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- (a) **Marking.** All specimens shall be clearly marked.
- (b) **Contamination.** Specimen collection, handling, storage, and transport to the testing site shall be performed in a manner that will reasonably preclude specimen contamination or adulteration and provide for the safe collection, storage, handling, and transport of such specimen.
- (c) **Chain of custody.** Any person authorized to collect specimens or perform tests shall use chain of custody procedures to ensure proper record keeping, handling, labeling, and identification of specimens to be tested. This requirement applies to all specimens, including specimens collected using on-site testing kits.
- (d) **Criminal investigation.** Recognizing that, during a state of public health emergency, any specimen collected or test performed may be evidence in a criminal investigation, any business, facility, or agency authorized to collect specimens or perform tests shall provide such support as is reasonable and necessary to aid in a relevant criminal investigation.

Legislative History. Section 606 was adapted from CAL. BUS. & PROF. CODE § 681 (LEXIS through Aug. 12, 2001); MISS. CODE ANN. § 71-7-9 (2000); GA. CODE ANN. § 34-9-415 (1998 & Supp. 2001); and CAL. PENAL CODE § 13823.11 (LEXIS through Aug. 12, 2001).

Section 607 **Access to and disclosure of protected health information.**

- (a) **Access.** Access to protected health information of persons who have participated in medical testing, treatment, vaccination, isolation, or quarantine programs or efforts by the public health authority during a public health emergency shall be limited to those persons having a legitimate need to acquire or use the information to:
 - (1) provide treatment to the individual who is the subject of the health information,
 - (2) conduct epidemiologic research, or
 - (3) investigate the causes of transmission.
- (b) **Disclosure.** Protected health information held by the public health authority shall not be disclosed to others without individual written, specific informed consent, except for disclosures made:
 - (1) directly to the individual;
 - (2) to the individual's immediate family members or personal representative;
 - (3) to appropriate federal agencies or authorities pursuant to federal law;
 - (4) pursuant to a court order to avert a clear danger to an individual or the public health; or
 - (5) to identify a deceased individual or determine the manner or cause of death.

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Legislative History. Section 607 was adapted from LAWRENCE O. GOSTIN AND JAMES G. HODGE, JR., THE MODEL STATE PUBLIC HEALTH PRIVACY ACT OF 1999.

Section 608 **Licensing and appointment of health personnel.** The public health authority may exercise, for such period as the state of public health emergency exists, the following emergency powers regarding licensing and appointment of health personnel—

- (a) **Health care providers.** To require in-state health care providers to assist in the performance of vaccination, treatment, examination, or testing of any individual as a condition of licensure, authorization, or the ability to continue to function as a health care provider in this State.
- (b) **Health care providers from other jurisdictions.** To appoint and prescribe the duties of such out-of-state emergency health care providers as may be reasonable and necessary to respond to the public health emergency.
 - (1) The appointment of out-of-state emergency health care providers may be for a limited or unlimited time, but shall not exceed the termination of the declaration of a state of public health emergency. The public health authority may terminate the out-of-state appointments at any time or for any reason provided that any such termination will not jeopardize the health, safety, and welfare of the people of this State.
 - (2) The public health authority may waive any or all licensing requirements, permits, or fees required by the State code and applicable orders, rules, or regulations for health care providers from other jurisdictions to practice in this State.
 - (3) Any out-of-state emergency health care provider appointed pursuant to this Section shall not be held liable for any civil damages as a result of medical care or treatment related to the response to the public health emergency unless such damages result from providing, or failing to provide, medical care or treatment under circumstances demonstrating a reckless disregard for the consequences so as to affect the life or health of the patient.
- (c) **Personnel to perform duties of medical examiner or coroner.** To authorize the medical examiner or coroner to appoint and prescribe the duties of such emergency assistant medical examiners or coroners as may be required for the proper performance of the duties of the office.
 - (1) The appointment of emergency assistant medical examiners or coroners may be for a limited or unlimited time, but shall not exceed the termination of the declaration of a state of public health emergency. The medical examiner or coroner may terminate such emergency appointments at any time or for any reason, provided that any such termination will not impede the performance of the duties of the office.

