Strengthening Tribal Public Health Emergency Preparedness in Washington State

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American Indian Health Commission for Washington State

Pulling Together for Wellness

The American Indian Health Commission is a Tribally-driven, non-profit organization providing a forum for the twenty-nine tribal governments and two urban Indian health programs in Washington State to work together to improve health outcomes for American Indians and Alaska Natives.

Today's Presentation Overview

Part 1: History of Funding for Tribal Public Health Emergency Preparedness in Washington State

Part 2: Public Health Emergencies Shaped Current Tribal Approaches

Part 3: Guiding Principles for Tribal Public Health Emergency Preparedness

Part 4: Overview of Legal Preparedness and Recent Efforts in WA

Part 5: Making Preparedness Part of Everyday Work - Examples

Part 6: Overview of Past and Future Work

Part 1

History of Funding for Tribal Public Health Emergency Preparedness in Washington State

The tragic events of 9/11/2001 prompted the federal government to fund efforts to prepare for and respond to natural and man-made disasters

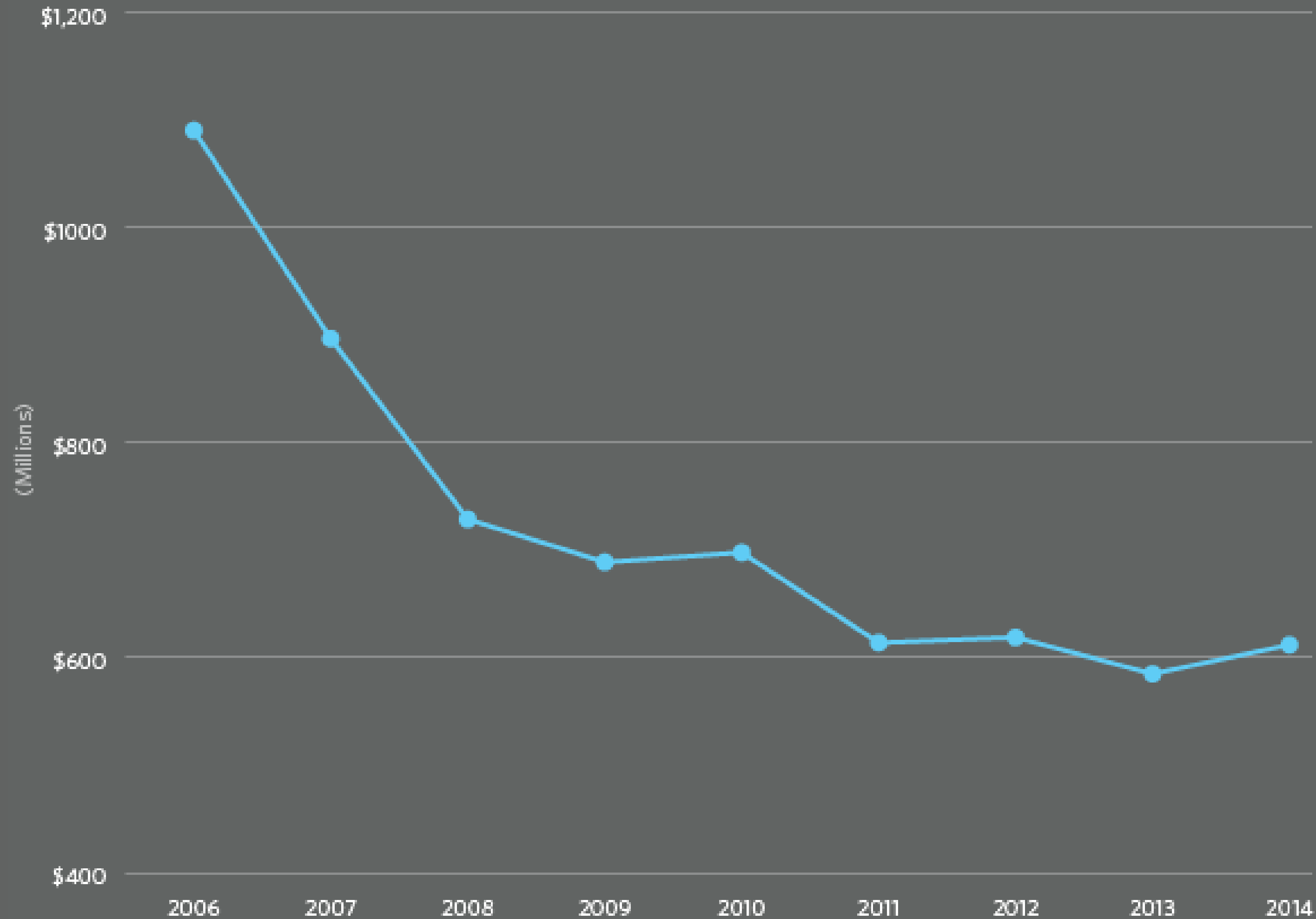
Washington State Tribes and Tribal Health Clinics

