



Scope of Practice Toolkit

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ASTHO LEGAL PREPAREDNESS SERIES SCOPE OF PRACTICE TOOLKIT

Supplemental Materials

The Supplemental Materials compilation lists key documents and additional resources about the issues raised in the Scope of Practice Toolkit. The documents listed are for reference purposes only and are not a complete listing of resources available on the issue. Individual users are responsible for researching the current text of laws, statutes, regulations, and other materials. The document lists bibliographical information and, where available, online links to the resources. All links are current as of May 30, 2013. Please report broken links to ASTHO at communications@astho.org.

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General Resources and Compilations

Governmental

Centers for Disease Control and Prevention. Public Health Law Program. "Selected Federal Legal Authorities Pertinent to Public Health Emergencies." September 2009. Available at <http://www.cdc.gov/phlp/docs/ph-emergencies.pdf>.

HHS Office of the Assistant Secretary for Preparedness and Response. "Legal Authority and Related Guidance" webpage. Available at <http://www.phe.gov/Preparedness/planning/authority/Pages/default.aspx>.

HHS Office of the Assistant Secretary for Preparedness and Response. "Legal Authority of the Secretary" webpage. Available at

<http://www.phe.gov/preparedness/support/secauthority/Pages/default.aspx>.

Lister SA. Congressional Research Service. *The Public Health and Medical Response to Disasters: Federal Authority and Funding* (RL33579). August 1, 2008. Available at http://digital.library.unt.edu/ark:/67531/metacrs9495/m1/1/high_res_d/RL33579_2006Jul28.pdf.

Swendiman KS and Jones NL. Congressional Research Service. *The 2009 Influenza Pandemic: Selected Legal Issues* (R40560). June 15, 2009. Available at http://digital.library.unt.edu/ark:/67531/metadc26152/m1/1/high_res_d/R40560_2009Jun15.pdf.

Other Sources

American Health Lawyers Association. *Emergency Preparedness Toolkit*. May 4, 2010. Available at <http://www.healthlawyers.org/Members/PracticeGroups/THAMC/EmergencyPreparednessToolkit/Pages/default.aspx>.

At-Risk Individuals and Communities

Offices/Programs/Activities

HHS Office of the Assistant Secretary for Preparedness and Response. "At-Risk Individuals, Behavioral Health, and Human Services Coordination" webpage. Available at <http://www.phe.gov/Preparedness/planning/abc/Pages/default.aspx>.

Other Resources

Association of State and Territorial Health Officials. "At-Risk Populations Project" webpage. Available at <http://www.astho.org/Programs/Infectious-Disease/At-Risk-Populations/>.

Countermeasures Injury Compensation Program (CICP)

Offices/Programs/Activities

Health Resources and Services Administration. "Countermeasures Injury Compensation Program" webpage. Available at <http://www.hrsa.gov/cicp/>.

Rules and Regulations

CICP Administrative Rules

A correction to the Interim Final Rules was published on Thursday, October 21, 2010. Available at http://www.hrsa.gov/gethealthcare/conditions/countermeasurescomp/cicp_final_rule_correction.pdf.

The CICP Administrative Implementation Interim Final Rule was published in the Federal Register on Friday, October 15, 2010. Available at http://www.hrsa.gov/gethealthcare/conditions/countermeasurescomp/cicp_admin_final_rule.pdf.

Emergency Management Assistance Compact (EMAC)

Public Law, Statute, and Regulations

Emergency Management Assistance Compact. Pub. L. No. 104-321. Available at <http://www.gpo.gov/fdsys/pkg/PLAW-104publ321/pdf/PLAW-104publ321.pdf>.

Key Documents

Emergency Management Assistance Compact. Articles of Agreement. Available at <http://www.emacweb.org>.

Summaries of Law, Statute, and Regulations

Government Accountability Office. *Emergency Management Assistance Compact: Enhancing EMAC's Collaborative and Administrative Capacity Should Improve National Disaster Response* (GAO-07-854). June 2007. Available at <http://www.gao.gov/new.items/d07854.pdf>.

Lindsay B. Congressional Research Service. *The Emergency Management Assistance Compact (EMAC): An Overview* (RL34585). July 21, 2008. Available at <http://www.policyarchive.org/handle/10207/bitstreams/20206.pdf>.

Offices/Programs/Activities

Emergency Management Assistance Compact website. Available at <http://www.emacweb.org>.

Other Resources

CDC Public Health Law Program. "Mutual Aid" webpage. Available at http://www.cdc.gov/phlp/publications/topic/mutual_aid.html.

