State of Maine

Proclamation

Proclamation of Civil Emergency Due to a Highly Infectious Agent

Pursuant to the authority vested in the Office of the Governor of the State of Maine, and pursuant to the relevant provisions of 37-B M.R.S.A. §§ 703, 741, 742, 743 (2) 784-A and 822, I, John Elias Baldacci, Governor of the State of Maine, renew my Proclamation of Civil Emergency dated November 19, 2009 as follows:

1. Background and Need

On June 11, 2009 the World Health Organization declared a global pandemic of the 2009 Influenza A (H1N1) virus and raised the pandemic alert level to Phase 6. Since the initial detection of the virus in March and April, 2009, it has rapidly spread throughout the United States and the world. The 2009 Influenza A (H1N1) virus is the predominant influenza virus in circulation worldwide and the U.S. Centers for Disease Control and Prevention (CDC) has predicted a significant increase in cases in the fall of 2009 and winter of 2010. On October 1, 2009, U.S. Department of Health and Human Services Secretary Kathleen Sebelius, acting pursuant to her authority under section 319 of the Public Health Service Act, 42 U.S.C. §247-d-6, renewed prior April 26, 2009 and July 24, 2009 Departmental determinations that a public health emergency exists nationwide involving 2009 Influenza A (H1N1) which affects or has significant potential to affect national security. Almost all of the influenza viruses presently circulating have been identified as 2009 Influenza A (H1N1) viruses. On October 24, 2009 President Obama declared a national emergency with respect to the 2009 Influenza A (H1N1) pandemic. Manufacturing delays in the production of 2009 Influenza A (H1N1) vaccine have delayed distribution and administration of the vaccine. Between April and November, 2009, nearly 47 million Americans became ill with the 2009 Influenza A (H1N1) virus and nearly 10,000 persons died from the disease, 17 of them in Maine. Although nationally there has been a decline in H1N1 transmission, as of December 5, 2009, Maine was one of 14 states still reporting widespread influenza. Production shortages of the H1N1 vaccine have required public health authorities to use a variety of countermeasures to prevent transmission of the influenza. However Maine has now received 530,000 H1N1 vaccine doses since October and is able to offer the vaccine to the general public as well as high risk populations.

To prevent the incidence and severity of seasonal influenza and 2009 Influenza A (H1N1), the federal Centers for Disease Control and Prevention have established guidance for the vaccination of at-risk populations, based upon the recommendations of the Advisory Committee on Immunization Practices. With respect to seasonal influenza, it is recommended that all children between the ages of 6 months and 19 years be vaccinated for seasonal influenza. With respect to 2009 Influenza A (H1N1), it is recommended that the entire U.S. population be vaccinated, with initial vaccination afforded to high risk groups defined by the federal Centers for Disease Control and Prevention. Funding for the seasonal influenza vaccination is provided through the American Recovery and Reinvestment Act of 2009 and the Fund for a Healthy Maine. Funding for the 2009 Influenza A (H1N1) vaccine is provided by the federal government. Several state agencies are involved in the administration of statewide seasonal influenza and 2009 Influenza A (H1N1) vaccinations. The Maine Center for Disease Control and Prevention and Maine Department of Education are organizing a statewide campaign to provide seasonal influenza and 2009 Influenza A (H1N1) vaccination to children and the general public in school based clinics and other public vaccination sites. As the 2009 Influenza A (H1N1) vaccine has become available, the Maine Center for Disease Control is coordinating and facilitating the distribution and administration of the vaccine throughout the State of Maine in accordance with the guidance of the federal Centers for Disease Control and Prevention. Vaccine production delays have

necessitated an intensive effort to distribute and administer the vaccine in Maine as adequate supplies become available.

In order to assure appropriate treatment of individuals who contract the 2009 Influenza A (H1N1), the Commissioner of the U.S. Food and Drug Administration (FDA) has issued Emergency Use Authorizations (EUAs) for the antiviral medications oseltamivir (Tamiflu) and zanamivir (Relenza). The Emergency Use Authorizations allow these antiviral medications to be used for 2009 Influenza A (H1N1) patients who are either symptomatic or ill enough to require hospitalization. During an emergency, normal prescribing and dispensing requirements may not be satisfied for either Tamiflu or Relenza. The EUAs issued for these antiviral medications authorize distribution or dispensing of the drugs without all of the FDA-required prescription label information, such as patient's name, prescribing physician's name, and date of dispensing. The EUAs also authorize public health officials to distribute Tamiflu and Relenza in accordance with applicable law to address the 2009 Influenza A (H1N1) public health emergency.

