

# **National Governors Association**

*Modifying Scope of Practice for the Health Care  
Workforce Via Gubernatorial Executive Action  
in Response to a Pandemic Event*

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A Roadmap for States



# About the National Governors Association

- Nation's oldest organization serving the needs of governors and their staff
- NGA Office of Federal Relations (OFR): serves as the collective voice of the nation's governors in Washington, DC
- NGA Center for Best Practices (NGA Center): a hybrid think tank/consultancy that works to surface evidence-based practices, works directly with governors on specific policy projects, and provides support to OFR. The NGA Center divisions are:
  - Health
  - Education
  - Energy, Environment, and Transportation
  - Human Services and Workforce
  - Homeland Security and Public Safety

# Purpose of the Roadmap

- This roadmap is intended to help governors and their senior staff:
  - Identify the appropriate stakeholders to coordinate a response;
  - Identify state health care workforce goals and strategies that address challenges that may arise during a pandemic event using an influenza pandemic as a model;
  - Outline key policy and logistical considerations for government officials; and
  - Determine specific policies that modify scope of practice, such as allowing nurses and pharmacists to dispense and administer medical countermeasures and addressing the use of alternate care sites, such as mobile clinics and schools, during a pandemic event.
- The policy considerations offered in this roadmap may be addressed via gubernatorial executive orders (EOs). Issuing EOs are one strategy to expedite policy changes and can facilitate prompt delivery of care. Prompt response is especially important in a pandemic event when antivirals need to be given within the first 48 hours of illness. Some states may not need an EO to address these policies and thus, may use another executive authority.
- While this roadmap specifically focuses on responding to an influenza pandemic, many of the policy options may be considered in preparation for other pandemic events.
- This roadmap does not provide legal advice and should not substitute for the advice of your general counsel.

# Contextualizing the Issue

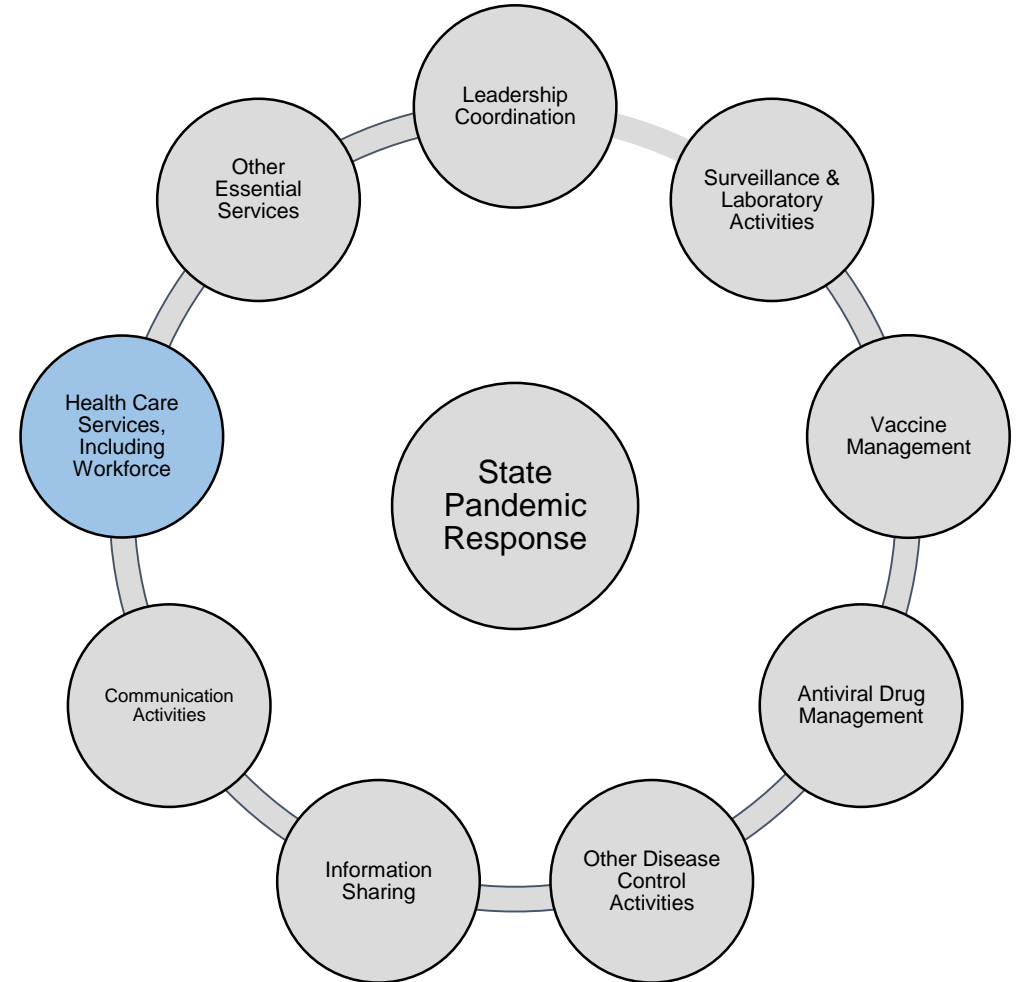
An influenza pandemic has a much broader impact on the population than the typical seasonal flu. Pandemics usually last longer and may lead to an increased number of affected persons, more severe complications, and strains on the health care system.

Pandemic Flu	Seasonal Flu
Rarely happens (three times in 20th century)	Happens annually and usually peaks in January or February
People have little or no immunity because they have no previous exposure to the new virus	Usually some immunity built up from previous exposure
Healthy people may be at increased risk for serious complications	Usually only people at high risk, such as the elderly and infants, are at risk of serious complications
Health care facilities and hospitals may be overwhelmed	Health care providers and hospitals can usually meet public and patient needs
Vaccine probably would not be available in the early stages of a pandemic	Vaccine available for annual flu season
Effective antivirals may be in limited supply	Adequate supplies of antivirals are usually available
Number of hospitalizations and deaths could be high	Seasonal flu-associated deaths in the United States over 30 years ending in 2007 have ranged from about 3,000 per season to about 49,000 per season.
Symptoms may be more severe	Symptoms include fever, cough, runny nose, and muscle pain
May cause major impact on communities and society, such as widespread travel restrictions and school closures or business closings	Usually causes minor impact on communities and society the general public some schools may close and sick people are encouraged to stay home
Potential for severe impact on domestic and world economy	Manageable impact on domestic and world economy

Source: <http://www.flu.gov/pandemic/about/>

# Contextualizing the Issue

- All states have influenza pandemic response plans, which can include defined roles and duties for state officials, departments, and organizations.
- The health care workforce is one component of a state's overall plan.
- As states consider updating their plans, the policy ideas offered in this roadmap may provide new insights for inclusion.



