

## Statute Modernization: Putting the Pieces Together



*Examples of educational materials*

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### Why modernize our public health statutes?

- Public health threats and practices have changed.
- We do not practice public health or medicine with outdated science, we should not practice with antiquated legal authorities.
- Modernization will:
  - Provide unambiguous authorities and responsibilities & delineate between state and local entities
  - Support modern disease control measures that address contemporary health problems and threats

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### Why is public health important?

*Public health improves and protects the health and safety of Montanans*

- Prevents epidemics and the spread of disease
- Protects against environmental hazards
- Prevents injuries
- Promotes healthy behaviors
- Responds to disasters/assist in recovery
- Assures the quality & accessibility of health services

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### Public health works in Montana

- ❑ There have been no cases of measles since 1990; there were 8500 cases in 1962
- ❑ There have been no cases of congenital rubella since 1990
- ❑ There were 220 cases of TB in 1960; there were 15 in 2004
- ❑ Infant mortality rates decreased from 21.5 per 1,000 live births in 1970 to 5.8 in 2000
- ❑ Youth smoking rates have been declining since 1999

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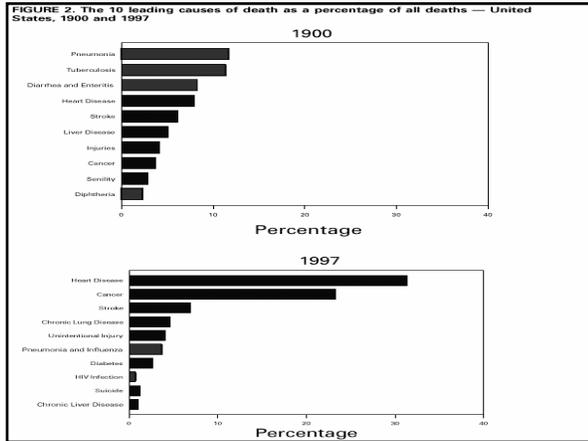
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### How did we determine the areas of the law that need to be updated?

- ❑ Montana medical, legal, public health professionals, legislators and others have participated
- ❑ Used model legislation as our guide – Model Emergency Health Powers Act, Model State Public Health Act
- ❑ Consulted with experts from Georgetown and Johns Hopkins Universities' Center for Law and the Public's Health

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**What are the key areas for modernization?**

- ❑ A mission statement for the public health system
- ❑ Major public health powers of state and local agencies
- ❑ Defined standards for *conditions of public health importance*
- ❑ Procedural due process protections
- ❑ Planning and preparation for public health emergencies

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**Samples of Scenarios, Comparisons, Q&A**

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**Scenario #1 Pandemic Influenza & Emergency Health Powers**

- ❑ Unfolding Story
  - Several patients present to the ER at St. Peters Hospital with high fevers and symptoms of respiratory distress.
  - The physician is concerned that the patient may have contracted the H5N1 influenza virus and that the virus may have been transmitted human-to-human.
  - Public health officials are notified.

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## Legal Issues in a Public Health Emergency

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### 3 Practical Questions

1. *May the ER doctor report the disease to health officials?*
2. *Must the ER doctor report the disease to health officials?*
3. *Who should receive this report and who should have access to this information?*

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## Legal Issues in a Public Health Emergency: Comparison

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1. *May the ER doctor report the disease to health officials?*

Old standard	New standard
Yes. The current law does not explicitly address permissive reporting, but does not prohibit it.	Yes. The proposed law will provide a strong basis for the implementation of disease reporting for "conditions of public health importance."

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## Anxiety among the public increases

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- ❑ DPHHS is receiving reports of similar cases in Billings, Missoula, and Great Falls.
- ❑ Laboratory tests confirm the diagnosis of H5N1 for the first group of patients.
- ❑ More patients begin to appear in emergency departments, throughout the city, with flu-like symptoms.
- ❑ Public health officials want to learn the identities of the persons with whom the cases had contact. Public health officials want to examine those persons.

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## Legal Issues in a Public Health Emergency: Comparison

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### 2. *Can we examine and test people?*

<i>Old standard</i>	<i>New standard</i>
Maybe. Examinations and testing may fall with the standard under the current law permits DPHHS to "make investigations...for control of diseases and improvement of public health." Samples may be obtained from infected persons, but the law is not as clear regarding contacts of these people.	Yes. Proposed law authorizes DPHHS to "investigate...for control of diseases and other conditions of public health importance" and explicitly permits testing and screening programs and "other techniques."

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## Fear and Confusion Mount

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- ❑ Facilities and supplies have become scarce.
- ❑ Medical supplies, such as Tamiflu, are running out and there are insufficient health care facilities to treat all infected persons.
- ❑ Many health care personnel have been exposed to H5N1 and some have become ill.
- ❑ Additional workers and volunteers have filled some of these gaps but they worry about their liability.

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## Legal Issues in a Public Health Emergency: Comparison

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### 1. *Can we obtain facilities and supplies?*

<i>Old standard</i>	<i>New standard</i>
No. The current law does not provide powers to obtain facilities and supplies during an emergency or disaster.	Yes. The state and local public health agencies may acquire and use materials and facilities; control or close roads and public areas; health supplies; and enforce measure to dispose of infectious waste, human remains, or other threats to health.

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## Scenario #2 Closure of a Restaurant and Due Process

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- **Unfolding Story**
  - A local health officer in Great Falls receives several complaints of diarrheal illness from patrons at a local restaurant.
  - The health officer conducts a routine inspection of the restaurant.
  - The health officer orders the restaurant to be closed until the violations are remedied.
  - The owner of the restaurant protests this closure order and wants to challenge it in court

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## Due Process

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### 3. *What rights does the owner have to challenge or appeal the closure order?*

<i>Old standard</i>	<i>New standard</i>
<p>The statute does not address due process, but the regulations allow the restaurant owner to request a hearing to challenge a license cancellation within 10 days of receiving the notice.</p>	<p>The proposed statute includes an explicit section guaranteeing due process protections for persons subject to a range of public health powers. The owner is afforded a right to have a hearing, representation by legal counsel, submit evidence, conduct cross-examination, timely completion, and appeal.</p>

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## What are the next steps in this process?

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- Continue deliberations, refine language
- Videoconference sessions, April-May
- MACO District Meetings June
- Interim legislative committee June
- Dialogue and listening sessions June 19-22 in Bozeman, Kalispell, Helena, Butte, Great Falls and Missoula
- Outreach to county attorneys
- Repeat sessions in Eastern Montana in Fall 2006
- MPHA, MEHA, MACO conference presentations in Fall
- Finalize proposed legislation
- 2007 session

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