

# California Department of Public Health Standards and Guidelines for Healthcare Surge During Emergencies

## Foundational Knowledge Training Presentation





## Foundational Knowledge

### *Learning Objectives*

This training course is intended to serve as an overview of the content in the Foundational Knowledge Manual of the Surge Standards and Guidelines Manuals. It is designed to be used as tool for hospitals, local health departments, payers, clinics, long-term care facilities, healthcare professionals, and governmental agencies in developing training programs for healthcare surge planning. Users of this training should utilize this training course as a starting point and customize it to include specific surge planning objectives.

The objectives of the Foundational Knowledge training course include the ability to:

- Define basic terminology, such as surge, surge capacity, and standards of care (among others), as used in the context of the **Standards and Guidelines for Healthcare Surge During Emergencies** project
- Introduce existing waivers and provisions to regulations as they pertain to a health emergency situation, and be able to locate those provisions
- Describe the ethical and behavioral principles and practice guidelines required to be in place during a healthcare surge event
- Identify regulatory information and other resources for planning and implementing a response to healthcare surge

# California's Healthcare System Response to a Healthcare Surge

## Foundational Knowledge, Section 1



In *Emergency Management Principles and Practices for Healthcare Systems*<sup>1</sup>, the Institute for Crisis, Disaster, and Risk Management has found that healthcare system response during emergencies demonstrates the following recurrent findings:

- Local response is primary
- Medical response is complex
- Coordinated response is essential
- Bridging the “public-private divide”
- Public health as an essential partner
- The need for robust information processing
- The need for effective overall management
- Medical system resiliency

An effective response will assure healthcare system resiliency as well as the most efficient care for victims given the severity of the event.



## Key Healthcare Surge Planning Concepts for California Foundational Knowledge, Section 1.3

1. During a catastrophic emergency, the movement from individual-based care to population outcomes challenges the professional, regulatory, and ethical paradigms of the health care delivery system.
2. There is a great deal of flexibility in current state statute and regulations to enable a move to population based health care response.
3. The coordination of healthcare surge, based on its definition and operational requirements, entails significant responsibilities for local government.
4. The intent was not to solve the challenges of the current healthcare delivery system but to operate within it.

## Key Healthcare Surge Planning Concepts for California Foundational Knowledge, Section 1.3 (*continued*)



5. Simplification in several areas such as professional scope of practice, recruitment of personnel, patient tracking for clinical and administrative purposes, emphasizes the operational necessities of a coordinated response in a catastrophic event.
6. There are practical ways that payers (government and commercial) can more effectively meet their obligations for their covered beneficiaries under the traditional third party payer system while hospitals can take proactive steps to preserve a revenue stream during a surge event.
7. Ultimately, effective surge response requires all stakeholders to accept new responsibilities, behave differently than they may have been trained, and cooperate with each other in unprecedented ways.

## Healthcare Surge Defined

### Foundational Knowledge, Section 2.1



*For the purposes of the use of this **Standards and Guidelines Manual**, the following definition of healthcare surge is used:*

“A healthcare surge is proclaimed in a local jurisdiction when an authorized local official, such as a local health officer or other appropriate designee, using professional judgment determines, subsequent to a significant emergency or circumstances, that the healthcare delivery system has been impacted, resulting in an excess in demand over capacity in hospitals, long-term care facilities, community care clinics, public health departments, other primary and secondary care providers, resources and/or emergency medical services. The local health official uses the situation assessment information provided from the healthcare delivery system partners to determine overall local jurisdiction/Operational Area medical and health status.”



## Healthcare Surge Defined

### Foundational Knowledge, Section 2.1

#### What Surge is *NOT*...

- The frequent emergency department overcrowding experienced by healthcare facilities (for example, Friday/Saturday night emergencies)
- A local casualty emergency that might overcrowd nearby facilities but have little to no impact on the overall healthcare delivery system

# Developing Community-Based Surge Capacity

## Foundational Knowledge, Section 2.2.1



In a catastrophic event, healthcare facilities may lack the necessary resources and/or information to individually provide optimal patient care. Communities, therefore, must collaboratively develop community surge capacity.

- Community based planning will enable communities to better respond to an outbreak by defining the role of home health care and availability of personnel to support such care
- Community based planning would allow existing healthcare resources in the public and private sectors as well as other non-healthcare assets to be optimally leveraged
- It is important to recognize that many community healthcare assets do not have the management infrastructure or personnel necessary to establish complex processes for incident preparedness and response
- A critical component of community based surge capacity response is mutual aid—sharing personnel, facilities, equipment, or supplies
- The community based capacity may include healthcare and non-healthcare assets from multiple jurisdictions; this may be desirable especially in rural areas, where health and medical assets are scattered





## The Role of Hospitals

### Foundational Knowledge, Section 2.2.3

Disaster response involves many different community resources—from police and fire to medical providers, engineers and transportation and housing experts.

The **Joint Commission's Environment of Care** provides guidance on standards for community based surge capacity. These standards will be effective January 1, 2008.

- EC.4.11: The organization plans for managing the consequences of emergencies
- EC.4.12: The organization develops and maintains an emergency operations plan. A successful response relies upon planning around the management of six critical areas: communications; resources and assets; safety and security; staffing; utilities; and clinical activities
- EC.4.14: The organization establishes strategies for managing resources and assets during emergencies

## Role of Clinics, Long-term Care Facilities & Other Non-Hospital Providers, Foundational Knowledge, Section 2.2.4



During a health care surge, community clinics, long-term care facilities and other non-hospital providers can play a critical role in the delivery of health care and it is important to integrate them into the overall surge planning activities. Key considerations during the planning phase include:

- Non-hospital facilities, including clinics and outpatient surgery centers, are equipped to respond to a variety of health related needs. When possible, patients can be directed to the most appropriate level of care, creating additional access at high demand hospitals.
- Certain emergencies, such as a biological agent release, may be prolonged in duration and generate patients who can be safely evaluated in these settings, thus relieving some of the burden on larger healthcare facilities.
- Urgent care centers, dialysis clinics, and other non-hospital facilities also provide essential medical services and should be considered when developing a disaster response.



## Surge Capacity Strategies for Healthcare Facilities

### Foundational Knowledge, Section 2.2.5

If a facility determines it is experiencing a healthcare surge it is to use the following guidelines to assess and prepare for the need to increase patient care capacity:

- **Rapidly discharge emergency department (ED) and other outpatients** who can continue their care at home safely
- **Cancellation of elective surgeries and procedures**, with reassignment of surgical staff members and space
- **Reduction of the usual use of imaging, laboratory testing, and other ancillary services**
- **Transfer of patients to other institutions** in the local area, interstate region, State or nationally
- **Facilitation of home-based care for patients** in cooperation with public health and home care agencies
- **Group like-patient types together to maximize efficient delivery of patient care**

Adapted from Health Systems Research Inc., *Altered Standards of Care in Mass Casualty Events*; an AHRQ Publication, April 2005 and *Guidelines for Managing Inpatient and Outpatient Surge Capacity*, State of Wisconsin, November 2005



# Surge Capacity Strategies for Healthcare Facilities

## Foundational Knowledge, Section 2.2.5

*(continued)*

### Additional Surge Capacity Strategies:

- **Expansion of critical care capacity** by placing select ventilated patients on monitored or step-down beds, or using pulse oximetry and/or ventilator alarms with spot oximetry checks
- **Conversion of single rooms to double rooms** or double rooms to triple rooms if possible
- **Designation of wards or areas of the facility** that can be converted to negative pressure or isolated from the rest of the ventilation system for cohorting contagious patients; or use of these areas to cohort those health care providers caring for contagious patients to minimize disease transmission to uninfected patients
- **Use of cots and beds in flat space areas** (e.g., classrooms, gymnasiums, lobbies) within the hospital for non-critical patient care
- **Avert elective admissions at hospitals** and discharge patients to rehab, long-term care facilities, or home healthcare
- **Use Obstetrics (OB) as a “clean” unit** (no infectious patients), and fill unit with other “clean” patients as a last resort

# California Emergency Services Act

## Foundational Knowledge, Section 3.1



- The California Emergency Services Act recognizes the State's responsibility to mitigate the effects of natural, manmade or war-caused emergencies which result in conditions of disaster or in extreme peril to life, property and the resources of the State, and generally to protect the health and safety and preserve the lives and property of the people of the State.
- To ensure adequate preparations to deal with emergencies, the Emergency Services Act confers emergency powers upon the Governor and upon the chief executives and governing bodies of political subdivisions of the State, provides State assistance for the organization of local emergency response programs and creates the Office of Emergency Services within the Office of the Governor.
- Further, the Emergency Services Act establishes State policy that all State emergency services functions are coordinated as far as possible with the comparable functions of its political subdivisions, the federal government, other States and private agencies of every type to make the most effective use of all staff, resources and facilities for dealing with any emergency that may occur.



