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Legal and Regulatory Issues Concerning Volunteer Health Professionals in Emergencies

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Case Study 3: Emergency Declaration Laws in Oregon

Factual Statements. A terrorist related pneumonic plague outbreak occurs in Corvallis, Oregon. Fifty patients have a confirmed diagnosis of pneumonic plague and 300 more present with symptoms. Pneumonic plague can be transmitted from person to person and has an incubation period of 2-3 days. Transmission occurs when an individual breathes in the aerosolized bacteria *Y. pestis*. The first signs of illness are fever, headache, weakness, and rapidly developing pneumonia with shortness of breath, chest pain, cough, and sometimes bloody or watery sputum.¹ The pneumonia progresses for 2 to 4 days and may cause respiratory failure and shock.² Without early treatment, patients may die. Antibiotic treatment will reduce the chance of death. Optimal results occur when treatment is administered within 24 hours of the first symptoms.

Proper response requires the expertise of infectious disease physicians, properly trained nurses, and decontamination personnel. Additionally, a large number of public health personnel will be required to carry out a massive prophylactic campaign to prevent further spread in the city and into surrounding areas. Many of the affected patients will have to be isolated in order to prevent the further spread of the disease.

Good Samaritan Regional Hospital is the only hospital located in Corvallis, OR. It is a 188 bed facility with over 1500 employees. Good Samaritan Hospital will be central to the response efforts as the treatment site for the most severely affected patients. Emergency management personnel are also planning to set up mobile clinics to screen and isolate patients initially presenting with less severe symptoms. Volunteer health professionals registered through ESAR-VHP are needed to provide treatment in the mobile clinics or at Good Samaritan Hospital.

Focused Legal Analysis. Oregon law empowers the Governor to declare an emergency when a man-made or natural event threatens or causes the loss of life, injury or human suffering resulting from various circumstances, including the spread of disease.³ In this case, the large-scale spread of pneumonic plague, believed to have been caused by a terrorist release of the bacteria, and the potential for spread beyond Corvallis if containment measures are not immediately carried out, justify an emergency declaration.

Oregon law assigns broad powers to the Governor during a declared emergency. The Governor is vested with the power to exercise complete authority over all executive agencies to focus on emergency response.⁴ These powers include the ability to suspend the provisions of state regulations, if compliance with those regulations would hinder emergency responses.⁵ The Governor can also direct state agencies to utilize or employ additional personnel to prevent further damage resulting from the emergency and to provide supplemental health services when necessary to protect the public's health.⁶ Thus, the Governor may authorize the Oregon Department of Human Services and local public health agencies to set up mobile health clinics to provide care to symptomatic individuals and carry out prophylactic measures. Furthermore, the Governor may direct these entities to utilize volunteer health professionals as emergency service workers.

Under Oregon law, emergency service workers include members of the state civil defense forces and registered volunteers that provide emergency services under the direction of an emergency service or management agency.⁷ Oregon maintains a registry of emergency health care providers who are available to act as emergency service workers. The registry includes information regarding the health care provider's identity, licensure, certifications, and usual area of practice.⁸ This registry is a primary source of information to credential volunteers who are registered and spontaneously respond to assist in an emergency. Additionally, the registry will assist state health officials seeking to mobilize volunteer physicians and nurses with infectious disease credentials, and public health workers to provide prophylactic treatment.

During a declared emergency, the state Department of Human Services may designate a health care facility as an emergency health care center.⁹ A designated emergency health care center may be used to evaluate and treat individuals effected by the emergency.¹⁰ These emergency health centers have pre-planned for the use and credentialing of registered emergency health care providers who volunteer to provide emergency medical services. The Department of Human Services may designate Good Samaritan Hospital as an emergency health care facility to treat severe cases of pneumonic plague. The hospital will be directed to utilize the registry of volunteer health professionals to ensure proper credentialing, as part of the emergency privileging process.

¹ Centers for Disease Control and Prevention, Facts about Pneumonic Plague (2004), *available at* <http://www.bt.cdc.gov/agent/plague/factsheet.asp> (last visited May 29, 2005).

² Id.

³ Or. Rev. Stat. § 401.025(4) (2003).

⁴ Or. Rev. Stat. § 401.065 (2003).

⁵ Id.

⁶ Id.

⁷ Or. Rev. Stat. § 401.025(9) (2003).

⁸ Or. Rev. Stat. § 401.654 (2003).

⁹ Or. Rev. Stat. § 401.657 (2003).

¹⁰ Id.