# Contextualizing the Issue

- The health care workforce plays an important role in responding to a pandemic. Mobilizing all health care professionals during a severe pandemic emergency may be needed; however, certain health care professionals may be limited in their ability to effectively respond to a pandemic due to state scope of practice restrictions.
- Scope of practice describes the procedures, actions, and processes that a specific health care professional is permitted to undertake.
- Professions that may be called to action in the event of a pandemic include:
  - Physicians
  - Pharmacists
  - Nurses
  - Emergency Medical Services (EMTs and paramedics)
  - Physicians Assistants
  - State and Local Public Health Agency Officials
  - Medical Assistants
  - Home Health Aides
  - Midwives
  - Dentists
  - Dental Hygienists
  - Morticians
  - Social Workers
  - Veterinarians
  - Podiatrists
  - Volunteer workforce, including healthcare professional students

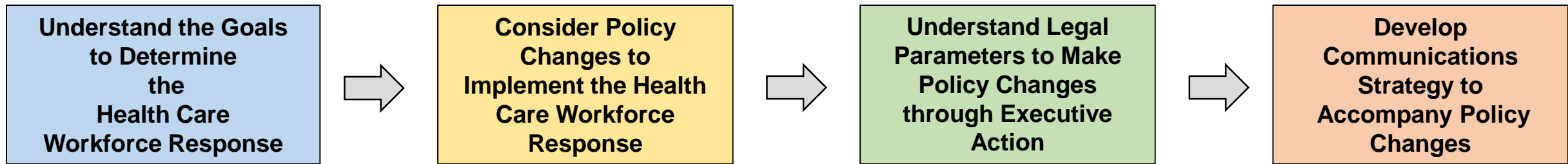
Partial Source: "ASTHO Scope of Practice Issues State Analysis Guide", Association of State and Territorial Health Officials

# Contextualizing the Issue

A wide range of key stakeholders need to be engaged when developing and communicating policy changes in preparation for and in response to a pandemic event.



# Roadmap to Address Health Care Workforce Issues in Response to a Pandemic Event





# Understand the Goals to Determine the Health Care Workforce Response



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## State Health Care Workforce Goals During a Pandemic:

- Reduce disease transmission and prevent deaths
  - Educate residents about best practices to avoid new infections
  - Quickly provide access to medical countermeasures, when available
  - Treat sick individuals with antiviral medication (per CDC/state health department protocol)
  - Reach priority groups for vaccination
- Reduce stress on health care system to allow for the best use of health care providers and to provide the broadest care to state residents
  - Ensure the correct level of care is provided to minimize surge in emergency rooms, clinics, and provider offices
  - Monitor the capacity of the health care system and provide support and guidance if usual standards of care cannot be achieved
- Provide the public with consistent messaging
  - Provide consistent recommendations for antiviral treatment and priority groups
  - Encourage the public to seek care only when needed

# Understand the Goals to Determine the Health Care Workforce Response

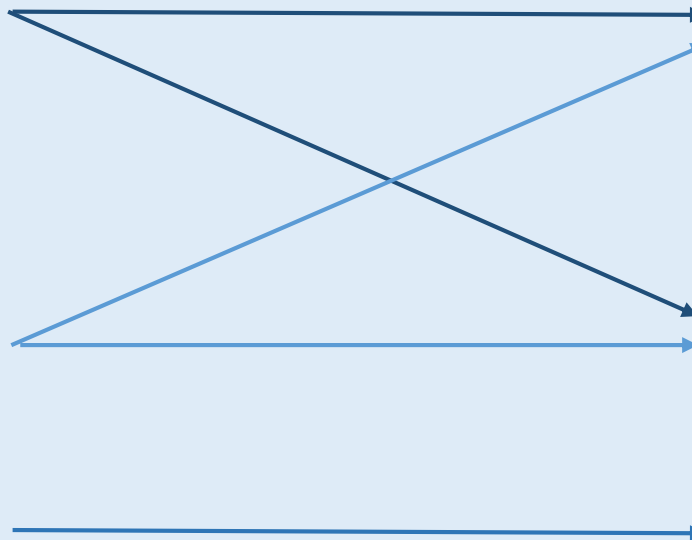


## GOALS

- Reduce transmission and prevent deaths
- Reduce stress on health care system to allow for the best use of health care providers and to provide the broadest care to state residents
- Provide the public with consistent messaging

## STRATEGIES

- Ensure adequate supply of countermeasures and health care professionals to provide medications, vaccinations, and pandemic related care
- Expedite delivery of care
- Determine messaging to the health care workforce and the public



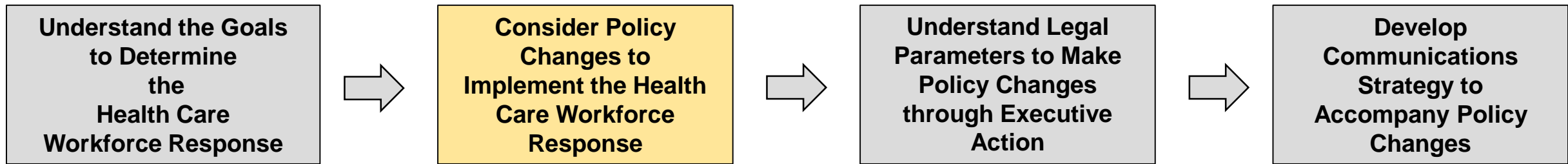
# Understand the Goals to Determine the Health Care Workforce Response



## Modifying Scope of Practice for Certain Health Care Professionals is a Potential Health Care Workforce Response

- As mentioned earlier, scope of practice describes the procedures, actions, and processes that a health care professional is permitted to undertake, as defined by their respective state practice acts, associated regulations, and board policies. It includes defining who is authorized to engage in certain clinical actions, such as administering a vaccine or providing access to medications like antivirals.
- Emergency modification of scope of practice for certain professions can be authorized when there is an increased need for professionals to perform certain clinical functions (beyond their current scope) in the face of an emergency.

# Roadmap to Addressing Health Care Workforce Issues in a Pandemic Event



# Consider Policy Changes to Implement Health Care Workforce Response

- Executive orders are a powerful tool that can expedite policy changes and implementation. One way governors can use executive orders is to modify scope of practice for the health care workforce to effectively respond to an influenza pandemic.
- An executive order can address changes in state laws and regulations governing scope of practice for a specified amount of time during the pandemic or public health emergency. They also can include ancillary communications, such as a Frequently Asked Questions document. For example, New York included a “Frequently Asked Questions” document with an executive order in response to the 2009 H1N1 influenza emergency.
- The following policy considerations may be addressed in an executive order:
  - Provision of antiviral medications without an individualized prescription
  - Administration of the flu vaccine
  - Liability protections
  - The use of alternate care sites
  - The use of clinician triage lines (such as **Flu on Call®**)