Nooksack
Lummi
Upper Skagit
Samish
Swinomish
Sauk-Suiattle
Makah
Lower Elwha
Stillaguamish
Tulalip
Quileute
Jamestown Klallam
Hoh
Port Gamble
Suquamish
Snoqualmie
Quinault
Skokomish
Muckleshoot
Squaxin Island
Puyallup
Nisqually
Chehalis
Shoalwater
Cowlitz
Colville
Kalispel
Spokane
Yakama

Tribal Clinic - Tribe Operated
Tribal Clinic - Indian Health Services
Urban Indian Programs
No Clinic (Contract Only)
Tribal Boundaries
Local Health Jurisdictions

2003 - first year CDC PHEP funding was available to tribes through contracts with Washington State DOH

The first few years, CDC funds were directed at planning for terrorism events: chemical, biological, radiological, nuclear and explosive



Federal Funding Rapidly Declined

Funding Available to Tribes is Grossly Inadequate

The funding formula results in most (17 of the 29) tribes having opportunity to contract for only $10,000 or less per year

Many tribes cannot contract for these small amounts, as the administrative costs exceed their allocations – for many years, these funds were lost to Indian country

Tribal Reinvestment Fund

As of 2017, uncontracted funds have been preserved and placed in a “Tribal Reinvestment Fund” which is then made available to all Washington tribes and tribal organizations to apply for competitive contracts