Emergency Management Assistance Compact. *Model Intrastate Mutual Aid Legislation* (March 2004). Available at <http://www.emacweb.org>.

Federal Emergency Management Agency. "Mutual Aid Agreements for Public Assistance and Fire Management Assistance" (Disaster Assistance Policy 9523.6). August 13, 2007. Available at <http://www.fema.gov/9500-series-policy-publications/95236-mutual-aid-agreements-public-assistance-fire-management>.

Hodge J et al. *Model Memorandum of Understanding Between Hospitals During Declared Emergencies*. June 15, 2009. Available at http://www.bt.cdc.gov/planning/emac/pdf/PACER_Model_MOU.pdf.

U.S. EPA. "Mutual Aid and Assistance" webpage. Available at <http://water.epa.gov/infrastructure/watersecurity/mutualaid/index.cfm>.

Emergency Use Authorization (EUA)

Public Law, Statute, and Regulations

Federal Food, Drug, and Cosmetic Act §564, as amended. Codified at 21 U.S.C. §564.

Pandemic and All-Hazards Preparedness Reauthorization Act of 2013. Pub. L. No. 113-5. (127 STAT. 161). Available at <http://www.gpo.gov/fdsys/pkg/BILLS-113hr307enr/pdf/BILLS-113hr307enr.pdf>

Guidance Documents

U.S. Food and Drug Administration. *Emergency Use Authorization of Medical Products Guidance*. July 2007. Available at <http://www.fda.gov/RegulatoryInformation/Guidances/ucm125127.htm>.

Offices/Programs/Activities

U.S. Food and Drug Administration. "Emergency Use Authorization" webpage. Available at <http://www.fda.gov/emergencypreparedness/counterterrorism/ucm182568.htm>.

U.S. Food and Drug Administration. "Emergency Use Authorizations Questions and Answers" webpage. Available at <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm153297.htm>.

U.S. Food and Drug Administration. "Pandemic and All Hazards Preparedness Reauthorization Act of 2013 (PAHPRA FDA Medical Countermeasure Authorities)" webpage. Available at <http://www.fda.gov/EmergencyPreparedness/Counterterrorism/MedicalCountermeasures/MCMLegalRegulatoryandPolicyFramework/ucm359581.htm>.

U.S. Food and Drug Administration and the U.S. Centers for Disease Control and Prevention. "Emergency Use Authorization" online course. Available at <http://www.bt.cdc.gov/training/eua/index.html>.

Sherman S. Department of Health and Human Services. "Public Health Emergency Authorities: Determinations and Declarations." Presentation at *Federal, State, and Local Public Health Preparedness* meeting. Baltimore, Maryland. December 14-15, 2010. Available at <http://www.fda.gov/EmergencyPreparedness/Counterterrorism/ucm247676.htm>.

Medical Countermeasures Dispensing: Emergency Use Authorization and the Postal Model. Workshop Summary. Institute of Medicine (US). Forum on Medical and Public Health Preparedness for Catastrophic Events. Washington (DC). National Academies Press (US). 2010. Available at <http://www.ncbi.nlm.nih.gov/books/NBK53126/pdf/TOC.pdf>.

Entity Liability

Other Resources

Nonprofit Risk Management Center. *State Liability Laws for Charitable Organizations and Volunteers*. Updated as of December 2009. Available at <http://www.probonopartner.org/FileLib/Documents/nonprofitriskmgmtstateliability.pdf>.

Uniform Emergency Volunteer Health Practitioners Act (UEVHPA). Uniform Law Commission. "Emergency Volunteer Health Practitioners" website. Available at <http://uniformlaws.org/Act.aspx?title=Emergency%20Volunteer%20Health%20Practitioners>.

Federal Tort Claims Act (FTCA)

Public Law, Statute, and Regulations

Federal Tort Claims Act, as amended. Codified at 28 U.S.C. §§1346(b), 2671-2680. Available at <http://origin.www.gpo.gov/fdsys/pkg/USCODE-2009-title28/pdf/USCODE-2009-title28-partIV-chap85-sec1346.pdf>.

HHS Office of the Assistant Secretary for Preparedness and Response (ASPR)

Offices/Programs/Activities

HHS Office of the Assistant Secretary for Preparedness and Response website. Available at <http://www.phe.gov/preparedness/support/secauthority/Pages/default.aspx>.

Mutual Aid Agreements

See also “[Emergency Management Assistance Compact](#)”

Other Resources

CDC Public Health Law Program. “Mutual Aid” webpage. Available at <http://www2.cdc.gov/phlp/mutualaid/>.

