

SUSANA MARTINEZ, GOVERNOR

CATHERINE D. TORRES, M.D., CABINET SECRETARY

## **Protocols for Mass Distribution or Administration of Medical Countermeasures Under State of New Mexico Strategic National Stockpile Countermeasures and Distribution Plan**

**AUTHORITY:** The State of New Mexico Department of Health (Department) and its Cabinet Secretary (Cabinet Secretary of Health) are responsible for the protection of the public's health. Authority is vested in the Cabinet Secretary of Health, pursuant to the New Mexico Public Health Act (PHA), § 24-1-1, *et seq.*, New Mexico Statutes Annotated (NMSA) (1978), and the Department regulations, Title 7 – Health, Chapter 4 – Disease Control (Epidemiology), Part 3 – Control of Disease and Conditions of Public Health Significance, New Mexico Administrative Code (NMAC), to among other things: (1) investigate, control and abate the causes of disease and other conditions of public health significance; (2) maintain and enforce rules for the control of communicable diseases and other conditions deemed to be dangerous to public health; and (3) to do all things necessary and to take such measures on the advice of the Department's medical officer as are deemed necessary and proper for the protection of the public's health. Such measures include the need to establish protocols for the mass distribution or administration of medical countermeasures under the State of New Mexico Medical Countermeasures Plan (State MCM Plan) and from activated Point of Dispensing (POD) sites during a public health emergency as determined by the Cabinet Secretary of Health, whether such results from a natural (e.g., pandemic influenza, earthquake, floods, etc.) or man-made (e.g., terrorist attack with release of anthrax, etc.) act or event.

**PURPOSE:** The purpose of these Protocols is to define specific terms and to set forth certain procedures to follow for the mass distribution or administration of medical countermeasures under the State MCM Plan and from activated POD sites during a public health emergency as determined by the Cabinet Secretary of Health.

**APPLICATION:** These Protocols apply whenever there is a need for mass distribution or administration of medical countermeasures under the State MCM Plan and from activated POD sites in response to a public health emergency as determined by the Cabinet Secretary of Health, whether or not there has been a Governor-declared “disaster,” “emergency” or “state of public health emergency.”<sup>1</sup>

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<sup>1</sup> The Governor has the authority to declare a “disaster” or “emergency” under the “supreme executive powers” conferred under the Constitution of the State of New Mexico, Article V, Section 4. Under the New Mexico All Hazard Emergency Management Act (AHEMA), § 12-10-1, *et seq.*, New Mexico Statutes Annotated (NMSA) (1978), the Governor has *all hazard emergency management powers*, and specifically *in the event of any man-made or natural disaster causing or threatening widespread physical or economic harm that is beyond local control and requiring the resources of the state, the Governor can exercise discretion and control and provide resources and services necessary to avoid or minimize economic or physical harm until the situation is stabilized.*

## Section 1. Definitions Applicable to All Sections of Protocols

- A. Condition of Public Health Significance – A condition dangerous to public health or safety. § 7.4.3.7.C. NMAC.
- B. Department – The New Mexico Department of Health.
- C. Disaster - Any natural or man-made event causing or threatening widespread physical or economic harm that is beyond local control and requiring the resources of the state. The Governor may declare a disaster under the New Mexico All Hazard Emergency Management Act (AHEMA), § 12-10-1, *et seq.*, NMSA (1978). The Cabinet Secretary of Health may determine that such disaster constitutes or results in a public health emergency requiring mass distribution or administration of medical countermeasures under the State MCM Plan and from activated POD sites.
- D. Disease - An illness, including those caused by infectious agents or their toxic products which may be transmitted to a susceptible host. § 7.4.3.7.E. NMAC.
- E. Distribute – The delivery of a drug (i.e., medication) to a patient other than by *administering* or *dispensing*, and includes supplying one or more doses of a drug to a patient that has been prepackaged by a licensed pharmacist. § 61-6-7.1.C., NMSA (1978); § 61-11-2.J., NMSA (1978).<sup>2</sup> Certain health care providers are authorized under New Mexico law to *distribute* medications.<sup>3</sup> ***These Protocols expand the authority to distribute medications during a public health emergency to individuals not otherwise permitted by law to do so. See Section 5. Paragraph A. (3) (b) of these Protocols for further explanation.***

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§§ 12-10-2.B, and 12-10-4.A, NMSA (1978) (Emphasis added). The Governor also has authority to declare a “state of public health emergency” under the New Mexico Public Health Emergency Response Act (PHERA), § 12-10A-1, *et seq.*, NMSA (1978), upon the occurrence of a ***public health emergency*** as determined after consultation with the Cabinet Secretary of Health. § 12-10A-5.A, NMSA (1978).

