State Analysis Guide

**Emergency Declarations and Authorities**

This *State Analysis Guide* is intended to assist state health agency staff and legal counsel with locating and analyzing their state’s laws, rules, policies, and implementation plans governing the state’s ability to declare emergencies and the authorities triggered by the emergency declaration(s). Space is provided on the document to insert references or summaries of appropriate state or local authorities. Because each state’s law is unique, this guide may not identify all issues that arise in the course of analyzing a state’s law. **In all instances the language and requirements of specific state/local laws, regulations, ordinances, rules, policies, guidances, case law, and other sources of legal authority overrule this general analysis guide. This resource is for informational purposes only and is not intended as a substitute for professional legal or other advice.**

| **Issues for Analysis** | | **State/Local Information** |
| --- | --- | --- |
| **Existing Authorities Without an Emergency Declaration** | | |
| Identify the existing authorities of the state health officer/agency director or the state health agency to do the following and identify the official(s) who can exercise these authorities: | |  |
|  | Contain public health nuisances |  |
|  | Control contagious diseases |  |
|  | Conduct surveillance and data collection |  |
|  | Investigate for issues of public health concern |  |
|  | Inspect for issues of public health concern |  |
|  | Issue civil orders |  |
|  | Issue criminal orders/warrants |  |
|  | Institute quarantine measures |  |
|  | Other relevant authorities |  |
| Identify other state authorities that may be used to respond to a public health event without a declared emergency and the official/agency authorized to exercise these authorities. | |  |
| Identify any existing plans or procedures in place with other agencies or officials that address response activities for public health events when there is no emergency declaration in place. | |  |
| Analyze how the response to a public health event would proceed if there is no emergency declaration in place: | |  |
|  | List the state’s response authorities and programs that are available without a declared emergency. |  |
|  | List the state’s response authorities and programs that are NOT available without a declared emergency. |  |
| Develop a list that identifies available response authorities and programs that can be used to address a public health event in the absence of an emergency declaration. | |  |
|  | Establish a schedule to review and update the list of response authorities and programs, as needed. |  |
| Identify the procedures for the state to request federal assistance with: | |  |
|  | Disaster Medical Assistance Team (DMAT) or Disaster Mortuary Operational Response Team (DMORT) |  |
|  | Social Security Act §1135 waivers |  |
|  | Strategic National Stockpile |  |
|  | Other |  |
| **Emergency Declarations** | | |
| Identify the state's statute(s) to declare emergencies. Determine if the state defines more than one type of emergency event and the thresholds for triggering each: | |  |
|  | Emergency |  |
|  | Disaster |  |
|  | Public health emergency |  |
|  | Public health disaster |  |
|  | Other |  |
| For each of the above emergency types, identify the officers eligible to make a declaration, the process for making the declaration, and any required information that must be included in the text of the declaration: | |  |
|  | Emergency |  |
|  | Disaster |  |
|  | Public health emergency |  |
|  | Public health disaster |  |
|  | Other |  |
| Determine if there are notice or approval requirements for any of the emergency declaration types. Identify to whom notice is required (e.g., state legislature) and the timing of notice (e.g., prior, simultaneous, subsequent): | |  |
|  | Emergency |  |
|  | Disaster |  |
|  | Public health emergency |  |
|  | Public health disaster |  |
|  | Other |  |
| Identify the terms of renewal and termination for the various emergency declaration types, including processes, notices, and approvals: | |  |
|  | Emergency |  |
|  | Disaster |  |
|  | Public health emergency |  |
|  | Public health disaster |  |
|  | Other |  |
| **Emergency Authorities with an Emergency Declaration** | | |
| Identify the authorities granted to the state health official/agency director or the state health agency if an emergency is declared: | |  |
|  | Identify any new authorities granted. |  |
|  | Identify any existing authorities that are modified and how they differ from non-emergency authorities. |  |
|  | Understand how the emergency authorities are operationalized in the state's emergency response plan(s). |  |
| Identify other state authorities that become available if an emergency is declared and the officials or agencies authorized to exercise these authorities. | |  |
| Identify state systems that are triggered as a result of the emergency declaration: | |  |
|  | Emergency operations center |  |
|  | Incident command system |  |
|  | Communications command center |  |
|  | Other |  |
| Identify legal requirements that will or should be suspended or modified during a declared emergency: | |  |
|  | Statutory requirements |  |
|  | Regulatory requirements |  |
|  | State administrative procedures |  |
|  | Other requirements |  |
| Identify how federal emergency declarations and waivers will affect authorities, programs, and stakeholders in your state: | |  |
|  | National Emergencies Act declarations |  |
|  | Public Health Service Act §318 public health emergency determinations |  |
|  | Public Readiness and Emergency Preparedness (PREP) Act declarations |  |
|  | Stafford Act declarations |  |
|  | Social Security Act §1135 waivers |  |
|  | Other |  |
| Identify and list the state’s obligations under mutual aid agreements the state may participate in: | |  |
|  | Emergency Management Assistance Compact (EMAC) |  |
|  | Other interstate agreements |  |
|  | Intrastate agreements |  |
|  | International agreements |  |
|  | Other |  |
| Identify any communication and outreach plans/materials to inform stakeholders about anticipated effects of operating under an emergency declaration. | |  |

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