



CRS Issue Statement on Public Health and Emergency Preparedness

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The H1N1 influenza pandemic provided policymakers with a mixed review of the nation's readiness to respond to health threats. In many respects the pandemic response was streamlined by prior planning efforts. Nonetheless, the incident has refocused congressional attention on a number of unresolved issues with respect to the federal role in preparing for and responding to public health emergencies. Among them, how should the Departments of Health and Human Services (HHS) and Homeland Security (DHS) operationalize their shared responsibility in preparing for and responding to public health emergencies? How can federal officials determine if a state is sufficiently prepared, and what activities should states be required to undertake using federal grant funds? How can the federal government assure the availability of drugs and vaccines for bioterrorism when there is no commercial market for these products? To what extent, if any, should the federal government be responsible for the costs of health care for disaster victims? The 111th Congress has been and will likely remain invested in these and many other issues through consideration of authorizing and appropriations legislation, and the conduct of oversight and investigations.

To address concerns raised by the 2001 terrorist attacks, Hurricane Katrina, and infectious disease threats, among others, the 109th Congress passed the Pandemic and All-Hazards Preparedness Act (PAHPA, P.L. 109-417) and other laws that established, reorganized, or reauthorized key public health and medical preparedness and response activities in HHS and DHS. Among other things, PAHPA mandated the development of a National Health Security Strategy (NHSS), a quadrennial review of the nation's plans and capabilities to protect people's health when emergencies arise. HHS published the first NHSS in December 2009, stating that national health security is a key element in achieving broader national security objectives. The NHSS identifies national health security challenges that Congress and others have long recognized, among them: the need to integrate planning and response capabilities across federal, state, local, tribal, and private sectors; the need to assure that medical personnel, equipment, and countermeasures (such as drugs and vaccines) are available and effective in responding to mass casualty incidents; the need to practice for preparedness, and measure performance; and the need to foster cooperation and resilience within and among the nation's diverse communities.

The 111th Congress may reconsider HHS's disaster response capabilities, including the Department's means to fund its emergency response efforts. The Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act) was not invoked for the response to the H1N1 influenza pandemic. Had the law been invoked, funding through the Federal Emergency Management Agency (FEMA) could have been available for HHS response activities. Also, the HHS Secretary has authority for a no-year Public Health Emergency Fund, but Congress has not appropriated monies to the fund for many years. Absent other sources, the 111th Congress provided funding for the pandemic response in emergency supplemental appropriations. The 111th Congress also is considering options to cover the health care costs of responders and others exposed to the World Trade Center site on and after September 11, 2001, and the broader question of the appropriate federal role in financing the costs of health care (including mental health care) for disaster survivors.

A key focus of congressional interest since the anthrax attacks in 2001 involves the nation's approaches to assuring the availability of a variety of medical countermeasures, and the ability of federal, state, local, and tribal authorities and the private sector to rapidly distribute these countermeasures in an emergency. The 108th Congress launched Project BioShield to encourage the development of countermeasures that lack commercial markets. The 109th Congress expanded these efforts, establishing the Biomedical Advanced Research and Development Authority (BARDA) in HHS to further assure the availability of needed countermeasures. Key oversight

issues that remain include (1) the clarity of the shared roles of HHS and DHS; and (2) whether current federal programs sufficiently encourage the development of new countermeasures. In addition, legislative proposals in the 111th Congress focus on improving approaches to the rapid distribution of countermeasures.

The 111th Congress also is considering means to tighten controls over dangerous infectious agents (pathogens) that are used for research, diagnosis, and product development, and that could potentially be used for bioterrorism. At issue, among other things, is the balance between effective security enhancements and sufficient freedom of scientific inquiry.

Health emergencies often involve scarce resources, movement restrictions, business and school closures, and other constraints. State and local governments have the primary authority over such measures as quarantine and isolation, but a comprehensive response to a public health emergency may involve overlapping governmental authorities and attendant legal, economic, and civil rights issues. Recent incidents of communicable diseases in travelers have invited scrutiny during the 111th Congress of the divisions of power and the effectiveness of coordination among federal disease control, border security, and transportation authorities. Globally, efforts to nationalize limited resources could cause conflicts among nations if governments face international pressure to provide assistance to countries that are more severely affected, but that have less ability to respond. The 111th Congress will continue to monitor these legal issues, especially as they are presented by the legal response to the H1N1 influenza pandemic.

Finally, some people may need special assistance during and after a disaster. Laws passed in the 109th Congress required HHS to consider the needs of at-risk individuals in planning, and required the head of FEMA to appoint a Disability Coordinator. The 110th Congress launched a National Commission on Children and Disasters in HHS. The 111th Congress has remained engaged in considering whether these efforts are well coordinated and effective in assuring the safety of those with special needs during disasters.

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2009 H1N1 Swine Flu

[2009 H1N1 Swine Flu: CRS Experts](#)

[The 2009 Influenza Pandemic: An Overview](#)

[The 2009 Influenza Pandemic: Selected Legal Issues](#)

[The Role of the Department of Defense During A Flu Pandemic](#)

[The Americans with Disabilities Act \(ADA\): Employment Issues and the 2009 Influenza Pandemic](#)

Public Health Overview and General Authorities

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[Public Health and Medical Preparedness and Response: Issues in the 111th Congress](#)

[The Public Health and Medical Response to Disasters: Federal Authority and Funding](#)

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[Oversight of High-Containment Biological Laboratories: Issues for Congress](#)

[Selected Federal Compensation Programs for Physical Injury or Death](#)

[Extensively Drug-Resistant Tuberculosis \(XDR-TB\): Emerging Public Health Threats and Quarantine and Isolation](#)

[Emergency Response: Civil Liability of Volunteer Health Professionals](#)

[Mandatory Vaccinations: Precedent and Current Laws](#)

[Would an Influenza Pandemic Qualify as a Major Disaster Under the Stafford Act?](#)

Countermeasures

[Project BioShield: Authorities, Appropriations, Acquisitions, and Issues for Congress](#)

[Pandemic Flu and Medical Biodefense Countermeasure Liability Limitation](#)

Special Populations

[The Americans with Disabilities Act and Emergency Preparedness and Response](#)

[The Americans with Disabilities Act \(ADA\) Coverage of Contagious Diseases](#)

[Religious Exemptions for Mandatory Health Care Programs: A Legal Analysis](#)