

MENU OF LEGAL OPTIONS

FOR FOODBORNE DISEASE DETECTION AND OUTBREAK RESPONSE

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NOTICE

This document was researched and drafted in September 2012, and, unless otherwise indicated, includes laws and regulations current at that time. The laws and regulations cited herein may comprise only select portions of broader legal documents. They are not intended to be exhaustive and do not reflect all relevant legal authorities and theories. This resource is for informational purposes only and is not intended as a substitute for professional legal advice or other advice.

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INTRODUCTION TO THE MENU OF LEGAL OPTIONS

Chapter Overview

This chapter provides information about CIFOR and the genesis of the Menu of Legal Options for Foodborne Disease Detection and Outbreak Response and other elements of the CIFOR project on state foodborne disease detection and response laws.

Council to Improve Foodborne Outbreak Response (CIFOR)

The Council of State and Territorial Epidemiologists (CSTE) and the Centers for Disease Control and Prevention (CDC) convened the Council to Improve Foodborne Outbreak Response (CIFOR) in 2005. CIFOR is a multidisciplinary collaboration of eight national associations and three federal agencies whose goal is to improve methods at the local, state, and federal levels to detect, investigate, control, and prevent foodborne disease outbreaks. CIFOR identifies barriers to rapid detection and response to foodborne disease outbreaks and develops projects that address these barriers.

CIFOR is co-chaired by CSTE and the National Association of County and City Health Officials (NACCHO). CIFOR member organizations represent epidemiology programs, environmental health programs, public health laboratories, as well as regulatory agencies involved in foodborne outbreak surveillance and response. A complete list of member organizations is included in the “Acknowledgements” section of this document.

Menu of Legal Options Project Background

Key objectives for CIFOR and its member organizations are (1) to examine the legal authority needed to conduct ongoing foodborne disease surveillance and respond to foodborne disease outbreaks, and (2) to assure the capacity to implement those legal authorities effectively. The Menu of Legal Options for Foodborne Disease Detection and Outbreak Response (the Menu of Legal Options) uses the term “legal authority” to mean a grant of power or the imposition of a duty by statute, regulation, or other document, such as an executive or administrative order.

Agencies and jurisdictions may have insufficient legal authorities or encounter legal barriers to conducting foodborne disease surveillance and outbreak response activities. A state may lack clear authority to collect all the data necessary to conduct effective foodborne disease surveillance and investigative activities. States and local public health personnel may be limited by law as to the types of information and persons with whom they can share information during an outbreak investigation.

Agencies and jurisdictions may also lack the capacity to implement legal authorities they have. Implementation challenges can result from, among other things, lack of experienced staff who understand the scope of the health agency’s legal authorities or are confident in using the authorities available to them.

The Menu of Legal Options provides a selection of legal language for state public health officials and policy makers to consider when reviewing their jurisdiction’s legal authorities to conduct foodborne disease surveillance and outbreak response actions.

INTRODUCTION TO THE MENU OF LEGAL OPTIONS

Components of the CIFOR Law Project

The Menu of Legal Options is part of a larger CIFOR project aimed at creating tools that agencies and jurisdictions can use to improve their legal preparedness to conduct surveillance for foodborne diseases and respond to outbreaks within their jurisdictions and across multiple states and other jurisdictional boundaries. The CIFOR law project has the following three components, each designed to address a discrete, but related research need and audience.

- **Menu of Legal Options**—This document provides a menu of legal options for state public health officials and policy makers to consider when reviewing their jurisdiction’s legal authorities to conduct foodborne disease surveillance and outbreak response actions. The menu includes legal provisions relevant to activities conducted during foodborne disease surveillance and outbreak response—outbreak detection, outbreak investigation, outbreak control, and outbreak documentation. This is intended to be a resource for states to use in filling gaps and clarifying or enhancing their legal authorities.
- **Practitioners’ Handbook on Legal Authorities**—This document is intended as a practical guide for public health professionals who perform key roles in foodborne disease surveillance and outbreak response. The handbook presents information and resources for practitioners charged with implementing their jurisdiction’s legal authorities related to foodborne disease events. The handbook acts as a primer on the array of potential legal authorities (e.g., communicable disease laws, food safety laws) that may be available, and provides practitioners with checklists for identifying relevant agency actors and laws within their jurisdictions.
- **Analysis of State Legal Authorities**—This document describes and analyzes the types of state legal authorities currently available to conduct foodborne disease surveillance and outbreak response activities. It highlights the “patchwork” of state laws and regulations across several topic areas—public health, communicable disease, food safety, food regulation, agriculture, environmental health, and general governmental authority—that public health professionals and their legal counsel must rely on to accomplish foodborne disease outbreak surveillance and response activities.

CHAPTER 1 | OVERVIEW OF THE MENU

1.0 Chapter Overview

This chapter introduces the *Menu of Legal Options* and identifies the key foodborne outbreak functions featured in the document—outbreak detection, outbreak investigation, outbreak control, and outbreak documentation. It introduces four key concepts—authority, process, rights, and compliance—that act as a framework with which to analyze, describe and craft legal provisions related to foodborne disease outbreak detection and response activities. This chapter also gives an overview of the other chapters in the *Menu*.

1.1 Purpose and Use of the Menu

The *Menu* is a tool to assist public health officials and policy makers in reviewing and enhancing their state’s legal capacity for foodborne disease detection and outbreak response. The document is intended to demonstrate a variety of legal drafting approaches to accomplish foodborne disease outbreak detection, investigation, control, and documentation activities. It can serve as a resource for states to use in filling gaps and clarifying or enhancing their legal authorities.

It is important to note that the *Menu* is **not** intended to be a uniform or model law that must be adopted verbatim in whole or in part. The document does not recommend one drafting approach over another. The *Menu* was compiled with the understanding that each state has its own unique statutory and regulatory scheme, as well as legal and policy objectives. The materials in this document are intended to be adapted to accommodate a state’s existing legal structure and objectives.

As detailed in the Methods section below, this document is not a comprehensive review of all states’ laws; the language provided as drafting examples may not be the only options available. This resource is for informational purposes only and is not intended as a substitute for professional legal advice or other advice.

1.2 Scope of the Menu

The *Menu* provides general descriptions of the types of legal authorities potentially available for conducting various surveillance, investigation, and control activities. The document next lays out examples of language used in or derived from existing state laws and regulations, which can be adapted by a state to fill gaps and enhance its current foodborne disease detection and outbreak response legal capacity.

The *Menu* is based in part on CIFOR’s foundational publication, *Guidelines for Foodborne Disease Outbreak Response*. In that document CIFOR identified key foodborne disease surveillance and outbreak response functions for which every jurisdiction should have either the internal capacity to undertake or access to external personnel and resources to accomplish. The *Guideline* functions have been adapted for this project as:

- ***Outbreak Detection***—Identifying individual cases or clusters of foodborne disease through disease surveillance systems and activities.
- ***Outbreak Investigation***—Determining the specific foodborne disease agent, the contaminated food, the number and distribution of ill persons, and the process by which the contamination occurred.

- **Outbreak Control**—Identifying and implementing measures to mitigate or stop the foodborne disease event.
- **Outbreak Documentation**—Creating a report or other documentation of the foodborne disease event to record information about the specifics of the outbreak, identify lessons learned, and take enforcement action as needed.

In keeping with the scope of the CIFOR law project, only these four key functions are covered in the *Menu*. This document does not directly cover ongoing inspections, licensing and regulation, or ongoing food safety education and communication functions, which also are discussed in the *CIFOR Guidelines*. These functions are all vital components of a state’s overall food safety system and each has relevant legal authorities and requirements associated with it. Please note, however, that the *Menu* does contain some examples drawn from laws governing areas such as ongoing inspections, licensing and regulation if they could be used to support the four key foodborne disease surveillance and outbreak response functions covered in this document. **Menu users should clearly understand if, and the extent to which, a particular legal theory, law or regulation can be used to support various foodborne disease detection and response activities in their jurisdiction.**

1.3 Methods

The *Menu* was developed using information collected from the 12 states identified by the CIFOR work group for its series of CIFOR Law Project activities. These states were chosen to represent a variety of factors including population characteristics, geographic location, structure of state-local health system (i.e., centralized, decentralized, mixed), and health agency structure (i.e., stand-alone, under an umbrella agency, joint health-environment). The goal was to achieve a broad a mix of state experiences, perspectives and resources within the 12-state sample. The states are Alabama, Colorado, Idaho, Indiana, Massachusetts, Michigan, Minnesota, Mississippi, Oregon, Rhode Island, South Carolina, and Texas.

Scope of Issues Reviewed

Because state legal authorities to conduct foodborne disease surveillance and outbreak response activities are distributed across a number of statutes and regulations, it is not possible to review just one title or chapter in a statute or regulation to effectively capture the authorities used by states to accomplish their foodborne disease-related activities. To fully understand the types of authorities used by states, the following issues were researched in each of the 12 states reviewed for the Law Project:

- General state and local governmental authorities to protect public health
- Authorities granted to state and local agencies or agency officials (e.g., health, agriculture, environment, animal health, and others as indicated by the state)
- Foodborne disease surveillance, investigation, control, and reporting
- Communicable disease case reporting, investigation, and post-investigation reporting
- Animal communicable disease case reporting, investigation, and post-investigation reporting
- Food and food safety authorities regarding food items and food establishments
- Public records and confidentiality
- Inter-jurisdictional cooperation and agreements

To simplify review, the above legal authorities have been grouped into four primary categories: (1) general governmental authorities, (2) general public health authorities, (3) communicable diseases and conditions, and (4) food and food safety.

Issues Not Included in the Review

Despite the broad scope of the categories listed above, some facets of food and food safety were not included in the research for this project. The following topics were excluded because they were beyond the scope of the focus on foodborne disease surveillance and response or because their inclusion would have produced an unmanageable amount of data, given the resource constraints of the project:

- Ongoing licensing and routine inspection requirements for food operations and food establishments (e.g., licensing and inspection of retail food establishments)
- Ongoing education and training requirements (e.g., food manager certification)
- General governmental or agency emergency powers and authorities (i.e., powers that become effective upon a gubernatorial or presidential declaration of emergency)
- Laws specific to intentional food contamination
- Civil and criminal penalties for violating statutes and regulations discussed in the document
- Drinking water, waterborne diseases and source water protection
- Commodity or food product-specific statutes and regulations (e.g., eggs, dairy products, grains, sheep, poultry, etc.)
- Specific animal disease identification and control programs (e.g., Brucellosis, Scrapie)
- Plant diseases
- Pesticides and other chemical food contaminants
- Fish consumption advisories

While the above topics were not included in this project, they are nonetheless relevant and associated with important legal authorities for the conduct of foodborne disease surveillance and response, and ongoing food safety regulation, education, and training activities.

1.4 Organization of the Menu

The *Menu* is organized into the following sections:

- ***Chapter 2 (Elements of a Comprehensive Foodborne Disease Detection and Outbreak Response Law)*** lists the various legal authorities contained in comprehensive foodborne disease detection and outbreak response legislation. The provisions in this comprehensive approach could be contained in a single statute or regulation or across multiple statutes or regulations.
- ***Chapter 3 (Overview of Legal Authorities)*** identifies the various types of legal authorities used to accomplish foodborne disease detection and response activities.
- ***Chapter 4 (Outbreak Detection)*** focuses on legal authorities for disease surveillance systems and activities to identify individual cases or clusters of foodborne disease.
- ***Chapter 5 (Outbreak Investigation)*** discusses legal authorities and requirements for determining the specific foodborne disease agent(s), the contaminated food, the number and distribution of ill persons, and the process by which the contamination occurred. This chapter also discusses open records and privacy laws.
- ***Chapter 6 (Outbreak Control)*** discusses the legal authorities for identifying and implementing measures to stop or mitigate the foodborne disease event.

- **Chapter 7 (Outbreak Documentation)** focuses on requirements for creating a report or other documentation of the foodborne disease event to record details about the outbreak, identify lessons learned, and take necessary enforcement action.

The *Menu* also includes two appendices. Appendix 1 is a glossary of key terms and acronyms used in the document. Appendix 2 discusses tips for researching legal authorities for foodborne disease detection and response activities.

1.5 Features in the Menu

The *Menu* includes a number of features designed to help readers quickly identify and understand the salient concepts in each chapter.

1.5.1 Four Key Concepts Framework

The *Menu* identifies four key concepts defining a framework with which to analyze and draft legal provisions related to foodborne disease detection and outbreak response activities:

- **Authority**—What action is authorized and by whom?
- **Process**—What is the process for undertaking the action?
- **Rights**—What are the rights of parties affected by the action?
- **Compliance**—What measures, if any, are available to make parties comply with the action?

This framework is discussed in more depth in Chapter 3 “Legal Authorities.”

1.5.2 Chapter Features

The chapters in the *Menu* are composed of a series of sections that contain a brief description of each issue and a table with examples of statutory and regulatory language drawn from the 12 states reviewed by the CIFOR Law Project. The tables contain the following elements:

- **Approach Type** - This column identifies which of the four types of legal authorities the example was drawn from—general government, general public health, communicable disease, or food and food safety.
- **Drafting Example** - These entries provide the example language illustrating different approaches to the issue presented among the 12 project states. The text provided is verbatim or near verbatim to the source material; however changes to the text have been made to remove specific statutory and agency name references, and to clarify or simplify language to aid in review. Specific agency and position names have been modified to terms like “state health department” or “commissioner of agriculture” to aid in comparison among examples.
- **Example Reference** - This column provides the citation from which the drafting example language is drawn. All such references are noted as “From” to acknowledge the minor modifications to the example text discussed above. The “See also” citations provide similar examples in other project states. The source language for the references can be found in the relevant state’s statutory and regulatory codes, as well as in the CIFOR Law Project report, *Analysis of State Legal Authorities*

for Foodborne Disease Outbreak Detection and Response, and its accompanying state supplements.

It is important to note that, to save space and avoid repetition, the tables do **not** reference every statute or regulation available in the 12 project states for each of the issues addressed in the *Menu*. Thus, for example, all of the project states have statutes and regulations governing reporting of notifiable diseases, but only a few examples and references are presented under any one element of the many issues related to that topic in the *Menu*.

The drafting examples presented in this document or CIFOR's *Analysis of State Legal Authorities* and supplements do *not* contain official statutory or regulatory text and should not be relied upon as a definitive statement of a state's law. Readers should consult with state publications and state-licensed attorneys to identify official language and its interpretation in the state.

CHAPTER 2 | ELEMENTS OF A COMPREHENSIVE FOODBORNE DISEASE DETECTION AND OUTBREAK RESPONSE LAW

2.0 Chapter Introduction

The CIFOR *Menu of Legal Options* document is intended to provide agency staff and policy makers with a list of the key legal authorities needed for comprehensive foodborne disease detection and outbreak response activities. The document provides examples and references to language used in other jurisdictions for a state to consider and adapt when supplementing or amending its legal authorities.

This chapter lists the elements that a comprehensive legal approach to foodborne disease detection and outbreak response would address. These elements could be incorporated into one comprehensive statute or regulation related to foodborne disease outbreaks, or distributed across multiple statutes or regulations. The following lists include key elements and cross references to the examples provided in the *Menu* document for each of the major outbreak functions presented in this document—outbreak detection, investigation, control, and documentation.

Please note that the elements listed below are drafting aids only and should *not* be considered collectively as a model or uniform law recommended for adoption as presented.

2.1 Outbreak Detection

A comprehensive legal approach addressing the detection of foodborne disease outbreaks would address the following elements:

Element	<i>Menu of Legal Options</i> Cross Reference
Authority to conduct foodborne disease detection activities	Chapter 4
Emergency authorities recognizing threats to the food supply, public health threats	4.1.2
Mechanisms and authorities addressing intentional food contamination	4.1.2
Surveillance activities for foodborne diseases	4.2.2
Authority to conduct surveillance and epidemiological investigations or general authority to investigate causes of disease	4.2.2.A; 4.2.2.B
Reporting requirements for individual cases and clusters of foodborne diseases	4.3
Authority to require reporting of cases and clusters of disease	4.3.2
Persons and entities required to report	4.3.3
Diseases and conditions to be reported	4.3.2; 4.3.5
Clusters and outbreaks to be reported	4.5
Timeframe for reporting	4.3.4
Information to be reported	4.3.5
Recipients of reports	4.3.6
Confidentiality of information reported	4.3.6.A
Permitted uses and sharing of information reported	4.3.6.B; 4.3.6.C; 4.3.6.D
Immunity and liability protections for those reporting	4.3.7.A
Penalties for failing to report or for inappropriately releasing information	4.3.7.B; 4.3.7.C
Submission of isolates and specimens	4.4

Element	Menu of Legal Options Cross Reference
<p>Authority to require laboratory submission of isolates and specimens</p> <p><i>Specific elements to consider:</i> Persons and entities required to submit isolates and specimens; diseases or isolates to be submitted; timeframe for submittal; information to be reported along with submittal; recipients of reports or results; confidentiality of results and information reported with submittal; permitted uses and sharing of information and results reported; liability protections for those submitting isolates, specimens, and information; penalties for failing to submit isolates and specimens or required information, or for inappropriately releasing results or information</p>	4.4.2
Reporting communicable diseases in animals that threaten human health or the food supply	4.6
<p>Authority to require reporting and persons and entities required to report</p> <p><i>Specific elements to consider:</i> Persons and entities required to report; diseases and conditions to be reported; timeframe for reporting; information to be reported; recipients of reports; confidentiality of information reported; permitted uses and sharing of information reported; liability protections for those reporting; penalties for failing to report or for inappropriately releasing information</p>	4.6.2

2.2 Outbreak Investigation

A comprehensive legal approach addressing the investigation of foodborne disease outbreaks would address the following elements:

Element	Menu of Legal Options Cross Reference
Authority to conduct foodborne disease investigation activities	Chapter 5
State agency and government authorities	5.1.2
Local agency and government authorities	5.1.3
State authorities over localities in disease investigation activities	5.1.3.B
Required methods and processes for investigating outbreaks	5.2
Methods and processes authorized and controls on these	5.2.2
Investigative measures authorized	5.3
Authority to access to premises, vehicles and records for investigation and inspection	5.3.2
Authority for testing and sampling of premises and property	5.3.3
Authority for examinations and testing of persons	5.3.4
Limitations on examinations and testing of persons	5.3.4.B
Refusal by persons to examination and testing	5.3.4.C
Authority to access and release records or information and consideration of privacy issues	5.4
Applicability of state open records laws to different types of information needed during and generated by an outbreak investigation	5.4.2; 5.4.3
Applicability of state privacy laws to different types of information needed during and generated by an outbreak investigation	5.4.4
Authority to access and share data in public health investigations	5.4.5
Types of data investigators can access during an outbreak investigation	5.4.5; 4.3.6
<i>Specific elements to consider:</i> Medical and health data; information held by public agencies and law enforcement agencies; nonmedical and business data for identifying potentially infected or exposed foods and persons	
Types of data investigators can share or release during an outbreak investigation and the authorized recipients of data	5.4.6; 4.3.6
Authority for interjurisdictional cooperation and agreements	5.5
Types of agreements and arrangements authorized	5.5.2
Authority for agencies and governments to share information across jurisdictions	5.5.2

2.3 Outbreak Control

A comprehensive legal approach addressing the control of foodborne disease outbreaks would address the following elements:

Element	Menu of Legal Options Cross Reference
Authority to conduct foodborne disease control activities	Chapter 6
State authorities to control disease and outbreaks	6.1.2.A; 6.1.2.C
Local authorities to control disease and outbreaks	6.1.2.B; 6.1.2.C
Authority to stop violations and issue warnings	6.1.2.D
Authority to institute control measures over persons	6.2
Authorities regarding food employee health and the ability to restrict and exclude food employees when infected	6.2.3
Authority for compulsory testing and treatment of persons	6.2.5.A
Limits on compulsory testing and treatment of persons and rights to refuse or seek alternative control measures	6.2.5.B
Authority to quarantine and isolate persons with communicable diseases and conditions	6.2.4.A
Authority to impose other control measures on persons	6.2.4.B
Limits on control measures over persons and rights to notice, review and hearing	6.2.4
Authority to institute control measures over products	6.3.2
Authorities to recall, embargo, seize, and quarantine potentially contaminated food and infectious animals	6.3.3
Authorities to condemn and destroy contaminated food and infectious animals	6.3.4
Limits on control measures over products and rights to notice, review, and hearing	6.3.3; 6.3.4
Authority to institute control measures over premises and places	6.4.2
State authorities to control premises and places	6.4.2.A
Local authorities to control premises and places	6.4.2.B
Authority to post notices and warnings on premises and publicize control measures over places	6.4.3
Authorities to conduct abatement and decontamination activities in contaminated or unsanitary premises and places	6.4.4.A
Authorities to suspend a permit or license or to close a premises	6.4.4.B; 6.4.4.C

2.4 Outbreak Documentation

A comprehensive legal approach addressing the documentation of foodborne disease outbreaks would address the following elements:

Element	Menu of Legal Options Cross Reference
Authority or requirements to document the outbreak	Chapter 7
Authority or requirements to document the nature of the outbreak and response activities	7.1.2
Inclusion of summaries or reports of outbreak response activities in annual and special reports to legislature and the governor	7.2.2
Release of response summaries and other information related to foodborne disease prevention and response to the public	7.3.2

CHAPTER 3 | LEGAL AUTHORITIES

3.0 Chapter Introduction

A state's legal authority to conduct foodborne disease surveillance and response activities is distributed across a number of different types of statutes and regulations. It is not possible to review just one title or chapter in a statute or regulation to effectively capture all the legal authorities that can be used by states to accomplish their foodborne disease surveillance and response-related activities.

