



CENTER INSIGHTS

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A GLOBAL EXCHANGE FOR POPULATION HEALTH LAW

The first meeting of the Global Exchange for Population Health Law (Exchange) took place in London, England on February 15, 2005 hosted by the Milbank Memorial Fund and the Nuffield Trust. The conveners for the Exchange were Daniel M. Fox, PhD, President of the Fund, John Wyn Owen, CB, Secretary of the Trust, and Lawrence O. Gostin, JD, Center Director.

The purpose of the Global

Exchange is to further research, practice, and collaboration in public/population health law as it is made and implemented within countries from comparative and international perspectives.

To accomplish this task, the Exchange will, through a continual process, form a global network of interested individuals to collect and share knowledge about the role of law in improving,

maintaining, and enhancing population health.

The Exchange plans to systematically gather, describe, and analyze national, sub-national, international, and comparative legal tools that, in combination with other resources, could maintain and enhance population health. This body of knowledge will be acquired through research, site visits, discussion, symposia, and

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CENTER RELEASES THREE CHECKLISTS ON LEGAL PREPAREDNESS FOR PUBLIC HEALTH EMERGENCIES

JAMES G. HODGE, JR., JASON W. SAPSIN, AND LANCE A. GABLE

The inaugural issue of *Center Insights* (Spring 2004) discussed the Center's work in its first year of our CDC collaborating renewal grant to prepare comprehensive checklists of legal issues in three critical areas concerning public health emergencies. Together with CDC's Public Health Law Program (CDC PHLP), the Association of State and Territorial Health Officials (ASTHO), and the National Association of City and County

Health Officials (NACCHO), the Center is pleased to announce the release of three new checklists as follows:

Interjurisdictional legal coordination for public health emergency preparedness - Jason W. Sapsin, JD, MPH, Center Scholar. Interjurisdictional legal issues related to public health emergency preparedness refers to the movement of resources (human, material, and data) across local, state, and fed-

eral boundaries. Effective interjurisdictional legal coordination is complicated by differences in the legal (including regulatory) and political environments. This checklist gives public health officials, their legal counsel, and policy makers a practical, flexible tool to assess their interjurisdictional legal preparedness for public health emergencies by identifying critical issues

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To define the role of law in furthering the public health would be almost as large an undertaking as defining the role of law in the whole of our society. -Alanson W. Willcox, General Counsel, Department of Health, Education, and Welfare (1964)

CENTER FACULTY LAUNCH RAPID POLICY ASSESSMENT AND RESPONSE PROJECT IN EASTERN EUROPE

SCOTT BURRIS

Center colleagues Zita Lazzarini and Scott Burris were in the city of Szczecin in northwestern Poland this January to launch a new public health law research and intervention method called "Rapid Policy Assessment and Response" (RPAR). RPAR combines traditional legal research documenting laws and policies "on the books" with qualitative empirical research to learn how laws are actually put into practice "on the streets."

The focus is on laws and law enforcement practices that influence the risk of HIV transmission among injecting drug users. The goal is to find ways to change laws or the way laws are enforced so as to reduce the risks of drug users getting or transmitting HIV. Funded by the U.S. National Institute of Drug Abuse, the project aims to demonstrate that research on legal institutions and practices is essential if law is to play a

role in creating the conditions in which a population can be healthy.

Over the next year, the team will launch rapid assessments in Odessa, Ukraine and Kalinin-grad, Russia. For more information on RPAR, or to view the research tools and training materials, visit <http://www.temple.edu/lawschool/phrhcs/rpar.htm>.

REVISION OF INTERNATIONAL HEALTH REGULATIONS CONTINUES

DAVID P. FIDLER

The WHO's revision of the International Health Regulations (IHR) continued February 21-26, 2005 at the second intergovernmental negotiating session. The IHR revision process began in 1995 but accelerated after the SARS outbreak in 2003. In 2004, WHO issued proposed revised IHR texts, engaged in regional consultations, and hosted the first negotiating session in November 2004.

The WHO's 2004 revision proposals contained radical changes from the existing IHR. The Chair of the negotiations, Ambassador Whelan of Ireland,

issued a proposed Chair's text in January 2005 based on the November negotiations. For the most part, WHO's proposals for revising the IHR appear in the Chair's draft, reflecting what Ambassador Whelan called "the overwhelming support which was expressed for the general approach" crafted by the WHO.

Many issues remain, however, to be decided. The WHO's proposal to expand the IHR's scope to include all events involving biological, chemical, and radiological agents requires further negotiation.

