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From the Editor: Lessons Learned from Katrina and Rita

Susan K. Steeg

A few weeks before Katrina, I was asked to deliver a talk on isolation and quarantine for a public health preparedness workshop held on South Padre Island. You may recall that this “tip of Texas” town was making hurricane preparations earlier this summer. Instead of presenting the “nuts and bolts” of Texas law concerning isolation and quarantine, I chose to present some of the conclusions contained in the interim reports from the SARS Commission in Canada. I also shared a case study of an individual suspected of having SARS that was provided to me by Karen Smith, M.D., the Health Officer in Napa County, California.

The theme of my presentation was “Who’s In Charge?” The SARS Commission scolded the governments at the local, provincial, and federal levels for not working together. The case study from Napa indicated to me that the local government was hampered in effective management of the case due to political or bureaucratic decision-making by the state and federal governments. When I saw the Mayor of New Orleans, the Governor of Louisiana, and the Director of FEMA on television during the first 48 hours of the Katrina aftermath, I had a sinking feeling. The same issues of intergovernmental authority and response were the root causes of the Katrina tragedy.

You have all seen and heard the horrors that have filled the media these past few weeks. Perhaps you have also had family or friends involved in these catastrophes, or you have donated time or money to assist in the rescue or recovery efforts. What went wrong with the governments’ responses to Katrina and Rita will be reviewed by the media and the respective governments *ad nauseum* for some time to come. A board game called “The Blame Game” is now in production to raise funds for Katrina victims. Just about everyone has an opinion on the questions “Who *did* what when?” and “Who *should* have done what when?” and “Who *could* have done what when?”

As a native of New Orleans and a resident of Texas for the past 30 years, I have been personally touched by Katrina and Rita. My immediate family evacuated safely from Jefferson Parish. Some members of my extended family have lost their homes. Although many buildings are standing and repairable, community was destroyed as many residents will not return to the region.

I recently drove to Kenner and Metairie, cities in Jefferson Parish, to retrieve a few of my parents’ personal belongings. From the media reports and websites that I saw before I left, I expected to find homes and businesses operating. I found few businesses open, and many houses I passed were destroyed. The streets were mostly deserted, and I knew the recovery will take a very long time.

I returned to Texas on “gridlock Thursday” of the Rita evacuations. My route took me through southwestern Louisiana and southeastern Texas. I later heard on the news that the military had sent tanker trucks to fuel cars that had run out of gas only to discover that the nozzles did not fit civilian vehicles.

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Creating a System for Health Volunteers in Massachusetts

Priscilla Fox

Background

In 2002, Congress passed the Public Health Security and Bioterrorism Preparedness and Response Act. Section 107 of the Act directs the Secretary of Health and Human Services to develop a program to create an Emergency System for the Advance Registration of Volunteer Health Professionals, known as ESAR-VHP. This work is now proceeding under the Health Resources and Services Administration (HRSA), which is part of HHS.

The objective of ESAR-VHP is to provide a “surge capacity” of health-related personnel who can be called upon in the event of a pandemic, bioterrorism event, or other public health emergency. To achieve this goal, state databases of pre-credentialed volunteers will be established so that the volunteers can be mobilized quickly in an emergency. Volunteers will be pre-credentialed using established credentialing standards or “levels;” this concept was previously called “resource typing” under the National Incident Management System (NIMS). As a result, the system will be interoperable nationwide; that is, the databases will be able to be shared among states if the need arises.

Funds for the development of the state ESAR-VHPs are provided through HRSA’s National Hospital Bioterrorism Preparedness Program (NHBPP). HRSA requires pre-credentialing of physicians, registered nurses, and behavioral health personnel. States may choose to add additional categories of health professionals, and some states have done so.

HRSA has divided the implementation of ESAR-VHP into three timed phases. Phase I included 10 states, of which Massachusetts was one. Phase II, which began in June 2005, adds another 20 states. Phase III will include the remaining states; activities in Phase III will take place primarily in 2006.

In order to develop guidelines for the state ESAR-VHPs HRSA contracted with several organizations, resulting in the publication of three very helpful documents. All states should become familiar with the reports entitled Interim Technical and Policy Guidelines, Standards, and Definitions (Version 2, June 2005); Legal and Regulatory Issues; and Hospital Implementation Issues and Solutions Second Focus Group Meeting Report (July 2005). All are available at <http://www.hrsa.gov>.

States that are further along in developing their ESAR-VHPs are also excellent resources for states beginning the process. Massachusetts is particularly grateful for the help of its neighbor Connecticut, which has developed an excellent hospital-based ESAR-VHP system.