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- (2) The medical examiner or coroner may waive licensing requirements, permits, or fees required by the State code and applicable orders, rules, or regulations for the performance of these duties.
- (3) Any emergency assistant medical examiner or coroner appointed pursuant to this Section and acting without malice and within the scope of the prescribed duties shall be immune from civil liability in the performance of such duties.

Legislative History. Section 608(b) was adapted from FLA. STAT. ANN. § 768.13(2)(b)(1) (West 1997 & Supp. 2001). Subsection (c) was adapted from D.C. CODE ANN. § 2-1605 (2001); KAN. STAT. ANN. § 22a-226(e) (1995); GA. CODE ANN. § 45-16-23 (1990); COLO. REV. STAT. ANN. § 30-10-601 (West 1990).

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**ARTICLE VII PUBLIC INFORMATION REGARDING PUBLIC HEALTH
EMERGENCY**

Section 701 **Dissemination of information.** The public health authority shall inform the people of the State when a state of public health emergency has been declared or terminated, how to protect themselves during a state of public health emergency, and what actions are being taken to control the emergency.

- (a) **Means of dissemination.** The public health authority shall provide information by all available and reasonable means calculated to bring the information promptly to the attention of the general public.
- (b) **Languages.** If the public health authority has reason to believe there are large numbers of people of the State who lack sufficient skills in English to understand the information, the public health authority shall make reasonable efforts to provide the information in the primary languages of those people as well as in English.
- (c) **Accessibility.** The provision of information shall be made in a manner accessible to individuals with disabilities.

Legislative History. In Section 701, the main text following the title “Dissemination of information” is adapted from 6 COLO. CODE REGS. § 1009-5, reg. 1 (WESTLAW through Aug. 2001). Subsection (a) is adapted from 2001 ILL. LAWS 73(3); ALASKA STAT. §§ 26.23.020, 26.23.200 (Michie 2000). Subsection (b) is adapted from CAL. ELEC. CODE § 14201(c) (West 1996).

Section 702 **Access to mental health support personnel.** During and after the declaration of a state of public health emergency, the public health authority shall provide information about and referrals to mental health support personnel to address psychological responses to the public health emergency.

Legislative History. Section 702 is adapted from the *Bioterrorism Readiness Plan: A Template for Healthcare Facilities* (Prepared by APIC Bioterrorism Task Force & CDC Hospital Infections Program Bioterrorism Working Group).

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ARTICLE VIII MISCELLANEOUS

Section 801 **Titles.** For the purposes of this Act, titles and subtitles of Articles, Sections, and Subsections are instructive, but not binding.

Section 802 **Rules and regulations.** The public health authority and other affected agencies are authorized to promulgate and implement such rules and regulations as are reasonable and necessary to implement and effectuate the provisions of this Act. The public health authority and other affected agencies shall have the power to enforce the provisions of this Act through the imposition of fines and penalties, the issuance of orders, and such other remedies as are provided by law, but nothing in this Section shall be construed to limit specific enforcement powers enumerated in this Act.

Section 803 **Financing and expenses.**

- (a) **Transfer of funds.** The Governor may transfer from any fund available to the Governor in the State treasury such sums as may be necessary during a state of public health emergency.
- (b) **Repayment.** Monies so transferred shall be repaid to the fund from which they were transferred when monies become available for that purpose, by legislative appropriation or otherwise.
- (c) **Conditions.** A transfer of funds by the Governor under the provisions of this Section may be made only when one or more of the following conditions exist:
 - (1) No appropriation or other authorization is available to meet the public health emergency.
 - (2) An appropriation is insufficient to meet the public health emergency.
 - (3) Federal monies available for such a public health emergency require the use of State or other public monies.
- (d) **Expenses.** All expenses incurred by the State during a state of public health emergency shall be subject to the following limitations:
 - (1) No expense shall be incurred against the monies authorized under this Section, without the general approval of the Governor.
 - (2) The aggregate amount of all expenses incurred pursuant to this Section shall not exceed [*state amount*] for any fiscal year.
 - (3) Monies authorized for a state of public health emergency in prior fiscal years may be used in subsequent fiscal years only for the public health emergency for which they were authorized. Monies authorized for a public health emergency in prior fiscal years, and expended in subsequent fiscal years for the public health