Concerns exist about the WHO's use of non-governmental sources of information. The Chair's text reflects no agreement on the provision on reservations, indicating that some states may want to avoid the impact of the radical changes by making reservations to the final text.

As of this writing, the documents made available by the WHO for the second negotiating session, including the Chair's text, can be found at <http://www.who.int/gb/ghs/e/index.html#IGWG2>.

[R]esearch on legal institutions and practices is essential if law is to play a role in creating the conditions in which a population can be healthy.

INCORPORATING ETHICAL PRINCIPLES INTO PUBLIC HEALTH

DATA USE DECISIONS
LANCE A. GABLE

Public health practitioners have long recognized and acknowledged that decisions involving the use of identifiable data by public health agencies must have a basis in ethics as well as law. However, many contemporary uses of identifiable public health data have generated controversy. The ethicality of sharing identifiable data within and

among public health agencies, disclosing identifiable data for non-health purposes, the public release of de-identified data, and other related issues remains unresolved.

In order to explore these issues further, the Centers for Disease Control and Prevention (CDC) asked a team of scholars in-

cluding the Center's Lawrence Gostin and Lance Gable to develop ethical guidelines for state and local public health agencies to apply as they consider the legitimate uses of identifiable public health data. Additional colleagues have also participated in the development of these guidelines, in-

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PUBLICATIONS

Lawrence O. Gostin

Lawrence O. Gostin, *The International Health Regulations and Beyond*, 4 THE LANCET: INFECTIOUS DISEASES 606 (2004).

Lawrence O. Gostin, *Jacobson v. Massachusetts at 100: The Police Power and Civil Liberties in Tension*, AM. J. PUB. HEALTH (forthcoming 2005).

Lawrence O. Gostin, *World Health Law: Toward a New Conception of Global Health Governance for the 21st Century*, YALE J. HEALTH POL'Y L. & ETHICS 413 (2005)

James G. Hodge, Jr.

James G. Hodge, Jr., *Conference Report: Implications for Genomics and Public Health*, 1 PERSONALIZED MEDICINE 23 (2004).

James G. Hodge, Jr. & Kieran Gostin, *Challenging Themes in American Health Information Privacy and the Public's Health: Historical and Modern Assessments*, J.L. MED. & ETHICS (Forthcoming 2005).

James G. Hodge, Jr., *Syndromic Surveillance and Health Information Privacy: An Analysis of the Primary Care Information Project (PCIP) for the New York City Department of Health and Mental Hygiene (DOHMH)*. New York, NY: 2004, 1-16.

James G. Hodge, Jr., *Nondiscrimination in Public Health Genomics Under the Americans with Disabilities Act: A White Paper for the Virginia Advisory Board on Legal/Ethical Issues in Genetics* (May 31, 2004): 1-31.

Lance Gable

Lance Gable & James G. Hodge Jr., *Public Health Law and Biological Terrorism*, in BIOTERROR: THE WEAPONIZATION OF INFECTIOUS DISEASE (Larry I. Lutwick & Suzanne M. Lutwick, eds.) (forthcoming 2005).

Lance Gable, Javier Vásquez, Lawrence O. Gostin, & Heidi V. Jiménez, *Mental Health and Due Process in the Americas: Protecting the Human Rights of Persons Involuntarily Admitted and Detained in Psychiatric Institutions* PAN AMER. J. PUB. HEALTH (forthcoming 2005).

Jason W. Sapsin

Daniel A. Salmon, Jason W. Sapsin, Stephen Teret, et al., *Public Health and the Politics of School Immunization Requirements*, 95 AM. J. PUB. HEALTH (forthcoming 2005).

Lesley Stone

Lesley Stone, Lance Gable, & Tara Gingerich, *When the Right to Health and the Right to Religion Conflict: A Human Rights Analysis*, 12 MICH ST. L. REV. 247 (2004).

Scott Burris

Corey S. Davis, Scott Burris, Julie Kraut-Becher, et al., *Effects of an Intensive Street-Level Police Intervention on Syringe Exchange Program Utilization: Philadelphia, Pennsylvania*, 95 AM. J. PUB. HEALTH 233 (2005).

Scott Burris, *Governance, Microgovernance and Health*, 77 TEMPLE L. R. 335 (2004).

(Checklists, continued from page 1)

underlying the movement of resources across jurisdictions.

