

Access the entire webinar series here:

<https://files.asprtracie.hhs.gov/documents/aspr-tracie-healthcare-operations-during-covid-19-pandemic-webinar-series.pdf>

Access the recording here: <https://attendee.gotowebinar.com/recording/6174655403001670146>



TRACIE
HEALTHCARE EMERGENCY PREPAREDNESS
INFORMATION GATEWAY

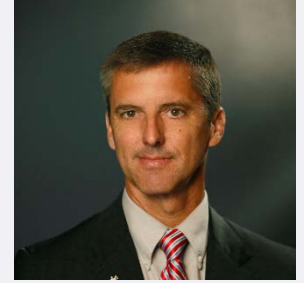
Healthcare Operations during the COVID-19 Pandemic - Speaker Series

December 2020

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Access Mr. Hodge's bio here: <https://isearch.asu.edu/profile/1436144>



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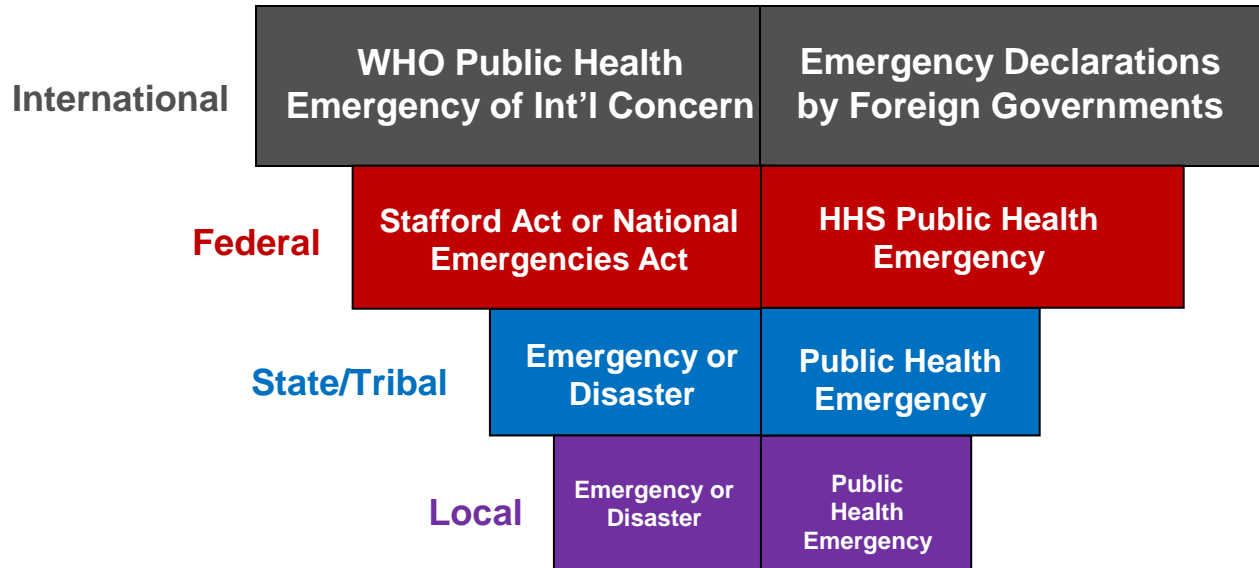
Purposes

- Emergency Declarations – Federal, State, Local
- Emergency Powers and Limitations
- Core Legal Issues re: CSC
- Liability Protections
 - Legal standard of care and "reasonable provider"
 - Various liability protections for providers and health care entities
 - Difference between immunity and indemnification
 - PREP Act liability protections for vaccinators and others
 - Minimize risk in CSC triage environments

