

2013

Table of Contents

Follow this and additional works at: <https://lawcommons.luc.edu/annals>



Part of the [Health Law and Policy Commons](#)

Recommended Citation

Table of Contents, 22 *Annals Health L.* [iii] (2013).

Available at: <https://lawcommons.luc.edu/annals/vol22/iss2/1>

This Prefatory Matter is brought to you for free and open access by LAW eCommons. It has been accepted for inclusion in *Annals of Health Law* by an authorized editor of LAW eCommons. For more information, please contact law-library@luc.edu.

ANNALS OF HEALTH LAW

THE HEALTH POLICY AND LAW REVIEW OF
LOYOLA UNIVERSITY CHICAGO SCHOOL OF LAW

Beazley Institute for Health Law and Policy

VOLUME 22, ISSUE 2

SPECIAL EDITION 2013

CONTENTS

Foreword i

ARTICLES

Intervening at the Right Point in the Causal Pathways: Law, Policy, and the Devastating Impact of Pain Across the Globe
Daniel S. Goldberg 198

This essay examines pain across the globe to show how public health laws and policies targeted proximal or subsequent to the onset of disease are highly likely to be ineffective in meeting two paramount ethical goals of public health policy: absolute improvements in overall health and the compression of health inequities. Drawing on a variety of social epidemiologic concepts, the article argues that the root causes of the inequitable distribution of global pain are the social, political, and economic conditions in which people in both global North and global South live and work. The paper deploys the ample evidence suggesting that laws and policies targeted at the structural causes of ill health are much more likely to decrease pain prevalence and incidence and to compress global pain inequities. Unfortunately, global law and policy efforts have focused overwhelmingly on the dispensation of medical treatment for pain. Such efforts do not address the structural variables that represent fundamental causes of pain. The paper concludes by proposing several alternative law and policy approaches that, by virtue of being targeted at structural and fundamental causes, are more likely to ameliorate global burdens of pain and compress inequities in its prevalence and in its outcomes.

Complementarity in Public Health Systems: Using Redundancy as a Tool of Public Health Governance
Lance Gable & Benjamin Mason Meier 224

Redundant systems exist throughout legal systems and permeate public health governance. Scholars, lawmakers, and policy-makers often consider this redundancy to be a pernicious indicator of inefficiency and waste in public health systems, and seek reforms to minimize or eliminate overlapping institutions. Yet redundancy has countervailing values that may overcome these concerns. Analyzing the benefits of overlapping networks of governance, this article explores the positive aspects of complementarity in public health law as a tool to expand capacity and systemic resiliency; augment innovation in policy and practice; promote accountability and

transparency; and foster the development of normative and procedural harmonization and consistency conducive to improving public health.

Enhancing Communication Between Scientists, Government Officials, and the Lay Public: Advancing Science and Protecting the Public’s Welfare through Better Multi-Stakeholder Interfacing

Clark J. Lee, Patrick P. Rose & Earl Stoddard III246

In December 2011, the National Science Advisory Board for Biosecurity (“NSABB”) controversially recommended that two studies funded by the National Institutes of Health (“NIH”) on the H5N1 virus be published in redacted format. While the NSABB ultimately endorsed full publication of the scientific papers, the episode highlighted the friction that sometimes exists between public welfare and scientific progress. Some local and state governments have successfully engaged the scientific community to bridge the lack of public understanding regarding scientific research and its value in advancing public welfare. This article discusses how such efforts can be encouraged as a matter of law and public policy to promote public health.

Making a Positive Impact: Striking a Balance Between Legislative Reach and Road Safety

Diana M. Bowman, Michael P. Fitzharris & Ray Bingham281

Worldwide, road traffic crashes result in the death of over 1.24 million citizens per annum, with estimates suggesting that by 2020, road crashes will be the third leading cause of disease and injury worldwide. In recognition of this increasing global burden of road traffic crashes, the United Nations declared 2011 through 2020 to be the Road Safety Decade of Action. Legislation and evidence-based policy frameworks have been identified as key mechanisms in driving reductions in this global “road toll.” The aim of this article is to examine the competing interests and tensions at play in promoting road safety through legislated public health policy instruments. This includes the balancing of express and implied civil liberties against the public health need of injury control. Given the central role of regulation in driving advances in road safety and the current momentum for global action, this article argues that a global Framework Convention on Road Safety should be implemented under the treaty-making power of the World Health Organization as a means of advancing road safety action beyond 2020.

Federal Funds for Syringe Exchange Programs: A Necessary Component Toward Achieving an AIDS-Free Generation

Rachel L. Hulkower & Leslie E. Wolf.....307

The United States government has declared the goal of an AIDS-free generation a “policy imperative,” calling for investment in evidence-based prevention measures. Ironically, U.S. policy forbids investment in one prevention measure with strong evidence of effectiveness. Needle and syringe exchange programs (“SEPs”) significantly reduce HIV transmission due to injection drug use, one of the most common modes of HIV transmission in the United States. This article argues that the ban on SEP funding represents a significant barrier to the President’s stated goal of achieving an AIDS-free generation. Without federal support, states have been unwilling or unable to consistently support SEPs. Accordingly, the federal government must act in unequivocal support for SEPs as part of a comprehensive HIV prevention program, and provide funding to

facilitate prevention services for injection drug users. Only with decisive federal funding and guidance can an AIDS-free generation be realized.

Clarifying Liability for After-Hours Community Use of School Recreational Facilities

John O. Spengler, Natasha Frost, Daniel P. Connaughton & J. David Prince342

The obesity epidemic has prompted policy guidance directed at the state and local levels to encourage physical activity. Policies that promote community access to school recreational facilities during non-school hours (*“shared use”*) are of particular importance. *The American Heart Association (“AHA”)* advocates for shared use in furtherance of the *Institute of Medicine’s* recommendation to adopt legislative policies, where necessary, to address liability issues that might prevent the sharing of school recreational facilities. The AHA and Public Health Law Center developed policy guidance in the form of sample legislation for individual states to use as a starting point in developing policies to eliminate or reduce barriers to shared use. The policy guidance includes: (1) findings; (2) purpose; (3) definitions; (4) liability provisions; (5) liability exceptions; and (6) implementation. Advocates and policy makers can use the AHA policy guidance to make informed decisions about school shared use legislation.

Local Governments and the Food System: Innovative Approaches to Public Health Law and Policy

Lainie Rutkow, Jennifer L. Pomeranz & Sarah O. Rodman355

Law plays a powerful role in protecting the health of populations, especially as new challenges emerge such as obesity and chronic diseases associated with unhealthy diets. Numerous novel uses of the law have been identified to address these challenges and create a healthier, more sustainable food system. Because local governments are often viewed as policy innovators, it is particularly important to understand successes and obstacles they have faced when regulating food system industries to promote public health goals. This article provides a brief overview of the legal infrastructure within which local governments operate. It then analyzes food industry efforts to challenge local governmental regulation through litigation. Next, it considers how speech rights *may curb local governments’ regulatory efforts*. It subsequently examines the impact of preemption on regulation by local governments. The article concludes with a discussion of how local governments can promote innovative public health law and policy responses to redress potentially harmful industry actions within the food system.