



The Legal Basis of Public Health

An Individual or Group Study Course in Ten Modules

Coordinator Guide



CDC
CENTERS FOR DISEASE CONTROL
AND PREVENTION

The Legal Basis of Public Health

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Course Contents

This course consists of the following ten modules and a Coordinator Guide, which includes suggestions for using the course materials.

SS0001	Module 1, Introduction
SS0002	Module 2, Data Collection and Surveillance
SS0003	Module 3, Service Delivery
SS0004	Module 4, Licensing
SS0005	Module 5, Inspections
SS0006	Module 6, Enforcement
SS0007	Module 7, Policy Development
SS0008	Module 8, Negotiation
SS0009	Module 9, Communication
SS0010	Module 10, Responsibility and Liability

And a Coordinator Guide which includes suggestions for using the course materials.

About This Course

This **Coordinator Guide** contains suggestions for providing state and local coordination and customization for the course, *The Legal Basis of Public Health*. The guide is divided into the following four sections:

About This Course
The State Coordinator Role
The Group Facilitator Role
Guidance for Group Exercises

It is recommended that regardless of your role in the course, you should read the first three sections. Supporting this course requires understanding both the state coordinator role and the group facilitator role. The final section is for group facilitators and provides guidance for preparing for and processing the group exercises. It is also useful for individual learners as they review the group exercises on their own.

A word about distance learning

In today's complex world, public health workers must continuously improve their skills and knowledge to meet the needs of their organizations and communities. Yet many find it difficult to obtain formal training because of travel costs and restrictions, job and family pressures, inconvenient course scheduling, and limited training opportunities in some subjects. Distance learning is increasingly used to overcome these barriers.

The Public Health Training Network (PHTN) developed *The Legal Basis of Public Health* in a distance learning format, in response to training needs expressed by public health practitioners across the nation.

Course materials

The course consists of ten modules and this Coordinator Guide. Participants may choose to study all ten modules or only those modules that apply to their jobs. **Module 1 is required of all participants**, as it lays the foundation for the course.

Each module is accredited for continuing education as an independent self-study course. Participants may receive Continuing Education Units (CEU) or Continuing Nursing Education (CNE) contact hours for each module they successfully complete.

Course modules The module titles and continuing education credits are listed below.

<u>Module</u>	<u>CNE credit</u>	<u>CEU credit</u>
1 - Introduction	3.2	.25
2 - Data Collection and Surveillance	2.6	.2
3 - Service Delivery	1.8	.1
4 - Licensing	1.7	.1
5 - Inspections	2	.15
6 - Enforcement	3.2	.25
7 - Policy Development	2.3	.2
8 - Negotiation	2.3	.2
9 - Communication	1.8	.1
10 - Responsibility and Liability	1	.1

Target audience This course is designed to be used by public health professionals within any public health agency in the United States, whose jobs require knowledge and/or application of public health laws and regulations. This could include records administrators, health service providers, nursing home and restaurant inspectors, permit writers, environmental health staff, and persons involved in surveillance activities. Persons who supervise public health professionals will also benefit from the course.

Flexible course design Due to the huge variety of training needs and infrastructure within state and local health agencies, the design for this course is flexible, allowing each state or county to customize the course to fit its training resources and learners' needs. As a course coordinator or group facilitator, you may not be able to carry out all the activities suggested in this guide, or you may come up with your own ideas. Whatever the training approach used, if learners read the module text and self-study exercises and go over the group exercises, they should be able to accomplish the learning objectives.

Two levels of coordination

This distance learning course can be most effective with some local support and coordination. Two levels of coordination are envisioned: **state-wide coordination** and **learning group facilitation**. Some states will readily accommodate both levels, other states may only accommodate one level, and still other states may not be able to offer any coordination. In the latter case, participants will take the course independently or organize their own learning groups. The course is designed so that even without state-level or learning group coordination, learners will still be able to achieve the learning objectives through use of the core materials.

Whether you are a state coordinator, group facilitator, or participant, this guide will help you tailor the course to fit the training infrastructure in your state and the individual needs of learners. Any support, preparation, coaching, and/or follow-through that you are able to coordinate will help to make this course more useful for the learners.

Instructional models

There are three possible models for offering this course.

Individual Model

In this model individuals sign up for and take the course on their own. Each learner reads the text and completes the self-study exercises and group exercises independently. Individual learners should identify persons with expertise in the subject areas covered who can assist with questions or clear up any confusion. Depending on state or regional training resources available, individual learners may be able to access centrally coordinated “expert sessions.” (See next section for description of “expert sessions”.)

Self-Facilitated Group Model

In this model, learners organize their own groups without a formal facilitator. Someone from within the group takes responsibility for organizing and leading the discussions. Each learner reads the text and completes the self-study exercises independently, and then joins others for the group exercises and discussion. Depending on state or regional training resources available, learning groups may be able to access centrally coordinated “expert sessions.” If not, groups are strongly encouraged to organize their own “expert sessions” so they can interact with persons having more expertise in the subjects being discussed.

Facilitated Group Model

In this model, learners are organized into learning groups with an appointed facilitator. Each learner reads the text and completes the

self-study exercises independently. The facilitator, who is knowledgeable about the content and the structure of the course, leads the exercises and discussions. Depending on state or regional training resources available, learning groups may be able to access centrally coordinated “expert sessions;” if not, the facilitator may organize them.

Recommended model

While each of the ten modules can be done individually, learners will get more out of the course if they participate in a learning group with others from their department or agency. This enables department staff to learn about policies and practices of other departments and to enhance the formation of consistent procedures within their own department.

Traditional approach

In addition to distance learning, the modules may also be used as textbooks for a training course, led by an instructor in a traditional classroom setting. Course coordinators may initiate or help facilitate the offering of such a course.

Course scheduling

In states or regions using the **individual model** for this course, participants will study the modules according to their own schedules. If “expert sessions” are included as part of the course, the individual learners would need to be notified of the schedule, so that they can time their studies to coincide with the “expert sessions.”

In states or regions using either of the **group models** each group can work out their own schedule; however, if centrally coordinated “expert sessions” are planned, a schedule will need to be developed and distributed to participants so that study of the modules will coincide with the planned “expert sessions.” Remember that the composition of the groups may change for each module, because not all participants will be taking all of the modules.

Allow a period of two to four weeks for completion of each module. One to two weeks should be allowed for participants to go through a module and complete the “Self-check review;” then, a group session should be scheduled for the following week for the group exercise and discussion. The group session should take one to two hours. If “expert sessions” are planned, they can be part of the group sessions or can be scheduled at a different time.

For more information, read the suggested procedures for individual learners and for group learners in the “**How to Take This Course**” section at the front of **Module 1**.

Registering for continuing education credit

An **Evaluation and Test** is located at the end of each module, along with directions for completing and submitting the forms. Please encourage participants to follow these directions carefully as they will not receive credit if forms are completed incorrectly.

To receive continuing education credit for modules completed, participants must submit course enrollment forms to CDC. Remind participants to be sure to put the correct module name and course number on the forms. There are several ways for participants to complete this registration process:

Complete the forms online.

Go to the PHTN website www.cdc.gov/phtn and complete the online registration and evaluation. Directions are given at the website.

Complete the forms on paper. There are two ways to obtain the forms from CDC.

- Request the enrollment materials online by going to the following URL at the PHTN website **<http://www.cdc.gov/phtn/legal-basis/req-form.htm>** and completing the online request form. When the online form is submitted, an enrollment packet will be mailed to the participant with instructions.
- Request the enrollment materials by calling **1-800-41-TRAIN** (1-800-418-7246). At the prompts, press 1, then 3. The requester should clearly speak his/her name, mailing address, daytime phone number, and the correct module name and number. The enrollment materials will be mailed to the participant with instructions.

Remind participants that if they are unable to register online, they will have to wait several weeks until their course enrollment materials arrive in the mail. Encourage them to complete the **Evaluation and Test** immediately after finishing the module by marking their answers directly on the **Evaluation and Test** at the end of the module (or make a photocopy) and then, when the enrollment materials arrive, transfer their answers to the answer sheet included with the materials.

Evaluating the modules

Please encourage participants who are not interested in receiving continuing education credit to complete and submit the Evaluation and Test. To do this, participants should follow the same procedure as for registering for continuing education credit, but indicate in the first question on the questionnaire that they do not want credit. Although returning this form is not required, we are very interested in receiving feedback from all participants.

Good luck!

PHTN commends you for your dedication to improving public health practice in your state. If you have questions about this course or if you would like information on other PHTN courses, go to the PHTN website at <http://www.cdc.gov/phtn> and send an email from there or call 1-800-41-TRAIN. We welcome your feedback on this course.

The State Coordinator Role

Central point of contact

For this course, the term “**state coordinator**” means the central point of contact for this course in a state or region. Many states have a Distance Learning Coordinator or State Training Coordinator—if so, that is the most likely person to assume this role. This function may also be located in the training, continuing education, or communications department of the state or regional health department. The person filling this role should be familiar with the state’s training infrastructure and training resources. His or her major responsibility will be to read this guide and decide on the best way to offer this course, given the needs and resources in the state. (Although this guide addresses state coordination, the central coordination could also be applied on a regional basis.)

The state coordinator for this course plays a significant role in customizing the course to suit the training needs of the state. The course covers broad, general principles of public health law, identifying core issues that every state and local health department face. However, public health law and procedures vary considerably among states and localities. In order to be truly comprehensive and relevant, each module of the course should include state-specific information wherever possible.