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emergency for which they were authorized, apply toward the [state amount] expense limit for the fiscal year in which they were authorized.

Legislative History. In Section 803, Subsections (a) and (b) are adapted from GA. CODE ANN. § 38-3-51 (1995). Subsections (c) and (d) are adapted from ARIZ. REV. STAT. ANN. § 35-192 (West 2000).

Section 804 **Liability.**

- (a) **State immunity.** Neither the State, its political subdivisions, nor, except in cases of gross negligence or willful misconduct, the Governor, the public health authority, or any other State or local official referenced in this Act, is liable for the death of or any injury to persons, or damage to property, as a result of complying with or attempting to comply with this Act or any rule or regulations promulgated pursuant to this Act during a state of public health emergency.
- (b) **Private liability.**
 - (1) During a state of public health emergency, any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons, together with that person's successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission, or for negligently causing loss of, or damage to, the property of such person.
 - (2) During a state of public health emergency, any private person, firm or corporation and employees and agents of such person, firm or corporation in the performance of a contract with, and under the direction of, the State or its political subdivisions under the provisions of this Act shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of gross negligence or willful misconduct.
 - (3) During a state of public health emergency, any private person, firm or corporation and employees and agents of such person, firm or corporation, who renders assistance or advice at the request of the State or its political subdivisions under the provisions of this Act shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of gross negligence or willful misconduct.
 - (4) The immunities provided in this Subsection shall not apply to any private person, firm, or corporation or employees and agents of such person, firm, or corporation

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whose act or omission caused in whole or in part the public health emergency and who would otherwise be liable therefor.

Legislative History. Section 804 is adapted from 2001 ILL. LAWS 73(15), (21).

Section 805 **Compensation.**

- (a) **Taking.** Compensation for property shall be made only if private property is lawfully taken or appropriated by a public health authority for its temporary or permanent use during a state of public health emergency declared by the Governor pursuant to this Act.
- (b) **Actions.** Any action against the State with regard to the payment of compensation shall be brought in the courts of this State in accordance with existing court laws and rules, or any such rules that may be developed by the courts for use during a state of public health emergency.
- (c) **Amount.** The amount of compensation shall be calculated in the same manner as compensation due for taking of property pursuant to non-emergency eminent domain procedures, as provided in [*State to insert appropriate statutory citation*], except that the amount of compensation calculated for items obtained under Section 505 shall be limited to the costs incurred to produce the item.

Legislative History. Section 805 is adapted from COLO. REV. STAT. § 24-32-2111.5 (LEXIS through 2001 Sess.).

Section 806 **Severability.** The provisions of this Act are severable. If any provision of this Act or its application to any person or circumstances is held invalid in a federal or state court having jurisdiction, the invalidity will not affect other provisions or applications of this Act that can be given effect without the invalid provision or application.

Legislative History. Section 806 is adapted from the LAWRENCE O. GOSTIN AND JAMES G. HODGE, JR., THE MODEL STATE PUBLIC HEALTH PRIVACY ACT OF 1999.

Section 807 **Repeals.** The following acts, laws, or parts thereof, are explicitly repealed with the passage of this Act:

- (a) [*To be inserted in each state considering passage of the Act*]
- (b) [*To be inserted in each state considering passage of the Act*]
- (c) [*To be inserted in each state considering passage of the Act*] . . .

