to permanently destroy, delete, or make non-identifiable.

(22) "Fono" means the Legislature American Samoa.

(23) "Health care provider" means any person that provides health care services including, but not limited to, hospitals, medical clinics and offices, special care facilities, medical laboratories, physicians, pharmacists, dentists, physician assistants, registered and licensed practical/vocational nurses, paramedics, emergency medical or laboratory technicians, community health workers, and ambulance and emergency medical workers.

(24) "Identifiable health information" means any information, whether oral, written, electronic, visual, pictorial, physical, or any other form, that relates to an individual's past, present, or future physical or mental health status, condition, treatment, service, products purchased, or provision of care, and:

(A) reveals the identity of the individual whose health care is the subject of the information; or

(B) there is a reasonable basis to believe the information could be utilized (either alone or with other information that is, or should reasonably be known to be, available to predictable recipients of such information) to reveal the identity of that individual.

(25) "Individual" means a natural human being.

(26) "Infectious disease" means a disease caused by a living organism or other pathogen, including a fungus, bacteria, parasite, protozoan, or virus. An infectious disease may be transmissible from individual to individual, animal to individual, or insect to individual.

(27) "Infectious waste" means blood and blood products, excretions, exudates, secretions, suctioning and other body fluids, and waste materials saturated with blood or body fluids, including etiologic agents and associated biologicals; specimen cultures and dishes and devices used to transfer, inoculate, and mix cultures; wastes from production of biologicals and serums; and discarded live and attenuated vaccines; biopsy materials and all human tissues; anatomical parts that emanate from surgery, obstetrical procedures, necropsy or autopsy and laboratory procedures; animal carcasses exposed to pathogens in research and the bedding and other waste from such animals, needles, I.V. tubing with needles attached, scalpel blades, lancets, breakable glass tubes, and syringes that have been removed from their original sterile containers, but does not include teeth or formaldehyde (or other preservative agents).

(28) "Isolate", "isolated", or "isolation" means the physical separation and confinement of an individual or groups of individuals who are infected or reasonably believed to be infected with a contagious or possibly contagious disease from non-isolated individuals, to prevent or limit the transmission of the diseases to non-isolated individuals.

(29) "License," "licensed," or "licensure" means an authorization that conditionally allows the recipient to conduct, for a specified period of time, activities that would be unlawful without the authorization.

(30) "Non-identifiable health information" means any information, whether oral, written, electronic, visual, pictorial, physical, or any other form that relates to an individual's past, present, or future physical or mental health status, condition, treatment, service, products purchased, or provision of care; and

(A) Does not reveal the identity of the individual whose health status is the subject of the information; or

(B) There is no reasonable basis to believe such information could be utilized (either alone or with other information that is, or should reasonably be, known to be available to predictable recipients of such information) to reveal the identity of that individual.

(31) "Nuisance" means a condition, act, or failure to act that unreasonably interferes with the health or safety of the community by endangering life, generating or spreading infectious diseases, or otherwise injuriously affecting the public's health.

(32) "Person" means an individual, corporation (for-profit or nonprofit), estate, trust, partnership, limited liability company, association, institution, joint venture, governmental body, or any other legal or commercial entity.

(33) "Predictive value" or "PV" means the ability of a test or exam to accurately predict the presence or absence of a condition of public health importance in a population. The PV is determined by the test's validity (i.e.,

sensitivity and specificity), reliability, and the prevalence of the condition in the population.

(34) "Private sector partner" means non-governmental person or agency, including community organizations, contractors, educational institutions, health care facilities, health care providers, health insurers, private businesses, medical, and nonprofit organizations that provide essential public health services and functions or work to improve public health outcomes in collaboration with the department.

(35) "Public health infrastructure" means the competencies and resources that enable the department, in collaboration with federal or ASG agencies, public and private sector partners and volunteers to provide essential public health services and functions throughout the Territory.

(36) "Public health system" means the department and all of the department's public and private sector partners and volunteers.

(37) "Public information" means information that is generally open to inspection or review by the public.

(38) "Public sector partner" means international, federal, or ASG agencies that provide, in cooperation with the department, essential public health services and functions or work to improve public health outcomes with the Territory.

(39) "Quarantine" means the physical separation and confinement of an individual or groups of individuals, who are or may have been exposed to a contagious or possibly contagious disease and who do not show signs or symptoms of a contagious disease, from non-quarantined individuals, to prevent or limit the transmission of the disease to non-quarantined individuals.

(40) "Request" means a written, dated, and signed correspondence on paper or electronic form through which the identity of the individual executing the correspondence can be verified.

(41) "Requestor" means any individual (or legal representative) who makes a request.

(42) "Sample" means a substance derived from a nonhuman source and collected for the purposes of analysis.

(43) "Screen," "screened," or "screening" means the systematic application of a test or exam to a defined population.

(44) "Specimen" means blood, sputum, urine, stool, or other bodily fluids, wastes, tissues, and cultures collected for the purpose of performing required tests.

(45) "Store," "stored," or "storage" means to hold, maintain, keep, or retain all or any part of.

(46) "Test" or "testing" means any diagnostic or investigative analyses or medical procedures that determine the presence or absence of, or exposure to, a condition of public health importance, or its precursor, in an individual.

(47) "Territory" means the United States territory of American Samoa including Tutuila, Aunu'u, the Manu'a islands and Swain's island.

(48) "Toxic" or "toxin" means a chemical, radiological, or biological agent that causes disease or some alteration of the normal structure and function of an individual or animal.

(49) "Transmissible" means capable of causing disease or infection through individual to individual, animal to individual, or other modes of transmission.

(50) "Use" or "used" means to employ or utilize all or any part of.

(51) "Vaccinate," "vaccinated," "vaccination," or "vaccine" means a suspension of attenuated or noninfectious microorganisms or derivative antigens administered to stimulate antibody production or cellular immunity against a pathogen for the purpose of preventing, ameliorating, or treating an infectious disease.

(52) "Volunteer" means any authorized person who provides services or functions on a voluntary, unpaid basis to the department including any such individual or entity that participates in any activity covered or described by this act with the approval or permission of the department or the director.

(53) "Written authorization" means a written statement authorizing the disclosure of identifiable health information on a form substantially similar to one promulgated by the department which is signed in writing or electronically by the individual who is the subject of the information.

#### **13.0204 Mission statement.**

(a) It is the policy of the department that the health of the public be protected and promoted to the greatest extent possible through the public health system while respecting individual rights to dignity, health information privacy, nondiscrimination, due process, and other legally protected interests.

(b) The mission of the department is to provide leadership and protect and promote the public's health by:

(1) Assuring the conditions in which individuals can be healthy;

(2) Providing or assuring the provision of essential public health services and functions that are culturally and linguistically appropriate for the Territory;

(3) Encouraging collaboration among public and private sector partners in the public health system; and

(4) Seeking to provide essential public health services and functions or accomplish public health goals.

(c) The department shall seek to accomplish its mission of public health while respecting individual rights including:

(1) Respect for the dignity of each individual;

(2) Protection of health information privacy for each individual;

(3) Provision of adequate due process as required by this act or other applicable laws of the Territory; and

(4) Avoidance of explicit or implicit discrimination in an unlawful manner of individuals on the basis of their age, ethnicity, nationality, religious beliefs, sex, sexual orientation, or disability status.

**13.0205 Public health infrastructure.**

(a) A strong public health infrastructure is needed to achieve the mission of the department and to provide essential public health services and functions, in collaboration with federal agencies, ASG agencies, public and private sector partners and volunteers.

(b) Developing a strong public health infrastructure requires the coordinated efforts of the department and federal agencies, ASG agencies, public and private sector partners and volunteers within the public health system to:

(1) Identify and provide leadership for the providing of essential public health services and functions;

(2) Develop and support an information infrastructure that supports essential public health services and functions;

(3) Develop and provide certification, credentialing, or effective training for Department personnel, ASG agencies, public and private sector partners and volunteers;

(4) Develop operational standards for the department that are directly related to improvements in public health outcomes or other measures;

(5) Consider participation in voluntary accreditation programs for department personnel, ASG agencies, public and private sector partners and volunteers;

(6) Provide incentives for and evaluation of department efforts, management, and accreditation standards; and

(7) Comprehensively plan and set priorities for the accomplishment of essential public health services and functions.

(8) Improving public health outcomes is dependent on the active role of federal agencies, ASG agencies, public and private sector partners and volunteers collaborating with the department to provide essential public health services and functions.

**13.0206 Public health department powers.**

(a) The department shall have general charge, oversight, and care of the public health of the people of the Territory.

(b) To carry out the mission of the department and to develop a strong public health infrastructure, the department is authorized to provide or implement essential public health services and functions, including services or functions to:

(1) Utilize a broad range of flexible powers to protect and promote the public's health;

(2) Declare and enforce quarantine when none exists and modify or release quarantine when it is established.

(3) When it is determined that there is imminent danger of epidemic or serious outbreak of communicable disease, it may refuse, modify, or limit attendance at any school in the Territory.

(4) When in the judgment of its director, there is deemed to be a condition of public health importance, the department, through its director, may take precautionary measures to protect the public through:

(A) The imposition of an embargo;

(B) The detention of products regulated by the department;

(C) The removal of products regulated by the department from the market; and

(D) Declaration of quarantine.

(E) Any and all actions taken by the director or the department under this subsection (b)(4) must be rescinded within seventy-two (72) hours unless the director or department finds and reports evidence of the condition of public health importance. The director and department finding shall be reported to the Governor.

(5) Provide public health information programs or messages to the public that promote healthy behaviors or lifestyles, or educate individuals about health issues;

(6) Promote efforts among public and private sector partners to develop and fund programs or initiatives that identify and ameliorate health problems;

(7) Conduct, provide, or endorse operational standards for the department;

(8) Develop and provide certification, credentialing, or effective training for department personnel;

(9) Develop, adopt, and implement public health plans that guide or support individual and community public health efforts;

(10) Establish formal or informal relationships with public or private sector partners within the public health system;

(11) Enforce the provisions and requirements of this act;

(12) Identify, assess, prevent, and ameliorate conditions of public health importance through surveillance; epidemiological tracking, program evaluation, and monitoring; testing and screening programs; treatment; abatement of public health nuisances; administrative inspections; or other techniques;

(13) Promote the availability and accessibility of quality health care services through health care facilities or providers;

(14) Promote availability of and access to preventive and primary health including acute and episodic care, prenatal and postpartum care, child health, family planning, school health, chronic disease prevention, child and adult immunization, testing and screening services, dental health, nutrition, health education and promotion services;

(15) Systematically and regularly review the public health system to recommend modifications in its structure or other features to improve public health outcomes;

(16) To the development of a strong public health infrastructure, the department may consult and attempt to utilize national guidelines, initiatives, programs, and recommendations relating to improvements in accomplishing the mission of the department; and

(17) Prevent, control, or ameliorate conditions of public health importance.