<sup>2</sup> In New Mexico, *dispense* refers to the implementation of a prescription, including preparation (e.g., compounding, labeling and repackaging from a bulk container) and delivery of a drug or device to a patient or patient’s agent in a suitable container appropriately labeled for subsequent administration to or use by a patient. Pharmacy Act, § 61-6-11.2.I., NMSA (1978). *Administer* means the direct application of a drug directly to the body of a patient by injection, inhalation, ingestion or any other means as a result of an order of a licensed practitioner. § 61-11-2.A., NMSA (1978).

<sup>3</sup> The following health care providers are authorized to *distribute* or *administer* medications and vaccines ***within the limitations of existing New Mexico licensing and scope of practice laws and regulations***: (1) licensed physicians and physician assistants; (2) licensed pharmacists, pharmacist interns and pharmacist technicians; (3) licensed registered nurses and practical nurses (the latter administer but do not generally distribute); (4) certified nurse practitioners and clinical nurse specialists; (6) emergency medical services (EMS) personnel; and (7) medical students, interns, residents and fellows.

F. **Emergency** - Any natural or man-made event causing or threatening widespread physical or economic harm that is beyond local control and requiring the resources of the state. The Governor may declare an emergency under the AHEMA, § 12-10-1, *et seq.*, NMSA (1978). The Cabinet Secretary of Health may determine that such emergency constitutes or results in a public health emergency requiring mass distribution or administration of medical countermeasures under the State MCM Plan and from activated POD sites.

G. **Health Care Provider** – Any person authorized under New Mexico law to distribute or administer medication. (See *Footnotes 2* and *3* for further explanation.)

H. **Medical Countermeasures** – Medicines and supplies that are distributed or administered by the Department under the State MCM Plan and from activated POD sites in the event of a public health emergency as determined by the Cabinet Secretary of Health.

I. **Minor** – An individual at or under 18 years of age. § 28-6-1, NMSA (1978).

J. **Point of Dispensing (POD) Client** – Any individual who presents to a POD site to receive medical countermeasures for individual use or as the designated head of a family/household to request multiple regimens of medical countermeasures for use by self or other identified family/household members. (See **Section 3**. below.)

K. **Point of Dispensing (POD) Sites** (“POD sites” or “PODs”) – Pre-identified mass dispensing/administration site(s) that allow for members of a community to receive medical countermeasures in a rapid and efficient manner under the State MCM Plan.

L. **Public Health Emergency** - The occurrence or imminent threat of exposure to an extremely dangerous condition or a highly infectious or toxic agent, including a threatening communicable disease that poses an imminent threat of substantial harm to the population of New Mexico or any portion thereof. “Threatening communicable disease” is a disease that causes death or great bodily harm, passes from one person to another and for which there is no means by which the public reasonably can avoid the risk of contracting the disease, but does not include acquired immune deficiency syndrome (AIDS) or other infections caused by the human immunodeficiency virus (HIV). PHA § 24-1-15.L.(3), NMSA (1978) and the New Mexico Public Health Emergency Response Act (PHERA), § 12-10A-3.G. and L., NMSA (1978). The Cabinet Secretary of Health may determine the existence of a public health emergency or threat. A “state of public health emergency” may be declared by the Governor, in consultation with the Cabinet Secretary of Health, under PHERA § 12-10A-3.G. and 5.A., NMSA (1978).

M. **Strategic National Stockpile (SNS)** – A national repository of antibiotics, chemical antidotes, antitoxins, life-support medications, IV administration, airway maintenance supplies, and medical/surgical items (collectively referred to herein as “medical countermeasures”). The SNS is designed to supplement and re-supply various state and local public health agencies in the event of a national emergency, anywhere and at anytime within the United States or its territories. Once Federal and State authorities agree SNS assets are needed and they are delivered to a State, the State MCM Plan sets forth the procedures for receipt, distribution, and administration of the assets to local communities of the State.