# Policy Considerations for an Executive Order (EO)

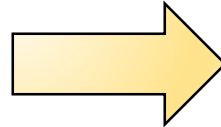
Potential Issue	Potential Solution	Baseline	How an EO can Address the Issue
Delays in treatment may be encountered during a severe pandemic if health care facilities experience a surge.	Increase the number of health care professionals that can provide clinical care and dispense antivirals.	Dispensing authority for antiviral medications is limited for RNs and pharmacists.	Provide temporary modifications in scope of practice for pharmacists and RNs to allow them to provide access to antiviral medications without an individualized prescription.
During a severe pandemic event, a disease may rapidly spread between individuals and increase morbidity and mortality.	Reduce disease transmission and prevent deaths by expanding the ways the public can receive an influenza vaccine.	Certain health care professionals are not allowed to administer an influenza vaccine.  Limitations also may exist in the ability to vaccinate children and adolescents.	Provide temporary modifications in scope of practice for pharmacists, nurses, and/or other health care professionals to administer an influenza vaccine and/or allow for broader age groups, such as children and adolescents.
Individuals and entities or organizations delivering care, as well as professionals who are authorizing care, as a result of the pandemic emergency (e.g. signing standing orders and collaborative practice agreements) may fear liability issues.	Communicate what liability protections are available to whom as a result of emergency declarations.	Liability protections are available via certain laws relating to emergency response.  Certain federal emergency declarations may also provide immunity from liability claims for a range of activities related to covered countermeasures, such as the influenza vaccine.	Specify what expanded liability protections are available to whom as a result of state and/or federal emergency declarations.
During an emergency, access to health care services may be limited due to limitations on authorized care sites.	Provide flexibility in care sites to widen the availability of services to areas where they are needed most.	Under some state laws, some health care professionals' are limited to practicing in specific care sites.  In addition, provision of certain clinical services may be limited to only designated health care facilities.	Allow providers to practice in alternate care sites such as mobile clinics, and designate facilities that are not licensed health care facilities as a source of care, such as schools.
Symptomatic individuals may be required to go to doctors offices, clinics, and hospitals to receive professional care for illness, and delays in treatment may occur if these facilities experience a surge.	Expand the ways that symptomatic individuals can receive treatment during an emergency through clinician triage lines.  CDC is developing a network of triage lines ( <b>Flu on Call®</b> ) to serve as an alternative way to receive medical care during a pandemic.	In some states, registered nurses and pharmacists, working under an approved protocol may be able to provide access to antiviral medicines by phone for patients who meet certain criteria.  Interstate issues may arise when delivering services across state lines via clinician triage lines.	Authorize the use of clinician triage lines, such as <b>Flu on Call®</b> , to deliver care. This may be done through temporary modifications in existing standing orders/ protocols or by creating new ones.  Authorize temporary licensure reciprocity for health care professionals working on clinician triage lines.

# Consider Policy Changes to Implement the Health Care Workforce Response

## Policy Consideration #1: Identify How Antiviral Medications Can Be Accessed Without a Prescription

### Baseline

- In day-to day-practice, an individualized prescription is required to dispense antivirals medications to patients.
- Some states allow pharmacists and nurses to enter into a formal agreement with a physician to prescribe or dispense drugs to adults-without a physician's prescription. This type of agreement is between a specific doctor and a pharmacist or nurse and may be in the form of a protocol, standing order, or collaborative practice agreement (CPA) and may allow a pharmacist or nurse to prescribe or dispense medications in circumscribed instances. Some state laws and regulations may limit practice settings, the authority to initiate or modify drug therapy, and the number of patients permitted within these types of agreements.
- These agreements do not usually provide flexibilities in scope of practice during emergency situations.



### Policy Considerations

- Consider using an executive order to allow pharmacists and registered nurses to provide access to antiviral medications without an individualized prescription in emergency situations.
- Consider broader language that references emergency situations in current protocols, standing orders, or CPAs.
- Consider issuing statewide protocols that allow for pharmacists and registered nurses to provide access to antiviral medications for persons who meet certain clinical or risk group criteria during emergency situations.
- Consider using other health care professionals to provide access to antiviral medications without an individualized prescription in emergency situations, such as EMTs.

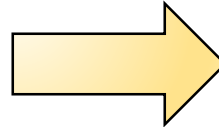


# Consider Policy Changes to Implement the Health Care Workforce Response

## Policy Consideration #2: Identify Who Can Administer the Flu Vaccine

### Baseline

- In general, qualified physicians, pharmacists, and nurses can administer the influenza vaccine to adults. However, states differ in their definition of adults (e.g. not all states define an adult as someone who is 18 or older).
- In addition, in some states, other allied health professionals (such as EMTs, medical, pharmacy, and nursing students, medical assistants, and others) may not be able to administer influenza vaccinations under current statute/regulation.
- During a severe pandemic, states may need to immunize their population two times (21 days apart) within a very short time period. In most states, there could be a shortage of healthcare personnel to rapidly administer vaccine to a large number of persons in a short time period.



### Policy Consideration

- Consider allowing pharmacists and nurses to vaccinate broader age groups, including adolescents or children.
- Apart from pharmacists and nurses, other health professionals' scope of practice may be temporarily modified via an executive order to allow them to administer the flu vaccine. Other professions may include the following clinicians or clinically trained individuals:
  - Current medical and allied health professionals: EMT/EMS, dentists, dental hygienists, podiatrists, physician assistants, veterinarians,
  - Lay volunteers: medical, pharmacy, and nursing students, medical assistants, community health workers, and retired or formerly licensed health care professionals.
  - Other professionals who are trained in giving injections

# State Example

## Ohio

**Emergency Event:** 2014 Measles and Mumps Outbreak Event

**Baseline:** In Ohio, pharmacists are authorized to administer only certain immunizations specified in Ohio law and administrative rules adopted by the Board of Pharmacy. The measles-mumps-rubella (MMR) vaccine was not included in the list of authorized immunizations.

**State Response:** On June 9, 2014, Governor John Kasich issued an executive order declaring an emergency and authorizing the Board of Pharmacy to adopt emergency administrative rules authorizing licensed pharmacists to administer the MMR vaccine to individuals 18 years and older, in order to provide those adults who have not yet received the vaccine with additional locations to obtain the MMR vaccine.

*Source: Ohio Department of Health, Executive Order 2014-04K*

# State Example

## Maryland

**Emergency Event:** 2009 H1N1 Pandemic Event

**Baseline:** In Maryland, EMT-Paramedics are able to administer certain vaccines to public safety personnel and pharmacists are able to administer the flu vaccine to adults.

**State Response:** On November 6, 2009 Governor O'Malley issued an executive order in response to the H1N1 health emergency. The order permitted EMT-Paramedics and licensed Cardiac Rescue Technicians to administer the H1N1 vaccine to the general public. The Secretary of the Maryland Department of Health and Mental Hygiene was also granted the authority through the order to authorize additional categories of appropriately trained and experienced health practitioners to administer the H1N1 vaccine. Through this authority, the Secretary allowed licensed, certified pharmacists to vaccinate individuals ages 13 and older.