## State Emergency Plan Foundational Knowledge, Section 3.2

- The Governor is responsible for coordinating the State Emergency Plan.
- The Governor is also responsible for coordinating the preparation of local plans and programs, and for seeing that they are integrated into and coordinated with the State Emergency Plan and the plans and programs of the federal government (and of other States) to the fullest possible extent.
- As part of the State plan, the Governor can assign to a State agency any activity necessary for the mitigation of the effects of an emergency related to the existing powers and duties of the agency, including interstate activities.
- In accordance with the State Emergency Plan, the Governor can plan for the use of any private facilities, services, and property and, when necessary, and when in fact used, provide for payment for that use under the terms and conditions as may be agreed upon.



## The Concept of Mutual Aid

### Foundational Knowledge, Section 3.3

- Mutual aid is a concept under which separate jurisdictional or organizational units share and combine resources in order to accomplish their mutual goals
- State and local government agencies are authorized to exercise mutual aid powers in accordance with the California Disaster and Civil Defense Master Mutual Aid Agreement, and local plans, ordinances, resolutions and agreements
  - The Master Mutual Aid Agreement requires that each party develop a plan providing for the effective mobilization of all its resources and facilities, both public and private, to cope with any type of disaster

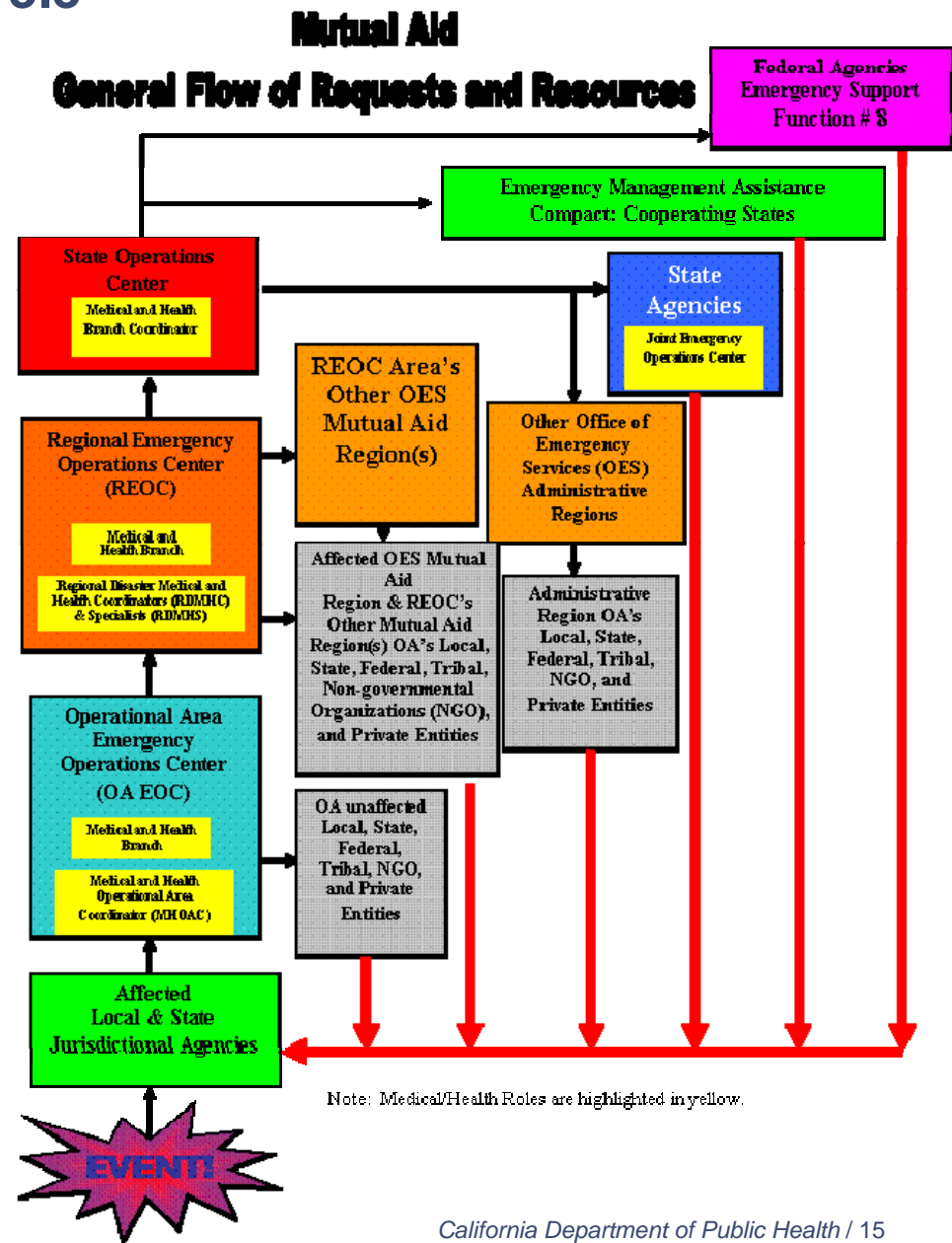


# Mutual Aid Process

## Foundational Knowledge, Section 3.3

*(Continued)*

The Mutual Aid General Flow of Requests and Resources illustrates the structure of the path resource requests may take during an event, as well as the authorities responsible at each level.