This section of the guide provides guidance for those course responsibilities that would be best coordinated at the state level. These include the following:

- promoting the course
- ordering and distributing materials
- organizing learning groups
- recruiting group facilitators
- setting up “expert sessions”
- supporting course evaluation and continuing education

Each of these responsibilities is explained below. The section for state coordinators concludes with a checklist of responsibilities.

Promoting the course

One possible role for the state coordinator is to promote and market the course to both the target audience and their managers. A key to the successful offering of this course is to seek organizational and administrative support and approval throughout the area or region where the course is being offered. Upper level administration and managers should be made aware of the course so that they can recommend participation to any staff with training needs related to the course topics.

It is important to gain the backing of management and supervisory staff, as this will give the course legitimacy and will increase the participants' commitment to completing the modules and applying what they learn professionally. Experience has shown that distance learning participants are more likely to complete a course if they have support of their supervisors and are allowed to study and attend meetings of their learning group during work time.

Appendix A contains a fact sheet that you can use to promote the course.

Ordering and distributing materials

As a state coordinator you can order course materials in bulk and distribute them to individual participants and learning groups within your state; or you can simply act as a clearinghouse for information about how individuals may obtain the materials on their own. These two options are described below.

Group Purchase

Find out how many people are interested in taking the course, and thus how many course packets you will need. Order the number of course packets your state will need. The course packets will be mailed to you. Distribute the course packets, along with the course schedule and other pertinent information, to the participants.

Individual Purchase

Individual participants order and purchase the materials themselves. Your role is mainly to publicize the course, provide information for ordering, and distribute any state-specific information. You will also need to distribute the course schedule and any other pertinent information to the individual participants.

There are two ways to obtain the course materials.

- Purchase the course from the Public Health Foundation (PHF), a PHTN partner, by calling toll-free **(877) 252-1200**. This packaged version of the course includes all ten separately-bound modules. Cost \$85.
- View and/or print individual modules and the Coordinator Guide from the PHTN website at **<http://www.cdc.gov/phtn/legal-basis/mainmenu.htm>**. Directions are given online for how to do this.

Organizing learning groups

If your state or region is using a training model incorporating learning groups for this course, here are some suggestions for organizing learning groups. One way to form groups is by advertising a phone number that people can call to find out whether others are interested in taking the course in a group. You can match up individual participants according to geographic location, area of interest, or communication mode. The recommended maximum number of participants per group is 15.

Recruiting group facilitators

As the state coordinator, you should recruit a facilitator to lead each learning group. A facilitator should be knowledgeable enough about the content to lead the group discussions and exercises, but not necessarily an expert. If it is not possible to find a facilitator knowledgeable about the content, you might want to just find someone who is responsible and willing to convene a group, study the material, and lead discussions.

Refer to the “**Role of Group Facilitators**” section in this guide for information about the responsibilities of group facilitators. The “**Guidance for Group Exercises**” section gives suggestions for how to customize the content for each module and provides answers to the exercises and discussion questions.

If recruiting facilitators is beyond your scope of duties, inform the learning groups that they are responsible for finding their own facilitators and the information provided in this guide can help them with this process.

**Setting up
“expert sessions”**

If possible, organizing an “expert session” for each module is an ideal way to customize the course to meet local training needs. The term “expert” is used here to mean a person who has special expertise or experience with the topic under discussion. Depending on the topic, the expert may, for example, be a more experienced colleague within a health department; a lawyer in the agency’s legal department; or someone from the State Health Department’s Public Affairs Office. One expert may serve for all ten modules, or you may have to identify different experts for the various modules. The sessions may be statewide, just for one group, or a one-on-one consultation.

Ideally, as state coordinator you should arrange a state or region-wide “expert session” for each module. It is up to you to decide how formal this session should be and how best to make it accessible for participants in your state. In general, the “expert session” entails an interaction led by a topic expert, providing participants an opportunity to learn about how the general concepts discussed in the module apply to the laws and policies of their state and/or program area.

Interactions may occur in person, by telephone, over the Internet, or by some other telecommunication system. The “expert session” should occur after the participants have read the material and had their group discussions.

See **Appendix B** for a suggested agenda for an “expert session.”

Finding experts

Places to call for contacting a legal expert include the legal office of the State Health Department, the State Attorney General’s office, law schools within your area, and/or the State Bar Association.

**Alternatives to
“expert sessions”**

If organizing “expert sessions” is beyond your scope of duties, this is something that the group facilitators or individual learners could be responsible for.

If arranging for formal sessions is not possible in your state or region, a legal expert could still contribute to customizing the course by acting as a course consultant. The expert could provide resources, such as state and local regulations and statutes or provide state-specific answers to the **“Group exercises”** based on local law and procedures. These could be made available by e-mail, webpage, fax, or regular mail. Also, the expert could be available to participants during certain hours by phone or e-mail.

Supporting course evaluation and continuing education

One of your responsibilities includes encouraging the return of evaluation and request for continuing education forms. Be familiar with the procedures for applying for continuing education credit and evaluating the modules so that you can support those functions. Refer to the “**Registering for continuing education credit**” and “**Evaluating the modules**” information in the first section of this guide for details.

One way to support this process is to assume responsibility for obtaining the enrollment materials from CDC and distributing them to participants throughout the state. If you have group facilitators, remind them of the importance of participants filling out the forms correctly.

Checklist for coordinating this course

Below is a checklist of suggested steps for coordinating this course. Some of these steps may not be applicable in your situation. If so, see if the step can be coordinated by group facilitators or individual learners. Note that most of the work takes place before the course begins; once the course is underway, the state coordination role decreases.

Before the course...

- ' Step 1 Determine the training model(s) most appropriate for your state. Assist in establishing learning groups, if applicable.
- ' Step 2 Obtain experts to lead “expert sessions” or serve as course consultants.
- ' Step 3 If you are using the Facilitated Group Model, obtain group facilitators.
- ' Step 4 Develop a schedule for the course, allowing 2 - 4 weeks for each module. Include “expert sessions” in the schedule.
- ' Step 5 Decide how to order the course for participants in your state.
- ' Step 6 Publicize the course within your state.

During the course...

- ' Step 7 Provide support and direction to the individual learners and to the group facilitators and experts (if applicable). If you have scheduled “expert sessions,” send reminders to the group facilitators or participants.
- ' Step 8 If possible, remind participants and group facilitators to fill out the Evaluation and Test and the continuing education enrollment forms carefully, following the directions given at the end of the module. Encourage all participants who are not requesting continuing education credit to submit a module evaluation.

The Group Facilitator Role

Local point of contact

The main requirement for being a **group facilitator** is willingness to serve as the local “point person” for a learning group. Expertise in the subject matter is not required, however, you should be somewhat familiar with the topic and willing to read this guide and the module before leading group discussions and exercises. Your state may or may not have a state coordinator who can give you some guidance. In either case, this guide will provide suggestions for making this course a successful learning experience. Feel free to adapt the material creatively to suit the training needs of your particular group.

If you are a group facilitator, be sure to read the sections in this guide preceding this one so that you will understand the overall structure of the course.

Group assignment

The way you are assigned to a group will depend on the training infrastructure in your state or region and the training model selected for this course. Depending on the training infrastructure in your state, you will be placed with a group through one of the following means:

- C The state coordinator assigns you to a group.
- C An individual or group of learners invites you to be their facilitator.
- C You are part of a learning group and you volunteer (or are volunteered) to facilitate the group. This responsibility may be shared with other group members.

Advance preparation

As a group facilitator, you will need to do some advance preparation. Start by reading the module text; pay particular attention to the following sections:

- The “**Goals**” and “**Learning Objectives**” found at the beginning of each module cue you into the main topics to focus on.
- A section located at the beginning of most of the modules entitled “**Before you begin...**” or “**Start by networking**” suggests resources for use in customizing the content to meet local training needs.
- The text is interspersed with self-study exercises entitled “**Bringing it home...**” and “**Stop and think...**” These consist of application questions which ask the learners to apply the content to their job or reflect on the legal regulations and statutes in their state or region. Advance preparation on your part can help the learners with these exercises because many of the questions require some local documentation such as copies of your agency’s organizational charts and policies or your state or local laws, statutes, and ordinances.
- Each module concludes with a “**Self-check review.**” Although the answers are provided for the participants, it would be good for you to be familiar with them, so that you may address any questions raised.
- Each module contains “**Group exercises**” at the end, which consist of discussion questions and case studies designed for study and discussion with the learning group. The “**Guidance for Group Exercises,**” found in the next section of this guide, provide answers for these.

Feeling overwhelmed?

Do not be discouraged if you are unable to provide local supplementation for every part of the course. Participants can still learn and benefit by just reading the text and discussing the content with co-learners.

You may need to consult with a legal expert for help with some of these areas. Refer to the section on “**Finding experts**” located in the information for state coordinators preceding this section of the guide. It may help to assign some of the advance preparation or consultation with an expert to various members of your group.

Checklist for facilitating a group

Following is a checklist of eight suggested steps for group facilitators. Some of these steps may not be applicable or doable in your situation. If a step is beyond your scope of responsibilities or abilities, perhaps the state coordinator or individuals within your group can assist with the task.

Before meeting with your group...

- < Step 1 Familiarize yourself with the course. Determine what support and coordination, if any, you will be receiving from the state level. Determine when to convene your group and whether you will be having “expert sessions.”

If your state has no central coordination for this course, you may take the lead in determining how to set up the course, following the guidelines discussed in this guide. It is advisable to get input from your learning group in making these decisions.

- < Step 2 If your state coordinator provided you with a course schedule, give copies to your group. If you do not have a course schedule, develop one, allowing 2 - 4 weeks for each module. Be sure to include any planned “expert sessions, ” in the schedule.