Washington State Department of Health

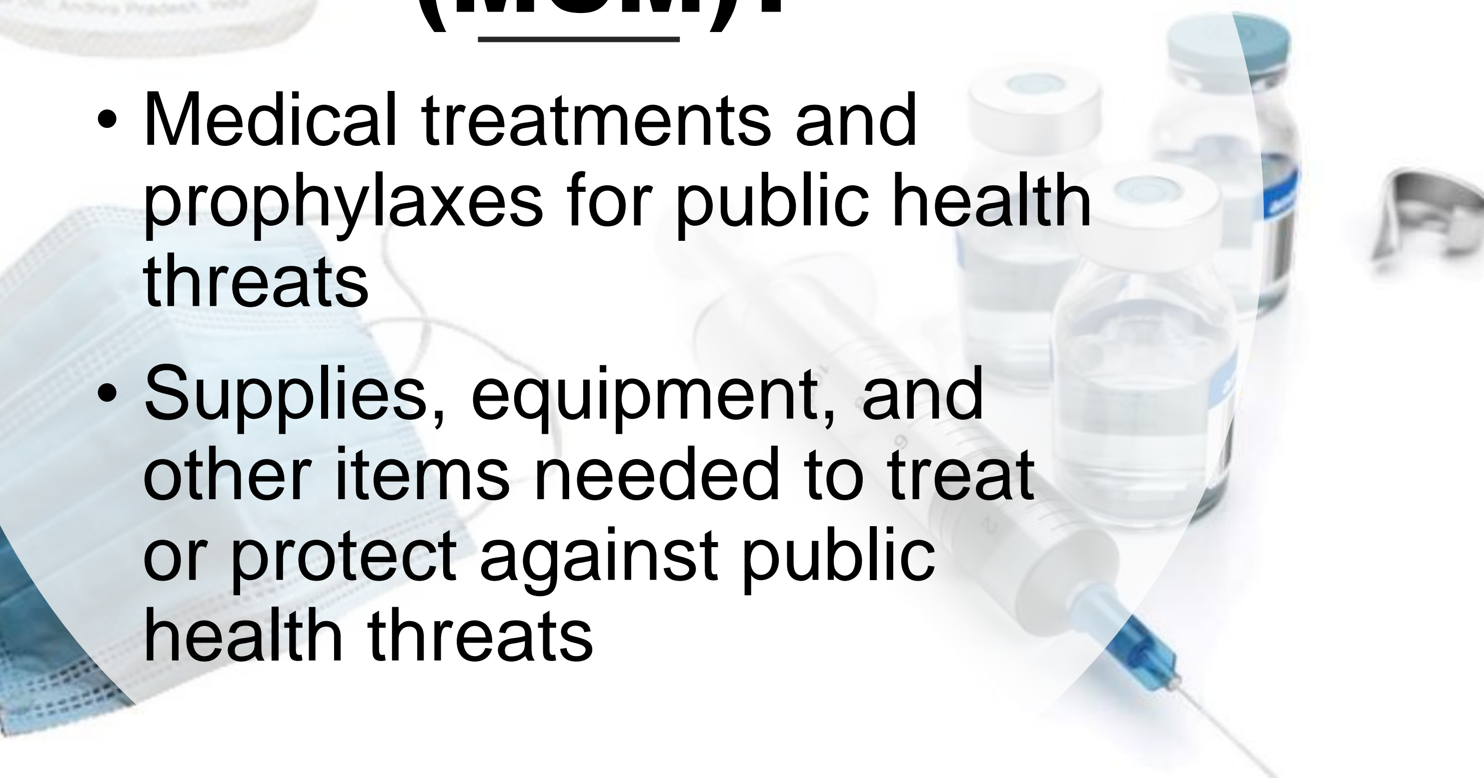
Part 2

Public Health Emergencies Shaped Current Tribal Approaches

2009 H1N1 Influenza
Pandemic

What are Medical Countermeasures (MCM)?

- Medical treatments and prophylaxes for public health threats
- Supplies, equipment, and other items needed to treat or protect against public health threats



Strategic National Stockpile

Federal government maintains caches of MCM in secure locations around the U.S.

When incidents occur, these are delivered to states at pre-determined locations

H1N1

- At first, a vaccine did not exist
- Governments (tribal, state, local) began planning and taking actions to protect their citizens
- When developed, the vaccine and antivirals became available incrementally, rolled out in small quantities

Priority Populations

CDC issued a recommendation that vaccines be prioritized for individuals aged 24 and younger

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Some tribes made plans to immunize elders first, based on how H1N1 was affecting their citizens and their cultural norms

Lack of Cross-Jurisdictional Planning and Coordination

In 2009, Washington State's process for distributing MCM to tribes relied on passing tribes' allocations through local health jurisdictions (LHJs)

There had been no planning or exercises with tribes and LHJs

Some LHJs did not understand their role is limited to coordinating delivery of the MCM to tribes

Failure to Distribute Medical Countermeasures to Some Tribes

Some LHJs misunderstood their role, and withheld tribes' allocations of MCM, arguing the tribes' plans were in conflict with CDC guidelines

Never Again

Our Goal:

Assure the appropriate amount and type of MCM reach every Tribe quickly during every public health emergency

Pertussis Epidemic

2011

2011 – 2012, Washington State experienced an epidemic of pertussis (whooping cough)

Compared to other racial groups, American Indians and Alaska Natives had the highest rate of cases (per 100,000), second only to Hispanics

Some tribes experienced difficulty accessing pertussis vaccine

This event further highlighted the need for tribes to plan, exercise and coordinate response actions with Washington state and local health jurisdictions

Part 3

Guiding Principles for Tribal Public Health Emergency Preparedness

Whole Community Approach

Everyone has a critical role in community preparedness

Continuous Cycle

Public health issues and emergencies know no boundaries

They do not stop at the Reservation-County borders

Capacity

No federal, state, local, or tribal government has the capacity to respond to every public health incident or emergency that may occur within its jurisdiction without assistance

Plan Ahead With Partners

The unfolding of a public health emergency is a poor time to begin learning how to collaborate with neighboring jurisdictions and understanding their legal authorities, capabilities and available resources

Pathways to Preparedness:

Strengthen Tribal Capabilities

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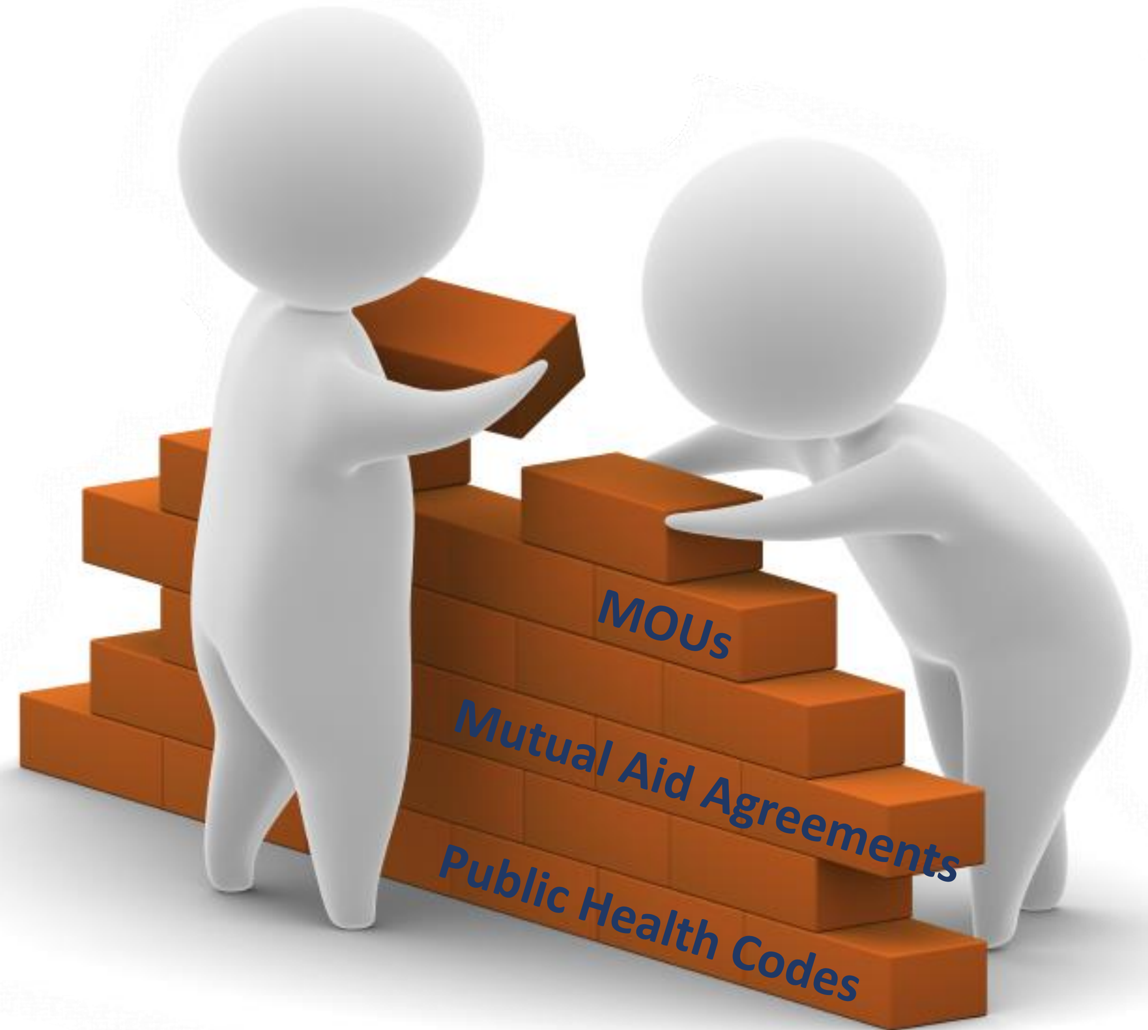
Build Partnerships

Legal Preparedness provides the foundation for all community readiness capabilities



Part 4

Overview of Legal Preparedness

Mutual Aid Agreements
Medical Countermeasures Distribution

Legal Authority for Emergency Preparedness

It is important for states, tribes, and local governments to understand the extent and limitation of their authority and to develop plans for using that authority.

-See Homeland Security and Emergency Management, Abbott and Hetzel, p. 4

Mutual Aid Agreements

What is Mutual Aid?