(18) The department and the director may work specifically with federal agencies, ASG agencies, public and private sector partners and volunteers to build effective relationships and promote the participant's role in furthering the mission of public health.

(c) The department shall seek to improve and maintain the health of the people of the Territory through the planning and implementation of programs, activities, and services that promote healthy behaviors and reduce health related risks and hazards, and by programs and services that serve to prevent the incidence of disease and injury. Health promotion and disease prevention activities and services conducted by the Department of Health shall include:

(1) A program of health education throughout the Territory for the purpose of informing the public as to the cause of common diseases and injuries, and effective strategies for reducing the risk of occurrence, or consequences of such diseases and injuries;

(2) Health promotion and disease prevention activities and programs in the Territory, including maternal and child health; chronic disease prevention and control; child immunizations; child vision and hearing screening, children with special health care needs services, dental health screening and prevention services; epidemiology, nutrition education and assessments; prevention of sexually transmitted diseases, including human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS);

(3) The collection, analysis, and dissemination of statistical information pertinent to any of its activities;

(4) Cooperation and collaboration with other governmental agencies on issues, programs, and activities related to health improvement and maintenance;

(5) Such other appropriate functions as may be determined to be effective in the promotion of health and the prevention of disease.

(d) The department shall have the authority to request warrants for law enforcement assistance required for the operation or enforcement of any provision of this act.

(e) The department shall have the authority to request assistance from the American Samoa Government attorney general, law enforcement officials, or any other American Samoa official in the operation or enforcement of any provision of this act.

### **13.0207 Guiding principles for director and department.**

(a) In carrying out the director and department's authorized powers, the director and the department shall be guided by the following principles:

(1) The exercise of any public health authority or power shall further or support improving or sustaining the public's health by performing essential public health services and functions.

(2) Whenever possible, the department shall exercise its authorities or powers through procedures, practices, or programs that are based on modern, scientifically-sound principles and evidence.

(3) The department shall strive to design and implement interventions that are well-targeted to accomplishing essential public health services and functions. The department should avoid using compulsory power in a manner that is over-broad (applying to more individuals than is necessary for the public's health).

(4) The department shall employ the least restrictive alternative in the exercise of its authorities or powers, especially compulsory powers. This means that where the agency may exercise one or more of its authorities or powers to accomplish essential public health services and functions, it shall, to the extent possible, employ the policy or practice that least infringes on the rights or interests of individuals. Employing the least restrictive alternative does not require the department to adopt policies or programs that are less effective in protecting the public's health.

(5) The Department shall not discriminate in an unlawful manner against individuals on the basis of their race, ethnicity, nationality, religious beliefs, sex, sexual orientation, or disability status.

(6) The department shall respect the dignity of each individual under their jurisdiction, regardless of their nationality, citizenship, or residency status.

(7) Protecting the public's health requires ongoing public health education and outreach to encourage, facilitate, and promote community participation in accomplishing public health goals.

(b) Whenever the department or director exercises compulsory powers;

(1) The department or director, wherever possible, should first request that the individual participate voluntarily with compulsory action.

(2) Any individual of a defined class may be subjected to the compulsory action pursuant to a Court order, provided the individual will not be directly harmed by the compulsory action.

(3) The department may also employ other public health intervention to eliminate the risk or danger to others or the public's health.

**13.0208 Public health planning and priority setting.**

(a) To promote the availability of essential public health services and functions, the department may undertake the development of a comprehensive, Territory-wide public health plan that assesses and sets priorities for the public health system.

(b) If the department undertakes the development of a plan, then the plan shall assess and set priorities for the Territory-wide public health system and shall:

(1) Guide the public health system in targeting essential public health services and functions through program development, implementation, and evaluation;

(2) Strive to increase the efficiency and effectiveness of the public health system;

(3) Identify areas needing greater resource allocation to provide essential public health services and functions; and

(4) Incorporate goals and priorities of the department.

(c) The plan shall prospectively cover five (5) years, subject to annual revisions. Future plans may be produced every five (5) years.

(d) The department shall make available a copy of the comprehensive public health plan to the Governor, the Fono, ASG agencies, public and private sector partners and volunteers that contribute to or participate in the plan.

**13.0209 Declaration of reportable diseases or conditions.**

(a) The director, or his designee, shall establish a list of reportable diseases or conditions of public health importance. The list may also include diseases or conditions of humans or animals caused by exposure to toxic substances, microorganisms, or any other pathogens.

(b) The list shall be provided to all health care providers, physicians, pharmacists, laboratory directors, coroners, medical examiners, and veterinarians.

**13.0210 Reporting requirement for reportable diseases or conditions.**

(a) Every health care provider, physician, pharmacist, laboratory director, coroner, medical examiner, and veterinarian having knowledge of

any individual or animal affected by or suspected of being affected by a disease or condition declared reportable by the director shall report the incident or suspected incident of such diseases or condition to the department in writing or in the manner and within the time period specified by the director.

(b) The director is authorized to require other persons to report to the Department reportable diseases or conditions dangerous to the public health. Any other person required to report diseases or conditions declared reportable must be given prior written notice of all diseases and conditions required to be reported.

(c) Written reporting time requirements and methods shall be provided to every person required to report.

(d) Any person not required to report who knows or suspects a case of reportable disease or condition may provide available information concerning the case to the department, especially where the case has not been previously reported as required.

(e) The department shall:

(1) Prescribe the time and manner for all person(s) responsible for reporting for each disease or other condition of public health importance.

(2) Classify each reportable disease and condition according to its nature and the severity of its effect on the public's health.

(3) Regularly maintain and revise the list of reportable diseases and conditions.

(4) Establish registries for reportable diseases and conditions.

(5) Fully disseminate reporting requirements to all persons required to report diseases or conditions.

(f) The director may enter into agreements or other arrangements with ASG agencies for receipt and sharing of information regarding reportable diseases or other conditions of public health importance.

(g) Any person who is required to report a disease or other condition of public health importance shall use ordinary skill in determining the presence of the reportable disease or condition. If the determination of the disease or condition is disputable and the disease or condition may have potential public health significance, the department shall request tests through a laboratory to help resolve uncertainty.

(h) Each person required to report shall transmit to the department any information requested by the department concerning the reporting of diseases or conditions. The department may require expedited reporting for designated diseases or conditions.

(i) In addition to the duty to report a required disease or condition, a pharmacist shall report any unusual variations in prescription rates, types of prescriptions, or pharmacy visits that may be potential causes or indicators of

a condition of public health importance. Prescription-related events that require a report include, but are not limited to:

(1) An unusual increase in the number of prescriptions of antibiotics or other pharmaceuticals or sales of over-the-counter pharmaceuticals to treat conditions identified by the department; and

(2) Any prescription that treats a disease that is relatively uncommon.

(j) A veterinarian, livestock owner, veterinary diagnostic laboratory director, or other person having the care of animals shall report animals having or suspected of having any diseases or conditions that may be potential causes or indicators of a condition of public health importance.

(k) Sharing of information by the department on any reportable conditions shall be restricted to the information necessary for the treatment, control, investigation, and prevention of the disease or condition of public health importance.

**13.0211      Penalty for failure to report required disease or condition.**

(a) Any health care provider, physician, pharmacist, laboratory director, coroner, medical examiner, and veterinarian who refuses, neglects, or fails to report a required disease or condition within the time period specified by the director shall be guilty of a Class A misdemeanor.

(b) Any other person required to report but who refuses, neglects or fails to report a required disease or condition within the time period specified by the director shall be guilty of a misdemeanor. Upon conviction, the person is punishable by a fine not to exceed \$250.00

(c) No person may be punished or fined under this section if the person has not received written statements of diseases and conditions to be reported and the written procedures for reporting.

**13.0212      Inspection and investigation of communicable disease or condition of public health importance.**

Upon a complaint made or upon reasonable belief, supported by sufficient facts, that a condition of public health importance is present in any house or elsewhere and has not been reported, the department may make an inspection and investigation for the purpose of discovering whether any such disease exists.

**13.0213      Epidemiologic investigation.**

(a) The department may investigate conditions of public health importance through methods of epidemiological investigation. This includes identifying individuals who have been or may have been exposed to or affected by the condition, interviewing and testing those individuals, and examining facilities or materials that may pose a threat to the public's health.

(b) The department may ascertain the existence of a disease outbreak or epidemic, investigate potential sources of exposure or infection and ensure that they are subject to proper control measures, and define the distribution of the disease outbreak or epidemic.

(c) To fulfill these duties, the department may perform the following:

(1) Seek to identify all individuals thought to have been exposed to any agent that may be a potential cause of the disease outbreak, epidemic, or condition of public health importance.

(2) Counsel, interview, and test such individuals where needed to assist in the positive identification of those exposed or affected, and develop information relating to the source or spread of the disease or other condition of public health importance.

(3) For examination purposes, close, evacuate, or decontaminate any facility or decontaminate or destroy any material when it reasonably believes that such facility or material may endanger investigators, other individuals, or the public's health.

#### **13.0214 Compulsory medical treatment.**

The department is authorized to compel any individual who has or may have been exposed to a contagious disease that poses a significant risk or danger to others or the public's health to complete an appropriately prescribed course of medication (including through directly-observed therapy where appropriate) to treat the contagious disease, and to follow infection control provisions for the disease as follows:

(a) The compulsory medical treatment is reasonably calculated to prevent, control, or ameliorate a condition of public health importance that poses a significant risk or danger to others or the public's health;

(b) The individual(s) to be treated has or may have been exposed to a contagious disease that poses a significant risk or danger to others or the public's health; and

(c) The department personnel who examines or treats the individual(s) instructs the individual about measures for preventing reinfection and spread of the disease or condition.