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Legislative History. Section 807 is adapted from the LAWRENCE O. GOSTIN AND JAMES G. HODGE, JR., THE MODEL STATE PUBLIC HEALTH PRIVACY ACT OF 1999.

Section 808 **Saving clause.** This Act does not explicitly preempt other laws or regulations that preserve to a greater degree the powers of the Governor or public health authority, provided such laws or regulations are consistent, and do not otherwise restrict or interfere, with the operation or enforcement of the provisions of this Act.

Legislative History. Section 808 is adapted from the LAWRENCE O. GOSTIN AND JAMES G. HODGE, JR., THE MODEL STATE PUBLIC HEALTH PRIVACY ACT OF 1999.

Section 809 **Conflicting laws.**

- (a) **Federal supremacy.** This Act does not restrict any person from complying with federal law or regulations.
- (b) **Prior conflicting acts.** In the event of a conflict between this Act and other State or local laws or regulations concerning public health powers, the provisions of this Act apply.

Legislative History. Section 809 is adapted from the LAWRENCE O. GOSTIN AND JAMES G. HODGE, JR., THE MODEL STATE PUBLIC HEALTH PRIVACY ACT OF 1999.

Section 810 **Effective date.** The provisions of this Act shall take effect upon signature of the Governor. [*State to insert language appropriate to its legislative process.*]

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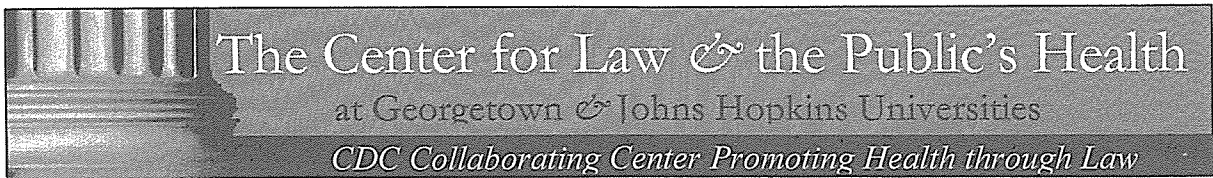
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Public Health Emergency Legal Preparedness Checklist
Local Government Public Health Emergency
Legal Preparedness and Response

December 2004

- A. Introduction.** This is one of three checklists prepared by the *Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities (Center)* for voluntary use by county, city, state, and federal public health agencies in assessing their legal preparedness for public health emergencies. In this context, public health emergencies include bioterrorist and other intentional attacks, emerging infectious disease epidemics, natural disasters, and other events with potentially catastrophic impacts on human health.
- B. Background.** State, county, and city public health departments are the front line of the Nation's defense against a wide spectrum of public health emergencies. Following the terrorist attacks of September 11, 2001, and the immediately ensuing anthrax attacks, these agencies have acted decisively to strengthen their public health emergency response capacity. In partnership with the Centers for Disease Control and Prevention (CDC), other federal agencies, and national public health organizations, they have bolstered their disease surveillance and investigation abilities, built new telecommunications and laboratory testing capacity, trained staff in advanced emergency response skills, developed joint operating protocols with emergency management agencies, and taken action on additional, related fronts.

Legal preparedness is an integral part of comprehensive preparedness for public health emergencies. To assess their existing legal preparedness, state health departments have made extensive use of the draft Model State Emergency Health Powers Act, researched and published in December 2001 by the *Center* at the request of CDC.

Ongoing contact with state and local public health agencies indicated they could find additional tools helpful in assessing their public health emergency laws. Following consultation with the Association of State and Territorial Health Officials (ASTHO) and the National Association of County and City Health Officials (NACCHO) in 2003, CDC requested the *Center* to prepare checklists that public health agencies could use, at their own initiative, to assess three especially important components of their legal preparedness as follows:

1. Interjurisdictional legal coordination for public health emergency preparedness;
2. Local public health emergency legal preparedness and response; and
3. Civil legal liability related to public health emergencies.

