“Public Health Legal Action in Communicable Disease Response: A Legal Toolkit for Public Health Professionals”

High Priority Tools for PH Emergency Legal Preparedness

NACCHO 2011 Preparedness Summit

February 22, 2011

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City of Milwaukee Health Department
Agenda

• Project Overview
• Project Deliverable
• Real World Experiences in Milwaukee
• Implementation Roadmap
• Next Steps
• Questions
Significant Challenges!

- Globalization
- Socio-economic and Political Factors
- Antimicrobial Resistance
- Nosocomial Infections
- Foodborne and Waterborne Illnesses
- Vectorborne Diseases
- Zoonotic Diseases
- Extreme Weather
- Bioterrorism
A New Era of Disease Threats?

• 2000 E. coli 0157:H7 Sizzlers Outbreak
• 2003 Monkeypox Outbreak
• 2003 SARS Global Outbreak
• 2003 H5N1 Avian Influenza
• 2004 Pertussis Outbreak
• 2006 Mumps Outbreak
• 2006 E.coli 0157:H7 Spinach Outbreak
• 2008 Measles Outbreak
• 2008 S.saintpaul Jalapeno Outbreak
• 2009 H1N1 Pandemic Flu
Regional Criminal and Epidemiology Investigations Workshop

Criminal & Epidemiology Investigations

Joint Criminal and Epidemiology Investigations Model

The joint criminal and epidemiological investigations concept was initiated between the Federal Bureau of Investigation (FBI) and the Centers for Disease Control and Prevention (CDC) in 2003. Since then, the FBI and CDC have hosted six National workshops, providing 600 Federal law enforcement and public health investigators with this specialized training. International interest in this U.S. training model began in 2007. The FBI and CDC have worked with international partners to host workshops in the United Kingdom in 2007 and in Germany in 2008.

The Regional Workshop

FBI field offices, law enforcement, and public health investigators may be the first to initiate the notification process to investigate incidents that could have a potential bioterrorism nexus or involve the intentional exposure to chemical or radiological hazards. Therefore, in 2008, FBI and CDC offered the Joint Criminal and Epidemiological Workshop at the regional level. The Regional Joint Criminal and Epidemiology Workshop pilot was conducted in Jacksonville, Florida, in April 2008. Since the pilot workshop, over 500 law enforcement and public health agencies’ personnel have been introduced to the joint investigations concept in Regional workshops conducted in...

www.milwaukee.gov/Health
‘Boy, is that water raunchy’

Neighbors of Howard Avenue plant complain of bad water

Bad taste on tap near plant

Taking no chances, hospitals and cafes put the kettles on

By JOEL DRESANG and FRAN BAUER
of The Journal staff

Microbe may well hit again

Officials ready with boil orders

Crypto illness count raised to 403,000

April of this year — 33,000 more than earlier reported. All of these people missed a total of 725,000 days of work or school, according to state epidemiologist Jeff Davis, who spoke Wednesday at a national meeting in Milwaukee. The level of diarrheal illness caused by the Cryptosporidium protozoan was highest — 57% — on the city's South Side, which is served by the Howard Ave. Purification Plant.

Raging virus hits hard at area schools

Pharmacies short of supplies

Some will be told to boil city water

Those with low resistance at risk

City fears secondary outbreak

Infections can spread through poor hygiene

EPA orders 300 largest water supplies to follow Milwaukee

TOUGH STANDARDS

City sets pace for Crypto testing

Think Health. Act Now!

CITY OF MILWAUKEE HEALTH DEPARTMENT

www.milwaukee.gov/Health

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Bush halting troop pullout from Iraq

Measles outbreak brewing, city health officials warn

4 cases confirmed in the Milwaukee area this week

838 cases confirmed in Waukesha County

Parents flock for vaccines

Measles outbreak has some in Waukesha overcoming wariness

By SCOTT WILLIAMS
swilliams@jlsentinel.com

Waukesha — With a measles outbreak reaching into Waukesha County, nervous parents lined up Wednesday to get their children — and sometimes themselves — vaccinated.

“It’s just a little scary,” said Regina Peña of Waukesha, who brought her 4-year-old son, Seth, to an immunization clinic sponsored by the county health department.