N. Supervision – A POD medical officer or other medically-trained individual who is designated to exercise general oversight over POD operations (including distribution of medical countermeasures) and who is authorized to direct any POD volunteer in any given situation. This includes orientation, initial and ongoing direction of operations, procedural guidance and periodic inspection and evaluations.

O. Volunteer – An individual who, of his or her own free will, is approved and requested by the Department to perform assigned duties without receipt of monetary or material compensation, and who meets all requirements of **Section 5.** of these Protocols.

## **Section 2. No Minimum Identification Requirement for POD Clients to Receive Medical Countermeasures**

A. POD sites are designed to rapidly and efficiently serve New Mexico residents in the shortest possible time period in response to a public health emergency as determined by the Cabinet Secretary of Health requiring mass distribution or administration of medical countermeasures under the State MCM Plan.

B. POD clients WILL NOT be requested or required to produce a form of identification as a prerequisite to receiving medical countermeasures distributed or administered under the State MCM Plan and determined by the Cabinet Secretary of Health as necessary to respond to a public health emergency.

C. All POD clients WILL be requested and required to provide personal and medical information during intake for purposes of documentation and data collection by the Department for follow-up and tracking purposes.

D. All POD clients WILL be requested and required to sign a Consent Form prior to receiving or being administered medical countermeasures unless such clients lack the capacity to consent. (See **Section 4. Emergency “Implied Consent” for Incapacitated Adults and Unaccompanied Minors.**)

## **Section 3. Distribution of Multiple Medication Regimens to Family/Household Representative for other Family/Household Members**

A. Distribution of multiple medication regimens to individuals who present to a POD site would provide a means for distributing medical countermeasures to a greater number of individuals, some of whom may not be able to come to the POD site (e.g., due to physical inability, lack of transportation, need to care for other family/household members, etc.). This distribution method would also result in fewer individuals coming to the POD sites to receive medical countermeasures, thus resulting in improved throughput of POD clients.

B. A family/household representative is a person 18 years of age or older who has been designated by a group of family/household members who wish to be considered one household for the purposes of receiving medical countermeasures.



C. A family/household representative is eligible to receive multiple regimens of the appropriate medical countermeasures after he/she provides the required information for each family/household member for whom medication is requested, and has signed the *New Mexico Department of Health Intake Screening and Consent Form* for each such household member.

D. A family/household representative WILL be required to provide specific information (e.g., age, weight, known allergies, medical conditions, current medications, etc.) as to each family/household member for whom medication is requested. An identification card or some other form of identification (e.g., utility bill or tax return form) WILL be requested, but if the family/household representative is not able to produce identification, he/she WILL NOT be turned away from the POD site and multiple regimens of the appropriate medical countermeasures WILL be provided for each family/household member for whom complete information has been provided and on whose behalf the family/household representative has signed a consent form.

#### **Section 4. Emergency “Implied Consent” Applicable to Distribution or Administration of Medical Countermeasures to Incapacitated Adults or Unaccompanied Minors**

A. POD sites are designed to rapidly and efficiently serve New Mexico residents in the shortest possible time period in response to a public health emergency as determined by the Cabinet Secretary of Health requiring mass distribution or administration of medical countermeasures under the State MCM Plan.

B. It is expected that some adults who present to a POD site for receipt of medical countermeasures may lack the capacity to consent to medical care and may not be accompanied by his/her legal guardian or surrogate decision maker. In addition, unaccompanied minors who lack the legal ability to consent to medical care may also come to POD sites seeking medical countermeasures. In these situations, there will be inadequate time for POD staff to obtain consent from the legal guardian or surrogate decision maker of an incapacitated adult, or from the parent or guardian of an unaccompanied minor or one standing *in loco parentis* for that minor (i.e., relating to, or acting as a temporary guardian or caretaker, taking on all or some of the responsibilities of a parent to the minor).