Initial Activities in Massachusetts

The Massachusetts Department of Public Health (MDPH) is the state agency with responsibility for establishing the state’s ESAR-VHP system. To begin the process, MDPH convened a Statewide Advisory Committee for ESAR-VHP, which includes all stakeholders with an interest in developing and using the system. On the public

sector side, the Committee includes representatives from the Board of Registration in Medicine (the state licensing board for physicians); the Division of Health Professions Licensure (a division of MDPH responsible for licensing seven other health-related professions); the Executive Office of Public Safety and its agency the Massachusetts Emergency Management Agency; the Department of Mental Health; the Massachusetts Association of Health Boards (a non-profit organization representing city and town health boards and agencies); a local Medical Reserve Corps (MRC) in Massachusetts; the statewide MRC coordinator (see below); the Massachusetts Colleges Online system; and federal representatives from the Department of Health and Human Services, the Veterans Administration, and the Medical Reserve Corps program. Private sector entities represented include the Massachusetts Hospital Association, Massachusetts Nurses Association, and both large and small hospitals. The Committee is chaired by MDPH’s Hospital Preparedness Coordinator.

There are several benefits to establishing an advisory committee as a first step in creating an ESAR-VHP system. It is important to educate stakeholders about federal requirements and to obtain their input and hear their concerns before beginning to design a system. Not only will potential conflicts be avoided, but more importantly, the expertise of the many interested parties can help to elucidate troublesome issues and lessen MDPH’s burden.

The Advisory Committee has established a legal subcommittee that is studying the various legal issues connected with an ESAR-VHP system, including credentialing and frequency of verification of credentials; indemnification/liability protection; workers compensation; job security for volunteers; etc. New legislation may be needed to address one or more of these issues. In that event, legal subcommittee members may help draft effective language and/or advocate for its passage in the Legislature.

Coordination with Medical Reserve Corps

The national Medical Reserve Corps (MRC) system is a project of the U.S. Surgeon General’s office and is under the umbrella of the USA Freedom Corps. MRCs are locally based organizations composed of volunteers – both health professionals and lay persons – who agree to help local governments in emergency response, and in non-emergency work such as diabetes screening, flu vaccine clinics, etc. As such, MRCs represent a key pool of people who have expressed interest in serving their local communities, some of whom may also be willing to volunteer in the ESAR-VHP system. Thus, coordination between existing MRCs and a state’s ESAR-VHP program is important.

In Massachusetts, there are currently 12 MRCs, and more are in the process of being formed. MDPH has addressed the need for coordination among the MRCs, and between the MRCs and ESAR-VHP, by contracting with a private organization for this purpose. This organization, together with its partner, is hosting monthly conference calls and quarterly face-to-face meetings among all the MRCs; developing a statewide video and website; helping to identify training needs for MRC volunteers; and helping with ESAR-VHP coordination by encouraging MRCs to apply standard data formats when credentialing their volunteers. It is expected that once Massachusetts begins actively recruiting health professionals into the ESAR-VHP system, there will be even closer coordination with the MRCs.

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Partner Spotlight

Center for Informed Food Choices

State Legislatures Becoming Battleground Over School Food.

Michele Simon

With rising rates of childhood obesity and diabetes, how schools feed our kids has taken center stage as a public health policy issue. With public schools so desperate for funding, many districts have opened their doors to major beverage companies, often forming exclusive contracts also known as “pouring rights.” These deals are presented as being very lucrative, with schools offered incentives such as sports marquee or cash bonuses. Usually the amount of money a school district gets is dependent on soda sales, thus creating a conflict of interest between health and profit. In addition to soda, every type of junk food imaginable is now for sale in public schools, from chips to candy to ice cream.

In recent years, many people have begun questioning the wisdom of schools undermining good nutrition. Creating a testament to grassroots policymaking, major cities that no longer allow schools to sell soda include New York, Los Angeles, Chicago, Philadelphia, San Francisco, and Boston.¹ As a result of this local effort and a collective realization that policymaking one school district at a time is inefficient, state legislatures have taken up the matter. (The federal government has taken no leadership role.)

The result so far has been a mix of compromised victories and crushing defeats. From 2003-2005, 45 states introduced 287 bills to limit the availability of soft drinks and junk food in public schools. (Most bills contained other provisions.) Only 21 states were successful in passing any bill; and just 31 bills out of the 287 were enacted.² Of these 31 statutes, in many cases, the final language was watered down significantly from the bill version that was introduced. For example, language may have gone from setting strong nutrition standards to merely recommending that schools pass some sort of policy, thus making it entirely voluntary.