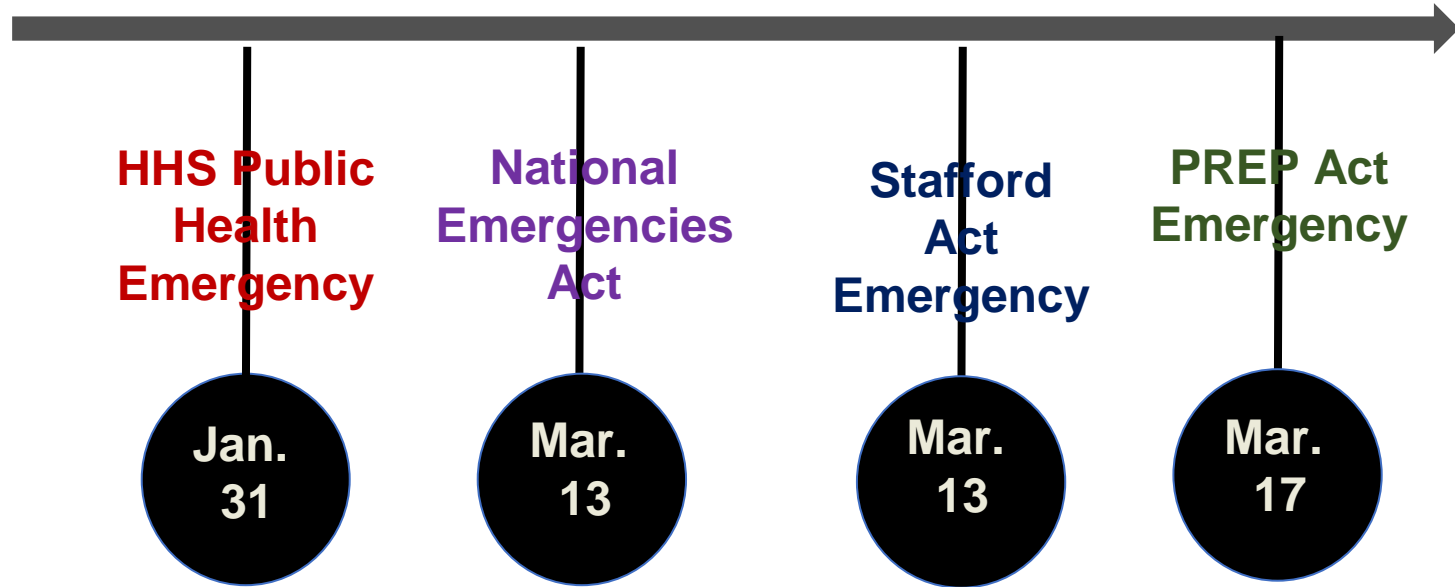


Multi-level Emergencies

Public health authorities, powers, liabilities & immunities vary depending on the type of emergency declared at each level of government