All three checklists are accessible through the *Center's* website at www.publichealthlaw.net/Resources/BTLaw.htm. The checklists are in the public domain and may be duplicated and disseminated freely.

- C. Methods.** *Center* faculty researched and developed the checklists through a deliberative process that included legal research and analysis of agencies' functional roles in public health emergencies, review of public health emergency preparedness plans, and communication with public health practitioners and legal counsel. The principal authors are Jason W. Sapsin, JD, MPH, *Center* Scholar (jsapsin@jhsph.edu) (interjurisdictional checklist); James G. Hodge, Jr., JD, LL.M., *Center* Executive Director (jhodge@jhsph.edu) (local checklist); and Lance A. Gable, JD, MPH, *Center* Senior Fellow (gablel@law.georgetown.edu) (liability checklist.)

The checklists are offered as tools to facilitate review of public health agencies' practical public health legal preparedness. While intended to cover many aspects of the three selected focal areas, users may tailor the checklists to their own priorities and objectives.

- D. Organization.** The checklists present questions and comments that relate to specific legal aspects of emergency preparedness and response operations. Each checklist document contains two principal sections: (1) A "Quick Reference," that lists the checklist's questions; and (2) the detailed checklist with an introduction to the issues it addresses and explanatory comments or suggestions provided for each question.

These sections are organized according to the four phases of incident management found in the National Response Plan: Prevention, Preparedness, Response, and Recovery. This common framework has been widely adopted by the emergency response and public health communities. Within each phase, questions are further organized into subcategories (e.g., Property, People, Data Sharing, Responders, and Private-Sector Entities) that differ in each checklist according to the subject matter. The local public health emergency preparedness checklist includes cross-references to provisions of the draft Model State Emergency Health Powers Act. Each checklist also includes endnotes with references to publications, laws, judicial rulings, and other sources.

- E. Suggestions for Use.** The checklists are designed for self-initiated use by public health officials, their legal counsel, and their public- and private-sector partners. The *Center* suggests that users view the checklists as guides to reviewing the key legal issues within each topical area. Review is likely to lead to additional questions within specific agencies and jurisdictions. The value of the checklists may be enhanced through a collaborative review process that involves a team or committee whose members represent the multiple operational and legal perspectives critical to effective emergency preparedness and response. This approach could have the additional benefit of stimulating enduring partnerships and mutual understanding of the legal framework for emergency response.
- F. Disclaimer.** The *Center* offers the checklists merely as aids to review and analysis of legal issues related to public health emergency preparedness and response. The checklists are not, and should not be used as, legal advice. Public health agencies should consult their legal counsel for legal advice.

The CDC Public Health Law Program provided financial support for the *Center's* research and development of the checklists under CDC cooperative agreement U50/CCU323385. ASTHO and NACCHO staff reviewed and commented on drafts of the checklists. The checklists, however, do not necessarily represent the official views of CDC, ASTHO, or NACCHO or members of these entities.

G. For More Information. More information about the three checklists and other resources related to public health's legal preparedness for public health emergencies are available from the *Center* (www.publichealthlaw.net), ASTHO (www.astho.org), NACCHO (www.naccho.org) and the CDC Public Health Law Program (www.phppo.cdc.gov/od/phlp). All four organizations welcome requests for information and feedback on the checklists and their application. For additional information about the checklists, please contact the specific authors noted in C., above, or James G. Hodge, Jr., J.D., LL.M., Executive Director, *Center for Law and the Public's Health* at jhodge@jhsph.edu; or Anthony Moulton, Ph.D., Co-Director, CDC Public Health Law Program at adm6@cdc.gov.