While not all of the blame for failed bills can be placed on the food and beverage industries, it is clear in many cases that trade associations and companies had a heavy hand in lobbying against these bills. For example, in recent months, lobbying by the soda industry resulted in bills being either killed or weakened in Oregon, Arizona, New Mexico, Kentucky, and Connecticut.

In good news, California recently passed two strong bills: one, to set nutrition standards on all food sold in schools

Continue article on page 4...

President's Column

Lori H. Spencer

Dear Colleague:



“Chance favors the prepared mind.” This is one of my favorite quotes—the words of Louis Pasteur. I have been thinking about these words in connection with the Public Health Law Association, and in the aftermath of Katrina. This natural disaster demonstrated that, despite the expenditure of multiple millions of dollars, there is a disturbing lack of preparedness to address events that create risk, including health risk, to the public. Just yesterday, the newspaper in Atlanta, where I live, had this headline: “U.S. not ready for flu crisis—Eventual pandemic would be worse than any natural disaster, federal planners fear.” So, it is headline news that we are not ready for a major public health emergency.

What does this have to do with PHLA? The founders launched the association with a view and goal that it would foster one vital aspect of preparedness—legal preparedness—to respond to public health emergencies, whether naturally occurring, like Katrina, or man-made. From all accounts, many legal issues—from licensure of out-of-state medical professionals to forced vaccination—had to be confronted by attorneys supporting those on the frontlines of the Katrina response. Identifying the legal questions, and then answering them takes time—precious time. And that is the whole point of preparedness—no time is lost if questions have been anticipated and answered as part of the planning process to respond to events that present public health threats.

Katrina illustrated the shortcomings of emergency management readiness and also illustrated that our association has a valid and very important reason to continue the work we started not so long ago. We have the leadership role in anticipating legal barriers to effective public health preparedness to respond to emergencies and major outbreaks—and we still have a lot of work to do. For this, we need the help of many others and in the days ahead we will be reaching out ever more widely to build a network of willing and interested participants in the work of PHLA. Expect our call and do what you can. Let's not leave too much to chance.

Newsletter Contributions Wanted

PHLA publishes a quarterly newsletter and seeks contributors to submit articles on public health law issues and news items on events that are of interest. For further information, contact Susan Steeg at ssteeg@phla.info.

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and the other to rid high schools of soda and other sugary beverages (the state already banned such drinks in elementary and middle schools). High schools often get exempt from such legislation because the soda companies fight hard to stay where most sodas are sold.

To stay on top of the latest legislative developments in school food and in nutrition policy more generally, you can subscribe to my organization's free monthly email newsletter called *Informed Eating: Food Politics and Analysis*. I am currently conducting a review of state legislation related to school nutrition and look forward to sharing those results later this year. In addition, my organization is coordinating a legal symposium in conjunction with Loyola Law School called, "Food Marketing to Children and the Law." The event will be held October 21 in Los Angeles and will feature legal scholars from around the country. For more information on this event and to sign up for the newsletter, visit: <http://www.informedeating.org>.

Michele Simon, JD, MPH, is a public health attorney who teaches Health Policy at the University of California, Hastings College of the Law and directs the Center for Informed Food Choices, a nonprofit based in Oakland, California.

¹ See <http://www.schoolpouringrights.com>

² Several states passed more than one bill. Data summarized from multiple sources, including: State Actions to Promote Nutrition, Increase Physical Activity and Prevent Obesity: A Legislative Overview, Health Policy Tracking Service, July 11, 2005, available at: <http://www.rwjf.org/files/research/July%202005%20-%20Report.pdf>; the National Conference of State Legislatures website (<http://www.ncsl.org>) and individual state websites.

Teleconference Planned on the IHR

PHLA will cosponsor a teleconference on November 17th with the International Health Law Committee of the American Bar Association's International Law Section. A panel will discuss key issues facing the business community with respect to public health emergencies following the adoption of the new WHO International Health Regulations (IHR). The panel will present an overview of the new IHR and discuss its impact on the business community. In particular, the panelists will share their perspectives on steps that members of the business community and their counsel should consider to ensure they are adequately prepared for any significant public health issue.

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2005 Student Poster Session a Success!

PHLA hosted its first annual poster session for graduate students to present their research on findings at the intersection of law and public health. The poster session was held at the CDC-sponsored conference *The Public's Health and the Law in the 21st Century*.

