



## Social Distancing Law Project

# Legal Consultation Meeting Template

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### Overview

The Legal Consultation Meeting will convene key stakeholders to test the jurisdiction's ability to implement coordinated social distancing measures involving multiple agencies (e.g. public health, law enforcement, education, corrections, etc.) , jurisdictions (state and local), and sectors (public and private) based on the legal authorities identified in the legal assessment. Ideally, this meeting should be led by the State or Territorial Health Official. Issues identified during the Influenza A H1N1 response beginning in early 2009 should be considered when developing the agenda.

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### Objectives

The objectives of the Legal Consultation Meeting are to:

- Convene key stakeholders.
  - Using the “Outbreak of Pandemic Influenza” scenario below, which may be customized to the specific needs of your jurisdiction, explore the participants’ understanding of the jurisdiction’s social distancing legal authorities, the sufficiency of those authorities to support implementation of social distancing measures, and the capacity of the involved entities to coordinate in their implementation across jurisdictions and sectors.
  - Identify any ambiguities or gaps in the jurisdiction’s social distancing legal authorities and/or social distancing measure implementation.
  - Develop next steps for resolving gaps and/or ambiguities identified.
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### Participation

The Legal Consultation Meeting should include representatives of agencies, jurisdictions, and sectors that play significant roles during response to an influenza pandemic, for example:

- Senior-level state health agency officials, including representatives from public health preparedness, infectious disease, and legal counsel.
- Senior-level local health agency officials, including representatives from public health preparedness, infectious disease, and legal counsel

- Counterparts from agencies with emergency preparedness roles: emergency management, law enforcement, homeland security, education, transportation, and corrections agencies.
  - Judges and court administrators
  - Elected officials and their legal counsel (e.g., from the offices of the jurisdiction’s chief executive officer, the office of general counsel, attorney general’s office, and legislative officials)
  - Representatives from non-profit organizations and the private business sector
  - Legal counsel to hospitals and other health care organizations, and
  - Representatives of other organizations and sectors critical to successful implementation of social distancing measures in your jurisdiction.
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## **Agenda**

A suggested agenda for a one-day Legal Consultation Meeting is outlined below. Your jurisdiction’s planning committee can customize this draft to reflect its decisions on the goals, content, and participants in the meeting. The planning committee is encouraged to plan the agenda to take greatest advantage of the expertise of the meeting participants, to maximize opportunities for active participation by attendees, and to ensure in-depth dialogue about the sufficiency of the jurisdiction’s legal preparedness for pandemic influenza.

### **Session One: Introduction**

*(Approx. 1 to 2 hours)*

This session should include an introduction of the meeting participants and an overview of the meeting’s goals and methodology by the moderator. The senior public health legal counsel should then give a brief presentation on the jurisdiction’s social distancing laws and their sufficiency. The presentation should summarize the findings of the Legal Assessment and of any other memoranda or reports on the jurisdiction’s pandemic influenza legal preparedness. Before beginning the exercise the moderator should provide the opportunity for question and answers from public health legal counsel, other meeting participants, and observers.

### **Session Two: Exercise**

*(Approx. 3 to 4 hours)*

In this session participants exercise the jurisdiction’s legal authorities to implement social distancing measures in the context of declared and undeclared public health emergencies. Resources for the exercise include: the completed Legal Assessment and the optional Legal Assessment Report on the jurisdiction’s social distancing legal authorities; the hypothetical scenario presented below; and any

additional materials the planning committee may wish to provide, for example, the jurisdiction's pandemic influenza preparedness plan.

The methodology of the exercise involves presenting the Legal Consultation Meeting participants with a chronological fact pattern about an emerging influenza pandemic. The questions from the Legal Assessment can then be posed where relevant at each stage for the participants to discuss, giving them the opportunity to assess the legal authorities, explore feasibility of implementing them through coordination across the critical agencies and sectors, and identify issues they may want to address following the meeting.

Several different approaches to conducting the exercise could be adopted, for example, having participants interact as one body or, alternatively, dividing them into groups to discuss specific legal authorities and then reporting back to the full body. The scope of the meeting discussion should generally cover the same topics and areas of inquiry that appear in the Legal Assessment and be framed to address the use of the relevant legal authorities in both declared and undeclared emergencies.

### **Session Three: Review and Next Steps**

*(Approx. 1.5 to 2 hours)*

The concluding session is the opportunity for meeting participants to review what they learned from the exercise. Special focus should be given to identifying strengths and potential gaps and/or ambiguities in legal authorities' support for social distancing measures revealed during the exercise. Next steps to address gaps and/or ambiguities should also be drafted.

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### **Customization**

Prior to the Legal Consultation Meeting, the exercise below should be customized to your jurisdiction. In addition to filling in the names of specific officials, agencies, or places throughout the scenario, your jurisdiction may want to add include additional events specific to your jurisdiction. Further your jurisdiction may want to discuss any social distancing measures considered and/or implemented during the response to the Influenza A H1N1 pandemic that began in early 2009 and further explore any issues that may have arisen at that time.

# *OUTBREAK OF PANDEMIC INFLUENZA*

## **Context**

The facts and events in this scenario are specific to [insert the name of your jurisdiction].

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## **Caveat**

The fact pattern below is predicated on a pandemic influenza scenario of much greater severity than the Influenza A H1N1 pandemic that began in early 2009. While your jurisdiction's response to Influenza A H1N1 may help to guide your decision making and planning, the intent of this hypothetical exercise is to test the sufficiencies of your jurisdiction's legal authorities for social distancing measures and ability to coordinate across multiple agencies, jurisdictions, and sectors in potentially much more demanding circumstances.