Quick Reference:

Local government public health emergency legal preparedness and response

Subject Category	Checklist Question	√
I. Prevention		
A. Facilities	1. Are local health officials responsible for designating storage and housing sites in their jurisdictions during a public health emergency?	
B. Responders	2. Who are the legally responsible persons for coordinating public health emergency responses at the local level of government?	
	3. Who is the local government legal representative responsible for coordinating efforts with federal or state authorities to prevent or respond to a public health emergency?	
C. Processes	4. What are the legal responsibilities and powers of local public health emergency planning committees?	
	5. What processes is the local government required to fulfill in creating or administering a local public health emergency plan?	
	6. What are the additional legal requirements concerning local government participation in regional, state-wide, or federal emergency preparedness plans?	
II. Preparedness		
A. Physical Resources	7. What resources are available from federal and state governments to assist with emergency prevention and preparedness?	
	8. From what sources are local officials legally authorized to obtain and/or seek funding?	
B. Data Management	9. What are the surveillance requirements for local public health systems related to identifying potential agents or outbreaks that may lead to a public health emergency?	
	10. Are state and local public health officials required or permitted to share information?	
	11. What are the legal requirements for non-governmental entities (e.g., health care providers) to participate in reporting and surveillance efforts on a local level?	
C. Responders	12. Who must be legally notified at the local, state, or federal levels if an infectious disease outbreak or other indices of a public health emergency is suspected or confirmed?	
	13. Do local authorities have adequate legal authority to develop and implement public health emergency training exercises?	

Subject Category	Checklist Question	√
	14. Can local public health authorities investigate potential indices of a public health emergency independently from state or federal public health authorities?	
	15. What legal responsibilities do local authorities have to communicate with and notify the public independent of state authorities?	
D. Cross-cutting	16. What evidence (or criteria) is legally sufficient for local agencies to initiate a response to a potential outbreak?	
III. Response		
A. Facilities	17. Can local officials compel evacuation of a given area?	
	18. Can local authorities abate nuisances (whether they are defined in state statute, state regulation, or local ordinance) contributing to a public health emergency?	
	19. Can local officials condemn, remove, or destroy real or personal private property?	
B. Physical Resources	20. Can local officials use materials, facilities, and other private property in responding to a public health emergency?	
	21. Can local officials ration and prioritize the distribution of health care supplies?	
C. Responders	22. What role, if any, do local health officials play in the declaration of a public health emergency on a local or state-wide basis?	
	23. Can local officials institute quarantine and isolation?	
	24. Can local officials impose curfews or travel restrictions on the public in the event of an emergency?	
	25. Can local officials compel vaccination and/or treatment of individuals?	
D. Private Sector Entities	26. Can local officials direct health care providers and assign them additional responsibilities (such as the performance of medical exams or tests) during emergencies?	
E. Data Management	27. What are the legal requirements for local health officials regarding access to and disclosure of identifiable health information that may differ from non-emergency provisions?	
F. Processes	28. What are the legal procedures (administrative, judicial) required of local officials to institute quarantine and isolation?	
	29. Can local public safety officials enforce a quarantine or isolation order without judicial authorization (such as a warrant) if an individual subject to the order refuses to comply?	
G. Cross-cutting	30. What are the legal requirements of local officials to protect individual civil rights or respect religious beliefs in public health emergencies that may differ from non-emergency protections?	
	31. What are local officials' legal duties in the event that martial law is declared by the Governor?	
	32. What powers and duties are specifically granted to other governmental officials to respond to public health emergencies?	
	33. When can local public health officials request or require assistance from local law enforcement or emergency management agencies?	
IV. Recovery		
	34. What legal responsibilities do local officials have regarding the disposal of infectious waste and human remains post-emergency?	
	35. What role do local health officials play in monitoring the transportation and disposal of hazardous materials post-emergency?	
	36. What legal responsibilities do local officials have to maintain or reinstate the local judicial system in the event of an emergency?	
	37. Is local government responsible for coordinating and providing mental health services following a public health emergency?	