Sharing of ***<u>resources</u>*** between two or more jurisdictions is referred to as “Mutual Aid

Resources refers to supplies, equipment, personnel, expertise or information

What is a Mutual Aid Agreement?

Agreements between jurisdictions to share resources available should the other jurisdiction need them

Example Mutual Aid Agreements

STATE-TO-STATE

Emergency Management Assistance Compact (EMAC)

INTRASTATE

Washington Intrastate Mutual Aid System (WAMAS)

Elements of Mutual Aid Agreement

- Authority
- Control of Resources
- Compensation for Injury
- Liability to 3rd Parties & Governmental Immunity
- Indemnification
- Reimbursement
- Licensure
- Dispute Resolution

Coordination between Tribes and Non-Tribal Governments

- Complexity of Indian jurisdictional law intersecting with local, state, and federal law requires advanced planning
- Federal law and guidance may not address every situation

Unique Legal Considerations of Tribal Mutual Aid Agreements

Tribal Granting of Temporary Authority to Local Public Health Officer

Unless a Tribal Government specifically grants temporary authority to a Local Public Health Officer, that Health Officer has NO JURISDICTION on tribal lands

Unique Legal Considerations of Tribal Mutual Aid Agreements

Tribal Sovereign Immunity

- 3rd Party Liability
- Indemnification

Dispute Resolution

- Binding Arbitration
- Governing Law
- Venue

Guiding Principles - Mutual Aid Agreement for Tribes and Local Health Jurisdictions in WA

Mutual Aid Agreement and Mutual Aid Guide (MAG)

- Consistent with NIMS and ICS
- Where appropriate, consistent with WAMAS

Mutual Aid Guide

- MAG consistent with Mutual Aid Agreement
- Pass the 2:00am "First-Timer" test
- Exercised and updated annually

6 Key Benefits of Tribal-LHJ MAA

1. Helps a government fulfill its duty to protect the lives, health and welfare of its people from public health threats

2. Faster and more organized access to resources from other jurisdictions in time of need

3. Reduces legal disputes that may occur after a joint response to an incident or emergency

6 Key Benefits of Tribal-LHJ MAA (continued)

4. Facilitates the ability for an impacted government to receive reimbursement from FEMA and Washington State (See FEMA Disaster Assistance Policy, DAP9523.6)

5. Opportunity for governments to better understand each jurisdiction's system of government and builds relationships

6. Provides a tool to support regional partners to regularly exercise emergency response practices and strengthen the region's capacity to respond and recover from incidents and emergencies

Medical Countermeasures Distribution

Legal Question

Does a local health jurisdiction have the authority to:

withhold medical countermeasures from a tribe; and/or

force a tribal government to comply with CDC guidelines in order for the tribe to receive and dispense medical countermeasures (MCMs)?

Tribal Sovereign Authority

Tribal officials have well-established powers including the power to

- commandeer resources,
- control property, and
- order evacuations

Distribution of Medical Countermeasures to Tribes

Each time an incident occurs, a tribe has the sovereign authority to choose how medical countermeasures are distributed to their community by federal, state, and or local governments

Tribal MCM Distribution: Existing Guidance

"It is vital that state and local planners coordinate with their tribal populations to ensure everyone in the affected communities has access to MCMs during an incident"*

*"Receiving, Distributing, and Dispensing Strategic National Stockpile Assets: A Guide to Preparedness, *Version 11, p. 5-6.*

State and Local Health Jurisdiction Role in Distribution of MCM to Tribes

"For state and local jurisdictions that include military installations, ***tribal nations***, and federal agencies, a unique set of challenges can arise for coordinating the receipt, distribution, and dispensing of MCMs. While planners sometimes mistakenly believe that these unique jurisdictions are autonomous or will be covered by federal agencies during an emergency, ***responsibility for these entities actually falls to the state and local jurisdictions in which they are located***."*

*"Receiving, Distributing, and Dispensing Strategic National Stockpile Assets: A Guide to Preparedness, *Version 11, p. 5-6.*

State and Local Health Jurisdiction Role in Distribution of MCM to Tribes

- States are responsible for ensuring that MCMs are distributed to Tribes*
- In Washington, the State has committed to distributing MCMs directly to each of the tribes or coordinating with federal and/or local health jurisdictions to distribute MCMs to tribes.