This chapter identifies and discusses five types of legal authorities potentially available to support surveillance and response actions. It closes by identifying a framework to assist readers in understanding and constructing legal authorities to conduct foodborne disease surveillance and response activities.

3.1 Identifying Types of Legal Authorities

This document discusses five primary types of legal authorities:

- **General Governmental Laws**— This group of laws includes general governmental provisions that apply to any agency or person, such as public records and confidentiality laws.
- **General Public Health Laws**— These laws empower the health agency, other agencies, and specific officials (e.g., state health agency director), to take action to prevent and respond to public health threats.
- **Communicable Disease Laws**— These laws define surveillance and control measures for a range of communicable diseases and conditions, not just for foodborne or enteric diseases.
- **Food and Food Safety Laws**— These laws govern the production, distribution, storage, sale, and service of various foods in different types of establishments.
- **Express Foodborne Disease Statute or Regulation**— This is a comprehensive or unified statute or regulation that specifically addresses all aspects of foodborne disease surveillance, investigation, control, and documentation.

Other Laws

Other laws may be relevant in an outbreak depending on the nature of the event (e.g., a public health emergency), the type of food suspected or known to be contaminated (e.g., eggs, shellfish, dairy, water), and the setting (e.g., farm, processor, transporter, church).

These five primary types of legal authorities are being used to describe broad categories of authorities. In practice, a specific law may fit into more than one category. A state or locality may rely on a specific type of legal authority (e.g., general authority of the state health board to identify and mitigate public health hazards) to sustain their activities in more than one functional area

Chapter 3 Key Definitions

- **Legal Authorities**—The *Menu* uses the term “legal authorities” to collectively refer to statutes, regulations, ordinances, orders, or policies that authorize or prohibit governments or other specified actors to engage in the actions identified.

(e.g., outbreak detection, outbreak control). Each of the five types of legal authorities is described in detail in the sections below.

3.2 General Governmental Laws

This group of laws includes general governmental provisions that apply to any agency or person, such as public records and confidentiality laws.

EXAMPLE: Minnesota Statute §13.03 Access to Government Data*

“All government data collected, created, received, maintained or disseminated by a government entity shall be public unless classified by statute, or temporary classification pursuant to section 13.06, or federal law, as nonpublic or protected nonpublic, or with respect to data on individuals, as private or confidential.”

Other examples of general governmental laws include:

- Authorities granted to state and local agencies or agency officials (health, agriculture, environment, animal health, and others as indicated by the state).
- General governmental or agency emergency powers and authorities (i.e., powers that become effective upon a gubernatorial or presidential declaration of emergency).
- Authorities permitting inter-jurisdictional cooperative activities, compacts and agreements.
- Civil and criminal penalties for violating statutes and regulations.

3.3 General Public Health Laws

General public health laws empower the health agency, other agencies, and specific officials (e.g., state health agency director), to take action to prevent and respond to public health threats. This group of laws authorizes and proscribes the powers and duties of an agency and authorizes governmental action to identify and mitigate public health hazards.

EXAMPLE: Oregon Revised Statute §431.110 General powers of Oregon Health Authority*

“[T]he Oregon Health Authority shall:

- (1) Have direct supervision of all matters relating to the preservation of life and health of the people of the state. ...
- (3) Make sanitary surveys and investigations and inquiries respecting the causes and prevention of diseases, especially of epidemics....
- (5) Have full power in the control of all communicable diseases. ...”

Types of general public health authorities include:

- General state and local governmental authorities to protect public health.
- Authorities granted to state and local agencies or agency officials (health, agriculture, environment, animal health, and others as indicated by the state) to protect public health.

*This example is included for information only. It may not reflect current law or be a complete statement of the law in the state.

- Authorities to abate public health and other nuisances. These laws may be construed to include foodborne disease outbreaks, therefore permitting state or local health agencies to address the outbreak under this authority.
- General governmental or agency emergency powers and authorities (i.e., powers that become effective upon a gubernatorial or presidential declaration of emergency) to respond to public health and other emergencies.

General public health authorities may either expressly mention foodborne disease outbreaks or broadly include outbreaks of infectious diseases as events justifying application of the state’s public health authorities.

3.3.1 State Agency and Actor Legal Authorities

Legal authorities governing specific state agencies (e.g., state health agency, state laboratory, etc.) and actors (e.g., health directors, epidemiologists, environmental health sanitarians, etc.) establish their powers and duties. State public health agencies, health directors or boards of health are the entities most frequently granted specific and general powers related to foodborne disease events, food safety and communicable diseases.

Agriculture agencies, agriculture directors or boards of agriculture also commonly have a broad grant of authority to protect public health, especially as it relates to the safety of the food supply and guarding against contagious animal diseases and conditions.

3.3.2 Local Agency and Actor Legal Authorities

Local agencies and actors can be granted specific powers to protect public health in state law. Because local governmental units are a creation of the state, their powers derive from the authorities granted them by the state.

In some states, local powers and duties related to protecting the public health, identifying and mitigating communicable diseases, or preventing foodborne disease outbreaks are specifically granted to a locality or a local health agency or entity in the state’s statute. In other states, more than one type of local health agency structure is authorized; these can include, for example, city, county and district health agencies.

The types and extent of public health authorities granted to a local jurisdiction also relate to the type of structural relationship between the state health agency and local health agencies (i.e., centralized, decentralized, shared/mixed)(See Box 3-A).

BOX 3-A
Describing State Health Agency Structure

The organizational and operational links between state and local public health agencies are as follows:

- **Centralized**—State health agency provides local public health services.
- **Decentralized**—Local health departments often collaborate with the state health agency but are organizationally independent of the state agency.
- **Shared/Mixed**—Local public health services are subject to the shared authority of the state agency, as well as the local government and/or local boards of health. Local public health services are provided through agencies organized and operated by units of local governments in some jurisdictions and by the state in other jurisdictions.

3.4 Communicable Disease Laws

Communicable disease laws specifically relate to the identification, reporting and control of infectious diseases and conditions.

EXAMPLE: Texas Health and Safety Code §81.041. Reportable Diseases*

“(a) The board shall identify each communicable disease or health condition that shall be reported under this chapter.
(b) The board shall classify each reportable disease according to its nature and the severity of its effect on the public health.
(c) The board shall maintain and revise as necessary the list of reportable diseases.
(d) The board may establish registries for reportable diseases and other communicable diseases and health conditions. The provision to the department of information relating to a communicable disease or health condition that is not classified as reportable is voluntary only. ...
(f) In a public health disaster, the commissioner may require reports of communicable diseases or other health conditions from providers without board rule or action. The commissioner shall issue appropriate instructions relating to complying with the reporting requirements of this section.”

Types of communicable disease laws include:

- Communicable disease case reporting, investigation, and post-investigation reporting
- Animal communicable disease case reporting, investigation, and post-investigation reporting
- Foodborne and waterborne disease surveillance, investigation, control, and reporting
- Clinical laboratory requirements to submit positive specimens or isolates

Communicable disease laws define the surveillance and control measures for a range of communicable diseases and conditions, not just for foodborne or enteric diseases. Included in this category of legal authorities for the purposes of this document are laws addressing the identification, reporting, and control of infectious diseases in animals, with emphasis on enteric diseases and conditions (which enter the body through the mouth and usually cause intestinal tract disease) that are transmissible from animals to humans.

All states have some type of statutory or regulatory authorities related to the identification, reporting, and control of communicable diseases and conditions. Specific foodborne and enteric pathogens are included in states’ lists of notifiable conditions, as per the list of nationally notifiable conditions developed by CSTE and CDC.

3.5 Food and Food Safety Laws

These laws govern the production, distribution, storage, sale and service of various foods in different types of establishments, such as food processors, wholesalers, retailers, or restaurants.

EXAMPLE: Indiana Code “Food: Sanitary Requirements for Food Establishments”^{*}
§IC 16-42-5-19 Diseases; employees

“Sec. 19. A person who has a communicable or infectious disease may not work in a food establishment in any capacity in which epidemiological evidence indicates the person may spread the disease. ...”

^{*}This example is included for information only. It may not reflect current law or be a complete statement of the law in the state.

^{*}This example is included for information only. It may not reflect current law or be a complete statement of the law in the state.

Food and food safety laws broadly include:

- Food and food safety authorities regarding food items, food establishments, and food managers and handlers
- Foodborne disease surveillance, investigation, control, and reporting
- Ongoing licensing or permitting and routine inspection requirements for food operations and food establishments (e.g., licensing and inspection of retail food establishments)
- Ongoing education and training requirements (e.g., food manager certification)

3.5.1 Types of Food and Food Safety Laws

Food and food safety laws can be roughly classified into several categories:

- ***Food Laws***—These types of laws govern the safety of food as it is produced, manufactured, processed, packaged, transported, and stored. These laws can be seen as a state’s analog to the Federal Food, Drug and Cosmetic Act (FD&C Act).
- ***Food Establishment Sanitary Statutes***—State statutes that govern the sale of food through establishments like restaurants, retail stores, wholesale operations, and mobile food service vehicles. These statutes can contain some of the FDA model Food Code.
- ***Food Code Regulations***—A state may adopt some or most provisions of the FDA’s Food Code into the state’s regulations and/or make state-specific modifications to the Food Code. These regulations may be in lieu of or supplemental to food establishment sanitary statutes described above.
- ***Product-specific Laws***—State statutes and regulations governing specific agricultural products, including but not limited to meat, seafood, flour, corn, rice, milk and dairy products, and eggs. These statutes and regulations may contain relevant legal authorities governing foodborne disease detection and outbreak response activities, but which are not included in this review.

3.5.2 Similarities Among State Food and Food Safety Laws

States may have similarities among their food and food safety laws stemming from either required or desired conformity with federal laws or model laws or language that states have adopted in whole or in part. Generally, a state will have a statute or statutes that contain the same or similar language to the federal FD&C Act, as well as regulations reflecting portions of one of the versions of the FDA Food Code with state-specific modifications. Additionally, retail food establishment and food establishment sanitary statutes can be based on language and concepts in the FDA Food Code model regulation; states may adopt statutes in addition to the regulatory code language to provide legislative authority for the state’s food code regulation.

3.6 Express Foodborne Disease Outbreak Detection and Response Laws

No state has a comprehensive or unified set of statutes or regulations expressly addressing foodborne disease surveillance or outbreak response in the same way as states have pathogen- or disease-specific statutory schemes addressing tuberculosis, HIV/AIDS or other infections. Instead, states rely on a mix of legal authorities drawn from a variety of sources (e.g., general public health laws, communicable disease laws, food/food safety laws) to accomplish the key foodborne disease outbreak functions (detection, investigation, control, documentation).

This mix of statutes, regulations, policies, and guidance documents constitutes a patchwork of authorities and procedures which may or may not be sufficient to accomplish the surveillance and response needs of any given foodborne disease outbreak event.

However, using an array of legal authorities to address foodborne disease events may be justified, given the multifaceted nature of these outbreaks. With the complexity and sheer volume of the global food system, identifying the disease agent, the food “vehicle” through which the agent was delivered, the number of persons sickened, and the source of the contamination (e.g., farm, processing facility, retail food store, restaurant, food worker), and then controlling the outbreak, are tremendous undertakings requiring a broad range of legal and “non-legal” tools (e.g., agency policies, guidance documents).

3.7 Other Laws

Other bodies of laws, including agricultural and environmental laws, may have pertinent legal authorities for foodborne disease detection and response activities. Other types of legal authorities can include:

- Drinking water, waterborne diseases and source water protection authority
- Specific animal disease identification and control programs (e.g., Brucellosis, Scrapie)
- Plant disease programs
- Measures to regulate pesticides and other chemical food contaminants
- Fish consumption advisories

3.8 A Framework for Understanding Legal Authorities

There are four key concepts that can serve as a framework to analyze and draft any legal provision related to foodborne disease detection and outbreak response activities:

- **Authority**—What action is authorized and by whom? For example, does a health officer have authority to order medical tests for a food worker suspected of being infected with a potential foodborne pathogen?
- **Process**—What is the process for undertaking the action? For example, does the health agency have to give written notice or get a court order before it requires the food worker be tested?
- **Rights**—What are the rights of parties affected by the action? For example, is the food worker entitled to a hearing or to appeal an order for testing?
- **Compliance**—What measures, if any, are available to make parties comply with the action? For example, can the health agency mandate testing or require quarantine in lieu of testing the health worker?

This framework—authority, process, rights, and compliance—can be used to analyze a jurisdiction’s current laws related to foodborne disease detection and outbreak response activities, to identify gaps in legal authorities, and to craft new or amended language. This framework is used either explicitly or implicitly throughout the *Menu* to identify legal authorities supporting key foodborne disease outbreak functions: detection, investigation, control and documentation.

CHAPTER 4 | OUTBREAK DETECTION

4.0 Introduction to Outbreak Detection Activities

The outbreak detection function includes the processes and channels through which a suspected foodborne disease outbreak is recognized and communicated to governmental public health officials. Outbreak detection methods include laboratory surveillance, illness complaints, and syndromic surveillance.

This chapter focuses on two elements within the outbreak detection function: surveillance and disease reporting requirements. Issues related to accessing records and confidentiality requirements are discussed in Chapter 5, “Outbreak Investigation.”

4.1 Detecting Intentional Contamination

4.1.1 Description of the Issue

Methods for detecting a foodborne disease event arising from an unannounced intentional act of contamination are the same as those for detecting an unintentional contamination leading to a foodborne disease outbreak. These detection methods include illness complaints from the public and disease reports from physicians and clinical laboratories.

4.1.2 Intentional Contamination—Drafting Examples

The legal authorities to conduct outbreak detection activities are, at least initially, the same regardless of the intentionality of the contamination (e.g., disease surveillance and reporting requirements); these authorities are discussed in detail later in this chapter. Once officials suspect the contamination was intentional, however, additional state criminal, anti-terrorism, and emergency response laws may become available. These additional authorities can enhance or control the course of the outbreak investigation and response going forward.

Chapter 4 | Key Definitions

- **Clusters**—An aggregation of cases grouped in time or space.
- **Enteric Illness**—Illness of the intestinal track caused by food or waterborne bacteria, viruses or contaminants that enter the body through ingestion.
- **Isolate**—The pure strain of a virus or bacteria that is separated from a sample.
- **Outbreak**—Two or more cases of a similar illness shown by investigation to arise from a common exposure such as ingestion of a common food.
- **Surveillance**—The systematic collection, analysis, interpretation, and dissemination of data for public health action.
- **Syndromic Surveillance**—The process of using individual and population health indicators that are available before confirmed diagnoses or laboratory confirmation to identify outbreaks or health events and monitor the health status of a community.
- **Zoonoses**—Diseases or conditions that can be passed from animals to humans.

Approach Type	Drafting Example	Example References
General Public Health	Qualifying health conditions covered under the state’s emergency health powers include a natural disaster or an illness or health condition that may be caused by terrorism, epidemic or pandemic disease, or a novel infectious agent or biological or chemical agent and that poses a substantial risk of a significant number of human fatalities, widespread illness, or serious economic impact to the agricultural sector, including food supply.	<i>From:</i> S.C. Code Ann. 44-4-130

4.2 Surveillance

* Please see Section 1.5.2 “Chapter Features” for important information about the drafting examples and referenced sources.

4.2.1 Description of the Issue

Surveillance methods are used to identify potential foodborne disease cases and clusters of cases across an array of food types and at all points in the food system—from farm to fork. Surveillance for foodborne disease outbreaks is accomplished by monitoring public complaints of foodborne disease, by laboratory surveillance for enteric agents, and, theoretically, through syndromic surveillance (gathering data on non-specific health indicators like increased ER admissions or increased demand for certain laboratory tests or over-the-counter medications). Epidemiological methods are used to confirm foodborne disease outbreaks by investigating public illness complaints and demonstrating links among laboratory-confirmed cases of enteric illness. A number of federal foodborne disease-related monitoring systems like PulseNet and FDOSS (Foodborne Disease Outbreak Surveillance System) have been developed to help state health agencies rapidly detect outbreaks, identify foodborne pathogens, share information about outbreaks, and monitor outbreak patterns and exposures over time.

4.2.2 Authorization for Surveillance Activities—Drafting Examples

A jurisdiction’s laws may or may not have an explicit statute or regulation authorizing the use of epidemiological and laboratory findings to identify foodborne disease events. Authority to conduct disease surveillance activities is most commonly provided in laws directing and empowering the state public health agency to identify and control communicable diseases, without specifying the types of practices or methods that should be employed. While terms like “surveillance” and “epidemiology” may not explicitly appear in the text of statutes or regulations, the activities and requirements contained in these authorities describe fundamental public health surveillance activities.

Approach Type	Drafting Example	Example References
<i>A. Authority to Conduct Surveillance and Epidemiological Investigations</i>		
General Public Health	The director or the director's designee shall have the authority to conduct a program of continuing surveillance and of regular or periodic inspection of actual or potential health hazards.	<i>From:</i> Idaho Code §56-1009
General Public Health	Under its duty to protect the public health, the department shall conduct epidemiologic or toxicologic investigations of human illnesses or conditions and of environmental exposures that are harmful or believed to be harmful to the public health. The department may conduct those investigations to determine the nature and extent of the disease or environmental exposure believed to be harmful to the public health.	<i>From:</i> Texas Health and Safety Code §161.0211
<i>B. General Authority to Investigate Causes of Disease</i>		
General Public Health	The department shall take cognizance of the interests of life, health, comfort and convenience among the citizens of the [state]; shall conduct sanitary investigations and investigations as to the causes of disease, and especially of epidemics, and the sale of food and drugs and adulterations thereof; and shall disseminate such information relating thereto as it considers proper. It shall advise the government concerning the location and other sanitary condition of any public institution.	<i>From:</i> Mass. Gen. Laws c.111, §5
General Public Health	The department of health is authorized to make investigations into the causes of disease, the prevalence of epidemics and endemics among the people.	<i>From:</i> R.I. Gen. Laws §23-1-1 <i>See also:</i> S.C. Code Ann. 22-2-2
Communicable Disease	The commissioner shall investigate the occurrence of cases, suspected cases, or carriers of reportable diseases or unusual disease occurrences in a public or private place for the purpose of verification of the existence of disease, ascertaining the source of the disease causing agent, identifying unreported cases, locating and evaluating contacts of cases and suspected cases by assessing relevant risk factors and testing and treatment history, identifying those at risk of disease, determining necessary control measures, and informing the public if necessary.	<i>From:</i> Minn. Rules §4605.7500

Approach Type	Drafting Example	Example References
Communicable Disease	The department is authorized to investigate and control the causes of epidemic and communicable diseases affecting the public health.	<i>From:</i> Colo. Rev. Stat. §25-1.5-102

4.3 Disease and Condition Reporting Requirements

4.3.1 Description of the Issue

State laws or regulations require that certain persons and entities report cases of communicable diseases and conditions. Foodborne pathogens and enteric diseases are included among the diseases in states' lists of reportable conditions.

4.3.2 Authorizing Disease Reporting—Drafting Examples

State laws can contain specific language authorizing health agencies to identify diseases to be reported and requiring specified persons to report cases or suspected cases of communicable diseases.

Approach Type	Drafting Example	Example References
<i>A. Authority to Require Reporting of Diseases</i>		
Communicable Disease	The state board of health shall designate the diseases and health conditions which are notifiable. The occurrence of cases of notifiable diseases and health conditions shall be reported as provided by the rules adopted by the state board of health.	<i>From:</i> Ala. Code §22-11A-1 <i>See also:</i> Ore. Rev. Stat. 433.004
Communicable Disease	Regulations governing reportable conditions should state the time within which the notification to the department of health must be made, the individual by whom it is to be made, the method, whether by writing, telegraph, or telephone, in which it shall be made, and whether the case or suspected case is to be identified by name, address, and date of onset of illness.	<i>From:</i> R.I. Gen. Laws §23-8-1
General Public Health	The department is authorized to require the reporting of morbidity and mortality information.	<i>From:</i> Colo. Rev. Stat. 25-1.5-101
<i>B. Epidemics and Terrorism</i>		
Communicable Disease	A health care provider, coroner, medical examiner, or any person or entity that maintains a database containing health care data must report all cases of persons who harbor any illness or health condition that may be caused by chemical terrorism, bioterrorism, radiological terrorism, epidemic or pandemic disease, or novel and highly fatal infectious agents and might pose a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability.	<i>From:</i> S.C. Code Ann. 44-1-80
Communicable Disease	A pharmacist must report any unusual or increased prescription rates, unusual types of prescriptions, or unusual trends in pharmacy visits that may be caused by chemical terrorism, bioterrorism, radiological terrorism, epidemic or pandemic disease, or novel and highly fatal infectious agents and might pose a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. Prescription-related events that require a report include, but are not limited to: (1) an unusual increase in the number of prescriptions to treat fever, respiratory, or gastrointestinal complaints; (2) an unusual increase in the number of prescriptions for antibiotics; (3) an unusual increase in the number of requests for information on over-the-counter pharmaceuticals to treat fever, respiratory, or gastrointestinal complaints; and (4) any prescription that treats a disease that is relatively uncommon and has bioterrorism potential.	<i>From:</i> S.C. Code Ann. 44-29-10
Communicable Disease	The state department shall adopt procedures to gather, monitor, and tabulate case reports of incidents involving dangerous communicable diseases or unnatural outbreaks	<i>From:</i> Ind. Code 16-41-3-1

Approach Type	Drafting Example	Example References
	of diseases known or suspected to be used as weapons. The state department shall specifically engage in medical surveillance, tabulation, and reporting of confirmed or suspected cases set forth by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services and the United States Public Health Service of the United States Department of Health and Human Services.	

