



Monkeypox

Emergency Legal

Preparedness Primer

As of August 5, 2022

James G. Hodge, Jr., J.D., L.L.M.

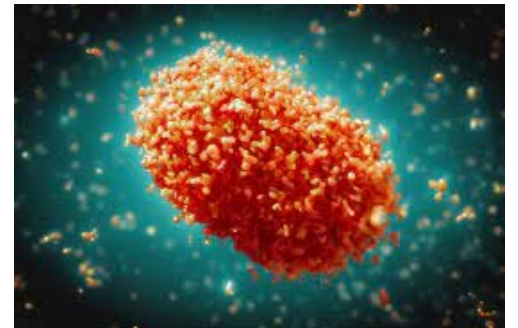
Peter Kiewit Foundation Professor of Law

Director, Western Region Office, Network for Public Health Law

ASU and Day O'Connor College of Law

james.hodge.1@asu.edu

- Monkeypox Epi Trends**
- Emergency Legal Declarations**
- Public Health Emergency Powers**
- Vaccinations**
- Additional Resources**





Transmission

- Transmissible person-to-person through close, intimate contact (e.g., kissing, sexual contact, skin-to-skin contact)
- Transmissible through direct contact with rash, scabs, or bodily fluids and by touching items that touched infected skin

Symptoms

- Fever, headache, muscle aches, swollen lymph nodes, respiratory symptoms (e.g., sore throat, cough), fatigue
- Rash that progresses from maculopapular lesions to vesicles, pustules, and finally scabs

