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## New York City and State Legal Authorities Related to Syndromic Surveillance

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The New York City Department of Health and Mental Hygiene has been conducting surveillance for syndromes of illness or disease that may be indicative of outbreaks or of unusual manifestations of disease in an individual. A broad array of city and state statutes and regulations provide the underlying legal authority for the department to access such information. The following discussion sets forth that legal landscape.

Most New York State laws that relate to the control of communicable disease do not apply to the city of New York (see, e.g., sections 2110, 2125, 2146, and 2153 of the New York State Public Health Law). Pursuant to section 556 of the New York City Charter (the charter), the department has the jurisdiction to regulate all matters affecting health in New York City. Charter section 556(c)(2) makes it clear that this includes the authority to supervise the reporting and control of communicable and chronic diseases and conditions hazardous to life and health. The charter, at section 558, also invests the New York City Board of Health with the authority to enact the New York City Health Code, which may embrace anything within the jurisdiction of the department. Violations of the health code may be treated as misdemeanors and may also be the subject of pecuniary penalties.

There is language within the existing health code that can be used to support the proposition that syndromes are reportable to the department, and that the department can access syndromic information. Specifically, section 11.03(b) of the health code states:

An outbreak or suspected outbreak of any disease or condition, of known or unknown etiology, which may be a danger to public health, occurring in three or more persons, or any unusual manifestation of disease in an individual shall be reported to the Department immediately. . . . The Department shall conduct such investigation as may be necessary to ascertain sources or causes of infection, to discover contacts and unreported cases, and shall take such steps as may be necessary to prevent morbidity and mortality.

This provides very broad authority indeed.

Notwithstanding the fact that many state laws do not apply in New York City, those that do also provide similar underlying authority for syndromic surveillance. For example, section 228 of the State Public Health Law specifies that the New York State Sanitary Code, promulgated by the New York State Public Health Council, is applicable in the entire state, including New York City, but that local

laws, ordinances, or regulations can be stricter than the sanitary code. Similar to the city health code, the state sanitary code, at sections 2.1(c) and 2.10, makes clear that any unusual disease or unusual disease outbreaks are reportable to the local health officer, who in turn must report to the state Department of Health. Unusual disease is defined as “a newly apparent or emerging disease or syndrome of uncertain etiology that a health care provider or the State Commissioner of health has reason to believe could possibly be caused by a transmissible infectious agent or microbial toxin.” Section 2.2(d) of the sanitary code defines an outbreak as an increased incidence of disease above its expected level and explains that an outbreak may consist of just one case of certain rare or serious diseases. Finally, the sanitary code provides persuasive authority for the department to affirmatively conduct syndromic surveillance. Section 2.16(a) of the sanitary code states: “The City, county or district health officer shall exercise due diligence in ascertaining the existence of such outbreaks or the unusual prevalence of diseases, and shall immediately investigate the causes of same.”

In conclusion, New York City has ample authority for its syndromic surveillance activities. Many other state and local health departments may have similar provisions available. The analysis set forth above demonstrates a way of using existing authority to support modern public health surveillance techniques.