4.3.3 Persons Required to Report—Drafting Examples

Reportable conditions laws can specify the persons and entities required to report under the law. Persons or entities required to report can include physicians, clinical laboratories, dentists, nurses, hospitals, coroners, or others. State food safety and food establishments statutes and regulations typically require owners or persons in charge of food establishments to report incidents in which food employees have transmitted foodborne disease or have been diagnosed or suspected of having a food-transmissible infectious disease or condition.

Approach Type	Drafting Example	Example References
Communicable Disease	Each physician, dentist, nurse, medical examiner, hospital administrator, nursing home administrator, laboratory director, school principal, and day care center director is responsible for reporting notifiable diseases.	<i>From:</i> Ala. Code §22-11A-2 <i>See also:</i> Ind. Code 16-41-2-2; Mass. Gen. Laws c.111, §111; Miss. Code §41-23-1
Communicable Disease	It is the duty of any person in charge of any institution, school, child care facility or camp, or any other person having knowledge of any disease which may threaten the public health, to report immediately the name and address of any person or deceased person suspected of having the disease to the commissioner.	<i>From:</i> Minn. Rules 4605.7070 <i>See also:</i> R.I. Gen. Laws §23-8-1
Communicable Disease	The following persons shall report a suspected case of a reportable disease and all information known concerning the person who has or is suspected of having the disease if a report is not made by others required to report by law: (1) a professional registered nurse; (2) an administrator or director of a public or private temporary or permanent child-care facility; (3) an administrator or director of a nursing home, personal care home, adult respite care center, or adult day-care center; (4) an administrator of a home health agency; (5) an administrator or health official of a public or private institution of higher education; (6) an owner or manager of a restaurant, dairy, or other food handling or processing establishment or outlet; (7) a superintendent, manager, or health official of a public or private camp, home, or institution; (8) a parent, guardian, or householder; (9) a health professional; (10) an administrator or health official of a penal or correctional institution; or (11) emergency medical service personnel, a peace officer, or a firefighter.	<i>From:</i> Tex. Health and Safety Code §81.049
Communicable Disease	A laboratory, within or outside the state, responsible for performing a test for any of the infectious or other diseases required by the department of health to be reported under the state's reportable disease rules, shall report positive or reactive tests to the department. This includes, but is not limited to, all laboratories, within or outside the state, which collect specimens in the state or which receive the initial order for testing from a practitioner, blood bank, plasmapheresis center, or other health care provider located in the state.	<i>From:</i> S.C. Code Ann. 44-29-15 <i>See also:</i> Mass. Gen. Laws c.111, §6

4.3.4 Timeframe for Reporting—Drafting Examples

The timeframe for reporting the various reportable conditions is specified in either statute or regulation. States generally have at least a two-tier system of reporting deadlines—immediate/within 24 hours, and from three to seven days. Foodborne-pathogens and enteric diseases appear in both tiers of the states’ lists.

Approach Type	Drafting Example	Example References
Communicable Disease	In all cases of known or suspected contagious or infectious diseases occurring within this state the attending physician must report these diseases to the county health department within twenty-four hours, stating the name and address of the patient and the nature of the disease.	<i>From:</i> S.C. Code Ann. 44-29-10
Communicable Disease	The board shall set the manner, time period, and form in which such reports are to be made. The board may limit reporting for a specific disease or condition to a particular region or community or for a limited period of time.	<i>From:</i> Colo. Rev. Stat. §25-1-122

4.3.5 Information to be Reported—Drafting Examples

The type of information and format for reporting infectious diseases and conditions is commonly specified in regulation, although some states identify this information in statutes as well. Basic information such as case name, address, contacts, etc., is typically required for reportable conditions. State law can also require reporting of specific conditions or events that may lead to threats to health or food safety.

Approach Type	Drafting Example	Example References
<i>A. General Types of Information to be Reported</i>		
Communicable Disease	Any required reports shall contain the name, address, age, sex, diagnosis, and such other relevant information as the board determines is necessary to protect the public health.	<i>From:</i> Colo. Rev. Stat. §25-1-122
Communicable Disease	The board shall prescribe the form and method of reporting under this chapter, which may be in writing, by telephone, by electronic data transmission, or by other means. The board may require the reports to contain any information relating to a case that is necessary for the purposes of this chapter, including: (1) the patient's name, address, age, sex, race, and occupation; (2) the date of onset of the disease or condition; (3) the probable source of infection; and (4) the name of the attending physician or dentist.	<i>From:</i> Tex. Health and Safety Code §81.043
<i>B. Food Establishment Employee Information to be Reported</i>		
Food and Food Safety	The [department] may, by rule, define certain communicable diseases that are capable of being spread to the public by employees of a restaurant, bed and breakfast facility, intermittent temporary restaurant, seasonal temporary restaurant or single-event temporary restaurant...If the restaurant, bed and breakfast facility, intermittent temporary restaurant, seasonal temporary restaurant or single-event temporary restaurant manager suspects that any employee has contracted any disease in a communicable form or has become a carrier of such disease, the manager shall notify the [director of health] immediately.	<i>Adapted from</i> Ore. Rev. Stat. 624.080
<i>C. Food Establishment Emergency Information to be Reported</i>		
Food and Food Safety Laws	If a food establishment is affected by fire, flooding, accidents, explosions, or other disaster that may create an imminent or substantial hazard and unless otherwise directed, all food operations shall cease and the licensee shall immediately report to the director the disaster and the effect of the disaster on the operation of the establishment.	<i>From:</i> Mich. Consol. Laws §289.6147

4.3.6 Release of Information Regarding Reportable Diseases—Drafting Examples

States have addressed issues related to the release of information gathered through reportable disease reporting requirements. State statutes cover the confidentiality of reportable disease data, and the conditions under which the data may be released, including notification to third parties. State law may also specify how reportable disease data may be released during public health emergencies.

Note: In addition to the information in this chart, please see Sections 5.4.5 and 5.4.6 regarding access, use and sharing of information subject to state public records and privacy laws.

Approach Type	Drafting Example	Example References
<i>A. Confidentiality of Reportable Disease Data</i>		
Communicable Disease	All medical and statistical information and reports required by this article shall be confidential and shall not be subject to the inspection, subpoena, or admission into evidence in any court, except proceedings brought under this article to compel the examination, testing, commitment or quarantine of any person or upon the written consent of the patient, or if the patient is a minor, his parent or legal guardian.	<i>From:</i> Ala. Code §22-11A-2
Communicable Disease	Information obtained by the state health agency or a local public health administrator in the course of an investigation of a reportable disease or disease outbreak is confidential and is exempt from disclosure under the state’s open record laws. Except as required for the administration or enforcement of public health laws or rules, a state or local public health official or employee may not be examined in an administrative or judicial proceeding about the existence or contents of a reportable disease report or other information received by the authority or local public health administrator in the course of an investigation of a reportable disease or disease outbreak.	<i>From:</i> Ore. Rev. Stat. 433.008
Communicable Disease	Reports, records, and information received from any source, including from a federal agency or from another state, furnished to a public health district, a health authority, a local health department, or the department that relate to cases or suspected cases of diseases or health conditions are confidential and may be used only for the purposes of this chapter. Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under the state’s open records laws and may not be released or made public on subpoena or otherwise except as provided in the state’s communicable disease laws.	<i>From:</i> Tex. Health and Safety Code §81.046
Communicable Disease	A patient’s privilege with respect to a physician is waived regarding information reported to a local or state health officer under the state’s communicable disease reporting law.	<i>From:</i> Ind. Code 16-41-2-4
<i>B. Release of Reportable Disease Data</i>		
Communicable Disease	<p>The state health agency and local public health administrators are authorized to release information obtained during a reportable disease investigation to other government agency officials, health care providers, law enforcement officials, persons affected by or potentially exposed to communicable disease or with information about persons potentially exposed.</p> <p>The state health agency or local public health administrator can release personally identifiable information to persons potentially exposed or with information about persons potentially exposed only if there is clear and convincing evidence that the release is necessary to avoid an immediate danger to other individuals or to the public.</p> <p>The state health agency and local public health administrators shall release only the minimum amount of information necessary to carry out the purpose of the release.</p>	<i>From:</i> Ore. Rev. Stat. 433.008
Communicable Disease	A person may not disclose or be compelled to disclose medical or epidemiological information involving a communicable disease or other disease that is a danger to health. This information may not be released or made public upon subpoena or otherwise, except under the following circumstances: (1) Release may be made of medical or epidemiologic information for statistical purposes if done in a manner that does not identify an individual. (2) Release may be made of medical or epidemiologic information with the written consent of all individuals identified in the information released. (3) Release may be made of medical or epidemiologic information to the extent necessary to enforce public health laws, or to protect the health or life of a named party.	<i>From:</i> Ind. Code 16-41-8-1
Communicable Disease	Medical or epidemiological information may be released: (1) for statistical purposes if released in a manner that prevents the identification of any person; (2) with the consent of each person identified in the information; (3) to medical personnel	<i>From:</i> Tex. Health and Safety Code §81.046

Approach Type	Drafting Example	Example References
	treating the individual, appropriate state agencies in this state or another state, a health authority or local health department in this state or another state, or federal, county, or district courts to comply with this chapter and related rules relating to the control and treatment of communicable diseases and health conditions or under another state or federal law that expressly authorizes the disclosure of this information; (4) to appropriate federal agencies, such as the Centers for Disease Control and Prevention of the United States Public Health Service, but the information must be limited to the name, address, sex, race, and occupation of the patient, the date of disease onset, the probable source of infection, and other requested information relating to the case or suspected case of a communicable disease or health condition; or (5) to medical personnel to the extent necessary in a medical emergency to protect the health or life of the person identified in the information.”	
Communicable Disease	No provision of this section shall be interpreted to prevent the publication of statistical reports or other summaries provided that said reports or summaries do not identify individual persons.	<i>From:</i> Ala. Code §22-11A-2
<i>C. Notification of Third Parties</i>		
Communicable Disease	The state board of health is authorized to establish the rules by which exceptions may be made to the confidentiality provisions of the laws of this state for the notification of third parties of an individual’s infection with any reportable disease, as designated by the state board of health, when exposure is indicated or there exists a threat to the public health and welfare. All persons who receive notification of the infectious condition of an individual under this subsection and the rules established under this subsection shall hold such information in the strictest of confidence and privilege, shall not reveal the information to others, and shall take only those actions necessary to protect the health of the infected person or other persons where there is a foreseeable, real or probable risk of transmission of the disease.	<i>From:</i> Miss. Code §41-23-1 <i>See also:</i> Ala. Code §22-11A-38
Communicable Disease	Reports, records, and information relating to cases or suspected cases of diseases or health conditions may be released to the extent necessary during a public health disaster to law enforcement personnel solely for the purpose of protecting the health or life of the person identified in the report, record, or information. Only the minimum necessary information may be released under this subsection, as determined by the health authority, the local health department, or the department.	<i>From:</i> Tex. Health and Safety Code §81.046
<i>D. Release of Reportable Disease Data During Emergencies</i>		
Communicable Disease	The state department shall notify the: (1) department of homeland security; (2) [state police]; and (3) county health department and local law enforcement agency having jurisdiction of each unnatural outbreak or reported case [involving dangerous communicable diseases or unnatural outbreaks of diseases known or suspected to be used as weapons]; as soon as possible after the state [health] department receives a report. Notification under this subsection must be made not more than twenty-four (24) hours after receiving a report.	<i>From:</i> Ind. Code 16-41-3-1 <i>See also:</i> S.C. Code Ann. 44-1-80

4.3.7 Reportable Diseases Liability and Immunity Issue—Drafting Examples

State reportable disease laws may include provisions that provide immunity or other liability protections for persons who report or release reportable disease data in good faith or in compliance with legal requirements. Statutes can include penalties for persons who fail to report or who release data inappropriately.

Approach Type	Drafting Example	Example References
<i>A. Immunity and Liability Protections</i>		
Communicable Disease	Any person making a report or providing information under this section is immune from any civil or criminal liability that might otherwise be incurred or imposed with respect to the making of a report or providing information under the state’s reportable disease law.	<i>From:</i> Ore. Rev. Stat. 433.004 <i>See also:</i>

Approach Type	Drafting Example	Example References
		Ala. Code §22-11A-2
Communicable Disease	A person who reports a communicable disease in good faith is not liable in civil, administrative, disciplinary or criminal actions. However, a person who knowingly makes a false report is liable for actual and punitive civil damages to the person falsely reported.	<i>From:</i> Ind. Code 16-41-2-6, 16-41-2-7
Communicable Disease	When a decision is made in good faith not to disclose information, it shall not subject the entity or person withholding the information to any liability.	<i>From:</i> Ore. Rev. Stat. 433.008
B. Failure to Report		
Communicable Disease	Any physician or other person designated to report a notifiable disease or condition who has knowledge of a case of a notifiable disease or health condition, who refuses or willfully fails to make a full and prompt report thereof to the health officer in whose jurisdiction the case is located, specifying the character of the notifiable disease or health condition and the name and locality of the patient, together with such other details as may be required by the state board of health, shall be guilty of a misdemeanor, and upon conviction, may be fined.	<i>From:</i> Ala. Code §22-11A-6 <i>See also:</i> Ind. Code 16-41-2-8; Mass. Gen. Laws c.111, §7, c111, §111; S.C. Code Ann. 44-29-10, 44-29-15; Tex. Health and Safety Code §81.049
Communicable Disease	Any practicing or licensed physician or person in charge of a hospital, health-care facility or laboratory who fails to make the reports required under this section regarding HIV/AIDS or any class 1 disease or condition as designated by the state board of health shall be reported to the board of medical licensure, in the case of a physician, or to the applicable licensing agency in the case of institutions, and such failure shall be grounds for suspension of license. Any person other than a practicing or licensed physician, or person in charge of a hospital or health-care facility, willfully failing to make the reports required under this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine or by confinement in the county jail.	<i>From:</i> Miss. Code §41-23-1
Communicable Disease	In addition to other grounds for which a state agency may exercise disciplinary action against its licensees or certificate holders, the substantial or repeated failure of a licensee or certificate holder to report when required to do so shall be cause for the exercise of any of the agency's disciplinary powers.	<i>From:</i> Ore. Rev. Stat. 433.004
C. Liability for Release of Reportable Disease Data		
Communicable Disease	A person responsible for recording, reporting, or maintaining information required to be reported who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiologic information classified as confidential under this section commits a class A misdemeanor. A public employee who knowingly discloses or fails to protect classified medical and epidemiological information is subject to discharge or disciplinary action under the personnel rules of the agency that employs the employee.	<i>From:</i> Ind. Code 16-41-8-1

4.4 Submission of Isolates

4.4.1 Description of the Issue

Submitting isolates (samples of the foodborne pathogen) from clinical laboratories is also an important component of foodborne disease surveillance and investigation. In some states, submission of isolates is specifically required by either statute or regulation.

4.4.2 Submission of Isolates—Drafting Examples

Approach Type	Drafting Example	Example References
Communicable Disease	Medical laboratories must submit to the state public health laboratory all clinical materials [isolates or specimens] specified upon a positive laboratory finding for the disease or condition, or upon request of the commissioner in relation to a case or suspected case reported under the state’s communicable disease laws.	<i>From:</i> Minn. Rule 4605.7030 <i>See also:</i> Ore. Admin. Rules 333-018-0018
Communicable Disease	Laboratories, within or outside the state, which perform tests as described in [the communicable disease statute] and which determine positive or reactive test results, shall, if required by the department, provide clinical specimens and isolates to the department or another laboratory designated by the department for further testing to determine incidence and other epidemiological information. These clinical specimens and isolates must be submitted within the timeframe and in the form and manner designated by the department. The testing must be performed for epidemiological surveillance only; source consent is not required, and results are not required to be returned to the source patient or physician. The clinical specimens and isolates must be destroyed after tests are successfully completed, unless otherwise directed by the department.	<i>From:</i> S.C. Code Ann. 44-29-15

4.5 Cluster and Outbreak Reporting Requirements

4.5.1 Description of the Issue

Some states expressly require that suspected clusters or outbreaks of unexplained illnesses be reported to public health officials. State communicable disease regulations can require the reporting of infectious or non-infectious outbreaks or disease clusters. Foodborne disease is one of the types of outbreaks that should be reported.

4.5.2 Cluster and Outbreak Reporting—Drafting Examples

Approach Type	Drafting Example	Example References
<i>A. Clusters and Outbreaks</i>		
Communicable Disease	The department shall require epidemiological reports of disease outbreaks and of individual cases of disease suspected or known to be of importance to the public health. The department shall evaluate the reports to determine the trends involved and the nature and magnitude of the hazards.	<i>From:</i> Tex. Health and Safety Code §81.047
Communicable Disease	Cases, suspected cases, and clusters of extraordinary or unusual illness must be reported to the department within one (1) working day by the diagnosing person. Extraordinary or unusual outbreaks include illnesses which may be a significant risk to the public, may involve a large number of persons, or are a newly described entity. Even in the absence of a defined etiologic agent or toxic substance, clusters of unexplained acute illness and early-stage disease symptoms must be reported to the department within one (1) working day and investigated.	<i>From:</i> Idaho APA 16.02.10.260
Communicable Disease	Any pattern of cases, suspected cases, or increased incidence of any illness beyond the expected number of cases in a given period, which may indicate a newly recognized infectious agent, an outbreak, epidemic, emerging drug resistance, or public health hazard, including suspected or confirmed outbreaks of food or waterborne disease, epidemic viral gastroenteritis, and any disease known or presumed to be transmitted by transfusion of blood or blood products, shall be reported immediately by telephone, by the person having knowledge, to the commissioner.	<i>From:</i> Minn. Rule 4605.7050 <i>See also:</i> R.I. R23-10-DIS §2.5
<i>B. Epidemics and Terrorism</i>		

Approach Type	Drafting Example	Example References
General Public Health	Whenever the board learns of a case of a reportable illness or health condition, an unusual cluster, or a suspicious event that it reasonably believes has the potential to cause a public health emergency, it is authorized to notify the appropriate public safety authority, tribal authorities, and federal health and public safety authorities.	<i>From:</i> S.C. Code Ann. 44-1-80

4.6 Communicable Diseases in Animals

4.6.1 Description of the Issue

States have legal requirements mandating that certain persons or entities report confirmed or suspected cases of specified communicable diseases in animals or livestock. Included in this list can be enteric zoonoses and other diseases or conditions that are transmissible from animals to humans. Depending on a state’s organizational structure, the state department of agriculture, the state animal health agency, as well as state and local health departments, can be responsible for receiving and acting on the reports of communicable diseases in animals.

4.6.2 Communicable Diseases in Animals—Drafting Examples

Persons most often required to report communicable diseases in animals are owners and veterinarians. In some states, explicit directions are included for cases in which a communicable animal disease is a danger to humans. In these instances, specified persons and the department of agriculture or animal health are also required to report the condition to state or local public health officials.

Approach Type	Drafting Example	Example References
<i>A. Reporting Communicable Diseases in Animals with Public Health Significance</i>		
Communicable Diseases	A person who discovers, suspects, or has reason to believe that an animal is either affected by a reportable disease or contaminated with a toxic substance shall immediately report that fact, suspicion, or belief to the director. The director shall take appropriate action to investigate the report... A reportable disease is defined as an animal disease on the current reportable animal disease list maintained by the state veterinarian that poses a serious threat to the livestock industry, public health, or human food chain.	<i>From:</i> Mich. Consol. Laws §287.706, §287.709
Communicable Diseases	Any owner of an animal, veterinarian treating an animal, or other person having knowledge that an animal is suspected of having an animal disease determined by the director to be contagious or injurious to public health or to the health of other animals must report the information to the department in the manner it prescribes.	<i>From:</i> R.I. Gen. Laws §4-4-3
Communicable Diseases	Every veterinarian, livestock owner, veterinary diagnostic laboratory director, or other person having the care of, or knowledge of, the existence of animals having or suspected of having any disease which may endanger the public health such as rabies, anthrax, encephalitis, bovine spongiform encephalopathy, etc., shall promptly report the facts to the local health department or health agency or the state department of health.	<i>From:</i> 6 Colo. Code Reg. 1009-1
Communicable Diseases	The owner of an animal affected with a dangerous or contagious disease shall report the disease to the state veterinarian not later than forty-eight (48) hours after discovering the existence of the disease. (b) A veterinarian, caretaker, or custodian of an animal who: (1) is not the owner of the animal; and (2) knows or has reason to suspect that a dangerous, contagious, or infectious disease exists in the animal; shall report the existence of disease to the state veterinarian or local health officer not later than forty-eight (48) hours after discovering or having reason to suspect the disease exists. (c) A local health officer who receives a report from a person under this section shall report the disease within twenty-four (24) hours to the state veterinarian.	<i>From:</i> Ind. Code 15-17-10-1
<i>B. Reporting Animal Diseases Caused by Terrorism</i>		
Communicable Diseases	Every veterinarian, livestock owner, veterinary diagnostic laboratory director, or other person having the care of animals must report animals having or suspected of having any disease that may be caused by chemical terrorism, bioterrorism, radiological	<i>From:</i> S.C. Code Ann 46-7-100

Approach Type	Drafting Example	Example References
	terrorism, epidemic or pandemic disease, or novel and highly fatal infectious agents and might pose a substantial risk of a significant number of human or animal fatalities or incidents of permanent or long-term disability. The state veterinarian must report to the [department of health] any incidents which affect public health, or which create a public health emergency.	