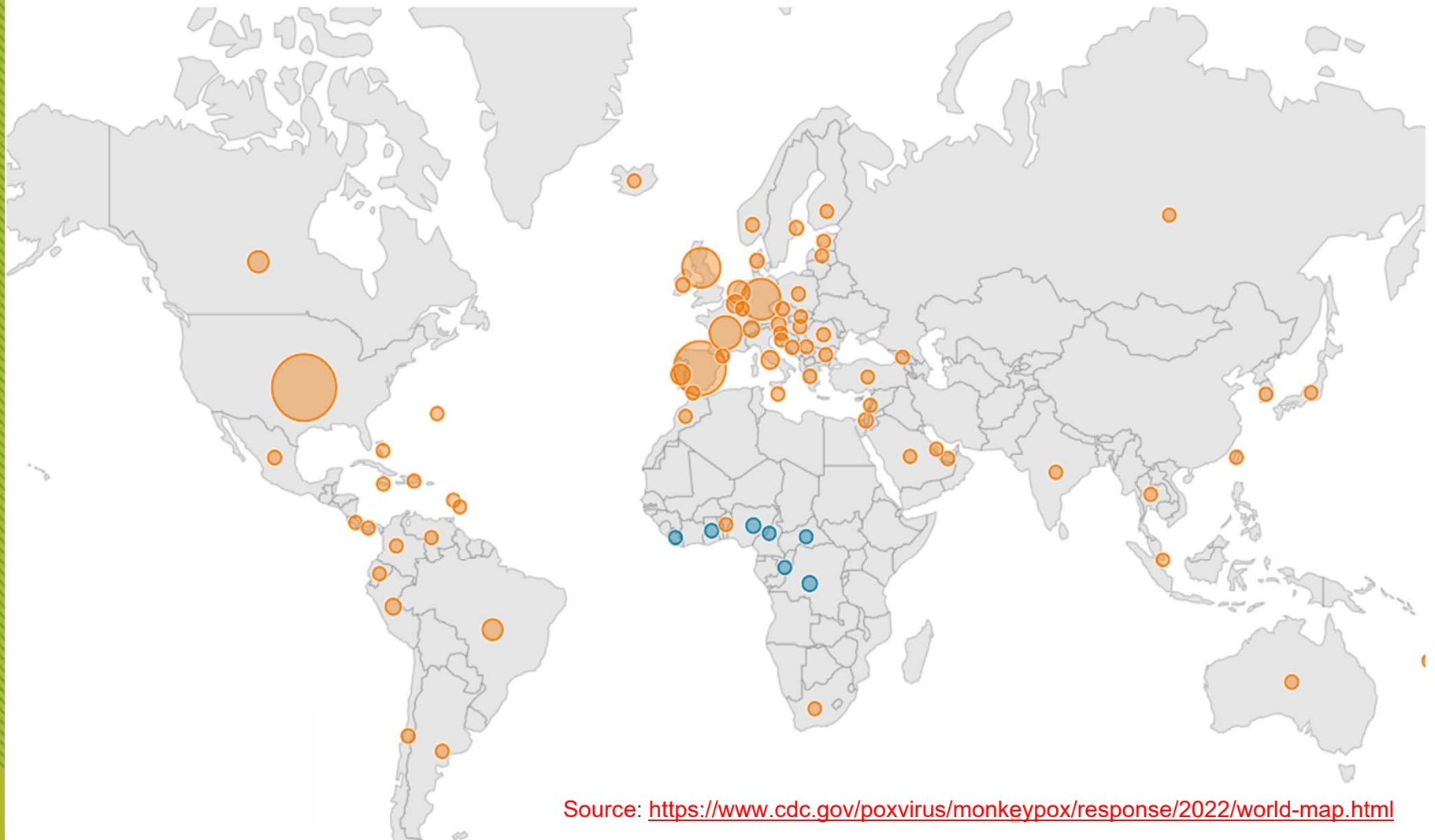
Vaccines & Treatment

- Two vaccines are available in limited supply
- Post-exposure prophylaxis (PEP) is available 4-14 days after the date of exposure



