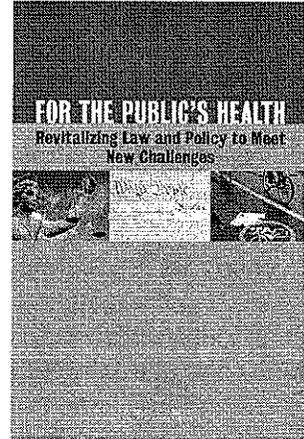


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For the Public's Health

Revitalizing Law and Policy to Meet New Challenges



Good health is not merely the result of good medical care but the result of what we do as a society to create the conditions in which people can be healthy. Public policy can be one of the most effective approaches to protecting and improving the health of the population. Unlike the one-on-one care provided by clinicians, laws, regulations, and other policies can affect the health of millions. This makes “healthy” public policy particularly important in a time of scarce resources, because it can diminish or preclude the need for other, more costly and potentially less efficient interventions.

The Robert Wood Johnson Foundation (RWJF) asked the Institute of Medicine (IOM) to review how statutes and regulations prevent injury and disease, save lives, and improve the health of the population. The IOM convened a committee of experts to examine the legal and regulatory authority for public health activities, to identify past efforts to develop model public health legislation, and to describe the implications of the changing social and policy context for public health laws and regulations. *For the Public's Health: Revitalizing Law and Policy to Meet New Challenges* presents the committee's findings and recommendations.

The IOM report addresses three categories of law and public policy pertinent to health:

1. Laws that establish the structure, function, and authority of government public health agencies at the federal, state, and local levels.
2. Statutes and other policies that are designed to achieve specific health objectives, for example, taxing tobacco products and requiring immunization for school entry.

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3. Policies in other areas of government, such as education, transportation, land use planning, and agriculture, that have health effects. In this area, intersectoral strategies are necessary—non-health agencies can contribute to improving health by considering the health implications of their policies.

Updating Laws and Policies

The committee finds that public health law warrants systematic review and revision, given the enormous transformations in the practice, context, science, and goals of public health agencies and changes in society as a whole, especially in the past two to three decades. Many public health statutes—the laws that define the authorities and roles of federal, state, and local public health agencies—were enacted at a time in which communicable diseases were the primary population health threats. Although two major templates for public health law reform have been created in the past decade, many states have failed to update their laws. The aim of modernizing public health statutes is to ensure that appropriate powers are in place to enable public health agencies to address contemporary challenges to population health, including chronic disease and injuries.

The committee recommends that states enact legislation to ensure that all state and local health departments have the ability—including capacity, financing, and staffing—to effectively deliver the Ten Essential Public Health Services—developed by a group of government, academic, and non-profit public health leaders—that describe the breadth of public health practice. These 10 categories include, among others, monitoring health status to identify community health problems, diagnosing and investigating health problems and health hazards in the community, developing policies and plans that support individual and community health efforts, and evaluating personal and population-based services. Most state laws do not require that states and localities provide these ser-

vices as the standard of practice in public health.

The committee makes two recommendations that pertain to health department capacity: It calls for revision of state laws to require public health accreditation, thus ensuring a minimum, uniform standard of public health practice, and it calls for ensuring that every health department has adequate access to lawyers with public health expertise.

The public health roles of federal, state, and local government overlap and occasionally conflict. One example is preemption, which includes cases where a higher level of government enacts a law setting a standard and forbids a lower level of government from enacting stricter or less restrictive laws in the same area (ceiling and floor preemption, respectively). As an example of ceiling preemption, the *Affordable Care Act* requires calorie labeling on restaurant menus, and preempts a higher level of regulation by the state and local level. This means that states and localities must not enact stricter regulations than the federal government in the area of menu labeling.

To address potential challenges, the committee urges federal and state legislators to avoid framing preemptive legislation in a way that hinders public health action. Also, the committee urges all levels of government to collaborate in the enforcement of federal public health and safety standards in areas where regulatory authority resides at the federal level, but the state or local level possesses enforcement capacity.

Making Better Use of Legal and Policy Tools

The committee urges government agencies to familiarize themselves with the toolbox of public health legal and policy interventions at their disposal, and discusses evidence of their effectiveness, as well as efforts to advance the science needed to inform policymaking to improve the public's health. These interventions include:

- The power to regulate (e.g. seat belt laws, restaurant licensure and inspections)

The committee recommends that states enact legislation to ensure that all state and local health departments have the ability, including capacity, financing, and staffing, to effectively deliver the Ten Essential Public Health Services that describe the breadth of public health practice.

- The power to tax and spend (e.g. alcohol taxes; conditioning highway funding on motor vehicle safety requirements)
- The power to modify the built environment (e.g. urban development rules to encourage walking and biking; land use planning to limit proliferation of fast-food outlets and provide incentives for supermarkets).

Policy interventions can influence physical activity, nutrition, and other aspects of human behavior by making the environment in which the behaviors occur more conducive to health-enhancing choices. For example, studies show that counseling to prevent alcohol abuse is not very effective in the absence of policy interventions, such as enforcing laws, increasing taxes, and regulating the density of alcohol outlets in communities. Similarly, high rates of obesity can most effectively and efficiently be tackled only by large-scale strategies to transform the obesogenic conditions—the social, economic, and environmental factors—that have led to widespread weight gain and obesity at the population level.

Looking Beyond Health Laws and Policies

The committee encourages government and private sector stakeholders to explore and implement *health in all policies* (HIAP) approaches that can prevent unintended negative consequences for health. HIAP also can be used to act on evidence about the social and environmental factors

that influence health but are out of the control of the health sector. The consideration of health in a wide range of public and private sector policy-making may lead both to improvements in population health, and to achieving priority objectives in other sectors such as job creation and educational reform.

Non-health policies range from those that affect socioeconomic status and other indirect factors to those that shape individual behaviors more directly. Examples of the former include housing, employment, and educational policies. Policies in these areas may offer incentives for low-cost safe and decent housing, provide a living wage that allows greater financial stability for families, and provide funding for community colleges, which increase educational attainment and income—all of which are linked to better health. Examples of the latter include government agricultural subsidies that influence food choice, as demonstrated by preference for foods of low or no nutritional value, and educational policy that emphasizes certain aspects of the curriculum to the complete detriment of physical activity. The IOM report therefore encourages government and private sector stakeholders to explore and implement intersectoral strategies that take into account how non-health sector actions affect the public's health.

Making Effective Laws and Policies

This report provides brief summaries of some of the evidence demonstrating the effectiveness of legal and other policy interventions, and acknowl-

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edges ongoing national efforts to strengthen and systematize the evidence base for policymaking. The committee recommends that policymakers evaluate the health effects and costs of major legislation, regulations, and other policies that could have major impacts on health.

Evaluation of policy should occur both before and after enactment, and it should be based on the best evidence available. Where evidence is limited, new laws and judicial review of public health legal interventions will need to be built on sound theory and the opinion of experts. But this should be done only when health threats and potential harms from inaction are large, when opportunity costs and unintended harms from action are within acceptable limits, and when the time or costs required for gathering definitive evidence is large relative to the expected value of the additional evidence.

Conclusion

This report is part of a three-part series requested by RWJF to address major topics in public health. The IOM committee's first report, *For the Public's Health: The Role of Measurement in Action and Accountability* (2010), examined the nation's public health data and information system, and an upcoming report will address funding. Collectively, the series will offer guideposts on the journey to becoming a healthier nation, beginning with recognizing and building on the knowledge accumulated about the social determinants of health—the importance of place, education, and other factors in shaping our health. 

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