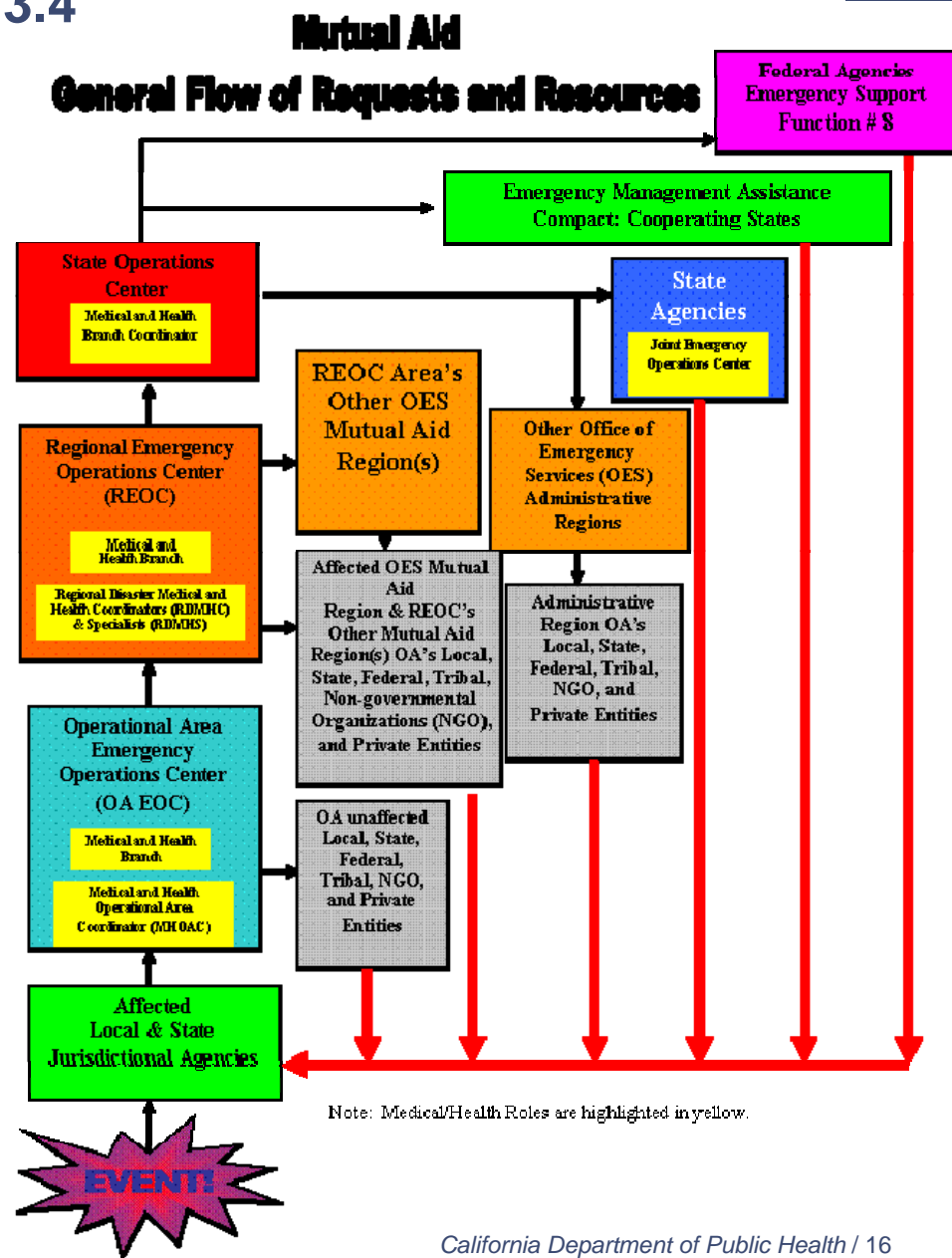


# The Role of the State Department of Public Health

## Foundational Knowledge, Section 3.4

The California Department of Public Health (CDPH) is designated the lead for the public health component of the medical and health services operations set forth in the State Emergency Plan and participates with the Emergency Medical Services Authority in carrying out medical responsibilities. CDPH is the lead planning organization for the State's emergency response for pandemic influenza.

CDPH is also the agency with licensure and certification responsibility for acute care hospitals and other health-related facilities. During the early stages of an incident when acute care hospitals are reaching the limits of their capacity, healthcare facility administrators may contact the Licensing and Certification Division of CDPH in their region to obtain waivers of specific regulatory requirements.



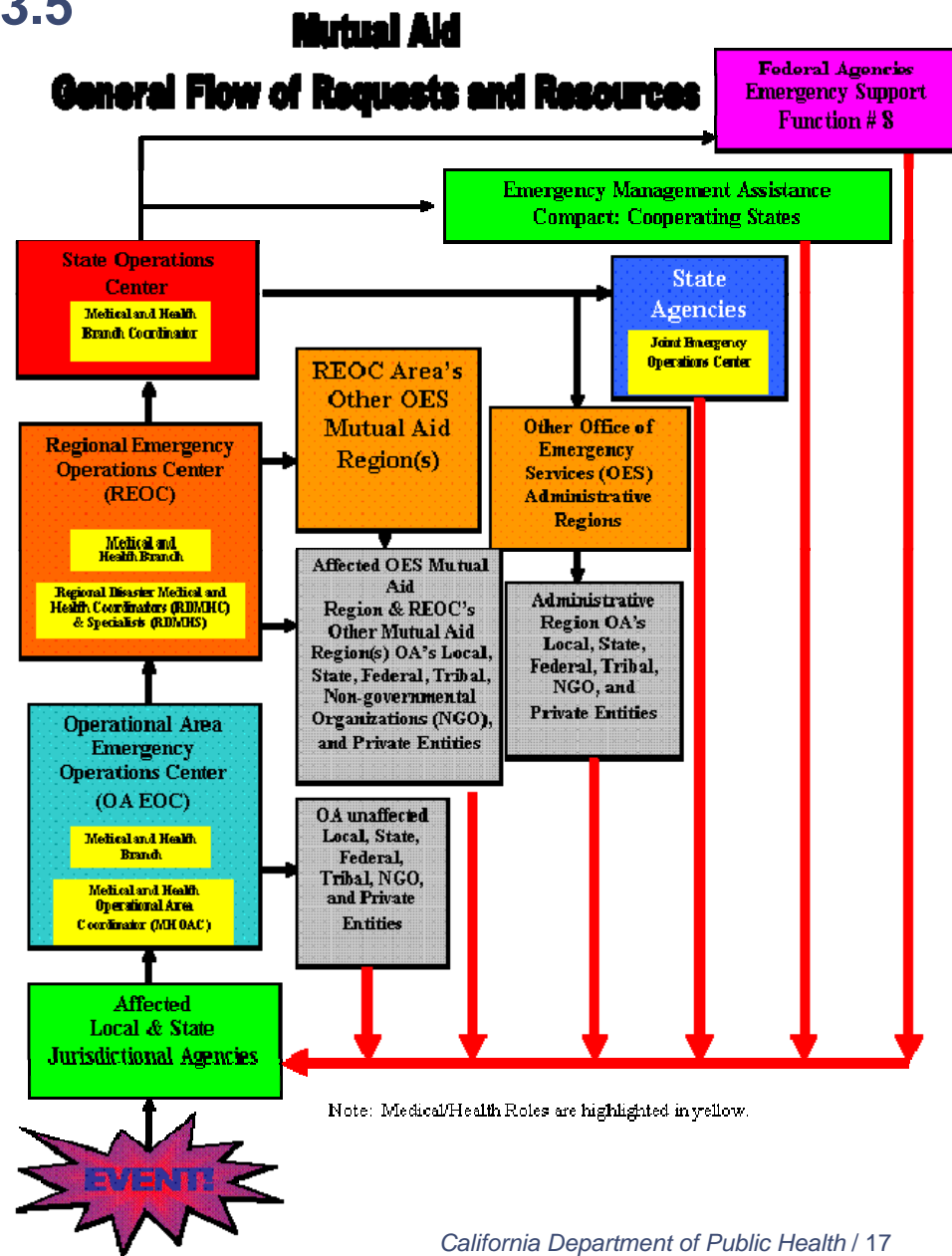


# The Role of the Emergency Medical Services Authority

## Foundational Knowledge, Section 3.5

The Emergency Medical Services Authority is required by law to respond to any medical disaster by mobilizing and coordinating emergency medical services mutual aid resources to mitigate health problems. The State Emergency Plan designates the Emergency Medical Services Authority as the lead State agency for the medical response to an emergency.

Generally, any attendant in a publicly or privately owned ambulance must possess evidence of specialized training as set forth in the emergency medical training and educational standards for ambulance personnel established by the Emergency Medical Services Authority. However, this requirement does not apply in any state of emergency declared under the Emergency Services Act when it is necessary to fully utilize all available ambulances in an area and it is not possible to have the ambulance operated or attended by persons with the qualifications required by the Emergency Medical Services Authority.