C. When an incapacitated adult (unaccompanied by a legal guardian or surrogate decision maker) or unaccompanied minor present to a POD site for receipt of medical countermeasures in response to a public health emergency as determined by the Cabinet Secretary of Health, consent for the receipt or administration of such medical countermeasures will be implied,<sup>4</sup> and POD staff WILL NOT be required to obtain the express consent of the legal guardian or surrogate

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<sup>4</sup> “Implied consent” in this context is warranted based upon the assumption that, given the nature of the public health emergency and the need for rapid and efficient mass distribution or administration of medical countermeasures to New Mexico residents, the reasonably prudent individual with the legal authority to consent on behalf of either the incapacitated adult or the unaccompanied minor would consent to the distribution or administration of the appropriate medical countermeasures to these individuals.

decision maker of such incapacitated adult, or of the parent, guardian or one standing *in loco parentis* of such minor before distributing or administering medical countermeasures to these individuals.

**Section 5. Use of Volunteers for Mass Distribution or Administration of Medical Countermeasures**

**A. Volunteer Qualifications.**

(1) A volunteer authorized by the Department to support the Department in a mass distribution or administration of medical countermeasures under the State MCM Plan and from activated POD sites may fall into one of the following categories:

- (a) a licensed health care provider as defined in **Section 1. Paragraph G.** above;
- (b) a non-licensed individual with medical training; or
- (c) an individual with no medical training or “lay volunteer.”

(2) All categories of volunteer applicants shall be requested by the Department to register in NM MRCserves, the New Mexico registry developed under the guidelines of the U.S. Department of Health and Human Services for establishing an Emergency System for Advance Registration of Volunteer Health Professionals (ESAR-VHP). NM MRCserves will complete the credentialing process for the approval of such volunteers by the Department. More information is available at [www.nmserves.org](http://www.nmserves.org).

- (a) The Department will utilize volunteers registered in NM MRCserves and approved under its credentialing process before other non-NM MRCserves registered volunteers to support the Department in the mass distribution or administration of medical countermeasures.
- (b) In the event that there is an inadequate number of NM MRCserves volunteers to support the Department in the mass distribution or administration of medical countermeasures, the Department may approve additional volunteers in its discretion, but only through the process set forth in **Section 5. Paragraph A. (4)** below.
- (c) **Under no circumstances will the Department utilize spontaneous volunteers or other non-NM MRCserves registered volunteers who have been recruited and approved through a process other than that described in Section 5. Paragraph A. (4) of these Protocols.**

(3) A volunteer shall be approved as a credentialed volunteer in NM MRCserves or otherwise approved and authorized by the Department in its discretion prior to the performance

of any assigned task. Such volunteer assignments are at the sole discretion of the Department and may include but are not limited to the following:

(a) *Administration of Medical Countermeasures* - The Department may approve and authorize individuals already licensed or otherwise authorized by law to *administer* medical countermeasures (e.g., vaccines) to serve as volunteers. This may include New Mexico licensed health care providers or medically trained individuals with licenses from other jurisdictions.<sup>5</sup>

(b) *Distribution of Medical Countermeasures* - The Department may approve and authorize non-licensed individuals with medical training or lay volunteers (with no medical training) to *distribute* medical countermeasures under the supervision of a Department staff person with medical training (e.g., POD medical officer or other medically trained POD staff). During a public health emergency, such volunteers shall be permitted to distribute appropriate medical countermeasures in accordance with Department approved and authorized medical protocols specific to that public health emergency. ***This Protocol expands the authority to distribute medications during a public health emergency to individuals not otherwise permitted by law to do so.*** See **Section 1. Paragraph E.** and **Footnotes 2 and 3** of these Protocols for further explanation.

(c) *Non-Medical Tasks* - The Department may also approve and authorize non-licensed individuals with medical training or lay volunteers to perform other non-medical tasks, such as directing POD clients to various POD stations, handing out information sheets, completing or filing forms or records, or any other tasks assigned by DOH staff.

(4) Process for Department Approval and Acceptance of Volunteers. - A volunteer covered by the provisions of these Protocols shall:

(a) First be requested by the Department to register in NM MRCserves and be approved under its credentialing process.

