

INTRODUCTION TO PUBLIC HEALTH LAW

INSTRUCTOR'S GUIDE

Public Health Law Program
Center for State, Tribal, Local, and Territorial Support
Centers for Disease Control and Prevention

www.cdc.gov/phlp



Centers for Disease
Control and Prevention
Center for State, Tribal, Local,
and Territorial Support

Disclaimer

The contents of the instructor's guide and training materials are for informational purposes only and have not been formally disseminated by the Centers for Disease Control and Prevention and should not be construed to represent any agency determination or policy. Always seek the advice of an attorney or other qualified professional with any questions you may have regarding a legal matter.

Additional Information, Support, and Feedback

For technical assistance in planning or delivering this course, or to provide feedback about the course, please contact the Public Health Law Program, Center for State, Tribal, Local, and Territorial Support, Centers for Disease Control and Prevention, by emailing PHLawProgram@cdc.gov.

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I. Introduction and Purpose

Law is a critical tool in the prevention and control of communicable diseases, injuries, and other threats to the public's health and has played an essential role in each of the 10 greatest public health achievements of the 20th century.¹ Law works to improve the public's health by

- changing the physical environment so that people must accept the safer, healthier choice;
- altering the information environment so that people learn about what might be harmful to their health and what healthier options might be available; and
- penalizing risky behavior, such as imposing fines or incarceration.

The “Introduction to Public Health Law” course is designed to introduce high school students to the role of law in public health, the legal authority for public health activity, and key legal issues associated with high-visibility public health functions. The course includes a slide presentation and exercises to engage students actively in thinking about public health law. The Instructor's Guide provides materials and steps needed to successfully deliver “Introduction to Public Health Law” to students.

Curriculum Objectives

After completing this course, students will be able to

- Describe selected public health agency functions that protect the public's health
- Discuss the role of the US Constitution, laws, and regulations in public health and key legal authorities for public health activities
- Identify the basic structure and branches of federal and state governments and the location and functions of public health agencies in those contexts
- Discuss constitutional issues related to the balance between individuals' rights and communities' needs in relation to public health activities
- Exercise the implementation of public health authorities in a fictional public health emergency response scenario

¹ Centers for Disease Control and Prevention. The 10 great public health achievements. United States, 1900–1999. *MMWR* 1999;48(12):241–3, available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/00056796.htm>.

II. Planning Your Training

This section outlines an approach for teaching this course in the classroom. As written, this course can be conducted in a minimum of two hours over several class periods but can be customized to the needs of the class.

A. Course Agenda and Format

The following is a suggested agenda for the two-hour course:

10 minutes	Introduction
20 minutes	Icebreaker
20 minutes	Public Health Law 101
60 minutes	Super Duck Flu Exercise
10 minutes	Debrief and Questions

B. Customization

Depending on time limits and available data, current events, or information specific to your locale, you might wish to add, remove, or modify slides. For example, you might want to add slides specific to the state in which you are giving the course, such as slides describing the structure of the government and outlining laws relevant to public health in your state. While the substantive content of the hypothetical scenario is not intended to be changed in any way, you are free to change names and places to reflect your location. You might also wish to provide a handout listing pertinent laws in your state.

C. Instructors

Although it is possible for one person to teach the entire course, it is recommended that two or three people co-teach it, including one from a public health background and another from a legal background. The class's teacher can also assist if comfortable with the material. Instructors with public health and legal backgrounds can answer questions that arise during the scenario. You might recruit instructors from your state or local public health agency or from nearby public health or law schools. Students enrolled in law school or masters in public health programs could be possible instructors or resources for the course.

D. Additional Reference Materials

You may wish to provide additional reference materials to students, such as relevant news articles and fact sheets describing the symptoms, transmission, and treatment of certain quarantinable diseases. Many additional resources are available on the CDC website (www.cdc.gov/), particularly CDC's Public Health Law Program website (www.cdc.gov/phlp/). These materials are updated frequently.

III. Instructional Materials

A. Slides with Notes: Introduction to Public Health Law

[See associated slide deck located at [\[hyperlink\]](#)]

B. Icebreaker

This icebreaker is designed to get students thinking about public health issues and related legal issues.

1. Materials Needed

Instructors should have the following materials on hand:

- Large sheets of paper
- Markers
- Icebreaker slides from included presentation
- Optional: Objects to represent each of the public health categories in the activity: toys, food, school, transportation, workplace, etc. Examples might include a wooden locomotive to represent toys, a jar of peanut butter or bag of spinach to represent food, a toy car for transportation, etc.

2. Brainstorming Activity

Break the class into groups of four to six students per group:

- Give each group a large sheet of paper and a marker
- Have each group select one student as the recorder and another student as the presenter
- The recorder will write down responses as the group brainstorms during the activity
- The presenter will describe the responses to the other groups at the end of the activity

Go to the “Icebreaker” slide:

- Explain that these are 10 of the greatest public health achievements of the 20th century²
- Assign one achievement to each group (and make sure there is a corresponding slide and photo for each achievement)
- The slides should be modified to reflect any additions or changes to the categories

Ask the recorder in each group to write the public health achievement at the top of the paper and divide the paper down the middle:

- Instruct the groups that the recorder will write the public health issue on one side and will write the laws that the group identifies related to that issue on the other side (for example, under the public health achievement “Healthier Mothers and Babies,” the recorder could write the public health issue “lead paint in toys” on one side and the corresponding legal response as “ban on lead paint in toys” on the other)
- Remind the groups that many different laws may address the same issue within a given category
- Set the timer for 10 minutes and ask each group to brainstorm as many issues and laws as possible for their category
- All instructors or facilitators should walk around the room and assist groups by suggesting public health issues that they might not have considered under each of their categories

² The 10 great public health achievements, *supra* at n.1.

After the 10 minutes are up, the presenter in each group should describe the issues the group came up with and the laws that they brainstormed that address these issues. If time permits, allow the other groups to suggest any issues or laws that might not have come out during each group’s brainstorming session. You might wish to display the sheets on a wall in the classroom for reference during the remainder of the course.

3. Categories and Possible Responses

The table below is only an example and is not intended to be exhaustive of all possible laws relevant to the listed public health issues.