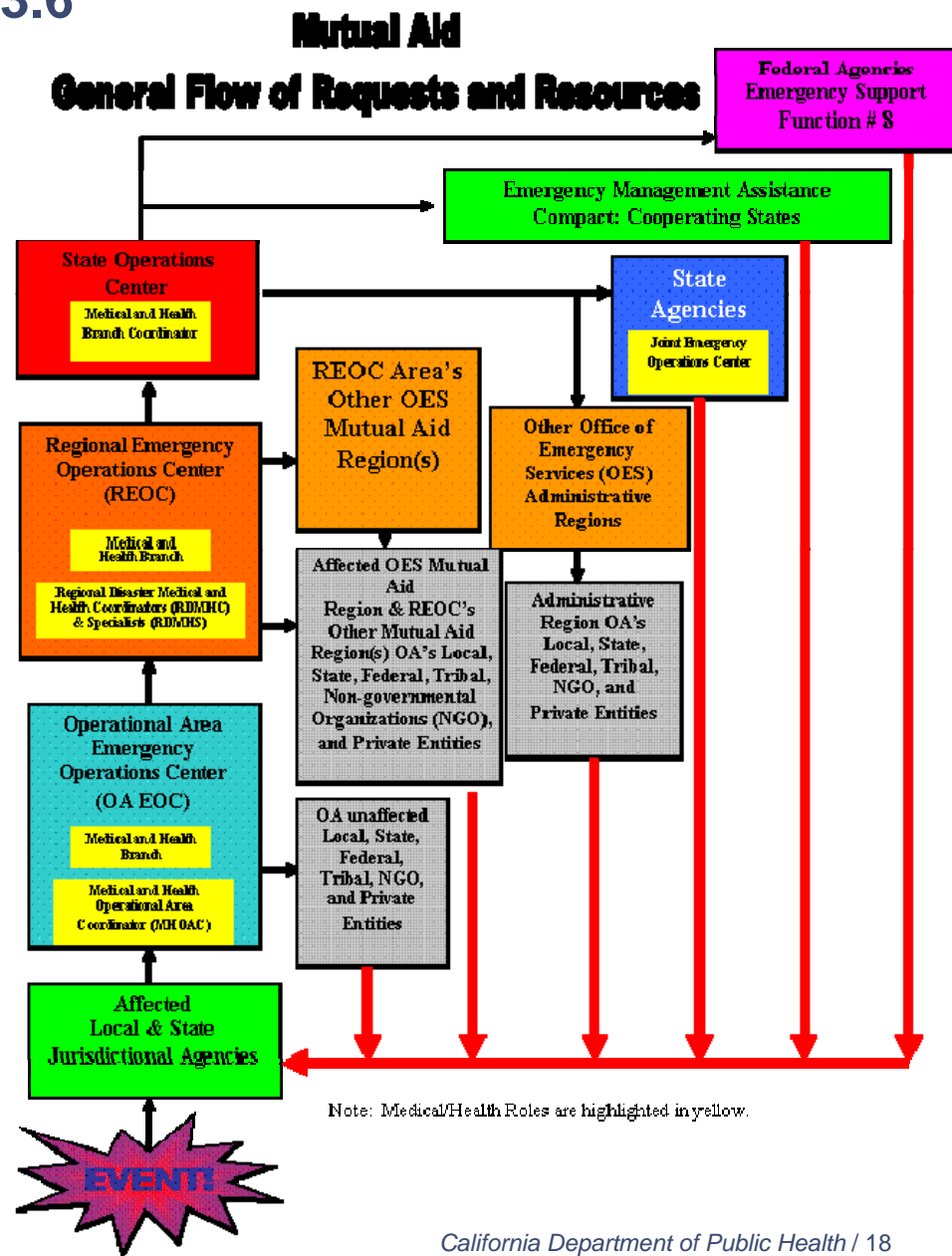




# The Role of the Governor's Office of Emergency Services (OES) Foundational Knowledge, Section 3.6

The Office of Emergency Services is established in the Governor's Office. The Governor is required to assign all or part of his powers under the Emergency Services Act to the Office of Emergency Services, but cannot delegate to the Office of Emergency Services his authority to issue orders and regulations.

The Office of Emergency Services has established three administrative regions: the Southern Region, the Coastal Region and the Inland Region. These administrative regions coordinate emergency management in the six mutual aid regions created by the Governor (see Section 3.3: The Concept of Mutual Aid).





## Role of the Governor

### Foundational Knowledge, Section 3.7

- The Governor is given broad powers under the Emergency Services Act.
- The Governor has authority over all agencies of State government and the right to exercise all police power vested by law in the State within the area designated.
- The Governor can direct all State government agencies to utilize and employ State personnel, equipment, and facilities for the performance of any and all activities designed to prevent or alleviate actual and threatened damage due to the emergency.

# Local Emergency Plans and Local Disaster Councils

## Foundational Knowledge, Section 3.8



- Most emergencies begin at the local level. Section 3.9 defines the SEMS structure, which begins at the local level, and discusses the role of local government as it relates to healthcare surge.
- The Emergency Services Act defines “emergency plans” to mean those official and approved documents which describe the principles and methods to be applied in carrying out emergency operations or rendering mutual aid during emergencies.
- These plans include such elements as continuity of government, the emergency services of governmental agencies, mobilization of resources, mutual aid, and public information. During a state of emergency, outside aid must be rendered in accordance with approved emergency plans, and public officials are required to cooperate to the fullest extent possible to carry out such plans.



## Disaster Councils

### Foundational Knowledge, Section 3.8.1

- Cities and counties are authorized to create disaster councils by ordinance.
- The disaster council is responsible for developing emergency plans.
- The plans must meet any condition constituting a local emergency or state of emergency, including, but not limited to, earthquakes, natural or manmade disasters specific to that jurisdiction, or state of emergency, and the plans must provide for the effective mobilization of all of the resources within the political subdivision, both public and private.
- It is the legal duty of each organizational component, officer and employee of each political subdivision of the State to render all possible assistance to the Governor and to the director of the Office of Emergency Services in mitigating the effects of an emergency.
- Local public official emergency powers are subordinate to any emergency powers exercised by the Governor.



## Standardized Emergency Management System Foundational Knowledge, Section 3.9

- The **Standardized Emergency Management System (SEMS)** is a system for managing the response to multi-agency and multi-jurisdictional emergencies in California
- All **State agencies** are required to use SEMS to coordinate multiple jurisdiction or multiple agency emergency and disaster operations
- Every **local government agency**, in order to be eligible for any funding of response-related (i.e., personnel) costs under disaster assistance programs, must also use SEMS to coordinate multiple jurisdiction or multiple agency emergency and disaster operations
- SEMS integrates the **National Incident Management System (NIMS)**, the **Incident Command System (ICS)**, and the **support and coordination system**.
- SEMS recognizes five organizational levels for response (listed in order):
  - Field
  - Local
  - Operational Area
  - Regional
  - State

## Standardized Emergency Management System Foundational Knowledge, Section 3.9 (*continued*)



- SEMS embraces the concept of mutual aid.
- SEMS addresses the concept of emergency communications by supporting networks to ensure that all levels of government can communicate during a disaster. Two systems have been established:
  1. The Response Information Management System – an electronic data management system that links emergency management offices throughout California
  2. The Operational Area Satellite Information System – a portable, satellite-based network that provides communication when land-based systems are disrupted





## The Incident Command System

### Foundational Knowledge, Section 3.9.1

SEMS is based on the concept of the Incident Command System<sup>1</sup> which organizes emergency management during an incident response through eight core concepts:

- **Common terminology:** the use of similar terms and definitions for resource descriptions, organizational functions, and incident facilities across disciplines
- **Integrated communications:** the ability to send and receive information within an organization, as well as externally to other disciplines
- **Modular organizations:** response resources are organized according to their responsibilities during the incident. Assets within each functional unit may be expanded or contracted based on the requirements of the event
- **Unified Command structures:** multiple disciplines and response organizations work through their designated managers within the Incident Command System to establish common objectives and strategies that prevent conflict and duplication of effort
- **Manageable span of control:** the response organization is structured so that each supervisory level oversees an appropriate number of assets such that effective supervision is maintained. The Incident Command System defines this as supervising no more than three to seven entities
- **Consolidated action plans:** a single, formal documentation of incident goals, objectives, strategies, and major assignments that are defined by the incident commander or by unified command



## The Incident Command System Foundational Knowledge, Section 3.9.1 (*continued*)

- **Comprehensive resource management:** system processes to describe, maintain, identify, request, and track all resources within the system during an incident
- **Pre-designated incident facilities:** assignment of locations where expected critical incident-related functions will occur

The Incident Command System recognizes that every response, regardless of size, requires five management functions be performed:

**Management** – the function of setting priorities and policy direction and coordinating the response

**Operations** – the function of taking responsive actions based on policy

**Planning/Intelligence** – the function of gathering, assessing and disseminating information

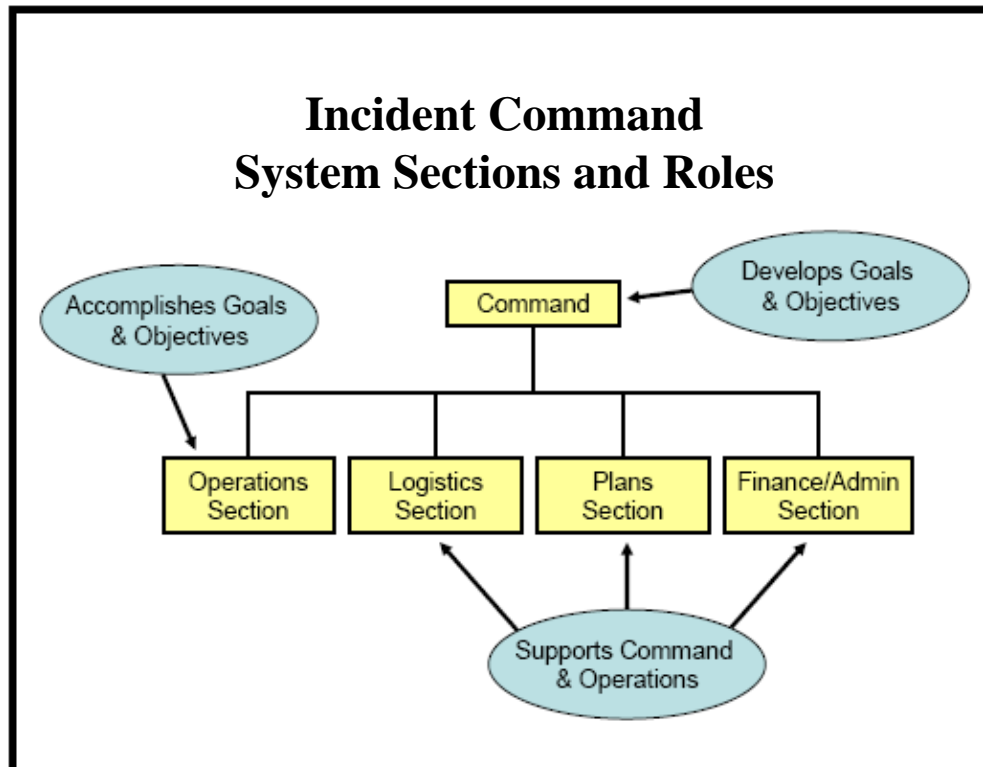
**Logistics** – the function of obtaining resources to support operations

**Finance/Administration** – the function of documenting and tracking the costs of response operations



## The Incident Command System Sections and Roles

### Foundational Knowledge, Section 3.9.1



- The primary person in charge at field level is the Incident Commander. During the initial phases of an event, or for a very small event, this person will fulfill all necessary roles. As the event size or scope increases, the Incident Commander will expand the Incident Command System and identify Chiefs for each of the Sections.
- As part of any event involving emergency management, local government agencies will use the Incident Command System as the method to organize and direct the field level tactical activities of the incident. This system has built-in flexibility that allows for any type of emergency. As an incident expands in scope, the Incident Command System expands and adapts with it.



## Unified Command Foundational Knowledge, Section 3.9.2

- Unified Command is a management concept under the Incident Command System that occurs when there is more than one agency with jurisdictional responsibility (for example, public health, law enforcement, and fire) for the emergency or when emergency incidents expand across multiple political boundaries.
- The 1999 Westley Tire Fire in Stanislaus County, an example of Unified Command and response, involved multiple jurisdictions, each with specific responsibilities for abatement of the emergency. What started as a large number of tires on fire led to a multitude of emergencies, including an adjacent wildfire threatening hundreds of acres of vegetation, traffic flow problems on Interstate 5 involving miles of backed-up traffic, environmental pollution from toxic runoff into a creek creating a threat to drinking water and fish and game, and an air quality problem from the plume of smoke entering the populated areas downwind. Each emergency involved different local, regional and state agencies.



## Multi-Agency Coordination Group Foundational Knowledge, Section 3.9.3

- Multi-agency coordination groups establish policies and set priorities for management of the emergency response. The principle functions and responsibilities of the multi-agency coordination group typically include:
  - Ensuring situational awareness and resource status information among responsible agencies
  - Establishing priorities for resources between incidents in concert with the Incident Command or Unified Command involved
  - Acquiring and allocating resources required by incident management personnel in concert with the priorities established by the Incident Command or Unified Command
  - Anticipating and identifying future resource requirements
  - Coordinating and resolving policy issues arising from the incident(s)
  - Providing strategic coordination as required



## Operational Area Management Foundational Knowledge, Section 3.9.4

- The Operational Area consists of a county and all political subdivisions within the county area, and serves as an intermediate level of the State emergency response organization.
- An Operational Area is used by the county and the political subdivisions comprising the Operational Area for the coordination of emergency activities and to serve as a link in the communications system during a state of emergency or a local emergency.
- The responsibility for facilitating the activities of an Operational Area Emergency Operations Center during emergencies is assigned to each county government within the State. However, upon agreement, a city government may assume the functions of an Operational Area Emergency Operations Center. the Incident Command or Unified Command.



## Operational Area's Medical and Health Disaster Plans Foundational Knowledge, Section 3.9.5

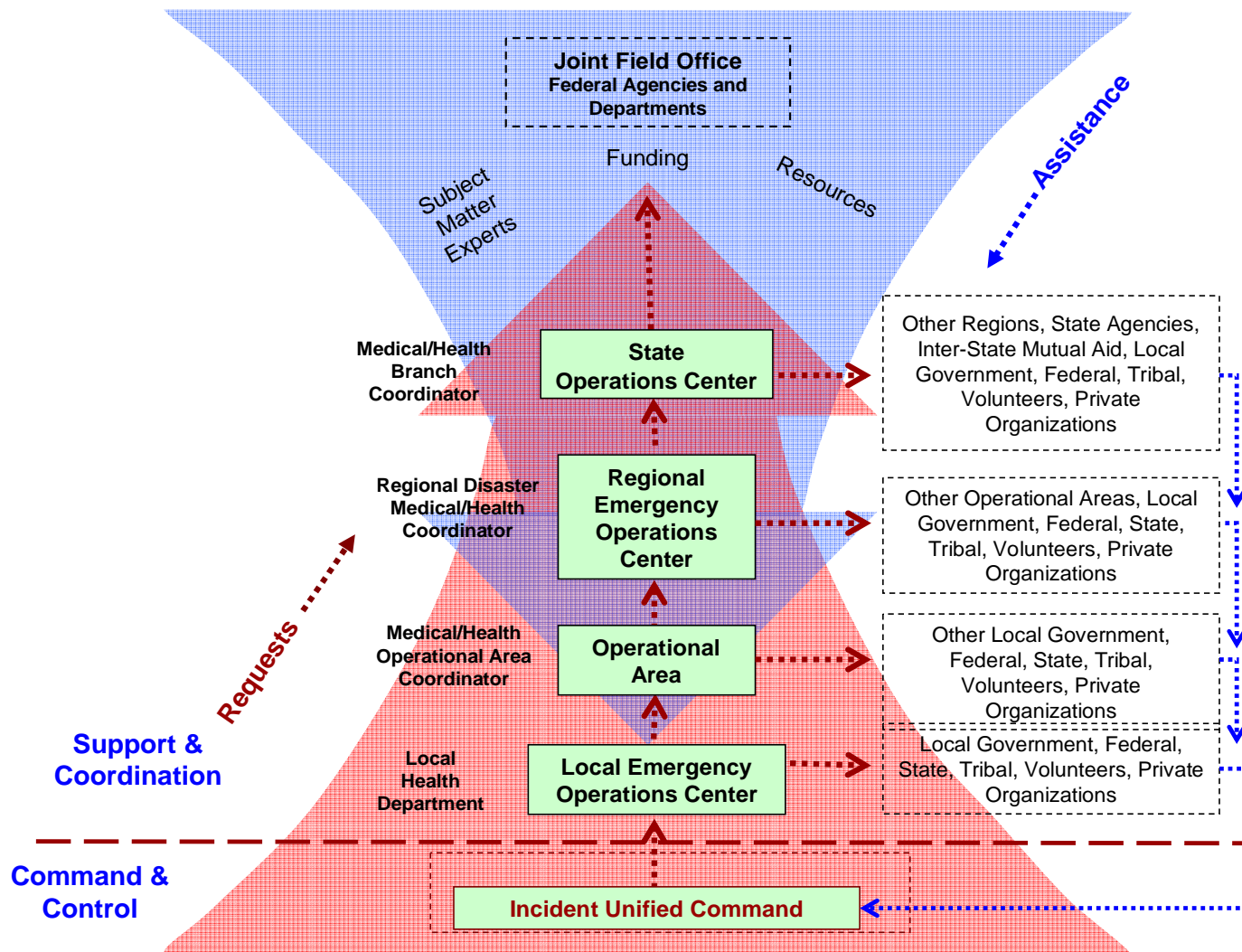
- Each Operational Area may appoint a Medical Health Operational Area Coordinator who may be the local health officer, local emergency medical services director, or an appropriate designee.
- The Medical Health Operational Area Coordinator or designee is responsible for the development of a medical and health disaster plan for the provision of medical and health mutual aid for the Operational Area.
- During a medical or health disaster, the Medical Health Operational Area Coordinator or designee is responsible for implementing this plan and coordinating with the Regional Disaster Medical Health Coordinator on the acquisition of resources or the movement of patients to other jurisdictions.



