

# Social Distancing Law Project Workshop



*prepared by:*



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# Scenario Background

- In January of 2007, outbreaks of a new “avian flu” (influenza A virus H9N4) began severely affecting and killing bird populations across Central & East Asia.
- On July 18, the first human case of H9N4 was noted in the Ukraine

# Scenario Background

- From July 18 through September 1, there have been over 1,000 suspected cases of influenza A (H9N4) in humans in Romania, Ukraine and Belarus, with as many as 80 deaths possibly attributed to that infection by local health officials.
- Most of these human infections have been diagnosed in the last 2 weeks of August and most patients had no known contact with birds or poultry farms.

# Scenario Background

- Preliminary study of the avian influenza virus recovered from some of the recently infected patients suggests that the avian influenza genome is significantly transmissible from person-to-person.
- The WHO raised its pandemic alert to Phase 5: “evidence of significant human to human transmission”.

# Scenario Background

- On September 1<sup>st</sup>, a 58 year old businessman was hospitalized after developing flu-like symptoms two days after returning to New York City from visiting a factory in Bucharest.
  - Within 8 hours, tests confirmed that the patient had H9 influenza
- Four days later, several people who had come in contact with him on the plane and at his place of business also developed symptoms consistent with influenza.

# Scenario Background

- On September 5<sup>th</sup>, the governor of New York declared a public health emergency.

# Module 1

- Declarations and Authorities

# Module 1:

- On September 7<sup>th</sup>, two graduate students at Important University (in Hometown, Massachusetts) develop severe influenza-like symptoms and are hospitalized.
  - Both recently returned from a trip home to New York to visit their families
  - Both had spent significant time on campus for the 2 days before they became ill
  - Preliminary tests on both students are positive for H9 influenza

# Module 1:

- The Hometown Health Department has ordered the suspension of classes at Important University's main campus and ordered that students be sent home
  - IU has said that it will comply with the order
  - Many students do not want to, or cannot, leave
  - University, local and state police are being asked to help enforce the order

# Module 1:

- The IU football games scheduled for Saturdays in the fall bring in millions of dollars to the university

# Module 1:

- Many of the students at IU live in dormitories in the neighboring town, Nearborough
- Nearborough has not ordered the students to vacate their dormitories, but has placed an immediate ban on gatherings of more than five people
  - This evening, students plan a march from IU's main campus into Nearborough to protest the order of closure

# Module 1:

- The Mayor of Hometown (on the urging of the Health Department) issues a curfew order to try to prevent the protest march
  - University, local, and state police are asked to help enforce the curfew
  - Tonight is a Friday night and members of the local orthodox Jewish community will not be able to attend religious services because of the curfew

# Module 1:

- Several local businesses in Nearborough are in the hospitality and catering business and have immediately furloughed workers, anticipating restrictions on social gatherings from public health officials
  - Union representatives are threatening to sue, saying that their members can't be laid off without a declared state of emergency

# Module 1:

- The next morning two more cases of severe influenza-like illness in eastern and western MA are reported to DPH
  - By nightfall, all are confirmed to be influenza H9
  - New York, New Jersey, Connecticut and Maine have also reported new cases
- The Governor of Massachusetts declares a state of emergency and a public health emergency

# Module 2

- Isolation and quarantine
- Mass prophylaxis

## Module 2:

- An airplane from London carrying the national volleyball team from Bulgaria (the nation hardest hit by pandemic influenza) has landed at Hometown airport
  - The Hometown Health Department orders the involuntary quarantine of all passengers for 4 days (using CDC guidelines for annual influenza) until they are observed to be well.

