Ethical Decision Making in Local Health Departments

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This material is based on

Good Decision Making in Real Time:
Public Health Ethics Training for Local Health Departments

Developed by the:
Public Health Ethics Unit
U.S. Centers for Disease Control and Prevention
Learning Objectives

- Identify the Principles of Ethical Practice of Public Health ("the Code")

- Describe the complementary roles ethics and law play in public health decision making

- Identify Public Health Accreditation Board measures related to ethical public health practice

- Apply an ethical framework for the analysis of ethical issues to decision making in the local health department
Rationale for a Public Health Code of Ethics ("the Code")

- The health department’s mandate to assure and protect the health of the public is an inherently moral one. It carries with it an obligation to care for the well being of others and it implies the possession of an element of police governmental police power in order to carry out the mandate. The health department’s need to exercise this power to ensure health and at the same time to avoid the potential abuses of power are at the crux of public health ethics.
Rationale for a Public Health Code of Ethics ("the Code")

- Historically, medical institutions have been more explicit about the ethical elements of their practice than have public health institutions. The concerns of public health are not fully consonant with those of medicine, however, thus we cannot simply translate the principles of medical ethics to public health.
<table>
<thead>
<tr>
<th>Clinical Ethics</th>
<th>Public Health Ethics</th>
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<tbody>
<tr>
<td>Focus on individual patient-provider interactions</td>
<td>Focus on populations, institutions, communities</td>
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<td>Individual liberty, autonomy</td>
<td>Interdependence of people</td>
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<td>Authority vested in prestige of physicians and medical profession</td>
<td>Authority vested in the police powers of states</td>
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<td>Patient consent</td>
<td>Societal consent through the political process; public engagement</td>
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<td>Beneficence and non-maleficence</td>
<td>Social good and avoiding social harm</td>
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<td>Justice</td>
<td>Social justice and equity</td>
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What does a public health code of ethics accomplish?

- A code of ethics makes clear to populations and communities the organizational values of the health departments that serve them. It serves as a goal to guide health departments and public health practitioners and as a standard to which they can be held accountable.

- Developed in 2000 with input from state and local public health practitioners, academics, the Centers for Disease Control and Prevention, and the American Public Health Association, the Principles of Ethical Practice of Public Health (“the Code”) identified 12 principles to guide ethical decision making.
Principles of the Ethical Practice of Public Health

1) Public health should address principally the fundamental causes of disease and requirements for health, aiming to prevent adverse health outcomes.

2) Public health should achieve community health in a way that respects the rights of individuals in the community.

3) Public health policies, programs, and priorities should be developed and evaluated through processes that ensure an opportunity for input from community members.
**Principles of the Ethical Practice of Public Health**

4) Public health should advocate and work for the empowerment of disenfranchised community members, aiming to ensure that the basic resources and conditions necessary for health are accessible to all.

5) Public health should seek the information needed to implement effective policies and programs that protect and promote health.

6) Public health institutions should provide communities with the information they have that is needed for decisions on policies or programs and should obtain the community’s consent for their implementation.
Principles of the Ethical Practice of Public Health

7) Public health institutions should act in a timely manner on the information they have within the resources and the mandate given to them by the public.

8) Public health programs and policies should incorporate a variety of approaches that anticipate and respect diverse values, beliefs, and cultures in the community.

9) Public health programs and policies should be implemented in a manner that most enhances the physical and social environment.
Principles of the Ethical Practice of Public Health

10) Public health institutions should protect the confidentiality of information that can bring harm to an individual or community if made public. Exceptions must be justified on the basis of the high likelihood of significant harm to the individual or others.

11) Public health institutions should ensure the professional competence of their employees.

12) Public health institutions and their employees should engage in collaborations and affiliations in ways that build the public’s trust and the institution’s effectiveness.
The Complementary Roles of Law and Ethics

- **Laws provide the boundaries**
  - Tell you what you *must* do
  - Tell you what you *can* do
    - May be explicitly authorized in statute OR
    - May be inferred from statutes, case law
  - Tell you what you *cannot* do

- **But may not tell you what you *should* do** (among options)

- **In some cases, law may conflict with what *ought* to do**
The Complementary Role of Law and Ethics

- **Law in Public Health:** Provides authority, limitations on state power, incentives and disincentives for behavior; often allows for much professional discretion.

- **Ethics in Public Health:** Provides ongoing analysis, deliberation about, and justification for public health action and policy, often when law is indeterminate.
What is an Ethical Framework for Decision Making?

- A deliberative process for identifying, analyzing, and resolving ethical conflicts or tensions in public health
- Based on ethical principles of public health practice (“the Code”)
- Engaging stakeholders (claimants) in the decision
Benefits of Using an Ethical Framework for Decision Making

