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ASTHO comments on proposed rulemaking for 42 CFR Parts 70 and 71 Control of Communicable Diseases

On behalf of the Association for State and Territorial Health Officials (ASTHO), I am pleased to submit the attached comments on the notice of proposed rulemaking for 42 CFR Parts 70 and 71 Control of Communicable Diseases. If you have any questions or should need any additional information, please do not hesitate to contact us.

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ASTHO Comments on the CDC Control of Communicable Diseases
Notice of Proposed Rulemaking
Federal Registrar; Part II HHS 42 CFR Parts 70 and 71
February 27, 2006

The Association of State and Territorial Health Officials (ASTHO) would like to thank the Centers for Disease Control and Prevention (CDC) for the opportunity to comment on the CDC Control of Communicable Diseases Notice of Proposed Rulemaking 42 CFR Parts 70 and 71. ASTHO looks forward to working with CDC to clarify and strengthen programs, practices, and procedures to enable a multi-level coordinated and effective response to current and potential communicable disease threats.

ASTHO solicited comments on the proposed quarantine regulations from State Health Officials (SHO) and ASTHO Preparedness and Infectious Disease Policy Committees. Below you will find the synthesis of these comments with five significant policy themes being identified.

General Comments on the Notice of Proposed Rulemaking

- **Improved Communicable Disease Control Measures.** Generally, these proposed rules improve and strengthen federal quarantine authority and will provide federal health officials with necessary 'tools' to control the introduction and spread of disease.

- **Collaboration, Coordination, and Communication.** Federal quarantine authority should work in concert with state and local authorities to ensure a coordinated response. The integration of federal authorities and activities with those of state and local health agencies is absolutely crucial. As described in the proposed regulations, the reporting process of a death or ill passenger bypasses state and local health agencies. Unfortunately, there have been previous experiences where the federal government has been made aware of an event, and the notice of that event has not been communicated to state or local public health. It is critical that state and local public health be included in the direct notification process. Understanding the challenges that airlines have in knowing which health authority to report to, a mechanism should be established for either simultaneous notification of all levels of government or for timely relay of information to the appropriate state and local health agency, and the state or local health agency then be expected to notify CDC.

- **Information Exchange between Agencies and Quality of Information.** Requiring electronic transfer of information, like passenger information, as noted in the proposed rules will be critical in cases where urgent follow-up is necessary. Ensuring access and flow of information to both federal and state health agencies is key to a timely response. However, further guidance is necessary to improve the quality of electronically transferred information to accurately reflect serious events and not every ill passenger.

- **Cost and Workforce Implications for States.** The proposed rules expand the scope of CDC's authority with regard to control of the introduction of quarantinable diseases by international and interstate carriers and provides for due process for those in quarantine. This will introduce a number of requirements that will be potentially costly for state and local health agencies. Although most of the proposals would be helpful in terms of disease prevention and control, the feasibility of some of the measures is questionable given available resources. For many of the

measures that will require considerable resources, such as the care and housing of persons in prolonged quarantine, no agency has been designated responsible for the associated costs. While understandable, limiting CDC's responsibility to pay for care will have downstream implications to hospitals and other partners that must be considered.

- **Practical Realities of the Proposed Rules.** The proposed rules give the CDC Director significant operational authority but do not describe how this authority will be integrated with state and local public health functions. Further clarification is needed on how CDC will practically exercise this authority and the capacity that CDC has to address multiple quarantine activities in multiple states simultaneously. It is essential that CDC work closely with state and local health agencies to establish a cooperative and coordinated approach to implementing this authority, especially where federal and state/local authority overlap. Generally, the cooperative theme the U.S. Department of Health and Human Services (HHS) struck in the *HHS Pandemic Influenza Plan* in Supplement 8 (Community Disease Control and Prevention) and Supplement 9 (Managing Travel-related Risk of Disease Transmission) is not present in these proposed rules. Where state and local public health authorities already play a significant role in coordinating care with private providers and facilities within their jurisdictions, CDC should work through the state and local health agencies. CDC should also recognize the other functions (such as consequence management functions) that states and locals will have to perform, and, under the proposed regulations, they must do this without much immediate access to information.