CHAPTER 5 | OUTBREAK INVESTIGATION

5.0 Introduction to Outbreak Investigation Activities

The outbreak investigation function is the process of determining the disease agent that caused an outbreak, the food “vehicle” (or other vehicle like water) that carried the disease agent, the number and distribution of ill persons, and the mechanism and underlying cause of the food contamination. Investigation processes at the local and state levels include initial and follow-up data collection through interviews, record reviews, laboratory testing and environmental assessments, followed by data analysis.

This chapter opens by discussing authorities and methods for investigating outbreaks. Next, it details the measures available for investigating persons, premises, products, and animals. The chapter then reviews various approaches to accessing and releasing information during an outbreak. It concludes with options for sharing information and resources among jurisdictions.

5.1 Authority to Investigate Foodborne Disease Outbreaks

5.1.1 Description of the Issue

States have some type of legal authority and mandate to investigate diseases and other health hazards. General public health laws that grant health and other agencies general power to protect public health or control communicable diseases are the broadest grant of legal authority. Communicable disease laws and food and food safety laws have more specific grants of authority that permit health or other agencies to conduct investigations of foodborne disease events. Legal authorities to conduct investigations also may be located in statutes and regulations intended for licensing and ongoing inspections of food production operations or food establishments. The circumstances under which and the extent to which the authority to inspect or investigate is allowed will depend on where the authority is found and how it is interpreted in a particular state.

Chapter 5 | Key Definitions

- **Administrative/Judicial Process**—The rights of a person or business to reasonable opportunity to be informed about, comment on, and challenge a government’s action.

5.1.2 State Authority to Investigate—Drafting Examples*

The authority of state health and other agencies to investigate outbreaks is contained in general public health, communicable disease, and food and food safety laws. This section provides examples of language, with varying degrees of specificity, authorizing states to conduct investigations. It also addresses liability protections for persons conducting public health activities.

Approach Type	Drafting Examples	Example References
<i>A. Authority to Investigate</i>		
General Public Health	The state department shall supervise the health and life of the citizens of the state and shall possess all powers necessary to fulfill the duties prescribed in the statutes and to bring action in the courts for the enforcement of health laws and health rules.	<i>From:</i> Ind. Code 16-19-3-1
General Public Health	To assure compliance with laws enforced by the department, the department may inspect, investigate, or authorize an inspection or investigation to be made of any	<i>From:</i> Mich. Consol. Laws

* Please see Section 1.5.2 “Chapter Features” for important information about the drafting examples and referenced sources.

Approach Type	Drafting Examples	Example References
	matter, thing, premises, place, person, record, vehicle, incident, or event.	§333.2241 <i>See also:</i> Miss. Code §41-3-15; Ore. Rev. Stat. 431.110; R.I. Gen. Laws §23-1-1
General Public Health	The state department may make sanitary inspections and surveys throughout the state and of all public buildings and institutions. After due notice is given, the state department may enter upon and inspect private property in regard to the presence of cases of infectious and contagious diseases and the possible cause and source of diseases.	<i>From:</i> Ind. Code 16-19-3-7
General Public Health	The state board of health is authorized to inspect all markets, dairies, milk depots, slaughter pens or houses and whenever insanitary conditions in any of these places, institutions or establishments or conditions prejudicial to health, or likely to become so, are found, proper steps shall be taken by the proper authorities to have such conditions corrected or abated.	<i>From:</i> Ala. Code §22-2-2
Communicable Disease	The board of health or its designated agents must investigate the reported causes of communicable or epidemic disease and must enforce or prescribe those preventive measures as may be needed to suppress or prevent the spread of these diseases by proper quarantine or other measures of prevention, as may be necessary to protect the citizens of the state.	<i>From:</i> S.C. Code Ann. 44-1-80 <i>See also:</i> Ala. Code §22-2-2; Idaho Code §56-1009; Tex. Health and Safety Code §81.061
Communicable Disease	The department shall take cognizance of the interests of life, health, comfort and convenience among the citizens of the state; shall conduct sanitary investigations and investigations as to the causes of disease, and especially of epidemics, and the sale of food and drugs and adulterations thereof; and shall disseminate such information relating thereto as it considers proper.	<i>From:</i> Mass. Gen. Laws c.111, §5
Food and Food Safety	The food and cosmetics act authorizes the commissioner of agriculture or his representatives to enter at reasonable times and inspect, take samples, and access records at any factory, warehouse or establishment in which food is manufactured, processed, packaged, or held for introduction into commerce or after introduction or enter any vehicle being used to transport or hold food in commerce.	<i>From:</i> S.C. Code Ann. 39-25-190 <i>See generally:</i> A state's food, drug, and cosmetic law and equivalent provisions for similar authorities
Food and Food Safety	Agents of the department are authorized to enter any retail food establishment during business hours and at other times during which activity is evident to determine compliance with these rules and regulations.	<i>From:</i> Colo. Code of Reg. 11-202 <i>See generally:</i> A state's regulatory or statutory adoption of the FDA Retail Food Code for similar authorities
<i>B. Authority to Identify and Investigate Nuisances</i>		
General Public Health	State and local health boards and officers are authorized to identify and abate public health nuisances. Public health nuisances include unwholesome or decayed food stuffs and businesses operating as a menace to public health.	<i>From:</i> Ala. Code §22-2-2, §22-10-1, §22-10-2
Communicable Disease	The state board of health, when informed by a county health officer, or otherwise, of the existence of any matter or thing calculated to produce, aggravate, or cause the	<i>From:</i> Miss. Code §41-23-13

Approach Type	Drafting Examples	Example References
	spread of any epidemic or contagious disease, or to affect injuriously the health of the public or community, may declare the same a nuisance.	
<i>C. Liability and Immunity Protections</i>		
General Public Health	The director of health and his or her duly authorized agents, individually and severally, and when acting in good faith and without malice, shall not be personally liable for damages because of any act undertaken in the lawful performance of official duties. Any suit or other legal action against the director and his or her duly authorized agents, because of any act performed by them, individually or severally, in the lawful performance of official duties, shall be defended at state expense until the final termination of proceedings.	<i>From:</i> R.I. Gen. Laws §23-1-32 <i>See generally:</i> A state's laws or constitutional provisions addressing sovereign immunity and tort claims acts

5.1.3 Local Authority to Investigate—Drafting Examples

Depending on how a state structures its public health system (i.e., centralized, decentralized, shared/mixed), local health departments may have their own statutory and regulatory authority over public health investigations. State laws may also grant powers to local health departments while retaining authority to coordinate and, when necessary, to intervene in local health investigations.

Approach Type	Drafting Examples	Example References
<i>A. Authority of Localities</i>		
General Governmental	All cities and towns of this state shall have the power to prohibit and prevent the gift, barter, sale, or display of impure or adulterated foods and drinks and of diseased or unsound meats or decayed fruits and vegetables or impure, adulterated, unsound, or unwholesome articles of food or drink of any kind and to provide all such inspection laws as may be deemed advisable or necessary and to prescribe and require the payment of all such reasonable fees as may be necessary to defray the expenses of carrying out the powers granted in this section.	<i>From:</i> Ala. Code §11-47-136
General Governmental	All cities and towns of this state shall have the power to establish, regulate and control markets and market houses and to require and provide for the proper inspection of food products and articles offered for sale or barter within the police jurisdiction of the city or town and for the punishment of persons or corporations offering for sale unsound or unwholesome articles in markets or other places in the city or town or within the police jurisdiction thereof.	<i>From:</i> Ala. Code §11-47-137
General Public Health	The duties of county health agencies include, but are not limited to: administering and enforcing the laws to investigate and control the causes of epidemic or communicable diseases and conditions affecting public health; and to make necessary sanitation and health investigations and inspections, on its own initiative or in cooperation with the state department, for matters affecting public health that are within the jurisdiction and control of the agency.	<i>From:</i> Colo. Rev. Stat. §25-1-506
General Public Health	County health boards and county health officers are authorized to investigate and abate public health nuisances and outbreaks of notifiable diseases, and oversee the sanitary conditions of food services establishments.	<i>From:</i> Ala. Code §22-3-2
General Public Health	District boards of health are empowered to, among other things, administer and enforce state laws, preserve and protect public health, and cooperate with state health and environmental agencies. District boards of health are granted the same duties and powers regarding quarantine within the district as the state.	<i>From:</i> Idaho Code 39-414, 39-415
Communicable Disease	In response to each report of a reportable disease, the local public health administrator shall assure that investigations and control measures, as prescribed by state health department rules, shall be conducted.	<i>From:</i> Ore. Rev. Stat. 433.006
<i>B. State Authority over Localities</i>		
General	The director of the state department of health shall take direct charge of the functions	<i>From:</i>

Approach Type	Drafting Examples	Example References
Public Health	that are necessary to preserve the public health in any county or district whenever any county or district official fails or refuses to administer or enforce the public health laws or rules that the director or board is charged to enforce.	Ore. Rev. Stat. 431.170
General Public Health	When, in the opinion of the state department: (1) a local health authority fails or refuses to enforce the laws and rules necessary to prevent and control the spread of communicable or infectious disease declared to be dangerous to the public health; or (2) a public health emergency exists; the state department may enforce the orders and rules of the state department within the territorial jurisdiction of the local health authorities. In that situation, the state department may exercise all the powers given by law to local health authorities.	<i>From:</i> Ind. Code 16-19-3-12
Communicable Disease	The state board of health may take charge of the investigation of an epidemic or of the suppression thereof, or both, whenever, in the opinion of the state health officer, the public welfare requires such a course of action and, in that event, shall have and exercise all the power and authority that the county board of health and county health officer would have in the premises.	<i>From:</i> Ala. Code §22-11A-5

5.2 Required Methods and Processes for Investigating an Outbreak

5.2.1 Description of the Issue

State statutory or regulatory provisions may specify the methods or processes authorized or required to be used during the investigation of a public health threat or foodborne disease outbreak. Specific investigative measures authorized or mandated by law can include record reviews, sampling, testing, examination, creating a photographic or other visual record, and other measures.

5.2.2 Required Methods and Processes for Investigating—Drafting Examples

This table provides examples of different methods and processes authorized, as well as any limits on the authorized measures.

Approach Type	Drafting Examples	Example References
<i>A. Methods and Processes Authorized</i>		
General Public Health	The director of environmental management and the director of health have the power to administer oaths, summon and examine witnesses and order the production and examination of books, accounts, papers, records and documents in any proceeding within the jurisdiction of these directors.	<i>From:</i> R.I. Gen. Laws §2-1-11 <i>See also:</i> Tex. Health and Safety Code §12.002
Communicable Disease	The investigation of reportable diseases may include, but is not limited to: (a) interviews of the subject of a reportable disease report, controls, health care providers, or employees of a health care facility; (b) requiring a health care provider, any public or private entity, or an individual who has information necessary for the investigation to permit inspection of the information by the authority or local public health administrator, and release the information to the authority or local public health administrator; (c) inspection, sampling and testing of real or personal property with consent of the owner or custodian of the property or with an administrative warrant. Information requested may include, but is not limited to, individually identifiable health information related to: (a) the case; (b) an individual who may be the potential source of exposure or infection; (c) an individual who has been or may have been exposed to or affected by the disease; (d) policies, practices, systems or structures that may have affected the likelihood of disease transmission; and (e) factors that may influence an individual's susceptibility to the disease or likelihood of being diagnosed with the disease.	<i>From:</i> Ore. Rev. Stat. 433.004 <i>See also:</i> R.I. Gen. Laws §23-1-2

Approach Type	Drafting Examples	Example References
Communicable Disease	<p>To accomplish the investigations required under the state’s communicable disease act, the department of health is authorized to administer oaths, summon witnesses, and compel the attendance of a witness or the production of a document and request the assistance of a county or district court to compel the attendance of a summoned witness or the production of a requested document at a hearing.</p> <p>A person authorized to conduct an investigation under the state’s communicable disease act may take samples of materials present on the premises, including soil, water, air, unprocessed or processed foodstuffs, manufactured clothing, pharmaceuticals, and household goods.</p>	<p><i>From:</i> Tex. Health and Safety Code §81.062, §81.063</p>
<i>B. Controls on Methods and Processes</i>		
Communicable Disease	<p>The director or the director's designee shall have the authority to: (a) conduct a program of continuing surveillance and of regular or periodic inspection of actual or potential health hazard; (b) enter at all reasonable times upon any private or public property, upon presentation of appropriate credentials, for the purpose of inspecting or investigating to ascertain possible violations of this chapter or of rules, permits or orders adopted and promulgated by the director or the board.</p> <p>All inspections and investigations conducted under the state’s authority of this chapter shall be performed in conformity with the prohibitions against unreasonable searches and seizures contained in the fourth amendment to the constitution of the United States and Section 17, Article I, of the constitution of the [state]. The state shall not, under the authority granted by this chapter, conduct warrantless searches of private property in the absence of either consent from the property owner or occupier or exigent circumstances such as a public health emergency.</p>	<p><i>From:</i> Idaho Code §56-1009</p>
Food and Food Safety	<p>The inspection of an establishment, including a factory, warehouse, or consulting laboratory, in which a prescription drug or restricted device is manufactured, processed, packed, or held for introduction into commerce extends to any place or thing, including a record, file, paper, process, control, or facility, in order to determine whether the drug or device: (1) is adulterated or misbranded; (2) may not be manufactured, introduced into commerce, sold, or offered for sale under this chapter; or (3) is otherwise in violation of this [law].</p> <p>An inspection [of an establishment] may not extend to: (1) financial data; (2) sales data other than shipment data; (3) pricing data; (4) personnel data other than data relating to the qualifications of technical and professional personnel performing functions under this chapter; (5) research data other than data [relating to new drugs and devices]; or (6) data relating to other drugs or devices [subject to federal law].</p> <p>The board may exempt a class of persons from inspection under this section if the board finds that inspection as applied to the class is not necessary for the protection of the public health.</p>	<p><i>From:</i> Tex. Health and Safety Code §431.042</p>

5.3 Types of Investigative Measures Authorized

5.3.1 Description of the Issue

Several types of investigative measures are authorized in state communicable disease or food and food safety laws. These include accessing premises, vehicles and records, examination of persons, and testing and sampling of products or premises. States may have similar legal authorities regarding investigative measures because these measures are fundamental to public health practice. States may have also adopted the same or similar language to federal laws like the Federal FD&C Act or model codes such as the FDA Retail Food Code.

5.3.2 Access to Premises, Vehicles, Records—Drafting Examples

State laws authorize state or local agency personnel to enter and inspect premises, vehicles and records in general public health laws, as well as in specific laws like food laws. Included in these authorities are required administrative procedures such as notice. However, these authorities also allow immediate access in emergencies or where there are imminent public health hazards. These measures can also include language addressing consequences for failing to allow required access.

Approach Type	Drafting Examples	Example References
General Public Health	For the purposes of performing their official duties, all officers and employees of the state department of health shall have the right to enter any building, conveyance, or place where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonably suspected.	<i>From:</i> Minn. Stat. §144.0535
General Public Health	The director of health is authorized to enter, examine, or survey at any reasonable time those places that he or she considers necessary to carry out his or her responsibilities. Persons who obstruct the director's inspection activities, if convicted, may be fined or imprisoned.	<i>From:</i> R.I. Gen. Laws §23-1-19 <i>See also:</i> R.I. Gen. Laws §23-1-5, §23-1-6, §23-1-10
Communicable Disease	The state department may designate an agent who may enter upon private property to inspect for and investigate possible violations of this article or a rule adopted under this article if all of the following conditions are met: (1) The agent has probable cause to believe that evidence of a health threat exists on private property. (2) The agent presents proper credentials. (3) Emergency circumstances exist or a warrant is issued. This section does not impair the authority of the state department to enter public or private property as authorized by law.	<i>From:</i> Ind. Code 16-41-5
Communicable Disease	The director or the director's designee shall have the authority to: (a) conduct a program of continuing surveillance and of regular or periodic inspection of actual or potential health hazards; and (b) enter at all reasonable times upon any private or public property, upon presentation of appropriate credentials, for the purpose of inspecting or investigating to ascertain possible violations of this chapter or of rules, permits or orders adopted and promulgated by the director or the board.	<i>From:</i> Idaho Code §56-1009
Communicable Disease	The department or a health authority may enter at reasonable times and inspect within reasonable limits a public place in the performance of that person's duty to prevent or control the entry into or spread in this state of communicable disease by enforcing this chapter or the rules of the board adopted under this chapter. In this section, "a public place" means all or any portion of an area, building or other structure, or conveyance that is not used for private residential purposes, regardless of ownership.	<i>From:</i> Tex. Health and Safety Code §81.064
Communicable Disease	For an investigation or inspection, the commissioner, an employee of the department, or a health authority has the right of entry on land or in a building, vehicle, watercraft, or aircraft and the right of access to an individual, animal, or object that is in isolation, detention, restriction, or quarantine instituted by the commissioner, an employee of the department, or a health authority or instituted voluntarily on instructions of a private physician. A person commits an offense if the person knowingly refuses or attempts to refuse entry to the department, a health authority, or a peace officer on presentation of a valid search warrant to investigate, inspect, or take samples on premises controlled by the person or by an agent of the person acting on the person's instruction. A person commits an offense if the person knowingly conceals, removes, or disposes of an infected or contaminated animal, object, vehicle, watercraft, or aircraft that is the subject of an investigation under this chapter by the department, a health authority, or a peace officer.	<i>From:</i> Tex. Health and Safety Code §81.065, §81.067, §81.068
Food and Food Safety	For purposes of enforcement of this chapter, the commissioner or any of his authorized agents upon presenting appropriate credentials to the owner, operator, or agent in charge, may: (1) enter at reasonable times any factory, warehouse, or establishment in which food is manufactured, processed, packaged, or held for introduction into commerce or after introduction or enter any vehicle being used to	<i>From:</i> S.C. Code Ann. 39-25-190 <i>See generally:</i>

Approach Type	Drafting Examples	Example References
	transport or hold this food in commerce; (2) inspect at reasonable times and within reasonable limits and in a reasonable manner the factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling and to obtain samples necessary for the enforcement of this chapter; and (3) have access to and to copy all records of carriers in commerce showing the movement in commerce of any food, or the holding of it during or after movement, and the quantity, shipper, and consignee of it.	A state's food, drug, and cosmetic law or equivalent provisions for similar authorities

5.3.3 Testing and Sampling of Premises and Property—Drafting Examples

Food and food safety laws commonly permit collection of food and environmental samples from food establishments for testing. Laws may also allow collection of other evidence, such as photographs to document unsanitary conditions.

The investigation of premises or tangible property is subject to specific process requirements and must also take account of rights of owners or operators of the premises being investigated. Laws usually, however, allow access during emergencies or when imminent public health hazards are present.

Approach Type	Drafting Examples	Example References
Communicable Disease	A person authorized to conduct an investigation under the state's communicable disease act may take samples of materials present on the premises, including soil, water, air, unprocessed or processed foodstuffs, manufactured clothing, pharmaceuticals, and household goods. A person who takes a sample under this section shall offer a corresponding sample to the person in control of the premises for independent analysis. A person who takes a sample under this section may reimburse or offer to reimburse the owner for the materials taken. The reimbursement may not exceed the actual monetary loss to the owner.	<i>From:</i> Tex. Health and Safety Code §81.063 <i>See also:</i> Ore. Rev. Stat. 433.044
General Public Health	Upon showing official identification and ... receiving consent of the owner or occupant of the premises, a local health officer or the officer's designee may enter any premises at any reasonable time and inspect, investigate, evaluate, conduct tests, or take specimens or samples for testing that may be reasonably necessary to determine compliance with public health laws and rules and for the prevention and suppression of disease.	<i>From:</i> Ind. Code 16-20-1-23
Food and Food Safety	Upon completion of an inspection of a factory, warehouse, or other establishment, and prior to leaving the premises, the authorized agent making the inspection shall give to the owner, operator, or agent in charge a report in writing setting forth any conditions or practices observed by him which in his judgment indicate that any food or cosmetic in the establishment consists in whole or in part of any filthy, putrid, or decomposed substance or has been prepared, packaged, or held under unsanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health. A copy of the report must be sent promptly to the commissioner. If the authorized agent making an inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained. When in the course of an inspection of a factory or other establishment in which food is manufactured, processed, or packaged, the officer or employee making the inspection obtains a sample of the food and analysis is made of such sample for the purpose of ascertaining whether such food consists in whole or in part of any filthy, putrid, or decomposed substance or is otherwise unfit for food, a copy of the results of the analysis must be furnished promptly to the owner, operator, or agent in charge.	<i>From:</i> S.C. Code Ann. 39-25-190 <i>See also:</i> Colo. Rev. Stat. §25-5-421; Idaho Code §37-133; Mich. Consol. Laws §289.3131 <i>See generally:</i> A state's food, drug, and cosmetic law or equivalent provisions for similar authorities

5.3.4 Examination and Testing Persons—Drafting Examples

State communicable disease laws can contain broad grants of authority to examine and test persons known or suspected of being infected with specified communicable diseases. Food and food safety laws provide more specific powers to test and examine persons who work with food or in food establishments.