Checklist: Local Government Public Health Emergency Legal Preparedness and Response

Overview. Since September 11, 2001, substantial scholarly and applied work by the *Center*, CDC PHLP, ASTHO, NACCHO, and others has focused on public health emergency preparedness at the state level of government. The *Center's* draft MODEL STATE EMERGENCY HEALTH POWERS ACT was prepared for review and consideration by legislatures and executive agencies at the state level, although some larger local governments have utilized the draft Act.

Although *Center* faculty have worked closely with local government public health officials (e.g. in the cities of Baltimore, Chicago, Los Angeles, New York, Washington, D.C., among others), additional efforts are needed to address specific legal issues on public health legal preparedness faced by the thousands of local governments. Local governments (e.g., counties, boroughs, cities, special districts) owe their existence to state governments, and vary in size, complexity, governance, and power. The legal needs of local governments may be similar across states or within them, but the significant diversity of these governments complicates the development of a model approach through legislative or regulatory provisions for public health emergency preparedness.

For the purposes of this checklist, *local public health legal preparedness* refers to those legal powers and authorities required for local governments to prevent or respond effectively to bioterrorism, other types of terrorism, infectious disease outbreaks, and other potentially catastrophic public health emergencies. This checklist presents an assessment tool that is primarily intended for use by local governments to assess their legal preparedness for public health emergencies. It adopts a multi-sectoral approach, assessing the sorts of authority needed at the local level that involve public health agencies and their public and private sector partners.

Subject Category	Checklist Question	MSEHPA Section ¹	Commentary
I. Prevention			
A. Facilities	1. Are local health officials responsible for designating storage and housing sites in their jurisdictions during a public health emergency?	202(a)(3) 202(a)(13) 502(a)	Responsibility for making these designations may vest in local authorities via their home rule emergency powers or plans, or be relegated to local authorities via state public health emergency laws ² and state or local public health emergency response plans. ³ Determining whether local authorities are responsible for these designations is important; equally vital is the fulfillment of these functions through local planning or other mechanisms.
B. Responders	2. Who are the legally -responsible persons for coordinating public health emergency responses at the local level of government?	202(a)(2) 202(a)(13) 403(b)	Although many larger local governments may have established emergency preparedness teams, smaller municipalities likely have not. No matter the size, determining who is legally-responsible for coordinating actual public health emergency responses locally is an essential issue that may be tied to state laws or emergency plans or local ordinances or plans. ⁴
	3. Who is the local government legal representative responsible for coordinating efforts with federal or state authorities to prevent or respond to a public health emergency?	202(a)(2) 403(b)(2) 403(b)(3)	As with question #2, many state and local governments legally designate a representative to coordinate public health emergency response and prevention efforts with other governments. ⁵ This local representative (e.g., emergency team leader) may not be the same person who coordinates actual responses (e.g., mayor, county executive). ⁶

Subject Category	Checklist Question	MSEHPA Section ¹	Commentary
C. Processes	4. What are the legal responsibilities and powers of local public health emergency planning committees?	Article II 201 202	Local governments, like their state counterparts, may establish planning committees for a host of emergencies, including natural disasters, HAZMAT, nuclear, terrorism, and some specific, jurisdictional threats (e.g., hurricanes). In larger local governments, public health emergency committees may be established by local or state orders. ⁷ Assessing the decision-making and enforcement powers of these committees prior to and during a public health emergency improve coordination efforts with existing committees, responsible persons, and others.
	5. What processes is the local government required to fulfill in creating or administering a local public health emergency plan?	Article II 201 202	For local governments required to develop a public health emergency plan by local or state order, various processes may be designated. These may include designation and appointment of key members of the committee, open records requirements, legislative review at the local or state levels, and formal adoption by local or state entities. ⁸ Even after completion, plan administration may require additional, ongoing processes (e.g. routine updating or monitoring).
	6. What are the additional legal requirements concerning local government participation in regional, state-wide, or federal emergency preparedness plans?	403(a) 403(b)	Supplementing the need to develop local plans, state or federal public health or emergency preparedness officials may require local authorities to contribute to their state or federal public health emergency plans. ⁹ In some cases, these contributions may be tied to resource disbursements targeted for preparation and response efforts. These legal requirements vary extensively based on location, size, and governmental structure.
II. Preparedness			
A. Physical Resources	7. What resources are available from federal and state governments to assist with emergency prevention and preparedness?	202(a)(2) 403(a)	Federal and state governments (sometimes as pass-through agents for federal funds) may have resources available to assist in public health emergency prevention and preparedness. ¹⁰ These can include resources to improve public health surveillance systems, hire new personnel, supplement training of existing personnel, and address other needs. Many local authorities already receive these resources; others may be unaware or unable to secure adequate federal or state resources for many reasons. Cataloguing resources and their availability facilitates local government pursuit of these funds.
	8. From what sources are local officials legally authorized to obtain and/or seek funding?	403(a)	In addition to question #7 is the related issue of authorization for local officials to obtain or seek funding for public health emergency prevention and preparedness. Some local authorities may be able to use existing resources, generate new funds through local taxes, or seek federal funds directly without state approval. ¹¹ Other local governments may be limited in these and other mechanisms because of restrictive state laws or federal grant requirements. ¹²