Emergency Management Assistance Compact. *Model Intrastate Mutual Aid Legislation*. March 2004. Available at <http://www.emacweb.org>.

Federal Emergency Management Agency. “Mutual Aid Agreements for Public Assistance and Fire Management Assistance” (Disaster Assistance Policy 9523.6). August 13, 2007. Available at gov9500-series-policy-publications/95236-mutual-aid-agreements-public-assistance-fire-mangement.

Hodge J et al. *Model Memorandum of Understanding Between Hospitals During Declared Emergencies*. June 15, 2009. Available at http://www.bt.cdc.gov/planning/emac/pdf/PACER_Model_MOU.pdf.

U.S. EPA. “Mutual Aid and Assistance” webpage. Available at <http://water.epa.gov/infrastructure/watersecurity/mutualaid/index.cfm>.

Pandemic and All-Hazards Preparedness Act (PAHPA)

Public Law, Statute, and Regulations

Pandemic and All-Hazards Preparedness Act of 2006. Pub. L. No. 109-417 (120 STAT. 2831). Available at <http://www.gpo.gov/fdsys/pkg/PLAW-109publ417/pdf/PLAW-109publ417.pdf>.

Pandemic and All Hazards Preparedness Reauthorization Act of 2013. Pub. L. No. 113-5. (127 STAT. 161). Available at <http://www.gpo.gov/fdsys/pkg/BILLS-113hr307enr/pdf/BILLS-113hr307enr.pdf>

Codified, in part, in the Public Health Service Act, 42 U.S.C. 201 et seq. Available at <http://www.gpo.gov/fdsys/pkg/USCODE-2009-title42/pdf/USCODE-2009-title42-chap6A.pdf>.

Summaries of Law, Statute, and Regulations

Department of Health and Human Services. “Pandemic and All Hazards Preparedness Act” webpage. Available at <http://www.phe.gov/Preparedness/legal/pahpa/Pages/default.aspx>.

Lister SA and Gottron F. Congressional Research Service. *The Pandemic and All-Hazards Preparedness Act (P.L. 109-417): Provisions and Changes to Preexisting Law* (RL33589). March 12, 2007. Available at <http://www.fas.org/programs/bio/resource/documents/CRS%20-%20PAHPA%203-07.pdf>.

Offices/Programs/Activities

HHS Assistant Secretary for Preparedness and Response website. Available at <http://www.phe.gov/preparedness/pages/default.aspx>.

HHS Status Reports on PAHPA Implementation

HHS Assistant Secretary for Preparedness and Response. *Pandemic and All-Hazards Preparedness Act Public Law 109-417 Progress Report*. November 2007. Available at <http://healthyamericans.org/reports/bioterror07/PAHPAProgressReport.pdf>.

HHS Assistant Secretary for Preparedness and Response. *Progress Report on the Implementation of Provisions Addressing At-Risk Individuals*. August 2008. Available at <http://www.phe.gov/Preparedness/legal/pahpa/Documents/pahpa-at-risk-report0901.pdf>.

HHS Assistant Secretary for Preparedness & Response. *Telehealth Report to Congress*. January 2009. Available at <http://www.phe.gov/Preparedness/legal/pahpa/Documents/telehealthrtc-091207.pdf>.

Pandemic Strategies and Plans

Key Documents

Homeland Security Council. *The National Strategy for Pandemic Influenza*. November 2005. Available at <http://www.flu.gov/professional/federal/pandemic-influenza.pdf>.

Homeland Security Council. *National Strategy for Pandemic Influenza: Implementation Plan*. May 2006. Available at <http://www.flu.gov/professional/federal/pandemic-influenza-implementation.pdf>.

HHS. *HHS Pandemic Influenza Plan*. November 2005. Available at <http://www.flu.gov/planning-preparedness/federal/hhspandemicinfluenzaplan.pdf>.

Department of Homeland Security. *Pandemic Influenza Preparedness, Response, and Recovery Guide for Critical Infrastructure and Key Resources*. September 2006. Available at <http://www.flu.gov/professional/pdf/cikrpandemicinfluenzaguide.pdf>.

CDC. *National Biosurveillance Strategy for Human Health (NBSHH)*. July 2012. Available at https://www.whitehouse.gov/sites/default/files/National_Strategy_for_Biosurveillance_July_2012.pdf.

Offices/Programs/Activities

Flu.gov. Available at <http://www.flu.gov>.