The poster presenters were students in programs in law, medicine, public health, ethics, criminal justice, and health policy selected through a competitive abstract review conducted by PHLA. The students represented twelve major universities including Boston University, University of Houston, Emory University, Columbia University, University of Kentucky, University of California Los Angeles, and New York University. At two designated times during the Conference, students presented their posters in the main exhibit hall to approximately 400 attendees from across the country and the world. The Centers for Disease Control and Prevention donated the location and waived conference registration fees for the student authors. And, GlaxoSmithKline generously contributed \$2,500 for travel scholarships to participating students.



Susan K. Steeg, JD PHLA Interim Executive Director and Martin P. Wasserman, MD, JD, PHLA Board Member, acknowledge the support of GlaxoSmith Kline and CDC's Public Health Law Program.

The posters presented reflected the excellence and diversity of interests in law and public health of the authors. One poster, authored by Emory University student Kimberly Beyer, "Obesity and state regulation of bariatric surgery," examined the advantages and disadvantages of state regulation of state-mandated coverage of bariatric surgery.



Taylor T. Dang, a student at Georgia State University, discusses her poster on "Public Health Implications of Elderly Prisoners in the Criminal Justice System."

Another poster entitled "An ethical analysis: vulnerable populations during a public health emergency" prepared by Katharine Michi Ettinger from Cardozo Law School, found that vulnerable populations pose a unique set of ethical challenges in public health emergencies. She called for policies to address those challenges. Other posters addressed a range of current and emerging issues in public health including domestic violence prevention in rural areas, public health marketing, dental care of prisoners, human rights, state laws related to elderly drivers, state foster care regulations.

The award for best poster went to Anna C. Dragsbaek, a student earning both her law degree and her Master of Public Health degree from the University of Houston in Houston, Texas. Ms. Dragsbaek's poster entitled "The Revision of the International Health Regulations by the World Health Organization" analyzed journal articles and texts discussing the history of the International Health Regulations, the proposed changes, and international health and trade. Her poster brought together elements of legal research techniques and reasoning, the science of public health, political science,

"I am grateful to the PHLA for offering this rare opportunity to students to showcase our work. The poster event provided me with an opportunity to discuss a topic that I consider vitally important to Public Health Law. I feel this event helps to lay the groundwork for a successful transition from student to Public Health professional. The opportunity to network with professionals in the field of Public Health Law was invaluable. I would like to thank the Public Health Law Association for organizing this event and for offering their encouragement and support."

-Anna C. Dragsbaek

and economics. Through her research and using a case study to demonstrate the impact of the International Health Regulations on a vulnerable population in Sierra Leone, West Africa, Ms. Dragsbaek found that the International Health Regulations are out dated and ineffective and a thorough revision was necessary to keep pace with the mobile nature of modern cultures and to avoid spreading disease. However, she argued that the proposed changes have four major flaws: 1) The definition of disease is very broad and could result in overreaching; 2) The regulations are still largely ineffective because there is no sanction power behind them, which will result in lack of enforceability; 3) Member states can still "opt out" of complying with the regulations without suffering any adverse effects; and 4) There is a disincentive to report outbreaks due to the fear of adverse economic impacts that outbreaks can provoke.



Jean O'Connor, JD, MPH, PHLA Board Member and organizer of the Student Poster Session congratulates Anna C. Dragsbaek, JD/MPH candidate, for the winning poster.

Ms. Dragsbaek demonstrated through the analysis in her poster that the strong link between socio-economic status and health is well documented and that as a population attains a higher level of affluence, the health of that population also attains a higher standard. She made arguments that proposed alternative revisions

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Case Comment - Croplife Canada v. City of Toronto¹

By Susan Ungar, Graham Rempe and Mark Siboni²
Edited by Jane Speakman

Background

The Ontario Court of Appeal recently released its decision in the case of *Croplife Canada v. City of Toronto*, confirming that the City had the authority to pass its pesticide by-law under section 130 of Ontario's *Municipal Act, 2001*. On August 10, 2005, Croplife Canada announced its intention to seek leave to appeal this decision to the Supreme Court of Canada.

On May 23, 2003, the City of Toronto enacted By-law No. 456-2003, which restricts the non-essential use of pesticides within its territorial jurisdiction. In June 2003, Croplife Canada, a trade association that includes pesticide producers, brought an application to quash the City's by-law on the basis that it was not a valid enactment under section 130 of the *Municipal Act, 2001*. Section 130, often referred to as the 'general health and welfare section', provides that "a municipality can regulate matters not specifically provided for by this Act or any other Act for purposes related to the health, safety and well-being of the inhabitants of the municipality."