Monkeypox Confirmed Cases

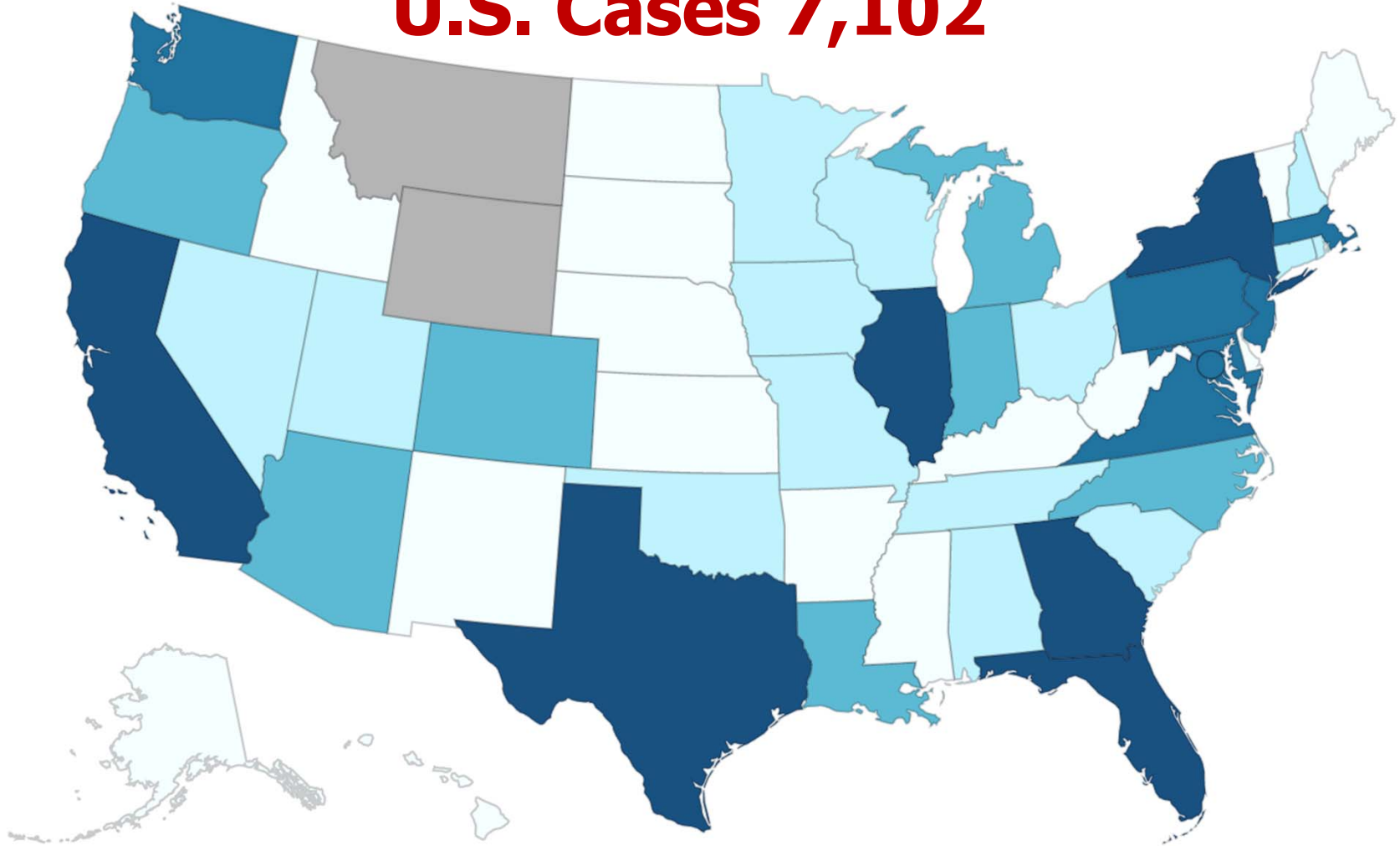
Global Cases 26,854



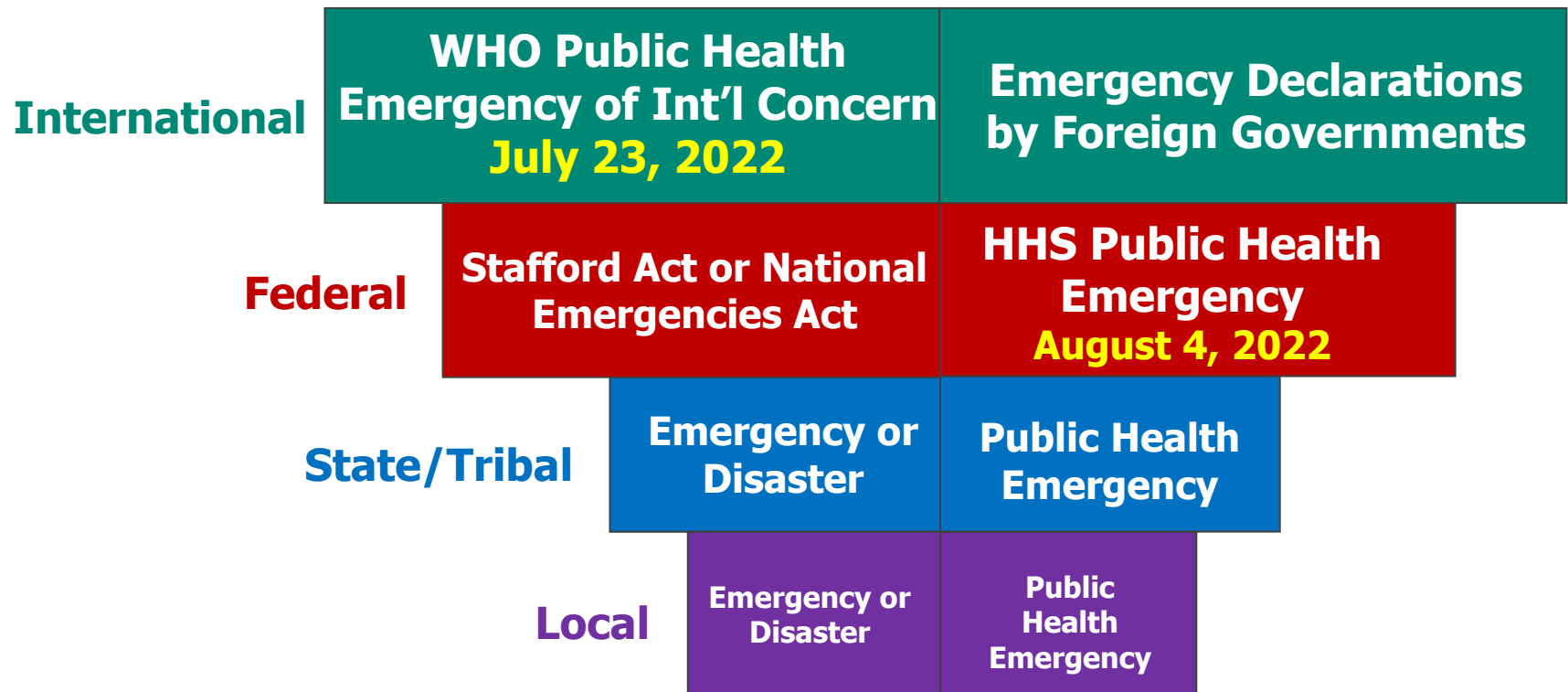
Source: <https://www.cdc.gov/poxvirus/monkeypox/response/2022/world-map.html>

