

The Pandemic and All-Hazards Preparedness Act: Addressing Public Health Emergency Responses

James G. Hodge, Jr., J.D., LL.M.

Associate Professor, Johns Hopkins Bloomberg
School of Public Health; Executive Director,
Center for Law and the Public's Health

Principal Objectives

- Provide a brief history and description of the Pandemic and All-Hazards Preparedness Act (PAHPA)
- Summarize the Act's major provisions and purposes
- Present key legal and policy implications of PAHPA

Public health emergency preparedness

- Public health emergency preparedness and response have been vital objectives for federal, tribal, state, and local officials since the terrorist and anthrax attacks in Fall 2001



Public health emergency preparedness

- Deficiencies in emergency response efforts during Hurricane Katrina coupled with ongoing national security threats of bioterrorism, pandemic flu, and other emerging infectious diseases justify ongoing public health preparedness efforts



Key Challenges

- Organizational improvements at the federal level
- Improving preparedness capacity at the tribal, state, and local levels
- Coordinating interjurisdictional issues across borders
- Meeting surge capacity through the deployment and use of volunteer health personnel
- Monitoring emerging threats to the public's health
- Developing effective countermeasures in advance and in real-time

PAHPA

- On December 19, 2006, President Bush signs the Pandemic and All-Hazards Act (PAHPA)



PAHPA: Major Provisions

- Substantially reorganizes and prioritizes public health emergency responses at the federal and subnational levels
- Amends the existing federal Public Health Service Act (PHSA) to add four new titles

PAHPA: Title I

- Title I: National Preparedness and Response, Leadership, Organization, and Planning
 - Establishes that the Secretary of the Department of Health and Human Services (DHHS) shall lead federal public health and medical responses to public health emergencies under the National Response Plan

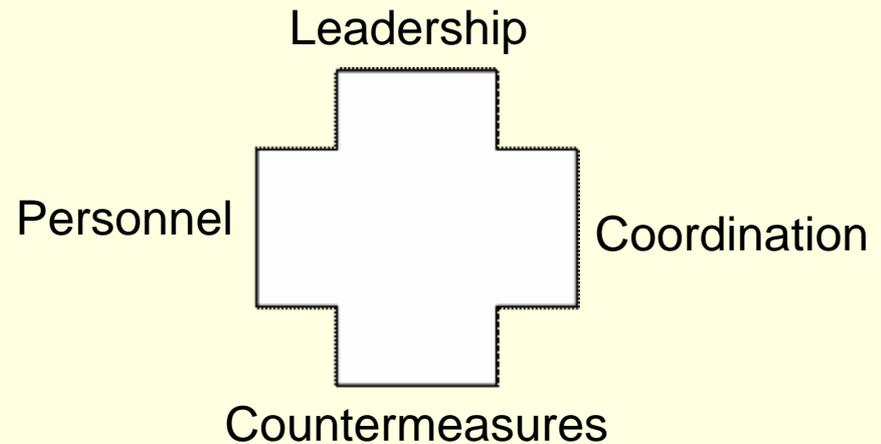
PAHPA: Title I

- DHHS' Secretary will collaborate with the Secretaries of Homeland Security, Veterans Affairs, Transportation, Defense, and others through an interagency agreement on coordination of efforts during emergencies



PAHPA: Title I

- A new Assistant Secretary for Preparedness and Response (ASPR) [**RADM Craig Vanderwagen, MD**] is to be appointed to assume a myriad of leadership, personnel, and coordination functions concerning the medical and public health aspects of federal emergency responses



PAHPA: Title II

■ Title II: Public Health Security Preparedness

- Establishes guidelines for state and local eligible entities seeking funds to enhance security during public health emergencies

- Eligible entities include hospitals, clinical laboratories, universities, poison control centers, and others



- DHHS is to develop new evidence-based benchmarks and objective standards to measure public health preparedness

PAHPA: Title II

- A nationwide electronic public health situational awareness capability shall be established through an interoperable network of systems allowing for data and information sharing to improve early detection of and rapid response to a public health emergency.



PAHPA: Title II

- DHHS is authorized to track the initial distribution of federally purchased influenza vaccine and to promote communication among public health agencies regarding distribution in the event of an outbreak.



PAHPA: Title III

- **Title III: All-Hazards Medical Surge Capacity**
 - The existing National Disaster Medical System is to be transferred from the Department of Homeland Security (DHS) to DHHS.
 - DHHS must work with tribal, state, and local officials to supplement current programs to provide volunteer health personnel during public health emergencies.
 - Existing state volunteer registration systems will be linked into a single national system to verify the credentials, training, and licenses of volunteers during public health emergencies.

PAHPA: Title IV

- **Title IV: Pandemic and Biodefense Vaccine and Drug Development**
 - A Biomedical Advanced Research and Development Authority (BARDA) and a National Biodefense Science Board will be established to integrate infectious disease requirements and biodefense with new medical innovations (including vaccines), research developments, and countermeasure procurements



PAHPA: Legal and Policy Implications

- **Balancing Federal, State, and Local Response Efforts**
 - PAHPA focuses on federal accountability to ensure that national authorities are organized for the next major event
 - Vests DHHS with responsibility for federal public health and medical responses to public health emergencies
 - The act does not clarify how federal entities will work with practitioners at the subnational levels
 - Difficulty in distinguishing between federal versus tribal, state, or local public health preparedness and response activities

PAHPA: Legal and Policy Implications

- **Balancing Federal, State, and Local Response Efforts**
 - While PAHPA seeks to strike a balance between national and local responsibilities, its expansive provisions may actually allow federal authorities to enter traditional state or tribal-based public health domains.

PAHPA: Legal and Policy Implications

■ Enhancing Volunteerism

- PAHPA authorizes DHHS to oversee all volunteer health personnel called up for federal service through programs that have traditionally been under state and local control
 - By identifying volunteers within these systems for federal response efforts linking existing systems into a single, national verification system, PAHPA shifts the balance toward a larger federal (versus state or local) presence in emergency responses

PAHPA: Legal and Policy Implications

■ Enhancing Volunteerism

- Despite an increased federal role for volunteer health practitioners during emergencies, PAHPA remains silent on issues such as liability or other protections for prospective healthcare volunteers or the entities that send or host them



PAHPA: Legal and Policy Implications

■ National Public Health Surveillance

- DHHS and its partners need access to information to enhance detection of, response to, and management of public health emergencies
 - Boundaries to guide data collections
 - Expansive data acquisitions:
 - Contrary to existing state-based reporting practices
 - May infringe personal privacy

PAHPA: Legal and Policy Implications

- Seeking Fairness in Allocating Limited Resources
 - PAHPA promises new programs to generate rapid development of vaccines, medicines, and other interventions in response to public health emergencies
 - Need to fairly and efficiently distribute resources
 - Almost no guidance on allocation of scarce resources



Conclusions

- The challenges to preparing for and responding to national public health emergencies have led to calls for greater governmental accountability, organization, and capacity.
- PAHPA responds to these challenges by:
 - streamlining federal public health responses,
 - holding states accountable for their performance,
 - creating a national surveillance structure,
 - facilitating the use of volunteers, and
 - encouraging rapid development of medical countermeasures.
- The Act, however, fails to resolve complex issues of interjurisdictional coordination, privacy, volunteer liability, and distributive justice -- all of which are critical to improve public health emergency preparedness.
- For more information, please contact me at jhodge@jhsph.edu. Special thanks to **Katie Heley**, Research Assistant, Center for Law and the Public's Health.