

**Prairie Region International Public Health Emergency Management
Memorandum Of Understanding
Background Paper
July 2008**

**Produced by Office of Disaster Management
Manitoba Health and Healthy Living**

Manitoba's Interest

Any hazard event presents the real possibility of stressing Manitoba's health system beyond capacity. Given the current conditions of the system (operating just under capacity) an influx of significant trauma patients could tax the system beyond coping ability. An agreement with neighbouring states and provinces that allows for the receiving of resources (medical and personnel) could save lives during a hazardous event.

Pandemic is a major hazard facing the public health sector. As diseases don't respect political boundaries, the plans and resources to address these hazards can't work effectively within borders. A joint effort among neighbouring jurisdictions is needed to properly ensure that citizens are being appropriately protected against infectious disease agents. Joint cooperation including the sharing of laboratory specimens and the collaboration of response plans would strengthen the region's response to public health hazards.

There is currently no emergency management agreement among different jurisdictions in the region, only increasing the need for a public health emergency management agreement. The mutual participation established in an agreement would increase the area's ability to respond during an event. It would be expected that the invited participants in the agreement would include Saskatchewan, North Dakota, Minnesota, Montana and possibly Northwest Ontario.

Background on Current MOUs

There are currently two types of Emergency Management Agreements between Canadian provinces and American states.

The first type is an agreement entered into by the Provinces' and States' respective Emergency Management Organizations, covers all hazards and applies to emergency management as a whole. There are two regional arrangements of this type (Pacific Northwest Emergency Management Arrangement (PNEMA) and International Emergency Management Assistance Memorandum of Understanding (IEMAMOU), one national scope arrangement (covering cooperation on comprehensive civil emergency planning), and one very localized (Erie-Niagara Cross Border Contingency Plan) which is executed on the municipal and county level.

In addition to the broad emergency management plans, there are also agreements specific to industries, such as public health or forest fires. Included in this category are two public health emergency management agreements (Washington State and British Columbia MOU on Public Health Emergencies and the Public Health Emergency Mutual Aid Declaration between Canada, Mexico and United States), one public health data sharing arrangement (Great Lakes Border Health Initiative) and two forest fire compacts.

Agreement Summaries

This next section will give a brief synopsis of the applicable agreements already in existence. Copies of the agreements are attached.

Pacific Northwest Emergency Management Arrangement

- Includes Idaho, Oregon, Alaska, Washington, British Columbia and the Yukon
- Originally signed in 1996, approved by Congress in 1998

- Purpose was to create the basis for mutual assistance in civil emergency management in the event of a declared emergency
- Annex B – Signed in 2006 – Adds EMAC considerations to the agreement

Emergency Management Assistance Compact

- Between American States
- Allows for State bodies to assist each other during times of emergency
- Used as a basis for both PNEMA and IEMAMOU
- Has been effectively used (Katrina, forest fires)
- Covers all types of event but has no specifics

International Emergency Management Assistance Memorandum of Understanding

- Includes Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Quebec, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland.
- Created in 1998, signed in 2000 and passed by Congress in 2007
- Modeled after EMAC
- Allows for the possibility of mutual assistance during emergencies
- Has been used in winter storm events

Great Lakes Border Health Initiative

- Includes Michigan, Minnesota, New York, Wisconsin and Ontario
- Promotes the sharing of public health information primarily for infectious disease control purposes
- Currently looking at expanding into joint surveillance and warning system and setting guidelines around the information sharing

A Memorandum of Understanding Public Health Emergencies (B.C. and Washington)

- Signed June 2006
- Collaborative approach to use of public health resources to prepare for, respond to and recover from public health emergencies
- Primary goals are response to surge capacity situations and exploring future areas of responsibility to effectively provide health services
- Enhances working relationship between the two parties

Public Health Emergency Mutual Aid Declaration between Canada, Mexico and United States

- National agreement declaring intent to assist during public health emergencies
- Broadly covers a number of issues regarding preparedness and shared coordination during a public health emergency, including sharing information on a need-to-know basis, and possible sharing of personnel and resources and laboratory specimens.
- Signed in November 2007.

Basic Components

Within the current public health agreements, there is a lot of diversity as to what is covered under the conditions of the MOU. However, there are similar components in each that would be needed for any agreement Manitoba enters.

Most of the similar components in these agreements deal with the general basics of the documents, while the differences deal with operational issues within the agreement.