#### **13.0215 Quarantine and isolation.**

(a) The director, or his designee, may order the isolation or quarantine of an individual or group of individuals in compliance with this section.

(b) The director shall adhere to the following conditions and principles when isolating or quarantining individuals or groups of individuals:

(1) Isolation and quarantine must be by the least restrictive means necessary to prevent the spread of a contagious or possibly contagious disease to others and may include, but are not limited to, confinement to private homes or other private and public premises.

(2) Isolated individuals must be confined separately from quarantined individuals.

(3) The health status of isolated and quarantined individuals must be monitored regularly to determine if they continue to require isolation or quarantine.

(4) If a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with a contagious or possibly contagious disease he or she must promptly be removed to isolation.

(5) Isolation and quarantine must be immediately terminated when an individual poses no substantial risk of transmitting a contagious or possibly contagious disease to others.

(6) The needs of individuals who are isolated or quarantined shall be addressed in a systematic and competent fashion, including, but not limited to, providing adequate food, clothing, shelter, means of communication with those in isolation or quarantine and outside these settings, and competent medical care.

(7) Outside premises used for isolation and quarantine shall be maintained in a safe and hygienic manner and be designed to minimize the likelihood of further transmission of infection or other harms to individuals isolated and quarantined.

(8) To the extent possible, cultural and religious beliefs shall be respected in addressing the needs of individuals, and establishing and maintaining isolation and quarantine premises.

(c) Entry into isolation or quarantine premises. The department may authorize physicians, health care workers, or others access to individuals in isolation or quarantine as necessary to meet the needs of isolated or quarantined individuals. Any individual entering isolation or quarantine premises with or without authorization of the department may be isolated or quarantined where needed to protect the public's health.

(d) Temporary isolation and quarantine without notice. The director may temporarily isolate or quarantine an individual or groups of individuals through a written directive if delay in imposing the isolation or quarantine would significantly jeopardize the department's ability to prevent or limit the transmission of a contagious or possibly contagious disease to others.

(1) Content of directive. The written directive shall specify the following:

(A) The identity of the individual(s) or groups of individuals subject to isolation or quarantine;

(B) The premises subject to isolation or quarantine;

(C) The date and time at which isolation or quarantine commences;

and

(D) The suspected contagious disease.

(2) Copies. A copy of the written directive shall be given to the individual to be isolated or quarantined. If the written directive applies to a group of individuals and it is impractical to provide individual copies, it may be posted in a conspicuous place in the isolation or quarantine premises.

(3) Petition for continued isolation or quarantine. Within ten (10) days after issuing the written directive, the director shall file or cause to be filed a petition for a Court order authorizing the continued isolation or quarantine of the individual or groups of individuals. The petition should comply with the requirements of (e) (1) of this section.

(e) Isolation or quarantine with notice. The director may make a written petition to a Court for an order authorizing the isolation or quarantine of an individual or groups of individuals.

(1) Petition isolation or quarantine with notice. The petition shall specify the following:

(A) The identity of the individual(s) or groups of individuals subject to isolation or quarantine;

(B) The premises subject to isolation or quarantine;

(C) The date and time at which isolation or quarantine commences;

(D) The suspected contagious disease;

(E) A statement of compliance with the conditions and principles for isolation and quarantine of subsection (b) of this section; and

(F) A statement of the basis upon which isolation or quarantine is justified in compliance with this section. The petition shall be accompanied by the sworn affidavit executed by the director or the director's designee attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the Court's consideration.

(2) Notice. Notice to the individuals or groups of individuals identified in the petition shall be accomplished in accordance with existing rules of civil procedure.

(3) Hearing. A hearing should be held on any petition filed pursuant to this subsection as soon as practical after filing of the petition. In extraordinary circumstances and for good cause shown the director may apply to continue the hearing date on a petition filed pursuant to this section for up to five (5) days. The Court may grant the continuance in its discretion giving due regard to the rights of the affected individuals, the protection of the public's health, the severity of the need for quarantine or isolation, and other evidence.

(4) Order. The Court shall grant the petition if, by clear and convincing evidence, isolation or quarantine is shown to be reasonably necessary to prevent or limit the transmission of a contagious or possibly contagious disease to others.

(A) An order authorizing isolation or quarantine shall not exceed thirty (30) days unless continued by order of the Court.

(B) The order shall (i) identify the isolated or quarantined individuals or groups of individuals by name or shared or similar characteristics or circumstances; (ii) specify factual findings warranting isolation or quarantine pursuant to this section; (iii) include any conditions necessary to ensure that isolation or quarantine is carried out within the Territory purposes and restrictions of this section; and (iv) be served on affected individuals or groups of individuals in accordance with existing rules of civil procedure.

(f) Continuances. Prior to the expiration of an order issued pursuant to this act, the director may move to continue isolation or quarantine for additional periods not to exceed thirty (30) days each.

(g) Relief from isolation and quarantine. An isolated or quarantined individual or group of individuals may apply to a Court for an order to show cause why isolation or quarantine should not be terminated. The Court shall rule on the application to show cause as soon as practicable.

(h) Remedies for breach of condition. An isolated or quarantined individual or groups of individuals may request a hearing in the Court for remedies regarding breaches of the conditions of isolation or quarantine. A request for a hearing shall not stay or enjoin an isolation or quarantine order.

(1) Where extraordinary circumstances justify the immediate granting of relief, the Court shall fix a date for hearing on the alleged matters as soon as practicable.

(2) Extensions. In any proceedings brought for relief from isolation or quarantine, the director may move the Court to extend the time for a hearing based on extraordinary circumstances. The Court may grant the extension giving due regard to the rights of the affected individuals, the protection of the public's health, the severity of the need, and other evidence.

(3) Proceedings. If parties cannot personally appear before the Court, proceedings may be conducted by their legal representatives and be held in a location or via any means that allows all parties to fully participate. The Court may order the consolidation of individual claims into group claims where:

(A) The number of individuals affected is so large as to render individual participation impractical;

(B) There are questions of law or fact common to the individual claims or rights to be determined;

(C) The group claims or rights are typical of the affected individuals' claims or rights; and

(D) The entire group can be adequately represented.

**13.0216 Health information system—statistics--surveillance activities--sources of information.**

(a) The department shall administer a health information system to collect, use and analyze health, medical and vital information for the

Territory. The health information system may include, but is not limited to, identifiable health information, non-identifiable health information, vaccination records, testing results, examination results, surveillance activity results, cancer registry and any and all other information needed, used, or acquired to protect the public health or perform essential public health services and functions.

(b) The health information system may include system elements located in, and provide information services to, LBJ Tropical Medical Center under cooperative agreements, or contracts, approved by the director and the hospital authority board.

(c) The department is authorized to collect, analyze, and maintain databases of identifiable health information and non-identifiable health information related to:

(1) Risk factors identified for specific conditions of public health importance;

(2) Morbidity and mortality rates for conditions of public health importance;

(3) Community indicators relevant to conditions of public health importance; and

(4) Any other data needed to accomplish or further the mission or goals of public health, or provide essential public health services and functions.

(d) The department may coordinate the surveillance of zoonotic diseases.

(e) The department is authorized to obtain information from federal, ASG agencies; health care providers or other private and public organizations.

(1) The department may use information available from other governmental and private sources, reports of hospital discharge data, information included in death certificates, other vital statistics, environmental data, and public information.

(2) The department may request information from or inspect health care records maintained by health care providers that identify patients or characteristics of patients with reportable diseases or other conditions of public health importance.

(f) Identifiable health information may only be acquired, used, disclosed, and stored consistent with the requirements of this act. Non-identifiable data may be acquired, used, disclosed, or stored for any purpose or in any manner.

#### **13.0217 Acquisition of identifiable health information.**

(a) Identifiable health information shall not be secretly acquired by the department.

(b) The department shall only acquire identifiable health information where:

(1) The acquisition relates directly to a public health purpose (including analysis and evaluation of conditions of public health importance and evaluation of public health programs);

(2) The acquisition is reasonably likely to achieve such purpose, taking into account the provisions of this act and other governing laws, and the availability of resources or means to achieve such purpose; and

(3) The public health purpose cannot otherwise be achieved as well or better with non-identifiable health information.

(c) Prior to implementation of a determination by the department to acquire or store identifiable health information, the department shall announce its intentions to acquire or store identifiable health information and the purposes for which the information will be used. This announcement shall be made through public written notice distributed and posted in a manner as will reasonably inform members of the affected community.

(1) Such notice shall not identify any individual who is or may be the subject of identifiable health information.

(2) Where Territory or local law requires counseling services regarding a reportable disease, such counseling services shall include information that the disease is reportable to the Department and a description of the purposes for which the individual's identifiable health information will be used by the department.

(d) The department shall not acquire identifiable health information from another federal or ASG agency unless the acquisition is consistent with the requirements of this act and other controlling law.

#### 13.0218 Use of identifiable health information.

(a) Identifiable health information shall be used by the department:

(1) Solely for public health purposes that are directly related to the purpose for which the information was acquired, including analysis and evaluation of conditions of public health importance and evaluation of public health programs;

(2) If the use is limited to the minimum amount of information which the department using the information reasonably believes is necessary to accomplish the public health purpose; and

(3) Such uses are made pursuant to assurances of protections through the execution of a confidentiality statement. The confidentiality statement shall require any person receiving such information to adhere to protections for the privacy and security of the information equivalent to or greater than such protections provided in this act and other controlling law.

(b) If in compliance with subsection (a), the department may use identifiable health information for public health, epidemiological, medical, or health services research provided that:

(1) It is not feasible to obtain the written authorization of the individual who is the subject of the information;

(2) Identifiable information is necessary for the effectiveness of the research project;

(3) The minimum amount of information necessary to conduct the research is used;

(4) The research utilizing the identifiable health information will likely contribute to achieving a public health purpose;

(5) The information is made non-identifiable at the earliest opportunity consistent with the purposes of the research project and expunged after the conclusion of the project;

(c) Identifiable health information shall not be used by the department for commercial purposes;

(d) The Department shall acquire, use, disclose, and store identifiable health information in a confidential manner that safeguards the security of the information.

(e) Identifiable health information whose use by the department no longer furthers the public health purpose for which it was acquired shall be expunged in a confidential manner.