Public Health Achievement	Selected Laws/Legal Tools
Vaccination	School vaccination laws; childhood vaccination programs
Motor vehicle safety	Speed limits; alcohol laws; helmet and seatbelt laws; child safety seat laws; graduated drivers licensing
Safer workplaces	Authority to inspect for unsafe conditions; inspection of workplace safety/minimum standards, including toxic exposure
Control of infectious diseases	Sanitary codes; drinking water standards; quarantine/isolation laws; mosquito/rodent control; food inspection
Decline in heart disease/stroke	Education/info programs; food labeling; bike and walking paths
Safer/healthier foods	Inspection/minimum standards for retail food; mandated enrichment of flour; standards for chemicals; school lunch programs
Healthier mothers/babies	Milk pasteurization; drinking water code; education/information programs; Medicaid services and funding; WIC
Family planning	Authorization for birth control services; authority to provide prenatal/postnatal care to indigent mothers
Fluoridation of drinking water	Laws/ordinances authorizing drinking water fluoridation
Recognition of tobacco as a health hazard	Excise taxes; restriction on sale to minors; smoke-free laws; education/information programs; lawsuits leading to settlement agreements

C. Public Health Law 101

See the corresponding slides and notes for guidance on delivering the Public Health Law 101 portion of the course. Remember to introduce the students to the Socratic Method by quizzing them when prompted in the slides. True Socratic Method would require open-ended questions to facilitate the debate with the professor essentially playing Devil’s Advocate. Students are in the “hot seat,” called on without notice. The goal is to help law students begin to think on their feet and be able to debate the merits of a position. Here the questions are not open-ended and are calling for specific answer, but the professor should consider calling on students at random for the “hot seat.” A more traditional debate follows this presentation in the Super Duck Flu exercise.

D. Super Duck Flu Exercise

The military has long used exercises or simulations, and many research studies have demonstrated the effectiveness of using table top exercises” (TTXs) to increase emergency preparedness. In public health, TTXs help build cross-sector coordination and develop relationships among individuals who would be expected to collaborate during an emergency by working through hypothetical scenarios. CDC often uses TTXs to practice responses to real public health emergencies and identify any gaps that can be addressed before a true emergency occurs. Similarly, CDC’s Public Health Law Program uses TTXs to examine legal issues that could arise during a public health emergency, including

- who has jurisdiction to act (federal, state, or local government)
- which officials or agencies have authority to act (e.g., Health and Human Services (HHS)/Centers for Disease Control and Prevention (CDC), Department of Homeland Security (DHS)/Customs and Border Protection, Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA), state departments of health, the governor, or other departments such as education or transportation)
- the actions they are authorized to take, and
- the laws that authorize them.

1. Materials Needed

- Tent cards for each student’s name and role (e.g., Governor Smith or Dr. Jones, State Epidemiologist)
- A copy of the “Role Descriptions” handout—cut into slips of paper, one per person or small group, describing the assigned role and responsibilities
- Copies of the “Summaries of Selected Federal and State Laws” handout—one per person
- Props, if desired (e.g., telephones, gown and gavel for judge, guitar and wig for rock star, tissues for ill person)
- TTX slides from the included presentation
- Copy of the Super Duck Flu script

2. Getting Started

You (and any other facilitators) should familiarize yourself with the script and slides before beginning this activity with your students.

Show the “Quarantine Exercise: Super Duck Flu” slide.

Assign each student a role before the exercise, or allow students to draw their roles at random. Most roles are grouped so that each student will work with one or more other students, with the exception of the sick passenger. Students should sit with their groups (see roles and groups below), and the smaller groups should be organized where possible into larger groups of federal, state/local, and private individuals/entities. If the class is small, assign only one student to repetitive roles (such as “State Epidemiologists”), rather than cutting unique roles (such as “Governor”). A large class might have multiple “State Epidemiologists” but a small class might only have one. If the class is larger, additional students can be assigned to many of the categories, including “Political Advisors to the Governor,” “Police Officers,” and “State Epidemiologists.”

Advance to the “Table Top” slide.

Provide each student with the description of his/her role on a slip of paper (see “Role Descriptions” below). Ask students to display the tent cards with their names and roles for easy identification. Remind students to “get into character” in order to get the most out of the TTX and have the most fun with it.

Provide each student with a copy of the “Summaries of Selected Federal and State Laws” handout. Review the laws and ask students if they have any questions or need any parts of the laws clarified. Give students the opportunity to discuss with their small groups how they will undertake their role and whether any of the relevant laws might be useful to them. Remind them to rely on the laws throughout the TTX and consult their attorneys, advisors, or other agencies when appropriate, but to use common sense if none of the laws seem to apply.

3. The Activity

Using the script below, work through the TTX using the corresponding slides. Ask students playing the roles to discuss what information they have, what they don’t know, whom they should consult, and what laws might be relevant. Where appropriate, ask students to make key decisions based on what they have described. Respond to questions that might arise, but stick with the timeline in the script and the order of the questions to keep the exercise on track. Currently, the exercise uses federal and Georgia laws and locations in Georgia; you may use state laws and locations for the state in which the exercise is being conducted in place of Georgia’s, if desired.

4. Roles

For each role, fill in the names of the students below. These will be used to create the table tents. If more roles are necessary, be sure to add rows.

Name	Role
	Assistant United States Attorney detailed to for CDC
	Atlanta Police Department
	Atlanta Police Department
	CDC Attorney

	CDC Attorney
	CDC Attorney
	CDC Attorney
	CDC Attorney
	CDC Director
	CDC Deputy Director
	CDC Emergency Operations Center Commander
	CDC Quarantine Officer (Day)
	CDC Quarantine Officer (Day)
	CDC Quarantine Officer (Day)
	CDC Quarantine Officer (Day)
	CDC Quarantine Officer (Day)
	CDC Quarantine Officer (Night)
	Clerk for Federal District Court Judge
	Concert Organizer
	Federal District Court Judge
	Georgia Governor
	Georgia Lieutenant Governor
	Jr. Legal Associate GA Attorney General
	Jr. Legal Associate GA Attorney General
	Junior Legal Associate GA Attorney General
	Oceanic Flight Operations Manager
	Personal Assistant to Rock Star/Diva
	Political Advisor to the Governor
	Political Advisor to the Governor
	Political Advisor to the Governor
	Political Advisor to the Governor
	Political Advisor to the Governor
	Private Attorney to Recording Artist/Diva (partner in H&H law firm)
	Private Attorney to Recording Artist/Diva (partner in H&H law firm)
	Rock Star/Diva
	Sick Passenger
	State Epidemiologist
	State Epidemiologist
	State Epidemiologist
	State Epidemiologist
	State Epidemiologist

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Super Duck Flu Hypothetical Table Top Exercise

5. Role Descriptions

CDC Director, Deputy Director, and Emergency Operations Center (EOC) Commander

In this exercise, CDC leaders and staff will monitor and collect surveillance and information from all over the world, keeping track of disease threats.

