

Reforming Public Health Laws in the 21st Century: The Turning Point Model State Public Health Act

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A Brief Overview

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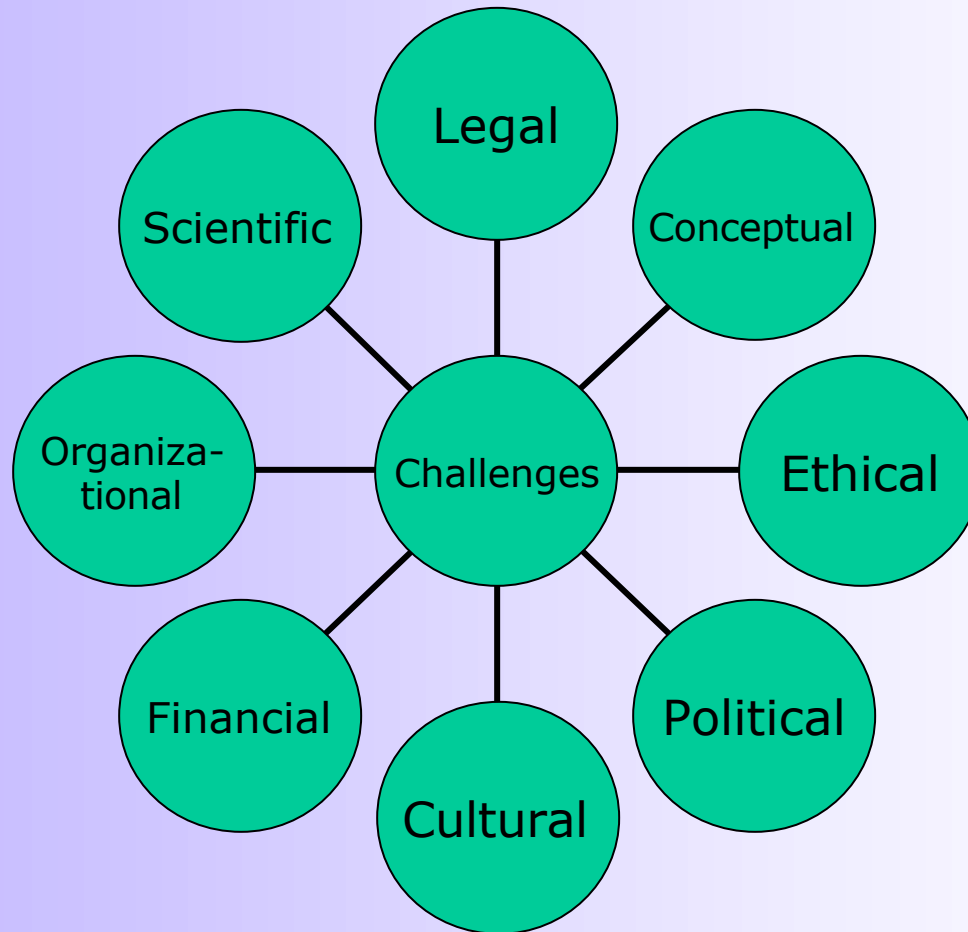
Public Health Law Reform in the 21st Century

The Institute of Medicine,
The Trust for America's Health,
Dozens of State Legislators and Health Departments,
The Turning Point Statute Collaborative,
Scholars, and others *agree . . .*

Public Health Law Reform in the 21st Century

*Public health law in the United
States is ripe for reform*

Scope of Public Health Challenges



Conceptual Challenge – What is Public Health Law?

Public health law is no longer viewed narrowly as a subset of health law focused on the practice of laws concerning communicable diseases, public health nuisances, and sanitation.

What is Public Health Law?

Public health as a paradox

- **Social** – Most people support a high level of public health; fewer are eager to pay for it; and some are opposed to changing their own activities or behaviors to promote it.
- **Legal** - Government (particularly state government) is compelled by its role as the representative of the community to act affirmatively to protect the public's health, but cannot unduly invade individual rights in the name of the communal good.

