

December 21, 2001

Dear Colleague:

On behalf of the Center for Law and the Public's Health, I am pleased to provide you with a second draft of the Model State Emergency Health Powers Act as of December 21, 2001.

Like its predecessor [as of October 23, 2001], this version of the draft Model Act is intended to promote communication among the various interested parties and stakeholders about the complex issues that states are facing pertaining to the use of their emergency health powers.

States need appropriate public health powers to rapidly detect and effectively respond to bioterrorism and other emergency health threats. The draft seeks to do so by clarifying public health authorities' powers to identify and monitor health threats, manage property, and protect persons where necessary to protect the public's health and security. At the same time, the draft model law recognizes the importance of respect and toleration of persons and groups in a constitutional democracy.

The Centers for Disease Control and Prevention requested the development of this draft model law to assist state governments in the collaboration with members of a number of national partner organizations, including the National Governors Association, National Conference of State Legislatures, Association of State and Territorial Health Officials, National Association of County and City Health Officials, and National Association of Attorneys General.

This draft model law will help focus the process for the development of an emergency health powers law that could be enacted by the states. Some of the suggested provisions may duplicate existing state laws. Other sections may provide original language that improves on current public health law theory and practice.


With the assistance of members of a drafting committee at the Center for Law and the Public's Health, many changes have been made to the draft Model Act from its prior version. These changes are based on your helpful comments and those from numerous other organizations and individuals in the public and private sectors. The drafting committee members considered all these suggestions for revision among many alternative ideas, and attempted to maximize varying interests without substantially altering the structure of the Act or its fundamental purposes.

A listing of each of the changes to the Model Act would be exhaustive; however, major changes include:

- Refinement of the definition of “public health emergency” to clarify its scope concerning emergencies caused by bioterrorism or biological agents. An optional “all hazards” definition is provided for states also considering this approach for chemical, nuclear, or natural disasters.
- To emphasize the importance of planning, reorganization to move Article II, Planning for a Public Health Emergency, to the forefront of the Act;
- Clarification of the power of state Governors, public health authorities, and legislatures to declare, respond to, or terminate a state of public health emergency;
- Authorization of public health authorities to create entry limitations during a time of public health emergency.
- Modification of vaccination, testing, and treatment sections in Article VI to eliminate criminal penalties underlying a compelled approach to their implementation;
- Separation of the definitions of isolation and quarantine and the inclusion of new standards for their practice, including enhanced due process protections;
- More explicit protections pertaining to respect for civil liberties throughout the draft Model Act; and
- Designation of additional legislative references.

We look forward to working with CDC and states in continuing to review and refine this document to ensure that it reflects the best scientific and legal thinking to plan for an emergency health threat.

Yours Sincerely,



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