



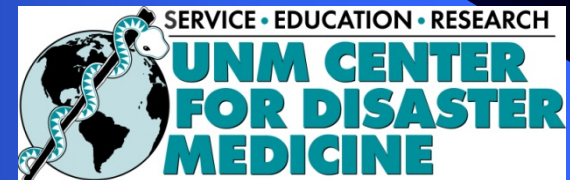
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- Dr. Clifford M. Rees has no financial relationship with companies who have provided support to this meeting that suggests a personal conflict of interest in relations to the planning for the above captioned CME Event.

Examining & Re-Evaluating Legal Authorities for TB Control

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San Diego, CA
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Overview

Basics of Public Health Law

**Inter-Jurisdictional Legal Mechanisms
Applicable to TB Control**

Basics of Public Health Law

5 Levels of Jurisdiction

- International
- Federal
- State
- Local
- Tribal

Basics of Public Health Law

Laws are rules that govern our conduct

General Sources of Law

- **Constitution (federal/state)**
- **Common Law (federal/state)**
- **Statutes (federal/state)**
- **Rules/Regulations/Ordinances (federal/state/local)**
- **Executive Orders (federal/state)**

Basics of Public Health Law

State/Local Health Law Powers

U.S Constitution - “Police Powers”

10th Amendment to the U.S. Constitution

**Powers not given to the Federal Government
are reserved to the States**

State authority - Intrastate issues – TB Control

- **Infectious Disease Control Measures**
- **Public Health Treatment Facilities**
- **Licensure of Public and Private Health Facilities**



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MMWR

*Recommendations
and
Reports*

MORBIDITY AND MORTALITY WEEKLY REPORT

Tuberculosis Control Laws — United States, 1993

**Recommendations of the
Advisory Council for the Elimination
of Tuberculosis (ACET)**

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Public Health Service
Centers for Disease Control
and Prevention (CDC)
Atlanta, Georgia 30333



Basics of Public Health Law

State/Local Health Law Power

New Mexico State Statute

**Public Health Act, Sections 24-1-1., et seq.,
NMSA 1978 (from Laws 1919, Chapter 85, Section 10)**

- ***24-1-3.C.; ... to investigate, control and abate causes of disease, especially epidemics, sources of mortality and other conditions of public health.***
- ***24-1-3.D.; ... to establish, maintain and enforce isolation and quarantine***
- ***24-1-3.E.; ... to close any public place and forbid gatherings of people when necessary for the protection of public health***

Basics of Public Health Law

State/Local Health Law Power

New Mexico State Statutes & Rules

- *24-1-15. “Reporting of Contagious Diseases”*
Subsection A. – Reporting Requirement

Rule – 7.4.3 NMAC, “Control of Disease and Conditions of Public Health”

Subsections B. – L. - Due Process procedures to detain a person infected with a threatening communicable disease

Basics of Public Health Law

State/Local Health Law Power

New Mexico State Statute

- *Public Health Emergency Response Act, Sections 12-10A.-1., et seq., NMSA 1978, (Laws of 2003, Chapter 218, as amended)*

New Mexico Legislative Council Service
website - www.legis.state.nm.us > Statutes

Basics of Public Health Law

Federal Health Powers

U.S. Constitution (Article I, Section 8)

- **Commerce Clause – Interstate**
- **Tax and Spend Clause - General Welfare**

Basics of Public Health Law

Federal Health Powers

Federal Statutes (USC)

42 USC Section 264

Federal Regulations (CFR)

Quarantine Authority (42 CFR Parts 70 and 71)

Federal Executive Orders

EO 13375 (April 1, 2005)

**Amending EO 13295 (April 4, 2003) Relating to
Certain Influenza Viruses and Quarantinable
Communicable Diseases**

Basics of Public Health Law

Federal Quarantinable Diseases

- Smallpox
- Cholera
- Plague
- Viral Hemorrhagic Fevers
- **Infectious Tuberculosis**
- Yellow Fever
- Diphtheria
- SARS
- Novel Influenza Virus

Basics of Public Health Law

Tribal Health Powers

- **Navajo Nation: Adopted the Health Commitment Act of 2006, Title 13 Navajo Nation Code, Section 2101, et seq., providing a mechanism for the health commitment of individuals for treatment in the least restrictive setting**
- **If Tribal governments do not have their own laws, they may follow federal or state laws**
- **25 USC Section 198, 25 USC 231, 42 USC Section 243, 42 USC Section 264**

Basics of Public Health Law

International Health Powers

International Health Regulations (IHR)-2005

Defines Public Health Emergency of International Concern (PHEIC)

- Requires response on a time-sensitive basis**
- Imposes requirements for sharing information between member countries**
- Implemented under domestic laws for each country**

Basics of Public Health Law

International Health Powers

U.S. will implement IHR under principles of federalism

State and Local public health legal authorities will be honored as well as Federal legal authorities

**Inter-Jurisdictional
Legal Mechanisms
Applicable to TB Control**

Inter-Jurisdictional Legal Authorities

- United States Constitution, Article I, Section 8
– Congress shall have the power to regulate Commerce with foreign nations, among the several States and with Indian Tribes;
- United States Constitution, Article I, Section 10
– No State shall enter into any Treaty, Alliance or Confederation; No State shall, without the consent of Congress . . . enter into any Agreement or Compact with another State, or with a foreign power . . .