Introductory Statement or Agreement Purpose

This is usually a statement acknowledging the intended purpose of the agreement including a comment on the essentiality of collaboration within public health responses as natural events don't respect political boundaries. These are somewhat less common within the public health documents as these are sometimes attached to Emergency Management focused MOUs which include a purpose statement.

Recommendation: As this will be a stand alone document and not created as an addition to a previous agreement, a agreement purpose along with a statement of the importance of collaboration should be included.

Creation of a Guidance/Advisory Committee

Majority of the documents call for the creation of a committee comprised of representatives from the different jurisdictions, tasked with leading the collaboration and developing the operational procedures and processes. In some situations no committee is created, but this appears to be because the group already exists and frequently meets, or because the number of jurisdictions involved in the agreement is minimal.

Recommendation: Since the possibility of numerous jurisdictions participation exists, and no active committee or working group is already present, the agreement should establish a group for the purpose of adapting procedures for further collaboration.

Non-binding

All the agreements include a section regarding the legal implications of entering into the MOU. Generally, the statement discusses the non-binding status of the agreement and how it is not to be considered international law, or details that nothing in the agreement is intended or should be interpreted to conflict with the current laws of the participating jurisdictions.

Recommendation: A nonbinding agreement may speed up the implementation process by limiting the amount of legalities needed to be negotiated in the document.

Withdrawal Clause

Similar to the non-binding clause, the withdrawal clause is present in some form in all the documents. This section usually states that jurisdictions are free to withdraw from the agreement at any time, given certain decided conditions of withdrawal are met (for example, 30 days written notice).

Sharing of Plans

With the exception of the MOU between Washington State and British Columbia, the agreements contain a statement or recommendation on the sharing of plans or procedures with other participating jurisdictions (some with provisions such as 'need to know basis'). The MOU between Washington State and British Columbia does not detail a sharing agreement, but is implied as the agreement calls for using a regional planning approach, review of jurisdictional plans and consideration of mutual assistance plans, and the identification of gaps and inconsistencies in current plans, none of which is possible without sharing of plans. Additionally, both jurisdictions are members of PNEMA which calls for the sharing of plans.

Differences between current documents

There are variety of differences between the documents currently employed between different nations and states. Various conditions that may be useful to Manitoba when considering what sections to include are detailed below.

Movement of health care professionals across international borders to deal with surge capacity issues

PNEMA recently put forward a draft appendix that details the process for health care professionals to move from Washington to B.C. and the reverse in a situation "where a disaster exhausts or threatens to exhausts physician and/or nursing resources." There are a variety of concerns needing to be addressed attached to this level of resource movement, including payment, licensure, request procedures, liability, workplace health and safety and personal protective equipment supplies.

Data Sharing around Infectious and Communicable Diseases

This is a section regarding the transfer of information around infectious diseases for the purposes of monitoring outbreaks to the benefit of prevention and control efforts. Different degrees of sharing are currently present in the existing agreements. A proposed appendix to PNEMA calls for the "exchange of individual and/or aggregate health data, consistent with all applicable laws of their respective jurisdiction" for the purposes of "preventing, detecting, responding to, or evaluating the response to, a public health event."

The declaration between the national bodies does not speak directly to sharing information around infectious and communicable diseases, but does address sharing information on a need-to-know basis for planning purposes. The document also calls for the strengthening and outlining of policies and procedures surrounding the sharing of laboratory information and specimens before and during an emergency.

The Great Lakes Border Health Initiative states that “each signatory will endeavour to provide health data regarding an infectious disease agent or public health event to every signatory to which it is relevant.” This document also addresses the sharing of epidemiological health information and statutes or regulations surrounding infectious disease agents and public health events.

Training/Drills/Exercises

Many of the Emergency Management agreements make reference to the organization of joint drills and exercises to test procedures and capabilities of the arrangements. This is less common in the public health documents but is existent in the national level document. Some of the public health based agreements may not contain this section as it is already covered within the corresponding emergency management agreements.

Additional suggested components – CDC

The following are section suggestions from a CDC document outlining the different provisions to be included in a public health international MOU.

Request Procedures

This topic isn't covered in most of the public health agreements as they are more intentional in nature, and therefore have less focus on operations. However, there is a section on this in the Draft Surge Capacity Operational Plan between B.C. and Washington, as well as in most of the emergency management documents. Choices range from verbal requests to written requests to a combination of the two. Some documents also detail the format and required content of the requests.