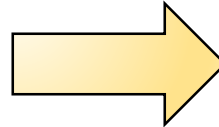
*Source: Courtney, et al., "Expanding Practitioner Scopes of Practice During Public Health Emergencies: Experiences from the 2009 H1N1 Pandemic Vaccination Efforts", 2010*

# Consider Policy Changes to Implement the Health Care Workforce Response

## Policy Consideration #3: Address Liability Protections for the Health Care Workforce

### Baseline

- Individuals and entities or organizations delivering care as well as professionals who are authorizing care as a result of the pandemic emergency (e.g. signing standing orders and collaborative practice agreements) may fear liability issues.
- Some liability protections are available via laws relating to emergency response, interstate compacts, volunteers, Good Samaritans, sovereign immunity, and state tort claims.
- In the case of certain federal emergency declarations, the Public Readiness and Emergency Preparedness (PREP) Act provides immunity from liability claims for a range of activities related to covered countermeasures, such as the influenza vaccine.



### Policy Consideration

- Consider noting what expanded liability protections are available as a result of state and/or federal emergency declarations and to whom. This may be included as part of an executive actions, such as executive orders or emergency proclamations or declarations.

# State Example

## Maine

**Emergency Event:** 2010- 2011 Influenza Season

**Baseline:** In Maine, licensed health care professionals that are not “employees of the State” are not entitled to receive state immunity.

**State Response:** On October 12, 2010, Governor John Balducci issued an executive order that designated the Maine Emergency Management Agency Director to employ health care professional licensed in the state to administer vaccines and participate in vaccination clinics. Any person employed in this manner was deemed to be an employee of the state and was extended protections from liability and workers’ compensation in accordance with state law.

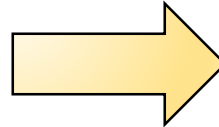
Source: [http://www.maine.gov/mema/newsroom/mema\\_news\\_display.shtml?id=142406%22#.VrUoi2pljX4](http://www.maine.gov/mema/newsroom/mema_news_display.shtml?id=142406%22#.VrUoi2pljX4)

# Consider Policy Changes to Implement the Health Care Workforce Response

## Policy Consideration #4: Address the Use of Alternate Care Sites

### Baseline

- Under existing state laws, some health care professionals are limited to practicing in a specific care setting.
- State laws also may limit the provision of services to licensed health care facilities.



### Policy Consideration

- Flexibility in care setting can widen the availability of services to areas where they are needed most. States may consider allowing providers to practice in alternate care sites such as mobile clinics, and designating facilities that are not licensed health care facilities as a source of care, such as schools.

# State Example

## New York

**Emergency Event:** 2009 H1N1 Influenza Event

**Baseline:** In New York, school-based health clinics may not be used as vaccination sites for adults.

**State Response:** On October 28, 2009, Governor David Paterson issued an executive order that allowed adults to be immunized in school-based clinics that ordinarily served children. The executive order also allowed for state health department authorized part-time clinics to be operated by hospitals in elementary or secondary schools.

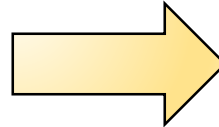
Source: New York Executive Order 29 (October 28, 2009)

# Consider Policy Changes to Implement the Health Care Workforce Response

## Policy Consideration #5: Address the Use of Clinician Triage Lines, such as Flu on Call®

### Baseline

- Symptomatic individuals may be required to go to doctors' offices, clinics, and hospitals to receive medical care and prescription medications (antivirals) for illness, and delays in treatment may occur if these facilities experience a surge.
- Interstate issues may arise when delivering services across state lines via clinician triage lines.
- CDC is developing a network of triage lines (**Flu on Call®**) to serve as an alternative way to receive medical care during a pandemic. In some states, registered nurses and pharmacists, working under an approved protocol may be able to provide access to antiviral medicines by phone for patients who meet certain criteria.



### Policy Consideration

- States may consider authorizing the use of clinician triage lines, such as **Flu on Call®**, to deliver care. This may be done through temporary modifications in existing standing orders or protocols or by creating new ones.
- Some agreements, such as the Nurse Licensure Compact (NLC), may facilitate interstate practice for health care professionals. However, states that do not participate in these agreements may need to waive licensure requirements for out-of-state health care professionals. States may consider authorizing temporary licensure reciprocity for health care professionals working on clinician triage lines.



# Flu on Call®

**Flu on Call®** is a network of telephone triage centers staffed by registered nurses and other healthcare personnel that will be activated during a pandemic to reduce the need for face-to-face provider encounters and improve access to antiviral medications.



## How Does Flu on Call® Work?

Caller dials the **Flu on Call®** toll-free number

**Flu on Call®** information specialist answers: *"Thank you for calling **Flu on Call®**. Are you sick with flu-like symptoms or caring for someone who is?"*

Yes

The information specialist will transfer the call to a medical professional, who will follow a CDC-approved protocol to:


- triage the caller;
- recommend when and where to seek face-to-face care; and
- provide access to antiviral medicines, if appropriate


No

Callers who need information about pandemic flu will be guided to appropriate public-health resources.