#### 13.0219 Disclosure of identifiable health information.

(a) Identifiable health information is not public information, and may not be disclosed without the written authorization of the individual (or legal representative) who is the subject of the information, except as provided in this act and other controlling law.

(b) Any written authorization shall be dated and shall specify to whom the disclosure is authorized, the general purpose for such disclosure, and the time period in which the authorization for the disclosure is effective.

(1) An individual may revoke a written authorization in writing at any time. The individual is responsible for informing the person who originally received the authorization that it has been revoked.

(2) If the authorization does not contain an expiration date or has not previously been revoked, it automatically expires six months after the date it is signed.

(3) A general authorization for the disclosure of health-related information shall not be construed as written for the disclosure of identifiable health information unless such authorization also complied with this act.

(4) When the individual is not competent or otherwise legally unable to provide written authorization, the written authorization may be provided by

the individual's legal representative. For the purposes of this act, a minor under the age of eighteen years is unable to give written authorization.

(c) Identifiable health information shall be disclosed with the written authorization of the individual who is the subject of the information to any person and for any purpose for which the disclosure is authorized.

(1) Disclosures shall be limited to the minimum amount of information that the person making the disclosure reasonably believes is necessary to accomplish the purpose of the disclosure.

(2) Disclosures shall be accompanied or followed by a statement in writing concerning the department's disclosure policy, which shall include the following or substantially similar language: "This information has been disclosed to you from confidential public health records protected by American Samoa and federal law. Any further disclosure of this information in an identifiable form may be prohibited without the written authorization of the individual who is the subject of the information or as otherwise permitted by federal or American Samoa law. Unauthorized disclosure of this information may result in significant criminal or civil penalties."

(d) Disclosures without written authorization. Identifiable health information may be disclosed without the written authorization of the individual who is the subject of the information where such disclosures are made:

(1) Directly to the individual;

(2) To appropriate federal or ASG agencies or authorities as required for authorized by federal or American Samoa law;

(3) To health care personnel to the extent necessary in a medical emergency to protect the health or life of the individual who is the subject of the information from serious, imminent harm;

(4) To report information in a certificate of death, autopsy report, or related documents prepared under applicable laws or regulations; or

(5) To identify a deceased individual or the individual's manner of death, or provide necessary information about a deceased individual who is a donor or prospective donor of an anatomical gift.

(e) The rights of a deceased individual as provided by this act may be exercised for a period of two years after the date of death by one of the individuals in the following order or priority, subject to any written authorization for another person to act by the decedent:

(1) An executor or administrator of the estate of a deceased individual, or one soon to be appointed in accordance with a will or other legal instrument;

(2) A surviving spouse or domestic partner;

(3) An adult child; or

(4) A parent.

(f) No person to whom identifiable health information has been disclosed shall disclose the information to another person except as authorized by this act or other controlling law. This subsection shall not apply to:

- (1) The individual who is the subject of the information;
- (2) The individual's legal representative where the individual is unable to give written authorization; or
- (3) Any person who is specifically required by federal or American Samoa law to disclose the information.

(g) The department shall keep written or electronic record of any of its disclosures of identifiable health information authorized by this act. This record shall be treated as identifiable health information for the purposes of this act. This record shall be maintained by the department for a period of ten years, even if the identifiable health information disclosed is no longer in the department's possession. The record of disclosures shall include the following information:

- (1) The name, title, address, and institutional affiliation, if any, of the person whom identifiable health information is disclosed;
- (2) The date and purpose of the disclosure;
- (3) A brief description of the information disclosed; and
- (4) The legal authority for the disclosure.

#### 13.0220 Security safeguards for identifiable health information.

(a) When the department receives any identifiable health information disclosed from any source including any federal or ASG agency, other than the individual (or legal representative) who is the subject of the information, the department shall take appropriate measures to protect the security of such information, including:

(1) Maintaining such information in a physically secure environment, that:

(A) Minimizes the physical places in which such information is used or stored; and

(B) Prohibits the use or storage of such information in places where the security of the information may likely be breached or is otherwise significantly threatened;

(2) Maintaining such information in a technologically secure environment;

(3) Limiting access to such information to those persons who have a demonstrable need to access such information;

(4) Reducing the length of time that such information is used or stored in a personally-identifiable form to that period of time that is necessary for the use of the information;

(5) Eliminating unnecessary physical or electronic transfers of such information;

(6) Expunging duplicate, unnecessary copies of such information;

(7) Developing and distributing written guidelines concerning the preservation of the security of such information;

(8) Assigning personal responsibility to persons who acquire, use, disclose, or store such information for preserving its security;

(9) Providing initial and periodic security training of all persons who acquire, use, disclose, or store such information;

(10) Thoroughly investigating any potential or actual breaches of security concerning such information;

(11) Imposing disciplinary sanctions for any breaches of security when appropriate; and

(12) Undertaking continuous review and assessment of security standards.

(b) Wherever identifiable health information is accessible by the department, there shall be prominently displayed a notice in writing concerning the agency's disclosure policy, which shall include the following or substantially similar language: "Identifiable health information contains health-related information about individuals which may be highly-sensitive. This information is entitled to significant privacy protections under federal and American Samoa law. The disclosure of this information outside the Department of Public Health in an identifiable form is prohibited without the written consent of the individual who is the subject of the information, unless specifically permitted by federal or American Samoa law. Unauthorized disclosures of this information may result in significant criminal or civil penalties."

(c) All department personnel or other persons having authority at any time to acquire, use, disclose, or store identifiable health information shall:

(1) Be informed of their personal responsibility for preserving the security of identifiable health information;

(2) Execute a confidentiality statement prior to entering the premises, or as soon thereafter as possible, pursuant to their review of written guidelines consistent with this act concerning the preservation of the security of such information;

(3) Fulfill their personal responsibility for preserving the security of identifiable health information to the degree possible; and

(4) Report to the director, or his designee, any known security breaches or actions that may lead to security breaches. The identity of any person making a report under this subsection shall not be revealed, without the consent of the person making the report, to anyone other than the director, any investigating officials appointed by the director, or law enforcement officers.

(d) The department shall prepare an annual report concerning the status of security protections of identifiable health information, which shall be distributed to department personnel.

**13.0221 Individual access to identifiable health information.**

(a) Within fourteen days of the receipt of a request to review identifiable health information, the department shall provide the requestor an opportunity during regular business hours to inspect copies of such information in the possession of the department, which concerns or relates to the requestor.

(b) Within ten days of the receipt of a request for copies of a requestor's identifiable health information, the department shall provide, without charge, copies of identifiable health information in the possession of the department that the requestor is authorized to inspect.

(c) Upon request, the department shall provide an explanation of any code, abbreviation, notation, or other marks appearing in the identifiable health information. The department is not responsible for producing or reformulating identifiable health information, solely for the purposes of clarification, in other than its original form.

(d) Reasonable limitations may be placed on the time, place, and frequency of any inspection and copying requests. The department may ask to review the identifiable health information with the requestor upon inspection, although such review shall not be a prerequisite to providing the information.

(e) Any information contained in the identifiable health information of the requestor that relates to the health status or other confidential information of other individuals shall be deleted for the purposes of inspection and copying.

(f) Any information contained in the identifiable health information of the requestor that is not related to the requestor's health status may be deleted for the purpose of inspection and copying.

**13.0222 Denial of request by department.**

(a) The department may deny a requestor the opportunity to inspect identifiable health information in the possession of the department or may deny a request for copies of such information if:

(1) The department can show by clear and convincing evidence that the review of the identifiable health information will cause substantial and identifiable harm to the requestor or others that outweighs the requestor's right to access the information;

(2) A parent or legal guardian has requested access to identifiable health information concerning an individual over the age of eighteen years who is the subject of the information and the individual objects to such access

of the information within seven days of receipt of written notice of the request by the department in possession of the information; or

(3) The information is compiled principally in anticipation of, or for use in, a legal proceeding.

(b) If the department denies a request to inspect or copy identifiable health information, it shall notify the requestor in writing of the reasons for denying such request, including that the department does not possess any identifiable health information which is subject to the request.

(c) A requestor may appeal such decisions under administrative review procedures under the American Samoa Administrative Code.

#### **13.0223 Accuracy and correction of identifiable health information.**

(a) The department shall reasonably ensure the accuracy and completeness of identifiable health information.

(b) After inspection or review of copies of identifiable health information, a requestor may request that the department correct, amend, or delete erroneous, incomplete, or false information.

(c) The department shall correct, amend, or delete erroneous, incomplete, or false information within fourteen days of a request provided that it determines such modification is reasonably supported. The requestor has the burden of proving that information needs to be corrected, amended, or deleted.

(d) The requestor shall be notified in writing by the department of any corrections, amendments, or deletions made, or, in the alternative, the reasons for denying any request in whole or part.

(e) A requestor may appeal any decision of the Department denying a request to correct, amend, or delete erroneous, incomplete, or false information under administrative review procedures as promulgated by the department.

(f) A brief, written statement from the requestor challenging the veracity of the identifiable health information shall be retained by the department for as long as the information is possessed. The department shall make a notation of the disputed entries in the requestor's identifiable health information, including the original language and the requestor's proposed change. This statement shall be provided to any person who is authorized to receive the identifiable health information.

(g) The department shall take reasonable steps to notify all persons indicated by the requestor, or others for whom known acquisitions or disclosures have previously been made, of corrections, amendments, or deletions made to identifiable health information.

#### **13.0224 Public health nuisances.**

(a) It is unlawful for any person to create, aggravate, or allow the existence of a public health nuisance.

(b) The department may immediately and thoroughly investigate any suspected public health nuisance upon receiving a complaint of its existence or when there is probable cause to believe that nuisance exists within the Territory.

(c) The department may issue an order to avoid, correct, or remove, at the owner's expense, any property or condition that the department determines to be a nuisance.

(1) The order shall specify the nature of the nuisance and the method(s) to abate the nuisance, including:

(A) To close, direct, and compel the evacuation of, or decontaminate or cause to be decontaminated any real property, building or structure as needed; or

(B) To decontaminate or cause to be decontaminated, or destroy, any material, goods, or conditions.

(2) The order shall designate a reasonable time in which the nuisance must be abated.

(3) If a property owner or occupant does not comply with the order within the specified time, the department may cause the nuisance to be removed or abated at the owner or occupant's expense.

