

What is the PREP Act?

- The PREP act is a federal law that was enacted in 2006 to address concerns about liability related to countermeasures taken in response to chemical, biological, radiological and nuclear agents of terrorism, epidemics, and pandemics.
- A PREP Act declaration is specially for the purpose of providing immunity from tort liability, and is different from, and not dependent on, other emergency declarations.

How does the PREP Act affect liability?

- The PREP Act authorizes the Secretary of the U.S. Department of Health and Human Services to issue a “PREP Act Declaration” that provides immunity from tort liability (except for willful misconduct) for claims of loss caused, arising out of, relating to, or resulting from administration or use of disaster countermeasures.
- Immunity under the PREP Act becomes available when the Secretary issues a declaration, beginning on the effective date or other triggering event stated in the declaration.

How does the PREP Act provide immunity for Closed PODs?

- In the event of an emergency necessitating the use of Strategic National Stockpile assets and POD activation, the distribution of medication will be considered a “countermeasure” under the PREP Act.
- PREP Act immunity applies to all claims, under Federal or State law for any type of loss including death, physical, mental, or emotional injury, fear of such injury, or property damage or loss, with any causal relationship to any stage of development, distribution, administration or use of the covered countermeasure recommended in the declaration.
- Immunity is given to manufacturers of countermeasures, distributors of countermeasures, program planners of countermeasures, and qualified persons who prescribe, administer, or dispense countermeasures (i.e., Closed POD Staff).