*"Receiving, Distributing, and Dispensing Strategic National Stockpile Assets: A Guide to Preparedness, *Version 11, p. 5-6.*

Federal Government (SNS) ➡ Washington State

OPTION 1
Tribe ➡ State

TRIBE sends staff and vehicle to pick up MCM at STATE RSS location

OPTION 2
State ➡ Tribe

STATE delivers directly to TRIBAL location

OPTION 3
State ➡ LHJ ➡ Tribe

STATE delivers Tribal allocation to Local Health Jurisdiction (LHJ)

TRIBE and LHJ coordinate conveyance of MCMs to TRIBE

OPTION 4
Tribe Contacts Feds (CDC)

Delivery of MCMs to tribes will occur, dependent upon the facts and circumstances of the incident, through federal coordination with the State or other entity*

*"Receiving, Distributing, and Dispensing Strategic National Stockpile Assets: A Guide to Preparedness, *Version 11, p. 5-6.*

Remaining Issues

If tribes receive medical countermeasures from state or local health jurisdictions:

a) How can we ensure that state or local health jurisdictions do not improperly assert authority over tribal governments regarding dispensing of the MCMs?

b) How can we ensure that state or local health jurisdictions do not withhold distribution of MCMs to tribes?

Legal Preparedness Obstacles

Engaging tribes and other partners is only half the battle

Local health jurisdictions and other partners may lack legal resources and knowledge on the complexities of tribal law

Federal law is ambiguous and unsettled in the area of medical countermeasures distribution to tribes

Common and Costly Mistakes in Cross-Jurisdictional Collaboration Between Tribes and LHJs

Treating tribes as stakeholders and not sovereign nations

Failure to enter into agreements before a public health incident

Failure to have regular meetings between jurisdictions

Lack of awareness of tribal capacity, expertise, and resources

Part 5

Making Preparedness Part of Everyday Work - Examples

Colville Tribes

Annual

Drive-By (Flu) Shots

Yellow Brick Road Health Fair/Tsunami Evacuation Exercise

Annual

Engages community members and non-tribal PHEPR partners

Makah Nation

Annual Tribal Nations Canoe Journey

Stand up Incident Command System

Exercise communications and mass sheltering plans

Between 100 and 200 canoes

Up to 10,000 event attendees

MCM Tabletop 2019

Part 6

Overview of Past and Future Work

Strengthening Tribal Capabilities

- Statewide Tribal Needs Assessment (2014)
- Tribal Community Preparedness Toolbox (2016)
- Tabletop Exercises: Emergency Vaccination (2015), Mutual Aid (2017), Tribal-State-Local MCM Distribution (2018)
- Proposed State Legislation: WA Emergency Management Council Representation for Tribes and Funding for Tribal

Past Work
Strengthening PHEPR Partner Relationships
- Tribal-Local Health Mutual Aid Agreement and Operational Guide (2017)
- Facilitated Tribal-CDC MCM Distribution Coordination Webinar (2018)
- Tribal-State-Local MCM Coordination Meetings (2018)
- Tribal-State-Local MCM Distribution Tabletops (2018)

Draft language for CDC/ASPR

- Clarify roles for federal, states, local governments, tribes
- Clarify process for direct distribution from federal government to tribes

Draft language for WA DOH

- Guidance document on MCM Distribution to Tribes and revisions to Annex 9

Work Ahead: 2019

Develop draft language for LHJs' plans

- Processes for including tribes in communication, decision-making and coordination of response

Develop Model Tribal MCM Plan

- Host training webinar

Work Ahead: 2019

Analyze WA State Pharmacy MOU

- Is it viable for tribes?
- If not, develop a more appropriate alternative

Develop system for tribes and PHEPR partners to share essential information

Work Ahead: 2019

Develop and provide training to tribes on Point of Dispensing (POD) planning and operations

Engage all tribes in the statewide T-Rex MCM distribution full scale exercise

Work Ahead: 2019

Host MCM distribution planning meetings for each of the 9 regions (with tribes, LHJs, DOH and other PHEPR partners)

Host a Mutual Aid Agreement workshop for the tribes and LHJs in Region 9