Public Health Service Act, Section 319—Authorities Related to Public Health Emergencies

Public Law, Statute, and Regulations

PHS Act Sec. 319. Codified at 42 U.S.C. § 247d. Available at <http://www.gpo.gov/fdsys/pkg/USCODE-2009-title42/html/USCODE-2009-title42-chap6A-subchapII.htm>.

Public Readiness and Emergency Preparedness Act (PREP Act)

See also “*Countermeasures Injury Compensation Program*”

Public Law, Statute, and Regulations

- Public Readiness and Emergency Preparedness Act of 2005. Pub. L. No. 109-417 (120 STAT. 2831). Available at <http://www.gpo.gov/fdsys/pkg/PLAW-109publ417/pdf/PLAW-109publ417.pdf>.

- Codified in the Public Health Service Act at 42 U.S.C. §§ 247d-6d, 247d-6e. Available at <http://www.gpo.gov/fdsys/pkg/USCODE-2009-title42/html/USCODE-2009-title42-chap6A-subchapII.htm>.

Offices/Programs/Activities

- Department of Health and Human Services. “Public Readiness and Emergency Preparedness Act” webpage. Available at <http://www.phe.gov/Preparedness/legal/prepact/Pages/default.aspx>.

- Department of Health and Human Services. “Public Readiness and Emergency Preparedness Act Questions and Answers” webpage. Available at <http://www.phe.gov/Preparedness/legal/prepact/Pages/prepqa.aspx>.

Public Readiness and Emergency Preparedness Act (PREP) Act Declarations

Current and Expired PREP Act Declarations

<http://www.phe.gov/Preparedness/legal/prepact/Pages/default.aspx>

Scope of Practice Resources

Other Resources

Courtney B et al. “Expanding Practitioner Scopes of Practice During Public Health Emergencies: Experiences from the 2009 H1N1 Pandemic Vaccination Efforts.” *Biosecurity and Bioterrorism*. Vol. 8, No. 3. 2010.

Federation of State Medical Boards. *Assessing Scope of Practice in Healthcare Delivery: Critical Questions in Assuring Public Access and Safety*. 2005. Available at http://www.fsmb.org/pdf/2005_grpol_scope_of_practice.pdf.

Health Resources and Services Administration. *Emergency System for Advance Registration of Volunteer Health Professionals (ESAR-VHP)—Legal and Regulatory Issues*. Draft Report. May 2006. Available at <http://www.publichealthlaw.net/Research/PDF/ESAR%20VHP%20Report.pdf>.

National Council on State Boards of Nursing. *Changes in Healthcare Professions’ Scope of Practice: Legislative Considerations*. January 2012. Available at http://www.ncsbn.org/Scope_of_Practice_2012.pdf. (requires membership)

Social Security Act, Section 1135

Public Law, Statute, and Regulations

- Social Security Act, Section 1135. Codified at 42 U.S.C. § 1320b-5. Available at http://www.ssa.gov/OP_Home/ssact/title11/1135.htm.

Summaries of Law, Statute, and Regulations

- Department of Health and Human Services. “Public Health Emergency Declaration Q&As” webpage. Available at <http://www.phe.gov/Preparedness/legal/Pages/phe-qa.aspx>.

Offices/Programs/Activities

- CMS. “Emergency” webpage. Available at <http://www.cms.gov/Emergency>.

- CMS. “Medicare Fee-For-Service Emergency and Disaster-Related Policies and Procedures That May Be Implemented Only With a § 1135 Waiver.” October 3, 2011. Available at <http://www.cms.gov/Emergency/downloads/MedicareFFS-EmergencyQsAs1135Waiver.pdf>.

- CMS. “Medicare Fee-For-Service Emergency-Related Policies and Procedures That May Be Implemented Without § 1135 Waivers.” October 30, 2011. Available at http://www.cms.gov/Emergency/Downloads/Consolidated_Medicare_FFS_Emergency_QsAs.pdf.

- CMS. “Requesting an 1135 Waiver.” November 4, 2009. Available at <http://www.cms.gov/H1N1/Downloads/RequestingAWaiver101.pdf>.

Uniform Emergency Volunteer Health Practitioners Act (UEVHPA)

Resources

Uniform Emergency Volunteer Health Practitioners Act (UEVHPA). Uniform Law Commission. "Emergency Volunteer Health Practitioners" website. Available at <http://uniformlaws.org/Act.aspx?title=Emergency%20Volunteer%20Health%20Practitioners>.