- < Step 3 Prepare for each module by reading the module text and the “**Guidance for Group Exercises**” found in the next section of this guide.

- < Step 4 Have participants read the text, answer the questions, and do the “**Self-check review**” on their own. Notify the participants of when you will be meeting as a group.

While meeting with your group...

- < Step 5 Lead the group through the “**Group exercises**” at the end of the module. Specific tips for preparing for and leading the group exercise are found in the “**Guidance for Group Exercises**” section, which follows in this guide.
- During group discussions, encourage participants to share their experiences and opinions; and look for opportunities to acknowledge students who show a good understanding of concepts. Try to bring out students who tend to be quiet. If appropriate, let participants’ supervisors know when they are doing well in the course.
- Motivate your group by keeping in touch with the progress of the participants and by following up with any who are having difficulty or miss more than one group session.
- Find excuses for recognizing and celebrating milestones in the course. Use your imagination to find something appropriate for your group.
- < Step 6 If a state coordinator has arranged for statewide “expert sessions,” make arrangements for your group to attend. Attendance will be either in person, by phone, or through some other telecommunication system available in your state. If your state is not providing “expert sessions,” you may want to have your own. Invite someone who is an expert in the module topic to attend your group meeting, or make them available by phone or Internet.
- < Step 7 Be familiar with the procedures for applying for continuing education credit and evaluating the course so that you can be of help to the participants. Refer to the “**Registering for continuing education credit**” and “**Evaluating the modules**” information in the first section of this guide for specific directions in how to obtain and fill out the forms. One way to support this process is to assume responsibility for obtaining the enrollment materials from CDC and distributing them to participants in your group. (If you have a state coordinator, he/she may be doing this.)
- Remind participants wishing to receive continuing education credit to complete the registration form and evaluation and emphasize the importance of filling out the forms correctly. Participants must complete and return a separate form for each module for which they wish to receive credit.
- Encourage those participants not applying for continuing education credit to return their course evaluations.
- < Step 8 Plan for and publicize any upcoming group sessions for other modules in this course.

Guidance for Group Exercises

Module 1

Introduction

Group Exercise 1.1 Language used in laws and regulations

To illustrate broad statutory language and the specific, detailed wording of regulations, provide participants with copies of:

- The text of enabling legislation from your state, such as legislation requiring the state health department to administer a communicable disease reporting system
- Excerpts from the administrative code or other implementing regulations regarding communicable disease reporting, such as the listing of diseases that must be reported

Group Exercise 1.2 Legal research

Bring examples of federal, state and/or local statutes, regulations and codes for distribution to participants.

Group Exercise 1.3 Rule making and adjudication

Bring copies of your agency's relevant procedural rules for rule making and adjudication.

Group Exercise 1.4 Organization of public health agencies

Answers will vary.

Group Exercise 1.5 Views on the creation and quality of laws

Be prepared to discuss a public health law of relevance to the group. Examine how the law is implemented by your agency. Ask the group to consider the following questions:

1. Can the law be supported using a cost-benefit analysis? If not, should the law (and the program) be continued? What arguments can be used to counter those of a “law and economic movement” advocate who might suggest that a program which is not cost-effective should be terminated?
2. What, if any, political influences affect the manner in which the program is carried out by your agency? Are resources distributed on an “as needed” basis, or does the resource allocation reflect the power and influence of competing interest groups?
3. Does the program seek to redress underlying inequities of our society or does it justify maintaining the status quo? Ask the group to explain.

Possible facilitator presentations

- Description of legal relationship between the state and local health departments
- Description of legal relationship between the state health department and the state board of health (if applicable)

- Description of legal (and financial) relationships between the state health department and federal agencies for particular public health programs (e.g., implications of Medicare for local/state regulation of nursing homes; relationship of U.S. Environmental Protection Agency to local/state environmental service programs)
- Summary of state’s “home rule” provisions (if applicable)
- Description of responsibility and authority over public health programs within the state, where such authority resides and key contact persons within the state
- Description of state public health legislation and regulation. Where can local health officials find “the law”?
- Discussion of recent federal and state legislation and the implications for local public health practice
- Discussion of significant judicial decisions (if any) and the implications for public health practice at the local level

Possible group discussions

- C Discussion of relationships between local health departments and local boards of health—ways to improve communication and cooperation
- Discussion of relationship between state and local health departments—ways to improve communication and cooperation
- Opportunities for the continued sharing of information among participants (creating an electronic bulletin board; a mailing list of state and local contacts; identification of “subject experts”)

Module 2 Data Collection and Surveillance**Group Exercise 2.1**

Provide copies of your state's record-keeping and reporting statutes, along with relevant regulations. Consider bringing in a knowledgeable person to discuss the questions with the group if neither you nor a member of the group has the relevant knowledge.

Group Exercise 2.2

Answers will vary.

Group Exercise 2.3

Provide copies of your state's relevant confidentiality statutes, along with the relevant regulations. Consider bringing in a knowledgeable person to discuss the issue of confidentiality if neither you nor a member of the group has the relevant information.

Module 3**Service Delivery****Group Exercise 3.1****Would this proposed action violate due process requirements?
Why or why not?**

Automatic termination of benefits without receiving prior notice, an opportunity to be heard, and the right to appeal the decision would most likely violate the standards dictated by the U.S. Supreme Court in *Goldberg v. Kelly*.

How could the Board structure the proposal to accomplish its objectives in a legally acceptable manner?

Rather than automatically terminate food benefits, the Board ought to give mothers notice that such action is imminent and an opportunity to challenge the determination *before benefits are withheld*. According to U.S. Supreme Court decisions after that of *Goldberg v. Kelley*, the Court made it clear that an “opportunity to be heard” does not necessarily mean the right to a full evidentiary hearing. A less formal right to challenge the decision may suffice in this instance, particularly where the factual questions are relatively straightforward. At a minimum, the “hearing” must be before an impartial decision-maker, one who was not involved in the initial decision to terminate the mother’s benefits.

The Board should also establish an appeals mechanism, one which allows women to challenge an initial decision terminating benefits.

Group Exercise 3.2**Does the criterion deny new abatement contractors equal protection under the law?**

Because the department’s action does not interfere with a “fundamental right” or affect a “suspect class,” the department need only prove that its program is rationally related to a legitimate governmental interest. The courts would likely find that the agency’s definition of “qualified” is a rational one. When social or economic legislation is at stake, the equal protection clause allows states wide latitude.

Module 4**Licensing**

Bring examples of local ordinances and state statutes outlining requirements for licenses, preferably in each of the three categories-- professional, institutional and business.

Your group may identify additional concerns or have unanswered questions. Feel free to bring in an outside expert.

Group Exercise 4.1

What would you tell the judge about the rationale for the licensure provision?

Would you attempt to explain that no less intrusive measure could assure the same level of public health protection?

Why would that be relevant?

Recall that, as a general rule, the courts will defer to the judgement of legislative bodies. Courts only challenge legislative assumptions when important constitutional rights are affected. In the instant case, the right to sell ice cream from mobile trucks and push-carts may have important financial ramifications for the vendors, but the ordinance, as written, does not affect the vendors' constitutional rights.

Several valid explanations could be offered the Court to justify the licensing law, including the need to regulate those who sell food in order to protect the public's safety; the need to limit the number of vendors so as to control transportation flow patterns and public access to sidewalks and streets; and the need to raise fees in order to support a food inspection program.

Because licensing provisions such as the one proposed in the hypothetical case affect an important economic interest, the courts *will* try to make certain that the laws are no more intrusive than necessary to accomplish the municipality's valid exercise of its police powers. Thus the municipality must be prepared to demonstrate that it cannot accomplish its public health and welfare goals in any other fashion.

Group Exercise 4.2

Would your department be able to deny Mr. May a license based on past performance?

As frustrating as it may seem, unless the law or municipal code expressly permits the health department to deny a permit to operate a food establishment based upon past performance, the agency must issue the license if all licensing conditions are met. Wayne County, Indiana's municipal code may be typical of the laws governing food establishments. Under that code, a permit to operate a food establishment *must* be issued upon a determination that the permittee has "complied with all the applicable provisions of th[e municipal code] chapter, tendered the appropriate permit fee...and obtained the necessary sign-off sheets from the appropriate fire and building departments." [(Ord. G-17-91, passed 2-28-91).] CHAPTER 113: FOOD AND FOOD ESTABLISHMENTS, Fort Wayne, Indiana, Municipal Code.]

Because the county's ordinance governing food establishments does not contain a "good character" provision, the permit would likely be issued if Mr. May satisfied the application requirements and paid his fee, notwithstanding his egregious past actions.

For many other kinds of public health programs, state and local licensing authority is typically constrained by "good character laws." For example, under the Santa Monica, California municipal code, a permit to operate a massage parlor must be denied if "any person who will be directly engaged or employed in the massage establishment or off-premises massage business" has:

- C Been convicted of a violation of delineated sections of the City's Health and Safety Code or Penal Code; or has been convicted in any other State of a similar offense.
- C Committed an act which, if done by a licensee or permittee, would be grounds for suspension or revocation of a license or permit.
- C Committed an act involving dishonesty, fraud, or deceit with the intent to substantially benefit oneself or another, or substantially to injure another; or has committed an act of violence which is substantially related to the qualifications, functions, or duties of the massage establishment or off-premise massage business. (Ord. No. 1358CCS, adopted 2/11/86)

What if the application was made by Mr. May's wife?

Some jurisdictions have attempted to control for this possibility. For example, to combat the influence of organized crime in the commercial waste hauling industry, the City of New York passed a "good character" law requiring applicants to identify and provide information about all of the applicant's principals, which include officers, directors, holders of over ten percent of equity, and the relatives of such shareholders in cases where the owner of record is acting on a relative's behalf.

