Toxic Exposures, Emergency Planning and Electronic Health Records:
A Sneak Preview of the 2012 Public Health Law Conference

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Introducing the Public Health Law Webinar Series

- A series focused on providing substantive knowledge on important issues in public health law
  - May qualify for CLE credits, details will be sent after the webinar

- Webinar series partners include:
  - American Society of Law, Medicine & Ethics
  - Public Health Law Association
  - Network For Public Health Law
  - Public Health Law Research Program

- Next webinar is Thursday, July 19th at 1-2 p.m. ET on the Affordable Care Act and the Supreme Court case

Electronic Health Records
Professor Sharona Hoffman
Case Western Reserve School of Law

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Panel:

Sharona Hoffman, J.D., LL.M.
Professor of Law & Bioethics
Case Western Reserve Univ. School of Law

Seth Foldy, M.D., M.P.H., F.A.A.F.P.
Senior Advisor for Public Health Practice, Office of Surveillance, Epidemiology & Lab Sciences CDC

Socrates H. Tuch, J.D., M.A.,
Senior Legal Advisor, Office of the General Counsel, Ohio Department of Health
EHR Systems

- Record systems
- Decision aids: clinical alerts and reminders
- Computerized physician order entry
- Data analysis tools (enable searches)
- Health information exchange capabilities
EHR System Benefits

- Improve care
- Large-scale research studies
- Public health initiatives
- Money
HITECH Act

- Financial incentives for meaningful users of certified EHR systems
- $27 billion total
  - $44,000/$63,750 per clinician
  - Goal: transition completed in 2014
Meaningful Use Regulations

- Three phases
  - Phase 1 – 2011-12; Phase 2 – 2014; Phase 3 – yet to be drafted
  - Phase 1: Capability to submit electronic syndromic surveillance data to public health agencies
  - Phase 2 – more extensive public health data sharing
Privacy & Security Concerns

- Hacking
- Misplaced or stolen laptops
- Accidental or intentional disclosures
HIPAA Privacy Rule

- Allows disclosure for treatment, payment & health care operations & to public health authorities without consent

- Prohibits other disclosures w/o patient authorization – e.g. for research & employment
HIPAA Security Rule

- Standards & implementation specifications for electronically stored information
- Administrative, physical & technical safeguards
- Penalties & notification requirements for data breaches
State Privacy Laws

- Found in statutory & constitutional provisions
- Can be different from federal law
Autonomy

- Computerization can endanger privacy – to what extent should patient consent be sought?
- Patients not asked re: digitization of records
- All patients benefit from quality improvements – should common good supersede autonomy?
- No constitutional right to control medical records
Practical Concerns

- Weak interoperability & data harmonization
- In 2010 only 19% of hospitals exchanged patient data with others outside system
- Different terminology (e.g. what is MS?)
- Need regulatory mandate that EHRs interoperate & support common exchange representation
- Errors in records
- Can public health authorities process influx of data? Is there sufficient infrastructure?
Policy Approaches to Reducing Toxic Exposures in the Home
Kathleen Hoke Dachille, J.D., Network for Public Health Law
Purpose of the Session

This session is designed to identify factors contributing to toxic exposures in the home and to provoke discussion of potential policy approaches to reduce exposure.

- Particular emphasis on low-income and public housing.
- Focus on pesticides, secondhand smoke and lead paint.
Pesticide Exposure

Presenter:
Kate Scott
Baltimore City Health Department
Bureau of Health Homes
Asthma Program
Pesticide Exposure

- **Baltimore City’s Asthma Problem**
  - Leads State in asthma mortality rate with 34 deaths per 1,000,000 compared to 14 statewide average;
  - Highest pediatric hospitalization rate related to asthma in State and among the highest in the country.
Pesticide Exposure

- Exposure to pesticides contributes to asthma problem, particularly in low-income and public housing.
  - Higher rates of infestation in public housing results in higher rates of pesticide use;
  - Contributes to low-dose, chronic exposure to chemicals to which children are particularly vulnerable.
Pesticide Exposure

- Measures to reduce exposure include:
  - Community education to reduce likelihood of infestation and to make parents aware of impact of exposure;
    - Policy Approach: Improved product labeling.
  - Integrated Pest Management (IPM), a strategy using knowledge of pest feeding, travel and nesting habits to isolate and contain pests and reduce use of pesticides;
    - Policy Approach: Mandate IPM for rental housing.
Secondhand Smoke Exposure

 Presenter:
 Rita Turner
 Deputy Director
 Legal Resource Center
 University of Maryland Francis King Carey School of Law
Secondhand Smoke Exposure

- Surgeon General reports that there is no safe level of exposure to SHS, it is a known carcinogen.
- Smoking has been banned in workplaces in many states; yet people are still exposed in their homes in multi-unit dwellings.
- SHS cannot be controlled by filters and ventilation systems; ASHRAE says:
  - “At present, the only means of effectively eliminating health risk associated with indoor exposure is to ban smoking activity.”
Secondhand Smoke Exposure