### Goals of Flu on Call™

  
Improve access to  
antiviral medications

  
Reduce the need for  
face-to-face encounters  
with providers

  
Reduce the surge  
on medical facilities



# State Example

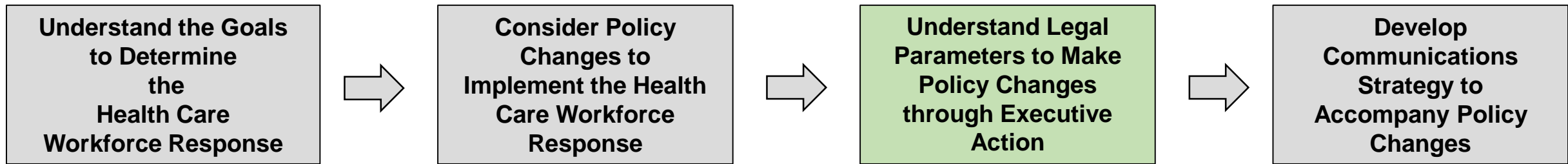
## Minnesota

### **Emergency Event:** 2009 H1N1 Influenza Event

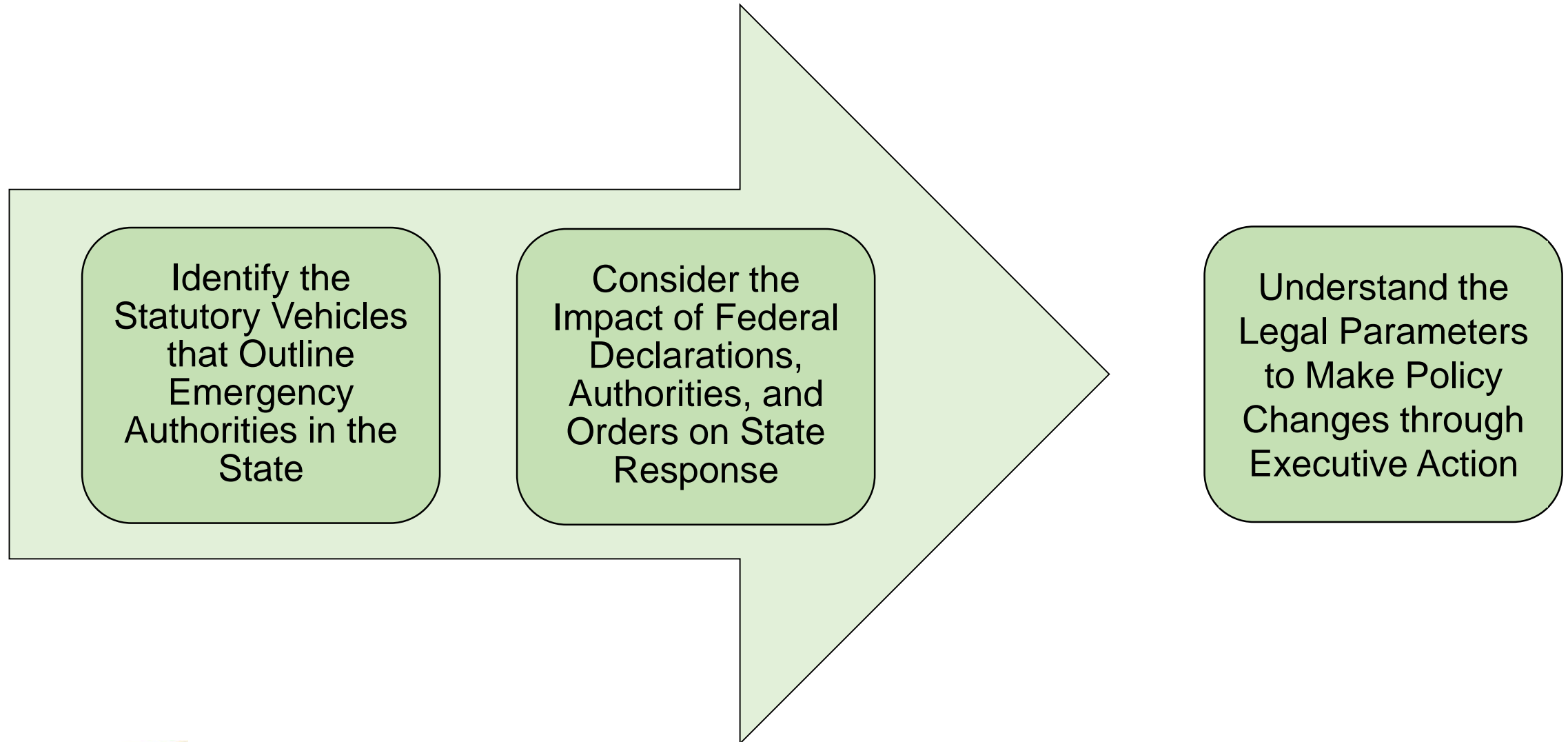
**Baseline:** During September 2009, Minnesota recognized that with the likely resurgence of the H1N1 pandemic in the fall, there may be surge on healthcare facilities and long delays in receiving care for sick persons. Although several large health plans in the state already had clinician triage lines in place for their members to receive information and health care advice, those who were either uninsured or did not have access to a clinician triage line through their plan did not have a source to receive timely access to care.

**State Response:** During the 2009 H1N1 influenza pandemic, the Minnesota Department of Health (MDH) worked with Children's Hospitals and Clinics to create a coordinated statewide nurse triage line (NTL) system called the MN FluLine (Minnesota FluLine) that began October 21, 2009. This system was created to address the following objectives: (1) decrease public confusion by providing accurate information, consistent messaging, and assistance, including use of antiviral medications when indicated through protocol via prescription by the health plan medical director or state epidemiologist; (2 ) decrease the spread of disease by reducing the volume of sick individuals gathering in health-care settings (HCS); (3) reduce medical surge on the HCS to ensure that other priority medical needs would continue to be met; and (4) meet the needs of uninsured or underinsured patients, and those without easy access to health care. Patients were able to call a single number and be routed to the appropriate line for their insurance plan. Those without insurance were provided antivirals through use of the state stockpile and through agreements negotiated with pharmacists.

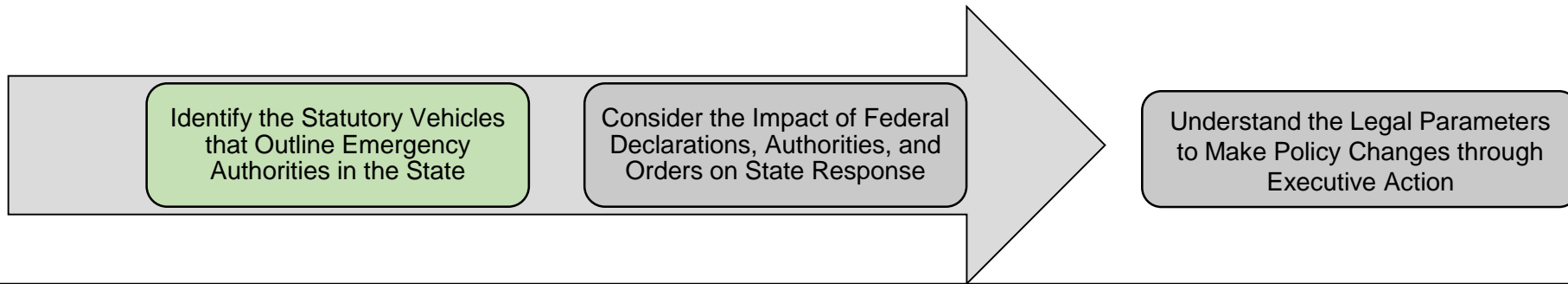
# Roadmap to Addressing Health Care Workforce Issues in a Pandemic Event



# Understand Legal Parameters to Make Policy Changes through Executive Action



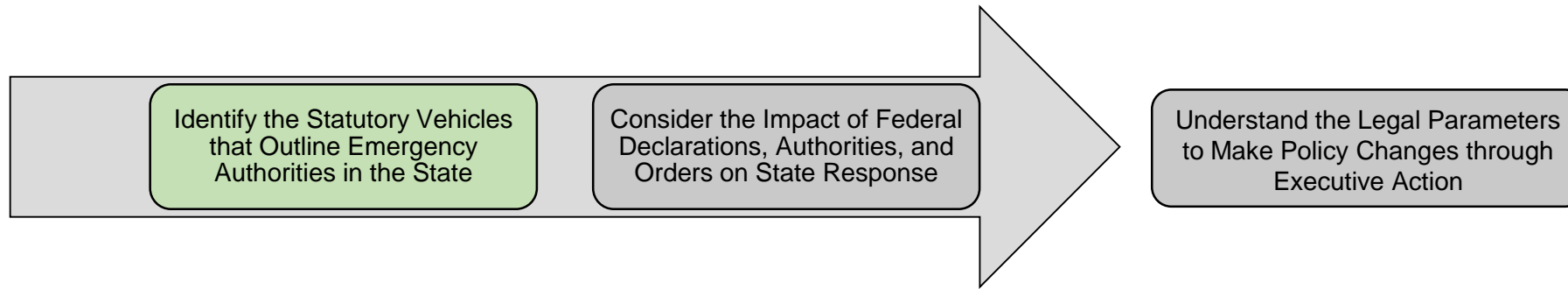
# Understand Legal Parameters to Address Policy through Executive Action