The Commission may refuse a license "to an applicant who lacks good character, honesty and integrity," although it must state the reasons for a refusal and provide an opportunity to be heard.

The law provides a list of relevant factors for the Commission to consider in making a licensing decision, such as "pending criminal actions; prior convictions; knowing association with convicted racketeers, or members of "an organized crime group," and membership in trade associations that have been convicted of specific crimes or where a person holding a position in such trade association is a member of an organized crime group."

The law was challenged by waste haulers who claimed it violated their constitutional right of "freedom of association" because it restricts their right to associate with individuals who have been convicted of certain crimes or are associated with groups identified by law enforcement agencies as affiliated with organized crime and their right to join trade associations. The waste haulers also claimed the law violated their rights of privacy by compelling applicants to disclose to the Commission confidential information not related to their businesses, and confidential information of family members who have no relationship to their businesses, without requiring the Commission to maintain such information in confidence. The Court rejected their arguments and upheld the law. [*Sanitation and Recycling Industry, Inc., et al., v. City of New York*, docket no. 96-7788, (United States Court of Appeals for the Second Circuit); decided February 28, 1997.]

If the department denies a license, what should it be prepared to demonstrate to a court regarding the process by which this denial was arrived at?

The courts fairly consistently recognize a license to operate a business (or practice a profession) as a legal right, rather than a mere benefit. As such, an Agency must demonstrate procedural fairness in how it awards, revokes or denies a license. At a minimum, Mr. May must be given fair notice of, and an opportunity to challenge the Agency's decision to deny him a license. The decision must be based on information in the Agency's "written record" that documents both the *legal basis* upon which the Village Department of Health may deny an application to operate a restaurant and the *factual basis* for denying Mr. May's license. The applicant has a right to review the "written record" and it is this record which forms the basis for a judicial appeal.

Which of your agency's programs contain "good character" laws?

Answers will vary.

Module 5 Inspections

Things to bring to the group

- C Copies of relevant statutes
- C Requirements of several categories of licenses
- C Copies of inspection reports
- C Copies of warrants

Group Exercise 5.1

You should be prepared to discuss or bring in documentation on specific local authorizing statutes, regulations, and agency protocols pertinent to your learning group.

Group Exercise 5.2

Part I. What should Inspector Roe do? What legal authorities does she have? What, if any, parts of the restaurant can she inspect without consent or a warrant?

Inspector Roe should wait until the restaurant manager returns and should then request his permission to inspect the restaurant. As a general rule, consent to an inspection or search must be given by the person whose interest in the protection of privacy is the greatest. In most instances this will be the manager or owner. It is certainly not the short-order cook.

U. S. Food and Drug Administration policy requires investigators to do the following:

“Upon arrival at the establishment, locate the owner, operator or agent in charge of the establishment. This should be the top management official on site. Be certain of this individual's status. Introduce yourself by name, title and organization. Show your credentials to this person and present a properly signed completed original Notice of Inspection.... Explain the purpose of your visit; and readily accept any management offer to have a representative accompany you on the inspection.”¹

¹“Investigations Operations Manual”, Department of Health and Human Services, Public Health Service, Food and Drug Administration, Office of Regulatory Affairs, Division of Emergency and Investigational Operations (January 1998); Chapter 5 - Establishment Inspection; See http://www.fda.gov/ora/inspect_ref/iom/97title.html

Under what circumstances and in which areas of the restaurant may Inspector Roe search without a warrant and without consent?

Under the "plain view" or "open fields" doctrine, Inspector Roe may observe any area of the restaurant that is open to the public. Arguably, the alleged food poisoning episode may be considered an imminent hazard requiring immediate action and hence Inspector Roe may not need a warrant. This, however, could be a difficult argument to win, especially where the warrant may be obtained in a matter of hours. Thus the more prudent course would be to obtain a warrant. If warrantless inspections are authorized under the state's food sanitation laws or pursuant to the food establishment's license, then a much easier situation would exist. Clearly, Inspector Roe should determine the full extent of her inspection authority *before* going to the restaurant.

Part II. What, if any, information will the Grange County Attorney want from the agency? From Inspector Roe?

Administrative search warrants may be given either (a) based on probable cause that a violation exists, or (b) because a routine inspection is being conducted as part of a neutral inspection scheme.

In the former situation, the County Attorney will want to know:

1. The basis for believing that a violation exists, i.e., the identity of the complainant and/or circumstances surrounding the complaint and the precise nature of the complaint
2. The circumstances surrounding the refusal of entry, i.e., facility name and exact address; name, title and alleged authority of the person refusing entry; name, address, and telephone number of the restaurant's attorney (if available); date and time of refusal; and the reasons given for denying entry
3. Details of the areas to be searched, records to be inspected, and samples to be collected
4. The laws, regulations and requirements that apply to this situation and may have been violated.

Would your answer differ if Inspector Roe were denied permission to conduct a routine restaurant inspection?

Yes. See the answer to the following question.

To get a warrant in a routine situation, what would the Grange County Attorney want to know?

If a warrant is being sought to conduct a routine inspection, the attorney must have information about the public health agency's pre-determined inspection scheme for restaurants and how or why the Good Foods Eatery was selected for inspection pursuant to this scheme. The attorney will also need the information described in numbers 2), 3) and 4) above. In either case, Inspector Roe will have to provide testimony to support the application for a warrant. Her testimony may be given in court before a judge or through a written sworn affidavit.

Part III. Should Inspector Roe continue with her inspection or leave the premises and contact the County Attorney again? Why or why not?

An inspector acting under authority of a warrant must adhere strictly to the terms of the warrant. In this hypothetical case, Inspector Roe demanded access to personnel records that were not covered by the warrant. Thus, while the general rule is that any violations observed during a lawfully conducted inspection may be used as evidence in later proceedings, even if the violations do not fall within the inspector's statutory authority, the rule does not apply in this instance because the records were not lawfully inspected.

However, if Inspector Roe had needed access to these records and they *were* properly described in the warrant, then the question would be whether she had probable cause to believe a crime had occurred or was occurring. If she did, must Inspector Roe terminate the inspection and call for further instructions because of the criminal implications of the investigation? Clearly this would not be practical nor would it be required by law. Inspector Roe should carefully document the evidence concerning possible labor law violations and turn the material over to the proper agency after she has completed her own health-related inspection. But she should not investigate the possible labor law violations further.

Module 6 Enforcement**Group Exercise 6.1****Scenario 1: In your jurisdiction would this constitute a public or private nuisance?**

In most jurisdictions this would constitute a public nuisance.

What, if any, enforcement options might you have?

Answers will vary, but enforcement responses to this situation might include an administrative cease and desist order served upon the owner of the building, civil injunctive relief requiring the owner to abate the nuisance, or a condemnation action brought in civil court seeking permission for the government to destroy the building.

What, if any, remedies would you seek?

The agency may seek the following remedies, among others: a court-enforceable order evicting squatters from the building, civil and/or criminal penalties against the owner for violating building and health and safety codes, and reimbursement by the owner of any monies spent by the government to destroy the building or otherwise abate the nuisance.

What kind of evidence would you gather to support an abatement action?

Evidence used to support an abatement action could include eyewitness testimony of the inspectors, photographs of the building and other demonstrative evidence, physical evidence collected at the site (such as used hypodermic needles and rat droppings) and expert testimony describing how the building adversely affects the health of the neighboring community.

How would this evidence be used in court?

The facilitator should lead a discussion focusing on the type of evidence a health officer would gather to support various kinds of legal actions. For example, evidence demonstrating an immediate threat to the building's inhabitants and to nearby neighbors might be used to obtain an emergency order evicting squatters from the building. Evidence obtained for this purpose would illustrate the threat presented by the squatters living in the building, for example, evidence of fires set in the building and/or of illicit drug use or other criminal conduct. Evidence might also be used to support a summary order of condemnation and destruction of the building. Such evidence must demonstrate that the building, if left standing, would endanger the surrounding community. This type of evidence would illustrate the perils presented by the abandoned building, for example, fire and building code violations, rodent problems, uncontrolled access to the building by criminals, etc.

Scenario 2: Is this a public nuisance?

The facts presented in the second scenario do not constitute a public nuisance. An over-crowded but otherwise well kept home does not affect the public.

What if the dwelling were home to twenty-five cats and dogs?

If the dwelling is home to twenty-five cats and dogs and the owner is less than meticulous about caring for the animals, the situation presents a closer judgement call. Health officials do on occasion seek civil injunctive relief in this type of situation, particularly when they can demonstrate that the animals can be heard from the public sidewalk or a foul odor emanates from the house. Injunctive relief might also be sought when agency officials can demonstrate that the home is potentially injurious to the occupant.

Do the facts as suggested provide adequate basis for the court's issuing a temporary restraining order? Why or why not?

A temporary restraining order (TRO) is ordinarily granted when the situation requires immediate action and cannot wait for a fuller hearing on the matter. It is often granted without giving the offending party advance notice of the emergency hearing. To obtain a TRO, the agency must demonstrate that conditions will deteriorate further or that there is significant probability that irreparable harm will occur if a TRO is not granted.

Group Exercise 6.2

How does this process differ from a non-emergency situation?

Answers will vary by state or jurisdiction, but as an example, Utah's emergency adjudicative proceedings authorize an agency to issue an order which has immediate effect. The order may require a person or persons to take some type of action without first giving them the right to challenge the order in an administrative hearing. In a non-emergency situation, when an agency issues an administrative order a person is entitled to receive notice of a hearing and an opportunity to challenge the agency's order and the facts supporting it before the order takes effect. The practical consequences of this distinction are quite large.