This section also contains information on the response system being used in the receiving jurisdiction to ensure coordination of command and resources. NIMS is the suggested system by the CDC but in Manitoba this would be IMS.

License and Permits

Credentialing of health care professionals crossing the border is not covered in any of the public health documents except the B.C. and Washington Surge Capacity agreement. It states that anyone holding a license in one jurisdiction and being dispatched by that jurisdiction is considered to be licensed in the jurisdiction requiring assistance. A section like this would be required if the document was made more operational and included the movement of personnel.

Additional Concerns

The CDC recommends a number of other sections on operational considerations including liability, immunity, indemnity, cost and reimbursement, legal impacts, worker's compensation, death benefits, insurance, dispute resolution, fees, funding and appropriations. While essential, especially where there is movement of personnel, these are more operational concerns and require knowledge of the different jurisdictions current policies and procedures before any recommendations can be made.

Strategic Overview

There are a variety of approaches parties have taken in creating international MOUs. Some have produced public health MOUs as add-ons to already existing emergency management based agreements. Others have created a public health document as a stand alone agreement. The documents that are created in tandem or in support of an emergency management document are stronger documents, encompass more aspects of public health response to an emergency and will likely be more beneficial to their respective governments. Given that Manitoba currently

does not have any emergency management MOU with surrounding jurisdictions, a public health agreement similar to the Great Lakes or national level one would be limited in scope. This is really an opportunity for Manitoba to move forward and create an emergency management document with its neighbours that would be to the highest benefit of all involved. While the greater the scope of the document, the greater amount of coordination necessary, it is a stronger choice for the Province's health sector and its citizens.

Documents from the CDC propose suggestions for a strong public health mutual aid agreement, and although it is not necessarily currently present, this suggests the CDC believes such a document is possible. Its suggestions appear to be drawn from the emergency management sector as well as public health documents, suggesting such a blending of the fields in regards to mutual aid is achievable.

While the creation of an international agreement could easily be delayed on a variety of issues, many of the documents seem to have gotten around this by creating general suggestions within the document, such as parties should research a topic or strengthen a procedure, or when creating it to state the "intention" of the parties to collaborate together but not include details. In many cases, the details of the collaboration are set to be added at a later date. This language is key in that is vague enough to be unthreatening to jurisdictional requirements, but broad enough to give parties ability to act and create strong partnerships. This type of language will be easier to agree upon and pass in legislatures, as it presents no definite goals, merely an attitude of collaboration.

Another means of speeding the implementation process is allowing parties to sign on through letters of intent rather than actual signing of the agreement. With the IEMAMOU, many of the states did not initially agree to the document, but instead signed letters of intent. This allowed them to still participate in the process and work being done on collaboration before the lengthy process of passing it through elected bodies was complete. This could be another option to expediate the process of having a working document in place.

Non-binding agreements also allow for agreements to be created in the absence of detailed procedures surrounding the legalities. Nonbinding agreements are easier for states and provinces to enter into, and while binding agreements are ideal in the long term, nonbinding could ease the creation of a document in the interest of time.

Points for Consideration

Congress

All agreements entered into by an American state and an international body must be approved by Congress, which can be a long process (IEMAMOU). However, recent actions by the American government encouraging states to seek out agreements surrounding emergency management and public health surveillance against pandemics and disease suggest this may be a good time to be creating an agreement.

All of the American states have entered into EMAC which is an emergency management document detailing state to state cooperation across the country. It was successful in coordinating responses to Hurricane Katrina and other emergencies in the country. The more similar in scope to EMAC a document is, the easier it may be to garner cooperation from the American legislatures, as there is already a certain level of comfort surrounding this type of agreement.

Unions

A number of sections surrounding the movement of health care professionals could cause concern among worker's unions within the jurisdictions. These areas may require lengthy negotiations and discussions and slow down the implementation process of the final agreement.

Appendix List

Public Health Agreements

A - Great Lakes Border Health Initiative

B – A Memorandum of Understanding Public Health Emergences (B.C. and Washington)

C – Public Health Emergency Mutual Aid Declaration between Canada, Mexico and United States

Emergency Management Agreements

D – Pacific Northwest Emergency Management Agreement

E – Emergency Management Assistance Compact

F – International Emergency Management Assistance Memorandum of Understanding