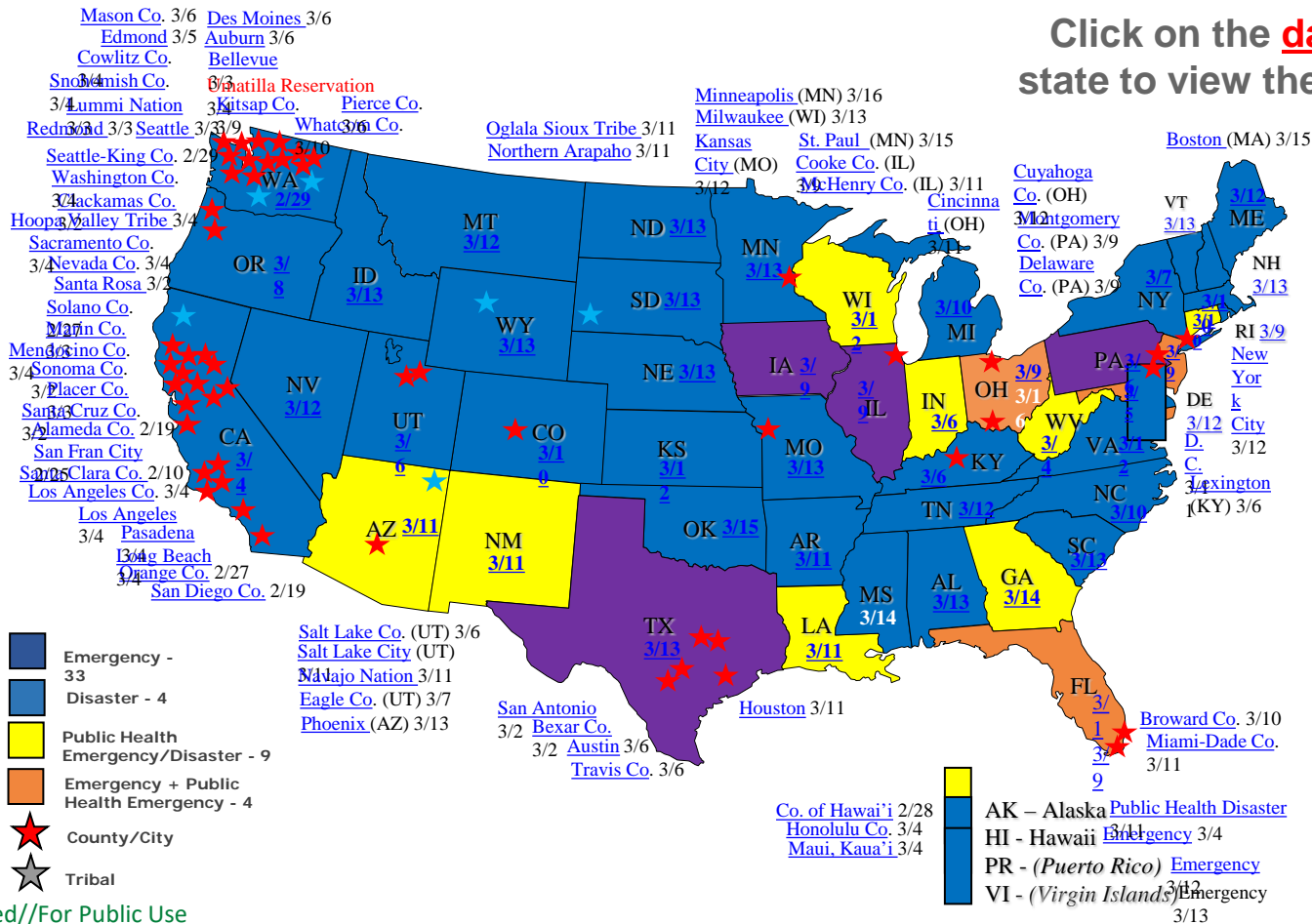


Federal Emergencies



COVID State & Select Tribal / Local Declarations of Emergency

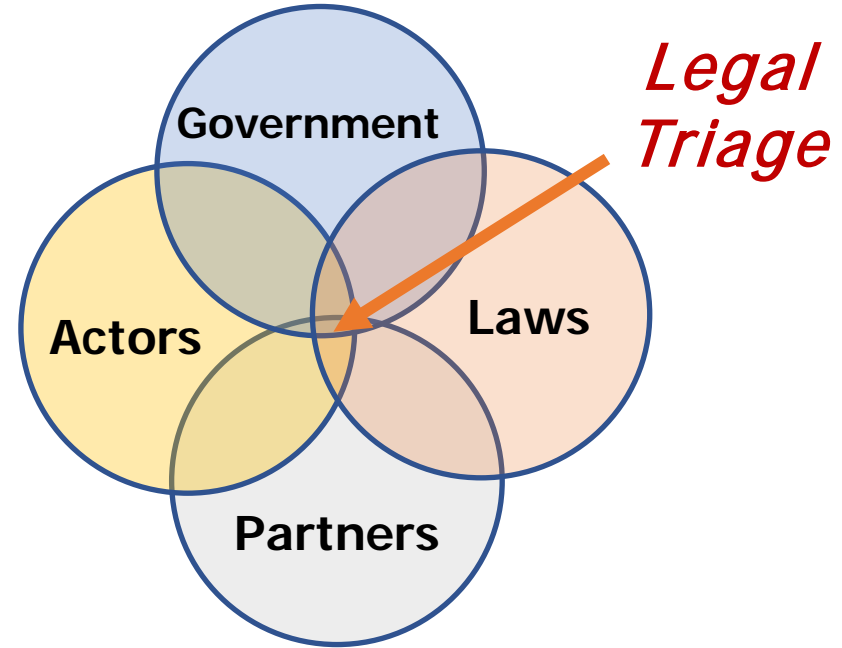
Click on the **date** of each state to view the declaration