**NOTE: The Department will utilize volunteers registered in NM MRC serves and approved under its credentialing process before other non-registered NM MRCserves volunteers to support the Department in the mass distribution or administration of medical countermeasures.**

**If necessary, NM MRCserves will complete an *emergency provisional volunteer registration and credentialing process* for approval of volunteers to**

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<sup>5</sup> Under the New Mexico Emergency Licensing Act, during an emergency, a person who holds a license, certificate or other permit that is issued by a state or territory of the United States and that evidences the meeting of qualifications for professional, mechanical or other skills may be credentialed, if appropriate and approved by the department of health or the homeland security and emergency management department, to render aid involving those skills to meet an emergency, subject to limitations and conditions as the governor may prescribe by executive order or otherwise. § 12-10-11. NMSA (1978).

**perform services on behalf of the Department during the current public health emergency.**

(b) In the event that there is an inadequate number of NM MRCserves volunteers to support the Department in the mass distribution or administration of medical countermeasures, the Department may approve additional volunteers in its discretion and such volunteers shall:

(1) Complete an Application and Volunteer Agreement prior to volunteering which shall include, at a minimum, full name and current address, work and volunteer experience, any current professional licenses, registrations or certifications and any other information relevant to the duties to be assigned;

(2) Sign an Authorization for the Department to conduct a background check that may include the verification of professional licensure, if applicable;

(3) Complete any required Department confidentiality, privacy and security training for volunteers (e.g., Health Insurance Portability and Accountability Act of 1996 training) and sign a Confidentiality Statement;

(4) Complete any health assessment form required by the Department and submit to vaccinations, inoculation or other medication if warranted and recommended by the Department.

**(5) Under no circumstances will the Department utilize spontaneous volunteers or other non- NM MRCserves registered volunteers who have been recruited and approved through a process other than that described in these Protocols.**

**NOTE: If necessary, the Department will complete an *emergency provisional volunteer registration and credentialing process* for approval of volunteers to perform services on behalf of DOH during the current public health emergency.**

(5) Department staff or other State employees may not function as volunteers since they are considered resources of the State and those resources will be coordinated in accordance with State needs in the event of a public health emergency.

**B. Volunteer Training.**

(1) Every individual wishing to be a volunteer as defined under these Protocols must receive the appropriate training, provided by the Department or its designee, or demonstrate competencies that at a minimum address POD structure and purpose, chain of command,



universal precautions relevant to distribution or administration of medications, medication identification and selection process, and POD client education.

(2) For all volunteers approved and authorized by the Department, during a public health emergency as determined by the Cabinet Secretary of Health requiring mass distribution or administration of medical countermeasures from the State MCM Plan POD sites, specific training relevant to that event and appropriate countermeasures (e.g., Just-in-Time training) shall be provided by the Department or its designee.

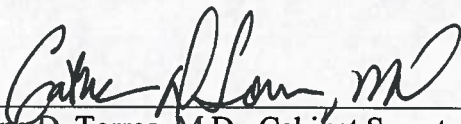
C. Volunteer Management.

(1) Utilization of Volunteers – In the event of a public health emergency as determined by the Secretary of Health requiring mass distribution or administration of medical countermeasures under the State MCM Plan, volunteers may be utilized to support the Department, including the set up, operation and break down of POD sites.

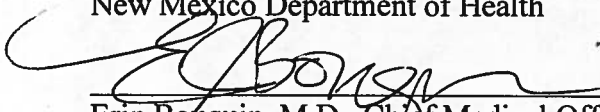
(2) The Department shall keep accurate and current records as required by applicable state and federal laws or regulations of every volunteer who has been recruited, trained, and accepted by the Department including, at a minimum, volunteer applications and background checks.

(3) The Department shall provide all volunteers with proper personal protective equipment as appropriate for the situation and in accordance to the federal Occupational Safety and Health Administration Standards (29 CFR Part 1910, Subpart I), as amended and published by the Office of the Federal Register, National Archives and Records Administration and available at <http://www.osha.gov> or by contacting the Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Such standards are incorporated herein by reference.

D. Department's Acceptance or Termination of Volunteers. - The Department has the sole right and discretion to refuse to accept or assign any individual as a volunteer or to terminate any previously accepted volunteer for any service without cause.

  
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Catherine D. Torres, M.D., Cabinet Secretary  
New Mexico Department of Health

5/11/2012  
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Date of Signature

  
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Erin Bouquin, M.D., Chief Medical Officer  
New Mexico Department of Health

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