Any authority related to testing and examining persons also includes provisions addressing the rights of that person. Some laws allow persons being examined to have their own physician present and to receive copies of examination and laboratory test results. Laws may also expressly permit persons to refuse examination and testing as a matter of religious or philosophical belief. Where testing and examination are refused, state law can allow agencies to require the person infected or suspected of being infected with a communicable disease to be prohibited from handling food or excluded from the food establishment until they have medical clearance indicating that they are no longer infected or infectious. States also have general authorities to impose isolation for ill persons and quarantine for persons suspected of being exposed or infected; however, the imposition of these control measures is accompanied by substantial administrative and judicial process requirements.

Approach Type	Drafting Examples	Example References
<i>A. Authority to Test or Examine Persons</i>		
Communicable Disease	Any person who the state or county health officer has reason to believe has been exposed to any of the diseases designated under this article shall be tested. Any person who the state or county health officer has reason to believe is afflicted with any of the diseases designated under this article shall seek and accept treatment at the direction of the health officer or a physician licensed to practice medicine in the state.	<i>From:</i> Ala. Code §22-11A-23
Communicable Disease	The health officer may make an investigation of each carrier of a dangerous communicable disease to determine whether the environmental conditions surrounding the carrier or the conduct of the carrier requires intervention by the health officer or designated health official to prevent the spread of disease to others.	<i>From:</i> Ind. Code §16-41-5-2
Communicable Disease	If the state health commissioner, the state health commissioner's legally authorized agent, or local health official has reasonable grounds to believe that an individual may have a communicable disease or other disease that is a danger to health, the state health commissioner, the state health commissioner's legally authorized agent, or local health officer may ask the individual for written informed consent to be examined to prevent the transmission of the disease to other individuals.	<i>From:</i> Ind. Code §16-41-6-2
Communicable Disease	The state department of health is authorized to make examinations of persons reasonably suspected of having a communicable disease, but a person has the right to have a physician of his or her choice and expense present at the examination.	<i>From:</i> R.I. Gen. Laws §23-8-4.1
Communicable Disease	Persons under 18 years of age are able to give legal consent for testing, examination, or treatment for any reportable communicable disease.	<i>From:</i> R.I. Gen. Laws §23-8-1.1
Communicable Disease	The state public health director or a local public health administrator may require testing or medical examination of any person who may have, or may have been exposed to, a communicable disease identified by rule of the state health department to be a reportable disease, a new or uncommon disease of potential public health significance, or a condition that is the basis of a state of public health emergency declared by the governor. The state public health director or the local public health administrator must issue a written order for testing or medical examination pursuant to this section. A written order must: (a) include findings stating the communicable disease that the state public health director or the local public health administrator believes the person has and the reasons for that belief; (b) state whether medical or laboratory confirmation of the disease is feasible and possible and whether such confirmation would enable control measures to be taken to minimize infection of others with the disease; (c) include a statement that the person may refuse to submit to the testing or medical examination and that if the testing or examination is refused, the state public health director or the local public health administrator may seek the imposition of a public health measure, including isolation or quarantine.	<i>From:</i> Ore. Rev. Stat. 433.035

Approach Type	Drafting Examples	Example References
Food and Food Safety	When there is reasonable cause to suspect disease transmission by an employee of a facility, the health authority may secure a medical history of the suspected employee or make any other investigation necessary and shall take appropriate action. The health authority may require medical and laboratory examination of the employee.	<p><i>From:</i> S.C. Reg. 61-25</p> <p><i>See also:</i> Tex. Health and Safety Code §438.033</p> <p><i>See generally:</i> A state’s regulatory or statutory adoption of the FDA Retail Food Code or the most recent version of the FDA Retail Food code for similar authorities</p>
<i>B. Limitations on Testing and Examination</i>		
Communicable Disease	A person commits an offense if the person knowingly conceals or attempts to conceal from the department, a health authority, or a peace officer, during the course of an investigation under this chapter, the fact that: (1) the person has, has been exposed to, or is the carrier of a communicable disease that is a threat to the public health; or (2) a minor child or incompetent adult of whom the person is a parent, managing conservator, or guardian has, has been exposed to, or is the carrier of a communicable disease that is a threat to the public health. An offense under this section is a class B misdemeanor.	<p><i>From:</i> Tex. Health and Safety Code §81.066</p>
Communicable Disease	Except as otherwise provided in law, this article or the rules promulgated under it shall not be construed to require the medical treatment, testing, or examination of an individual who objects on the grounds that the medical treatment, testing, or examination violates the personal religious beliefs of the individual or of the parent, guardian, or person in loco parentis of a minor. This section does not exempt an individual from compliance with applicable laws, rules, or regulations regarding sanitation and the reporting of diseases as provided by this code.	<p><i>From:</i> Mich. Consol. Laws §333.5113</p>
<i>C. Refusal of Testing or Examination</i>		
Communicable Disease	If a person refuses to be examined, a court may compel examination upon a showing of clear and convincing evidence of a present health threat. If the individual, when requested, refuses such an examination, the state health commissioner, the state health commissioner’s legally authorized agent, or local health officer may compel the examination only upon a court order based on clear and convincing evidence of a serious and present health threat to others posed by the individual. A hearing held under this section shall be held in camera at the request of the individual.	<p><i>From:</i> Ind. Code 16-41-6-2</p>

5.4 Accessing and Releasing Records and Privacy Considerations

5.4.1 Discussion of the Issue

The ability of public health officials to access records, such as medical records, laboratory test results, and sanitary inspection results, as well as information, such as consumer information from stores and food establishments is fundamental to their ability to detect, investigate and respond to foodborne disease outbreaks. Public health officials need access to these types of records and information to identify infected persons and implicated foods, and to craft appropriate control measures.

Privacy and confidentiality concerns can raise questions about public health officials’ ability to access records and other information and to disclose information while communicating with the public and others about a foodborne disease outbreak. These concerns are multiplied when officials wish to share information across state lines. This section reviews the authorities and limits on accessing and sharing data

in state open records laws, state privacy laws, and in relevant provisions of communicable disease and food and food safety laws.

5.4.2 State Open Records Laws—Drafting Examples

All states have some type of open records or open government laws in addition to specific provisions in other state statutes relating to records access, disclosure, and confidentiality. This section provides examples of state laws, including official definitions of “public record” and provisions addressing public access to results of food inspections and other sanitary reports. Categories of documents excepted from the definition of public records are addressed in the next section.

Approach Type	Drafting Examples	Example References
<i>A. Release of Public Records and Information</i>		
General Government	All government data collected, created, received, maintained or disseminated by a government entity shall be public unless classified by statute, or temporary classification, or federal law, as nonpublic or protected nonpublic, or with respect to data on individuals, as private or confidential.	<p><i>From:</i> Minn. Stat. §13.06</p> <p><i>See also:</i> Ala. Code §36-12-40; Co. Rev. Stat. §24-72-201; Mass. Gen. Laws c.66, §10; Ore. Rev. Stat. 192.420</p>
General Government	Every person has a right to examine and take a copy of any public record of this state and there is a presumption that all public records in the state are open at all reasonable times for inspection except as otherwise expressly provided by statute.	<p><i>From:</i> Idaho Code § 9-338</p> <p><i>See also:</i> Ind. Code 5-14-3-1; Miss. Stat. §25-61-1, §25-61-2; R.I. Gen. Laws §38-2-1; S.C. Code Ann. 30-4-30; Tex. Govt. Code §552.001</p>
General Government	All persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees, consistent with this act. A “public body” includes state and local agencies.	<p><i>From:</i> Mich. Consol. Laws §15.231, §15.232</p>
General Government	A state agency shall publish and make available to the public all of the following: (a) final orders or decisions in contested cases and the records on which they were made; (b) promulgated rules; (c) other written statements which implement or interpret laws, rules, or policy, including but not limited to guidelines, manuals, and forms with instructions, adopted or used by the agency in the discharge of its functions.	<p><i>From:</i> Mich. Consol. Laws §15.241</p>
General Government	The act holds data received by the state department of agriculture from HHS, FDA and USDA FSIS that is necessary for the purpose of carrying out the department of agriculture's statutory food safety regulatory and enforcement duties are classified as nonpublic data and private data on individuals. However, this section does not preclude the obligation of the department of agriculture to appropriately inform consumers of issues that could affect public health.	<p><i>From:</i> Minn. Stat. §13.643</p>
General Government	Data collected and maintained by the board of animal health regarding the registration and identification of animal and premises is considered private or nonpublic data except that the board of animal health may disclose animal and premises data to any person, agency, or to the public if the board determines that the access will aid in the law enforcement process or the protection of public or animal health or safety.	<p><i>From:</i> Minn. Stat. §13.643</p>

Approach Type	Drafting Examples	Example References
<i>B. Public Information and Records Defined</i>		
General Government	A “public record” is a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created.	<i>From:</i> Mich. Consol. Laws §15.232
General Government	A “public record” includes, but is not limited to any writing containing information relating to the conduct or administration of the public’s business prepared, owned, used or retained by any state agency, independent public body corporate and politic or local agency regardless of physical form or characteristics.	<i>From:</i> Idaho Code §9-337 <i>See also:</i> Mass. Gen. Laws c.4, §7; Miss. Code §25-61-3; Tex. Govt. Code §552.002
General Government	A “public record” is any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.	<i>From:</i> Ind. Code 5-14-3-2 <i>See also:</i> Colo. Rev. Stat. §24-72-202; Ore. Rev. Stat. 192.410; S.C. Ann. Code 30-4-20
<i>C. Results of Food and Sanitary Inspections</i>		
Food and Food Safety	The health officer is hereby authorized to enter any establishment governed by this section, at any time, for the purpose of inspection and is further authorized to score or grade such establishment and to post or publicly announce such score or grade. It shall be unlawful for anyone except the health officer to remove a posted score or grade, or for anyone to deface or falsely advertise a posted score or grade or to hinder a health officer or his representative in the performance of his duty.	<i>From:</i> Ala. Code §22-20-5
General Public Health	<p>State department of health inspection reports may be released after a specified waiting period, unless they must be released earlier to protect against public health threats and other conditions.</p> <p>Except as provided in this section, until the recipient of an inspection report has had ten (10) calendar days to respond to the inspection report the state department may not release to the public: (1) the inspection report; or (2) records relating to the inspection. The state department shall release to the public an inspection report and records relating to the inspection earlier than [ten calendar days] if the state department determines that the release is necessary to: (1) protect the public from an imminent threat to health or safety; (2) protect the consumers of health services from an imminent threat to health or safety; or (3) protect the public from a gross deception or fraud.</p> <p>The state department shall release to the public an inspection report and records relating to the inspection earlier than [ten calendar days]: (1) if the state department orders closure of a regulated entity; or (2) after receipt of the regulated entity’s written consent to the release of the inspection report and records relating to the inspection.</p> <p>With respect to a recipient of an inspection performed by the state department, the [ten calendar days] period begins as follows: (1) If the inspection report is personally delivered to the recipient, on the date of delivery. (2) If the inspection report is deposited in the United States mail, three (3) days after the date of deposit in the United States mail. After an inspection report is released under this section, the inspection report and records relating to the inspection may be inspected and copied as set forth in [the state’s open records law].</p>	<i>From:</i> Ind. Code 16-19-3-25

5.4.3. Exceptions to State Open Records Laws—Drafting Examples

Information typically excluded from the definition of “public record” includes personally identifiable information, medical records, and trade secrets and other proprietary business information. Pre-decisional materials (e.g., notes, preliminary investigation findings) may not be considered public records; however,

final reports and orders are considered public documents. This section highlights different types of exceptions to state open records laws.

Approach Type	Drafting Examples	Example References
General Governmental	The following records are exempt from disclosure, including records of the department of health and welfare or a public health district that identify a person infected with a reportable disease; records of hospital care, medical records, including prescriptions, drug orders, records or any other prescription information that specifically identifies an individual patient; and prescription records maintained by the board of pharmacy.	<i>From:</i> Idaho Code §9-340C <i>See also:</i> Colo. Rev. Stat. §24-72-204; Ore. Rev. Stat. 192.502
General Governmental	Any records of ongoing civil or administrative investigations conducted by the state or an agency of the state in furtherance of their statutory authority to protect the public health, welfare, or safety are exempt from disclosure unless the investigation focuses on a person or persons inside of the investigative agency. However, nothing in this section prohibits an agency from disclosing information or materials during an open investigation if it is in the interest of public health, welfare, or safety.	<i>From:</i> Colo. Rev. Stat. §24-72-204
General Governmental	Any public record exempt from disclosure by federal or state law or federal regulations is exempt from disclosure by the state to the extent specifically provided for by such law or regulation.	<i>From:</i> Idaho Code 9-340A <i>See also:</i> Ind. Code §5-14-3-4; Ore. Rev. Stat. 192.502
General Governmental	Trade secrets and other proprietary business information are exempt from public disclosure.	<i>From:</i> Idaho Code §9-340D <i>See also:</i> Ind. Code 5-14-3-4; Miss. Code §25-61-9; Tex. Govt. Code §552.111
General Governmental	Certain public records may be made exempt from disclosure at the discretion of a public agency.	<i>From:</i> Ind. Code 5-14-3-4
General Governmental	The following materials or data, among others, are exempted from the definition of public records: inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency, but this subclause shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based; and investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest.	<i>From:</i> Mass. Gen. Laws c.4, §7 <i>See also:</i> Ore. Rev. Stat. 192.502; R.I. Gen. Laws §38-2-2
General Governmental	Information or records subject to the physician-patient privilege, the psychologist-patient privilege, the minister, priest, or Christian Science practitioner privilege, or other privilege recognized by statute or court rule are exempt from public disclosure.	<i>From:</i> Mich. Consol. Laws §15.243

5.4.4 State Privacy Laws—Drafting Examples

State law may include specific statutory or regulatory provisions addressing the privacy of specific types of information, such as health records. These laws can include provisions directing individual state agencies to create regulations or guidelines governing the use and protection of information covered under the state’s privacy law. These laws are in addition to specific provisions in other laws—general public health, communicable disease, food and food safety—that may address the privacy and confidentiality of specific types of data (e.g., reportable disease data).

Approach Type	Drafting Examples	Example References
General Governmental	Each governmental entity of the state shall create a privacy policy for the purpose of standardizing within such governmental entity the collection, storage, transfer, and use of personally identifiable information by such governmental entity. "Personally identifiable information" is information about an individual collected by a governmental entity that could reasonably be used to identify such individual, including, but not limited to, first and last name, residence or other physical address, electronic mail address, telephone number, birth date, credit card information, and social security number. However, notwithstanding any provision to the contrary, personally identifiable information shall not include information collected in furtherance of any regulatory, investigative, or criminal justice purpose, information collected in furtherance of litigation in which the state is a party, or information that is required to be collected pursuant to any state or federal statute or regulation.	<i>From:</i> Colo. Rev. Stat. §24-72-501, §24-72-502 <i>See also:</i> Mass. Gen. Laws c.4, §66A
General Governmental	All state agencies, boards, commissions, institutions, departments, and other state entities, by whatever name known, must develop privacy policies and procedures to ensure that the collection of personal information pertaining to citizens of the state is limited to such personal information required by any such agency, board, commission, institution, department, or other state entity and necessary to fulfill a legitimate public purpose. "Personal information" is information that identifies or describes an individual including, but not limited to, an individual's photograph or digitized image, social security number, date of birth, driver's identification number, name, home address, home telephone number, medical or disability information, education level, financial status, bank account numbers, account or identification number issued by or used, or both, by any federal or state governmental agency or private financial institution, employment history, height, weight, race, other physical details, signature, biometric identifiers, and any credit records or reports.	<i>From:</i> S.C. Code Ann. 30-2-20, 30-2-30

5.4.5 Access to Data for Public Health Investigations—Drafting Examples

Some state open records laws or other statutes allow state or local officials investigating disease outbreaks and other public health hazards to access records that might otherwise be considered private, confidential, or unavailable. Such statutes may provide an exception to privacy laws or expressly grant such authority. Customer lists, consumer purchase data, restaurant patron lists or like information can fall within the category of nonmedical or business data open to access during an outbreak investigation. Legislative provisions also address expedited access during public health and other emergencies as defined by a state.

Note: In addition to the information in this chart, please see Section 4.3.6 regarding access, use and sharing of information gathered under state communicable disease reporting requirements.

Approach Type	Drafting Examples	Example References
<i>A. Access to Data for Public Health Investigations</i>		
General Public Health	The department of health is granted upon request, full access to the medical records, tumor registries, and other special disease record systems maintained by physicians, hospitals, and other health facilities as necessary to carry out its investigation of diseases including epidemic and endemic diseases as the state is liable to suffer from and the influence of climate, location, and occupations, habits, drainage, scavenging, water supply, heating, and ventilation. No physician, hospital, or health facility, or person in charge of these records is liable in any action-at-law for permitting the examination or review. Patient-identifying information elicited from these records and registries must be kept confidential by the department and it is exempt from the state's open record requirements	<i>From:</i> S.C. Code Ann. 44-1-110
Communicable Disease	Any physician, hospital, laboratory, or other provider of medical services having rendered treatment, care, diagnostic or laboratory services to any person suspected of having a notifiable disease or health condition shall make his or its records on that	<i>From:</i> Ala. Code §22-11A-4

Approach Type	Drafting Examples	Example References
	individual readily available to the state health officer or his designee.	
Communicable Disease	State and local public health agency staff who are investigating communicable diseases and conditions reported, may, without patient consent, inspect, have access to, and obtain information from pertinent patient medical, coroner, and laboratory records in the custody of all medical practitioners, veterinarians, coroners, institutions, hospitals, agencies, laboratories, and clinics, whether public or private, which are relevant and necessary to the investigation.	<i>From:</i> Colo. Rev. Stat. §25-1-122
Food and Food Safety	The director may examine the records of the food establishment to obtain pertinent information about food, supplies, and equipment purchased, received, or used by, or pertaining to, persons employed by the food establishment or location. The director may take photographs or copy records as part of an evaluation. When a food establishment identifies by written document or mark that a certain area or record contains visible trade secrets, the director shall identify any photographs of that area or record as being confidential and shall diligently protect the confidentiality.	<i>From:</i> Mich. Consol. Laws §289.2111
<i>B. Access to Data in Emergencies or Epidemics</i>		
General Public Health	The board of health and its agents must have full access to medical records and nonmedical records when necessary to investigate the causes, character, and means of preventing the spread of a qualifying health event or public health emergency. For purposes of this item, "nonmedical records" mean records of entities, including businesses, health facilities, and pharmacies, which are needed to adequately identify and locate persons believed to have been potentially exposed or known to have been infected with a contagious disease.	<i>From:</i> S.C. Code Ann. 44-1-80
Communicable Disease	In times of emergency or epidemic declared by the commissioner, the department of public health is authorized to request information pertaining to names, dates of birth, and most recent addresses of individuals from the driver's license records of the department of public safety for the purpose of notification to individuals of the need to receive certain immunizations or diagnostic, evaluation, or treatment services for suspected communicable diseases.	<i>From:</i> Tex. Health and Safety Code §81.011

5.4.6 Sharing and Release of Data during Public Health Investigations—Drafting Examples

States may have statutes specifying the types of information and the conditions under which public health officials can release or share information obtained during communicable disease or other public health investigations. These provisions, for example, may authorize state or local public health administrators to release information obtained during an investigation of a communicable disease or a disease outbreak to other authorized state, local, or federal officials; health care practitioners; law enforcement personnel; the exposed person; or even the public. This type of provision provides clear permission and guidelines for the release and sharing of information during a public health investigation. Alternatively, general public health and governmental legal authorities can allow state or local agencies to share information amongst themselves or with other jurisdictions. However, these general governmental authorities may not explicitly address information-sharing across state lines, as may be necessary in multistate outbreaks.

Note: In addition to the information in this chart, please see Section 4.3.6 regarding access, use and sharing of information gathered under state communicable disease reporting requirements.