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## **Scenario**

November 20: Within the past 30 days, the World Health Organization (WHO), the U.S. Centers for Disease Control and Prevention (CDC), and other agencies have confirmed the isolation of a novel and highly virulent strain of influenza A (H5N1) from clinical specimens obtained from persons on several continents. Four days ago, on November 16, CDC announced confirmation of isolation of the same strain from ill persons in several U.S. states, even though the strain had not yet been isolated from any persons in your jurisdiction.

Preliminary findings from epidemiological investigations indicate the following:

- Illness typically presents as classical influenza with abrupt onset of fever, malaise, myalgia (muscle aches), cough, and runny nose.
- In approximately 20% of cases, illness rapidly progresses to a primary viral pneumonia, acute respiratory distress syndrome, and death.
- At-risk populations include persons in all age groups regardless of their previous health (i.e., includes persons who previously have been in good health, as well as those who with pre-existing chronic disease conditions).
- The average incubation period (i.e., time from patient's exposure to an infected person to time of onset of initial symptoms) is approximately 36-48 hours.

No information is available yet regarding the effectiveness of the current formulation of influenza vaccine administered to persons in settings worldwide prior to onset of this pandemic, and preliminary evaluation indicates that anti-viral chemotherapeutic agents administered both pre- and post-exposure are only marginally effective in preventing or attenuating severity of illness.

On November 16, following CDC's announcement of the confirmation of the circulation of the pandemic strain in the United States, your jurisdiction's Communicable Disease Surveillance and Control Unit (CDSCU) fully activated its plan for intensified morbidity, virological, and mortality surveillance for influenza, including active daily surveillance for cases of influenza-like-illness (ILI) diagnosed in all hospital emergency rooms, selected urgent-care outpatient facilities, and in sentinel providers' offices located throughout the jurisdiction.

Overnight and early this morning (November 20), the CDSCU received reports of ILI among persons visiting emergency rooms, urgent care facilities, and sentinel providers' offices located in the metropolitan area of the capital of your state, but also in scattered places elsewhere in your jurisdiction. The CDSCU immediately informed your jurisdiction's chief public health officer who then, according to your jurisdiction's pandemic preparedness plan, notified the office of the Governor or chief executive officer. Within a short time, she convened your jurisdiction's Pandemic Influenza Response Group, comprising representatives from your jurisdiction's homeland security task force, health department, attorney general's/legal counsel's office, public safety, civil defense, emergency management, and court administrator's offices, as well as leaders from your jurisdiction's legislative body.

The Governor/chief executive officer opened the meeting by asking the CDSCU to provide an update on the status of ILI reported from throughout your jurisdiction and other potentially relevant information. The CDSCU reports the following information, which is based on calls to local public health units and to the network of healthcare facilities comprising your jurisdiction's public health surveillance system, as well as additional reports CDSCU has received since the Governor/chief executive officer was first informed about these developments only a short time earlier.

- Cases of ILI-like have been reported among a small number of persons of all age groups who live in the most populated area of your jurisdiction.
- A cluster of ILI cases has occurred among residents and staff of one large stepped-care facility in that area. The stepped-care facility is affiliated with two acute-care hospitals and each day transfers some patients to the hospitals for management of intercurrent problems.
- A cluster of ILI cases has occurred among students, as well as teachers and other staff, at one middle school in the most populated area of your jurisdiction.
- A small cluster of ILI cases also has been reported among city bus drivers and other transit workers who together just completed in-service training a few days earlier.

- Only within the past 30 minutes, the CDC Quarantine Station, located at the international airport situated near your jurisdiction, has contacted the CDSCU and the coordinator of the Pandemic Influenza Response Group to report that the captains of two inbound transoceanic flights have radioed ahead that a small number of persons on board each plane have had onset of acute febrile and respiratory tract symptoms while the flights have been en route. Both flights have been airborne for over 12 hours and both originated in countries for which the novel strain of A(H5N1) had been isolated among residents.

The Governor/chief executive officer requests staff and the Pandemic Influenza Response Group to enumerate major events known to be planned throughout your jurisdiction for the next week. At a minimum, these include:

- Statewide pre-Thanksgiving school events planned for this year to commemorate new historical discoveries about the first Thanksgiving.
- Traditional family and social seasonal Thanksgiving gatherings.
- A sold-out Thanksgiving Day (November 22) professional football game to be played in a stadium.
- The opening of a new, nationally promoted blockbuster film the day following Thanksgiving in movie theater chains.
- Kickoff of the traditional post-Thanksgiving holiday shopping season in malls across your jurisdiction.
- Multi-denominational services planned to be held in memory of victims of a recent flood disaster. The services are scheduled to be held on Thanksgiving eve and will include a candlelight vigil and walk to begin at 8:00 pm with a gathering in front of the state capitol/seat of government.
- A four day international trade fair with informal activities preceding the formal convention beginning on the Saturday after Thanksgiving and continuing to the following Wednesday.

Given this information, the Governor/chief executive officer has asked members of the Pandemic Influenza Response Group to assess the situation and offer opinions on the merits of declaring a public health emergency. As part of this deliberation, the Governor/chief executive officer is asking the Attorney General/legal counsel for key agencies—including the health department, public safety, and emergency management—to confirm the status and sufficiency of authorities for the spectrum of measures that the Governor/chief executive officer might need to order into effect imminently.