Office of Public Health Preparedness and Response

Division of Strategic National Stockpile

Liability Protection for Public Health Partners

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Partnerships With Public Health Benefit Us All

Private or public organizations can play a key role in a large-scale public health emergency by assisting public health in the distribution and/or dispensing of medical countermeasures, such as antibiotics to any or all of the following:

* Employees
* Contract Staff
* General Public
* Employee Families
* Clients

These medical countermeasures would be provided to organizations by local public health agencies at no cost.

Employers benefit by protecting the health and safety of their employees while helping to ensure their own continuity of operations.

Employers would also be helping limit any negative impact on the economy and society. A partnership that benefits us all.

Liability issues are a common concern that employers have expressed when asked to distribute or dispense medical countermeasures on behalf of public health.

Liability protection is provided to organizations at the federal level when a Public Readiness Emergency Preparedness (PREP) Act declaration is issued.

Public Readiness Emergency Preparedness (PREP) Act

The PREP Act authorizes the Secretary of the U.S. Department of Health and Human Services to issue a PREP Act declaration in response to a public health emergency. A PREP Act declaration provides immunity from tort *liability claims (except willful misconduct*) to individuals or organizations involved in the manufacture, distribution, or dispensing of medical countermeasures. PREP Act declarations have been issued many times in the past. The most recent example was H1N1 in 2009.

What is Immunity From Tort Liability?

Immunity from tort liability means there is no legal tort claim that can be pursued in state or federal courts. Tort claims include all claims (*except for willful misconduct*), under federal or state law for any type of loss including death; physical, mental, or emotional injury; fear of such injury; or property damage or loss, including business interruption loss, with any causal relationship to any stage of development, distribution, administration, dispensing, or use of the covered countermeasure recommended in the PREP Act declaration.

Who May be Provided Immunity Under a PREP Act Declaration?

Immunity from tort liability may, at the secretary's discretion, include any individuals or organizations that assist public officials with the manufacturing, distribution, or dispensing of medical countermeasures.

What Are the Limitations on Immunity From Liability?

- Death or serious physical injury caused by willful misconduct.
- Claims based on activities that fall outside the scope of the declaration.
- Claims of loss that do not allege a causal relationship to the administration or use of a covered countermeasure and are not in fact based on such a causal relationship.
- Claims filed under foreign law in courts outside the United States.
- Lawsuits other than tort claims. For example, violations of civil rights laws, the Americans with Disabilities Act, labor laws, or other such claims that have no connection to a tort claim.

Questions? Contact Us. We're Here to Help.

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