In the emergency situation, a person *must* comply with the order or face penalties for failing to comply. If the person believes the order is unwarranted, his or her only legal recourse is to apply to the court to enjoin the administrative order or to challenge the agency's action in a hearing *after the fact*; that is, after complying with the order. In a non-emergency situation, the person's right to challenge the agency's action in an administrative hearing would *precede* the order's taking effect. Thus in the latter situation the person is not faced with the dilemma of whether to obey an order he or she believes unjustified or risk penalties for failing to obey.

What are the procedural requirements in your jurisdiction for:

- a) an emergency situation
- b) a non-emergency situation?

Answers will vary.

Group Exercise 6.3

The power of health officials to summarily detain, seize and destroy property varies significantly across local, state and federal authority. Facilitators should be familiar with the jurisdiction's authorizing legislation, case law, agency policy and procedures regarding embargo, seizure and summary destruction of property.

1. **What should Inspector Tracey do?**
2. **What is the proper protocol for your health department?**
3. **In your jurisdiction, what legal authority would the agency have?**
4. **Would the agency have authority to seize or embargo all milk sold in the county from that dairy? Summarily destroy the milk?**

To answer **Questions 1 through 4**, participants are encouraged to network with others in their agency who are knowledgeable about agency laws and procedures for this type of situation. The possible remedies available in this case include voluntary action of the dairy to recall and destroy the tainted lots of milk. If voluntary action is not forthcoming, agency officials may summarily seize and destroy the contaminated milk. The agency may also issue an administrative order suspending further distribution of the dairy's products for a period of time. Depending on the dairy's response to the emergency situation and its willingness to cooperate with the agency, it may also be necessary for the agency to obtain civil injunctive relief from the court. In an extreme situation (for example, prior contamination and failure of the dairy to undertake appropriate measures to prevent its recurrence), criminal sanctions may also be appropriate.

Given this information, would it be reasonable for the agency to seize all milk from the dairy in question or should it seize only those lots of known threat?

The answer would depend on the type of evidence available to the agency. Because seizure is an extraordinary action, one not to be undertaken lightly, agency officials should not exercise that authority without sufficient documentation to support the necessity of the action.

If the agency were to seize all milk from the dairy, the agency would need to demonstrate that conditions in the plant made it impossible to protect the public's health by a more limited response. For example, evidence might demonstrate the need to prevent distribution of the dairy's products temporarily while the agency determines the full cause and extent of the problem; or documentation of excessive health and safety problems at the site.

If the offending article were non-perishable, would this alter your decision about whether or not to summarily destroy the seized goods? Why or why not?

In most cases summary destruction would be unnecessary. Due process requires the agency to provide affected persons with notice of, and an opportunity to challenge any governmental actions affecting their rights, unless the urgency of the situation requires the agency to act otherwise. Summary destruction of property should be avoided unless absolutely necessary.

Participants should investigate their agency's policy and procedures relating to embargo and seizure of property; and the distinctions between each response.

What if the article of concern were merely misbranded rather than contaminated? How would your agency handle the matter in that event?

If a material were misbranded and the misbranding were not likely to cause harm, embargo rather than seizure may be the appropriate response.

Group Exercise 6.4

Were the owner's rights to due process violated when the township issued a summary notice to vacate?

Summary of the court's opinion: In a 1968 case, the Superior Court of New Jersey held that the building was a public nuisance; that the township had authority to summarily vacate the building; and that because the evidence established that the building was in fact a nuisance, the township was not liable for any damages sustained by the owner [*Ajamian v. Township of North Bergen*, 246 A.2d 521 (1968)].

A public health agency's "police powers" authorize it to take whatever actions are essential to secure and promote the public peace, health, safety and general welfare of the community. This includes the right to take summary action in an emergency situation.

However, the agency should only take the minimum summary action necessary to abate the emergency situation. Vacating the tenement house achieved the proper balance between protecting the health and safety of the tenants and affording the owner a later opportunity to contest the agency's findings.

Would your answer change if the township had not only issued a summary order to vacate but also demolished the structure?

Demolition of the building without first affording the owner *due process* (i.e., notice and an opportunity to be heard) would have exceeded the agency's police powers because the necessity for emergency action no longer existed once the tenants had vacated the building.

Under what circumstances may your agency engage in a summary proceeding?

Answers will vary.

Is the owner entitled to damages for the loss of use of his property?

Abatement of a nuisance for public safety or health is not a "taking" of private property for public use, therefore the public health agency does not have to compensate the owner for taking away the use and enjoyment of his property. However, if in a later court proceeding the agency's judgment was deemed erroneous and the building was not in fact a public nuisance, some jurisdictions have held that the government officials are liable to the owner. This will usually be an extreme situation, for example, where an agency demolishes the wrong house! The courts are extremely reluctant to second-guess an agency's opinion or to analyze the facts in hindsight, for fear of constraining an agency's future actions. When it comes to protecting the public's health and safety, the courts recognize that wide latitude must be given to the government to take action it deems necessary.

Finally, as alluded to above, once a summary action is taken, *due process* requires that the owner be given a later opportunity to challenge the agency's findings and conclusions.

During discussion of the case study, the facilitator should emphasize the importance of careful record-keeping and documentation, including photographs as appropriate. This is especially important where summary action may later be scrutinized in an administrative or judicial proceeding.

Group Exercise 6.5**Is a criminal search warrant required?**

Scenario One: The purpose of a warrant is to protect persons from "unreasonable searches and seizures" by the government. The Fourth Amendment guarantees extend to those areas in which persons have a reasonable expectation of privacy. Because the "sting" operation will take place in an area that is open and readily accessible to the public, there is no reasonable expectation of privacy and hence no warrant is required.

Scenario Two: Under the “plain view” doctrine, courts have held that if, in the course of conducting a routine administrative search, an inspector observes illegal activity, evidence of the illegal activity may be seized and would be admissible in a subsequent criminal proceeding. Some state statutes limit the extent of the “plain view” doctrine by prohibiting inspectors from seizing criminal evidence that is unrelated to the purpose for which the administrative search was conducted. Note, even if your statute prohibits you from seizing the evidence, your observations can be reported to the proper authorities!

Scenario Three: You do not need a criminal search warrant to obtain additional evidence to support the *civil* case. The administrative search cannot however be used as a pretext to gather evidence to support a *criminal* action. The practical effect of this is that any evidence you obtain on the re-inspection should not be turned over to a criminal investigation team. Another division of the Attorney General’s office may conduct a parallel criminal investigation, but the investigations should be carried out separately. The criminal team cannot base their case on any evidence you obtain during your re-inspection of the facility.

Group Exercise 6.6

What, if any, *eyewitness testimony*, might the FDA expect from Ms. Dow?

Inspector Dow will likely be asked to testify about:

1. What she observed during her January inspection.
2. Whom she spoke with, and what was said by each one.
3. The tests she made during the inspection.
4. Description and results of her records audit.

What if the case does not go to trial for eighteen months and Ms. Dow can no longer recall what she observed during the inspection? How might the case proceed?

As this is one of over two hundred facilities inspected by Ms. Dow each year (40 percent of which have violations of some kind), her ability to recall details of the inspection will most likely be minimal. Thus, it would be extremely helpful if she had a well-written inspection record to look at prior to trial to help refresh her memory of the details of this particular inspection. If during the trial she cannot recall events, Ms. Dow's inspection report could be admitted in to evidence. The report, while technically hearsay, falls within several of the rule's exceptions: *past recollection recorded*, *regularly kept business record*, and *official written statements*.

Could Ms. Dow testify about what Mr. Lyme and Ms. Tree told her during the inspection? Is this hearsay?

Inspector Dow would be permitted to testify about what Mr. Lyme and Ms. Tree told her during the inspection, not to prove that what Mr. Lyme and Ms. Tree said to her were **true**, but to prove that they made false statements to a government inspector. Thus the conversations are not technically hearsay.

Could Inspector Dow testify about what Ms. Tree told her on the telephone following the inspection? Is this hearsay? Does it fall within one (or more) exceptions to the hearsay rule? Which one(s)?

Inspector Dow would also be permitted to testify about what Ms. Tree told her following the inspection. This conversation would be offered to prove that what Ms. Tree said was true, thus it is technically hearsay. However, it is likely to fall within one or more exceptions to the hearsay rule, possibly as an *out-of-court statement of a party-opponent* (although at the time she made the statement Ms. Tree was no longer a corporate representative) or the more likely exception, *a declaration against interest* since she was confessing to the falsification of records.

Identify all *physical evidence* that the FDA might hope to use from Inspector Dow's inspection.

Likely pieces of physical evidence include any hospital records or copies of records that Ms. Dow obtained during the inspection and any other physical evidence (for example x-rays) that she obtained while testing the equipment.

How could Inspector Dow *authenticate* such evidence at trial?

To authenticate the hospital records and x-rays, Ms. Dow would have to be able to testify that the material produced at trial is, in fact, the exact record (or copy of the record) or x-ray that she obtained during her inspection, and that it appears in exactly the same condition as when she obtained it from the hospital. As some inspections result in the collection of numerous documents, it is important to develop a system for documenting each record obtained. The USEPA National Enforcement Training Institute recommends that the inspector document on each record: the date it was obtained; the inspector's initials; and a unique identification number. In the inspection report, the inspector should identify where in the facility the record was obtained (and from whom), the source of the document and the reason(s) for collecting it. This information should be keyed to the unique identification number assigned to the record.

Would any of this evidence be hearsay? If so, does it fall within one or more exceptions to the hearsay rule? Which one(s)?