Croplife's application was heard by the Superior Court of Justice on November 10, 2003. In its decision released December 8, 2003, the court dismissed the trade association's application. The appeal from this judgment was heard on November 4, 2004. In a unanimous decision released on May 13, 2005, the Court of Appeal also rejected Croplife's arguments and upheld the City's by-law.

The decision is an important one in terms of the City's authority to use its general health and welfare power. It also confirms the recent trends of the Canadian courts to interpret municipal powers generously and in a "broad and purposive fashion."

The following four issues were canvassed by the Court of Appeal in the Croplife appeal:

(i) The proper approach to interpreting Municipal legislative powers

The court reviewed the evolving jurisprudence regarding the interpretation and scope of municipal by-law making powers and rejected the older, more restrictive approach found in the earlier cases. The court specifically rejected the jurisprudence in older cases which held that municipalities must frame their by-laws strictly within the scope delegated to them by the Legislature.³ The court held that "it would be a retrograde step" to revert to the former, restrictive approach.

The Court of Appeal referred to the recent Supreme Court decision in the case of *United Taxi Drivers' Fellowship of Southern Alberta v. Calgary (City)*,⁴ where Bastarache J. reviewed the recent jurisprudence in this area and referred to the "modern method of drafting municipal legislation" in many of the provinces, including Ontario. He confirmed that "the evolution of the modern municipality has produced a shift in the proper approach to the interpretation of statutes empowering municipalities" such that "a broad and purposive approach to the interpretation of municipal powers has been embraced."⁵

The court also made reference to the concurring reasons of Lebel J. in the case of *Spraytech v. Hudson (Town)*⁶ where he stated that the restrictive interpretation urged by the appellants in that case would have made the general welfare section nothing more than "an empty shell."

On this issue, the court concluded as follows:

[A]bsent an express direction to the contrary in the *Municipal Act, 2001*, which is not there, the jurisprudence from the Supreme Court is clear that municipal powers, including general welfare powers, are to be interpreted broadly and generously within their context and statutory limits, to achieve the legitimate interests of the municipality and its inhabitants.

(ii) The Limiting Language in Section 130

As previously noted, section 130 authorizes municipalities to regulate "matters not specifically provided for by this Act or any other Act for purposes related to the health, safety and well being of the inhabitants of the municipality" (emphasis added). Croplife argued, *inter alia*, that the words "or any other Act" precluded the City from passing the pesticide by-law under section 130 since the subject matter of the by-law (or the pith and substance of the by-law) is already the subject of federal and provincial legislation (i.e., the federal *Pest Control Products Act*, and the Ontario *Pesticides Act*). The court dismissed this argument noting that the limiting language was simply intended to prevent the use of a general power to embellish specific, but limited by-law making powers that have been provided to municipalities elsewhere.

The court held that under section 130 of the *Municipal Act, 2001*, a matter can be regulated by by-law so long as there is no other specifically related by-law making power on the matter in question in the Act or in any other provincial legislation. Since there is no by-law making power relating to pesticide use found in either the Act or elsewhere, including federal or provincial legislation, the City had the authority to pass the by-law in question under section 130.

(iii) The By-law does not conflict with Federal or Provincial legislation

The Court referred to the conflict test which is provided in section 14 of the *Municipal Act, 2001* indicating that section 14 must be read in light of the two-pronged conflict test set out in the recent decision of the Supreme Court of Canada in *Rothmans, Benson & Hedges Inc. v. Saskatchewan*.⁷ That test requires that one determine the following: (a) Is it impossible to comply simultaneously with the pesticide by-law and with the federal *Pest Control Products Act* and the provincial *Pesticides Act*? and (b) Does the City's pesticide by-law frustrate the purpose of Parliament or of the Ontario legislature in enacting those laws?

The Court of Appeal determined that the answer to both of these questions was "no", and held that the City's pesticide by-law did not conflict with the federal or provincial legislation.

¹ [2005] O.J. No. 1896 (Ont. C.A. May 13, 2005)

² Susan Ungar, Graham Rempe and Mark Siboni, of City of Toronto Legal Services, represented the City of Toronto in the *Croplife* case.

³ *Verdun (City) v. Sun Oil Co.*, [1952] 1 S.C.R. 222, where Fauteux J. articulated the restrictive approach.