Summarize the following hypothetical events when asked—don't read verbatim, but give a brief overview and then respond to questions.

The CDC EOC receives the following information via a call from an official in Madagascar, a country affected by Super Duck Flu. It seems that a close family member of a person with known Super Duck Flu boarded Oceanic Flight 815 about 24 hours ago from the capital Antananarivo, to Johannesburg, South Africa, where there was a brief layover. The 19-hour flight from South Africa is now bound for Atlanta and due to land in about an hour. When the passenger boarded the flight in Madagascar, she did not appear to have any symptoms. However, after departing Johannesburg, she developed a slight fever and cough but thought nothing of it initially. Oceanic Flight 815, a Boeing 747, is full, with 300 passengers and crew on board. The sick passenger is seated in the front part of the economy section in the bottom of the double-deck airplane.

CDC Quarantine Officers (Atlanta Airport Office)

US quarantine stations are located at many ports of entry and land-border crossings where international travelers arrive. They are staffed with quarantine medical and public health officers from CDC. These health officers decide whether ill persons may enter the United States and what measures should be taken to prevent the spread of infectious diseases.

Medical and public health officers at US quarantine stations perform the following activities:

- Respond to reports of illnesses on airplanes, maritime vessels, and at land-border crossings
 - Monitor health and collect any medical information of new immigrants, refugees, people seeking asylum, and parolees
 - Alert local health departments in the areas where refugees and immigrants resettle about any health issues that need follow up
 - Plan and prepare for emergency response
 - Build partnerships for disease surveillance and control
-

CDC Attorney and Assistant United State Attorney Detailed to CDC

CDC attorneys work on legal issues related to the following topics, among others:

Bio-terrorism prevention programs	Medical and biological research
Disease outbreaks	Minority health
Faith-based and community initiatives	Privacy of medical records
Food safety	Women's health
Genetic testing	Quarantine and isolation of travelers entering the US
Global health programs and international immunizations	and moving between states

When going to court, the CDC attorney generally works in conjunction with an assistant US attorney from the Department of Justice.

Federal District Court Judge and Clerk, Northern District of Georgia

The Federal District Court Judge

- Arbitrates disputes; advises lawyers, jury, the people involved in the case (litigants), or court personnel; and administers the judicial system
- Reads or listens to allegations made by the people that are suing (plaintiffs) in civil suits to determine whether the law allows them sue (legal sufficiency)
- Examines evidence in criminal cases to determine whether evidence will support charges
- Listens to presentation of cases, rules on admissibility of evidence and methods of conducting testimony, and settles disputes between opposing parties
- Instructs the jury on applicable law and directs the jury to deduce facts from evidence presented
- Sentences defendants in criminal cases, on conviction by jury, according to statutes of state or federal government, or issues awards/penalties to litigants in civil cases in relation to findings by jury or by court

State Health Director and State Epidemiologist

The state health director is responsible for leading the Georgia Department of Community Health (DCH). DCH is the state’s lead public health agency, responsible for protecting, maintaining, and improving the health of all Georgians. This means protecting the public from the basic threats to public health, such as

Contagious disease outbreaks
Toxic exposures
Preventable injury

Chronic diseases, such as heart disease, cancer, and diabetes.

The state epidemiologist’s role is to prevent or mitigate certain communicable diseases by

- Conducting surveillance and collecting data
- Identifying and responding to emerging communicable disease threats
- Providing support for investigating and responding to these threats.

Governor, Lt. Governor, and Political Advisors to the Governor

The governor is the chief executive of Georgia and is the political and ceremonial head of the state, according to the Georgia Governor’s Office. The governor can assume additional roles, such as the commander-in-chief of the Georgia National Guard forces, when not federalized, and has the ability to commute or pardon a criminal sentence. The governor also holds rank in a cabinet composed of directors of various state agencies. Each director is responsible for the management and operation of his or her agency.

The lieutenant governor works closely with the Governor—similar to the relationship of a president and vice president—to run the state effectively.

It is an election year, so the governor wants to make sure to protect the public and also get re-elected. The role of his political advisors is to make sure this happens.

Jr. Legal Associates in Georgia Attorney General’s Office

Jr. legal associates are attorneys and legal advisors for all state agencies, departments, authorities, and the governor. They provide advice and guidance about legal questions concerning the State of Georgia and its agencies, which are binding on all state agencies and departments.

Airport Police/Law Enforcement Officer

Atlanta airport police officers are sworn peace officers, authorized to carry a firearm, who

- Enforce federal and state regulations; Atlanta ordinances; and security, traffic, and safety rules and regulations
 - Engage in law enforcement activities, including uniformed foot, vehicle, motorcycle, bicycle patrol and plainclothes assignments, arrest, and report writing at Atlanta airports
 - Coordinate with the Federal Aviation Administration (FAA) and Transportation Safety Administration (TSA) to keep travelers safe
-

Sick Passenger

Summarize the following hypothetical events when asked—don't read verbatim, but give a brief overview and then respond to questions.

- You live and work in a shipyard near the docks in Madagascar.
- Last week, some of your family members had flu-like symptoms, but it didn't seem like anything out of the ordinary. You're on your way to America to visit relatives in Georgia.
- When you left home, you began feeling much more sick, but you're determined to fly due to the cost of canceling the plane ticket.
- You tell the airport screeners you're getting over a cold—not that you're feeling much worse.
- During the flight you begin to wheeze and cough. You increasingly feel sweaty and feverish. You become short of breath and your heart starts pounding. You're sitting near the front of the economy section. You are cooperative but increasingly ill. Eventually, a flight attendant moves you to the front of the plane to try to get you away from others. You'll be asked for status updates throughout the session.