What is Public Health Law?

The legal powers and duties of government used **primarily** *to assure the conditions for people to be healthy* (e.g., to identify, prevent, and ameliorate risks to health in the population), and . . .

What is Public Health Law?

the **structural** (e.g. separation of powers, federalism) and **rights-based** (e.g. privacy, liberty, autonomy) **limitations** on the power of the state to act in the interests of the public's health or constrain legally-protected interests of individuals.

Public Health Law Includes:

- Statutes, Ordinances, Legislative Resolutions
- Administrative Regulations
- Cases
- Public health policies
- Contractual and others obligations

at international, federal, tribal, state, and local levels of government. Comprehensive understanding requires knowledge of these varied types and levels of law.

For our purposes, however, let's focus on state statutory laws

What are the Roles of Public Health Law?

- Define mission and objectives of public health and influence its policy agenda.
- Authorize, guide, and limit public health actions
- Facilitate planning and coordination of partners within an intersectoral public health system
- Serve as a tool for prevention and public health improvements

State Public Health Law Assessment Findings

- Antiquated. Public health statutes are outdated. Old laws are not necessarily bad laws, until they fail to reflect:
 - Modern constitutional norms
 - Modern principles of public health and biological sciences
 - Modern conceptions of individual and population ethics

State Public Health Law Assessment Findings

- Unfocused. Public health law does not always articulate a clear mission for public health, nor reflect core or essential public health services.

State Public Health Law Assessment Findings

- Inconsistent and Complicated

Public health law is varied and complicated, difficult for the public to comprehend and challenging for health officials to implement. Inadequate guidance in statutes leads to questions about the authority and exercise of public health powers.

Benefits of Public Health Law Reform

- Modernize and amend antiquated laws to keep pace with scientific developments
- Comply with modern constitutional, legal, and ethical norms
- Clarify public health legal powers and duties
- Stimulate public health dialogue with policy makers and communities
- Improve communication and working relationships within the public health system
- Improve public health programs/outcomes

Risks of Public Health Law Reform

- Statutory editions may change the landscape of public health practice
- Changes in public health laws can add costs without matching resources
- Statutory reform in state legislatures is fraught with potential complications and compromises
- Modernizing public health laws does not assure modernized public health practices

State Public Health Law Reform

Despite the risks, the quintessential question concerning public health law reform among state law- and policy-makers is not why, but **how**?

“...the Nation’s public health infrastructure would be strengthened if jurisdictions had a model law and could use it regularly for improvements.”

DHHS, Healthy People 2010

(similarly stated in IOM, Future of Public Health . . . , 2003)

Turning Point Mission

To transform and strengthen the legal framework for the state public health system through a collaborative process to develop a model state public health law.

Timeframe

Phase I: State Public Health Law Assessment -
completed May 31, 2001

Phase II: Development of a Model Law -
completed August 31, 2003

Turning Point Model State Public Health Act -
released **September 16, 2003**

Phase III: Dissemination & Education -
ongoing

Core Collaborative Partners

- Alaska
- Wisconsin
- Colorado
- Nebraska
- Oregon
- CDC
- HRSA
- APHA
- ASTHO
- NACCHO
- National Governors' Association
- National Conference of State Legislatures
- National Indian Health Board
- National Association of Local Boards of Health
- Institute of Medicine

Additional Advisory Committee Included Representatives in

- Public Health Ethics
- Public Health Nursing
- Epidemiology
- Environmental Health
- Public Health Laboratories
- Health Promotion
- Social Determinants of Health

The Turning Point Model State Public Health Act

- Scope
- Parameters
- State Legislative Update

The Turning Point Model State Public Health Act

Scope. The Turning Point Act is the most comprehensive model state public health act ever produced in the United States.

The Turning Point Model State Public Health Act

Topics addressed within the Act's 9 substantive Articles include:

- Mission and Functions
- Public Health Infrastructure
- Collaboration and Relationships
- Public Health Authorities and Powers
- Public Health Emergencies (re: the MSEHPA)
- Public Health Information Privacy (re: the MSPHPA)
- Administrative Procedures, Criminal/Civil Enforcement

The Turning Point Model State Public Health Act

Parameters:

What It Is?