(4) Whenever the removal or abatement of a nuisance requires immediate action by the department, the department may pay the cost of removal or abatement and seek reimbursement for expenses from the responsible persons.

(5) If the person responsible for a nuisance refuses to pay or reimburse expenses incurred by the department, expenses may be:

(A) Assessed against affected real property, building or structure as a lien;

(B) Collected from rents paid on the real property, building or structure, pursuant to a Court order obtained by the department; or

(C) Collected in the same manner as personal taxes assessed by the Territory.

(6) An occupant or other person who caused or permitted a nuisance to exist is liable to the owner of the premises for the amount paid by the owner or assessed against the property, building or structure.

**13.0225      Administrative searches and inspections to determine existence of a public health nuisance.**

(a) Upon consent of the owner, custodian or occupant, department personnel may enter any property, building or structure at any reasonable time to inspect, investigate, evaluate, conduct tests, or take specimens or

samples for testing as may be reasonably necessary to determine compliance with any law or regulation.

(b) If the department personnel are denied entry, the Administrative Law Judge is authorized to issue an administrative search warrant and the department may seek an administrative search warrant from the Administrative Law Judge authorizing the investigation, evaluation, inspection, testing, or taking of specimens or samples for testing.

(c) Authorized department personnel may enter any public place to inspect, investigate, evaluate, conduct tests, or take specimens or samples for testing as may be reasonably necessary to determine compliance with the provisions of any law or regulation administered by the department.

### **13.0226      Vaccinations--Vaccination program.**

(a) The department may require vaccination of any individual within their jurisdictions to prevent the introduction or spread of an infectious disease or other condition of public health importance. The department may make rules requiring and governing immunization against typhoid fever, pertussis, diphtheria, tetanus, measles, mumps, hepatitis-B, and any other communicable disease, if a suitable immunizing agent is available for the disease and a need for immunization against it exists within the Territory.

(b) Requirements for conducting vaccination programs. In administering any vaccine or vaccination program, the department shall adhere to the following requirements:

(1) Informed consent. No vaccine or vaccination program shall be administered without the prior informed consent of the individual (or legal representative) to whom the vaccine is being administered, except as otherwise provided in this act;

(2) Validity. The department must employ an approved, federally-licensed vaccine for the infectious disease or other condition of public health importance;

(3) Justification. All vaccination programs should further legitimate public health purposes by addressing a condition of public health importance that may be avoided, alleviate, or made less contagious through safe and effective vaccination; and

(4) Pre-vaccination information. Prior to vaccination, the individual (or legal representative) must be informed of the nature, purposes, benefits, risks, and possible results of the vaccination.

(c) Provision of vaccines. Vaccinations required of any person under this act shall be administered by duly licensed physicians, paramedical personnel, registered nurses, pharmacists working under a physician's direction, or an authorized, trained representative of the department provided any individual administering a vaccine:

(1) Is competent in the administration of the vaccine, including the knowledge of indications and contraindications of the vaccine, and recognition and treatment of any emergency reactions to the vaccine that may endanger the health or life of the recipient; and

(2) Is competent to recognize an adverse effect or an emergency condition or reaction caused by the vaccine to be able to.

(A) refer the recipient to the appropriate health care provider for treatment of the adverse effect or emergency condition or reaction; or

(B) operate and administer medications, equipment and treatment of the adverse effect or emergency condition or reaction.

(d) Any person authorized to perform vaccinations under this act shall certify on a form developed by the department that a named individual has been vaccinated on a given date for specific conditions in accordance with applicable rules and regulations. This certification of vaccination shall be the principal means of demonstrating compliance with vaccination requirements. The person providing the vaccination shall file a copy of the certification in the vaccination registry.

(e) The department shall collect epidemiological information to establish and maintain a comprehensive vaccination registry to aid, coordinate, and promote effective and cost efficient disease prevention and control efforts. The registry shall serve as a repository of accurate, complete, and current vaccination records in the Territory. The department shall utilize information in the registry to notify individuals (or their legal representatives) concerning the need for and access to a particular type of vaccination pursuant to published vaccination schedules adopted by the Department.

(f) Except as otherwise provided by law, no individual shall be admitted to a public or private school, or licensed child day care facility, in the Territory who has not been age-appropriately vaccinated for any infectious diseases or other conditions of public health importance as required by the department. To protect children from infectious diseases consistent with the recommendations of the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP) and the American Academy of Pediatrics Committee, the department shall provide for the vaccination of individuals seeking admission to public or private schools, or licensed child day care facilities in the Territory as follows:

(1) A basic series of vaccinations to be administered consistent with the published schedule of vaccinations recommended by the Centers for Disease Control and Prevention for all individuals at any age or level of education as determined by the department prior to enrollment in school or licensed child care facility; and if a series of vaccinations are required, then the series shall begin not later than the time of enrollment and shall be completed within a reasonable time as determined by the department.

(2) Any individual determined to need vaccinations by the department that fails to be properly vaccinated shall be excluded from school or day care.

(3) The department shall provide written notification to the parent or legal guardian of a minor attendee regarding a pending exclusion under this subsection.

(4) An attendee shall be exempt from the department vaccination requirements upon presentation of a certification of vaccination or where excepted from vaccination under this subsection (g).

(g) No individual shall be required to be vaccinated pursuant to this act when:

(1) The individual has an existing physical disability or reasonable certainty of a reaction detrimental to that individual that may contraindicate vaccination based on the recommendations of the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP) and the American Academy of Pediatrics Committee;

(2) The individual has produced medical confirmation of experiencing the natural disease against which the vaccination protects, thus rendering the administration of the vaccine ineffectual;

(3) The individual has produced laboratory confirmation of the presence of existing adequate immunity; or

(4) The individual (or legal representative) objects in a written, signed affidavit issued pursuant to a Court order on the basis that the vaccination interferes with the free exercise of the individual's (or legal representative's) sincere religious beliefs. However, no objection shall be recognized when, in the opinion of the director, there is danger of an epidemic or serious outbreak of any communicable disease.

(h) A record of the immunization shall be maintained by the physician if in private practice, or the department if the vaccination is administered by an authorized representative of the department. Records of individuals attending or seeking to attend school in American Samoa shall be available to the Department of Education for school entry requirements.

(i) A person who administers or authorizes the administration of a vaccine under this act is immune from criminal or civil liability for:

(1) Any injury caused by the vaccine if the vaccination was required by the department and the administration did not involve willful misconduct or gross negligence; or

(2) The failure to vaccinate because of the failure or refusal of a legal representative to consent to the vaccination.

(j) The department shall develop and maintain facilities to safely and adequately preserve and store vaccine.

(a) The department may establish and administer testing, examination, and screening procedures or programs to identify conditions of public health importance among individuals or communities in the Territory.

(b) In conducting any test, exam, or screening procedure or program, the department shall adhere to the following requirements:

(1) No test, exam, or screening shall be conducted without the prior informed consent of the individual (or legal representative) to whom the test or exam is being administered, except as otherwise provided in this act or other Territory law;

(2) No tests or exams shall be administered unless there is available a valid and reliable test or exam for the condition of public health importance;

(3) No screening shall be conducted unless the screening uses scientifically-sound methods that have an adequate predictive value;

(4) All testing, examination, or screening programs should identify a condition of public health importance that poses a threat to an individual or the public's health and may be avoided, cured, alleviated, or made less contagious through safe and effective treatment, modifications in individual behavior, or public health interventions;

(5) Prior to testing, examination, or screening, the department must explain to the individual (or legal representative) the nature, scope, purposes, benefits, risks, and possible results of the test, exam, or screening; and

(6) In conjunction with or directly after the dissemination of the results of a test, exam, or screening, the department must fully inform the individual (or legal representative) of his or her results. If appropriate, the Department should provide counseling or inform the individual where such counseling services are available.

(c) The department may require testing or medical examination of any individual who has or may have been exposed to a contagious disease that poses a significant risk or danger to others or the public's health.

(d) The department may establish compulsory screening programs for conditions of public health importance that pose a significant risk or seriously threaten the public's health.

(e) The department may establish conditional screening programs when necessary to achieve an important public health objective. A conditional screening program should include:

(1) All individuals of a defined class are subjected to the screening, test or examination as a condition of participating in or receiving a service, privilege or benefit.

(2) If an individual refuses to undergo the screening, test or exam, the Department may prevent that individual from participating in or receiving the service, privilege or benefit.

(f) The department may establish routine, regular, and ongoing screening programs for conditions of public health importance. All

individuals of a defined class are subjected to the screening, test or exam unless they choose to "opt-out" (individuals refuse to consent to the screening, test or examination).

**13.0228 Department agents and inspectors.**

The director shall appoint a suitable number of agents and inspectors to enforce all public health laws and regulations.

**13.0229 Counseling and referral services program.**

(a) The director may establish voluntary, confidential programs for counseling and referral services (CRS). These services shall be available and easily accessible to all individuals with, or possibly exposed to, a contagious disease as determined by the director.

(b) If the director establishes a CRS, then the department shall follow the following guidelines for a counseling and referral services program:

(1) All information disclosed to a CRS counselor or health care provider in the context of CRS is confidential. Contact names or contact data may be used only for purposes of surveillance, epidemiologic investigation, diagnosis, treatment, and notification by the department.

(2) Any individual with a contagious disease who voluntarily participates in a CRS program shall be notified that any identified contacts may be informed of their potential exposure to the contagious disease.

(3) A CRS counselor may notify a contact after obtaining the informed consent of the individual with the contagious disease who voluntarily provided the contact's name, unless:

(A) The CRS counselor reasonably believes that the individual does not plan to notify known contacts, whereby the counselor may notify those contacts without individual informed consent; or

(B) The CRS counselor reasonably believes that the individual is at a significant risk of harm should notification be made to the contact.

(4) Any disclosure of information about exposure to a contagious disease to a contact by the CRS counselor shall be made in person (where possible and in a manner that attempts to protect the privacy of the individual with the contagious disease as well as the contact. A CRS counselor may not disclose, for example:

(A) The name or other identifying information of the individual who gave the contact's name; or

(B) The date or period of the contact's exposure.

(5) A CRS program shall provide counseling, testing, diagnosis, treatment, or referral services to an individual with a contagious disease regardless of whether the individual discloses the names of any contacts.