Remember to act more and more sick as time passes!

Oceanic Flight Operations Officers

Oceanic flight operations officers are responsible for every flight on the ground and in the air at a given moment. They must react quickly to problems that could affect the health and safety of those on the plane and at the intended destination. Flight operations officers are always aware of what is going on so they can maintain control.

When the sick passenger becomes noticeably worse, he or she is moved to the front of the plane as far away as possible from others, although this is not a significant distance.

Rock Star/Diva and Personal Assistant

The rock star is a young and very famous musician flying back from a month-long tour of Australia and New Zealand after placing second on a popular music competition. Rock star is known for being a diva: self-absorbed and arrogant but clearly knows style and music.

What rock star wants, rock star gets, or no one is happy! Rock star's meek assistant is his or her go-to guy. The assistant gets the job done or faces the wrath! Rock star has a concert in New York City in three days. If rock star does not perform, he or she stands to lose publicity and contract money. Rock star would also have to face thousands of disappointed fans.

Private Attorneys to the Rock Star

The rock star's attorneys are hotshot lawyers at a large law firm in Atlanta. They are famous for accepting controversial cases and clients, and they rarely lose a case. Most other attorneys fear them and their commanding and charismatic presence in the courtroom. They bill their time at \$850 an hour.

Concert Organizers

The concert organizers are private business-sector people. They are concerned about making money off of this event—they have a lot invested through time, contracts, and money with investors, performers, and the public. They have ensured the city council of the benefits of having this type of large-scale event in their town with all of the business and attention it will bring. They don't want to see something like a little flu bug bring the concert to a screeching halt. And they know it will damage the concert's reputation in the future if this year's is canceled.

Super Duck Flu Hypothetical Table Top Exercise

6. Summaries of Selected Federal and State Laws

Federal Laws

Section 311 of the Public Health Service Act: General Grant of Authority for Cooperation 42 U.S.C. § 243

This section states that the HHS secretary is authorized to

- Help state and local authorities prevent and suppress communicable diseases
- Help state and local authorities enforce quarantine regulations
- Accept assistance from state and local authorities in the enforcement of federal quarantine regulations

Section 361 of the Public Health Service Act: Regulations to Control Communicable Diseases 42 U.S.C. § 264

This section states that the HHS secretary is authorized to

- Make and enforce regulations to “prevent the introduction, transmission, or spread of communicable diseases” into the states and US possessions from foreign countries or possessions or from one state into another

This section also authorizes

- The apprehension, detention, examination, and conditional release of individuals with certain communicable diseases that are specified in a presidential executive order

Section 362 of the Public Health Service Act: Suspension of Entries and Imports from Designated Places to Prevent Spread of Communicable Diseases 42 U.S.C. § 265

This section states that the HHS secretary is authorized to

- Prohibit persons from foreign countries, if he or she determines that a communicable disease exists in that foreign country and poses a serious danger of introducing the disease into the United States

Foreign Quarantine

42 C.F.R. Part 71 (Note, Part 70 is a corresponding regulation for movement between states)

This federal regulation authorizes the CDC director to

- Take measures to prevent the introduction, transmission, and spread of communicable diseases from foreign countries into the United States
- Isolate, quarantine, or place arriving persons under public health surveillance whenever he/she reasonably believes that the person is infected with or has been exposed to any of the communicable disease listed in a presidential executive order

Executive Order 13375: Amendment to Executive Order 13295 Relating to Certain Influenza Viruses and Quarantinable Communicable Diseases (April 1, 2005)

This executive order adds “influenza . . . causing, or have the potential to cause, a pandemic” to the list of communicable diseases for which an individual can be apprehended, detained, examined, or conditionally released by federal public health authorities under the above regulations. (The following diseases were already listed in prior orders: cholera, diphtheria, infectious tuberculosis, plague, smallpox, yellow fever, viral hemorrhagic fevers, and severe acute respiratory syndrome.)

State Health Laws Observed by United States Officers

42 U.S.C. § 97

Quarantine Duties of Consular and Other Officers

42 U.S.C. § 268(b)

These statutes state the duty of Customs and Border Patrol and the Coast Guard to aid in the execution of quarantine and the enforcement of quarantine rules and regulations, at the direction of the HHS secretary.

Transportation Security Administration Authority to Cancel or Ground Flights

49 U.S.C. §§ 114 and 44905(b)

The TSA has the authority to

- Cancel a flight or prevent planes from landing if there is no other feasible way to ensure the safety of the crew and passengers

Federal Aviation Administration Authority to Restrict Airport Access or Airspace

49 U.S.C. §§ 40101 (d), 40103 (b) 44701, and 46105 (c)

The FAA has authority to

- Stop, redirect, or exclude flights in US airspace for public safety
- Restrict airport access due to emergency conditions on the ground

Georgia Laws

(Note: you may use state laws of the state in which the exercise is being conducted in place of Georgia's, if desired.)

Georgia Emergency Management Act

GA. CODE ANN. §§ 38-3-3 and 38-3-51

The governor is authorized to declare various states of emergency, including

- “Pandemic influenza emergency”
 - Declaration by the World Health Organization of at least a Phase 5 Pandemic Alert for influenza occurring in the United States or the State of Georgia or the declaration by the Centers for Disease Control and Prevention of at least a Category 2 Pandemic Severity Index for influenza occurring in the United States or the State of Georgia

During a declared emergency, the governor may exercise emergency powers, including

- Performing functions and duties that are necessary for the safety of citizens
- Commandeering private property
- Suspending regulatory statutes outlining procedures for conducting state business, or orders or rules of state agencies that may hinder a response
- Compelling a healthcare facility to provide services or the use of its facility if such services or use are reasonable and necessary for emergency response

Isolation and segregation of diseased persons; quarantine

GA. CODE ANN. §§ 31-12-4 & 38-3-51

The Department of Community Health is authorized to

- Require isolation of persons with communicable diseases likely to endanger the health of others
- Require quarantine of persons who may be carriers of, exposed to, or suspected of being infected with a communicable disease
- Persons in isolation or quarantine may access counsel as long as it doesn't threaten the integrity of the quarantine
- In a public health emergency, isolation or quarantine orders can be appealed, but the person will remain in isolation or quarantine during the appeal

Super Duck Flu Hypothetical Table Top Exercise

7. Script

*Note: Locations may be changed to those in the state in which the exercise is being conducted. Italics are notes to the reader (the person delivering the exercise) to distinguish these notes from the text he or she is supposed to read out loud.