Hospital records may technically fall within the definition of hearsay; however, they too would be admissible under one of several of the rule's exceptions: for example, *out-of-court admissions of a party-opponent*, and *regularly kept business records*.

What, if any, *demonstrative evidence* might be prepared for the trial?

Potential types of demonstrative evidence include: x-ray films meeting FDA standards for film quality image and x-rays of the same quality as that observed during Ms. Dow's January inspection; and a graph depicting the effect of fog densities or residual fixer on the ability to read an x-ray.

What, if any, *expert testimony*, might be presented at the trial?

Expert testimony might include a medical physicist for the government who would testify about how mammography machines work, the FDA standards for assuring quality control of the equipment, and the adverse effects of operating equipment and processes under the conditions which existed at Good Fellow Hospital during the January inspection. An expert might also be called to explain how one reads a mammography x-ray and why the x-rays produced at Good Fellow Hospital during the time in question might lead to a misdiagnosis.

Module 7 Policy Development

Bring in information on legislative and regulatory processes in your state.

Group Exercise 7.1

How would you define the specific problem(s) at issue?

Administrative or fiscal difficulties were the primary source for the problems identified by the Subcommittee on Legal Reform and Legislation.

Do these findings call for new legislation or do the problems arise from inadequate resources, poor management, the need for different administrative and enforcement approaches, and/or new educational or consultative solutions?

New legislation (other than possibly new appropriations) would not resolve the problems associated with:

- C Slow court action (committee report, item b)
- C Judges who fail to assess fines and a city department that fails to collect judgements (committee report, item d)
- C An inefficient residential property inspection program (committee report, item g).

What are the options for responding to the listed problems?

A new educational initiative directed at families with small children and potential purchasers of buildings is needed, advising these groups about the health hazards associated with lead-based paint. An educational initiative may help resolve items a, c, and h of the committee report.

A legislative or regulatory response is needed to authorize the city to respond promptly in cases where the owner fails to act and to increase the severity of sanctions against recalcitrant property owners. A new ordinance that mandates universal screening of children under the age of six would also be appropriate. (Legislative or regulatory responses are appropriate to address items c, e, and i of the committee report.)

What would a new ordinance need to specify?

Specifications for a new city ordinance might include:

- C Creation of an abatement fund paid for by property taxes assessed on the basis of the number of living units in multi-residential buildings
- C Authority to spend the abatement fund to remove lead hazards and to collect such expenses from the property owner(s)
- C Authority to relocate tenants living in dangerous dwellings
- C Establishment of increasingly severe civil and criminal sanctions for violating the city's lead ordinance. Sanctions should range from civil penalties for minor first-time infractions to criminal misdemeanors for more serious first-time offenses, and felony charges for repeat offenders. Penalties for felony charges should include criminal fines and/or jail sentences.
- C A mandate for universal blood lead level screening of all children under the age of six
- C A blood lead level screening requirement for children entering pre-school or kindergarten
- C Creation of a free blood lead level screening program at neighborhood public health clinics.

Group Exercise 7.2**Which activities were instrumental in passing the amended ordinance?**

In 1991 a well-orchestrated plan was initiated that led to passing the city's ordinance. The following activities were crucial to its success:

1. Stakeholders were invited to help shape the language of the ordinance.
2. Potential opponents were given an opportunity to negotiate the final language of the proposal.
3. Media attention on the hazards of lead helped to rally public support for the proposed measure.
4. The mayor's office took an active role in gaining political support for the ordinance.
5. Ordinance supporters were encouraged to provide emotionally powerful testimony in city council hearings.

What if any conduct was detrimental to the effort?

Even though the ordinance as originally revised contained many significant improvements, early efforts to pass it failed for lack of support. Community groups and other stakeholders, including several city departments who would have had responsibility for implementing some of the proposed mandates, were not involved in its development. Because the revised ordinance failed to reflect the concerns of these crucial players, the broad consensus needed to pass the ordinance was lacking.

How does this compare to your own experience in public health policy development?

Answers will vary.

Group Exercise 7.3**Which specifications, or portions thereof, require further explanation and greater detail? Why?**

Which specifications, if any, are sufficiently clear and detailed to guide the city attorney? (The answer may depend on the knowledge and expertise of the city attorney.)

The specifications are quite vague. The following questions give some idea of the type of information a drafter would need.

Specification 1: What is meant by “reasonable risk?” What would Ms. Policymaker view as an appropriate threshold? How can that threshold be supported? How will it be measured?

Specification 2: What penalties or sanctions, if any, should be imposed if the child is not tested? Who will/can do the testing? Are free blood testing services available for children of families who cannot afford to pay for such services? Who will receive the test results?

Specification 3: Does Ms. Policymaker intend to authorize the city to test all buildings, all residential buildings, or all residential buildings where children under the age of six reside? Along with the power to order abatement, should the city be empowered to order the units vacated? If so, should the city be required to provide temporary safe shelter during abatement? What other enforcement measures does Ms. Policymaker think appropriate? For example, should the city have the power to abate lead hazards in emergency situations? If so, should there be provision for the city to recover money it spends to abate a building?

Specification 4: To whom is this section directed? Is it directed to the property owner, the owner of the child care facility, the tenant, or all of them? Should liability extend to a mortgage company or other lending institution holding an equitable interest on the property? What penalties or sanctions would be imposed for violations? Could injunctive relief (e.g., a nuisance action) be pursued by the city under this provision?

Specification 5: This specification may be sufficient to direct an experienced drafter who understands the adjudicatory process and its advantage over court proceedings. The specification identified what is desired and also the objective to be achieved.

Specification 6: Is this law directed at the landowner, tenant, and/or a lending institution? How will “ability to pay” be determined? What sanctions should follow if the party fails to pay? For example, does Ms. Policymaker intend for the city to gain a lien on the property? Was Ms. Policymaker thinking of other additional or more appropriate sanctions? Does “testing” refer to testing of buildings or blood, or both?

Model ordinances from other jurisdictions or from the same jurisdiction but covering other areas of law, such as city ordinances dealing with structural defects or asbestos contamination in buildings, may provide useful suggestions when drafting specifications.

Would your law department have sufficient expertise in this area to draft the ordinance amendments based upon these specifications?

Answers will vary.

Group Exercise 7.4

Answers will vary.

Group Exercise 7.5

If your learning group lacks experience in this area, you may want to invite someone with expertise to a meeting to discuss these processes. This could be a lobbyist, a regulatory affairs specialist for your agency or legal counsel. Whom else might the group invite?

Module 8**Negotiation****Group Exercise 8.1****What preparatory information should the official gather before negotiating with the laboratory?**

Possible answers include:

- C Information on what the health department expects and requires. For example, what is a reasonable "turn-around" time for the analyses? What laboratory protocol and analytic techniques must the lab agree to follow?
- C Data on costs of analyzing the samples at the state-owned laboratory and at other private laboratories in the relevant market area
- C The volume of samples to be analyzed and whether the lab has historically given the state a discount for volume service
- C Economic and other situational pressures affecting the private laboratory

Group Exercise 8.2**What are the potential strengths and weaknesses of the parties in the Wapon County Health Department example?**

The Health Department's strengths include the ability to choose between two private mental health service providers and the ability to put resources into strengthening Agency B's addiction treatment services, thus strengthening the alternative options. The Department's weaknesses include, among other things, the potential political backlash if privatization results in a large lay-off of public employees, poorer quality of care, and/or diminished access to care.

Private Mental Health Agency A's strengths include a good reputation as a mental health service provider and sufficient capacity to meet the demands currently being met by the County Health Department.

What are the vital interests of each participant (i.e., why each side wants the deal)?

The Health Department's vital interests may include meeting the mental health needs of the county, saving money, protecting its employees' jobs, and avoiding adverse publicity.

Agency A's vital interests may include generating revenue, maximizing control over its operations (for example, remaining free to select new hires), expanding services and "reach" of the agency, and maintaining its reputation for quality care.

What are possible situational pressures and constraints? For example, does one side need to reach agreement within x amount of time? Is there concern about setting a bad precedent?

The Health Department's situational constraints and pressures are best determined by examining why the department is privatizing its mental health services. Was this decision made by a county board of health? If so, what, if any, requirements did the board impose on the department? Does the decision reflect the inability of the department to offer such services in a cost-effective manner? Was the decision made in response to a budgetary cut? Also, is the decision unpopular? Has the department been criticized by the public or in the press for deciding to privatize its mental health services?

To determine Agency A's situational constraints and pressures, one needs to gather information about the agency's operations, how it defines its market and its perceived competitive position within that market, its future plans for expansion, etc. Sources for this kind of information include financial statements filed with the state, if any; persons knowledgeable about Agency A (for example, current and former higher level employees of Agency A, and those within Wapon County Health Department who have worked closely with the agency); and any professional association to which Agency A belongs. Some of this information may be gathered directly from Agency A using informational tactics discussed in this module.

How can each participant ascertain the ability, personal interests and negotiating style of the other negotiators?

To determine the ability, personal interests and negotiating style of the other party's negotiators it is often helpful to speak with people in your own agency or department (or in sister agencies) who have negotiated with them in the past.

Group Exercise 8.4

For each mode of communication, have the group consider issues of timing, the need to observe non-verbal signals, perceptions of delay, and the ability to persuade. Answers will vary.

Group Exercise 8.5

The participants should be led through a discussion of the negotiation planning steps. The purpose of the exercise is to demonstrate how planning helps one identify information gaps. The exercise will also demonstrate how the concepts discussed in this module are used when planning a negotiation. The discussion should be kept moving by accepting stated assumptions offered by the group and building upon them in the subsequent planning steps.