- Governors typically use executive orders to:
  - Trigger emergency powers that are outlined in emergency management statutes during natural disasters, energy crises, or other situations requiring immediate attention;
  - Create advisory, coordinating, study, or investigative committees or commissions; and
  - Address management and administrative issues such as regulatory reform, environmental impact, hiring freezes, discrimination, and intergovernmental coordination.
- The authority to issue executive orders is included in:
  - State constitutions and statutes;
  - Case law; or
  - Implied by the powers assigned to state chief executives.
- In some states, certain executive orders are subject to legislative review.

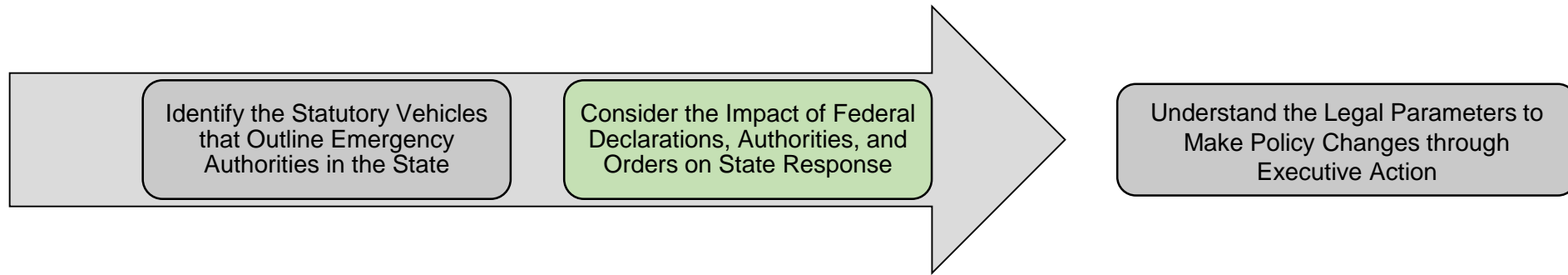
Source: <http://www.nga.org/cms/home/management-resources/governors-powers-and-authority.html>

# Understand Legal Parameters to Address Policy through Executive Action



- Typically, an executive order is used to declare a “state of emergency”. In some instances, the executive order also outlines temporary policy changes.
  - Governors have varying authority to declare emergencies. The conditions to declare emergencies are specified in state law. For example, some governors may only have the authority to declare an “emergency,” “public health emergency,” or “disaster,” while others may have a combination of authorities.
  - In some states, state health officers or agency directors have the authority to declare public health emergencies. Similar powers may also be extended to other state officials such as the emergency management agency director, homeland security director, or agricultural director. Local governments may also have the authority to declare emergencies and activate authorities within their jurisdiction.
- Declarations often provide a vehicle to waive or suspend certain state laws and regulations. However, additional action, such as an executive order, may be required to exercise this authority.
- During a pandemic emergency, governors can use an executive order to modify scope of practice of selected health care professionals to improve outcomes.

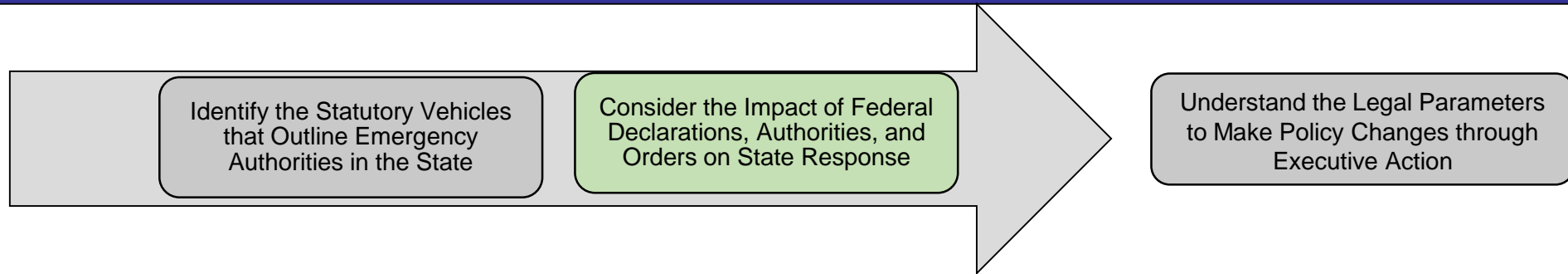
# Understand Legal Parameters to Address Policy through Executive Action



## There are co-existing federal and state authorities that impact an emergency response

- Federal emergency declarations can implement or activate a number of emergency response protocols and systems, such as the National Response Framework, National Incident Management System, Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (PAHPRA), and the Public Readiness and Emergency Preparedness Act (PREP).
- Careful consideration of the impact of the federal action on state authority and response needs to be given to maximize a coordinated effective response and avoid potential conflict.
- While certain federal declarations, authorities, and orders may allow action otherwise prohibited by federal law, others may require further actions by the state to be effective.

## Understand Legal Parameters to Address Policy through Executive Action



**State general counsels and health and emergency management officials should evaluate state laws and regulations alongside federal declarations to determine whether temporary state policy modifications issued via executive orders could address issues related to federal and state policy alignment.**

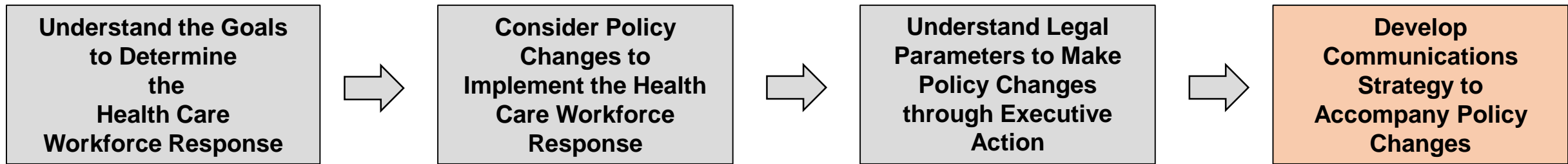
**During a pandemic emergency, the Federal government may:**