SLIDE 28

SLIDE 29

I. Background

SLIDE 30

Things are a little tense at Hartsfield Jackson-International Airport these days because there is a dangerous disease afoot in the world called Super Duck Flu. It has not yet reached the United States.

Super Duck Flu is essentially a more lethal version of the common flu that thousands get every flu season. For years, World Health Organization officials have been tracking this new virus in ducks, but it is believed that the disease has mutated and is now able to infect humans with alarming ease. The symptoms are nearly identical to those of seasonal flu—high fever, headache, body aches, and a cough—with some cases developing complications, such as pneumonia. The incubation period (the period of time before which a person will begin to show symptoms if they have become infected) is unknown, but scientists think it's about four—to six days.

CDC scientists believe the virus might be able to spread to others as early as two days before symptoms appear, although the evidence about this is conflicting. Although, like seasonal flu, this disease spreads through close person-to-person contact, and especially through coughing or sneezing, it is not known whether wearing a standard surgical mask actually prevents transmission of Super Duck Flu. But thousands of citizens in countries affected by Super Duck Flu have been wearing them anyway. So far, there is no treatment available, nor is there a vaccine. While the case-fatality rate for seasonal flu is in the neighborhood of 3%, the rate for Super Duck Flu is extremely high—about 35%. Scientists have recorded a total of 1,200 *known* cases, and, of these, more than 450 persons have died. Unlike the flu we see each winter (seasonal flu), which tends to strike older persons more severely, Super Duck Flu is more likely to kill younger people. **CLICK** The majority of cases have occurred in Madagascar, off the southeastern coast of Africa, **CLICK** and surrounding islands. The index case, or first recorded case, appears to have been in Madagascar. No cases have been reported in the United States or anywhere in North America—yet.

Most international airports are on alert, including right here at Atlanta's Hartsfield Jackson International Airport.

ASK THE CDC DIRECTOR AND CDC EOC COMMANDER:

- (CDC Director) **Dr.** _____, what worries CDC most about Super Duck Flu?
- (EOC Commander) **Dr.** _____, at this point, what special precautions is CDC considering taking to prevent Super Duck Flu from entering the United States?

- *Possible responses:* Alerting US quarantine stations, initiating health screening of incoming passengers from affected countries, providing travel health alert notices to passengers, working with officials in other countries regarding screening at international airports abroad before allowing passengers to depart for the United States.
- Do you all think public health authorities can actually prevent this disease from entering the United States?

You decide to take several of the precautions you have just described.

CDC also issues a recommendation that all patients with Super Duck Flu be **isolated** immediately using respiratory precautions (face masks), and all persons exposed to Super Duck Flu patients should be **quarantined** and monitored for six days.

SLIDE 31

ASK THE GROUP:

- Does anyone know the difference between isolation and quarantine?
 - *Possible response:* *Isolation* means separating people who are sick with a specific infectious disease from healthy people in order to stop the spread of the disease. *Quarantine* means separating people who, while not sick, have been exposed to an infectious disease and might become infectious.

ASK CDC LAWYER AND AUSA:

- Office of General Counsel Attorneys Mr./Ms. _____, _____, and Mr./Ms. _____ and Assistant United States Attorney Mr./Ms. _____, you are the lawyers representing the CDC. Are you satisfied that the federal government has all the legal authority it needs to deal with Super Duck Flu entering our shores? Can you describe this authority? Do some quick legal research for us.
 - *Possible response:* Attorneys should describe the federal laws on the handout that could be relevant.

II. The Landing

SLIDE 32

It is now 6:00 pm on a Friday.

CDC Quarantine Officers _____, _____, and _____, you're in your office at the quarantine station at the Atlanta Airport. You're preparing to go home for the weekend and finally spend some quality time with your spouse and kids. As you know, things always happen on your way out the door, last minute, on a Friday.

ASK THE CDC DIRECTOR, DEPUTY DIRECTOR, AND CDC EOC COMMANDER:

CDC Director Dr. _____ and CDC EOC Dr. _____, will you please call the Atlanta quarantine station officers (day shift) and update them with the information you have?

- *Possible response:* CDC has gotten a call from an official in Madagascar, a country affected by Super Duck Flu. It seems that a close family member of a person with known Super Duck

Flu boarded Oceanic Flight 815 about 24 hours ago from the capital Antananarivo, to Johannesburg, South Africa, where there was a brief layover. The 19-hour flight from South Africa is now bound for Atlanta and is due to land in about an hour. When the passenger boarded the flight in Madagascar, she didn't appear to have any symptoms. However, after departing Johannesburg, she developed a slight fever and cough but thought nothing of it initially. Oceanic Flight 815, a Boeing 747, is full, with 300 passengers and crew on board. The sick passenger is seated in the front part of the economy section in the bottom of the double-deck airplane.

- *Encourage the quarantine station officers to ask questions during this call, if necessary, to get all details possible.*

ASK CDC QUARANTINE OFFICERS—DAY SHIFT:

- Dr. _____, will you explain your jobs to the rest of the group?
 - *Possible response:* Medical and public health officers at US quarantine stations respond to reports of illnesses on airplanes, maritime vessels, and at land-border crossings; monitor health and collect any medical information of new immigrants, refugees, people seeking asylum, and parolees; alert local health departments in the areas where refugees and immigrants resettle about any health issues that need follow up; plan and prepare for emergency response; and build partnerships for disease surveillance and control.
- Dr. _____, what's the first thing you're going to do? What options might you have to prevent the flight from landing in Atlanta?
 - *Possible response:* Denial of landing in the United States (*Do they have enough fuel for this? In which country should they land? Could they return to Madagascar or land elsewhere? Remind students that there are United States citizens on board—how will they get these people back into the country? How long would they be denied access?*) Diversion of landing from Atlanta to a more remote airfield (*What size airport would be necessary? How far away? How would they move passengers from that location to their final destinations or connecting flights when ready?*). Note, attorneys will need to weigh in—this is not actually something CDC has legal authority to do. This would have to be done by the FAA in conjunction with TSA. Also, the quarantine station located at Atlanta's airport is 1 of only 20 stations across the United States, mostly located at international airports, so going to a remote location would mean fewer resources and personnel.
- Quarantine Officers, you move forward with preparations for the flight to land in Atlanta.