Possible variations include dividing the group into teams to work on a negotiation plan. The group can discuss their plans as a whole, following the individual team efforts.

You should stress to the group that there is more than one correct answer. There are not enough facts given to sufficiently answer the question. However, answers can be given based upon assumed facts supplied by the group.

Step 1. Gather information: Why does Director Chen really want to merge the two divisions? What does Director Chen hope to accomplish? Have other health departments consolidated in this fashion? If so, what is their organizational structure? What would be the responsibilities of the new division director? What kind of salary would be offered? What are the annual salaries of other division directors with similar responsibilities, in this state and in other states? If you are not appointed as the new division director, what other employment opportunities are available within the health department or elsewhere? [Stress that the answers provided offer only a small hint at the variety of information one would need to gather in order to adequately prepare for the negotiation.]

Steps 2 and 3. Identify the goals and issues: Both parties may share a strong commitment to enhancing the work and credibility of the Health Department. In addition, Director Chen may have the following goals:

- C Reduce the budget by flattening the organizational structure
- C Rid the agency of a troublesome division director
- C Facilitate the merger with the least amount of disruption

You, as the new division director, may have the following goals:

- C Advance within the Health Department
- C Receive adequate compensation for assuming greater responsibilities
- C Have an adequate allocation of full-time employee (FTE) positions for the new division
- C Assume a challenging new position
- C Maintain staff morale during the reorganization, particularly of your own staff
- C Assume control of the selection process for the newly created division's unit heads

Some of the issues to be negotiated include:

- C How to organize the new division
- C How to select the new division's unit heads
- C Your salary

Step 4. Analyze the market: Are there other qualified candidates for director of the new division? What alternative employment opportunities do you have if you do not accept or are not offered this position?

Step 5. Assess the strengths and weaknesses of each side: Is Director Chen operating under any situational constraints, such as a reduced operating budget, a new county board, or an election year? Are you operating under any situational constraints (personal or professional)? Do you have unique expertise, special qualifications or long-time experience with the Health Department?

Step 6. Estimate the other side's opening position and bottom line:

Some assumptions to use when estimating Director Chen's opening position and bottom line:

- C Since the Health Department will save money in the merger, Director Chen is not likely to oppose a salary increase for the new division director.
- C The new salary would likely be limited by what other similarly situated directors are making in Bloomin County and nearby counties, and what other qualified candidates for the position may be willing to accept.

Step 7. Consider win-win outcomes. A new issue which may be inserted to achieve a win-win outcome for both parties would be time off for you to obtain a public health degree. This would enhance your future employment prospects, while improving the Health Department.

Step 8. Set the opening position. You should establish an opening position for each issue and combination of issues. For example, how much salary increase will you initially demand? An alternative opening position would possibly include a reduced salary demand if your work schedule could accommodate time off to obtain a public health degree.

Step 9. Set the bottom line. You should also establish a bottom line for each issue and combination of issues. This would be based upon your assessment of your strengths, weaknesses and alternative opportunities. For example, if there is a strong chance that you will be offered an excellent job in a neighboring county health department, you are in a much better negotiating position. Your bottom line for issues of salary, working conditions, etc., will be set in relation to the value that you ascribe to the potential job offer from the neighboring county and the probability of that offer actually being made.

Step 10. Choose strategies and tactics. You should consider the overall approach to the negotiations and actions required to implement the strategy.

For example, as an opening position, you would most likely demand a salary higher than what you may be willing to accept. This would allow room to make small concessions in the salary demand in exchange for other benefits, such as a larger operating budget or better health care benefits. Schoenfeld and Schoenfeld call this strategy “high realistic expectations with small systematic concessions.” This goal is appropriate where the parties are engaged in a long-term business relationship which calls for mutual respect and consideration.

Contrast this strategy with one where a person decides not to make any concessions; or makes concessions only to break a deadlock situation. Also discuss the type of tactics which may be useful, appropriate or inappropriate, such as face-saving, tone, and bluff.

Step 11. Consider concessions and trade-offs. There are many potential areas for trade-off. Some possible trade-offs may not be revealed until the negotiations are underway. If the opening position and bottom line are planned properly, the areas and sequencing of concessions may also be planned, for example, concessions in salary and fringe benefits. Potential areas of trade-off include an increased capital budget for the new division (to acquire state-of-the-art computer equipment) in exchange for a reduced number of clerical positions.

Step 12. Agenda. You should draft an agenda to ensure that you have thoroughly thought through all issues to be negotiated and given some consideration to the order in which they should be addressed. However, following Director Chen's agenda may be preferable because that would demonstrate deference and cooperation, and might reveal more about issues that are of vital concern to Director Chen.

Steps 13 and 14. Timing and communication. The timing and mode of communication have been set, at least for opening the negotiations. Depending on whether you are well prepared or need additional information, you may seek to postpone further discussions until information gaps are filled. Given the nature of your relationship, face-to-face communication appears to be the most appropriate mode of communication.

Module 9**Communication****Group Exercise 9.1**

Use Director Halt's performance to reinforce the concepts discussed in the module. For example:

- C Did Director Halt convey a positive impression?
- C Was she or he credible?
- C Did he or she respond with confidence even though little was known about the situation? Did Director Halt succeed in assuring the public that s/he was in control of the situation and taking positive steps to protect children against further illness?
- C Did Director Halt answer the television and radio reporters with effective "sound bites"?
- C Did Director Halt promise to keep the media informed as information becomes available?

Group Exercise 9.2**What aspects of Dr. Akhter's testimony were persuasive?**

Dr. Akhter's testimony brilliantly depicted the cost-effectiveness of public health programs and the disproportionately low funding for preventive health measures. He also provided an excellent picture of the current health status of our nation's children and how in some instances progress is declining, particularly with respect to childhood immunizations.

His testimony directly addressed the issues of concern to the Senate Committee. It was particularly persuasive when he gave examples highlighting some of the programs of great value to children's health within each agency. For example, his discussion of the Center for Substance Abuse Prevention illustrates why re-authorization of SAMSHA is vitally important to the nation's children.

His testimony ended with thanks to the committee members for their past support, tying that support in to the crucial fight to protect the health of our nation's children. It was a very good ending statement.

How might his testimony be improved?

His testimony might be improved with the use of graphs or charts visually illustrating these points. Brief examples of pivotal research produced by AHCPR and NIH would strengthen his testimony in support of re-authorization of those agencies.

What parts of his testimony would you highlight in an oral presentation to the Senate Labor and Human Resources Committee?

Dr. Akhter's oral statement should be short, accurate and lively. He should cull out the most dramatic statistics to present orally, such as the following:

Historically, public health has been one of the most, if not the most, successful of the health fields in terms of its impact on quality and quantity of life of populations. In 1900, the average life expectancy of Americans was 45 years. By 1990, the life expectancy had climbed to more than 75 years. Clinical medicine is credited with adding five years, while improvements in public health have been directly credited with the gain of the remaining 25 years. This dramatic gain in life expectancy can be credited to improvements in sanitation, nutrition, and housing.

The effectiveness and efficiency of public health notwithstanding, the battle for adequate funding for public health programs is an ongoing struggle. Despite the fundamental role of public health to the well-being of Americans, the United States devotes less than one percent of its aggregate health spending to public health.

The oral statement should reiterate APHA's support for all of the federal agencies and programs described in the written testimony, but should stress those programs of most significance to APHA members; and/or those programs that are in greatest jeopardy of losing Congressional support and funding.

Module 10 Responsibility and Liability

Group Exercise 10.1 Applying the rules

Is the county health department immune from liability?

Inspection is a governmental rather than proprietary function. County immunity would depend on the rules of the particular jurisdiction. In many jurisdictions there is near absolute immunity for inspecting or failing to inspect a hazardous condition. In such jurisdictions immunity applies whether or not the governmental function was discretionary, as long as the officials acted in good faith and exercised due care. In a minority of jurisdictions, the question of “discretionary function” would be central to the court’s decision. If the statute left no room for the exercise of discretion, that is, if by statute the county were required to inspect, detect and prevent children from exposure to bacterial meningitis, then the health department may not be entitled to a claim of immunity. Recall however that most statutes are not written with such specificity. And courts, like their legislative counter-parts, are usually unwilling to interfere with an agency’s exercise of its superior knowledge and judgement in matters of enforcement. This was the lesson to be learned from the *Varig* case and the FAA’s spot-check system for aircraft safety. The United States Supreme Court said that when an agency develops an enforcement program, “it is exercising discretionary regulatory authority of the most basic kind.”

Note also that under the “general duty doctrine,” a governmental body engaged in the inherently governmental tasks of enforcing laws and regulations is usually not liable to private plaintiffs for the negligent exercise of its authority. So in the majority of jurisdictions that recognize the “general duty doctrine,” the Martinez family, as private plaintiffs, could not collect damages from the government even if the county’s actions were deemed negligent.

Are the inspectors entitled to qualified immunity? Under what circumstances?

The general rule is that public health officials who perform their public duties in good faith and in a reasonable fashion, and who act within the scope of their authority, will not be held personally liable for damages resulting from their actions.

But in some jurisdictions officials may be liable for failing to undertake ministerial or mandatory responsibilities. So again it would be important to look to the language contained in the controlling statute and in agency policy to see whether the officials violated any mandatory responsibilities; or whether the directives were written with such specificity as to leave no room for the officers to exercise their discretion.

If health department policies required the health officials to inspect for, and take action in the presence of, bacterial meningitis, the inspection function may be considered ministerial in nature and failing to detect the disease may expose the county and its inspectors to liability for failing to perform a ministerial duty.