Approach Type	Drafting Examples	Example References
<i>A. Release of Data</i>		
General Government	The commissioner or a local board of health may disclose health data to the data subject's physician as necessary to locate or identify a case, carrier, or suspect case, to establish a diagnosis, to provide treatment, to identify persons at risk of illness, or to conduct an epidemiologic investigation. With the approval of the commissioner, health data may be disclosed to the extent necessary to assist the commissioner to locate or identify a case, carrier, or suspect case, to alert persons who may be threatened by	<i>From:</i> Minn. Stat. §13.384, §13.3805

Approach Type	Drafting Examples	Example References
	<p>illness as evidenced by epidemiologic data, to control or prevent the spread of serious disease, or to diminish an imminent threat to the public health.</p> <p>“Health data” is data on individuals created, collected, received, or maintained by the department of health, political subdivisions, or statewide systems relating to the identification, description, prevention, and control of disease or as part of an epidemiologic investigation the commissioner designates as necessary to analyze, describe, or protect the public health.</p> <p>“Medical data” is data collected because an individual was or is a patient or client of a hospital, nursing home, medical center, clinic, health or nursing agency operated by a government entity including business and financial records, data provided by private health care facilities, and data provided by or about relatives of the individual. Medical data can be disclosed in certain circumstances, including those specified for health data.</p>	
General Public Health	The director is authorized to publish and circulate information that the director may deem to be important and useful for diffusion among the people of the state, and shall investigate and give advice in relation to those subjects relating to public health that may be referred to it by the general assembly or by the governor when the general assembly is not in session, or when requested by any city or town.	<i>From:</i> R.I. Gen. Laws §23-1-1
Communicable Disease	Medical or epidemiological information may be released: (1) for statistical purposes if released in a manner that prevents the identification of any person; (2) with the consent of each person identified in the information; (3) to medical personnel treating the individual, appropriate state agencies in this state or another state, a health authority or local health department in this state or another state, or federal, county, or district courts to comply with this chapter and related rules relating to the control and treatment of communicable diseases and health conditions or under another state or federal law that expressly authorizes the disclosure of this information; (4) to appropriate federal agencies, such as the Centers for Disease Control and Prevention of the United States Public Health Service, but the information must be limited to the name, address, sex, race, and occupation of the patient, the date of disease onset, the probable source of infection, and other requested information relating to the case or suspected case of a communicable disease or health condition; or (5) to medical personnel to the extent necessary in a medical emergency to protect the health or life of the person identified in the information.	<i>From:</i> Tex. Health and Safety Code §§81.046 <i>See also:</i> Ind. Code 16-19-10-7, 16-19-10-8; Ore. Rev. Stat. 433.008
Food and Food Safety	The state health commissioner or the commissioner's legally authorized agent may cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the opinion of the state health commissioner or the commissioner's legally authorized agent, imminent danger to health or gross deception of, or fraud upon, the consumer.	<i>From:</i> Ind. Code 16-42-1-15 <i>See generally:</i> A state's food, drug, and cosmetic law or equivalent provisions for similar authorities
<i>B. Release to Other Agencies</i>		
Communicable Disease	<p>Whenever a local health department or health agency learns of a case of a reportable disease or an epidemic or communicable disease exposure potentially threatening the public health, it shall notify the state department of health in a timely manner, usually within the timeframe for reporting as specified in the regulation defining reportable diseases. The state department of health shall, in turn, notify the appropriate local health department or agency in a timely manner, usually within the timeframe for reporting reportable disease, whenever it learns of a case of a reportable disease or it learns of an epidemic or communicable disease exposure potentially threatening the public health. These requirements shall not apply if the state and local health agencies mutually agree not to share information on reported cases.</p> <p>Sharing of medical information on persons with reportable diseases between authorized personnel of state and local health departments shall be restricted to information necessary for the treatment, control, investigation, and prevention of epidemic and communicable diseases dangerous to the public health.</p>	<i>From:</i> 6 Colo. Code Reg. 1009-1, Reg. 6
<i>C. Release During Emergencies or Epidemics</i>		

Approach Type	Drafting Examples	Example References
Communicable Disease	Reports, records, and information relating to cases or suspected cases of diseases or health conditions may be released to the extent necessary during a public health disaster to law enforcement personnel solely for the purpose of protecting the health or life of the person identified in the report, record, or information. Only the minimum necessary information may be released under this subsection, as determined by the health authority, the local health department, or the department.	<i>From:</i> Tex. Health and Safety Code §§81.046

5.5 Inter-jurisdictional Cooperation and Agreements

5.5.1 Discussion of Issue

State law recognizes a variety of legal mechanisms to permit agencies and jurisdictions to act cooperatively. A state may have general legal authorities permitting it to enter into inter-jurisdictional contracts or other types of interstate agreements. Some states permit state agencies to enter into contracts with agencies in other states or even with agencies in other countries.

States may have legal authorities permitting state agencies or local governments to enter into other types of interstate agreements such as mutual aid or data-sharing agreements. Specific provisions of state law may also allow agencies or localities to share information across state lines in a disease investigation or emergency.

5.5.2 Inter-jurisdictional Cooperation and Agreements—Drafting Examples

This section provides examples of legislative language addressing inter-jurisdictional agreements, including language addressing the approval required for a governmental unit to use the specified inter-jurisdictional approach.

Approach Type	Drafting Examples	Example References
<i>A. Inter-jurisdictional Cooperation Agreements and Contracts</i>		
General Governmental	In performing a duty imposed upon it, in exercising a power conferred upon it or in administering a policy or program delegated to it, a unit of local government or a state agency of this state may cooperate for any lawful purpose, by agreement or otherwise, with a unit of local government or a state agency of this or another state, or with the United States, or with a United States governmental agency, or with an American Indian tribe or an agency of an American Indian tribe. This power includes power to provide jointly for administrative officers.	<i>From:</i> Ore. Rev. Stat. 190.110 <i>See also:</i> Ala. Code §11-1-10; Mass. Gen. Laws c.40, §4A; Miss. Code §17-13-3; Ore. Rev. Stat. 190.420
General Governmental	A power that may be exercised by a state political subdivision and by one (1) or more other governmental entities may be exercised: (1) by one (1) or more entities on behalf of others; or (2) jointly by the entities. Entities that want to do this must, by ordinance or resolution, enter into a written agreement. The state's laws on interlocal cooperation apply to: (1) the state; (2) all political subdivisions; (3) all state agencies; (4) any of the following created by state law: (a) public instrumentalities, (b) public corporate bodies; (5) another state to the extent authorized by the law of that state; (6) political subdivisions of other states, to the extent authorized by laws of the other states; (7) agencies of the federal government, to the extent authorized by federal laws. The attorney general must approve agreements that involve agreements with governmental entities outside of the state. Interlocal agreements that involve services or facilities with state agencies must be approved by the involved state officer or state department.	<i>From:</i> Ind. Code 36-1-7-1, 36-1-7-4, 36-1-7-5 <i>See also:</i> Colo. Rev. Stat. 29-1-401; Minn. Stat. §471.59
General Governmental	State law authorizes the creation of a statewide public safety mutual aid agreement to create a framework for the provision of mutual aid assistance among the parties to the	<i>From:</i> Mass. Gen. Laws

Approach Type	Drafting Examples	Example References
	agreement in the case of a public safety incident that municipalities can join. Assistance provided for includes, but is not limited to, fire service, law enforcement, emergency medical services, public health, health, and medical services. A “public safety incident” is defined as an event, emergency or natural or man-made disaster, that threatens or causes harm to public health, safety or welfare and that exceeds, or reasonably may be expected to exceed, the response or recovery capabilities of a governmental unit including, but not limited to, a technological hazard, planned event, civil unrest, health-related event and an emergency, act of terrorism and training and exercise that tests and simulates the ability to manage, respond to or recover from any such event.	c.40, Mass. Gen. Laws c.40, §4J
General Public Health	The state department of agriculture may enter into contracts and other agreements with authorized departments and agencies of this state and other states, units of local government, Indian tribes, public and private corporations and other persons of this state, in connection with the administration of laws of this state, including but not limited to laws relating to the inspection, production, processing, marketing, testing and distribution of agricultural products and to the control or eradication of plant and animal diseases and pests.	<i>From:</i> Ore. Rev. Stat. 561.240
Communicable Disease	If an area under an area quarantine includes territory in an adjacent state, the department may enter into cooperative agreements with the appropriate officials or agencies of that state to: (1) exchange morbidity, mortality, and other technical information; (2) receive extra-jurisdictional inspection reports; (3) coordinate disease control measures; (4) disseminate instructions to the population of the area, operators of interstate private or common carriers, and private vehicles in transit across state borders; and (5) participate in other public health activities appropriate to arrest, control, and eradicate the threat to the public health.	<i>From:</i> Tex. Health and Safety Code §81.085
Food and Food Safety	The department may enter into agreements with other states and the federal government to provide and accept food safety assistance, including the training of personnel. Any employee of the department assigned to food safety duties or training programs outside this state shall be considered to be working inside this state for purposes of compensation and any other employee benefits.	<i>From:</i> Mich. Gen. Laws §289.2132
<i>B. International Agreements</i>		
General Governmental	Any power or powers, privileges or authority exercised or capable of exercise by a state agency in this state may be exercised and enjoyed jointly with a nation or a public agency in any nation other than the United States, to the extent that the laws of the United States and of the other nation do not prohibit such joint exercise or enjoyment. A state agency may enter into an agreement with another nation or public agency of another nation for joint and cooperative action. A “state agency” is defined as every state officer, board, commission, department, institution, branch or agency of state government whose costs are paid wholly or in part from funds held in the state treasury. The attorney general must review international agreements entered into by state agencies before taking effect.	<i>From:</i> Ore. Rev. Stat. 190.480, 190.485, 190.490 <i>See also:</i> Tex. Govt. Code §792.002

CHAPTER 6 | OUTBREAK CONTROL

6.0 Introduction to Outbreak Control Activities

The outbreak control function involves identifying and implementing measures to mitigate and stop foodborne disease events. Control measures include the recall, embargo or destruction of foods known to be or suspected of being hazardous and the exclusion or restriction of infected food personnel.

This chapter (1) describes legal authorities for state and localities to control outbreaks, and (2) reviews specific outbreak control authorities over persons, products, and premises.

6.1 Authority to Control an Outbreak

6.1.1 Discussion of the Issue

Legal authority to respond to communicable disease outbreaks, and foodborne disease outbreaks in particular, varies among states in its specificity and scope.

6.1.2 Authority to Control an Outbreak—Drafting Examples

The legal authorities for state and local agencies to control outbreaks are contained in general public health, communicable disease, and food and food safety laws. This section reviews examples of state and local authorities to control outbreaks.

Chapter 6 | Key Definitions

- **Embargo**—An order by an agency that prevents food from being used, sold or discarded until the order is lifted by the agency or a court.
- **Exclusion**—Preventing a food worker who is sick or suspected of being sick from handling food or from attending work at a food establishment.
- **Isolation**—Process in which a person or animal that is known to be ill with a contagious disease is kept away from others.
- **Quarantine**—Process in which a person, animal, food product, or building that may have been exposed to a contagious disease agent is kept apart from others to prevent disease spread.
- **Recall**—A voluntary or mandatory act to remove a product from sale or distribution.

Approach Type	Drafting Examples	Example References
<i>A. State Authority to Control Diseases and Outbreaks</i>		
Communicable Disease	Except as otherwise directed by executive order of the governor, the department is authorized to exercise its powers and duties to control epidemic and communicable diseases and protect the public health.	<i>From:</i> Colo. Rev. Stat. §25-1.5-102
Communicable Disease	The state department of health shall have the authority to investigate and control the causes of epidemic, infectious and other disease affecting the public health, including the authority to establish, maintain and enforce isolation and quarantine, and in pursuance thereof, to exercise such physical control over property and individuals as the department may find necessary for the protection of the public health. The state department of health is further authorized and empowered to require the temporary detainment of individuals for disease control purposes based upon violation of any order of the state health officer. For the purpose of enforcing such orders of the state health officer, persons employed by the department as investigators shall have general arrest powers. All law enforcement officers are authorized and directed to assist in the enforcement of such orders of the state health officer.	<i>From:</i> Miss. Code §41-23-5 <i>See also:</i> Ala. Code §22-1-8, §22-2-2; Idaho Code §56-1003

* Please see Section 1.5.2 “Chapter Features” for important information about the drafting examples and referenced sources.

Approach Type	Drafting Examples	Example References
Communicable Disease	The state department of health is authorized to impose control measures to prevent the spread of disease in the exercise of its power to protect the public health. Control measures include (1) immunization; (2) detention; (3) restriction; (4) disinfection; (5) decontamination; (6) isolation; (7) quarantine; (8) disinfection; (9) chemoprophylaxis; (10) preventive therapy; (11) prevention; and (12) education.	<i>From:</i> Tex. Health and Safety Code §81.081, §81.082
General Public Health	The department of health is authorized to, among other things, to close theaters, schools, and other public places, and to forbid gatherings of people when necessary to protect the public health.	<i>From:</i> Co. Rev. Stat. §25-1.5-101
General Public Health	The department is authorized to, among other things, impound, condemn and destroy foods found to be unfit for human consumption; to promulgate and enforce rules regarding dairy processing; and to establish and enforce sanitary standards for operations providing meat and animal products for sale.	<i>From:</i> Co. Rev. Stat. §25-1.5-104
General Public Health	If a violation is found, the director is authorized to take corrective action or other control measures provided appropriate notice and hearing requirements are satisfied. In addition to, and notwithstanding other provisions of this chapter, in circumstances of emergency creating conditions of imminent and substantial danger to the public health, the prosecuting attorney or the attorney general may institute a civil action for an immediate injunction to halt any activity in violation of the provisions of this chapter or rules, permits and orders promulgated thereunder. In such action the court may issue an ex parte restraining order.	<i>From:</i> Idaho Code §56-1009
<i>B. Local Authority to Control Diseases and Outbreaks</i>		
General Public Health	County health boards and county health officers are authorized to investigate and abate public health nuisances and outbreaks of notifiable diseases, and oversee the sanitary conditions of food services establishments.	<i>From:</i> Ala. Code §22-3-2
Communicable Disease	A local health authority has supervisory authority and control over the administration of communicable disease control measures in the local health authority's jurisdiction unless specifically preempted by the state department of health. Control measures imposed by a local health authority must be consistent with, and at least as stringent as, the control measure standards in rules adopted by the state board. A communicable disease control measure imposed by a local health authority in the local health authority's jurisdiction may be amended, revised, or revoked by the state department if the department finds that the modification is necessary or desirable in the administration of a regional or statewide public health program or policy. A control measure imposed by the state department may not be modified or discontinued until the department authorizes the action.	<i>From:</i> Tex. Health and Safety Code §81.082
<i>C. Authority to Control and Abate Nuisances</i>		
General Public Health	<p>Any such nuisance shall be abated by the county board of health and the county health officer in any of the ways provided in this chapter that may be appropriate or in any other lawful manner including abatement by a complaint. An effort to abate by one method shall not preclude resort to any other method or methods.</p> <p>When such nuisance consists of one or more of the diseased animals mentioned in this chapter, or of insanitary clothing or bedding, furniture, vehicles, containers, receptacles or appliances, or of unwholesome or decayed or infected meats, fish, fruits or other foods or foodstuffs, medicines, drugs or beverages or consists of personal property of small value and which nuisance, in the opinion of the county board of health, should be abated by destroying rather than curing, cleansing or disinfecting the animal or animals or thing or material involved; or consists of equipment which by reason of its nature cannot be used without being such a nuisance; or consists of a privy of an insanitary or improper type, the county board of health shall, if after a careful investigation of the facts it considers such a course necessary for the protection of the public health, adjudicate such animal or animals, or things or material involved or such privy, as the case may be, to be such nuisance and order its summary destruction without compensation to the owner thereof; and thereupon, the county health officer shall proceed with such destruction in such manner as reasonably to avoid danger of infection.</p>	<i>From:</i> Ala. Code §22-10-2, §22-10-3
Communicable Disease	The state board of health, when informed by a county health officer, or otherwise, of the existence of any matter or thing calculated to produce, aggravate, or cause the spread of any epidemic or contagious disease, or to affect injuriously the health of the	<i>From:</i> Miss. Code §41-23-13

Approach Type	Drafting Examples	Example References
	public or community, may declare the same a nuisance. When it does so, it shall notify the district attorney, county attorney, municipal attorney, county health officer, municipal health officer or town marshal, of the district where the nuisance exists, who shall forthwith commence proceedings by information in the circuit court to have the same abated. If the matter be found to be a nuisance, the judge shall order the same abated, which order shall be executed by the sheriff or other proper officer, and an appeal shall not be allowed therefrom. This section shall not affect the right which municipalities may have to abate a nuisance, or any common law or equity proceedings for that purpose.	<i>See also:</i> Idaho Code §39-420
Food and Food Safety	<p>If any such building, room, basement, enclosure, or premises occupied, used, or maintained for the purposes of a food establishment or if the floors, sidewalls, ceilings, furniture, receptacles, utensils, implements, appliances, or machinery of any such establishment shall be constructed, kept, maintained, or permitted to remain in a condition contrary to any of the provisions of the food establishment sanitary law, the same is declared a nuisance.</p> <p>Any car, truck, or vehicle used in the moving or transportation of any food product which shall be kept or permitted to remain in an unclean, unhealthful, or unsanitary condition is declared a nuisance. Whoever unlawfully maintains, or allows or permits to exist, a nuisance as defined in this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in law.</p>	<p><i>From:</i> Colo. Rev. Stat. §25-4-106, §25-4-111</p> <p><i>See generally:</i> A state’s food, drug, and cosmetic law or equivalent provisions for similar authorities</p>
<i>D. Injunctions, Violations and Warnings</i>		
Food and Food Safety	<p>The state health commissioner or his or her agent is authorized to seek a temporary or permanent injunction to restrain a violation of the state’s food laws.</p> <p>The state’s food law does not require the state health commissioner or the commissioner’s authorized agent to report, for the institution of proceedings under those provisions, minor violations of those provisions whenever the state health commissioner or the commissioner’s legally authorized agent believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.</p>	<p><i>From:</i> Ind. Code 16-42-1-16, 16-42-1-33</p> <p><i>See also:</i> Colo. Rev. Stat. §25-5-408</p> <p><i>See generally:</i> A state’s food, drug, and cosmetic law or equivalent provisions for similar authorities</p>

6.2 Control of Persons

6.2.1 Discussion of the Issue

Food and food safety laws and communicable disease laws authorize several types of measures to control persons infected with, suspected of having, or exposed to a communicable disease.

6.2.2 Authority for Control of Persons—Drafting Examples

Approach Type	Drafting Examples	Example References
<i>A. State Authority for Control over Persons</i>		
Communicable Disease	The state department of health is authorized to, among other things, establish, maintain, and enforce isolation and quarantine, and to exercise such physical control over property and the persons of the people within this state as the department may find necessary for the protection of the public health.	<i>From:</i> Colo. Rev. Stat. §25-1.5-102
Communicable Disease	Any person reported as having any of the notifiable diseases or health conditions designated by the state board of health shall conform to or obey the instructions or directions given or communicated to him by the county board of health, county health officer or his designee, or state board of health, state health officer, or his designee, to prevent the spread of the disease.	<i>From:</i> Ala. Code §22-11A-7

Approach Type	Drafting Examples	Example References
<i>B. Local Authority for Control over Persons</i>		
General Public Health	County health agencies are authorized to establish, maintain, and enforce isolation and quarantine, and in pursuance thereof, and for this purpose only, to exercise physical control over property and over the persons of the people within the jurisdiction of the agency as the agency may find necessary for the protection of the public health.	<i>From:</i> Colo. Rev. Stat. §25-1-506

6.2.3 Food Employee Health, Restriction and Exclusion—Drafting Examples

The imposition of restrictions on a food establishment employee is a control measure authorized by state statutes as well as by regulations based on the FDA Food Code and other state regulations. This section reviews authorities addressing food employees’ health and the ability to restrict or exclude employees with food transmissible diseases until cleared to return to work.

Approach Type	Drafting Examples	Example References
<i>A. Food Employee Health</i>		
Food and Food Safety	A person may not handle food, utensils, dishes, or serving implements that are for public sale or for the consumption or use by another if the person: (1) is infected with a disease that is transmissible through the handling of food; (2) resides in a household in which there is a transmissible case of a communicable disease that may be foodborne; (3) is known to be a carrier of the organisms causing a communicable disease that may be foodborne; or (4) has a local infection that is commonly transmitted through the handling of food. An establishment that prepares food in a way that would permit probable transmission of disease from a food handler to a consumer may not employ a person who is infected with or exposed to a food-transmissible disease to handle the food, utensils, dishes, or serving implements.	<i>From:</i> Tex. Health and Safety Code §438.032 <i>See generally:</i> A state’s regulatory or statutory adoption of the FDA Retail Food Code or the most recent version of the FDA Retail Food Code for similar authorities
Food and Food Safety	It is unlawful for any employer to permit any person who works in food preparation and is affected with any contagious or infectious disease that is spread by food to work, or for any person so affected to work, in any capacity in which there is a likelihood that the employee would contaminate food or food-contact surfaces with pathogenic organisms or transmit disease to other persons.	<i>From:</i> Colo. Rev. Stat. §25-4-108 <i>See also:</i> S.C. Reg. 61-25; Mass. Gen. Laws c.94, §305B
<i>B. Food Employee Restriction</i>		
Communicable Disease	No person, while infected with a disease in a communicable form which can be transmitted by foods or who is afflicted by a boil, or an infected wound, shall work in a food processing, milk producing, milk processing or food service setting in any capacity in which there is a likelihood of such person contaminating food or food contact surfaces with pathogenic organisms or transmitting diseases to other persons. The employer is responsible for ensuring the absence from work of an employee with an infectious disease for which there is evidence of transmission to persons in a food service, food processing, milk producing, or milk processing setting, as determined by the state department of health.	<i>From:</i> 6 Colo. Code Reg. 1009-1. Reg. 7 <i>See also:</i> S.C. Reg. 61-25 <i>See generally:</i> A state’s regulatory or statutory adoption of the FDA Retail Food Code or the most recent version of the FDA Retail Food Code for similar authorities
<i>C. Food Employee Exclusion</i>		
Food and	A person who has a communicable or infectious disease may not work in a food	<i>From:</i>

Approach Type	Drafting Examples	Example References
Food Safety	establishment in any capacity in which epidemiological evidence indicates the person may spread the disease.	Ind. Code 16-42-5-19
Food and Food Safety	Based on the findings of an investigation related to a food employee who is suspected of being infected or diseased, the regulatory authority may issue an order to the suspected food employee or permit holder instituting one or more of the following control measures, including restricting or excluding the food employee from work or closing the establishment by summary suspension of its permit. The regulatory authority can issue an order of restriction or exclusion to a suspected food employee or the permit holder without prior warning, notice of a hearing, or a hearing (if needed to control disease transmission.	<i>From:</i> 25 Tex. Admin. Code §229.171

6.2.4 Quarantine, Isolation and Other Restrictions on Persons—Drafting Examples

State law grants the authority to impose quarantine, isolation and other restrictions on persons who are infected, suspected of being infected, or who have been exposed to a communicable disease. The use of quarantine or isolation as a control measure in a foodborne disease outbreak would be an unlikely occurrence; however, this legal authority could be used for that purpose should circumstances necessitate its use. The imposition of isolation, quarantine or other measures designed to restrict the movements of persons involves considerable legal due process protections.