ASK SICK PASSENGER:

- Mr./Ms. _____, how are you feeling now?

ASK CDC QUARANTINE OFFICERS – DAY SHIFT and OCEANIC FLIGHT OPERATIONS:

- Doctors _____ and _____, you contact the airline and ask them for a briefing. Talk to Oceanic Flight Operations Manager _____ and determine the status of the flight. Is _____ cooperative? Are others sick? Where are they in the flight? Have they taken any specific precautions?
- Dr. _____, what will you recommend based on the status update?
 - *Possible response:* Request the flight crew to move the passenger to a more secluded section of the plane; provide a mask if possible; use an oxygen mask.

- Dr. _____, should you assemble a team to meet the flight? Who might be on this team? If the passenger becomes uncooperative, you might want to have Customs and Border Protection with you because they can be armed.
- Dr. _____, should you also notify state health authorities?

ASK STATE OF GEORGIA HEALTH DIRECTOR AND EPIDEMIOLOGIST:

- Dr. _____ and Dr. _____, the CDC airport quarantine officers just called you both and alerted you to a potential health crisis, what are you thinking about right now?
- Dr. _____, what kind of authority do you have as the state health director to do anything about this disease entering your state?
- Dr. _____, should you notify the governor? Are you guys old buddies? Go way back? Political enemies? Should it matter? Did he appoint you?

ASK JUNIOR LEGAL ASSOCIATES IN THE GEORGIA ATTORNEY GENERAL'S OFFICE:

- Attorneys **Mr.** _____, you are a junior legal associate in the Georgia Attorney General's Office. You just passed the bar exam (congratulations!) and are feeling very lucky you have a job. You get a call from State Health Director **Dr.** _____ over there who sounds very concerned about Super Duck Flu, and he asks you to give him a rundown of any and all legal authorities that are relevant to protect the citizens of Georgia from the passengers on this plane who are likely now infected with Super Duck Flu. You do some quick legal research. Which state laws are relevant?
 - *Possible response:* Attorneys should describe the state laws on the handout that they believe are relevant.

STATE HEALTH DIRECTOR SHOULD ROLE-PLAY A PHONE CALL WITH THE LAWYERS BRAINSTORMING LEGAL SOLUTIONS.

- Federal Attorney, **Mr./Ms.** _____, **Mr./Ms.** _____, and **Mr./Ms.** _____ and State Attorney **Mr./Ms.** _____, and **Mr./Ms.** _____, who will take the lead? Federal government (CDC) or the state? Make your arguments.
 - *It is important to note that the state will not have legal jurisdiction until after the passenger has officially entered the country through customs because the passenger was coming into the United States from another country and is thus subject to federal jurisdiction.*
- Could this be a source of friction (who is in charge, who will pay for quarantine)?
 - *The state and federal authorities will likely work together once the passenger has entered the United States, and eventually there will likely be a hand-off from the federal government to the state government. The biggest question will be who pays for the cost of quarantine.*

It is about an hour later and the oceanic flight lands in Atlanta. CDC attorneys determine that CDC quarantine officers do have the legal authority to take the plane to a remote aircraft hangar on the airport property and keep the passengers on the plane until things get sorted out. Hangar 56, although old and neglected, has a ventilation system that is separate from the rest of the airport.

SLIDE 33

Night Shift Officers _____ and _____ are now getting ready to board the aircraft.

ASK CDC QUARANTINE OFFICERS—NIGHT SHIFT:

- Dr. _____, will you opt to wear protective clothing (personal protective equipment)? What type of gear will you wear?
 - *Possible response:* Yes, personal protective equipment (PPE) should be worn. N95 masks with face shields are recommended to avoid droplets entering the nose and mouth.
- Dr. _____, are you worried about the other passengers' reaction? Are you worried about safety? What options might you have to prevent spreading the illness but also keep the other patients calm? (*Ask other Officers if necessary.*)
 - *Possible response:* Customs and Border Patrol are authorized to assist with executing quarantine regulations at the request of the HHS secretary. Officers may request assistance from armed customs officers who would also board the aircraft in order to help keep the peace, if necessary.

As CDC quarantine officers board, they see hundreds of very worried looking people. The exposed passenger, Mr./Ms. _____ has been brought to the front of the airplane, where he/she is sitting now. The passenger is cooperative. Flight attendants have put an oxygen mask on his/her face.

ASK SICK PASSENGER:

- **Mr./Ms.** _____, How you are feeling now? (*lots of coughing, wheezing, have sick passenger really ham it up*)

CDC quarantine officers remove **Mr./Ms.** _____ from the airplane. An emergency van whisks him/her to Grady Memorial Hospital 11 miles away from the airport, where CDC has an agreement for treatment of individuals needing isolation.

Once **Mr./Ms.** _____ arrives, he/she is placed in respiratory isolation and given medical tests and treated for respiratory failure. The early reports are that his or her signs and symptoms are compatible with Super Duck Flu, but no definitive laboratory tests have yet confirmed whether the passenger has Super Duck Flu. Those tests can take up to two days (48 hours) to complete.

Back at the airport, the passengers have filed off the plane into Hangar 56, which is a huge space. CDC quarantine officers have checked with CDC and the state health director and epidemiologist, and they have said they need to hold all passengers until testing confirms whether the sick passenger has the quarantinable disease Super Duck Flu. For the time being, they must all remain at Hangar 56.

The Red Cross has been called and is bringing in enough bedding, cots, hot food, towels, and other necessities for everyone. Everyone has been given access to a telephone.

ASK CDC ATTORNEYS:

- **Ms.** _____, what is the legal status of the passengers? Are they detained or quarantined . . . and does it matter?
 - *Possible response:* CDC can “apprehend” (detain) passengers reasonably believed to be exposed to a communicable disease as listed on the executive order. *See* 42 U.S.C. § 264. Exact time frame is not specified, but it can be argued that this apprehension can last until test results

come back confirming the disease they have been exposed to, and then they can be quarantined or released.

