

PRESS RELEASE

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MN Health Powers Act Passes: Authorizes Health Officials to Detain Persons without a Court Order – any day, all year long

St. Paul, Minnesota – The powers granted to health officials by the Minnesota Emergency Health Powers Act are not limited to bioterrorism or to the declaration of a public health emergency, according to Citizens' Council on Health Care (CCHC), a Minnesota-based health policy group.

Governor Ventura signed the bill yesterday, enacting controversial legislation that almost didn't pass. Both chambers initially voted to refuse to accept the conference committee report. But after an amendment was added the bill passed the House 117-16 and the Senate 55 – 3.

Although several citizen organizations testified multiple times against the provision, the MN Department of Health received authority to quarantine individuals and groups suspected of having a communicable or potentially communicable disease without a court order – 365 days a year.

“No public health emergency must be declared. No bioterrorism attack need ever occur. No judge must be consulted. The commissioner of health, an unelected official, has sole discretion and power to take away an individual's liberty for at least 2 days. Proponents did their best to focus everyone's attention on bioterrorism. The fact that due process rights were being dismissed in non-emergency situations got very little discussion,” says Twila Brase, president of CCHC.

The new law requires the commissioner of health to apply for a court order within 24 hours after detention begins. If a court order is not received within 48 hours, the detainee or detainees must be released. This contradicts current Minnesota law which requires a judge be consulted and a court order obtained before a person with a *known* communicable disease can be detained.

Additional concerns cited by CCHC include:

- 1) Health officials and health care practitioners have no duty to disclose to citizens their right to refuse state-ordered medical testing and treatment.
- 2) Although a CCHC amendment to prohibit commandeering of essential medical supplies was adopted, state control of medical decisions is not prohibited when state officials assume control of health care facilities in a declared emergency.
- 3) The definition of public health emergency is broader than bioterrorism, allowing broader application of health powers, and commandeering of property.

“Police powers have now been authorized in emergency and non-emergency situations. The bill's saving grace is that all its provisions expire on August 1, 2004,” says Brase.

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CCHC is an independent non-profit free-market health care policy organization located in St. Paul, Minnesota