Although levy of vaccines because of a fear they might cause autism, Peña said the current outbreak of measles in the Milwaukee area convinced her that Seth needed protection.

“It scared me into doing it,” she said.

Since the outbreak began last week, health officials in southeastern Wisconsin have reported seven confirmed or suspected cases and have warned that hundreds of people could be exposed.

One of those seven cases involved a Waukesha County infant. Separately, an adult here tested positive for rubella, also known as German measles.
Project Overview

• Containment Measures: Guidelines and Templates for Public Health Legal Action in Communicable Disease Response
  – Public Health response is broader than simply the isolation and quarantine of individuals
  – Other containment measures can be applied to individuals and at community levels
  – Minimal guidance is available in using additional containment measures
Project Overview (cont.)

- What are other containment measures that may be identified by either federal, state or local laws for public health to leverage?
  - Suspension of public gatherings
  - Issuing Food Recalls
  - Obtaining a clinical/environmental sample
  - Obtaining information on case contacts
  - Seizure of diseased or dangerous animals
  - Limiting Travel
Project Deliverable

• The City of Milwaukee Health Department (MHD) in coordination with municipal and county legal counsel has developed template materials that could be followed to enforce public health powers that may be granted by municipal, state and/or federal statutes.
In other words ...

Public health laws (statutes, ordinances, etc.) often describe what to do (i.e. “adopt measures to protect public health”) but lack detail on how to do it (implementation and enforcement).
Real World Experiences

- **2003 → Monkeypox Outbreak**
  - Isolation/quarantine of humans
  - Seizure of diseased animals

- **2005 → Tuberculosis Case**
  - Court enforced isolation of an individual

- **2009 → 2009 Influenza A (H1N1)**
  - School closures
Monkeypox

- **Pathogen**: Genus: *Orthopoxvirus*
  - Species: *Monkeypox virus*

- **Reservoir**: Wild animals, mostly primates and rodents

- **Route of Transmission**: Animal-to-Human & Human-to-Human

- **Hosts**: Humans, primates, and rodents
Monkeypox Response

- Seizure of sick animals
- Quarantine of non-sick animals
- Ban on sale, trade or importation
- Enforcement issues (pet stores, dealers, general public)

FIGURE 1. Number of monkeypox cases*, by date of illness onset — Illinois, Indiana, Kansas, Missouri, Ohio, and Wisconsin, 2003†

* N = 69 or 71 cases with known date of illness onset. As of July 6, 2003.
Drug Resistant Tuberculosis

Wisconsin, 2002-2009

- **Rifampin Mono-resistance**
- **Multiple Drug Resistance***
- **INH, not Rifampin**

*Resistant to at least INH and Rifampin

City of Milwaukee v. Ruby Washington

- Comprehensive TB program available in State
- Repeated non-compliant and threat to public’s health (infectious TB)
- Ruling upheld for correctional facility confinement
MHD Case Reports and ED Visits for ILI

H1N1 Cases (by onset date) and ED Visits for Influenza-like Illness (by date of visit) during the 2009 Influenza A H1N1 Pandemic

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CDC School Closure Guidance

- Benefits of closure generally do not outweigh social and economic disruption based on modeling of current epi data
- Exclude persons until 24 hours after fever resolves without use of antivirals or other medications
- Decision to close made in consultation with school officials and at discretion of LPHAs based on severity and impact of disease transmission in a community
Implementation Roadmap

- Convene a legal counsel and define their role
- Review applicable public health authorities
- Drafting of legal templates
- Conduct an initial stakeholders meeting
- Finalize and share legal templates
Implementation Roadmap (cont.)

• Convene a legal counsel and define their role
  – Individuals critical to the projects success
    • City attorney’s office
    • District attorney’s office
    • WI Department of Health Services (DHS) Office of Legal Counsel
    • State Bar Association of Wisconsin
    • CDC Public Health Law Program
Implementation Roadmap (cont.)

• Review applicable public health authorities
  – WI state statutes lay basic groundwork and provide a general authority to do what ever it takes to protect the public’s health
  • However the statutes do not provide detail on how or when PH issues should be issued or ordered
  – How do public health officials enforce very broad but ill defined powers?
  • Review limited statutes that provide guidance such as immunizations, TB enforcement and HIV
Implementation Roadmap (cont.)