⁴ [2004] 1 S.C.R. 485 [hereinafter *United Taxi*]

⁵ *United Taxi*, *supra* note 4 at para. 6

⁶ 114957 *Canada Ltee (Spraytech, Société d'arrosage) v. Hudson (Town)*, [2001] 2 S.C.R. 241 [hereinafter *Spraytech*]. The Supreme Court held that the Town of Hudson in Quebec had the authority under a section of its *Cities and Towns Act*, R.S.Q., c. C-19, similar to Ontario's section 102 of the former *Municipal Act*, R.S.O. 1990, c. M.45, to enact a similar pesticide by-law in the town.

⁷ [2005] S.C.J. No. 1.

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(iv) The Precautionary Principle

The precautionary principle is a rule of international law which states that where there are grounds for believing that an activity or a product is likely to threaten public health or the environment, lack of full scientific certainty should not be used as a reason for postponing measures that may prevent the materialization of these types of risks. One of the paragraphs in the preamble to the City's pesticide by-law states that the enactment of a by-law designed to reduce the degree to which its citizens are unnecessarily exposed to pesticides conforms to the precautionary principle.

The Court of Appeal did not address the precautionary principle in detail but did note that, in and of itself, the precautionary principle could not have been used by the City as authority for supporting the passage of its pesticide by-law if the City did not otherwise have the power to enact it.

Conclusion

In rendering its decision in the *Croplife* appeal and finding that the City had the authority to enact its pesticides by-law under section 130 of the *Municipal Act, 2001*, the Court of Appeal followed the body of jurisprudence emanating from the Supreme Court of Canada which recognizes that legislation enabling municipalities to govern their own affairs ought to be construed in a generous and benevolent manner. By confirming that this rule of interpretation is to be applied when construing any municipal by-law making powers, the Court of Appeal has added its voice to the growing consensus among the Provincial legislatures and the Courts that the modern municipality requires a certain set of legislative tools in order to meet the challenges associated with governing in the 21st century.

Jane Speakman, BScN, LLB, is a senior solicitor in the Legal Department of the City of Toronto and is the Treasurer of the Public Health Law Association. She may be contacted at jspeakma@toronto.ca.

CDC's Public Health Law Program: What's new?

Kim McWhorter
Montrece McNeill Ransom

Public Health Emergency Law Course Launched

The Centers for Disease Control and Prevention's Public Health Law Program and Coordinating Office for Terrorism Preparedness and Emergency Response are pleased to announce the launch of the training course: "Public Health Emergency Law" (PHEL). This six-unit course is aimed at non-lawyer professionals who train public health and emergency staff directly involved in preparing for and responding to public health emergencies. The course is comprised of an interactive case study and a downloadable, comprehensive Course Manager's Guide. Key concepts include:

- Basic concepts (key structures, fundamentals of PHEL)
- Detecting and declaring emergencies (surveillance, emergency "declarations", powers, assistance and resources)
- Protection of people (mandatory isolation/quarantine, mandatory vaccination and treatment, dealing with special populations)
- Management of property (contaminated private property, using private facilities, control of supplies and equipment)
- Mobilizing professional resources (emergency sources of personnel and related legal considerations)
- Advanced issues (managing legal liability, retaining eligibility for emergency-related cost reimbursement)

Public Health Law Bench Book for Indiana Courts

With support from CDC's Public Health Law Program, The Center for Public Health Law Partnerships at the University of Louisville has developed and published the

"Public Health Law Bench Book for Indiana Courts."

This reference tool is meant to aid Indiana judges when confronted with public health issues (i.e. individual liberties, public health emergencies, search and seizure) that come into their courtroom, however it can be used as a template to develop similar resources for judges of other states.

The Community Public Health Legal Preparedness Initiative: Workshop Update

To date, over 400 public health and healthcare lawyers, and their clients have participated in state and local workshops based on the collaborative Community Public Health Legal Preparedness Initiative (CPHLPI) developed by PHLP, the Health Law Section of the American Bar Association, and PHLA. Since its inception in the fall of 2003, CPHLPI workshops have been conducted in communities including Atlanta, Houston, Tulsa, Seattle/King County, and Columbia, S.C.

Upcoming, on Friday, October 14th, the Health Law Section of the State Bar of New Mexico, in collaboration with additional New Mexico public health and legal organizations, will host its CPHLPI-based workshop at the State Bar Center in Albuquerque, NM. Featured speakers include: Michelle Lujan Grisham, Secretary of the New Mexico Department of Health and Jennifer Stone, General Counsel, New Mexico, Department of Health. More information on the Albuquerque workshop can be obtained by visiting the State Bar of New Mexico website at <http://www.nmbar.org> (click CLE, then Event Calendar, then Public Health Emergencies).