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Legal Triage In Emergencies

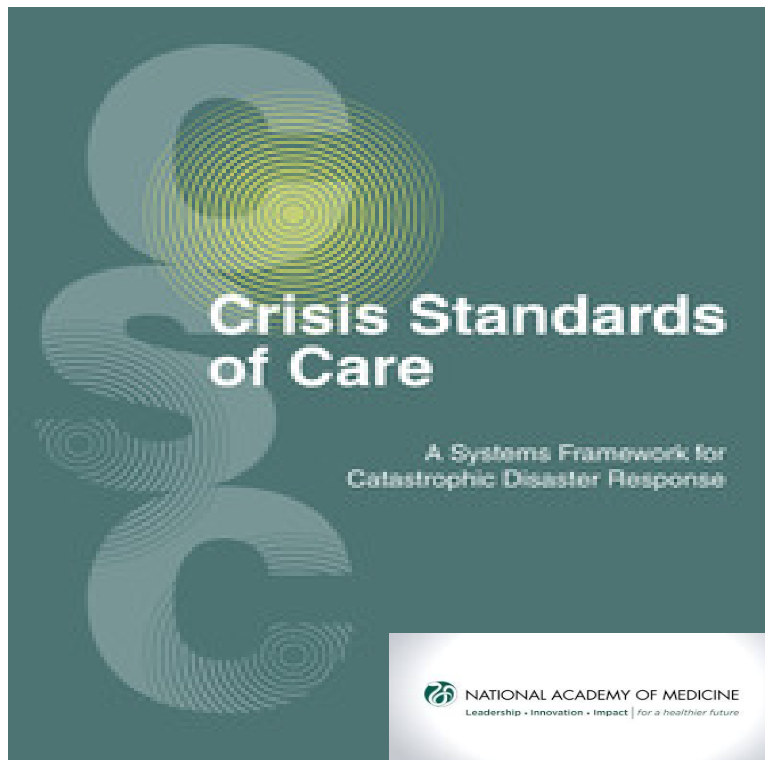
Efforts of legal actors & others during declared emergencies to build a favorable legal environment by prioritizing issues & solutions facilitating legitimate public health responses



Emerging Legal Issues



Crisis Standards of Care



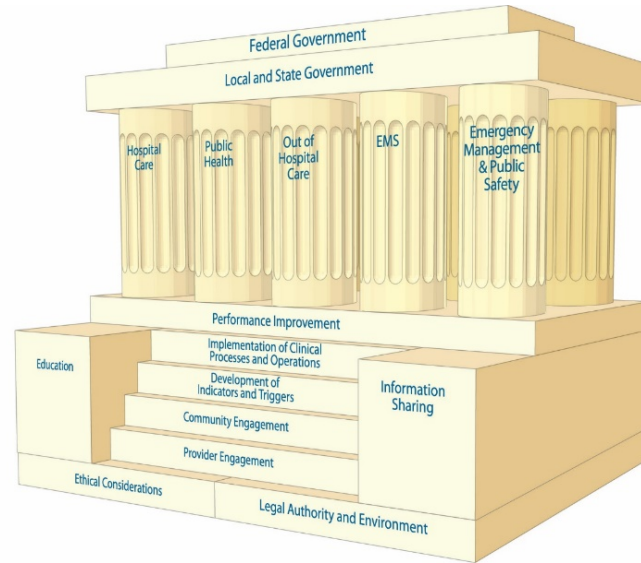
**Substantial
change in usual
healthcare
operations and
level of care due
to a pervasive or
catastrophic
disaster**