Finally, in some jurisdictions the court may look to see whether the agency owed a “special duty” to protect children in day-care centers, similar to the duty found owing by the Minnesota court in *Andrade v. Ellefson*. Unless a “special duty” was found, under the general rule neither the county, nor its officials, would be liable to a private plaintiff for negligently performing a duty owed the general public.

Could the county, or its officers, be found liable for violating a “duty to warn”? Not in this situation. The “duty to warn” applies only in cases where the hazard was created by or under the control of the county.

What facts would you want to know to make that determination?

Obviously to answer this question fully, one would first need to know which laws apply in the jurisdiction. The laws set forth the “legal test” which the Martinez family, as the plaintiffs, would need to meet. Once the law is determined, one would look to the particular facts of the case.

For example, in a jurisdiction that recognizes the general principle of “qualified immunity” for health officers, pertinent facts include whether the health officers’ actions constituted “good faith” and “reasonable conduct”. Why did the officers fail to inspect the facility? Was this part of their job responsibilities and were they negligent in failing to inspect? Or, was an inspection carried out but performed so poorly that cases of bacterial meningitis were not discovered? Did the inspectors know that a child had recently been diagnosed with the illness, but they then failed to warn other parents and school officials about the situation? Did the relevant statute or agency policy require the officers to warn others attending the school?

Group Exercise 10.2

Who should win the case and why?

The court awarded damages to Mr. and Mrs. Taken. In this case, Mr. Scam was not acting within the scope of his duties as a Board of Health member when the property was sold to the Takens, but as a private citizen and real estate agent. Moreover, the Court held that there is no qualified personal immunity to protect a government official from acts of corruption.

Assume the Board's certification was based on the innocent but mistaken report of a health department official who inspected the property prior to the sale. Is the inspector liable?

If the inspector was properly acting with due care and within the proper scope of his employment, in most jurisdictions he would be entitled to a claim of qualified immunity. In a minority of states, such as North Carolina, where only *public officers* and not *public employees* are entitled to a claim of qualified immunity, the inspector would not be protected.

Is the health department liable?

In most jurisdictions, the county would be immune because the inspector was exercising a governmental function. [See *Meyer v. Walls, Buncombe County Department of Social Services* in the module text.]

Appendix A -- Course flier

The following two pages can be copied front and back as a flier to promote the course. You may tailor the information in the “To Obtain” section to suit the process applicable in your state.



Announcing...



The Legal Basis of Public Health

PHTN Course #'s SS0001 through SS0010



Like many others, you may feel that law is a mysterious subject that can be understood only by lawyers; however, law deals with many concerns of everyday life and forms the basis for most of your duties as a public health professional. This course consists of ten modules that explain the public health legal system, demystify legal language, and encourage the effective use of legal tools in forwarding public health goals.

Since public health laws are different in every state, the course is designed so that it can be customized by a state (or region), with some of the content being provided by local legal experts. It can be taken completely as a self-study by individual learners or can be adapted for use by organized learning groups. The materials include suggestions for providing various types of customization.

The packaged version of this course, available by ordering from the Public Health Foundation (PHF), includes all ten modules and a *Coordinator Guide* that offers guidance on how to customize the course to meet local training needs. The individual modules and the *Coordinator Guide* can also be downloaded from the Public Health Training Network (PHTN) website. Details are given below.

Learners may choose to study all ten modules, or take only those that apply to their jobs. Each module is accredited for continuing education as a self-study course. The introductory module is required for all learners seeking continuing education credit.

Developed By

- < School of Public Health of the University of Illinois at Chicago
- < Division of Media and Training Services, Public Health Practice Program Office, CDC
- < Association of Schools of Public Health

The authors are University of Illinois at Chicago, School of Public Health faculty members, Babette J. Neuberger and Tom Christoffel (currently retired), who both hold law degrees and, between them, have vast experience writing, teaching courses, and working in the field of public health law.

Prerequisites

Module 1 is a prerequisite for Modules 2 through 10. There are no prerequisites for Module 1.

Instructional Medium/Course Materials

Print-based text with questions and exercises, also includes suggestions for supplementary group exercises and expert conferences. Users should also consult the **Coordinator Guide**, which provides guidance for how the course may be used and disseminated.

Target Audience

State or local health department workers whose jobs require knowledge and or application of public health laws and regulations. This includes records administrators, health service providers, field inspectors such as nursing home and restaurant inspectors, permit writers, environmental health staff, and persons involved in surveillance activities. This course is also appropriate for persons who supervise the preceding types of public health professionals.

Credits Available

Each module is accredited for Continuing Nursing Education (CNE) contact hours and for Continuing Education Units (CEU) as an independent self-study course.

To Obtain

Purchase the course from the Public Health Foundation (PHF), a PHTN Partner, by calling toll-free 1-877-252-1200. This packaged version of the course includes all ten separately-bound modules and the Coordinator Guide. Cost \$85.00.

View and/or print individual modules and the Coordinator Guide at the PHTN website <http://www.cdc.gov/phtn/legal-basis/mainmenu.htm>. Directions are given at this website

Module 1 - Introduction (Course # SS0001)

This module gives an overview of the legal basis of public health, which you need to understand to practice public health effectively, especially if you are responsible for enforcing compliance with public health regulations. **CNE 3.2 CEU .25**

Module 2 - Data Collection and Surveillance (Course # SS0002)

This module is intended to help you as a public health professional to make maximum use of permissible public health legal authority to collect data for surveillance and for protection of the public's health. It will also help you to balance the need to protect confidentiality of information while adhering to the public's right to access public health information. **CNE 2.6 CEU .2**

Module 3 - Service Delivery (Course # SS0003)

Service delivery programs have long been a mainstay of public health and have generally been free of legal controversy. This may be changing. Immunization programs, confidentiality issues surrounding HIV testing and counseling, and legal complications involving equal access to public health programs have all raised legal liability issues. This module will help you review and update your department's practices in these areas. **CNE 1.8 CEU .1**

Module 4 - Licensing (Course # SS0004)

Licensure is a prospective type of regulation; it limits, monitors, and sets conditions for how an occupation or business will be conducted. This module will help you to understand licensure and its legal effects. You will also understand what authority your public health agency has to enforce licensure requirements and standards and what procedures must be followed in administering a licensure program. **CNE 1.7 CEU .1**

Module 5 - Inspections (Course # SS0005)

Public health inspections—one of the basic activities of public health departments—involve intrusion into private premises and raise the possibility of running afoul of the Fourth Amendment prohibition on unreasonable governmental search and seizure. This module will help you understand how the law defines a search and what procedures must be followed prior to, during, and after an inspection to assure compliance with Fourth Amendment protections.

CNE 2.0 CEU .15

Module 6 - Enforcement (Course # SS0006)

State statutes and local ordinances provide considerable authority for public health enforcement actions. This module will help you understand the steps, basic principles, legal rules surrounding enforcement, and basic rules of evidence so that you can conduct compliance activities in a manner which supports the enforcement process. You will also learn

more about working efficiently and effectively with attorneys to prepare and prosecute enforcement actions.

CNE 3.2 CEU .25

Module 7 - Policy Development (Course # SS0007)

Public health law comes into being only after a public health problem or need has been defined, a legislative or regulatory solution tailored, and a specific law or regulation drafted—all of which need the input of public health professionals. This module covers the process of drafting legislation and regulations and highlights the ways you can shape the enactment of clear, effective, and enforceable laws and regulations. **CNE 2.3 CEU .2**

Module 8 - Negotiation (Course # SS0008)

Law is an important tool in achieving public health goals, but it is of limited value if it can only be used as a club. The force of law can be used to help resolve public health problems without having to resort to confrontation. This module emphasizes that a public health professional's first response should not be to litigate, but to try to reach a cooperative solution through negotiation. You will learn negotiation principles applicable to any public health issue requiring resolution and how to apply these principles to resolve conflicts in a systematic way. **CNE 2.3 CEU .2**

Module 9 - Communication (Course # SS0009)

Effective communication is essential to fulfilling the core public health functions of assessment, policy development, and assurance. The public health systems relies extensively on the accurate and timely flow of information to and from public health agencies. This module focuses on the key principles for effective communication. You will learn how to apply the principles to the enforcement process and to situations where you need to communicate risk. **CNE 1.8 CEU .1**

Module 10 - Responsibility and Liability (Course # SS0010)

As a public health professional, you have broad legal authority, which gives you the power to institute a wide variety of measures to protect the public's health and safety. This module focuses on what the law says about these responsibilities—whether they are discretionary or mandatory, whether you can be forced to act, whether your actions or failure to act can be the source of legal jeopardy, and what happens if your actions result in harm. You will learn how to carry out your professional duties in a manner that will avoid civil or criminal legal problems.

CNE 1.0 CEU .1

Agenda for “Expert Session”

The following is a recommended agenda for an “expert session.” This agenda is for a synchronous training medium, such as an audio (telephone) conference, a traditional live session, or a closed-circuit or satellite video broadcast. The agenda could also be adapted for an asynchronous medium such as an online discussion group or course webpage.

As the state coordinator (or group facilitator) you would be responsible for scheduling the session and informing the participants within your state (or group). You should also provide support and direction to the experts, as needed, and send “expert session” reminders to the participants.

(An expert may, of course, vary this schedule depending on local needs.)

Expert presentation-- 15 minutes

The expert presents material covering state public health laws, regulations, and policies related to the module topic and other state-specific content not addressed in the text.

Participant interaction-- 15 minutes

The participants share experiences or solicit advice from the expert and co-learners across the state. The expert may ask participants to share local experiences that exemplify any of the laws, regulations, or concepts discussed in the text.

Questions and answers-- 15 minutes

This is an opportunity for participants to ask questions about the text, self-check reviews, and exercises.