For more information on these and other products and services offered by the CDC Public Health Law Program and other partners, please visit <http://www.2a.cdc.gov/phlp>.

Kim McWhorter is an MPH candidate who is a public health law intern in CDC's Public Health Law Program. Montrece McNeill Ransom, JD, is an attorney analyst in the Public Health Law Program and can be contacted at mransom@cdc.gov.

PHLA at the Public Health Law Conference

June 13-15, 2005
Atlanta, Georgia



Professor Frank P. Grad receives PHLA's Distinguished Career Award from Anne M. Murphy, PHLA President.



Governor Mike Huckabee of Arkansas receives PHLA's 2005 Achievement in Public Health Award from Anne M. Murphy (l) and Lori H. Spencer (r).



Members of the 2005-2006 Board of Directors are introduced during the Reception and Awards Ceremony. Standing from left to right: Martin P. Wasserman, MD, Cynthia Honssinger, Gene Matthews, Daniel O'Brien, Linda L. Chezem, Jean O'Connor, and Anne P. Murphy.



PHLA organized the session "The Private Bar: A Force for Change" as well as participated as presenters. Seated from left to right are Susan K. Steeg, PHLA Interim Executive Director, Gene Matthews, PHLA Board member; Director of the Institute of Public Health Law, Mary Des Vignes-Kendrick, MD, MPH, Deputy Director, Center for Biosecurity and Public Health Preparedness, Univ. of Texas Health Science Center at Houston, Susan F. Zinder, General Counsel, Kingsbrook Jewish Medical Center, and J.A. (Tony) Patterson, Partner, Fulbright & Jaworski; Chair, Health Law Section, American Bar Association.



Lori H. Spencer, incoming PHLA President, addresses attendees at the Reception and Awards ceremony.



The Honorable David Byrne, Special Envoy on the Revision of the International Health Regulations presents the keynote address on "Is There a Lawyer in the House: The Law of Global Public Health"

Katrina and Rita article continued from page 1...

The intergovernmental response improved during Rita, if it is measured by the decreased loss of life. I believe these two natural disasters should prompt us to step back and reassess the roles and responsibilities of federal, state, and local governments in responding to major catastrophic events. There will be much discussion in the following months on issues of civil rights, states' rights, federal constitutional authority, and the doctrine of *posse comitatus*, to name a few. Those of you who make public health law and policy need to be involved in these discussions to prevent another catastrophe.

Susan K. Steeg, JD is the Interim Executive Director of the Public Health Law Association. She retired as the General Counsel for the Texas Department of Health in 2004. She can be contacted at ssteeg@phla.info

Student Poster article continued from page 5...

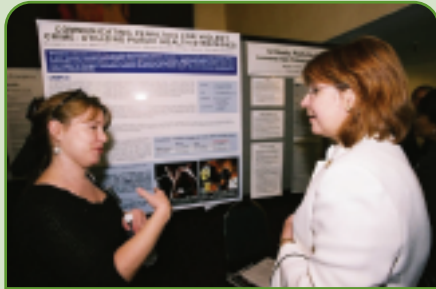
to the International Health Regulations might include acknowledging a stronger link between trade and health and that the World Health Organization and the World Trade Organization should join forces to find ways to penalize non-compliant countries through sanctions and reward compliant countries with economic benefits. She concluded

that for the new International Health Regulations to be effective there must be positive or negative consequences for compliance and that the reach of the regulations should be limited in scope to avoid disrupting certain cultural practices that may be offensive to westerners, but will not result in infectious disease. The Board of the Public Health Law Association presented Anna with her award during the June 14th PHLA-sponsored reception.

Planning is underway for the 2006 Poster Session. A variety of options are being considered for expanding and improving on this year's poster session. Already, the American Bar Association has donated \$5,000 to support the 2006 poster session. Individuals interested in volunteering to assist with the planning of the 2006 poster session should contact Board Member Jean O'Connor at joconnor@phla.info.

View several student posters at <http://www.phla.info/posterOverview.htm>

Thank You! In addition to the student authors, PHLA thanks the following individuals for their contribution to the Poster Session: Angela McGowan, JD, MPH (Centers for Disease Control and Prevention), Barbara Zimmerman (Emory University), Alina Perez, JD, MSW (Nova Southeastern University), Maggie Ritsick (McKing Consulting), Heather Horton, JD, MPH (Centers for Disease Control and Prevention), Marty Fensterseib, MD, MPH (Santa Clara Health Department), Marice Ashe, JD, MPH (Public Health Institute, California), Edward P. Richards, JD, MPH (Louisiana State University Law Center), Mary DesVignes-Kendrick, MD, MPH (University of Texas School of Public Health), Daniel O'Brien, JD (Maryland Office of the Attorney General), Wendy E. Parmet, JD (Northeastern University School of Law), Helena Rubinstein, JD, MPH (Doctoral candidate, Harvard School of Public Health), and Socrates Tuch, JD, MA (Ohio Department of Health). A special thanks goes to Jean O'Connor, JD, MPH (MayaTech Corporation) for leading this project.



