GOOD GOVERNANCE AND BOARDS OF HEALTH IN THE TIME OF COVID-19

Jill Krueger
Presented March 24, 2021
NALBOH Spring Symposium
Via Zoom
The Network for Public Health Law

Contact the Network to:

• Get practical legal assistance on a variety of public health topics

• Find helpful resources from webinars and trainings to fact sheets and legal briefs

• Connect with a community of experts and users of public health law
What is Public Health?

What we as a society do collectively to assure the conditions in which people can be healthy.

Institute of Medicine, *The Future of Public Health*, 1988
What is Public Health Law?

The study of the **legal powers and duties** of the state to assure the conditions for people to be healthy (to identify, prevent, and ameliorate risks to health in the population) and the **limitations on the power of the state** to constrain the autonomy, privacy, liberty, proprietary or other legally protected interests of individuals for the common good.

**Power. Duty. Restraint.**

Governance Role of Boards of Health

Board of Health: Public accountability; avenue for civic engagement; respond to community priorities; ambassador for public health

Local Health Department: Public health expertise

The Public: Provide input on community needs and concerns
Governance Influences Public Health Practice

» A recent study found that board of health governance approaches and practices could encourage local health departments to engage in certain public health practices, including CHA/CHIP, strategic planning, and accreditation.

» Gulzar Shah, et al., Impact of Local Boards of Health on Local Health Department Accreditation, Community Health Assessment, Community Health Improvement Planning, and Strategic Planning, JOURNAL OF PUBLIC HEALTH MANAGEMENT AND PRACTICE (Sept./Oct. 2019)

» Governance Also Influences Public Health Law and Policy. . .
Ingham County Board of Health

RESOLUTION IN SUPPORT OF
ADOPTING A HEALTH-IN-ALL-POLICIES APPROACH TO DECISION-MAKING
IN INGHAM COUNTY GOVERNMENT

Over several months, the Ingham County Board of Health has reviewed and considered the benefits of an approach to decision-making that has been adopted by many municipal and county governments across the nation. This approach is commonly referred to as “Health in All Policies.” If applied in a concrete and rigorous way, this approach provides both a mindset and a process for incorporating considerations of health equity into all public policy decisions.

In most communities that have successfully adopted a Health in All Policies approach, the primary mechanism for applying it has been an interdepartmental body with representation from all sectors of community life over which the governing body (in the case of a county, a Board of Commissioners) has influence. The members of this interdepartmental body receive training and technical assistance in understanding the ways in which decisions about housing, employment, education, transportation, land use, etc., can create the conditions that promote or discourage health, especially for residents who are already marginalized by virtue of their race or ethnicity, socio-economic status, mental or physical disability, language of origin, age, or other aspect of their identity. The primary function of the interdepartmental body is to serve the governing body by 1) considering any new governmental policy for which the likely health impacts are not clear; 2) considering current governmental policy whose negative health impacts have been called into question by the public; 3) analyzing the health impacts of any such policy; and 4) providing recommendations to the governing body on any changes in these policies that would reduce negative health impacts.
Supporting a Merger And Transition to Public Health 3.0


CASE EXAMPLE
Building Public Health 3.0 in Wisconsin’s Washington and Ozaukee Counties

THE CHALLENGE
Ozaukee County, a suburban jurisdiction north of Milwaukee with a population of 87,000, faces well overall
Health Impact Assessment/ Natural Gas Infrastructure

September 5, 2018

Governor Charles Baker
Massachusetts State House
24 Beacon Street Room 280
Boston, MA 02133
Attention: Governor’s Office

Dear Governor Baker;

The Lowell Board of Health joins over 70 other Local Health Boards across the Commonwealth in urging you to require an independent health impact assessment prior to authorization of any natural gas infrastructure projects in the Commonwealth.

Natural gas flowing through pipelines contains volatile contaminants, such as benzene and formaldehyde, which can cause human illnesses, even at low concentrations. Releases are routine, whether from leaks or maintenance. The Commonwealth has an obligation to protect the health of its citizens; yet, the potential health effects of natural gas pipelines are not being examined to the extent that the Public’s health and welfare is being protected to the best of the Commonwealth’s capability.