Subject Category	Checklist Question	MSEHPA Section ¹	Commentary
B. Data Management	9. What are the surveillance requirements for local public health systems related to identifying potential agents or outbreaks that may lead to a public health emergency?	302(a) to (d)	Federal, state, or local public health reporting requirements, often set forth in statutory or administrative laws, typically designate public health surveillance requirements for local officials to follow in identifying potential agents or outbreaks that may indicate a public health emergency. ¹³ These legal requirements can include a list of specific agents to report for purposes of bioterrorism detection or prevention of emerging infectious conditions.
	10. Are state and local public health officials required or permitted to share information?	303 607(a) 607(b)	Sharing of information between state or local public health officials is critical to prevent or prepare for a public health emergency, and is typically required by state or local public health reporting requirements. ¹⁴ Data sharing may cross local or state boundaries; in some cases, bordering cities or counties in 2 different states may need to routinely share data. Whenever data sharing involves identifiable health information, local governments may need to examine state or local health information privacy laws to gauge their authority to exchange data for public health purposes consistent with these laws. ¹⁵
	11. What are the legal requirements for non-governmental entities (e.g., health care providers) to participate in reporting and surveillance efforts on a local level?	301	Federal, state and local reporting requirements, which are found in statutory or administrative laws, typically provide specific requirements for health care providers and other non-governmental entities. ¹⁶ These legal requirements list certain reportable illnesses and health conditions and the manner through which they should be reported. Many of these requirements refer to local tracking and surveillance activities.
C. Responders	12. Who must be legally notified at the local, state, or federal levels if an infectious disease outbreak or other indices of a public health emergency is suspected or confirmed?	301(a) 301(c) 303(a) to (c)	Reporting requirements usually require that specific persons or entities be notified of reportable illnesses, diseases, or other information that may be suspected indices of a public health emergency. These persons may include the local health commissioners, board of health, state commissioner, or directors of health departments, laboratories, or emergency management agencies. ¹⁷ In some cases, federal officials may need to be directly notified as well.
	13. Do local authorities have adequate legal authority to develop and implement public health emergency training exercises?		Public health emergency training exercises are often required and specified through state or local public health emergency plans ¹⁸ that grant local authorities the ability to develop and implement public health emergency training exercises. These training requirements may also be tied to resource allocations.
	14. Can local public health authorities investigate potential indices of a public health emergency independently from state or federal public health authorities?	302 303(a)	Requirements and restrictions regarding investigations of public health emergencies typically appear in federal or state statutes or administrative laws, or in state or local public health emergency response plans. ¹⁹ These laws and plans may allow local public health authorities to investigate potential public health emergencies within their jurisdictions, but might also require deference to state or federal investigations under certain circumstances.