

# State Public Health Law - Assessment Report

*Sponsored by the Turning Point Public Health Statute  
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# State Public Health Law - Assessment Report

## A Framework for Public Health Law

- Defining Public Health Law including **Table 1** - Public Health Statutory Definitions  
Constitutional Authority for Public Health Powers
- Governmental Public Health Powers [Federal, State, Local, Tribal]

## State Public Health Systems

- Organization of State Public Health Agencies
- Distribution of Public Health Responsibilities
- Statutory Mechanisms for Financing Public Health Systems

## State Public Health Law: Developments, Trends, Innovation

- Trends and Innovations in State Public Health Law including **Table 2** - States Responses to ASTHO Survey of PH Officials
- State Legislative Update

## The Benefits of a Public Health Law Improvement Process

# A Framework for Public Health Law

## Defining Public Health Law

State statutory definitions of public health vary extensively:

Narrow view:

“Promoting the public health of the community includes preventing disease or controlling the communication of disease within the community.” (New Jersey)

# A Framework for Public Health Law

## Defining Public Health Law

**Sum of Responsibilities:** Public health matters include:

detection, prevention, and control of communicable, chronic and occupational diseases; the control of vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates, and other drugs as provided by law; the sanitation of public and semipublic buildings and areas; the licensure of hospitals; protection and improvement of the health of expectant mothers, infants, preschool, and school-age children; the practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery; and protection and improvement of the health of the people through better nutrition.

(Kentucky)

# A Framework for Public Health Law

## Defining Public Health Law

### Duties of Public Health:

The department shall continually and diligently endeavor to prevent disease, prolong life, and promote the public health through organized programs, including prevention and control of environmental health hazards; prevention and control of disease; prevention and control of health problems of particularly vulnerable population groups; development of health care facilities and agencies and health services delivery systems; and regulation of health care facilities and agencies and health services delivery systems to the extent provided by law. (Michigan)

# A Framework for Public Health Law

## Defining Public Health Law

**Public Health** is what we as a society do collectively to assure the conditions for people to be healthy (IOM, 1988).

**Public Health Law** is the study of (1) the legal powers and duties of the state to assure the conditions for people to be healthy (e.g., to identify, prevent, and ameliorate risks to health in the population) and (2) the limitations on the power of the state to constrain the autonomy, privacy, liberty, or other legally protected interests of individuals for protection or promotion of community health.

# A Framework for Public Health Law

## Defining Public Health Law

### 5 Essential Characteristics of Public Health Law:

1. **Government:** Public health activities are the primary responsibility of government;
2. **Populations:** Public health focuses on the health of populations;
3. **Relationships:** Public health contemplates the relationship between the state and the population;
4. **Services:** Public health deals with the provision of public health services and
5. **Coercion:** Public health possesses the power to coerce the individual for the protection of the community.

# State Public Health Systems

## Organization

### Common Features of State Public Health Systems:

- **Concentration:** Nearly every state concentrates their core public health powers into a few state agencies:
  - Virginia Department of Health
  - Virginia Department of Environmental Quality
  - Virginia Department of Agriculture
- **Distribution:** Beyond this concentration, most states also spread public health responsibilities to multiple other state agencies.
- **Oversight:** Although their use and influence has declined in the past two decades, state boards of health and state health officers (commissioners secretaries) are still prevalent.

# State Public Health Systems

## Organization

### 4 Organizational Structures for the Allocation of Core Public Health Functions:

Superagency Systems

Collaborative Systems

Embedded Systems

Freestanding Systems

# State Public Health Systems

## Organization

### Superagency Systems

Core public health functions are the responsibility of a *single, comprehensive health department*—the superagency—that has virtually complete authority to create and implement public health policies and programs.

States that feature superagency systems (**Tennessee**) may allocate some public health-related functions (e.g., mental health programs) to agencies outside of the superagency's direct control, but an overwhelming majority of core public health functions are performed within the superagency.

# State Public Health Systems

## Organization

### Collaborative Systems

Core public health functions are the responsibility of *multiple divisions under the control of a larger health agency*

Each division within the larger agency fulfills one or more of the defined core public health functions.

The major distinction between the collaborative system (**Virginia**) and the superagency system lies in this subdivision of responsibilities within a collaborative agency.

# State Public Health Systems

## Organization

### Embedded Systems

Embedded public health systems differ from collaborative systems because they rely upon a *single public health division* within a larger health department for the fulfillment of most core public health functions.

Core public health functions are *embedded* within a division of a larger department responsible for the state's health activities instead of being directly implemented by a department of health (**North Carolina**).

# State Public Health Systems

## Organization

### Freestanding Systems

Characterized by the fulfillment of nearly all core public health functions  
a *freestanding* public health agency which is *not under the direct control*  
of a larger health department.

A freestanding public health agency's responsibility is limited to the  
fulfillment of core public health functions (**Alabama**).

# State Public Health Systems

## Distribution

### **3 Distributive Approaches Governing the State and Local Relationship:**

Centralized (“top-down”) Approach

Decentralized (“bottom-up”) Approach

Hybrid Approach

# State Public Health Systems

## Distribution

### Centralized (“top-down”) Approach

State public health agencies have extensive legal and operative control over local level public health authorities (e.g., **Virginia**).