- Drafting of legal templates for the enforcement of public health powers
  - Summons
  - Notice to appear
  - Petition
  - Affidavits
  - Notice of Rights
  - Bench Warrant
  - Order to enforcement
  - Complaint
Implementation Roadmap (cont.)

- Conducting a stakeholder meeting

  - Attendees
    - Legal partners from local, state and federal agencies
    - First responders from local, state and federal agencies
    - Public Health representatives from local, state and federal partners
Stakeholder Meeting

• Develop Scenarios
  – Create specific scenarios to discuss conditions where public health containment measures may need to be utilized

• Develop questions to ask the stakeholders
  – What should be included in the order?
  – As a recipient of an order, what are the questions and concerns that you have?
  – What would make it difficult for you to comply with an order?
Stakeholder Meeting (cont.)

• Findings from MHD stakeholder meeting
  – Partners would like more clarity in their role during a health emergency
  – Work extremely closely with legal partners to ensure orders are comprehensive and will stand-up in court
  – Need to determine a process on how orders will be served or communicated with individuals and the community
Finalizing/Sharing Legal Templates

- Development of basic guidelines for containment measures
  - Minimize duration of public health orders
  - Strongly encourage voluntary compliance
  - When serving orders
    - Be accompanied by a representative of the district attorney’s office or local law enforcement
    - If necessary have an interpreter and/or translated materials
    - Provide PPE and fit testing when necessary
  - Identify trigger points for implementation and what constitutes non-compliance
  - Provide community education
Finalizing/Sharing Legal Templates (cont.)

- Development of guidelines for specific public health containment measures
- Development of Sample scenarios
- Finalized legal document templates
- Sharing of resources
  - MHD website of template materials that could be adapted
    - www.milwaukee.gov/health/legaltoolkitforpublichealthprofessionals.htm
Legal Toolkit for Public Health Professionals

Thanks to NACCHO for their contribution in helping to create this resource.

A Primer on Public Health Law

Public health officials have broad authority to ensure a safe and orderly community. State laws tend to be broad and do not set forth, in detail, specific criteria on how or when public health officials can or should issue orders. There is very limited guidance on the how long an order should be in place, the process for issuing orders and for the legal enforcement of orders. Nor is there guidance on legal recourse or the implementation of orders or the legal process should health officials face non-compliant citizens.

Wisconsin state laws give local health officers great latitude in keeping the public healthy. With this latitude comes a loss of freedom and privacy. Justification for this loss of freedom and privacy stems from the notoriety that people’s actions can have a devastating effect on the overall health and well-being of a community and that quick action is vital if public health officials hope to contain the spread of communicable diseases. It is also understood that personal freedom is not an absolute right.

About this Toolkit

The most commonly referenced containment measures applied on an individual level are isolation and quarantine. The Public Health Seattle and King County website offers a comprehensive tool for public health agencies seeking to implement and enforce isolation and quarantine orders. However, public health containment measures are much broader than simply isolation and quarantine, and include measures that can be applied at both the individual and the community level. Community containment measures that can be employed in an outbreak include suspending school, public transportation and public gatherings, as well as limiting travel. This toolkit provides templates and guidelines for public health orders as well as the supporting legal documents to enforce these orders should that become necessary.

Hypothetical scenarios were created to guide the development of templates for each of the containment measures listed above. These scenarios have been provided with each set of templates as it may illuminate the assumptions that drove the creation of the documents. Most of the scenarios refer to the containment of influenza like illness. In light of the current H1N1 pandemic this most likely situation in which the documents will be used.
Next Steps

- Initiate conversations with the court systems
- Initiate conversations with private legal sector
- Develop an exercise to test the issuance of a public health order and potential non-compliance
- Develop MOUs with partner agencies
- Create or amend public health legislation that updates and more explicitly defines public health authority
Acknowledgments

- City of Milwaukee City Attorney’s Office
- Milwaukee County District Attorney’s Office
- Seattle/King County Health Department
- WI Department of Health Office of Legal Counsel
- State Bar of Wisconsin
- NACCHO
- CDC Public Health Law Program