Local public health emergency legal preparedness and response - James G. Hodge, Jr., JD, LLM, Center Executive Director. Since September 11, 2001, substantial scholarly and applied work by the Center, CDC PHLIP, ASTHO, NACCHO, and others has focused on public health emergency preparedness for state governments. Additional efforts are needed to address public health legal preparedness among the thousands of local governments (e.g., counties, boroughs, cities, special districts) nationwide. Though their legal needs may be similar, diversity among local governments precludes the development of a model approach for local public health emergency preparedness. This checklist presents a tool for use by local governments to independently assess their legal preparedness for public health emergencies. It focuses on the authority needed at the local level that involves public health

agencies and their public and private sector partners.

Civil legal liability related to public health emergencies - Lance A. Gable, JD, MPH, Center Senior Fellow. Civil liability is a key legal area for public and private sector agencies and their workers/volunteers concerning public health emergency response. Finding uniformity among many laws that address whether liability applies to specific persons or entities is difficult. This checklist examines potential theories of liability that may be invoked against public health officials, entities, private sector partners, and volunteers regarding activities, events, or responses to a public health emergency. As well, it assesses ways to legally avoid potential liability through immunity protections, indemnification, or other techniques.

These checklists are intended for voluntary use by county, city, state, and federal public health agencies in

assessing their legal preparedness for public health emergencies.

Each checklist includes opening commentary on the background, methods, organization, and suggested uses, and features two main sections: (1) A "Quick Reference" list of checklist questions; and (2) the detailed checklist with questions and explanatory comments. Questions are organized according to the four phases of incident management addressed in the National Response Plan: Prevention, Preparedness, Response, and Recovery.

The Center welcomes feedback on the checklists and their application. They are available online through the Center's website at www.publichealthlaw.net/Resources/BTlaw.htm. For additional information, please contact the specific authors of each document or James G. Hodge, Jr.

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CENTER ANNOUNCEMENTS

Lawrence Gostin presented the keynote address at the London School of Hygiene and Tropical Medicine, London, England, February 16, 2005, and will present the keynote address at the University of Alberta, Edmonton, on March 10, 2005.

CONFERENCE ANNOUNCEMENTS

Public Health Law Symposium, "Contemporary Issues in Public Health Law," April 21 and 22, 2005, School of Population Health, University of Auckland (New Zealand). Lawrence Gostin will give the keynote address.

The Center is pleased to contribute to CDC's 4th Annual Conference, The Public's Health and the

Law in the 21st Century, on June 13-15 in Atlanta, Georgia. Conference sessions featuring Center contributions include a plenary session commemorating the 100th Anniversary of *Jacobsen v. Massachusetts*, as well as concurrent sessions on interjurisdictional legal preparedness, science and the law, and scope of practice issues for medical volunteers. For more information about the conference, see the Center website, or CDC's Public Health Law Program at www.phppo.CDC.gov/od/phlp/.

The Center is pleased to co-sponsor with Georgetown University and Virginia Tech University the upcoming Capitol Hill event, "Preparing for the Inevitable: Bioterrorism and Emerging Infectious Diseases" at the U.S. Senate. For more information, please see the Center's website.

We're On the Web
www.publichealthlaw.net

*CDC Collaborating Center Promoting Health
Through Law*

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exchange of ideas. The Exchange will not seek to dictate the appropriate scope or content of law. Rather, the Exchange will gather and disseminate a body of knowledge and facilitate discussion.

The Exchange will build over time with members in the fields of policymaking, practice, and academia from multiple regions of the world. It will also include representation of all major legal systems (e.g., common law, civil law, Islamic law).

The Global Exchange for Population Health Law is an impor-

tant part of an international movement that seeks to understand how sound legal interventions could improve health and longevity.

The Center plans to make transnational public health law one of its key areas of focus over the coming years. Lawrence Gostin, David Fidler, and Lesley Stone of the Center were part of a team at Georgetown University Law Center that drafted a memorandum for WHO on conflicts of law between the IHR and other international law. The World Health Organization is at the final stages of a fundamental revision of the International Health Regu-

lations (see Revision of the IHR Continues, page 2).

The WHO is also working with Center faculty Lawrence O. Gostin and James G. Hodge, Jr. on the "WHO Model Public Health Act to Advance the Millennium Development Goals." Alexander Capron and Geneviève Pinet are taking the lead in this effort in Geneva. Many of these activities will be featured in the First World Congress on Public Health Law and Ethics in Seoul, Korea, August 17-20, 2005.

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cluding Amy L. Fairchild and Ron Bayer from the Columbia University Mailman School of Public Health, Patricia Sweeney, Matthew McKenna, and Robert Janssen at CDC,

and numerous others who participated in consultation meetings during the past two years.

The guidelines will provide a useful resource—based on ethical principles—for public health practitioners making difficult

data use decisions. The guidelines will be publicly available in the near future.

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