- Activate the Centers for Disease Control and Prevention's (CDC) Emergency Operations Center (EOC)
  - The EOC monitors and coordinates CDC's emergency response activities
- Release medical countermeasures from the CDC's Strategic National Stockpile, which can be used to supplement state and local supplies
- Issue an Emergency Use Authorization from the Food and Drug Administration (FDA) to authorize the use of unapproved products or the use of approved products for unapproved indications
- Manage the use of medical countermeasures through the Pandemic and All-Hazards Preparedness Reauthorization Act (PAHPRA) by:
  - Extending the expiration date of medical countermeasures to be used in an emergency
  - Allowing dispensing of countermeasures without an individual prescription in an emergency, through the FDA-issued mass dispensing order
- Increase vaccine production and administration that results from the Public Readiness and Emergency Preparedness (PREP) Act providing liability protections to:
  - Vaccine producers and to those organizations and individuals who administer the vaccine
  - Volunteers or other health professionals who are not typically authorized to administer vaccines in an emergency

Careful consideration of state law should be given to determine if any state action is necessary to address any potential state legal barriers to fully implement the federal declarations



# Roadmap to Addressing Health Care Workforce Issues in a Pandemic Event



# Develop Communications Strategy to Accompany Policy Changes

- Providing consistent messaging to affected health care professionals and the public can avoid confusion, increase efficiency, and assist in delivering timely care to individuals in the appropriate settings.
- Engaging the appropriate stakeholders can help to delineate roles and responsibilities.
- An executive order should designate a lead agency official to direct all response activities.
- When activating temporary policy changes, communicating and coordinating with neighboring states that may have different policies is important.

# Develop Communications Strategy to Accompany Policy Changes

- Developing ancillary communication materials to accompany an executive order can facilitate consistent messaging.
- Communications materials may include any of the following:
  - Press Releases/ Updates
  - Frequently Asked Questions for Health Care Professionals, Provider Organizations, and Consumers
  - Fact Sheets for Health Professionals/ Providers and Consumers
  - Talking Points for State Officials
  - Social Media Updates (Facebook, Twitter, etc.)
  - Website Updates
- The governor's office may consider hosting a virtual press conference or virtual town halls to broadly disseminate information to the public. Avoiding large gatherings in public places is ideal in a pandemic situation when risk of transmission is high.
- Finally, if applicable, states can consider using their State Health Advisory Network to disseminate information.

# State Example

## Indiana

**Emergency Event:** 2015 HIV Outbreak in Scott County, Indiana

**Baseline:** The state did not have a needle exchange program for injection drug users and such a program was explicitly prohibited by law.

**State Response:** Indiana was facing a large, unprecedented, and growing outbreak of HIV and Hepatitis C in a semi-rural county related to an increasing number of injection drug users that were sharing needles and injection equipment. On March 26, 2015, Governor Michael Pence issued an executive order that declared a public health emergency in Scott County and allowed for the Indiana State Department of Health to coordinate with other state and local agencies to effectively control the pandemic. The executive order provided additional financial resources to address the outbreak, provided resources for testing inmates in the Scott County Jail, temporarily suspended Indiana law allowing the local community to establish a short-term needle exchange program, and provided assistance to individuals and local agencies to enroll in health coverage, including Indiana's consumer driven Medicaid plan HIP 2.0.

In addition, the executive order established funding for an Incident Command Center, which was later named a One-Stop Shop and enabled the state to coordinate across multiple systems including health, corrections, law enforcement, human services, and labor/workforce development. This alignment allowed the state to develop a more robust and coordinated approach to address the socioeconomic factors of its residents.

Due the success of the One- Stop Shop in controlling the HIV outbreak, the Indiana State Department of Health extended center operations beyond the executive order that are open one day a week so county residents can continue to access services. In addition, the county needle exchange program has been approved for a year and can be re-authorized annually so long as specified conditions are met.

Source: <http://www.in.gov/gov/2384.htm> (Executive order 15-5: Declaration of public health emergency in Scott County, Indiana)

# Advanced Planning Can Facilitate a Rapid Response

- Although this roadmap provides key policy and logistical considerations to effectively *respond* to a pandemic, some of these considerations can be addressed *in advance* of a pandemic and mitigate issues that are likely to arise. These considerations can be addressed through legislation or included in statewide emergency communications planning as noted below, respectively:
  - **Include a Clause in Health Profession Practice Acts to Allow for Modified Scope of Practice in Emergency Situations**
    - States can consider including contingency language as part of their state scope of practice laws, such as allowing pharmacists, nurses, and/or other health care professionals to dispense and administer appropriate medical countermeasures in any public health emergency. For example, New Mexico's EMS Act allows the Secretary of Health to waive licensure requirements during a declared emergency and Texas' Government Code allows suspension of provisions of state regulations that would impede response in a declared disaster.
  - **Develop an Appropriate Communications Strategy**
    - Pandemic preparedness requires a coordinated effort from all levels of government and sectors of health care, including governors' offices, state and local health agencies, emergency management agencies, health care providers, and health care coalitions/associations. States can work with stakeholders to build open channels of communication between designated officials who can communicate response activities to their networks.
    - States can also consider appropriate risk communication strategies to share information with their key stakeholders. CDC's [Crisis and Emergency Risk Communication](#) (CERC) tools provide states with a comprehensive approach to stakeholder engagement during an emergency.

# State Example

## Georgia

**Emergency Event:** 2009 H1N1 Pandemic Event

**Baseline:** In Georgia, nurses and pharmacists are not allowed to prescribe antiviral medications.

**State Response:** The state legislature passed Ga. Code Ann., § 43-34-26.1. (2009) which permits physicians to enter into protocol agreements with pharmacists and registered nurses, allowing these professionals to administer and dispense the influenza vaccine under a standing order without a physician's individual prescription. The legislation limited physicians to enter into protocol agreements with no more than 10 pharmacists and nurses unless they are within the same public health district and are employees or agents of the same corporate entity.

Source: Courtney, et al., "Expanding Practitioner Scopes of Practice During Public Health Emergencies: Experiences from the 2009 H1N1 Pandemic Vaccination Efforts", 2010

# Appendix

## Glossary – Acronyms, Terms, and Concepts

- **Collaborative Practice Agreement:** A collaborative practice agreement can exist between a physician and pharmacist or nurse and allows the pharmacists or nurse to provide access to medication under the physicians prescribing authority. They are defined by practice acts and rules of a state's practitioner boards (e.g. board of physicians) and, therefore, may vary by state and be modified by state legislatures.
- **Emergency Management Assistance Compact (EMAC):** A congressionally authorized interstate mutual aid compact that provides a mechanism through which states can provide assistance to other states during emergencies. All states participate in the EMAC. The compact also addresses reimbursement, liability, compensation, and licensure issues.
- **Medical Countermeasures (MCMs):** FDA-regulated products (biologics, drugs, devices) that may be used in the event of a potential public health emergency stemming from a terrorist attack with a biological, chemical, or radiological/nuclear material, a naturally occurring emerging disease, or a natural disaster. MCMs can include biologic products (such as vaccines), drugs, and devices (such as masks).
- **National Emergencies Act (NEA):** This act allows the President to declare a national emergency and trigger emergency authorities contained in other federal statutes. NEA does not contain any specific emergency authority on its own but relies on the emergency authorities in other statutes, such as the Public Health Service Act. President Obama used the NEA to declare the 2009 H1N1 influenza pandemic a national emergency.
- **National Incident Management System (NIMS):** A system of incident command developed by the Department of Homeland Security to coordinate emergency response efforts at all levels of government and the private sector.
- **National Response Framework (NRF):** A policy document developed by the Department of Homeland Security that uses a national, all-hazards approach to describe and integrate roles for governments at all levels and the private sector in preparing, responding, and recovering from emergencies of all sizes, regardless of whether an emergency is declared.