(6) Where not otherwise notified, CRS counselors shall inform any contact of the:

(A) Nature of the contagious diseases;  
(B) Methods of transmission and prevention of the diseases;  
(C) Location information for testing or treatment sites (where available); and

(D) Existence of local support groups, mental health services, and medical facilities.

(7) If an individual with a contagious disease chooses to notify a contact, he or she should be encouraged to provide the same information as stated above, and be provided counseling. The CRS counselor should use reasonable efforts to verify that the contact was actually notified.

(c) A CRS program shall routinely train and evaluate the performance of counselors and other program personnel to ensure that high quality services are being provided.

13.0230 Relationships between the department and federal agencies, ASG agencies, public and private sector partners and volunteers.

(a) The director, or his designee, may seek to establish working relationships with federal agencies, ASG agencies, public and private sector partners and volunteers to aid and assist in the provision of essential public health services and functions.

(b) The director may form an agreement with any federal agencies, ASG agencies, public and private sector partners and volunteers to coordinate the provision of essential public health services and functions. Among other purposes, these agreements may work to:

(1) Develop, test, or demonstrate solutions for specific public health needs;

(2) Conduct public health needs assessments and studies related to public health or health care issues concerning individuals located within the Territory;

(3) Provide for data sharing;

(4) Provide for collaborative development of public health plans;

(5) Encourage and support any other activity that will assist the Department to improve or maintain the public's health;

(6) Dissemination of information and training regarding the appropriate use of clinical preventive practice guidelines;

(7) Provision of information regarding the services and resources available related to patient management or medical care practice;

(8) Development of medical care and patient services related to the provision of essential public health services and functions;

(9) Development and dissemination of data reporting methods and systems concerning the performance of public health diagnostic and investigative services and functions; and

(10) Development and dissemination of resources and tools for measuring performance regarding the provision of essential public health services and functions.

(c) For the purposes of this section, the department shall coordinate the efforts of any person and the department. The department may use any or all of the following tools for the purpose of coordinating activities:

(1) Ongoing and regular communication through electronic or other means;

(2) Incorporation of public and private sector partners into the public health planning process;

(3) Village or Territory-wide conferences or programs to share information or pursue plans for assessment, policy development or strategy, or assurance activities; or

(4) Designation of leading collaborators within specific villages, topical, or practice areas that can facilitate coordination efforts.

**13.0231 Disbursement of moneys.**

For the purpose of carrying into effect this act relating to public health, the department may apportion and disburse all sums of money received including but not limited to sums that are appropriated by the Fono, or granted through federal health grants from the United States Government, or the World Health Organization, or from any other source.

**13.0232 Community health centers.**

The department shall administer and supervise community health center facilities and functions on Tutuila Island, Manu'a Islands, and Swains Island. The number and location of community health centers, and the scope of services provided shall be determined by the director and the department based on service area population, community need, and available resources.

**13.0233 Demonstration projects.**

(a) The department may declare one or more community health centers as demonstration projects.

(b) Other provisions of the American Samoa Code Annotated notwithstanding, the scope of services, standards of quality and performance, degree of autonomy, organization and staffing models, and services fee structure, of community health centers declared demonstration projects shall be determined by the director, with the approval of the Governor, during the period a community health center is declared a demonstration project.

**13.0234 Development of a public health workforce.**

(a) The department may provide voluntary accreditation programs for cooperating ASG agencies, public and private sector partners and volunteers

based on the ability of a person or agency assisting the department in providing essential public health services and functions.

(b) The department and the director may identify and encourage community or village leaders to work through the department to develop, administer, and fulfill the requirements of this act and ensure the efficient and expedient providing of essential public health services and functions.

(c) Consistent with any national system of public health workforce certification or credentialing, the department may recognize, adopt or administer certification or credentialing programs for department personnel, ASG agencies, public and private sector partners and volunteers. These programs should be designed to develop knowledge, skills, and abilities in relevant and contemporary public health practice areas, and may be based on:

(1) Basic, core, or technical competencies (and corresponding curriculum) for public health workers; or

(2) Professional codes for public health professionals.

(d) The department may directly, or in conjunction with educational institutions or ASG agencies, make available or assure effective programs, continuing education, or other tools, including distance learning, internet or similar media components, for training ASG agency personnel, public and private sector partners and volunteers. Any person assisting the department may be required by the department to meet minimal training requirements to assist the individual in providing essential public health services and functions.

#### 13.0235 Incentives, evaluations and recognition for public health workforce.

(a) The department may provide a voluntary accreditation program for ASG agencies, public or private sector partners or volunteers in various areas concerning public health including providing essential public health services and functions.

(b) Any accreditation program under this section shall be as follows:

(1) The accreditation program shall be administered by the department;

(2) Each accreditation program may include one or more areas or topics appropriate for the purpose of this section;

(3) Participation by the members or employees of any entity or individual referred to in (a) above shall be voluntary and without any form or type of compensation for the participants time, effort, or participation;

(4) The department shall attempt to have each accreditation program instructed by employees of the department knowledgeable in the topic or by a volunteer knowledgeable in the topic; and

(5) The department may award certificates or other indicia of participation or completion to any entity or individual referred to in (a) above.

(c) The department may set incentives to meet public health workforce accreditation standards or goals, including:

- (1) Organizational accountability awards;
- (2) Recognition for department personnel, ASG agencies, public and private sector partners and volunteers; and
- (3) Other development initiatives.

**13.0236 Maintenance and inspection of food records.**

(a) If the director or department personnel have a reasonable belief that an article of food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals, each person who manufactures, processes, packs, distributes, receives, holds, or imports such article shall, at the request of an officer or employee duly designated by the director, permit such officer or employee, upon presentation of appropriate credentials and a written notice to such person, at reasonable times and within reasonable limits and in a reasonable manner, to have access to and copy all records relating to such article that are needed to assist the director in determining whether the food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals. The requirement under the preceding sentence applies to all records relating to the manufacture, processing, packing, distribution, receipt, holding, or importation of such article maintained by or on behalf of such person in any format (including paper and electronic formats) and at any location.

(b) The director shall take appropriate measures to ensure that there are in effect effective procedures to prevent the unauthorized disclosures of any trade secret or confidential information that is obtained by the director pursuant to this section.

**13.0237 Immunities.**

The director, the department, and department personnel, except in cases of gross negligence or willful misconduct, shall not be liable for the death of or any injury to individuals, or damage to property, as a result of complying with or attempting to comply with the act or any rule or regulations promulgated pursuant to the act. Furthermore, nothing in the act shall be construed to impose liability on the department for the acts or omissions of a public or private sector partner or volunteers.

**13.0238 Severability.**

The provisions of this act are severable. If any provision of this Act or its application to any person or circumstances is held invalid in a Court of

competent jurisdiction, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application.

**13.0239 Civil Enforcement.**

The department may maintain a civil action against any person to enforce compliance with or violations of the act.

**13.0240 Legal representation of department and/or director.**

Legal representation for the department shall be provided by the Attorney General. The director may retain and hire one or more private attorneys when needed only after determination by the attorney general that a *bona fide* need to hire a private attorney exists, and the attorney general has concurred with the hiring of said private attorney.

**13.0241 Adoption, amendment and revisions of regulations.**

(a) The director shall adopt regulations required by and to implement this act and any other laws for the proper and expedient operation of the Department and to carry out the purpose of this act.

(b) The director shall make such rules as directors deems necessary for the public health and safety inspection including, but not limited to:

(1) Nuisances, foul or noxious odors, gases, vapor, waters in which mosquitoes breed or may breed, sources of filth, and causes of sickness or disease, within the respective districts of the Territory, and on board any vessel;

(2) Adulteration and misbranding of food or drugs;

(3) Location, air space, ventilation, sanitation, drainage, sewage disposal and other health conditions of buildings, Courts, construction projects, excavations, pools, watercourses, and areas;

(4) Fish and fishing;

(5) Interments and dead bodies;

(6) Disinterment of dead human bodies, including the exposing, disturbing, removing or disturbing after due interment of any receptacle, coffin, or container holding human remains or a dead human body or part thereof and the issuance and terms of permits for the aforesaid disinterment of dead human bodies;

(7) Cemeteries and burying grounds;

(8) Hospitals and freestanding outpatient clinics;

(9) Any place or building where noisome or noxious trades or manufactured are carried on, or intended to be carried on;

(10) Milk;

(11) Poisons and hazardous substances, the latter term including, but not limited to, any substance or mixture of substances which (A) is corrosive,

(B) is an irritant, (C) is a strong sensitizer, (D) is inflammable, or (E) generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children;

(12) Pig sties and chicken ranches;

(13) Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;

(14) Any restaurant, theater, market, stand, shop, store, factory, building, wagon, vehicle, or place where any food, drug, or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale, or offered for human consumption or use;

(15) Food, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug, or cosmetic;

(16) Sources of ionizing radiation;

(17) Medical examination, vaccination, re-vaccination, and immunization of school children. No child shall be subjected to such medical examination, vaccination, re-vaccination, or immunization, whose parent or guardian shall in writing object thereto on grounds that such requirements are not in accordance with the religious tenets of an established church of which he is a member or adherent, but no such objection shall be recognized when, in the opinion of the department there is danger of an epidemic or serious outbreak of any communicable disease;

(18) Disinfecting of aircraft entering or within the Territory as may be necessary to prevent the introduction, transmission, or spread of disease or the introduction or spread of any insect or other vector of significance to health;

(19) Fumigation that in the opinion of the department may be lethal, poisonous, noxious, or dangerous to human life.

(c) The director and department may require such certificates, permits, or license as it may deem necessary to adequately regulate the conditions or businesses referred to in this act.

(d) The director may amend or revise such rules from time to time. All regulations adopted and any and all amendments or revisions to the regulations shall be made in accordance with 4.1001 et seq., A.S.C.A."