# Flow of Requests and Assistance Under SEMS

## Foundational Knowledge, Section 3.9.6

### Flow of Requests and Assistance During Large Scale Incidents Under SEMS





# Persons Responsible for Local Emergency Healthcare Response

## Foundational Knowledge, Section 3.10



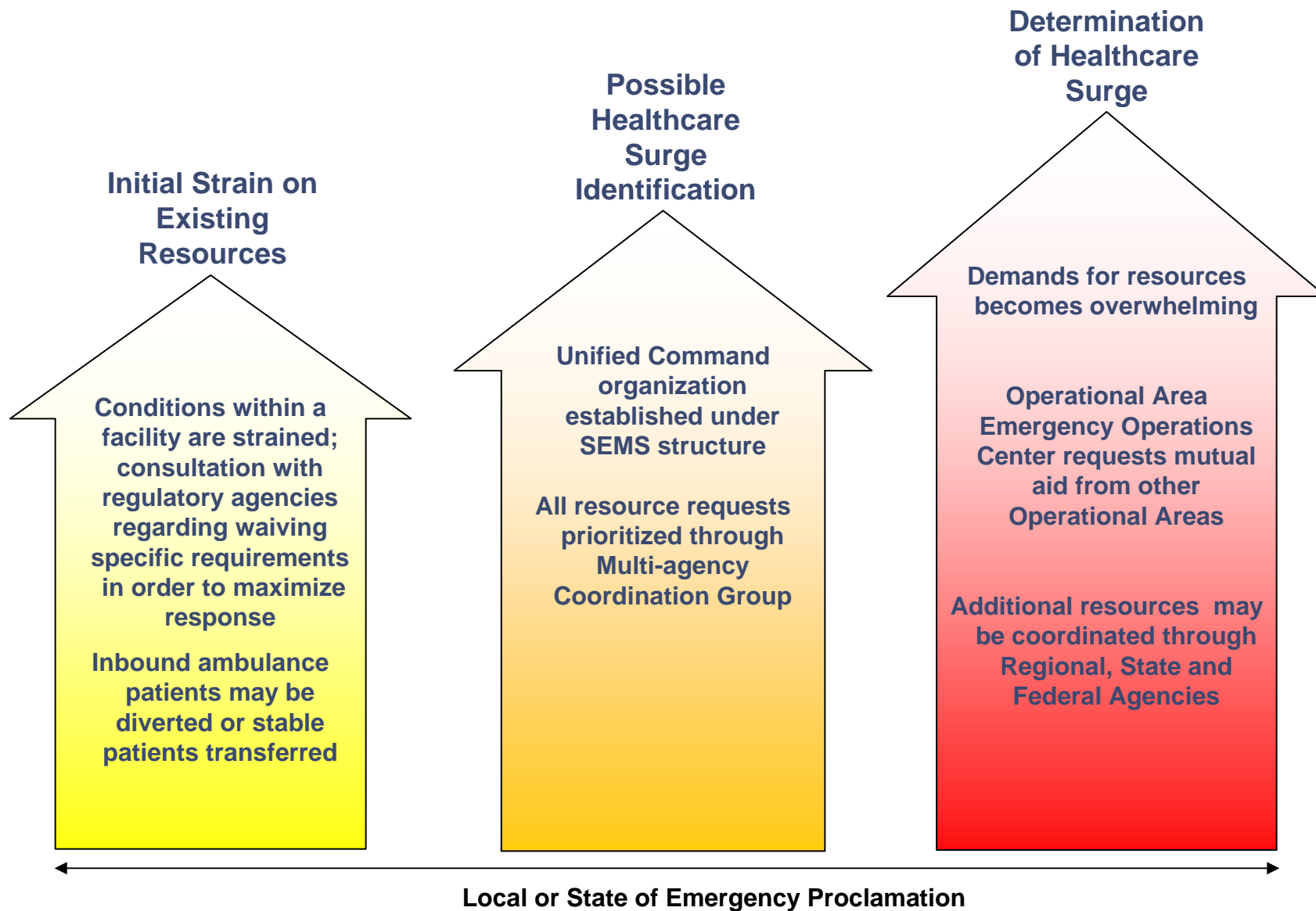
The following persons are responsible for local emergency response:

- Local Governing Body
- Local Health Officer
- County Director of Emergency Services
- Local Emergency Medical Services Agency / Medical Director
- County Director of Environmental Health
- Medical Health Operational Area Coordinator
- Healthcare Facility Incident Command System
- County Coroner



# The Progression of Healthcare Response Through Surge

## Foundational Knowledge, Section 3.11





## Termination of the Emergency Foundational Knowledge, Section 3.12

- A local emergency proclaimed by a designated local official terminates by operation of law after seven days, unless the proclamation has been ratified by the local governing body.
- If a local emergency has been proclaimed by the local governing body, the governing body must review the need for continuing the local emergency at its regularly scheduled meetings until the emergency is terminated.<sup>2</sup> The governing body must proclaim the termination of the local emergency at the earliest possible date that conditions warrant.<sup>3</sup>
- Similarly, the Governor must proclaim the termination of a state of emergency at the earliest possible date that conditions warrant.<sup>4</sup> All of the powers granted to the Governor under the Emergency Services Act for a state of emergency terminate upon the proclamation.<sup>5</sup> Thus, to the extent that the Governor has suspended regulatory statutes or altered standards of care by regulation, those suspensions and alterations would automatically end when the Governor proclaims the termination of the state of emergency.



## Regulatory Standards as Potential Obstacles to Mitigating Medical Disasters, Foundational Knowledge, Section 4.1

- In a medical or health disaster, suspension of healthcare-related regulatory statutes and regulations could be used to increase the capacity of providers to render medical services which, under normal standards, might not be available.
- The Emergency Services Act (Government Code Section 8550, et seq.) authorizes the Governor during a “state of emergency” to suspend any regulatory statute, or statute prescribing the procedure for conduct of State business, or the orders, rules, or regulations of any State agency, where the Governor determines and declares that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the emergency.
- The absence of specific regulatory restraints can remove barriers for persons to act beneficially to mitigate the effects of the emergency and generally to protect the health and safety and preserve the lives and property of the people of the State without fear of subsequent criminal, administrative or civil liability.
- Not all requirements, however, are indispensable under all circumstances to protect the consumer.



## Immunities from Liability Available in an Emergency

### Foundational Knowledge, Section 4.2

- Several statutes provide qualified immunity to persons rendering aid during an emergency. These immunity provisions instruct the courts not to impose liability in specified emergency circumstances.
- Immunities available by law for emergency care must first be examined before examining more closely the authority and procedures for suspending regulatory statutes or promulgating emergency orders and regulations, or what regulatory statutes or State agency orders, rules or regulations, if suspended, would assist in the mitigation of the effects of a medical and health emergency.

Examples of such immunities can be related to the following general categories:

- Healthcare Services during a Proclaimed Emergency – *Section 4.2.1*
- Emergency Care at the Scene of an Emergency – *Section 4.2.2*
- Failure to Obtain Informed Consent under Emergency Conditions – *Section 4.2.3*
- Lawfully Ordered Services by Disaster Service Workers – *Section 4.2.4*
- Facilities Used as Mass Care Centers – *Section 4.2.5*
- Health Facilities with Inadequate Resources – *Section 4.2.6*
- Hospital Rescue Teams – *Section 4.2.7*
- Violation of Statute or Ordinance under Emergency Orders – *Section 4.2.8*



## Suspension of Regulatory Statutes to Expand Availability of Care Foundational Knowledge, Section 4.3

For purposes of this discussion, it is assumed that the Governor has determined that, despite all the aid provided and the immunities available to healthcare professionals and facilities providing emergency care, extraordinary measures must be taken to suspend regulatory statutes as permitted under Government Code Section 8571 in order to facilitate or encourage providers of medical care to render emergency aid to individuals who otherwise might not receive it.