Vaccination Resources

Other Resources

U.S. Centers for Disease Control and Prevention. "Fact Sheet for Vaccine Information Statements" webpage. Updated December 7, 2010. Available at <http://www.cdc.gov/vaccines/pubs/vis/vis-facts.htm>.

U.S. Centers for Disease Control and Prevention. "Vaccines & Immunizations: Requirements & Laws" webpage. Updated July 21, 2011. Available at <http://www.cdc.gov/vaccines/vac-gen/laws/>.

U.S. Centers for Disease Control and Prevention. CDC Guidelines for Large-Scale Influenza Vaccination Clinic Planning. Webpage updated September 14, 2011. Available at http://www.cdc.gov/vaccines/vac-gen/laws/www.cdc.gov/flu/professionals/vaccination/vax_clinic.htm.

U.S. Department of Health and Human Services. "School Planning" webpage. Available at <http://www.flu.gov/professional/school/index.html>.

U.S. Centers for Disease Control and Prevention. 2009 H1N1 Influenza School-located Vaccination: Information for Planners. Undated. Available at <http://www.cdc.gov/h1n1flu/vaccination/slv/planners.htmwww.flu.gov/professional/school/vaccinschools.html>.

U.S. Department of Education. "Tips for Setting Up a Vaccination Clinic" Fact Sheet. October 8, 2009. Available at <http://www2.ed.gov/admins/lead/safety/emergencyplan/pandemic/guidance/h1n1-news.pdf>.

Vaccine Injury Compensation Program (VICP)

Offices/Programs/Activities

• Health Resources and Services Administration. "National Vaccine Injury Compensation Program (VICP)" webpage. Available at <http://www.hrsa.gov/vaccinecompensation/default.htm>.

Volunteer Protection Act (VPA)

Public Law, Statute, and Regulations

Volunteer Protection Act of 1997. Pub. L. No. 105-19. Codified at 42 USC §14501 et seq. Available at <http://www.gpo.gov/fdsys/pkg/PLAW-105publ19/pdf/PLAW-105publ19.pdf>.

Other Resources

Chu V. Congressional Research Service. *Emergency Response: Civil Liability of Volunteer Health Professionals* (R40176). January 19, 2011. Available at <http://www.fas.org/sgp/crs/misc/R40176.pdf>.

Federal Emergency Management Agency. *Citizen Corps Volunteer Liability Guide* (undated). Available at http://www.citizencorps.gov/councils/volunteer_mgmt.shtm.

Health Resources and Services Administration. *Emergency System for Advance Registration of Volunteer Health Professionals (ESAR-VHP)—Legal and Regulatory Issues*. Draft Report—May 2006. Available at <http://www.publichealthlaw.net/Research/PDF/ESAR%20VHP%20Report.pdf>.

Hodges JG and Arias JJ. "Liability Risks and Protections for Volunteer Health Practitioners in Emergencies." Presentation to the Public Health Law Network-Western Region. November 2010. Available at https://www.networkforphl.org/_asset/5ywwc8/Western-Region---VHP-Liability-Webinar-12-2.pdf.

Hoffman S. "Responders' Responsibility: Liability and Immunity in Public Health Emergencies." 96 Geo. L.J. 1913, 1944. 2008.

Nonprofit Risk Management Center. *State Liability Laws for Charitable Organizations and Volunteers*. Updated as of December 2009. Available at <http://www.probonopartner.org/FileLib/Documents/nonprofitriskmgmtstateliability.pdf>.

Uniform Emergency Volunteer Health Practitioners Act (UEVHPA). Uniform Law Commission. "Emergency Volunteer Health Practitioners" website. Available at <http://uniformlaws.org/Act.aspx?title=Emergency%20Volunteer%20Health%20Practitioners>.

Workers' Compensation and Disability

Summaries of Law, Statute, and Regulations

U.S. Department of Labor. "Summary of the Major Laws of the Department of Labor" webpage. Available at <http://www.dol.gov/opa/aboutdol/lawsprog.htm>.

Other Resources

International Association of Industrial Accident Boards and Commissions webpage. Available at <http://www.iaiaabc.org>.

Mashaw J and Reno V, eds. National Academy of Social Insurance. *The Environment of Disability Income Policy: Programs, People, History, and Context: Interim Report of the Disability Policy Panel*. August 1996. Available at <http://www.nasi.org/research/1996/environment-disability-income-policy-programs-people-history>.

Sengupta I et al. National Academy of Social Insurance. *Workers' Compensation: Benefits, Coverage, and Costs, 2008*. September 2010. Available at <http://www.nasi.org/research/workers-compensation>.

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