Lowell, Massachusetts BOH 2018
Racism and segregation in Ohio and Franklin County have exacerbated a health divide resulting in Black Ohioans having lower life expectancies than White Ohioans; being far more likely than other races to die prematurely (before the age of 75); and to die of heart disease or stroke, according to the Health Policy Institute of Ohio. Black Ohioans also have a nearly three times higher rate of infant mortality, lower birth weights, are more likely to be overweight or obese, have adult onset diabetes, and have long-term complications from diabetes.

Racism, not race, also causes disproportionately high rates of homelessness, incarceration, poor education and economic hardship for African Americans. An emerging body of research demonstrates that racism itself is a social determinant of health.

The Franklin County Board of Health is the governing body of Franklin County Public Health. At their May 12, 2020, meeting, the Board joined a growing number of United States cities and counties by declaring Racism a Public Health Crisis and acknowledged that the health impact of racism in Ohio and Franklin County is affecting our entire community.

Franklin County, Ohio BOH 2020
The racial differences that we measure are the consequence of the centuries of policies, practices, and systems that have intentionally provided advantage to some while, simultaneously, intentionally subjecting others to disadvantage.

~ Dr. Arthur James, Board of Health Member

Franklin County, Ohio BOH 2020

Public Health Authority in the Time of COVID-19

March 3, 2021
THE ROLE OF LOCAL BOARDS OF HEALTH IN THE TIME OF COVID-19
1898-99 Smallpox Epidemics

“The interests and medical understandings of ... government bodies often clashed with those of health officers. For the lay officials, who...were typically merchants, farmers, and other men ‘unfamiliar with matters pertaining to general sanitation and public health’, the smallpox question came down to taxpayer dollars and common sense....If they strayed too far from the common sense of the community, they risked losing their jobs.”

Pox: An American History [Michael Willrich; Penguin Press at page 108]
The More Things Change. . .

“Pretty much everything that we ever talked about when I went through training on how to manage pandemics and bioterrorism has played out in this. With the exception that nobody ever talked about what to do if we weren’t able to convince the public that this was serious.”

Lisa Clute
First District Health Unit, Administrator
Minot, North Dakota

The Nanny
You only thought you lived in the land of the free.

The Ghost of Public Health Controversies Past

Bye Bye Venti

Nanny Bloomberg has taken his strange obsession with what you eat one step further. He now wants to make it illegal to serve “sugary drinks” bigger than 16 oz. What’s next? Limits on the width of a pizza slice, size of a hamburger or amount of cream cheese on your bagel?

New Yorkers need a Mayor, not a Nanny.
Find out more at ConsumerFreedom.com
Challenges Confronting Local Health Officers

- Threats to Public Health
- Threats to Public Health Officials
- Threats to Public Health Authority
Pending Bills to Change Public Health Authority

» Limit, clarify, or expand emergency powers
» Limit, clarify, or expand public health authority generally
» Specific aspects of public health or emergency authority
» Re-assign specific authority from health departments to other entities, such as school boards or superintendents
» Commission or task force to study the pandemic response and propose statutory or regulatory changes
» Laws to protect public health officials, or public health officials generally, in the performance of their duties
» Invest in public health infrastructure and workforce
» See blog posts on www.networkforphl.org
Guiding Principles Can Ground the Discussion

» Transparency
» Allow renewable emergency declarations;
» Provide for scaled response;
» Address religious gatherings on the basis of risk;
» Provide supports, legal protections and accommodations; and
» Employ criminal enforcement of social distancing only when it is the least restrictive alternative

How Can Boards of Health Support Local Health Officers?

» Communications/ Media

» Seek out educational opportunities

» Learn and apply the Board’s legal duties and authority

» Identify whether and how the Board may access legal advice and representation

» Champion evidence-based policy initiatives

» Advocacy (e.g. to city council, county board of commissioners or county board of health, state legislature, state governor)
Principles of Mass Trauma Response

» Promote sense of safety

» Promote calming

» Promote sense of self- and collective efficacy

» Promote connectedness

» Promote hope

Burnout, Resilience, and Mental Health

Trauma Informed Systems Approach, implemented by San Francisco Department of Health, and Bay Area county health departments
The Beloved Community
https://www.publichealthlawwatch.org/covid19-policy-playbook
2021 Public Health Law Conference
Building and Supporting Healthy Communities for All
September 21 – 23, 2021 | Baltimore, MD

PHLC2021.org
Contact Me:

Jill Krueger

jkrueger@networkforphl.org

952-452-9705

Cell 612-532-2813