Crisis Standards of Care – Legal Issues

- Coordination
- Allocation
- Reimbursement
- Licensure
- Scope of Practice
- Patient's Interests
- Duty to Care
- Uniformity
- **Liability**

Practical, Ethical, and Legal Challenges Underlying Crisis Standards of Care

James G. Hodge, Jr., Dan Hanfling, and Tia P. Powell



Prospective Civil Liability Claims

- Negligence/Malpractice
- Intentional Torts
- Privacy Infringements
- Discrimination
- Worker's Compensation



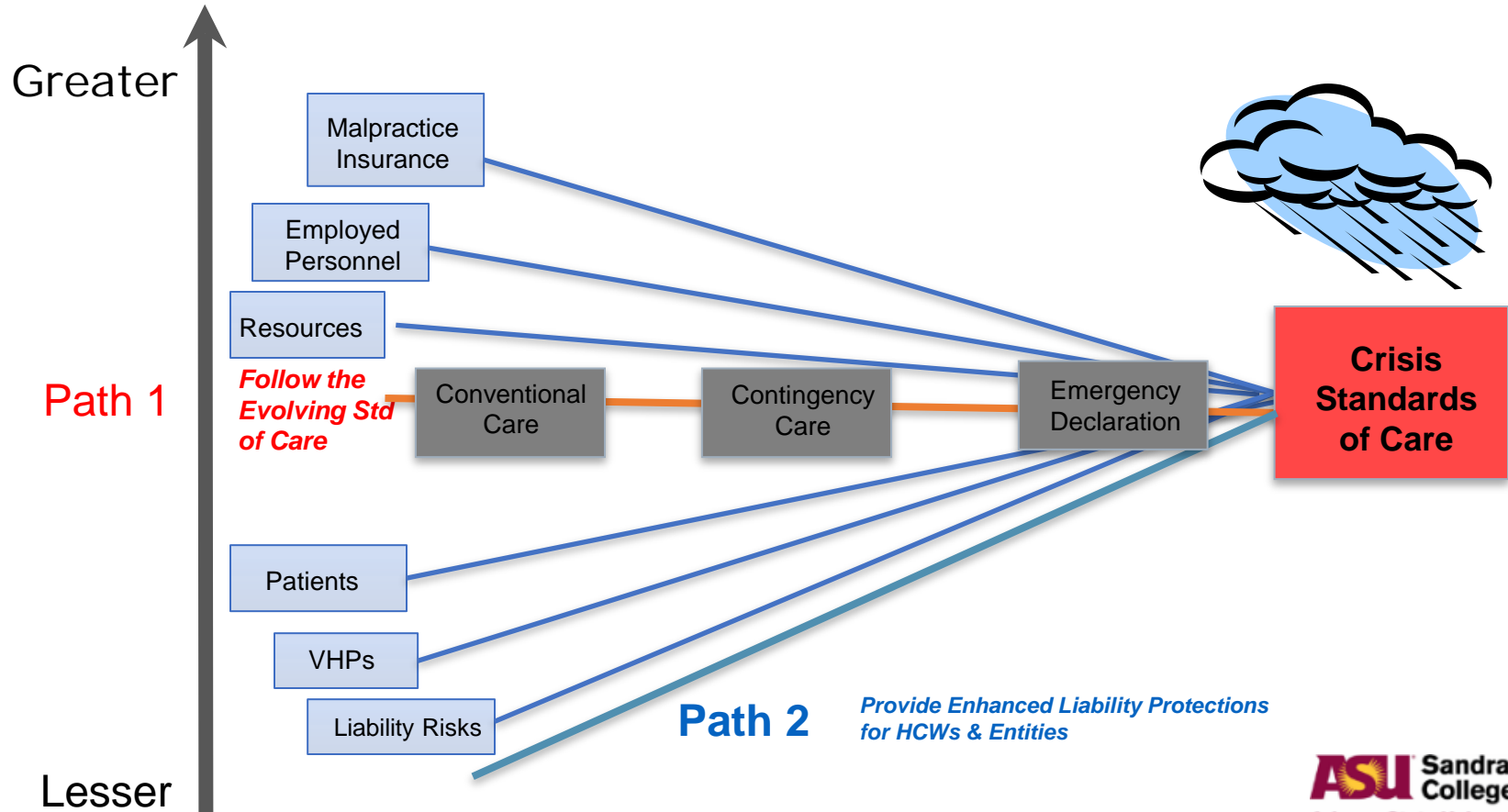
Liability Sinkhole



Risks & Vindication



Two Legal Paths Re: Negligence in CSC

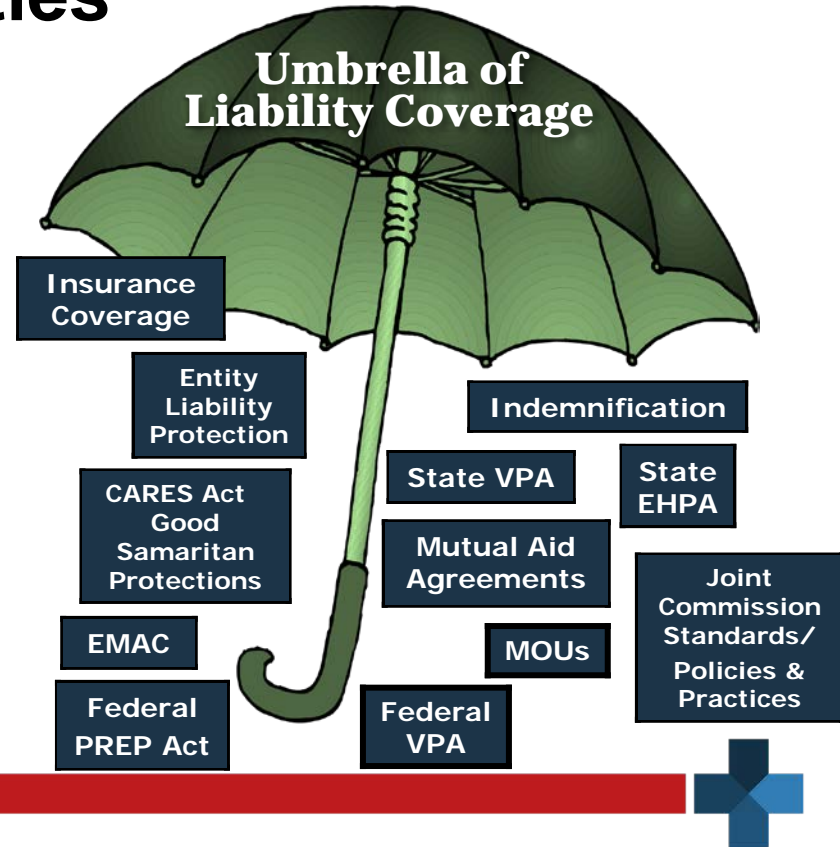


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Emergency Liability Protections - Health Practitioners & Entities



Despite risks, many liability protections apply in routine events & declared emergencies, especially concerning health care volunteers, workers, and entities



Specific Focus

Difference between immunity & indemnification



VS.



Specific Focus

- PREP Act liability protections for vaccinators & others
- Authorizes HHS Secretary to provide immunity to certain individuals and entities against loss claims arising out of the manufacture, distribution, administration, or use of “**covered countermeasures**” in response to a public health emergency
- Applies to **all covered HCWs**
- Does not cover willful misconduct
- May cover “omissions”



Minimize Risk in CSC Triage Environments



Questions & Comments



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