

- county in the pilot project area. At the hearing, the department of health and human services shall accept written and oral testimony. The department of health and human services shall review the application and all testimony presented at the hearing and approve, disapprove, or modify and approve the application based on criteria established by the department of health and human services. The criteria must address the availability and use of health personnel, facilities, and services.
3. Notwithstanding any other provisions of law, upon approval of an application submitted under subsection 1, the department of health and human services, in consultation with the state health officer and any other public or private entity consulted by the department of health and human services, shall set the standards for the delivery of health care services by the pilot project. The standards may not adversely affect the state's participation in federal Medicare and Medicaid programs. No more than three separate projects may be operational at any time and no project may be operational for longer than five years.

23-01-05. Health officer - Qualifications, salary, term, duties.

1. The governor shall appoint the state health officer who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department.
2. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business.
3. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years.
4. If the office of the state health officer is filled temporarily, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor.
5. The duties of the state health officer are as follows:
 - a. Provide strategy and policy advice to improve health and wellness.
 - b. Serve in an advisory capacity for local public health and local health officers.
 - c. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions.
 - d. Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity and decontamination measure.
 - (1) The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 and the governor consents to the order. The statewide order is limited in duration to the duration of the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1.
 - (2) A written order issued under this section has the same effect as a physician's standing medical order.
 - (3) The state health officer shall apply to the district court in a judicial district in which a communicable disease is present for an injunction canceling a public event or closing a place of business. On application of the state health officer showing the necessity of the cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.

- (4) Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (a) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - (b) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
 - (c) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
- (5) A person claiming to be aggrieved by a violation of paragraph 1 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.
- e. Perform all duties required or provided by law.

23-01-05.1. Organ or tissue transplant assistance administration - Standing appropriation.

The department of health and human services shall select a private nonprofit patient-oriented organization incorporated in this state for the purpose of administering financial assistance to organ or tissue transplant patients who are residents of this state. The department of health and human services shall adopt rules governing administration of this section. The organization selected shall administer and provide grants from available funds to alleviate demonstrated financial needs of transplant patients for any costs associated with transplant operations, under guidelines based on current social service eligibility requirements. There is hereby created as a special fund in the state treasury an organ transplant support fund, the principal and income of which is hereby appropriated to the organization selected under this section. The organization administering the fund may solicit contributions from private or governmental sources and such contributions may be deposited in the fund.

23-01-05.2. Epinephrine prescription, distribution, possession, or use - Immunity from liability.

1. As used in this section:
 - a. "Epinephrine" means a single-use disposable device that automatically injects a premeasured dose of epinephrine.
 - b. "Health care professional" means a licensed or certified health care professional who is working within the scope of practice for that profession. The term may include a physician, physician assistant, advanced practice registered nurse, and pharmacist acting in the professional's scope of practice.
2. A health care professional acting in good faith may directly or by standing order prescribe, distribute, or dispense epinephrine, if the health care professional provides training to:
 - a. An individual at risk of experiencing a severe allergic reaction; or
 - b. A family member, friend, or other person in a position to assist an individual at risk of experiencing a severe allergic reaction.
3. A person acting in good faith may receive or possess epinephrine if that person is:
 - a. An individual at risk of experiencing a severe allergic reaction; or
 - b. A family member, friend, or other person in a position to assist an individual at risk of experiencing a severe allergic reaction.
4. An individual acting in good faith may self-administer epinephrine or administer epinephrine to another individual who the administering individual suspects is at risk of experiencing a severe allergic reaction.
5. A person may receive, possess, or administer epinephrine under subsection 3 or 4, regardless of whether the person is the individual for or the person to which the epinephrine is prescribed, distributed, or dispensed. A person in possession of