# State Public Health Systems

## Distribution

### Decentralized (“bottom-up”) Approach

Local governments are allowed significant control and authority over local public health responsibilities (e.g. **Oregon**).

# State Public Health Systems

## Distribution

### Hybrid Approach

Some public health responsibilities are provided directly by the state while others are performed primarily by local governments (e.g., **Alaska**).

# State Public Health Systems

## Financing Public Health Systems

State Funds (41-50%)

Federal Funds (32%)

Local Funds (12%)

Fees, Reimbursements, Other (10%)

# State Public Health Systems

## Financing Public Health Systems

Sources of state funds for public health include:

General revenues pursuant to state budget requests;

Specific set-asides based on ad valorem (real property) taxes, product sale taxes (e.g., tobacco), or generated fees;

State grants for need-based local initiatives, including matching grants;

Emergency appropriations from general revenues;

Fee-based programs;

“Superfund-styled” assistance accounts;

Other expenditure funds (e.g., tobacco settlement funds); and

Reimbursement authorizations.

# State Public Health Systems

## Financing Public Health Systems

Sources of local funds for public health include:

**State distributions** from general revenues of other resources;

**Local revenues** generated from specific ad valorem, insurance, or other taxes;

**Fines** and **fee-based services** of public health departments, clinics, or laboratories;

Issuance of **municipal bonds** or other securities.

# Developments, Trends, Innovations

## ASTHO Survey of State Public Health Deputy Directors

24 States Responded to an Electronic Survey on the Following Topics:

- Introduced bills or laws concerning the **public health infrastructure**
- Development or consideration of **legislative or policy proposals** for **comprehensive public health reform** since 1990
- “**Hot topics**” in public health
- Public health areas receiving the most **legislative or policy-making attention**
- Public health programs, initiatives, or laws that are **innovative or creative**

# Developments, Trends, Innovations

## ASTHO Survey of State Public Health Deputy Directors

Have any bills been introduced (or laws passed) in your state since 1990 concerning the **public health infrastructure** at the state or local levels?

- **Yes** - 17 states, or 71% of respondents
- **Yes, but failed** - 3 states, or 13%
- **No** - 7 states, or 29%

# Developments, Trends, Innovations

## ASTHO Survey of State Public Health Deputy Directors

Has your state, through its legislature or executive branch, developed or considered **legislative or policy proposals** for **comprehensive public health reform** since 1990?

- **Yes** - 11 states, or 46% of respondents
- **Yes, but failed** - 8 states, or 33%
- **No** - 7 states, or 29%

# Developments, Trends, Innovations

## ASTHO Survey of State Public Health Deputy Directors

What are some of the “hot topics” in your state concerning public health?

- Tobacco controls and/or use of tobacco settlement proceeds - **11 states**
- HIV/AIDS (including HIV reporting); Minority health issues; and Bioterrorism and emerging infections - **6 states**;
- Immunization rates and registries - **5 states**;
- Cancer prevention; Oral health; Privacy of health data; and West Nile Virus - **4 states**; and
- Children’s health care coverage - **3 states**

# Developments, Trends, Innovations

## ASTHO Survey of State Public Health Deputy Directors

What areas of public health in your state typically receive the most legislative or policy-making attention?

- Regulation of the health care industry - **9 states**;
- Maternal and children's health - **7 states**;
- Environmental issues - **5 states**;
- Long-term care quality assurance - **3 states**; and
- Cancer prevention; Minority and community health; and Mental health  
**2 states**

# Developments, Trends, Innovations

## ASTHO Survey of State Public Health Deputy Directors

What public health programs, initiatives, or laws would you identify in your state as **innovative, creative, or uncommon**?

States identified dozens of programs, initiatives, or laws as innovative, creative, and uncommon. Leading this diversified list:

- Innovation grants for local public health initiatives, funded with tobacco settlement proceeds - **3 states**
- Childhood Lead Acts - **2 states**

# Developments, Trends, Innovations

ASTHO Survey of State Public Health Deputy Directors

Additional responses included:

Initiatives related to **W. Nile Virus**;

**Public Health Training Institutes**;

**Licensure of Local Health Officers and Sanitary Inspectors**

**Marketing Efforts to Attract Public Health Workers**;

**Law Making Skunks Legal Pets (failed)**

# Developments, Trends, Innovations

## State Legislative Update

States have introduced or passed legislative proposals on:

**Reorganization of Public Health Systems at the State Level** (e.g. Michigan, New Jersey, Florida, Georgia, West Virginia)

**Reorganization of Local Public Health Systems** (e.g., Texas, North Dakota, West Virginia, Nebraska (*forthcoming?*));

**Public Health Missions, Goals, and Objectives** (e.g., Alaska, Delaware, Oregon (*forthcoming?*))

# Conclusions

Public Health Law is an Important Tool for Improving Public Health Outcomes

State Public Health Systems (and Laws) are Diversified and Complex

Organizational Structures and Approaches Share Similarities

Existing Legislative Proposals for Public Health Reform Are Limited

The *Model State Public Health Act* is Aggressive and Needed