This section addresses general authority to impose quarantine, isolation, and other control measures on persons. Any control method that restricts a person’s rights and freedom necessarily involves administrative and judicial protections. Even in emergency circumstances, control measures imposed without full procedural rights can only be instituted temporarily before a full hearing is initiated.

Approach Type	Drafting Examples	Example References
<i>A. Quarantine and Isolation Authority</i>		
General Public Health	The state department may establish quarantine and may do what is reasonable and necessary for the prevention and suppression of disease. The state department may order schools and churches closed and forbid public gatherings when considered necessary to prevent and stop epidemics.	<i>From:</i> Ind. Code 16-19-3-9, 16-19-3-10 <i>See also:</i> Miss. Code §41-3-15
Communicable Disease	Whenever the state health officer or his representative, or the county health officer or his representative, is notified of any person or persons afflicted with any of the notifiable diseases or health conditions designated by the state board of health, he shall, at his discretion, isolate or quarantine such person or persons as further provided in this article. Such quarantine shall be established and maintained in accordance with the rules adopted by the state board of health for the control of the disease with which the person or persons are afflicted.	<i>From:</i> Ala. Code §22-11A-3 <i>See also:</i> Colo. Rev. Stat. §25-1.5-102; R.I. Gen. Laws §23-8-4
Communicable Disease	A public health authority may impose or petition a court to impose a quarantine and do the following: (1) Distribute information to the public concerning: (a) the risks of the disease; (b) how the disease is transmitted; (c) available precautions to reduce the risk of contracting the disease; (d) the symptoms of the disease; and (e) available medical or nonmedical treatments available for the disease. (2) Instruct the public concerning social distancing. (3) Request that the public inform the public health authority or a law enforcement agency if a family member contracts the disease. (4) Instruct the public on self quarantine and provide a distinctive means of identifying a home that is self quarantined. (5) Instruct the public on the use of masks, gloves, disinfectant, and other means of reducing exposure to the disease. (6) Close schools, athletic events, and other nonessential situations in which people gather. If a quarantine is imposed, the public health authority shall ensure that, to the extent possible, quarantined individuals have sufficient supplies to remain in their own home. If an out-of-home, nonhospital quarantine is imposed on an individual, the individual shall be housed as close as possible to the individual's residence.	<i>From:</i> Ind. Code §16-41-9-1.6
Communicable	The physician attending a case, suspected case, or carrier (or in the absence of a	<i>From:</i>

Approach Type	Drafting Examples	Example References
Disease	physician, the commissioner) shall make certain that isolation precautions are taken to prevent spread of disease to others. Physicians are required to report immediately to the commissioner the name, address, and other pertinent information for all cases, suspected cases, and carriers who refuse to comply with prescribed isolation precautions. The commissioner is empowered to seek injunctive relief under state law if the person represents a public health hazard.	Minn. Rule 4605.7400
<i>B. Other Control Measures regarding Persons</i>		
Communicable Disease	The board of health of a town near to or bordering upon an adjoining state may in writing appoint suitable persons, who shall attend at places by which travelers may pass from infected places without the [state], and who may examine such travelers as the board suspects of bringing any infection dangerous to the public health, and, if necessary, restrain them from traveling until licensed thereto by the board of health of the town to which they may come. A traveler coming from an infected place who, without such license, travels within the [state], unless to return by the most direct way to the state whence he came, after he has been cautioned to depart by the persons so appointed, shall forfeit not more than one hundred dollars.	<i>From:</i> Mass. Gen. Laws c.111, §106
Communicable Disease	The state department of health is authorized and empowered to require the temporary detention of individuals for disease control purposes based upon violation of any order of the state health officer. For the purpose of enforcing such orders of the state health officer, persons employed by the department as investigators shall have general arrest powers. All law enforcement officers are authorized and directed to assist in the enforcement of such orders of the state health officer.	<i>From:</i> Miss. Code §41-23-5

6.2.5 Compulsory Testing and Treatment of Persons—Drafting Examples

Persons may be subject to compulsory testing and treatment for communicable diseases. However, they also have certain rights and protections regarding such testing and treatment.

Approach Type	Drafting Examples	Example References
<i>A. Authority for Compulsory Testing and Treatment</i>		
Communicable Disease	When any person exposed to a disease or where reasonable evidence indicates exposure to a disease or infection designated under this article refuses testing or when any person afflicted with a disease designated under this article refuses treatment or conducts himself so as to expose others to infection, the state or county health officer or the designee may petition the probate judge of the county in which such person is located to commit him to the custody of the state department of public health for compulsory testing, treatment and quarantine. State law specifies the judicial process for seeking, instituting, and challenging a petition for commitment.	<i>From:</i> Ala. Code §22-11A-24
Communicable Disease	Persons, including physicians, treating individuals with communicable diseases are required to inform them about measures for preventing reinfection and spreading the disease and the need for continued treatment until the infection has cleared. An individual may be ordered in writing to implement control measures if the state department of health or the local health authority believes a person is ill with or has been exposed to a communicable disease. Such an order remains effective until the person is no longer infected or the incubation period for the disease has passed. A person may be subject to court ordered disease management if the actual or suspected communicable disease presents an immediate public health threat and the individual refuses to comply with written orders or, in the case of a public health disaster, will not voluntarily comply with control measures.	<i>From:</i> Tex. Health and Safety Code §81.083
Communicable Disease	If the state director of health, or his or her duly authorized agent, determines, upon investigation, that a threat to the public health exists because any person is suffering, or appears to be suffering, from a communicable disease, the director or his or her authorized agent may require or provide that person to be confined, in some proper place, for the purpose of isolation or quarantine, or another less restrictive intervention treatment, including, but not limited to, immunization, treatment, exclusion or other protective actions until the threat to the public health has abated. Orders under this chapter shall be in accordance with the procedures for compliance order and immediate compliance orders. A person subject to quarantine under this section shall be entitled to file a petition for relief from such order at any time, included, but not limited to, a petition based upon	<i>From:</i> R.I. Gen. Laws §23-8-4

Approach Type	Drafting Examples	Example References
	compliance with a treatment under less restrictive alternatives.	
<i>B. Exceptions and Alternatives for Compulsory Testing and Treatment</i>		
Communicable Disease	This chapter does not authorize or require the medical treatment of an individual who chooses treatment by prayer or spiritual means as part of the tenets and practices of a recognized church of which the individual is an adherent or member. However, the individual may be isolated or quarantined in an appropriate facility and shall obey the rules, orders, and instructions of the department or health authority while in isolation or quarantine. An exemption from medical treatment under this section does not apply during an emergency or an area quarantine or after the issuance by the governor of an executive order or a proclamation under the state's disaster laws.	<i>From:</i> Tex. Health and Safety Code §81.009
Communicable Disease	Nothing in this section shall be construed to prevent a person who is unable or unwilling for reasons of health, religion, or conscience to undergo immunization or treatment from choosing to submit to quarantine or isolation as an alternative to immunization or treatment.	<i>From:</i> R.I. Gen. Laws §23-8-4

6.3 Control of Products

6.3.1 Discussion of the Issue

Statutory or regulatory measures to limit access to infected, contaminated or implicated food products are key tools used to respond to and control foodborne disease outbreaks. Food and food safety laws are the primary sources for these authorities, however, general public health and communicable disease laws can also authorize such actions.

6.3.2 Authority for Control of Products—Drafting Examples

Approach Type	Drafting Examples	Example References
General Public Health	The department of health is authorized to, among other things, impound, condemn and destroy foods found to be unfit for human consumption; to promulgate and enforce rules regarding dairy processing; and to establish and enforce sanitary standards for operations providing meat and animal products for sale.	<i>From:</i> Colo. Rev. Stat. §25-1.5-104
Food and Food Safety	The commissioner or any of the commissioner's assistants, inspectors, agents, or employees, in addition to the authority and powers otherwise conferred by law, is authorized and empowered to have and to take access to any and all trucks, aeroplanes, airships, vehicles, and railroad cars of every sort and nature transported or being within this state, all railroad stations, storage houses, warehouses, express offices, or other places wherein at any time there may be food transported or shipped into from without this state, whether or not such food has been manufactured, sold, or given away without the state; provided that such food was manufactured, sold, or given away with the intent that it be delivered, had, or used within this state; and the commissioner shall have the same power and authority to open any package, car, or vessel containing food so transported or shipped into from without the state, which contains, or which the commissioner has reason to believe contains, any such food; to inspect the contents thereof and to take samples for analysis and examination, all after the same manner and with the same procedure as obtains by law in reference to similar goods manufactured, sold, transported, offered for sale, use, or transportation, or had in possession with intent to sell, use, or transport within this state. If it shall appear that any such food is adulterated, misbranded, insufficiently labeled, unwholesome, poisonous, or deleterious, the commissioner shall have the same rights and remedies and shall enforce the same in the same manner as in the case of food manufactured, sold, transported, offered for sale, use, or transportation, or had in possession with intent to sell, use, or transport within this state.	<i>From:</i> Minn. Code §31.08 <i>See generally:</i> A state's food, drug, and cosmetic law or equivalent provisions for similar authorities
Food and Food Safety	If after investigating the department finds that any class of food may have been contaminated with a microorganism that may be injurious to health and that injurious	<i>From:</i> Co. Rev. Stat §25-5-

Approach Type	Drafting Examples	Example References
	nature cannot be adequately determined after the articles have entered commerce, the department is authorized to promulgate rules for issuing permits to manufacturers, processors, or packers of that class of food in the locality to which conditions necessary to protect public health are attached. During the time the temporary permit is in effect, no person may introduce into commerce any food of the effected class unless the manufacturer, processor, or packer holds a permit issued by the department as provided by regulation. Designees of the department must be given access to premises which are the subject of the temporary permit to determine if the conditions of the permit are being met; failure to grant access is grounds for suspension of the permit.	412 <i>See also:</i> Idaho Code §37-124; Minn. Code §31.131 <i>See generally:</i> A state’s food, drug, and cosmetic law or equivalent provisions for similar authorities
Communicable Disease	Local boards of health are authorized to remove any nuisance, infected articles or sick person within the limits of their towns.	<i>From:</i> Mass. Gen. Laws c.111, §98

6.3.3 Recall, Embargo, Seizure, and Quarantine—Drafting Examples

State laws authorize a number of control measures to remove potentially contaminated food products from commerce until their safety can be determined. Food and food safety laws can permit health or agriculture officials to recall foods found to be adulterated within the meaning of the law in that jurisdiction. Food and food safety laws also authorize health and agriculture officials to embargo and quarantine food products within their agency’s regulatory purview. Livestock and other animals may be subject to quarantine measures imposed by agricultural and animal health officials like state veterinarians. However, state laws generally give due process protections—notice, hearings, the right of appeal, etc.—to owners of embargoed or quarantined products or animals.

Approach Type	Drafting Examples	Example References
<i>A. Recall</i>		
Food and Food Safety	In conjunction with the issuance of an emergency order finding items to be a threat to public health or the detention or embargo of an article, the commissioner may order a food, drug, device, cosmetic, or consumer commodity to be recalled from commerce.	<i>From:</i> Tex. Health and Safety Code §431.0495
<i>B. Embargo</i>		
Food and Food Safety	Whenever a duly authorized agent of the commissioner of agriculture finds or has probable cause to believe, that any food is adulterated or so misbranded as to be dangerous or fraudulent, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by an authorized agent or the court. It is unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.	<i>From:</i> S.C. Code Ann. 39-25-60 <i>See also:</i> Colo. Rev. Stat. §25-5-406; Ind. Code 16-42-1-18; Mass. Gen. Laws c.94, §189A <i>See generally:</i> A state’s food, drug, and cosmetic law or equivalent provisions for similar authorities
Food and Food Safety	In the event of an emergency declared by the governor's order, if the commissioner finds or has probable cause to believe that livestock, food, or a consumer commodity within a specific area is likely to be adulterated because of the emergency or so misbranded as to be dangerous or fraudulent, or is in violation, the commissioner may embargo a geographic area that is included in the declared emergency. The commissioner shall provide notice to the public and to those with custody of the product in as thorough a manner as is practical under the emergency circumstances.	<i>From:</i> Minn. Stat. §31.05
<i>C. Quarantine</i>		

Approach Type	Drafting Examples	Example References
Communicable Disease	<p>The state department of health or a local health authority is authorized to place property in quarantine until a medical or technical analysis is made of the property to determine if it is infected or contaminated. The property will be returned to the person who owns or controls it if the property is found not to be infected or contaminated. If found to be infected or contaminated, the state department of health or the local health authority may by written order require the owner to implement technically feasible measures to disinfect or decontaminate the property. Quarantine measures will be removed and the property returned if control measures are effective.</p> <p>When control measure are ineffective or technically infeasible, the state department of health or the local health authority can continue the quarantine and order the owner to destroy the property or otherwise fence or seal the property until the quarantine is removed by the state department of health or a local health authority.</p>	<p><i>From:</i> Tex. Health and Safety Code §81.084</p>
<i>D. Seizure</i>		
Communicable Disease	<p>If upon application of the local board of health it appears to a magistrate authorized to issue warrants that there is just cause to suspect that baggage, clothing or goods found within the town are infected with any disease dangerous to the public health, he shall, by warrant directed to the sheriff or his deputy or to any constable, require him to impress as many men as said magistrate may judge necessary to secure such baggage, clothing or goods, and to post said men as a guard over the house or place containing such articles to prevent persons from removing or coming near the same until due inquiry is made into the circumstances. The magistrate may, by the same warrant, require the officers, under the direction of the board, to impress and take up convenient houses or stores for the safe keeping of such articles; and the board may remove them thereto or otherwise detain them until, in its opinion, they are freed from infection.</p>	<p><i>From:</i> Mass. Gen. Laws c.111, §99, §100</p>
<i>E. Suspension of Sales</i>		
Food and Food Safety	<p>Any food, drug or cosmetic regulated by this chapter which is found to be manufactured, processed, compounded, refined, packed, packaged, stored, sold or transported in violation of this chapter shall be subject to suspension from sale, seizure and condemnation.</p>	<p><i>From:</i> Ala. Code §20-1-4</p>

6.3.4. Condemnation and Destruction—Drafting Examples

States can have legal authority in their communicable disease, food and food safety laws to order the condemnation or destruction of food, animals and tangible personal property that is determined to be infected, contaminated or implicated in an outbreak. Owners of the affected items are generally entitled to due process rights, and, in some states, to compensation for certain destroyed property.

Approach Type	Drafting Examples	Example References
<i>A. Condemnation</i>		
Food and Food Safety	<p>Whenever the commissioner of agriculture or any of his or her authorized agents shall find in any room, building, vehicle of transportation or other structure, any meat, seafood, poultry, vegetable, fruit or other perishable articles which are unsound, or contain any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the commissioner, or his or her authorized agent, shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food.</p>	<p><i>From:</i> S.C. Code Ann. 39-25-60</p> <p><i>See also:</i> Ind. Code 16-42-2-6</p> <p><i>See generally:</i> A state’s food, drug, and cosmetic law or equivalent provisions for similar authorities</p>

Approach Type	Drafting Examples	Example References
Food and Food Safety	Any food, drug or cosmetic regulated by this chapter which is found to be manufactured, processed, compounded, refined, packed, packaged, stored, sold or transported in violation of this chapter shall be subject to suspension from sale, seizure and condemnation.	<i>From:</i> Ala Code § 20-1-4 <i>See also:</i> Mass. Gen. Laws c.94, §189A
B. Destruction		
Food and Food Safety	If storage of seized food is not possible without risk to the public health, the director shall order immediate destruction of the food to be accomplished without delay by the owner, operator, or person in charge of the food establishment. The food shall be destroyed as specified in the order for destruction.	<i>From:</i> Mich. Consol. Laws §289.2109

6.4 Control of Premises and Places

6.4.1 Discussion of the Issue

Public health officials in the states generally have some type of legal authority to impose control measures on premises found to be unsanitary or harbors for infection, contamination, or other threats to public health. These legal authorities are commonly found in food and food safety laws, but state communicable disease laws also permit these or similar types of control measures. General state and local nuisance laws may also permit control measures on premises.

6.4.2 Authority for Control of Premises and Places—Drafting Examples

Approach Type	Drafting Examples	Example References
<i>A. State Authority to Control Premises and Places</i>		
General Public Health	The board of health is authorized to direct and control sanitary and quarantine measures for dealing with all diseases within the state possible to suppress same and prevent their spread.	<i>From:</i> Miss. Code §41-3-15 <i>See also:</i> Ore. Rev. Stat. 431.262
Communicable Disease	Control measures may be imposed on an individual, animal, place, or object, as appropriate.	<i>From:</i> Tex. Health and Safety Code §81.082
Communicable Disease	The power to establish quarantine in this state shall also be vested in the governor; and whenever the governor shall deem it advisable for the preservation of public health and the prevention of the spread of infectious diseases, he or she may, by proclamation, place under quarantine the whole state or that portion of the state that he or she may deem necessary, and he or she shall authorize and empower the state director of health to take any action and make and enforce any rules and regulations that may be deemed necessary to prevent the introduction and to restrict the spread of infectious diseases in the state.	<i>From:</i> R.I. Gen. Laws §23-8-18
Communicable Disease	If an outbreak of communicable disease occurs in this state, the commissioner of health or one or more local health authorities may impose an area quarantine coextensive with the area affected. The commissioner may impose an area quarantine, if the commissioner has reasonable cause to believe that individuals or property in the area may be infected or contaminated with a communicable disease, for the period necessary to determine whether an outbreak of communicable disease has occurred. The state department of health may impose additional disease control measures in a quarantine area that the department considers necessary and most appropriate to arrest, control, and eradicate the threat to the public health. The state department of health or, with the department's consent, a local health authority may terminate an area quarantine.	<i>From:</i> Tex. Health and Safety Code §81.085

Approach Type	Drafting Examples	Example References
Communicable Disease	The State Board of Health, when informed by a county health officer, or otherwise, of the existence of any matter or thing calculated to produce, aggravate, or cause the spread of any epidemic or contagious disease, or to affect injuriously the health of the public or community, may declare the same a nuisance.	<i>From:</i> Miss. Code §41-23-13
Communicable Disease	The state department of health is authorized to prohibit, in any public places, vehicles, or buildings that it may designate, the use of a common drinking cup and a common towel.	<i>From:</i> R.I. Gen. Laws §23-6-1 <i>See also:</i> Ala. Code § 22-20-1; Mass. Gen. Laws c.111, §8
B. Local Authority to Control Premises and Places		
General Public Health	It is the duty of the county boards of health in their respective counties and subject to the supervision and control of the State Board of Health to investigate, through county health officers or quarantine officers, all nuisances to public health and take proper steps for the abatement of such nuisances.	<i>From:</i> Ala. Code §22-3-2 <i>See also:</i> Colo. Rev. Stat. §25-1-506
Communicable Disease	If an outbreak of communicable disease occurs in this state, the commissioner of health or one or more local health authorities may impose an area quarantine coextensive with the area affected. A local health authority may impose the quarantine only within the boundaries of the local health authority's jurisdiction. A local health authority may not impose an area quarantine until the authority consults with the state department of health. A local health authority that imposes an area quarantine shall give written notice to and shall consult with the governing body of each county and municipality in the health authority's jurisdiction that has territory in the affected area as soon as practicable. Absent preemptive action by the state department of health or by the governor, a local health authority may impose in a quarantine area under the authority's jurisdiction additional disease control measures that the health authority considers necessary and most appropriate to arrest, control, and eradicate the threat to the public health. The state department of health or, with the department's consent, a local health authority may terminate an area quarantine.	<i>From:</i> Tex. Health and Safety Code §81.085

6.4.3 Posted and Public Notices—Drafting Examples

Health officials may be authorized to post and publish notices informing the public about communicable diseases and health hazards at food establishments or other premises.

Approach Type	Drafting Examples	Example References
Food and Food Safety	Except as provided elsewhere in the code, the regulatory authority is directed to treat the inspection report as a public document and shall make it available for disclosure. The current food permit/inspection record must be posted in a location in a food establishment conspicuous to consumers, as directed by the health authority.	<i>From:</i> Code of Miss. Rules Title 15, Subpart 75, Chapter 02, §103.04; 8-403.50
Food and Food Safety	In the event of an emergency declared by the governor's order, if the commissioner finds or has probable cause to believe that livestock, food, or a consumer commodity within a specific area is likely to be adulterated because of the emergency or so misbranded as to be dangerous or fraudulent, or is in violation of [the state's food law], the commissioner may embargo a geographic area that is included in the declared emergency. The commissioner shall provide notice to the public and to those with custody of the product in as thorough a manner as is practical under the emergency circumstances.	<i>From:</i> Minn. Stat. §31.05
General Public Health	Upon a determination that an imminent danger to the health or lives of individuals exists in this state, the director immediately shall inform the individuals affected by the	<i>From:</i> Mich. Consol. Laws

Approach Type	Drafting Examples	Example References
	imminent danger and issue an order that shall be delivered to a person authorized to avoid, correct, or remove the imminent danger or be posted at or near the imminent danger.	§333.2251
Communicable Disease	If a disease dangerous to the public health exists in a town, the selectmen and board of health shall use all possible care to prevent the spread of the infection and may give public notice of infected places by such means as in their judgment may be most effectual for the common safety. Whoever obstructs the selectmen, board of health or its agent in using such means, or whoever willfully and without authority removes, obliterates, defaces or handles such public notices which have been posted, shall forfeit not less than ten nor more than one hundred dollars.	<i>From:</i> Mass. Gen. Laws c.111, §104
Communicable Disease	The state department of health or local health authority may use all reasonable means of communication to inform persons in the quarantine area of the department's or local health authority's orders and instructions during the period of area quarantine. The department or local health authority shall publish at least once each week during the area quarantine period, in a newspaper of general circulation in the area, a notice of the orders or instructions in force with a brief explanation of their meaning and effect. Notice by publication is sufficient to inform persons in the area of their rights, duties, and obligations under the orders or instructions.	<i>From:</i> Tex. Health and Safety Code §81.085 <i>See also:</i> Ind. Code 16-41-9-1.5

6.4.4 Decontamination, Abatement, Suspension and Closure—Legal Drafting Examples

Health and agricultural officials can order the decontamination of premises and any equipment or tangible property if these have been determined to be infected or otherwise contaminated. Food establishments and other premises involved in the production or sale of food can be temporarily or permanently closed by a public health agency or officer upon a showing that the facility constitutes a danger to public health. Closure can be achieved by suspending or revoking a food facility's permit or license. The food facility may also opt to voluntarily close the establishment.