Monkeypox Confirmed Cases

U.S. Cases 7,102



Public health authorities & powers vary depending on the type of emergency declared at every level of government



July 23, 2022: WHO declares a public health emergency of international concern (PHEIC).



WHO PHEIC Declaration – Key Guidance

Guidance	Objectives
Organized Responses	Engage in containment, active surveillance, early detection, isolation & contact tracing
Data Sharing	Share data with WHO via IHR legal requirements
Prevention	Focus on reducing human infection/ secondary transmission
Communication	Engage in multi-sectoral communication re: knowledge & research
Restrict Movement	Restricting movement of people/goods may be temporarily useful under limited response capacities or intense cases
Travel	Inform WHO about travel measures as required by the IHR
Discrimination	Avoid actions promoting stigma or discrimination
Developing Countries	Support LMICs to enable their responses & facilitate access to diagnostics, vaccines & therapeutics
Justification	Justify health measures significantly interfering with international traffic

Biden-Harris Administration National Response Efforts

July 23, 2022: “[WHO’s] decision to declare the current monkeypox outbreak as a Public Health Emergency of International Concern is ***a call to action for the world community to stop the spread of this virus.*** A coordinated, international response is essential.”

Aug. 2: President Biden names Robert Fenton from the Federal Emergency Management Agency to manage federal response efforts



Raj Panjabi, White House
Pandemic Office Coord.



Robert Fenton, FEMA

HHS Declares Public Health Emergency

July 29: House Oversight Committee Chair, Rep. Carolyn Maloney (D-N.Y.) urges HHS Secretary to immediately declare a public health emergency.

Aug. 4: HHS Secretary Becerra formally declares a **national public health emergency**