Sec 2.        There is created a new Chapter 03 under Title 13, A.S.C.A., which reads:

**"Chapter 03**  
**AMERICAN SAMOA EMERGENCY HEALTH POWERS ACT**

**Sections:**

- 13.0301     Short Title.**
- 13.0302     Purposes.**
- 13.0303     Definitions.**
- 13.0304     Mission Statement.**
- 13.0305     Director and Department Powers.**
- 13.0306     Response and Control of Event or Occurrence of a Public Health  
Emergency.**
- 13.0307     Declaring a Public Health Emergency.**
- 13.0308     Roles and Responsibilities.**
- 13.0309     Individual Rights.**
- 13.0310     Response Plan.**
- 13.0311     Department Training, Certification, Credentialing.**
- 13.0312     Department Agreements.**
- 13.0313     Data Collection.**
- 13.0314     Reporting to Detect and Track a Public Health Emergency.**
- 13.0315     Epidemiologic Investigation.**
- 13.0316     Testing, Examination and Screening.**
- 13.0317     Vaccinations.**
- 13.0318     Collection of Laboratory Specimens; Performance of Tests.**
- 13.0319     Additional Emergency Powers.**
- 13.0320     Procurement.**
- 13.0321     Property - Civil Proceedings.**
- 13.0322     Private Liability.**
- 13.0323     Criminal Penalties.**
- 13.0324     Severability.**
- 13.0325     Conflicting Laws.**
- 13.0326     Adoption, Amendment and Revisions of Regulations.**
- 13.0327     Temporary Regulations, Rules and Procedures During a  
Declared Public Health Emergency.**

**13.0301     Short title.**

      This chapter shall be known as, and may be cited as, the American Samoa Emergency Health Powers Act.

**13.0302     Purposes.**

      The purpose of this act is to:

      (a) Establish the parameters and authority of the Department of Health and of the director to develop and implement a comprehensive response to events or occurrences of potential or actual public health

emergencies through formal declarations and triggering of special public health powers during an event or occurrence of a public health emergency;

(b) Promote and build strong relationships between the department and federal and ASG agencies, public and private sector partners, volunteers, and any other person or entity regarding a response to a potential or actual public health emergency;

(c) Promote cooperation and formal collaborative agreements between the department and federal and ASG agencies, public and private sector partners, volunteers, and any other person or entity regarding a response to a potential or actual public health emergency;

(d) Address privacy and security issues arising from any response of the Department to events or occurrences of potential or actual public health emergencies.

### **13.0303 Definitions.**

As used in this act, terms shall have the same meaning as stated in the American Samoa Public Health Act unless defined below:

(1) "Act" means the American Samoa Emergency Health Powers Act.

(2) "Bioterrorism" means the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism.

(3) "Contaminated material" means wastes or other materials exposed to or tainted by chemical, radiological, or biological substances or agents.

(4) "Department" means the Department of Health

(5) "Director" means the director of the Department of Health.

(6) "Event or occurrence" means an incident, situation, or episode.

(7) "Health care facility" means any institution, building, or agency or portion thereof, whether public or private (for-profit or nonprofit) that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual in American Samoa.

(8) "Public health emergency" means the declaration by the Governor of a crisis or emergency situation requiring a response to an event or occurrence or imminent threat of an illness or health condition that:

(A) Is believed to be caused by any of the following:

(i) Bioterrorism;

(ii) The appearance of a novel or previously controlled or eradicated infectious agent or biological toxin; or

(iii) A natural disaster, a chemical attack or accidental release, or a nuclear attack or accident; and

(B) Poses a high probability of any of the following harms:

- (i) A large number of deaths in the affected population;
- (ii) A large number of serious or long-term disabilities in the affected population; or (iii) Exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population.

(9) "Public health emergency services and functions" means services and functions provided in response to an event or occurrence of a public health emergency.

(10) "Public health importance" means effecting, affecting or concerning and adversely affecting the health of the public.

(11) "Response" means the department's reaction and reply to attempt to address, ameliorate, lessen, and protect the public upon the event or occurrence of a public health emergency.

(12) "Response plan" means the strategy and design of the department to address, ameliorate, lessen, and protect the public upon the event or occurrence of a public health emergency.

(13) "Threat", "threaten", "threatening", "threatened" means the existence of a potential or imminent danger, harm, risk or damage.

(14) "Threat to public health" means an event or occurrence of such significance, as determined by the director, that the general health or well-being of the people of the Territory is threatened.

#### **13.0304 Mission statement.**

(a) It is the policy of American Samoa that in the event or occurrence of a public health emergency, that the public health be protected and promoted to the greatest extent possible through the public health system while respecting individual rights to dignity, health information privacy, nondiscrimination, due process, and other legally-protected interests.

(b) The mission of the department, in regard to this act, is to provide leadership, and to protect and promote the public's health in any public health emergency by:

(1) Developing a response plan to respond to an event or occurrence of a public health emergency;

(2) Providing or assuring the provision of public health emergency services and functions that are culturally and linguistically appropriate for the Territory;

(3) Encouraging collaboration among public and private sector partners to support the purpose of this act; and

(4) Seeking adequate funding and other sources to provide essential emergency public health services and functions, or accomplish public health goals through public or private sources. This act shall not be construed to require an individual or agency within the public health system to provide

specific health services, or to mandate the Territory's and local public health agencies to implement unfunded programs.

**13.0305 Director and department powers.**

To carry out the purpose of this act, the director and the department are authorized, in addition to exercising any and all powers provided under the American Samoa Public Health Act, to provide or implement upon the declaration of a public health emergency, a response to an event or occurrence of a public health emergency, including services or functions to:

(a) Utilize a broad range of flexible powers to protect and promote the public's health during an event or occurrence of a public health emergency including compulsory powers as defined in the act;

(b) Conduct, fund, provide, or endorse response standards for the events or occurrences of public health emergencies;

(c) Develop and provide certification, credentialing, or effective training for members of the department, ASG agencies, public and private sector partners and volunteers;

(d) Develop, adopt, and implement public health emergency plans through administrative regulations, formal policies, or collaborative recommendations that guide or support individual and community response efforts;

(e) Establish formal or informal relationships with federal agencies, ASG agencies, public or private sector partners, volunteers, and any other person or entity within and without the Territory, to support and aid in the response to an event or occurrence of a public health emergency;

(f) Enforce existing laws and administrative regulations (including emergency regulations), and propose new laws, amendments to existing laws or administrative regulations that may serve as tools to protect the public's health;

(g) Identify, assess, prevent, and ameliorate conditions of public health emergencies through mandatory reporting observations, epidemiological tracking, program evaluation and monitoring; testing and screening programs, treatment, abatement of public health nuisances, administrative inspections, or other techniques;

(h) Promote or ensure the availability and accessibility of resources to respond to an event or occurrence of a public health emergency;

(i) Systematically and regularly review and recommend modifications to the response plan and other systems needed or developed to protect the public's health during or after an event or occurrence of a public health emergency;

(j) Request warrants for law enforcement assistance required for the operation or enforcement of any provision of this act;

(k) Request assistance from the American Samoa Government Attorney General, law enforcement officials, or any other American Samoa

Government official in the operation or enforcement of any provision of this act.

**13.0306 Response and control of event or occurrence of a public health emergency.**

(a) The director and department are authorized to use the powers and provisions set forth in this act to respond to, control, or ameliorate conditions arising from events or occurrences of public health emergencies in addition to any and all powers and authority provided to the director and department under any other law or regulation of the Territory.

(b) In carrying out these authorities or powers, the department and director are guided by the following principles:

(1) The exercise of any authority or power under this act shall be to further or support improving, controlling, correcting, or responding to protect the public's health during or after any event or occurrence of a public health emergency.

(2) Whenever possible, the department and director shall exercise its authorities or powers through procedures, practices, or programs that are based on modern, scientifically-sound principles and evidence.

(3) The department and director shall strive to design and implement procedures in the response plans that are well-targeted to accomplishing essential public health emergency services and functions. The department and director should employ compulsory powers only to avert a significant risk and should avoid using compulsory power in a manner that is over-broad (applying to more individuals than is necessary for an effective response).

(4) The department and director should employ the least restrictive alternative in the exercise of its authorities or powers, especially compulsory powers. This means that where the agency may exercise one or more of its authorities or powers to respond to a public health emergency, the department and director shall, to the extent possible, employ the policy or practice that least infringes on the rights or interests of individuals. Employing the least restrictive alternative does not require the department or the director to adopt policies or programs that are less effective in protecting the public's health or safety.

(5) The department and director shall not discriminate in an unlawful manner against individuals on the basis of their race, creed, color, ethnicity, nationality, religious beliefs, sex, sexual orientation, age or disability status.

(6) The department and director shall respect the dignity of each individual under their jurisdiction, regardless of the individual's nationality, citizenship, or residency status.

**13.0307 Declaring a public health emergency.**

(a) A public health emergency may be declared by the Governor, at the director's recommendation, upon the event or occurrence of a public health

emergency, or the imminent threat of a public health emergency. Prior to such a declaration, the Governor and/or Director, may consult with the Territorial Office of Homeland Security, ASG agencies, federal agencies and may consult with any additional public health or other experts as needed.

(b) A public health emergency shall be declared in a written statement that specifies:

(1) The nature of the public health emergency or the imminent threat of a public health emergency;

(2) The geographic area(s) subject to the declaration;

(3) The conditions that have brought about the public health emergency or imminent threat of a public health emergency; and

(4) The duration of the public health emergency, if less than thirty (30) days.

(c) The declaration of a public health emergency shall activate the response of the department. Such declaration authorizes the deployment and use of any forces that the response requires and the use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or available for the response.

(d) The Governor may terminate the state of public health emergency any time after the date of original declaration upon finding that the circumstances or conditions that caused the emergency no longer exist. In the event that the Governor terminates any public health emergency declared, neither the director nor the department shall be liable for the death of, or any injury to individuals, or damage to property, as a result of the director or department's inability to exercise necessary emergency authority or powers granted by the act.

#### **13.0308 Roles and Responsibilities.**

The department must perform public emergency health services and functions. The department may actively collaborate with federal agencies, ASG agencies, public and private sector partners, volunteers, and any other person or entity within or without the Territory to improve these services and functions.

#### **13.0309 Individual rights.**

All persons within the department shall seek to accomplish the purposes and mission of this act while respecting individual rights including:

(1) Respect for the dignity of each individual;

(2) Protection of health information privacy for each individual consistent with the purpose of this act and any other applicable federal or Territory laws;

(3) Provision of adequate due process as required by this act or other applicable federal or Territory laws; and

(4) Avoidance of explicit or implicit discrimination in an unlawful manner of individuals on the basis of their race, ethnicity, nationality, religious beliefs, sex, sexual orientation, or disability status.