Recently, the U.S. Department of Health and Human Services authorized the distribution of Tamiflu and Relenza from the Strategic National Stockpile to State public health departments to facilitate treatment for individuals afflicted with the 2009 Influenza A (H1N1). On October 31, 2009, the Maine Center for Disease Control and Prevention issued an antiviral treatment and prophylaxis authorizing the distribution of Tamiflu and Relenza to Maine's Federally Qualified Health Centers (FQHCs) to facilitate distribution of these antiviral medications to symptomatic individuals who fall within U.S. CDC Influenza A (H1N1) treatment guidelines. Use of the FQHCs is vital in order to assure that necessary antiviral medications are available to individuals in Maine who do not have the financial resources to purchase these medications. To address potential tort liability concerns of those Federally Qualified Health Centers which will be distributing Tamiflu and Relenza to individuals other than their patients, it is necessary to extend tort immunity to these centers in order to assure the rapid distribution of these antiviral medications to persons in need of treatment.

The availability of statewide vaccination clinics for seasonal influenza and 2009 Influenza A (H1N1) is threatened due to concerns about potential liability relating to the administration of the vaccines. These current conditions, including the imminent threat of influenza pandemic, constitute a threat to the safety and welfare of the people of the State of Maine and constitute a civil emergency or disaster within the meaning of the relevant emergency management statutes.

2. Mission and Scope

To respond to the current public health emergency, I order and declare the following:

A. Civil emergency is imminent, caused by the public health emergency.
B. The Department of Health and Human Services, Maine Center for Disease Control and Prevention and Maine Department of Education shall coordinate with the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency to identify those health care workers duly licensed and authorized to administer influenza vaccines in the State of Maine who are able and available to participate in the planned vaccinations for seasonal influenza and 2009 Influenza A (H1N1).
C. The Maine Center for Disease Control, Department of Education and Maine Emergency Management Agency shall coordinate and facilitate the establishment, implementation, administration and operation of vaccination clinics in school-based settings and other publicly accessible sites in a manner consistent with the recommendations of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention and the Advisory Committee on Immunization Practices.
D. The relevant provisions of the Maine Pandemic Influenza Plan will be activated to facilitate the distribution and administration of seasonal influenza and 2009 Influenza A (H1N1) vaccines.
E. To the extent necessary to assure the timely provision of seasonal influenza and 2009 Influenza A (H1N1) vaccination in accordance with the guidance of the federal Centers for Disease Control and Prevention, the Maine Center for Disease Control and the Department of Education, the Maine Emergency Management Agency will exercise its authority pursuant to 37-B M.R.S.A. §784-A to designate appropriate health care workers licensed in this State and authorized to administer influenza vaccines to participate in vaccination clinics in accordance with the requirements of this Proclamation.

F. To the extent necessary to assure the timely distribution of the antiviral medications Tamiflu and Relenza to individuals considered at high risk for the H1N1 Influenza, the Maine Emergency Management Agency, upon consultation with the Maine Center for Disease Control and Prevention, will exercise its authority pursuant to 37-B M.R.S.A. §784-A to designate appropriate health care workers licensed in this State and employed by Federally Qualified Health Centers who participate in the distribution of the antiviral medications Tamiflu and Relenza to individuals in accordance with relevant Maine Center for Disease Control and Prevention treatment protocols.

G. All persons designated by the Maine Emergency Management Agency to participate in vaccine administration pursuant to Paragraph E shall, pursuant to 37-B M.R.S.A. §784-A, be deemed to be an employee of the State and entitled to immunity pursuant to 37-B M.R.S.A. §822.

H. All persons designated by the Maine Emergency Management Agency to participate in the distribution of the antiviral medications Tamiflu and Relenza pursuant to Paragraph F shall, pursuant to 37-B M.R.S.A. §784-A, be deemed an employee of the State and entitled to immunity pursuant to 37-B M.R.S.A. §822.

I. All State departments and agencies shall take whatever actions may be required and requested by the Maine Emergency Management Agency, Maine Center for Disease Control and Prevention, and Department of Education to respond to this public health emergency. A record of such actions, if any, shall be compiled and presented to me by the heads of the affected departments and agencies on a reasonable and timely basis throughout the duration of this Emergency Proclamation.

J. The Maine Center for Disease Control, the Department of Education and the Maine Emergency Management Agency shall coordinate with the federal government to secure all appropriate influenza vaccines related to this public health emergency provided for by the American Recovery and Reinvestment Act of 2009 and other federal fund.

3. <u>Duration</u>

Pursuant to 37-B M.R.S.A. §743, this Emergency Proclamation shall expire thirty (30) days from the date of its signature, unless earlier rescinded by the Executive or upon joint resolution of the Legislature terminating the Emergency Proclamation, or unless extended by subsequent action of the Executive.

Given under my hand
this 18th day of
December, 2009.

John E. Baldacci
Governor