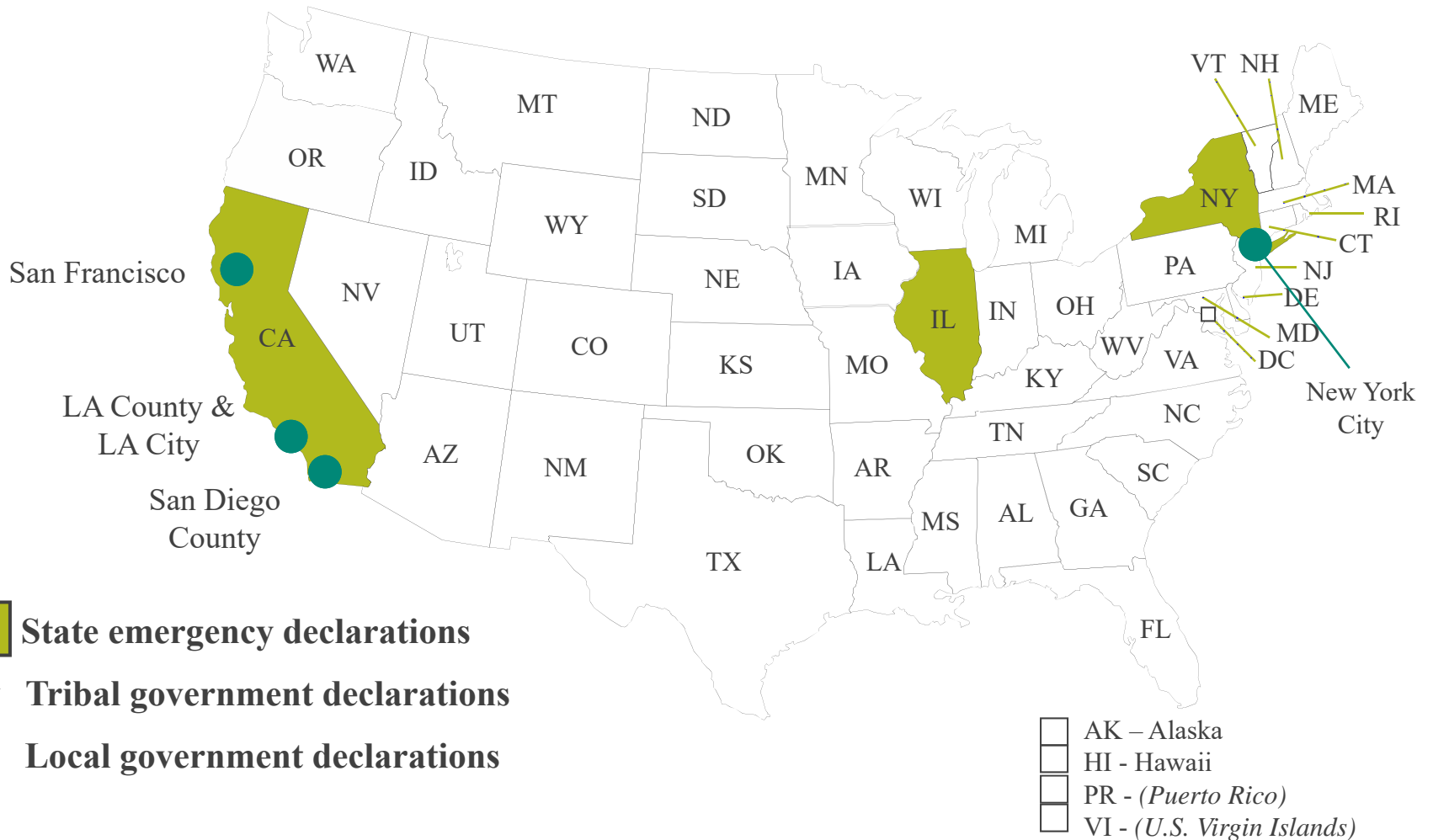
“Within days of the first confirmed case of monkeypox in the [U.S.], we quickly began deploying vaccines and treatment to help protect the American public and limit the spread of the virus,” . . . While monkeypox poses minimal risk to most Americans, we are doing everything we can to offer vaccines to those at high-risk of contracting the virus . . . [during] the current outbreak.” HHS Sec’y Xavier Becerra, [8/4/22](#)

HHS national PHE declaration authorizes:

- Enhanced federal contracting and procurement
- Release of public health emergency funds
- Interjurisdictional coordination efforts
- Acquisition, allocation & distribution of vaccines or other medical countermeasures
- Access to the Strategic National Stockpile
- Limited licensure reciprocity for health care workers
- Deployment of emergency management teams
- Active national public health surveillance efforts
- CMS testing & hospitalization data assessments

Monkeypox State, Tribal & Local Emergency Declarations

As of August 5, 2022





July 28: New York State Commissioner of Health Dr. Mary T. Bassett declared monkeypox an Imminent Threat to Public Health (ITPH)

July 29: Governor Kathy Hochul signs an executive order declaring a state of disaster in New York State.

Illinois Public Health Emergency



Aug. 1: Governor Pritzker declares the entire state a disaster area, allowing the Illinois Department of Public Health (IDPH) to *access resources, coordinate across agencies, and rapidly assist in aid vaccine distribution and treatment/prevention.*

California State Emergency



Aug. 1: Governor Gavin Newsom declares a **State of Emergency**, taking a “whole-of-government response” approach to: enhance vaccination access (incl. via EMA workers), improve testing, engage contact tracing, support community partnerships, and reduce stigmatization.