Elizabeth J. Fuller, a DrPH candidate from Columbia University presents her poster "Informing Juveniles of the Penalties for Armed Robbery: Using a Public Health Marketing Approach to Professor Alina Perez of Nova Southeastern University.

Massachusetts Health Volunteers article continued from page 2....

Pilot Programs

Next month, MDPH expects to enter into two contracts with healthcare entities (hospitals, community health centers, provider groups, etc.) or consortia of healthcare entities to develop a roster of ESAR-VHP volunteers, using two distinct credentialing procedures. Two pilot projects will be funded, which will identify, register, and pre-credential physicians and registered nurses. (MDPH is working separately with the Massachusetts Department of Mental Health to develop a roster of mental health professionals). Each pilot project is intended to test and inform the on-going work of the Statewide Advisory Committee as well as create the initial database entries for the statewide ESAR-VHP system. The results of the pilot projects will inform the design of the statewide system.

The first pilot project will be based at a JCAHO-accredited hospital or group of hospitals. The hospital will recruit into the ESAR-VHP system from among hospital staff, and pre-credentialing will be done in-house by the office that normally conducts JCAHO credentialing activities.

The second project will be non-hospital based. A healthcare provider organization or another group with healthcare professional membership or staff will recruit from among its membership or through a state database of licensed providers. Pre-credentialing will be accomplished through the applicable state boards of registration, and primary source verification will be done where needed.

In both pilot projects, the vendors will be required to design a protocol for identifying and privileging volunteers; develop and distribute informational and promotional materials to prospective volunteers; conduct active recruitment activities; conduct registration and pre-credentialing activities; develop a roster of pre-credentialed volunteers that can be downloaded into the statewide database currently being developed; ensure that all registered volunteers have taken the online orientation course once it is available; provide a schema for personnel activation and deployment; and provide a methodology for updating the database.

It is expected that the two pilot projects will serve as templates for the statewide ESAR-VHP system and will greatly assist in its development.

Other Initiatives

In addition to the MRC coordination and pilot programs discussed above, Massachusetts is undertaking several other activities in developing its ESAR-VHP system. The information technology specifications and design of the statewide database are being developed in-house by MDPH; an RFR (Request for Response) is being posted to include participation of Visiting Nurse and Home Health agencies; and an online orientation/training course for ESAR-VHP volunteers is under development. Massachusetts expects to begin registering volunteers into the statewide system in January 2006.

For more information about the Massachusetts program, contact Mike Kass, Deputy Hospital Preparedness Coordinator, Massachusetts Department of Public Health Center for Emergency Preparedness, 250 Washington Street, Fl. 1, Boston, MA 02108, 617-624-5720, Michael.Kass@state.ma.us.

Priscilla Fox, JD, is an attorney with the Massachusetts Department of Health. She can be contacted at pfox@adelphia.net.

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*Organization affiliations used for identification purposes only.

Calendar of Events

October 18, 2005

Call for Speakers Deadline, American Health Lawyers Association
2006 Annual Meeting
<http://healthlawyers.org>

November 10-12, 2005

European Public Health Association Annual Meeting, Graz, Austria,
http://www.eupha.org/html/menu3_2.html

November 17, 2005

"What the Global Business Community Needs to Know About the WHO's New International Health Regulations," a teleconference presented by PHLA and the ABA's International Health Law Committee Save the date; posting to follow on
<http://www.phla.info>

December 10-14, 2005

American Public Health Association Annual Meeting, Philadelphia, PA
<http://www.apha.org>

June 1, 2006

Health Law Teachers Conference, Baltimore, MD
<http://www.aslme.org>

June 12-14, 2006

5th Annual Public Health Law Conference, Atlanta, GA

June 26-28, 2006

American Health Lawyers Association Annual Meeting, Philadelphia, PA
<http://healthlawyers.org>

July 26-28, 2006

NACCHO Annual Meeting, San Antonio, TX
<http://www.naccho.org>

September 12-15, 2005

ASTHO Annual Meeting, Atlanta, GA
<http://www.astho.org>

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