- Clarify, prioritize, and justify possible courses of public health action
- Increased capacity to recognize ethical issues
- Greater transparency in decision making
- Foster respectful deliberation about ethical tensions
- Enhanced public trust and relationship building
- Strengthened scientific integrity and professional excellence
- Provide documentation for Public Health Accreditation Board (PHAB) accreditation measure in Domain 11
<table>
<thead>
<tr>
<th>PHAB Measure 11.1.2 A</th>
<th>Purpose</th>
<th>Significance</th>
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<tbody>
<tr>
<td>Ethical issues identified and ethical decisions made</td>
<td>The purpose of this measure is to assess the health department’s policies and process for the identification and resolution of ethical issues that arise from the department’s program, policies, interventions, or employee/employer relations.</td>
<td>Efforts to achieve the goal of protecting and promoting the public’s health have inherent ethical challenges. Employer/employees relations may also raise ethical issues. Understanding the ethical dimensions of policies and decisions is important for the provision of effective public health and public health management. Defining and addressing ethical issues should be handled through an explicit, rigorous, and standard manner that uses critical reasoning.</td>
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* PHAB Standards and Measures version 1.5
### PHAB Measure 11.1.2
**Required Documentation**

1. Strategies for decision making relative to ethical issues

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<th>Guidance</th>
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| 1. The health department must document the identification of issues with ethical considerations and a strategic deliberative process for consideration and resolution of ethical issues. The policies and procedures must set forth a transparent process that provides an opportunity for input from affected stakeholders and considers their interests. The policies and procedures must provide for the consideration of the best evidence available. There must be opportunities to evaluate decisions as new information becomes available and there must be a provision for accountability of the decision makers.  

Examples of a process include the adoption of the Public Health Code of Ethics, the establishment of an ethics board, the designation of a committee or process of the governing entity, or other process. |

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<td>2. Ethical issues reviewed and resolved</td>
<td>2. The health department must document the consideration, deliberation, and resolution of ethical issues. Examples of ethical issues include, for example, privately constructed sewers, distribution of vaccine in a shortage situation, staff mandatory immunizations, an employee’s use of social media, an employee’s acceptance of gifts.</td>
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* PHAB Standards and Measures version 1.5
An Ethical Framework for Public Health Decision Making

1. Analyze ethical issues
   - Risks and harms of concern?
   - Public health goals?
   - Moral claims of the stakeholders?
   - Is the source or scope of legal authority in question?
   - Are precedent cases relevant?
   - Do professional codes of ethics provide guidance?
An Ethical Framework for Public Health Decision Making

2. Evaluate the ethical dimensions of the alternate courses of public health action

- **Utility**: Does a particular public health action produce a balance of benefits over harms?
- **Justice**: Are the benefits and burdens distributed fairly?
- **Respect for individual and community interests**: Does the public health action respect individual and civic roles and values (e.g., honesty, trustworthiness)
An Ethical Framework for Public Health Decision Making

3. Provide justification for public health action

- **Effectiveness**: Is the public health goal likely to be accomplished?
- **Proportionality**: Will the probable benefits of the action outweigh the infringed moral considerations?
- **Necessity**: Is overriding the conflicting ethical claims necessary to achieve the public health goal?
- **Least infringement**: Is the action the least restrictive and least intrusive?
- **Public justification**: Can public health agents offer public justification that citizens, and in particular those most affected, could find acceptable in principle?
Some ethical issues deliberated by health department ethics committees

- **Conflict of interest**
  - Accepting meals from vaccine manufacturer’s representatives
  - Moonlighting as a contractor in an industry regulated by the health department
  - Serving on an outside board that makes funding decisions about health department programs

- **Environmental health**
  - Enforcing child lead poisoning prevention laws when families with lead poisoned children lack the resources to remediate lead hazards in their homes
  - Compelling property owners to connect to sanitary sewers installed by private developers
Some ethical issues deliberated by health department ethics committees

- **Screening for Communicable Disease**
  - Testing immigrant schoolchildren for tuberculosis infection

- **Resource Allocation (Rationing)**
  - Reconciling discrepancies between CDC and state health department guidelines for reserving flu vaccine for high-risk groups during vaccine shortages
An ethics case study from public health practice

Environmental health

- Using public health police powers to compel low income homeowners to abate lead hazards in their homes or face condemnation and eviction
Questions to Consider from the Ethical Analysis Framework

- Are there any legal considerations (e.g., laws or regulations mandating or prohibiting activity) that must be taken into account?
- Who are the main stakeholders in this case, and what are their primary interests?
- What obligation does the local health department have to protect families with a lead poisoned child who own and live in their own homes from potentially losing their homes due to lead hazard remediation regulations?
- What are the implications for the health department’s ability to work with the child’s family to remediate the lead hazards if the health department reports the family to child protective services?
- What are the ethical implications of allowing children to continue to live in a house with lead exposures if an extension is granted for completion of lead hazard remediation measures? Would your decision change if the children in the home were found to have a blood lead level that was increasing?
- What should be the criteria for granting an extension?
Public Health Ethics Resources from NACCHO and CDC

- **Public Health Ethics Training**
  - Student and facilitator training manuals
  - On-demand e-learning training modules
  - Global public health ethics casebook and case repository

https://www.cdc.gov/od/science/integrity/phethics/trainingmaterials.htm
Public Health Ethics Resources from NACCHO and CDC

- Building Ethics Infrastructure
  - So You Want to Start an Ethics Committee

Steps to establishing an ethics committee

Additional Public Health Ethics Resources and Tools

- Ethics and Public Health Model Curriculum
- North Carolina Institute for Public Health TRAIN Courses
- Principles of the Ethical Practice of Public Health
- Skills for the Ethical Practice of Public Health
- Stanford Encyclopedia of Philosophy
- Presidential Commission for the Study of Bioethical Issues

Thank you and good luck with your efforts to create an ethics infrastructure in your health department!

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