State Emergency Declarations – Specific, Express Authorizations

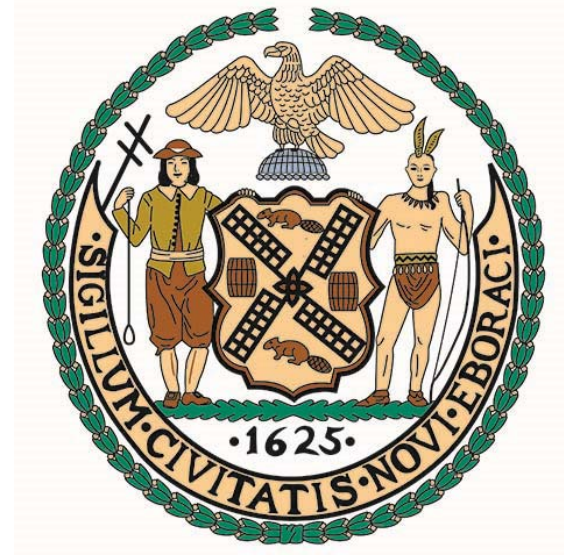
Action	CA 8/1/22 [duration unspecified]	IL 8/1/22 [30 days]	NY 7/29/22 [30 days]	?	?	?
Altered Contracts Procurements Funding	X	X	X			
Emergency Plans ICS Intrastate Coordination	X	X	X			
Surveillance Reporting						
Testing Screening Treatment	X	X	X			
Isolation Quarantine						
Licensure Reciprocity						
Anti-discrimination		X				
Waivers Suspensions	X		X			

San Francisco Public Health Emergency



July 28: Mayor London Breed & San Francisco Department of Public Health announced a local emergency declaration re: monkeypox to *accelerate emergency planning, streamline staffing, and coordinate with agencies*

New York City Emergency



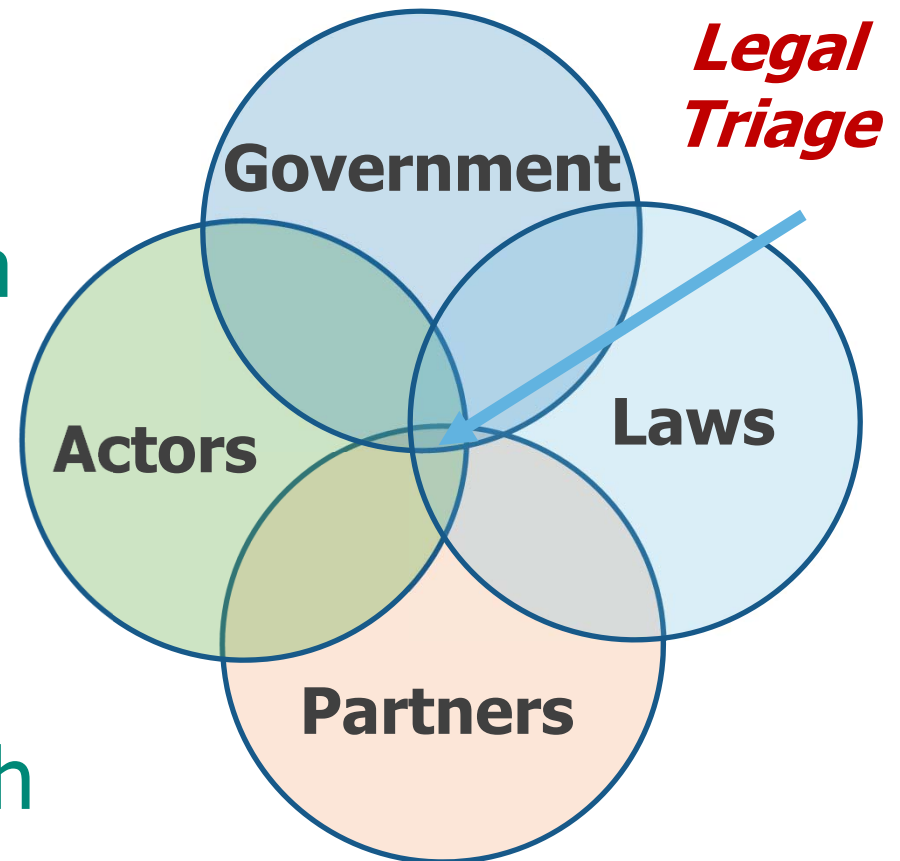
July 30: Mayor Eric Adams declares a state of emergency, allowing the *suspension of specific local laws and enacting new protocols to manage the outbreak*, such as amplifying vaccination and testing efforts across all governments.

