




**Developing the Legal Framework for
Interstate and International Public
Health Emergency Mutual Aid**

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Mutual Aid

What is Mutual Aid?

- Assistance rendered by one government entity to help another government entity respond to emergency conditions
- Tradition – “neighbor helping neighbor”
 - During war of 1812, towns on U.S.–Canada border helped each other put fires out even though their respective countries were at war



Types of Mutual Aid

- May include the sharing of:
 - Planning information
 - Epidemiologic/lab information
 - Equipment and supplies
 - Unlicensed personnel
 - Licensed personnel
- Necessity of agreements to accomplish sharing
- Continuum of legal authority/risk associated with these types of aid

Interstate Mutual Aid: The Emergency Management Assistance Compact

- “EMAC”
 - Approved by Congressional legislation in 1996
 - Adopted by 49 states and territories, with implementing legislation
- Assistance under EMAC triggered
 - By state declaration of emergency
 - Request for assistance made by a member state
 - Request routed to other member state(s) to fulfill the assistance

Interstate Mutual Aid: EMAC Cost Sharing

- Requesting state pays costs to “responding state”
 - Labor costs, material costs, contractor costs
- Federal government will reimburse costs paid to ‘responding state’
 - If President declared an emergency under Stafford Act AND
 - Costs are eligible “emergency measures”

Minimizing Liability: EMAC Licensing & Liability Issues

- Licensing of professionals
 - If a “person” is licensed in responding state, the person “shall be deemed” licensed in requesting state
 - Unless requesting governor orders otherwise
- Liability/compensation provisions
 - “Officers and employees” of responding state are “agents” of requesting state
 - Responding state and its “officers and employees” not liable for actions in good faith
 - Compensation and death benefits for “members of emergency forces” of a state are paid by the employing state – whether responding or requesting



BEYOND EMAC: There Is Much To Be Done

During a declared emergency

Where no emergency has been declared

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**Interstate/International Mutual Aid:
“ Required Critical Task”**

- Key to Full Legal Preparedness
- Demonstrated in Response to 2005 Hurricanes
 - Personnel, equipment, and supplies to affected areas
 - Shelter, food, clothing, and education for evacuees
 - ID and control of aftermath public health threats

**Beyond EMAC:
Where Are We?**

- Current federal approaches to promote increased use
- State mutual aid projects in progress
- Constitutional and other legal issues

**Federal Structure: Encouraging
International Mutual Aid**

- Treaty language: encourage and facilitate mutual cooperation
- Stafford Act: assist states in arranging mutual aid
- U.S.-Mexico Border Health Commission: establish a health data gathering and monitoring system
- U.S.-Mexico Binational Commission: health working group interaction on public health issues
- Security and Prosperity Partnership

Federal Structure: Interstate Mutual Aid

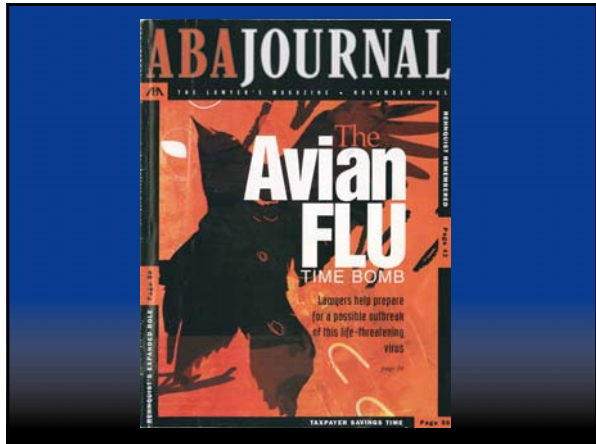
- EMAC: liability, compensation, reimbursement
- Interim National Preparedness Goal: Expand regional collaboration through mutual aid
- CDC public health emergency preparedness cooperative agreements:
 - mutual aid agreements as a preparedness tool
 - EWIDS
- ESAR-VHP authorization and funding: national system of state-based volunteer registries
- CDC encouragement of Mid-America Alliance

Assessment of State Law Issues

- MAA preliminary assessment of legal authority
- U.S. Mexico border states
- Great Lakes Border Health Initiative legal subcommittee
- ESAR-VHP Legal and Regulatory Issues Report

Federal Constitutional Impact on State Mutual Aid

- Article I, section 10: Congressional approval requirement
- Alternatives
 - Seek Congressional approval
 - Case by case
 - EMAC-type approval
 - Stafford Act option
 - Blanket?
 - Execute non-binding arrangements
 - Seek State Department approval



State Mutual Aid Agreements In Progress



- Pacific Northwest Emergency Management Arrangement (PNEMA)
- International Emergency Management Assistance Memorandum of Understanding (IEMA)
- Great Lakes Border Health Initiative (GLBHI) Data Sharing Arrangement
- U.S.–Mexico Border State Initiatives
- Mid-America Alliance (MAA) Strategic Planning Goal
- Fire Protection Agreements
- “Handshake” Agreements

The Laws of Canada and Mexico

- National/provincial relationship in Canada
 - Similar to U.S. federal/state relationship?
 - No impediment to creation of mutual aid agreements?
- National/state relationship in Mexico
 - More centralized than U.S. or Canada?
 - Impediment to creation of mutual aid agreements?

Possible Next Steps

- Continue/complete state law analyses
- Coordinate state cross-border efforts
- Develop further understanding of constitutional limits and provide compliance direction to states
- Coordinate federal and state cross-border efforts
- Develop understanding of the laws of Canada and Mexico



CDC Public Health Law Program Practitioner Resources

- CDC *Public Health Law News*
- National Partnership Conference on Public Health Law – June 12-14, 2006, Atlanta
- Legal Preparedness Resources

www.cdc.gov/phlp

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