Approach Type	Drafting Examples	Example References
<i>A. Condemnation</i>		
Food and Food Safety	If the director finds any adulterated food that the director declares to be a nuisance, the director shall immediately condemn, destroy, or in any other manner render the food unsalable as human food.	<i>From:</i> Mich. Consol. Laws §289.2107 <i>See generally:</i> A state's food, drug, and cosmetic law or equivalent provisions for similar authorities
<i>B. Suspension of License or Permit</i>		
Food and Food Safety	The department or a county or district board of health may, on its own motion or complaint and after an investigation and hearing at which the licensee is afforded an opportunity to be heard, suspend or revoke a license or certificate of license for any violation of the state's food law, any rule adopted pursuant to the law, or any of the terms, conditions, or provisions of such license or certificate of license. A written notice of suspension or revocation, as well as any required notice of hearing, shall be sent by certified mail to the licensee at the address contained in the license or certificate of license.	<i>From:</i> Colo. Rev. Stat. §25-4-1609 <i>See generally:</i> A state's food, drug, and cosmetic law or equivalent provisions for similar authorities
<i>C. Closure</i>		
Food and Food Safety	The director may order immediate cessation of operation of a food establishment upon a determination that continued operation would create an imminent or substantial hazard to the public health. A food establishment ordered to cease food operations shall not resume operations until the director determines, upon reevaluation, that the conditions responsible for the order to cease operations no longer exist. The director shall offer an opportunity for reevaluation upon request of	<i>From:</i> Mich. Consol. Laws §289.2113 <i>See generally:</i> A state's food, drug,

Approach Type	Drafting Examples	Example References
	the license holder of the establishment. If the director orders an immediate cessation of operation of a food establishment, the license holder may request an administrative hearing.	and cosmetic law or equivalent provisions for similar authorities
<i>D. Decontamination</i>		
Communicable Disease	If found to be infected or contaminated, [the state] or [local] health authority may by written order require the owner to implement technically feasible measures to disinfect or decontaminate the property.	<i>From:</i> Tex. Health and Safety Code §81.084

CHAPTER 7 | OUTBREAK DOCUMENTATION

7.0 Introduction to Outbreak Documentation Activities

In the aftermath of a foodborne disease event, follow-up activities will include documenting information about the event and response, creating and disseminating after-action reports, and implementing enforcement actions as needed.

This chapter focuses on follow-up reporting and documentation requirements, as well as general authorities to publish information for the public during and after foodborne disease events.

Chapter 7 Key Definitions

- **After-action Report**—A report prepared to analyze an organization’s response to a specific event.
- **Documentation**—Written materials that create an official record.

7.1 Post-Event Reporting and Documentation

7.1.1 Discussion of the Issue

State laws may explicitly require public health agencies and other involved parties to create summary reports of communicable disease outbreaks and to file reports with specified officials (e.g., governor, legislature, state board of health, etc.) directly after an event or periodically. State health agencies may also require local or district health agencies to report outbreaks to the state.

7.1.2 Post-Event Reporting and Documentation—Drafting Examples*

Approach Type	Drafting Examples	Example References
<i>A. Reports of Diseases Threatening Public Health</i>		
Communicable Disease	The department is required to provide regular reports of the incidence, prevalence, and medical and economic effects of each disease that it determines is a threatening risk to the public health.	<i>From:</i> Tex. Health and Safety Code §81.024
Communicable Disease	The [commissioner is required to] maintain records of reports of cases, suspected cases, carriers, and deaths for the disease reports and prepare statewide summary information which shall be made available for each [local] board of health.	<i>From:</i> Minn. Rule 4605.7200
<i>B. Reports of Epidemiological Investigations and Cases</i>		
Communicable Disease	The department shall require epidemiological reports of disease outbreaks and of individual cases of disease suspected or known to be of importance to the public health. The department shall evaluate the reports to determine the trends involved and the nature and magnitude of the hazards.	<i>From:</i> Tex. Health and Safety Code §81.047
Communicable Disease	[Confidentiality provisions] in this section [do not prevent] the [state health department] or a local public health administrator from publishing statistical compilations and reports relating to reportable disease investigations if the compilations and reports do not identify individual cases or sources of information.	<i>From:</i> Ore. Rev. Stat. 433.008

* Please see Section 1.5.2, “Chapter Features,” for important information about the drafting examples and referenced sources.

Approach Type	Drafting Examples	Example References
<i>C. Reports Summarizing and Illustrating Agency Investigations</i>		
Food Law and Food Safety	The department is authorized to publish reports summarizing all judgments, decrees, and court orders which have been rendered under [the act], including the nature of the charge and its disposition and to disseminate any information regarding food...that the department deems necessary in the interest of public health and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the department from collecting, reporting, and illustrating the results of the investigations of the department.	<i>From:</i> Colo. Rev. Stat. §25-5-422 <i>See also:</i> Idaho Code §37-134; Minn. Stat. §31.132; S.C. Code Ann. 39-25-200
General Public Health	Unless otherwise specifically provided by law, the department at least quarterly shall publish or distribute information, statistics, reports or the results of its tests of products, which show a violation of or noncompliance with a law, standard or regulation.	<i>From:</i> Ore. Rev. Stat. 561.315

7.2 General Reporting Requirements

7.2.1 Discussion of the Issue

State agencies may be subject to a general requirement to present annual, biennial or other periodic or special reports to the governor and state legislature. While these periodic reports typically mandate the inclusion of budgetary and program performance indicators, agencies have used this mechanism to summarize or highlight activities related to foodborne disease outbreaks. State law can also require that persons or entities holding licenses or permits submit information when requested by an agency.

7.2.2 General Reporting Requirements—Drafting Examples

Approach Type	Drafting Examples	Example References
<i>A. Annual Reports Recipients and Contents</i>		
General Governmental	State departments are required to make annual reports and deposit them with the secretary of state. The contents of the report are to include a summary of the department's work during the prior fiscal year and recommendations for the coming fiscal year. Department heads are authorized to make recommendations for legislative action in annual reports submitted in even-numbered years and file them with the clerk of the house of representatives.	<i>From:</i> Mass. Gen. Laws c.30, §32, c.111, §19 <i>See also:</i> R.I. Gen. Laws §23-1-9
General Governmental	Departments and agencies are required to submit biennial reports to the legislature in even numbered years.	<i>From:</i> Minn. Stat. §15.063
General Governmental	Each agency and department of state government shall submit an annual accountability report to the governor and the general assembly unless otherwise directed by the specific statute governing the department or institution. Reports must contain the agency's or department's mission, objectives to accomplish the mission, and performance measures that show the degree to which objectives are being met.	<i>From:</i> S.C. Code Ann. 1-1-820
General Public Health	The state board of health shall submit to the governor an annual report of its transactions, in which report recommendations as to needed health legislation may be embodied. The board of health shall be accountable to the legislature and shall make an annual report to the legislature. The legislature or any committee thereof, may, from time to time, request certain information from the board and are hereby directed to lend their full cooperation in response to these requests.	<i>From:</i> Ala. Code §22-2-3, §22-2-7

Approach Type	Drafting Examples	Example References
<i>B. Special and Periodic Reports</i>		
General Governmental	The governor or the general assembly, or either branch thereof by resolution, may call upon any department or institution at any time for such special reports as may be deemed in the interest of the public welfare.	<i>From:</i> S.C. Code Ann. 1-1-840
General Public Health	To assist the department in its duties and functions, officials of this state and persons transacting business in this state shall furnish the department with information relating to public health which may be requested by the department. The department shall report periodically to the governor and legislature as to the activities carried on under this code.	<i>From:</i> Mich. Consol. Laws §333.2231; §289.2117
<i>C. Local and District Reports</i>		
General Public Health	Every such [district health] officer shall keep a record of his proceedings and observations, shall annually on or before December first make a report thereof to the [public health] department, shall from time to time furnish the department with such information as it may require of circumstances affecting the public health in his district, and shall in every instance where a written suggestion is made by [the district health officer] to the local authorities send a copy of such suggestion to [the public health] department.	<i>From:</i> Mass. Gen. Laws c.111, §19; c.111, §28 <i>See also:</i> Miss. Code §41-3-51
General Public Health	The department shall conduct a general review and evaluation of reports and related data made by certified health departments under this act as often as considered necessary by the department. A certified health department shall report annually to the department a summary of all inspections, investigations, samplings, legal actions, and any other actions of a significant nature on a form furnished by the department. This report shall be made annually on the basis of the state fiscal year.	<i>From:</i> Mich. Consol. Laws §289.3137
General Public Health	The board of each local health department shall publish in pamphlet form, within ninety (90) days after January 1, for free distribution, an annual report for the previous year showing the following: (1) The amount of money received from all sources. (2) The name of any donor. (3) How all money has been expended and for what purpose. (4) Other statistics and information concerning the work of the health department that the board considers to be of general interest.	<i>From:</i> Ind. Code 16-20-1-7; 16-20-4-17
<i>D. Licensee or Permittee Reports</i>		
General Public Health	The board of health may require, by general or special order, licensees and permittees under this article to file with the board in a prescribed form: (1) annual, periodic, or special reports; or (2) answers, in writing, to specific questions; to provide information concerning the business conduct of the licensee or permittee and the practices and management of the business of the licensee or permittee as the practices and management relate to other persons in the same business. The board may require that the reports and answers under this section be made under oath and filed within a reasonable time if the requirements are determined to be essential by the board.	<i>From:</i> Ind. Code 15-17-3-18

7.3 Public Information Publications

7.3.1 Discussion of the Issue

State laws may authorize state or local agencies to publish and distribute information for the public in the interest of public health and to educate the public about public health issues.

7.3.2 Public Information—Drafting Examples

Approach Type	Drafting Examples	Example References
<i>A. Publication of Annual Report</i>		
General Public Health	The department may publish for general distribution such parts of its annual report to the [legislature] and such other matter as it may deem adapted to promote the interests of the public health in the state.	<i>From:</i> Mass. Gen. Laws c.111, §24
<i>B. Other Information Types</i>		
General Public Health	The department shall publish every five years for distribution among boards of health and other health agencies a manual of the laws relating to boards of health in the state, containing such information upon the same subject as it may deem expedient.	<i>From:</i> Mass. Gen. Laws c.111, §24
General Public Health	The director may, from time to time, cause to be published and distributed to the public in pamphlet form, or such other form as the director may deem best, such information as the director may judge to be of assistance in carrying on any of the work or purposes for the administration or for the carrying on of which the department is established.	<i>From:</i> Ore. Rev. Stat. 561.075

APPENDIX 1 | KEY TERMS

Note: The definitions given are valid as used in this publication, but different definitions may be used in other contexts. Many of the definitions used in the glossary are the same as those in Appendix 1 of the CIFOR Guidelines for Foodborne Disease Outbreak Response document.

Administrative/Judicial Process: The rights of a person or business to reasonable opportunity to be informed about, comment on, and challenge a government's action.

Adulterated: A legal term meaning a food product fails to meet federal or state standards. Adulteration usually refers to noncompliance with health or safety standards as determined in the United States by the Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA).

After-action Report: A report prepared to analyze an organization's response to a specific event.

Case: In epidemiology, a countable instance in the population or study group of a particular disease, health disorder, or condition under investigation; in these guidelines, an individual with the particular disease.

Case Definition: Standardized criteria used to decide whether a person with a particular disease or health-related condition should be included as a case in an outbreak investigation. The case definition specifies clinical criteria and limitations on time, place, and person.

Cluster: An unusual aggregation of cases grouped in time or space. The term is commonly used in pathogen-specific surveillance, when multiple persons with infections caused by similar microbial strains are identified by a public health laboratory. The purpose of identifying clusters is to trigger further investigations to determine whether they are epidemiologically linked and therefore may represent an outbreak. The number of cases needed to form a cluster cannot be absolutely defined; cluster definition may vary by type of agent, novelty of the subtype, season, and resources available for further investigation.

Contributing Factors: The food safety practices and behaviors which most likely contributed to a foodborne disease outbreak.

Documentation: Written materials that create an official record.

Embargo: An order issued by a permit-issuing official or his/her designated representative at a state or local agency that prevents food from being used, sold, donated, discarded, repackaged or otherwise disposed of until the order is lifted by the permit-issuing official, his/her designated representative, or court of competent jurisdiction.

Enteric Illness: Illness of the intestinal track caused by food or waterborne bacteria, viruses or contaminants that enter the body through ingestion.

Exclusion: Preventing a food worker who is sick or suspected of being sick from handling food or from attending work at a food establishment.

Food Code: A reference guide published by FDA. The guide instructs retail outlets, such as restaurants and grocery stores, and institutions, such as nursing homes, how to prevent foodborne disease. It consists of a model code adopted to varying degrees by nearly 3,000 state, local and tribal jurisdictions as the legal basis for their food inspection programs for safeguarding public health. It ensures that food is safe and unadulterated (free from impurities) and honestly presented to the consumer. It also provides references and public health rationales and explanations for code provisions, guidelines, and sample forms. FDA first published the Food Code in 1993 and revises it every four years.

Food Establishment: An operation that (a) stores, prepares, packages, serves, or vends food directly to the consumer, or otherwise provides food for human consumption, such as a restaurant; satellite or catered food location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; institution or food bank; and (b) relinquishes possession of food directly, or indirectly through a delivery service such as home delivery of grocery orders, restaurant takeout orders, or delivery service provided by common carriers.

Food Safety: The procedures ensuring that the growing, processing, manufacturing, transporting, storing, preparing, and serving of food render food fit for human consumption. Food safety procedures include voluntary measures and regulatory directives from governmental agencies, as well as surveillance for foodborne disease outbreaks and response activities.

Food Safety Regulatory Agency: Government agencies at the local, state, or federal level that are granted regulatory oversight of some aspect of the food industry. The goal of food-regulatory agencies is to ensure the public's food supply is safe from pathogenic microbes, chemicals or other hazardous substances.

Foodborne Disease: Any disease caused by ingestion of contaminated food. Although some agents are more likely than others to be transmitted by food, identification of foodborne, waterborne, person-to-person, or animal-to-person transmission requires investigation. Furthermore, multiple modes of transmission may be involved in any single outbreak.

Foodborne Disease Surveillance: Surveillance of diseases or conditions that might be foodborne. Thus, all diseases of enteric origin may be tracked by this mechanism, including norovirus infection (which involves substantial person-to-person transmission), listeriosis (which may have a diarrheal stage but generally is detected by blood culture), or botulism (which presents as neurologic disease).

Imminent Hazard: An important threat or danger to health that exists when evidence is sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on (a) the number of potential injuries and (b) the nature, severity, and duration of the anticipated injury.

Impound: To take possession of or to seize and hold in the custody of the law.

Inter-jurisdictional: Activities between two or more different levels of government (e.g., federal, state, local, Tribal) or between two or more governments (e.g., state to state; state to Tribal).

Isolate: The pure strain of a virus or bacteria that is separated from a sample.

Isolation: Process in which a person or animal known to be ill from a contagious disease is kept away from others.

Jurisdiction: A government entity with the legal authority to interpret and apply the law. Also refers to the limits or territory within which that authority may be exercised.

Legal Authority: Statutes, regulations, ordinances, orders, or policies that authorize or prohibit governments or other specified actors to engage in the actions identified.

Multijurisdictional: A multijurisdictional foodborne disease event requires the resources of more than one local, state, territorial, Tribal, or federal public health or food-regulatory agency to detect, investigate, or control. A multijurisdictional investigation may involve a foodborne disease outbreak or the distribution or recall of a contaminated food product.

Outbreak: Two or more cases of a similar illness shown by an investigation to result from a common exposure, such as ingestion of a common food. An outbreak is a cluster with a clear association among cases, with or without a recognized common source or known disease agent. Single cases of certain rare and serious conditions, such as gastrointestinal anthrax, botulism, or cholera, elicit an outbreak-like response.

Quarantine: Process in which a person, animal, food product, or building that may have been exposed to a contagious disease agent is kept apart from others to prevent disease spread.

Recall: A voluntary or mandatory action of removing a product from retail or distribution. The action is conducted by a manufacturer or distributor to protect the public from products that may cause health problems or possible death.

Regulations: Rules developed by executive branch agencies. Executive branch agencies are authorized by the legislative branch (e.g., Congress, state legislatures) to develop regulations to implement the laws and statutes passed by the legislative body. Regulations are developed by local, state, federal agencies and international bodies (e.g., World Health Organization).

Reportable Conditions (Notifiable Diseases): The list of diseases based on state laws or regulations that should be reported by health care providers (e.g., physicians and their medical staff, laboratories, and hospitals) to local or state health agencies. The list of notifiable diseases and legal obligation for reporting differ from state to state. States can report notifiable diseases to CDC, which maintains a list of nationally notifiable diseases, but compliance is voluntary. CDC reports select diseases to the World Health Organization in compliance with International Health Regulations.

Statutes: Written laws passed by a local, state or federal legislative body. Statutes are distinct from regulations (which are made by executive branch agencies) and case law (which comprises decisions made by judges in civil and criminal cases).

Surveillance: The systematic collection, analysis, interpretation, and dissemination of data for public health action.

Syndromic Surveillance: The process of using individual and population health indicators that are available before confirmed diagnoses or laboratory confirmation to identify outbreaks or health events and monitor the health status of a community.

Zoonoses: Diseases or conditions that can be passed from animals to humans.

APPENDIX 2 | RESEARCHING LEGAL AUTHORITIES FOR FOODBORNE DISEASE DETECTION AND OUTBREAK RESPONSE

Researching Legal Authorities

State legal authorities to conduct foodborne disease surveillance and outbreak response activities are distributed across a number of statutes and regulations; it is not possible to review just one title or chapter in a statute or regulation to effectively capture the authorities used by states to accomplish their foodborne disease-related activities.

To fully understand the types of authorities used by states, the following issues should be considered and researched:

- General state and local governmental authorities to protect public health
- Authorities granted to state and local agencies (health, agriculture, environment, animal health, and others as indicated by the state) or agency officials
- Foodborne disease surveillance, investigation, control, and reporting
- Communicable disease case reporting, investigation, and post-investigation reporting
- Animal communicable disease case reporting, investigation, and post-investigation reporting
- Food and food safety authorities regarding food items and food establishments
- Public records and confidentiality
- Interjurisdictional cooperation and agreements

In addition to the foundational issues listed above, there are other relevant and important legal authorities addressing the conduct of foodborne disease outbreak and response activities, and of ongoing food safety regulation, education and training activities. Depending on the nature of the outbreak (e.g., intentional, waterborne), the food involved, and the source or site of the contamination (e.g., farm, processing plant), the following issues may also be relevant:

- Ongoing licensing and routine inspection requirements for food operations and food establishments (e.g., licensing and inspection of retail food establishments)
- Ongoing education and training requirements (e.g., food manager certification)
- General governmental or agency emergency powers and authorities (i.e., powers that become effective upon a gubernatorial or presidential declaration of emergency)
- Civil and criminal penalties for violating statutes and regulations discussed in the document
- Drinking water, waterborne diseases and source water protection
- Commodity or food product-specific statutes and regulations (e.g., eggs, dairy products, grains, sheep, poultry, etc.)
- Specific animal disease identification and control programs (e.g., Brucellosis, Scrapie)
- Plant diseases
- Pesticides and other chemical contaminants to food
- Fish consumption advisories

Research Strategies

Index and Contents Review of Statutes and Regulations

Once the appropriate body of statutes or regulations has been identified, a table of contents/index and contents review of the statutory and regulatory materials will help to further identify the body of controlling and relevant authorities. The general statutory and regulatory titles reviewed can include:

- Public health or health
- Agriculture
- Environment
- Animal health
- Organization of state and local governments
- Public records and privacy
- Regulation of businesses
- Interstate/inter-jurisdictional compacts and agreements

Key Term Searches

In addition to the index and contents review, searches can be conducted for specified terms to confirm that all relevant authorities have been identified via the contents review and to identify the occurrence of relevant authorities outside of the primary statutory and regulatory titles reviewed. The following search terms, and their variants, may be used:

- Cluster
- Communicable
- Condemn
- Contagious
- Embargo
- Epidemiology, epidemiologist
- Foodborne
- Food safety
- Interagency, interjurisdictional, interstate
- Isolates
- Laboratory
- Morbidity, mortality
- Notifiable
- Outbreak
- Privacy
- Public records, freedom of information
- Quarantine, isolation
- Recall
- Reportable
- Sentinel
- Specimens
- Surveillance
- Syndromic
- Zoonosis