Los Angeles County & City Emergency



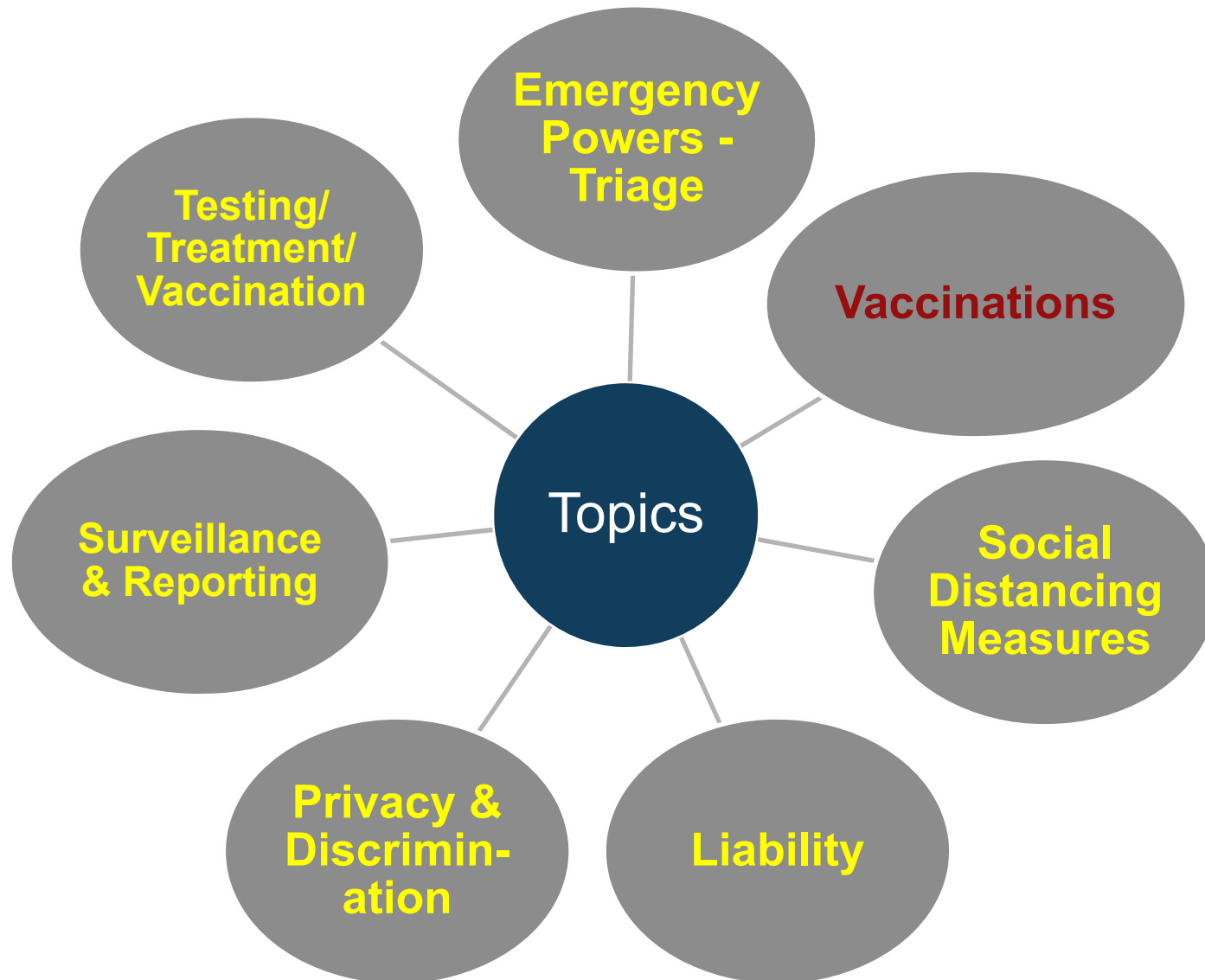
Aug. 2: The Los Angeles County Board of Supervisors issued a proclamation declaring a local emergency to “*bolster the county’s response and request recovery assistance under the California Disaster Assistance Act.*” That same day **L.A. City** Mayor Garcetti declared a local emergency.

