



South Central Public Health Partnership

TRAINING PROFESSIONALS TO PROTECT THE PUBLIC

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Public Health Law: Basics

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This course is an introduction to public health law in the United States. Although it is designed for professionals who work in public health agencies, the first modules introduce the basic fundamentals of law and the legal system in the US which are the same no matter what the core subject area of law is to be studied. Module One introduces the sources of law, including the US and state constitutions, federal and state legislation, and federal and state judicial opinions, and the interplay among them. There is discussion of the sections of the US Constitution and amendments often cited as most applicable to the public health law arena. Module Two introduces the roles and powers of federal and state administrative agencies, including the process for promulgation of administrative rules and regulations, enforcement, and administrative hearings. Module Three is more specific to public health and discusses the difficulties in determining which laws can be considered as "public health" laws and regulations, as well as the provisions in federal and state laws that apply to the health and welfare of the public in general rather than to laws governing the health of individuals and delivery of services to individual patients. Also included is discussion of the powers of the federal and state governments in arena of public health. Balancing the rights of the individual against the rights of the population is included. Module Four discusses governmental powers in the case of emergency; the specific context of bioterrorism is used as the exemplary base for discussion. Finally, Module Five discusses the basics of the issue of public health information and privacy. Included are the Health Insurance Portability and Accountability Act (HIPAA) and the responsibilities of public health agencies and employees in receipt and use of protected health information. Throughout the course, principles such as federalism and preemption and others are included. Examples of model public health legislation are also cited.

Learning Objectives

Module 1: What is Law and What are the Sources?

- Define principles of jurisdiction governing federal and state laws, decisions and regulations, including administrative agencies and the administrative process;

Module 2: Administrative Agencies and Administrative Law

- Identify the powers and responsibilities of public health agencies and to distinguish those from powers and responsibilities of other government agencies, the police, and the judicial system.

Module 3: What is Public Health Law?

- Distinguish the difference between "health law" and "public health law," including the sources and scope of legal powers and responsibilities of the states to protect both the general population and the individual;
- Identify the limits and restrictions on the government's powers to act and the sources of those limitations;

Module 4: Emergency Public Health Powers in Context of Bioterrorism

- Identify the sources, scope, and limits of emergency powers granted to protect the public's health; familiarize the student with the Model State Emergency Powers Act;

Module 5: Public Health Information and Privacy

- Distinguish the ethical issues and competing interests between protection of the population and protections of individuals and individual rights in situations such as the following:
 - compelling medical treatment or mandatory screening,
 - imposing quarantine or other restrictions of movement of the individual in instances such as SARS
 - release of patient data and the privacy requirements of HIPAA, including legal responsibilities of the public health officials who receive patient health information (PHI)

Competencies

PUBLIC HEALTH POWERS---GENERALLY:

- Describes the basic legal framework for public health: roles of federal, state, and local governments; and the relationship between legislatures, executive agencies, and the courts
- Describes the meaning, source of, and scope of states' powers to protect the public's health, safety, and general welfare (aka. Police powers) and to protect the individual from identifiable harm (aka. Parens patriae powers)
- Describes the scope of statutory and regulatory provisions for emergency powers
- Distinguishes public health agency powers and responsibilities from those of other government agencies, executive offices, police, legislatures, and courts

REGULATORY AUTHORITY/ADMINISTRATIVE LAW:

- Describes basic legal processes, such as how legislatures create and amend laws, how executive officials enforce laws, and how courts make and interpret laws
- Determines procedures for promulgating administrative regulations Ascertaining Authority/Obtaining Legal Advice
- Recognizes that legal rules do not always specify a course of conduct

LEGAL ACTIONS:

- Identifies legal authority for compelling medical treatment or instituting mandatory screening programs
- V.E. Knows legal authority for imposing quarantine, isolation or other restrictions on the movement or placement of persons
- V.G Adheres to confidentiality laws in the collection, maintenance, and release of data

LEGAL LIMITATIONS:

- Recognizes prominent constitutional rights implemented through the practice of public health (e.g. freedom of speech, right to assemble, freedom from unreasonable searches and seizures, right to privacy, due process, equal protection) and the analytic techniques courts use in enforcing these rights
- Recognizes federal, state, and local statutes or ordinances and major federal or state cases granting rights to individuals and limiting public health authority

** Core Legal Competencies for Public Health Professionals (from the Center for Law and the Public's Health at John Hopkins and Georgetown Universities*

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