Atlanta Police Department Officer _____, you're assigned to the Airport Precinct and you have been called in to maintain order during this situation. It's your job to keep these people in Hangar 56, by force if necessary.

ASK ATLANTA POLICE DEPARTMENT OFFICERS:

- Officer _____, are you comfortable with the idea of being in close quarters with these passengers?
- How do you feel about using force if necessary against people who claim to feel great and who have no symptoms? Would you be within the law to use force?
- **(ASK GROUP)** Do you think many police officers have considered this as a part of their job description or trained for it?
- EOC Commander _____, what safety precautions could CDC recommend for the police?

III. Release Me!

SLIDE 34

It is now the next morning. Day 2. The 300 passengers and crew at Hangar 56 all slept on cots. They're tired and unhappy. No one has symptoms of illness; however, CDC has completed testing and confirmed that

Mr./Ms. _____ does indeed have Super Duck Flu.

CDC has determined that a formal quarantine is necessary. Some passengers who live in the metro Atlanta area entered into consent agreements with CDC saying that they will return immediately to their homes and remain in quarantine there for six days. Other passengers who do not live in the area could not safely return home and would not consent to quarantine. Therefore, they have been issued a quarantine order by CDC that requires them to remain in quarantine for six days. They have each been personally served with a written order that meets all the federal requirements for notice. Arrangements have been made to transport these individuals to a local hotel where they will be required to remain in their rooms for six days.

ASK THE GROUP:

- Is that quarantine order going to be enough to prevent the spread of Super Duck Flu?
- Do you think the people who signed the consent decree will obey it?
- Should they have just stayed in the hangar?

Many of the passengers under quarantine have spent a considerable amount of time on their cell phones. One, in particular, is the young and very famous Rock Star _____ (he/she came in second on a popular reality music competition and was flying back first class from a month-long tour of Australia and New Zealand, with brief concert stops in Cape Town and Johannesburg before planning her return for a US tour). The recording artist is known for being a diva and having a giant ego. Of course we are talking about

Mr./Ms. _____ over here! **Mr./Ms. _____**'s personal assistant, **Mr./Ms. _____** is also on board. **Mr./Ms. _____** has told **Mr./Ms. _____** that he/she will lose his or her job if he/she doesn't pull strings to get them out of there ASAP.

SLIDE 35

ASK PERSONAL ASSISTANT:

- _____ has been on the phone for hours. He/she has called in some big name attorneys, the partners from the law firm of _____ and _____. **Mr./Ms.** _____, will you explain to the attorneys the situation their client **Mr./Ms.** _____ is in?
 - *Possible response:* The rock star has a show in three days in New York, and it's sold out. The rock star doesn't have any symptoms, and feels like a million bucks. The bottom line is he/she wants to out of quarantine . . . NOW!!

ASK PRIVATE ATTORNEYS:

- **Mr./Ms.** _____ **or Ms** _____, are you going to take the rock star's case? Any misgivings? What if you believe in your heart that the rock star really needs to be in quarantine for the good of the nation—will you still take the case?
 - *Possible response:* Discussion of legal ethics. Lawyer's prerogative to refuse a case/possibility that the lawyer has a contract in place already with rock star to handle all legal affairs/lawyer's duty to represent clients vigorously.

The attorneys decide to take the case and immediately call the CDC quarantine officers who are back on the scene.

ASK PRIVATE ATTORNEYS:

- **Mr./Ms.** _____ **and Mr./Ms.** _____, what arguments will you make to the CDC quarantine officers to get your client, who is symptom-free, out of quarantine?
 - *Possible response:* Attorneys might point out that their client was sitting in the first class section in the airplane, far away from where **Mr./Ms.** _____ was sitting and was moved when **Mr./Ms.** _____ was brought to the front to sit alone. Rock star never even saw the sick passenger. Also, their client is feeling fine, with no symptoms whatsoever. And if their client can't get out of temporary quarantine, he/ she will lose all the proceeds from the concert, which could be more than \$1 million.

ASK CDC QUARANTINE OFFICERS – DAY SHIFT:

- Dr. _____ is there any circumstance that would convince you to let the rock star out?
 - *Possible response:* CDC quarantine officers will not agree to release under any circumstances. Super Duck Flu may be transmissible to others before the onset of symptoms and it could be at least four days before symptoms appear.

CDC quarantine officers do not agree to release the rock star from quarantine. The rock star's attorneys decide to pursue a writ of habeas corpus in federal court in an attempt to get their client released.

SLIDE 36

ASK THE GROUP:

- Does anyone know what a writ of habeas corpus is?
 - *Possible response:* Also known as "The Great Writ," a writ of habeas corpus is a summons with the force of a court order addressed to the custodian (such as a prison official) demanding that a person held by the government be brought before the court. This allows the court to

determine whether that custodian has lawful authority to hold that person, or, if not, ordering release from custody. The prisoner, or another person on their behalf, may petition the court or an individual judge for a writ of habeas corpus. Essentially, think of it as the right not to be held without trial, or at least the right not to be held without a reason. With few exceptions, habeas is usually a last resort—the person being held must have exhausted all of other options (such as administrative hearings or reviews) before filing for habeas relief.

ASK FEDERAL JUDGE AND CLERK:

- Judge _____, you are a federal district judge for the Northern District of Georgia. Your courtroom is in downtown Atlanta. You and your law clerk **Mr./Ms.** _____ discuss the situation at hand.
- Judge, are you concerned about letting rock star into your courtroom at the federal building? Are you concerned about exposing yourself and your courtroom staff to Super Duck Flu?
- **Mr./Ms.** _____, How could the habeas hearing be held?
 - *Possible response:* Concerns might include the health and safety of the judge, clerk, personnel, and public at the court house. If rock star has been exposed and has contracted SDF, he or she might not be symptomatic yet, but could still be exposing others. The judge and clerk could also be concerned that court personnel might not appear for work because they fear contracting Super Duck Flu. Creating fear and prompting unhelpful responses among the public could be an additional concern. Possible alternatives could be having the rock star wear a mask, requiring all present persons to wear PPE, or conducting the hearing by video conferencing or telephone conference call.

Well, the habeas corpus hearing is held by telephone conference call.