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



Balancing Individual & Communal Interests





Monkeypox Vaccines



Core Legal Issues Regarding Monkeypox Vaccine Allocation

1

Relevance of Emergency Declarations

2

Legal Challenges to Allocation Plans

3

FDA EUA Authorization Process

4

Federal Authority over State, Tribal, & Local Governments

5

State or Local Mandates to Vaccinate

6

Employer-based Mandates

7

Vaccine Exemptions for Religious or Other Grounds

8

Informed Consent of Potential Risks

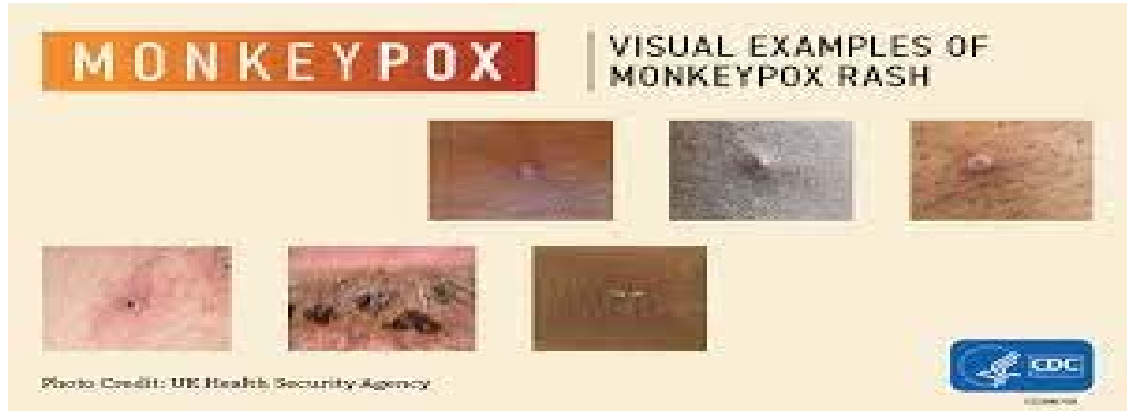
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Liability Protections for Providers & Entities

10

Compensation for Injuries Resulting from Vaccination

Emerging Law & Policy Issues Regarding Monkeypox Vaccine Allocation



- In the U.S. there is a **limited supply** of monkeypox vaccines (2 dose regimen).
- The White House/HHS is increasing the availability of tests and vaccines, but access problems remain.
- Health officials in multiple jurisdictions claim they lack enough vaccines, raising questions about triage & distribution priorities. **Some clinics have temporarily paused appointments** due to low supply.
- To date state and local health authorities are prioritizing those most at risk (men who have sex with men (MSM)).

Access these and other Network materials [here](#)

[Latest Resources](#)

[Federal Public Health Emergencies](#)

[Social Distancing Powers](#)

[Liability of Health Care Workers and Entities](#)

[Hospital Emergency Legal Preparedness](#)

[State and Local Preparedness](#)

[Emergency Declarations and Powers](#)

[Mental and Behavioral Health Preparedness](#)

[Model Emergency Laws](#)

[Emerging Threats Preparedness and Response](#)

[Crisis Standards of Care](#)

[Public Health Emergency Ethics](#)

- Special thanks to **Erica N. White, JD**, Research Scholar, and **Summer Ghaith**, Senior Legal Researchers, ASU Sandra Day O'Connor College of Law, for their efforts.
- [Ask the Network](#) re: questions/comments
- james.hodge.1@asu.edu | @jghodgejr