## Module 2:

- The Hometown Health Department has issued an order for involuntary quarantine of all contacts of the two graduate students with pandemic influenza at IU
  - The HHD has asked for help from MA DPH in tracing those contacts
  - The HHD has asked for help from the University and local police departments to enforce the quarantine orders

## Module 2:

- Several of the quarantined students live with roommates who refuse to let the quarantined students stay in their apartments until they have finished their quarantine period

## Module 2:

- A young man who came in contact with the graduate students has come in to work as a waiter at a local restaurant despite the quarantine order
  - His manager calls the police department requesting the employee be arrested
  - The employee says he will not be able to pay his rent if he is not allowed to work

## Module 2:

- HHD has also ordered isolation of all cases of influenza-like illness (ILI)
  - Hometown's EMS and Fire services have been requested to perform well-checks on persons who have been isolated or quarantined
  - Some stores and restaurants have refused entry and/or service to anyone who sneezes or appears ill, citing the isolation order

## Module 2:

- The president of a local food processing plant has ordered that anyone with a fever may not work
- She has also ordered that anyone who comes to work with a fever will be terminated immediately

## Module 2:

- One person stopped at a grocery store for violating a home isolation order states that he has no food at home and will starve if not allowed to shop for food

## Module 2:

- The Nearborough Health Department has not issued mandatory orders, but rather requested voluntary isolation of cases and quarantine of contacts for 7 days

## Module 2:

- The Nearborough Health Department has asked for assistance from MA DPH to distribute oseltamivir (Tamiflu) to as many of the ill patients as possible
- There is uncertainty about who will be the prescribing physician for the medication and about how best to distribute it to the patients

## Module 2:

- Persons of Eastern European descent have been reporting increasing episodes of discrimination including refusal of entry and service at local businesses as well as hotel and housing discrimination because local citizens appear to be afraid of a supposed increased risk of influenza

# Module 3

- Restricting Public Gatherings and Assembly

## Module 3:

- Nearborough continues to ban public gatherings
  - They have also added the rule that persons must be able to be more than 3 feet apart when outside of their residence
- Some workers in Nearborough have refused to come into work unless their employer can create a workspace separated by more than 3 feet from others

## Module 3:

- One worker has threatened to sue his employer for an unsafe workplace because she would not send home a coworker who appeared ill and was sneezing and coughing

## Module 3:

- A local lawyer has started building a class action lawsuit against a major regional employer who had very limited IT capacity for employees to work from home. She argues that with the known threat of major infectious diseases such as influenza, it is a reasonable part of creating a safe workplace

## Module 3:

- One of the largest manufacturing plants in Massachusetts is the baby formula factory in Nearborough
  - The manager of the factory says that he cannot comply with the 3 foot separation between employees and continue operations
  - The manager also says that he is already aware of critical shortages in the supply of formula. If his factory stops operation, there may be no formula on store shelves within 3-4 weeks

# Module 3:

- Hometown has ordered the closure of many public gathering places such as:
  - Restaurants
  - Movie theatres
  - Shopping malls
  - Sports venues
  - Religious ceremonies and celebrations
- Many employees in these places have no substantial savings and are appealing to their employers for financial assistance

## Module 3:

- Some citizens who had major events planned in the coming weeks (weddings, bar mitzvahs, etc.) and will lose large deposits when the events are cancelled are looking to recover their deposits from local and state health officials

## Module 3:

- Home health and social service providers are not being allowed access to high-rise apartments to assist the elderly and disabled by their landlords, who say they are trying to enforce social distancing restrictions

## Module 3:

- The local diner has defied the closure order, citing a public need for prepared foods.
  - The diner is crowded each night
- Some religious leaders have appealed to authorities for loosening of the restrictions, citing the religious obligations of their followers

## Module 3:

- Hometown has also continued its curfew from 6 pm to 6 am, only allowing for travel to and from work during those hours
  - Some single parents cannot buy groceries without violating this order
  - Local police are otherwise overwhelmed and unable to enforce this order. They have asked for outside assistance

## Module 3:

- Many courts have suspended normal operations during the state of emergency. This has created great difficulty in:
  - Timely arraignments
  - Issuance of emergency orders (restraining orders, etc.)
- Several prisoners have contracted influenza while in jail
  - Some are suing because it is not possible for them to be more than 3 feet apart from others while incarcerated. They argue this risk of illness that they cannot avoid is unconstitutional