What It is Not?

The Turning Point Model State Public Health Act

- **What It Is ~**

A series of legislative provisions for states to use as a tool to compare to their existing statutory or other public health laws.

The Turning Point Model State Public Health Act

- **What It Is Not ~**

A mandate to state public health authorities or legislatures to make improvements to their public health laws. Neither Turning Point, nor any of its partners, views the production of the Act as a directive to states.

The Turning Point Model State Public Health Act

- **What It Is ~**

A model law that balances community and individual interests to protect the public's health while respecting civil liberties.

The Turning Point Model State Public Health Act

- **What It Is Not ~**

A legislative model that prioritizes public health practice over the rights of individuals, or enables individuals to trump public health goals in furtherance of their private interests.

The Turning Point Model State Public Health Act

- **What It Is ~**

An organized series of provisions that present general statutory language for consideration by state legislators and public health policymakers.

The Turning Point Model State Public Health Act

- **What It Is Not ~**

A precise statement of the ways that public health programs or efforts should be conducted. This specification is typically reserved to administrative rulemaking processes.

The Turning Point Model State Public Health Act

- **What It Is ~**

A legislative model for public health that builds on the development of an intersectoral public health infrastructure.

The Turning Point Model State Public Health Act

- **What It Is Not ~**

An attempt to design or specify the elements of a model state and local public health system. State public health systems vary extensively across the nation. They include centralized [top-down], decentralized [bottom-up], and hybrid systems.

The Turning Point Model State Public Health Act

- **What It Is ~**

A legislative response to the need to reform core public health powers like surveillance, reporting, epi investigations, partner notification, testing, screening, quarantine, isolation, vaccination, and nuisance abatement.

The Turning Point Model State Public Health Act

- **What It Is Not ~**

A model act that covers all areas of laws with distinct public health relevance (e.g., mental health, substance abuse, environmental health) or laws that impact public health (e.g., seatbelt laws, tobacco controls).

The Turning Point Model State Public Health Act

- **What It Is ~**

An enabling set of provisions that vest public health authorities with essential public health services and functions that can be used in a wide array of public health responses.

The Turning Point Model State Public Health Act

- **What It Is Not ~**

A statutory approach that specifies public health powers based on certain diseases (e.g., HIV/AIDS, tuberculosis) or conditions (e.g., obesity, injuries).

The Turning Point Model State Public Health Act

- **And finally, What It Is ~**

A legislative model that attempts to incorporate modern scientific methods of public health practice consistent with key policy choices.

The Turning Point Model State Public Health Act

- **What It Is Not ~**

A legislative model that presents the only acceptable policy choices for public health practice.

The Turning Point Model State Public Health Act

Policy Example:

Section 5-109[h](4). Vaccination (exceptions):

No individual shall be required to be vaccinated pursuant to this Section if . . .

the individual (or legal representative) objects in a **written, signed affidavit** issued pursuant to a **court order** on the basis that the vaccination **interferes** with the free exercise of individual's (or legal representative's) **sincere religious beliefs**.

The Turning Point Model State Public Health Act

- State Legislative Update
 - The subject matter of the Turning Point Act has already been featured in 36 different state legislative bills or resolutions introduced in 22 states since January 1, 2003.

The Turning Point Model State Public Health Act

- State Legislative Update
 - Many states are engaged in processes to use the Act (in whole or part) as a tool for assessing their existing state public health laws. These states include: AK, AZ, CO, DE, MI, MT, NE, NM, OR, TN, and WI

Conclusions

- The Turning Point Act is a comprehensive model for state public health authorities to assess their existing laws
- The goal is not to reform public health law for the sake of reform
- The objective is to use law as a tool for improving public health infrastructure and outcomes
- For more information, please see the Center for Law and the Public's Health Website at: www.publichealthlaw.net
- **Thank you!**