- In addition to the immunity protections, the standard of care expected under normal circumstances would shift to what a reasonable person would do under the disaster circumstances.
- Given the highly regulated nature of healthcare delivery and uncertain consequences for providing care in disaster situations, a Governor's suspension of regulatory requirements may be required to facilitate the willingness and ability to render emergency aid.
- The suspension would be implemented through an executive order of the Governor.
- The proclamation of a state of emergency alone is not sufficient to effectuate a suspension.
- Medical providers must ascertain the existence and scope of the proclaimed state of emergency, and extent and applicability of any suspension of regulatory requirements.



## Commandeering of Facilities and Personnel Foundational Knowledge, Section 4.4

- During a proclaimed state of emergency, the Governor is authorized to commandeer or utilize any private property or personnel as deemed necessary in carrying out the responsibilities hereby vested in him or her as chief executive of the State.
- The power to commandeer exists only under a state of emergency, and may only be exercised by the Governor or an authorized designee. It is not available under a local emergency. It must also be distinguished from other, more commonly used methods, such as contracts and agreements, to obtain necessary resources.



## **Standard of Care Defined**

### **Foundational Knowledge, Section 5.1**

#### **For the purposes of this document, the definition of Standard of Care is:**

“The standard of care during a healthcare surge is defined as the utilization of skills, diligence and reasonable exercise of judgment in furtherance of optimizing population outcomes that a reasonably prudent person or entity with comparable training, experience or capacity would have used under the circumstances.”

#### **Guiding Principles:**

The "standard of care" in California is based on what a reasonably prudent person with similar knowledge and experience would do under similar circumstances. As such, it is dependent to a certain degree on the type of provider and their respective scope of practice each provider is licensed or authorized to provide. The standard of care provides a framework to identify and evaluate objectively the professional responsibilities of licensed personnel, and permits individual licensed personnel to be rationally evaluated to ensure that is safe, ethical and consistent with the professional practice of the licensed profession in California.<sup>1</sup> Standard of care encompasses the diagnosis and treatment of patients and the overall management of patients.<sup>2</sup>





# Surge Monitoring Guidelines

## Foundational Knowledge, Section 6.1

**GREEN**

Local system is operational and in usual day-to-day status; no assistance required

**YELLOW**

Most healthcare assets within the local health jurisdiction are experiencing a surge and are able to manage the situation within their organizational frameworks; no assistance required

**ORANGE**

The healthcare assets in the local health jurisdiction require the participation of additional healthcare assets within the health jurisdiction to contain the situation

**RED**

Local health jurisdiction is not capable of meeting the demand for care, and assistance from outside the local jurisdiction / Operational Area is required

**BLACK**

Local health jurisdiction is not capable of meeting the demand for care, and significant assistance from outside the local health jurisdiction / Operational Area is required



# Surge Monitoring Guidelines

## Foundational Knowledge, Section 6.1

*(Continued)*

### Surge Monitoring Guidelines Table

	Local Surge Emergency					Regional Level Surge	Statewide Surge Level
Surge Level	Green	Yellow	Orange	Red	Black		
Enabling Authorities	Regulatory/ Accrediting Agency Waiver	Regulatory/ Accrediting Agency Waiver	Regulatory/ Accrediting Agency Waiver/ Local Emergency Proclamation	Local Emergency Proclamation	Local Emergency Proclamation	<b>State of Emergency Declaration</b>	<b>Federal Emergency Declaration</b>

The chart illustrates the relationship between the level of healthcare surge and enabling authorities to implement relative surge response activities. The chart includes the five levels of a local surge emergency, as well as a regional level healthcare surge and statewide level healthcare surge.



## Suspensions of Specific State and Federal Laws and Regulations during a Healthcare Surge, Foundational Knowledge, Section 7

It is inevitable that, during a healthcare surge, individuals providing healthcare services in licensed healthcare facilities and Alternate Care Sites may be unable to fully adhere to statutes, regulations and professional standards of practice relating to patient rights and professional ethics. As such, it is anticipated that the legal requirements concerning such rules will be waived or suspended by government authorities.

The Governor may suspend those regulatory requirements perceived to be an obstacle to the emergency response effort. The suspension would be implemented through an executive standby order of the Governor.

**Standby orders** are directions issued by the Governor that make, amend, or rescind certain state laws that prescribe the conduct of state business that may in any way prevent, hinder, or delay the mitigation of the effects of the emergency. A standby order must be approved by the Emergency Council and then issued during a proclaimed state of emergency.



## **Suspensions of Specific State and Federal Laws and Regulations during a Healthcare Surge, Foundational Knowledge, Section 7** *(continued)*

It should be emphasized that until such a standby order is issued subsequent to a declaration of a state of emergency, no regulatory requirement is suspended (except to the extent that the regulatory agency has waived enforcement). Therefore, medical providers must ascertain the existence and scope of the declared state of emergency, and extent and applicability of any suspension of regulatory requirements.

A regulatory statute can only be waived or suspended during a State of Emergency upon a determination and declaration by the Governor. Government Code Section 8571 states that that a regulatory statute is one designated to protect public health and safety. The intent of such statutes is to accomplish government's objective by mandating certain affirmative acts. Although criminal sanctions are relied upon, the primary purpose of the statute is regulation rather than punishment or correction.

The Governor may also request a Federal disaster declaration or relief by Federal agencies of specific compliance requirements during the declared disaster. The Federal government may also waive or temporarily suspend certain federal requirements in order to facilitate healthcare operations and response during a declared disaster.



## Transitioning from Individual Care to Population-Based Care Foundational Knowledge, Section 8

- As discussed in the Standard of Care section, the delivery of care during a healthcare surge will shift from an individual-based care to a population-based care
- A challenge for health care providers will not only be in their ability to make such an operational shift but also in their ability to understand the consequences of such a decision
- This following slides discuss surge related ethical principles, caring for special needs population, guidelines for population-based outcome principles and scarce resource allocation to assist with the transitioning from individuals care to population-based care during a healthcare surge.



## Healthcare Surge-Related Ethical Principles Foundational Knowledge, Section 8.1

### Principle #1:

The authorized local official has an ethical obligation to utilize all readily accessible information in a responsible way and in a timely manner in making a determination that a healthcare surge situation exists. The health and medical aspects of system response to a healthcare surge should be coordinated and informed by considerations of ethics.

Adapted from the Public Health Leadership Society's  
***Principles of the Ethical Practice of Public Health***



## Healthcare Surge-Related Ethical Principles Foundational Knowledge, Section 8.1 (continued)

### Principle #2:

To the fullest extent possible under the circumstances of a healthcare surge, the authorized local health official and those working under his or her direction and authority should provide those in the community with accurate information pertaining to the nature of the healthcare surge and the responses to it with reasonable frequency.

Adapted from the Public Health Leadership Society's  
***Principles of the Ethical Practice of Public Health***



## Healthcare Surge-Related Ethical Principles Foundational Knowledge, Section 8.1 (continued)

### Principle #3:

In planning for a healthcare surge, healthcare personnel should aim to maintain functionality of the healthcare system and to deliver a quality of care that is optimal under current circumstances. Those persons involved in formulating and implementing the response to a healthcare surge should pursue the goal of preserving as many lives as possible. In pursuit of this goal, those persons should strive, to the fullest extent possible, to respect individual rights and community norms, including, but not limited to, the following circumstances:

- In establishing and operationalizing an adequate framework for the delivery of care
- In determining the basis on which scarce resources will be allocated

Adapted from the Public Health Leadership Society's  
***Principles of the Ethical Practice of Public Health***





## Healthcare Surge-Related Ethical Principles Foundational Knowledge, Section 8.1 (continued)

### Principle #4:

Reasonable accommodations should be made for the personal needs and commitments of those healthcare and other personnel responding to the healthcare surge.

Adapted from the Public Health Leadership Society's  
***Principles of the Ethical Practice of Public Health***



## Caring for Populations with Special Needs Foundational Knowledge, Section 8.2

Caring for populations with special needs during a healthcare surge poses many challenges. Community-based organizations should be involved in the planning, response and recovery of healthcare surge emergency.

This includes, but is not limited to, the following individuals:

- Infants and small children under the age of 3
- Women who are pregnant
- Elderly people (age 65 and older)
- the Obese
- the Bedridden
- the Mentally Ill
- Those with cognitive disorders or medical conditions, or require life-saving medications
- Who are chemically dependent non-English speakers
- Those who are geographically, culturally or socially isolated



## Caring for Populations with Special Needs Foundational Knowledge, Section 8.2 (continued)

When planning for a healthcare surge, it is essential that the special needs of several groups within the general population be taken into consideration.

