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M E M O R A N D U M

To: Governors' Washington Representatives and Policy Advisors
From: NGA Staff
Re: Resources for Tracking the Novel Coronavirus (COVID-19) and Assessing State Authorities

The following memo outlines the current situation regarding the novel coronavirus, recently named COVID-19, and provides an overview of select legal authorities that may be exercised to prevent and respond to COVID-19 and other public health threats. NGA will be providing more information and forums for state leaders to discuss COVID-19 issues on upcoming calls. Details will be forthcoming.

Please note that this is a rapidly evolving situation and this memo will be updated accordingly.

Current Situation and Federal Response

U.S. officials are monitoring and taking steps to respond to an outbreak of respiratory illness caused by COVID-19 that was first reported in Wuhan City, China. Tens of thousands of cases have been reported in China, where deaths attributed to COVID-19 have now surpassed that of SARS in the early 2000s. Additional cases have been identified in a growing number of other countries including the United States, where 15 cases in seven states have been confirmed. While most cases are associated with travel from Wuhan, person-to-person spread of the virus outside China has been detected in the United States and elsewhere. According to the Centers for Disease Control and Prevention, health care workers caring for COVID-19 patients and other close contacts of those individuals are at an increased risk of infection. However, for the general American public who are unlikely to be exposed to the virus, the immediate health risk is considered low at this time.

The federal government has taken several steps intended to protect the American public and minimize the threat posed by COVID-19. Among them, President Donald Trump established the President's Coronavirus Task Force, led by Health and Human Services Secretary Alex Azar, to help coordinate the federal response. On January 31, Secretary Azar declared a national public health emergency that may be used to free up federal resources, allow waivers of certain federal laws, and support social distancing measures (e.g., travel or border limits, quarantine), among other actions. The public health emergency declaration occurred in tandem with new rules barring foreign nationals who have been in China within the last 14 days from entering the United States, as well as a mandatory 14-day quarantine of Americans returning from Wuhan, China. Americans returning from elsewhere in China have been asked to "self-quarantine" in their homes in case any symptoms emerge. The federal government has also made diagnostic kits available to public health labs around the country to facilitate local testing and is supporting the development of a vaccine and other medical countermeasures. Notably, several states have reported issues regarding the validity of the diagnostic test kits and are working with CDC to resolve those challenges.

CDC's situation summary with links to case information, recommendations and other resources is available [here](#).

A Johns Hopkins dashboard showing COVID-19 cases around the world is available [here](#).

Public Health Legal Preparedness: Select Authorities

Isolation, Quarantine, and other Social Distancing Powers

Primary authority for isolation and quarantine lies with the states as an extension of their police powers. Isolation and quarantine are sometimes used interchangeably but have distinct functions in protecting the public from contagious diseases:

- *Isolation* separates sick people with a contagious disease from people who are not sick.
- *Quarantine* separates and restricts the movement of people who were exposed to a contagious disease to see if they become sick.

All states have the authority to pass and enforce isolation and quarantine laws; however, these laws vary widely state-to-state. Generally, quarantines are authorized by public health orders, although in some cases, a state may require a court order before an exposed person is detained. Diseases subject to isolation and quarantine may be articulated through statute; some states address only a single disease whereas others grant the state health department authority to decide which diseases are communicable and therefore subject to social distancing laws. Federally enacted quarantines are rare and generally occur at ports of entry and other time-sensitive situations.

A table of state statutes for isolation and quarantine authorities is available [here](#).

Declarations of Emergency

All states have the power to make a declaration of emergency or disaster. This declaration can make additional operational, financial, and legal resources available to states as they respond to incidents. In addition, 35 states have additional authority to declare a public health emergency, which grants specific authorities for declarations premised primarily on public health concerns. The authorities granted within this language may be based on the [Model State Emergency Health Powers Act](#) (MSEHPA) which was drafted by the Centers for Disease Control and Prevention in 2001 to assist states in modernizing their public health authorities to account for emerging threats such as bioterrorism.

A table of state powers to declare emergencies, including public health emergencies, is available [here](#).

Liability Protections and Immunity for Healthcare Workers

Federal and state liability protections safeguard those involved in a public health emergency against malpractice. In addition to financial and legal protection, these laws serve a public policy function by ensuring that an adequate number of health care workers, such as doctors, public health nurses, volunteers, and public servants, are willing and able to participate in response activities. Additional liabilities and immunities may be granted through emergency powers statutes, state general volunteer protection statutes, Good Samaritan laws, mutual aid agreements, amongst others.

A table of legal liability protections for emergency medical/public health responses is available [here](#).

Additional Resources

- The Network for Public Health Law webinar on the novel coronavirus and legal preparedness is available [here](#).
- The presidential proclamation barring entry to the United States of most foreign nationals who traveled to China within the past 14 days is available [here](#).

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