MODULE 2: THE LEGAL INFRASTRUCTURE OF PUBLIC HEALTH

The Legal Infrastructure of Public Health

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Overview

Module 2

1. The Importance of Law in the Public Health Infrastructure
2. Integrating Law and Public Health Systems Research and Practice
3. Infrastructural Public Health Law at Work
Module 2: The Legal Infrastructure of Public Health

Part 1: The Importance of Law in the Public Health Infrastructure
Who Says Law Matters?

- Three major reports from the Institute of Medicine since 1988
  - importance of “legal infrastructure” to public health
  - need to review and possibly update statutes that define the authority of health agencies at the federal, state and local levels
Who Says Law Matters?

- “Law has been critical in attaining public health goals, serving as a foundation for governmental public health activities.”
  - Public Health Law Program, established in 2000
“Many of public health's greatest successes ... have relied heavily on law”

Ten Great Public Health Achievements — United States, 1900–1999

- Vaccination
- Motor-vehicle safety
- Safer workplaces
- Control of infectious diseases
- Decline in deaths from coronary heart disease and stroke
- Safer and healthier foods
- Healthier mothers and babies
- Family planning
- Fluoridation of drinking water
- Recognition of tobacco use as a health hazard
Who Says Law Matters?

• Association of State and Territorial Health Officials
  • Provides research, technical assistance and opportunities for state health agency legislative liaisons to exchange ideas on public health policies.
  • Tracks and analyzes legislation, regulations and executive orders across the states.
  • Provides the resources below to assist state health agencies and others in understanding national trends and emerging issues impacting public health and state health agencies.
Who Says Law Matters?

- National Association of County and City Health Officials
  - Law is an important tool in public health practice
  - Public health officials have legal rights and responsibilities
  - Partnerships between public health professionals and attorneys are developing to balance the rights of individuals with public responsibilities
Who Says Law Matters?

• Lead and contribute to the development of policies that protect, promote, and improve public health while ensuring that the agency and its components remain consistent with the laws and rules (local, state, and federal) to which it is subject. These may include, but are not limited to:
  • Developing internal and external policies that support public health agency goals and utilize the best available evidence;
  • Adopting and ensuring enforcement of regulations that protect the health of the community;
  • Ensuring that necessary policies exist, new policies are proposed/implemented where needed, and existing policies reflect evidence-based public health practices; and
  • Evaluating existing policies on a regular basis to ensure that they are based on the best available evidence for public health practice.
Who Says Law Matters?
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Most Importantly...

Figure 1. Cumulative Adoption of Selected Interventional Public Health Laws by States, by Year

- Blue line: Laws requiring restraint of motor vehicle child passengers (Teret 1986, Bae et al under review)
- Green line: Laws requiring use of seatbelts by all motor vehicle passengers (Williams and Lund 1986, Cohen and Einav 2003)
- Purple line: Laws providing incremental licensure for young drivers (GDL laws) (Insurance Institute for Highway Safety 2012)
- Red line: Laws regulating driver use of mobile communication devices (LawAtlas 2013)
- Orange line: Laws aimed at addressing sports concussions in young athletes (LawAtlas 2013)
Healthy People 2020

• Laws are relied on as primary interventions in the fulfillment of HP Objectives
  
  – EH-16 - Increase the proportion of schools that have official school policies and engage in practices that promote a healthy and safe physical school environment

  – TU-13 - Establish laws ... that prohibit smoking in public places and worksites

  – IVP-17 - Increase the number of states... with “good” graduated driver licensing (GDL) laws

  – PA-9.1 - Increase the number of states with licensing regulations for physical activity in child care...
Healthy People 2020

- Laws are also instrumental in achieving others
  - OH-13 Increase the proportion of the U.S. population served by community water systems with optimally fluoridated water
  - MHMD-9 Increase the proportion of adults with mental health disorders who receive treatment
  - NWS-1 Increase the number of states with nutrition standards for foods and beverages provided to preschool-aged children in child care
  - RD-3 Reduce emergency department (ED) visits for asthma
  - IVP-30 Reduce firearm-related deaths
Healthy People 2020

- Laws, and the competency to deploy them, are part of the infrastructure of public health
Three Types of Public Health Law

- Interventional Public Health Law
  - laws intended to influence health outcomes or mediators
Three Types of Public Health Law

- Incidental Public Health Law
  - laws, regardless of topic or purpose, that are having an impact on public health
Three Types of Public Health Law

- Infrastructural Public Health Law
  - laws establishing the powers, duties, and structure of public health agencies
The Spectrum of “Law”

“Law on the books”

Enforcement agency management policies, standard operating procedures, training

Practices, knowledge, attitudes and beliefs of front-line agents

Knowledge, attitudes and beliefs of people subject to law
Example: Reducing HIV Among Injection Drug Users

“Law on the books”

Criminal justice management policies, standard operating procedures, training

Practices, knowledge, attitudes and beliefs of front-line officers

Knowledge, attitudes and beliefs of injection drug users

- Syringe access
- Injection behavior
- Incarceration Drug market characteristics
- Access to information and services
- Geographic diffusion and other network effects

HIV
Reduce new AIDS cases among adolescents and adults who inject drugs
Key Legal Concepts

Legal Capacity
Institutional Legal Culture
Legal Competency
Legal Consciousness

Organizational construction of law and processes of legal action
Knowledge of the law and one’s legal role; skills needed to perform role
Understandings of law and legal practice
Law in the Ten Essential Public Health Services

1. **Monitor** health status to identify and solve community health problems.

2. **Diagnose and investigate** health problems and health hazards in the community.

3. **Inform, educate,** and **empower** people about health issues.

4. **Mobilize** community partnerships and action to identify and solve health problems.

5. **Develop policies and plans** that support individual and community health efforts.

6. **Enforce** laws and regulations that protect health and ensure safety.

7. **Link** people to needed personal health services and assure the provision of health care when otherwise unavailable.

8. **Ensure** competent public and personal health care workforces.

9. **Evaluate** effectiveness, accessibility, and quality of personal and population-based health services.

10. **Research** for new insights and innovative solutions to health problems.
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Public Health Law Research
The scientific study of the impact of law and legal practices on public health
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Summary

• Law is a crucial part of public health practice

• Law can be:
  • Interventional
  • Incidental
  • Infrastructural

• Law is more than statutes or court decision
  • Enforcement practices
  • Attitudes and understandings of people who enforce or are subject to the law
  • Possible difference between what is written and what actually happens in practice
Summary

• An organization’s “Legal capacity” depends on:
  • Institutional legal culture
  • Legal competency of staff
  • Legal consciousness of staff