ASK PRIVATE ATTORNEYS:

- Attorneys _____ and _____, present your case to Judge _____. What is your main argument for granting **Mr./Ms.** _____ be released so he or she can put on the concert in New York?
 - *Possible response:* Arguments on the facts will be similar to those presented to CDC quarantine officers above, but there are also legal arguments that the rock star is being held unlawfully without access to a trial.

ASK CDC ATTORNEYS:

- CDC Attorney and Assistant United States Attorney detailed to for CDC _____, what is your response for the government?
 - *Possible response:* The public's health is put at risk if **Mr./Ms.** _____ is released, and CDC has the authority to quarantine in order to prevent transmission or spread of influenza causing or capable of causing pandemic.
- Do either of you have any case law precedent?
 - This power has been upheld in court before in order to protect the public's health (*Jacobson v. Massachusetts* discussed in the slide presentation).

ASK FEDERAL JUDGE AND CLERK:

- Judge _____, please deliberate for a moment with your clerk, **Mr./Ms.**_____ (pause). Now let's hear your ruling and your reasoning.
 - *If the judge rules in favor of the rock star, state the following:* Well, unfortunately the CDC attorneys took this case up to the 11th Circuit Court of Appeals and Judge _____ was overruled. A three-judge panel ruled in favor of the government and dismissed the petition, saying in a short written opinion that the rock star has failed to provide evidence that her rights have been violated, and the public health concern and potential for Super Duck Flu to spread rapidly outweighed any personal harm.
 - *If the judge rules against the rock star, state the following:* Well, unfortunately for the rock star, her attorneys are not successful, despite putting on a superb legal case. Federal District Court Judge _____ ruled immediately in favor of the government and dismissed the petition, saying in a short written opinion that the rock star has failed to provide evidence that her rights have been violated, and the public health concern and potential for Super Duck Flu to spread rapidly outweighed any personal harm. Her appeals, while heard speedily, are unsuccessful.

IV. Park Fest

SLIDE 37

It is now nearly two weeks since the airplane landed at Hartsfield Jackson International Airport in Atlanta. The 300 passengers from Oceanic Flight 815 have long since been released from quarantine. Although none of them ever showed symptoms of Super Duck Flu, and despite the state's and CDC's best efforts to contain the disease, Super Duck Flu was discovered in several other cities in the United States and has now spread through Georgia.

ASK GOVERNOR AND LT. GOVERNOR:

- Governor _____, what will you do now that Super Duck Flu is verified to be present in the state of Georgia?
 - *Possible response:* Issue a proclamation that, under state law, the outbreak is determined to be a public health emergency (see state laws handout).

Complicating things now is the fact that the annual Park Fest Concert Weekend is scheduled for this weekend in Atlanta. Last year, more than 100,000 people attended Park Fest over three days. People typically camp out, there are lines at the porta-potties, very crowded mosh pits, etc. This year, Park Fest features a sold-out concert by the rock star (**Ms.**_____), who has recently been released from quarantine. Of course, everyone wants to be there!

ASK GOVERNOR AND LT. GOVERNOR and STATE HEALTH DIRECTOR AND EPIDEMIOLOGIST:

- Lt. Governor _____, the governor's office will want to hear from state health director _____ and epidemiologist _____ about options you might have to help prevent the spread of disease at Park Fest. Why don't you give them a call?
 - *Have the lt. governor call the state health director and state epidemiologist to ask about options.*
 - *Possible response:* Options might include recommendations to stay home if ill, temperature scans at the entrances (*probably not feasible*), or postponing or canceling the show....

ASK GOVERNOR AND LT. GOVERNOR and POLITICAL ADVISORS:

- Governor _____, of course, it is an election year. You will also want to consider the pros and cons of cancelling the show. Consult with your political advisors, **Mr./Ms.** _____, for his or her take on how this might affect your campaign.
 - *Have the governor call the political advisor to hash out the pros and cons of cancelling the show.*
 - *Possible response:* The city itself and local businesses stand to lose a lot of revenue and fees if the show is canceled. The public might be angry if the popular show is cancelled; and this could be a problem at re-election time! On the other hand, the sheer number of people who might become sick could outweigh the capacity of local hospitals, keep numerous people home from work due to their own illness or to care for family members, and possibly business in general could come to a halt.

Rock star _____'s contract, drafted before the outbreak of Super Duck Flu, also specifies that if he/she doesn't perform for any reason, he/she will not get paid.

ASK ROCK STAR'S PRIVATE LAWYERS:

- Mr./Ms. _____, Do you have anything to say about this?
 - *Possible response:* **Mr./Ms.** _____ stands to lose significant money as well as negative publicity. The contract states that rock star not get paid, but he or she will not have a choice about whether to perform, and thus will be forced to violate the contract.

ASK CONCERT ORGANIZERS:

- **Mr./Ms.** _____ you are the organizer of Park Fest, do you have anything to say about this? What arguments do you have against cancelling the show? What will you do if the show is cancelled?
 - *Possible response:* The city itself and local businesses stand to lose a lot of revenue and fees if the show is canceled. Contracts are in place with musicians, artisans, and vendors, and the concert organizers could be held liable for lost earnings. Other options might be available, such as putting up hand sanitizer stations (*might not go far enough to prevent droplets in the air*), postponing the event, requiring participants to wear masks, etc. On the other hand, concert organizers don't want to be sued if a large number of people contract the illness at the event.

SLIDE 38

ASK ASSISTANT UNITED STATES ATTORNEY DETAILED TO CDC:

- Assistant U.S. Attorney _____, does the federal government have any legal authority to shut down the event?
 - *Possible response:* No,—this is likely only state jurisdiction, but CDC can make recommendations.

ASK GOVERNOR AND LT. GOVERNOR:

- Governor, what's your decision?

In the end, to avoid spreading the disease, Governor _____ should make the politically unpopular decision to cancel the show but successfully avoid exposing thousands of people to Super Duck Flu.

Aside from losing revenue and possibly the next election, the only downside is that we haven't gotten to hear a performance by Mr./Ms. _____! I think we have time right now for one song? Right?

The End.

SLIDE 39

For more information:

- Visit www.cdc.gov/phlp to:
 - Subscribe to Public Health Law News, our a monthly CDC newsletter
 - Take the Public Health Law 101 course online
- Read “Law in Public Health Practice,” edited by Goodman, et al., Oxford Univ. Press, 2007 (second edition)