Partial Source: ASTHO Legal Preparedness Series Emergency Authority and Immunity Toolkit: <http://www.astho.org/Programs/Preparedness/Public-Health-Emergency-Law/Emergency-Authority-and-Immunity-Toolkit/Key-Federal-Laws-and-Policies-Regarding-Emergency-Authority-and-Immunity/?terms=pahpra>

# Appendix

## Glossary – Acronyms, Terms, and Concepts

- **Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (PAHPRA):** Addresses the organization of public health emergency preparedness and response activities and authorizes programs concerning medical surge capacity, the capacity of states and localities to prepare for and respond to public health emergencies, and the development of countermeasures to biological threats.
- **Public Health Service Act Section 319:** This Act authorizes the HHS secretary to determine that a public health emergency exists and triggers emergency powers that permit the federal government to assist state and local governments, suspend or modify certain legal requirements, and expend available funds to address public health emergencies.
- **Public Readiness and Emergency Preparedness Act (PREP):** This Act authorizes the HHS secretary to issue a declaration that provides immunity from tort liability for claims of loss caused by countermeasures against diseases or other threats of public health emergencies. The act covers persons and entities involved in the manufacture, testing, distribution, administration, and use of covered countermeasures.
- **Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act):** This act authorizes the federal emergency technical, financial, logistical, and other assistance to states and localities. A governor must first determine that an event overwhelms the state’s capacity to respond and request a presidential declaration under the Stafford Act before the president can declare all or a portion of a state a “major disaster” or “emergency” area. A Stafford Act declaration can be used to trigger other public health emergency response authorities such as Social Security Act Section 1135 waiver authorities.

Partial Source: ASTHO Legal Preparedness Series Emergency Authority and Immunity Toolkit:  
<http://www.astho.org/Programs/Preparedness/Public-Health-Emergency-Law/Emergency-Authority-and-Immunity-Toolkit/Key-Federal-Laws-and-Policies-Regarding-Emergency-Authority-and-Immunity/?terms=pahpra>



# Appendix

## Glossary – Acronyms, Terms, and Concepts

- **Scope of Practice:** Scope of practice defines who is authorized to engage in certain medical actions, such as who is allowed to administer a vaccine or prescribe medications like antivirals. The scope of practice for health professionals is defined in their respective state practice acts. Health care professionals are governed by their respective boards.
- **Volunteer Protection Act:** This act provides immunity from ordinary negligence to volunteers of nonprofit organizations or governmental entities. It does not cover gross negligence, willful misconduct, recklessness or acts committed by the volunteer while intoxicated or operating a motor vehicle. It does not cover organizational entities of any type or persons volunteering at private businesses. The act does not require a declared emergency for its protections to apply.

Partial Source: ASTHO Legal Preparedness Series Emergency Authority and Immunity Toolkit:  
<http://www.astho.org/Programs/Preparedness/Public-Health-Emergency-Law/Emergency-Authority-and-Immunity-Toolkit/Key-Federal-Laws-and-Policies-Regarding-Emergency-Authority-and-Immunity/?terms=pahpra>

# Additional Resources

- ASTHO's Emergency Authority & Immunity Toolkit: <http://www.astho.org/Programs/Preparedness/Public-Health-Emergency-Law/Emergency-Authority-and-Immunity-Toolkit/Emergency-Authority-and-Immunity-Toolkit/>
- ASTHO's Memorandum of Understanding for the Coordination of A Pandemic Influenza Vaccination Campaign in Planning for and Responding to An Influenza Pandemic : <http://www.astho.org/Infectious-Disease/Pandemic-Influenza/MOU-State-Pharmacy-Pandemic-Influenza-Vaccination-Campaign/>
- ASTHO Pharmacy Legal Toolkit – Guidance and Templates for State and Territorial Health Agencies When Establishing Effective Partnerships with Pharmacy During Routine and Pandemic Influenza Seasons: <http://www.astho.org/Infectious-Disease/Pharmacy-Legal-Toolkit/>
- ASTHO's Scope of Practice Toolkit: <http://www.astho.org/ScopeofPracticeToolkit/>
- Brooke Courtney, et al. 2010. Expanding Practitioner Scopes of Practice During Public Health Emergencies: Experiences from the 2009 H1N1 Pandemic Vaccination Efforts. Biosecurity and Bioterrorism: Biodefense Strategy, Practice, and Science Volume 8, Number 3, 2010 © Mary Ann Liebert, Inc. DOI: 10.1089/bsp.2010.0036
- CDC's Legal Preparedness Competency Model: <http://www.cdc.gov/phlp/publications/topic/phel-competencies.html>
- CDC's Public Health Preparedness Capabilities: National Standards for State and Local Planning: <http://www.cdc.gov/phpr/capabilities/>
- CDC's Preparedness and Response Framework for Influenza Pandemics: <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr6306a1.htm>

# Additional Resources

- Example Executive Orders:
  - New York
    - No. 90: Declaring a Disaster Emergency in the State of New York and Temporarily Authorizing Pharmacists to Immunize Children Against Seasonal Influenza: [http://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO90\\_0.pdf](http://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO90_0.pdf)
  - Indiana
    - Declaration of Public Health Emergency in Scott County, Indiana :[https://secure.in.gov/gov/files/Executive\\_Order\\_15-05.pdf](https://secure.in.gov/gov/files/Executive_Order_15-05.pdf)
  - Oregon
    - Implementing the State Response to Pandemic H1N1 Influenza: [http://www.oregon.gov/gov/Documents/executive\\_orders/eo\\_0916rev.pdf](http://www.oregon.gov/gov/Documents/executive_orders/eo_0916rev.pdf)
- James G. Hodge, Daniel G. Orenstein. 2012. Antiviral Distribution and Dispensing: A Review of Legal and Policy Issues.: <http://www.astho.org/Programs/Infectious-Disease/Antiviral-Distribution/Antiviral-Distribution---A-Review-of-Legal-and-Policy-Issues/>

# Thank You

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