These needs may vary and include but are not limited to:

- Communicating disaster information in a variety of languages; having translators available at intake centers
- Providing mental health assessment resources within the healthcare setting
- Delivering emergency food, health care and counseling
- Providing alternative housing for displaced persons
- Providing shelter facilities with appropriate support services
- Providing for alternate means of decontamination for babies and other non-ambulatory persons or those unable to sufficiently decontaminate themselves due to developmental or mobility limitations
- Ensuring vulnerable persons have services for an effective recovery
- Addressing long term recovery issues
- Recognizing and incorporating cultural and/or religious beliefs into the delivery of services



## Caring for Populations with Special Needs Foundational Knowledge, Section 8.2 (continued)

"Community-based organizations provide a direct link to the local communities and the vulnerable people that CBOs [community-based organizations] serve."  
Community-based organizations can provide valuable assistance in emergency management because they:

- Have pre-established networks for delivering services
- Have access to communities the government may not be able to reach
- Understand the needs of their clients with special needs
- Have the ability to respond quickly to local issues
- Enhance the cultural competency of government to meet needs
- Have the ability to often provide information to people in their own languages



## **Guidelines to Promote Population-Based Outcomes**

### **Foundational Knowledge, Section 8.3**

During a healthcare surge, individuals providing healthcare services in licensed healthcare facilities and alternate care sites may be unable to fully adhere to statutes, regulations and professional standards of practice relating to patient rights and professional ethics. The guidelines below are intended to release healthcare facilities and providers of certain legal obligations that could not appropriately be met during a healthcare surge.

Guideline No. 1: Informed Consent during a Healthcare Surge

Guideline No. 2: Advanced Healthcare Directives during a Healthcare Surge

Guideline No. 3: Communicating with Legal Representatives for Healthcare Decisions during a Healthcare Surge

Guideline No. 4: Providing Services to Individuals with Special Needs during a Healthcare Surge

Guideline No. 5: Provision and Withdrawal of Care

Guideline No. 6: Disposal of Human Remains during a Healthcare Surge



## **Scarce Resource Allocation**

### **Foundational Knowledge, Section 8.4**

The provision of care in the setting of a large-scale disaster must be a sliding scale of care appropriate to the resource demands of the emergency. Healthcare facilities and providers managing a large excess of demand over supply of services during a healthcare surge will likely need to allocate resources in ways that are unique to the surge emergency.

#### **Appropriate Criteria for Resource Allocation among Patients**

- Likelihood of Survival
- Change in Quality of Life
- Duration of Benefit
- Urgency of Need
- Amount of Resources Required

#### **Inappropriate Criteria for Resources Allocation among Patients**

- Ability to Pay
- Perception of Social Worth
- Patient Contribution to Disease
- Past Use of Resources



# Acceptable Criteria for Resource Allocation among Patients

## Foundational Knowledge, Section 8.4.1

- **Likelihood of Survival**
  - During a healthcare surge, priority of resource allocation and treatment should be given to patients with a greater likelihood of survival. This is an essential component in maximizing best outcomes and saving the most number of lives.
- **Change in Quality of Life**
  - The benefit of the population of patients during a healthcare surge will be maximized if treatment is provided to patients who will have the greatest improvement in quality of life. Quality of life can be defined by comparing functional status with treatment to functional status without treatment.
- **Duration of Benefit**
  - The length of time each patient will benefit from treatment is an appropriate consideration in allocating scarce medical resources during a healthcare surge. By giving higher priority to patients who will benefit longer than other patients, scarce resources will be directed to patients who will benefit the most.
- **Urgency of Need**
  - Prioritizing patients according to how long they can survive without treatment can often maximize the number of lives saved. However, urgency of need should only be applied to patients who have presented themselves during a healthcare surge, not to hypothetical patients that a healthcare facility or provider forecasts receiving. Resources should not be denied to patients because other patients with more urgent need may soon present.
- **Amount of Resources Required**
  - In a situation where resources are limited, it will be necessary to treat patients who will need less of a scarce resource rather than patients expected to need more. This will maximize the number of patients who will benefit.



## Inappropriate Criteria for Resource Allocation among Patients

### Foundational Knowledge, Section 8.4.2

- **Ability to Pay**
  - During a healthcare surge, healthcare facilities and providers should not systematically deny needed resources to patients simply due to their lower economic status.
- **Perception of Social Worth**
  - A patient's contribution to society, or his/her social worth, should not be a factor in resource allocation decisions during a healthcare surge. A social worth criterion undermines the focus on the welfare of the patient and prohibits achievement of the overall goal to maximize the best outcome for the greatest number of patients.
- **Patient Contribution to Disease**
  - This criterion assigns a lower priority to patients whose past behaviors are believed to have contributed significantly to their present need for scarce resources. Examples include heart transplant candidates whose high fat diets may have contributed to their condition. Using judgments about patients' morals to allocate healthcare is inappropriate and inconsistent.
- **Past Use of Resources**
  - It may be argued that during a healthcare surge, patients who have had considerable access to scarce medical resources in the past should be given a lower priority than equally needy patients who have, up to the time of the surge, received relatively less of that resource. Because past use is irrelevant to present need, it should not factor into allocation decisions.





## Allocation of Ventilators for Pandemic Influenza Foundational Knowledge, Section 8.4.3

An example of guidelines for scarce resource allocation is the policy on Allocation of Ventilators for Pandemic Influenza issued in draft by the New York State Task Force on Life and the Law, March 2007.

- ***Duty to Care:*** The ethical rationing system for allocation of ventilators must support the fundamental obligation of health care professionals to care for patients. While ventilator allocation decisions may involve the choice between life and death, to the fullest extent possible, physicians must strive to ensure the survival of each individual patient.
- ***Duty to Steward Resources:*** During a healthcare surge, clinicians will need to balance the obligation to save the greatest possible number of lives against their longstanding responsibilities to care for each single patient.
- ***Duty to Plan:*** Planning is not a recommendation but an obligation. The absence of guidelines would leave important allocation decisions to be made by exhausted providers, which would result in a failure of responsibility toward both patients and providers.
- ***Distributive Justice:*** The same allocation guidelines should be used across the State. These allocation guidelines must not vary from private to public sector. They need to remain consistent throughout the community at hand.
- ***Transparency:*** Any just system of allocating ventilators will require robust efforts to promote transparency. Proposed guidelines should be publicized and translated into different languages as necessary.



## Allocation of Ventilators for Pandemic Influenza Foundational Knowledge, Section 8.4.3 (continued)

### *Guidelines Related to the Withdrawal / Restriction of Ventilator Support*

- During a healthcare surge, as the demand for mechanical ventilation increases, the supply of each facility's ventilators will naturally decrease
- Criteria for ventilator allocation should be implemented in a tiered fashion to provide a scalable framework for restriction. Withholding and withdrawing ventilatory support are ethically indistinct, and are thus listed together:
  - **First-Tier Criteria:** The first tier would eliminate access to ventilators for patients with the highest probability of mortality.
  - **Second-Tier Criteria:** If resources continue to decrease during a healthcare surge, the second tier would deny ventilatory support to patients with respiratory failure as well as a high use of additional resources. This tier includes patients who have a pre-existing illness with a poor prognosis.
  - **Third-Tier Criteria:** When resources continue to decrease, a third tier of criteria would need to be implemented. This criteria lacks the specificity of the first two, as Hick et al. suggest that this may need to be a real time decision on criteria to be used.

Adapted from *Concept of Operations for Triage of Mechanical Ventilation in an Epidemic*, Hick, et al.



## Foundational Knowledge

### *Wrap Up*

Now that you have completed this training course, you should:

- Be able to define basic terminology, such as surge, surge capacity, and standards of care (among others), as used in the context of the **Standards and Guidelines for Healthcare Surge During Emergencies** project
- Be familiar with current, existing waivers and provisions to regulations as they pertain to a health emergency situation, and be able to locate those provisions
- Be able to articulate the ethical and behavioral principles and practice guidelines required to be in place during a healthcare surge event
- Be able to locate and utilize regulatory information and other resources for planning and implementing a response to healthcare surge