(5) The director shall adopt regulations addressing and governing the protection of individuals during the department's response to any event or occurrence of a public health emergency.

**13.0310 Response plan.**

A response plan is needed to achieve the purpose of this act and provide public health emergency services and functions.

(a) The director shall develop a public health emergency plan and deliver a copy of the plan to the Governor. The response plan should address the following goals:

(1) Identify and determine the existence of, potential, threat of, or imminent danger of an event or occurrence of a public health emergency;

(2) Develop and/or support an information infrastructure aiding and supporting a full and adequate response to events or occurrences of public health emergencies;

(3) Develop and provide for certification, credentialing, or effective training for members of the department, ASG agencies, and public and private sector partners and volunteers involved in a response;

(4) Provide for participation in voluntary advanced registration and accreditation programs; and

(5) Comprehensively plan and set priorities for the performance of essential public health emergency services and functions.

(b) To fulfill these and other goals underlying the development of an infrastructure to respond to public health emergencies, the department shall consult, adopt and implement federal and Territory guidelines, initiatives, programs, and recommendations relating to improvements in public health infrastructure provided they are consistent with accomplishing the purpose of this act and respecting the unique territorial circumstances and resources.

(c) The director shall promulgate rules and regulations specifying the scope and content of the response plan and ensure that the plan is regularly tested and revised as needed.

(d) Each response plan shall be reviewed and updated annually, if needed.

(e) The director shall provide a copy of the response plan to the Governor and the Fono, and shall make available a copy to appropriate federal agencies, ASG agencies, public and private sector partners and volunteers.

**13.0311 Department training, certification and credentialing.**

(a) The director and department may identify and encourage public and private leaders in the Territory to work through the department to develop, administer, and fulfill the requirements of this act, and ensure the provision of public health emergency services and functions.

(b) The director may adopt and administer training certification or credentialing programs for department personnel, ASG agencies, public and private sector partners and volunteers. These programs should be designed to develop knowledge, skills, and abilities in relevant and contemporary areas addressing the response and may be based on:

(1) Basic, core, or technical competencies (and corresponding curriculum) for emergency preparedness and response; or

(2) Professional codes for public health professionals.

#### **13.0312 Department agreements.**

(a) The department may seek to establish working relationships and agreements with federal agencies, ASG agencies, public and private sector partners and volunteers, to coordinate, assist or engaged in the providing of a response to a public health emergency.

(b) The director may form one or more agreements with any other United States Pacific territories or their agencies to coordinate the provision of a response to a public health emergency.

#### **13.0313 Data collection.**

(a) The department is authorized to collect, analyze, and maintain databases of identifiable or non-identifiable information related to:

(1) Risk factors identified for specific conditions of public health emergencies;

(2) Morbidity and mortality rates for events or occurrences of public health emergencies;

(3) Community indicators relevant to conditions of public health emergencies; and

(4) Any other data needed to accomplish or further the mission or goals of the Department and of this act.

(b) The department is authorized to obtain information from federal agencies, ASG agencies, health care providers, public and private sector partners, volunteers, and private and public organizations related to or involving potential, possible or actual public health emergencies.

(1) The department may use information available from other governmental and private sources, reports of hospital discharge data, information included in death certificates, other vital statistics, environmental data, and public information.

(2) The department may request information from or inspect health care records maintained by other ASG agencies that identify patients or characteristics of patients with reportable diseases or other conditions of public health emergencies.

**13.0314      Reporting to detect and track a public health emergency.**

A health care provider, hospital, coroner, medical examiner, and veterinarian shall report to the department all cases of individuals or animals who harbor, or are suspected of harboring, any condition of possible public health importance that may be potential causes or indicators of a public health emergency.

**13.0315      Epidemiologic investigation.**

The department may investigate conditions of public health emergencies through:

(1) Methods of epidemiological investigation including identifying individuals who have been or may have been exposed to, affected by or infected by an event or occurrence of a public health emergency; and

(2) Interviewing and testing those individuals, and examining facilities or materials that may pose a threat to the public's health as the result of an occurrence of a public health emergency.

**13.0316      Testing, examination and screening.**

The department may administer testing, examination, and screening procedures or programs to identify conditions of actual, possible and imminent public health emergencies.

**13.0317      Vaccinations.**

The director or department may require vaccination of any individual within their jurisdictions to prevent the introduction or spread of an infectious disease or other threat to public health during a declared public health emergency.

**13.0318      Collection of laboratory specimens—performance of tests.**

During a declared public health emergency, the department may collect, or cause to be collected, specimens or environmental samples and perform tests on living and deceased individuals, environmental samples, and any animal (living or deceased), and acquire any previously collected specimens, samples, or test results that are reasonable and necessary to respond to the public health emergency.

**13.0319 Additional emergency powers.**

During a declared public health emergency, the director and department are authorized:

(1) To close, direct, and compel the evacuation of, or decontaminate or cause to be decontaminated any facility of which it has reasonable cause to believe that it may have been exposed to, subjected to, or the cause of a public health emergency.

(2) To require any local hospital or any health care facility to provide services or the use of its facility if such services or use are reasonable and necessary to respond to an event or occurrence of a public health emergency.

(3) To decontaminate or cause to be decontaminated, or destroy, any material of which it has reasonable cause to believe that it may have been exposed to, subjected to, or the cause of a public health emergency.

(4) To inspect, control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, allocation, or other means, the use, sale, dispensing, distribution, or transportation of food, fuel, clothing and other commodities if, and only if, such items have been exposed to, subjected to, or the cause of a public health emergency, and the item poses a threat to public health.

(5) during an event or occurrence of a public health emergency, the department is authorized to control or limit ingress and egress to and from any stricken or threatened public area, the movement of individuals within the area, and the occupancy of premises therein, if such action is reasonable and necessary to respond to an event or occurrence of a public health emergency.

**13.0320 Procurement.**

(a) During a declared public health emergency, ASG procurement is authorized to make emergency procurement of any and all items, services and products of any nature as requested by the director, or his designee, to be used to respond to the public health emergency.

(b) All other expenditures or contracts entered into pursuant to the Act, if involving the expenditure or potential expenditure of funds, shall be in accordance with the applicable laws and regulations under ASG procurement.

**13.0321 Property--Civil proceedings.**

To the extent practicable and consistent with the appropriate response to an event or occurrence of a public health emergency, prior to the destruction of any property under this act, the department shall institute appropriate civil proceedings concerning the property to be destroyed in accordance with the Territory laws and rules of Court. Any property

acquired by the agency through such proceedings shall, after entry of the decree, be disposed of by destruction as the Court may direct.

**13.0322 Private liability.**

(a) During a declared public health emergency, any non-governmental person and employees and agents of such person under the direction of the director or his duly appointed agent, or who renders assistance or advice at the request of the director or his duly appointed agent shall not be civilly liable for causing the death of, or injury to, any individual or damage to any property except in the event of gross negligence or willful misconduct.

(b) The immunities provided in this section shall not apply to any person whose act or omission caused in whole or part the event or occurrence of a public health emergency and who would otherwise be liable for the public health emergency.

**13.0323 Criminal penalties.**

(a) Any person who willfully violates or obstructs the execution of any of this act's provisions, regulation, or rule, or fails to follow any Court order under this act, for which no other penalty is prescribed, shall be guilty of a class A misdemeanor.

(b) Any action under this section is barred unless the action is commenced within two years after the cause of action accrues.

(c) Each violation of this act is a separate and actionable offense.

**13.0324 Severability.**

The provisions of this act are severable. If any provision of this act or its application to any person or circumstances is held invalid in a federal or Territory court, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

**13.0325 Conflicting laws.**

(a) This act does not restrict any person from complying with federal law or regulations.

(b) In the event of a conflict between this act and other Territory laws or regulations, the provisions of this act and its regulations shall apply.

**13.0326 Adoption, amendment and revisions of regulations.**

(a) The director shall adopt regulations, policies or procedures addressing and governing the response, notification and explanation to the public, coordination, identification, enforcement and termination of a declaration of a public health emergency and all acts or actions needed to appropriately and adequately respond to an event or occurrence of a public health emergency.

(b) These regulations, policies and procedures shall take into account and provide for the following:

(1) Needs for the protection of the public's health during a public health emergency.

(2) Needs, if any, for protecting, treating or quarantining personnel or other persons exposed to biological pathogens or agents, including work associated with a response to an event or occurrence of a public health emergency.

(3) Needs for securing laboratories or other facilities to be used in a response to an event or occurrence of a public health emergency.

(4) Needs for tracking of inoculations or other treatments administered to individuals in the Territory during a public health emergency.

(5) Needs to provide training programs for the department, ASG agencies, public and private sector partners and volunteers for response to a public health emergency.

(c) The director may amend or revise such regulations from time to time. All regulations adopted and any and all amendments or revisions to the regulations shall be made in accordance with 4.1001 et seq., A.S.C.A.

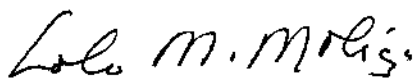
13.0327 Temporary regulations, rules and procedures during a declared public health emergency.

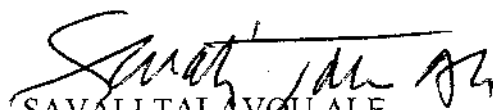
(a) During any declared public health emergency, the director may enact one or more temporary regulations, rules or procedures as needed in the discretion of the director.

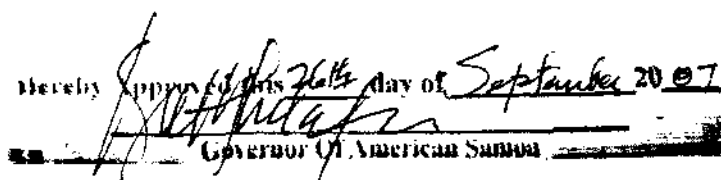
(b) Any such temporary regulations, rules or procedures shall automatically terminate thirty days after the termination of the declared public health emergency."

Sec 3. Repealer

"Chapters 02 and 03 under Title 13 ASCA are hereby repealed."

  
LOLO M. MOLIGA  
President of the Senate

  
SAVALI TALAVOU ALE  
Speaker, House of Representatives

Hereby approved this 26th day of September 2007  
  
Governor of American Samoa