Inter-Jurisdictional Legal Authorities

Options for U.S. International Agreements

- **Formal treaties between nations, signed by the President with advice and consent of Congress.**
- **Agreements negotiated by the US State Department based on its statutory authority.**
- **Non-binding agreements that do not require involvement by the US State Department.**

Inter-Jurisdictional Legal Authorities

Examples of Existing International Agreements

- **Pacific Northwest Emergency Management Arrangement**
 - Pacific Northwest States and Western Canadian Provinces (April, 1996)
- **International Emergency Management Assistance Memorandum of Understanding**
 - New England States and Eastern Canadian Provinces (July, 2000)

Inter-Jurisdictional Legal Authorities

Examples

(continued)

- **Great Lakes Border Health Initiative**
(Fall 2004)

See-http://www.michigan.gov/mdch/0,1607,7-132-2945_40279---,00.html

Inter-Jurisdictional Legal Authorities

Types of Agreements

- **International Treaties**
- **Interstate Compacts**
- **Mutual Aid Agreements**
- **Memoranda of Understanding/Agreement
-Joint Powers Agreements**
- **Professional Services Agreements**

Inter-Jurisdictional Legal Agreements Matrix

	Federal	State	Local	Tribal	International
Federal	<ul style="list-style-type: none"> ❖ Federal Statute ❖ Homeland Security Presidential Directive 8 	<ul style="list-style-type: none"> ❖ Federal Statute ❖ Grants -Stafford Act 	<ul style="list-style-type: none"> ❖ Federal Statute ❖ Grants -Stafford Act 	<ul style="list-style-type: none"> ❖ Treaties ❖ Federal Statute ❖ Grants 	<ul style="list-style-type: none"> ❖ Treaties (binding) ❖ Article 1, Section 10, U.S. Const. ❖ Federal Statute ❖ IHR
State	<ul style="list-style-type: none"> ❖ Federal Statute ❖ Grants ❖ Stafford Act ❖ JPA 	<ul style="list-style-type: none"> ❖ EMAC (Emergency) ❖ Mutual Aid (non-emergency) ❖ JPA ❖ PSA 	<ul style="list-style-type: none"> ❖ Mutual Aid ❖ MOU/MOA ❖ JPA ❖ PSA 	<ul style="list-style-type: none"> ❖ Mutual Aid ❖ MOU/MOA ❖ JPA ❖ PSA 	<ul style="list-style-type: none"> ❖ Treaties (non-binding) ❖ Federal Statute ❖ IHR ❖ Stafford Act
Local	<ul style="list-style-type: none"> ❖ Federal Statute ❖ Grants -Stafford Act 	<ul style="list-style-type: none"> ❖ Mutual Aid ❖ MOU/MOA ❖ JPA ❖ PSA 	<ul style="list-style-type: none"> ❖ Mutual Aid ❖ JPA ❖ PSA 	<ul style="list-style-type: none"> ❖ Mutual Aid ❖ JPA ❖ PSA 	<ul style="list-style-type: none"> ❖ Mutual Aid (non-binding)
Tribal	<ul style="list-style-type: none"> ❖ Treaties ❖ Federal Statute ❖ Grants 	<ul style="list-style-type: none"> ❖ Mutual Aid ❖ MOU/MOA ❖ JPA ❖ PSA 	<ul style="list-style-type: none"> ❖ Mutual Aid ❖ JPA ❖ PSA 	<ul style="list-style-type: none"> ❖ Mutual Aid 	<ul style="list-style-type: none"> ❖ Treaties?
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Inter-Jurisdictional Legal Authorities

Example of mechanisms to transfer TB patients between U.S. jurisdictions

- **Legal agreements for cross-jurisdictional use of TB residential treatment facilities**
 - **Between Navajo Nation and New Mexico state government**
 - **Between New Mexico and Texas state governments**

Inter-Jurisdictional Legal Authorities

Future Directions

- **New England Compact on Involuntary Detention for TB Control**
 - **The National Center for Interstate Compacts-
Council of State Governments-**
<http://www.csg.org/>

Inter-Jurisdictional Legal Authorities

Future Directions

(Continued)

- **House Bill 709, New Mexico Legislature, 2005 Regular Session. Interstate Compact on Threatening Communicable Disease**

www.legis.state.nm.us

Inter-Jurisdictional Legal Authorities

Future Directions

(Continued)

- **Model/Uniform Infectious Disease Laws**
 - **Model State Emergency Health Powers Act (2001)**
 - **“Turning Point” Model State Public Health Act (2003)**
 - **Uniform Law ?**

Inter-Jurisdictional Legal Authorities

Future Directions

(Continued)

- **Security and Prosperity Partnership (SPP)**
 - **Mutual Assistance Agreement-**
Nov. 1, 2007
- **US-Mexico Border Health Commission**
 - **International TB Legal Forum, 2008**

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