- Public Housing Policy Response:
  - Over 220 Public Housing Authorities in 27 states have implemented smoke-free policies across the country, including:
    - Santa Barbara Housing Authority, California
    - Nampa Housing Authority, Idaho
    - Kokomo Housing Authority, Indiana
    - Bar Harbor Housing Authority, Maine
    - Marysville Housing Commission, Michigan
    - Helena Housing Authority, Montana
    - Seattle Housing Authority, Washington
Secondhand Smoke Exposure

- Legislative Responses:
  - Utah Nuisance Code

- Nuisance includes tobacco smoke that drifts into a residential unit from another residential unit or a commercial unit if:
  - Smoke drifts in more than once a week over a two week period; and
  - Smoke interferes with the comfortable enjoyment of life or property.
Secondhand Smoke Exposure

- Legislative Responses:
- City of Calabassas, California

“The city council declares that exposing other persons to second-hand smoke constitutes a public nuisance and may be remedied as such.”

Action may be brought by an individual or the City Attorney.
Lead Paint Exposure

Presenter:
- Michael Hanley
- Senior Staff Attorney
- Empire Justice Center
- Telesca Center for Justice
- Rochester, NY
Lead Paint Exposure

- Health threats from lead paint have been addressed to some extent at the federal and state level across the country.
- Yet pre-1978 housing in poor condition continues to cause harm to young children.
- Most acute in low-income rental and public housing.
Lead Paint Exposure

- Local law may play an effective role in reducing exposure: Rochester, NY:
  - Requires inspection of all pre-1978 rental housing;
  - Allows landlord or other lead-safe trained professional to do remediation (EPA inspection and repairs not required);
  - Allows for containment rather than full abatement, with heightened inspections after containment.
Lead Paint Exposure

- Rochester legislature also passed Resolutions:
  - Identifying target areas where inspections should start (at-risk communities);
  - Creating a citizen advisory group and encouraging community education;
  - Providing voluntary program for owner-occupied housing.
Lead Paint Exposure

- **Effective because:**
  - Comprehensive enforcement;
  - Community support;
  - Intergovernmental coordination.

Read more on the Rochester results here:
http://ehp03.niehs.nih.gov/article/fetchArticle.action?articleURI=info%3Adoi%2F10.1289%2Fehp.1103606

*What can we learn from this success?*
2012 Public Health Law Conference

- Join us in October in Atlanta for more!
Improving Emergency Planning and Preparedness for At-Risk and Vulnerable Populations

Session Overview

Rebecca Polinsky, JD
Research and Practice Fellow
Public Health Law Program
Office for State, Tribal, Local and Territorial Support
Centers for Disease Control and Prevention

The findings and conclusions in this presentation are those of the author and do not necessarily represent the views of the Centers for Disease Control and Prevention.
Improving Emergency Planning and Preparedness for At-Risk and Vulnerable Populations

Overview

• Panel sessions
  • Vulnerable older adults
  • Pregnant women and babies
  • Individuals who need equal access and functional support

• Moderated discussion
Vulnerable Older Adults
Session Overview

• Present overview of older adults and how emergency events can impact them

• Familiarize participants with a CDC guide containing strategies and options for identifying and protecting the vulnerable older adults in a community

• Introduce a CDC Web portal that serves as a one-stop shop for resources, tools, and information related to all-hazards preparedness for vulnerable older adults
Pregnant Women
Session Overview

• Share preparedness and response tools available at the state, tribal, local, and territorial levels

• Describe new scientific approaches to increase post-disaster surveillance among pregnant women

• Highlight communication activities with partners and disaster-affected women
Individuals Who Need Equal Access and Functional Support

Session Overview

• Explain how focus on equal access and functional needs leads to improved preparedness for the whole community

• Describe civil rights law principles obligating emergency managers and public health practitioners to supply equal access and functional needs to individuals

• Share info about a federal project that is assembling and developing civil rights resources for use at state, tribal, and local levels
Vulnerable Older Adults Risk Characteristics

Vulnerable older adults at greater risk during an emergency because of:

• Sensory and physiological impairments associated with aging
  • Cognitive
  • Physical
  • Mobility

• Health issues and medical needs
  • Higher prevalence of chronic conditions and prescription usage
  • Specific nutritional needs associated with management of health and medical conditions
Vulnerable Older Adults
Risk Characteristics, Cont.

Vulnerable older adults at greater risk during an emergency because they:

- Need transportation assistance
- Rely on home-based services or caregivers
- Are targets for fraud and abuse
- Resist seeking aid
- Are reluctant to leave pets
- Have limited resources

Aging Population

Population age 65 and over and age 85 and over, selected years 1900–2008 and projected 2010–2050

NOTE: Data for 2010–2050 are projections of the population.
Reference population: These data refer to the resident population.
The Guide

Identifying Vulnerable Older Adults and Legal Options for Increasing Their Protection During All-Hazards Emergencies: A Cross-Sector Guide for States and Communities
The Guide

- Overarching considerations
- Strategies and options for identifying vulnerable older adults
- State and community examples
- Action options
Findings
Outlined in The Guide

• No best practices or evidence-based approaches for pre-event identification of vulnerable older adults

• Various strategies used across the country in different settings

• No consensus on best ways to identify and protect older adults

• Gaps exist in legal mandates to protect older adults
The Guide
Overarching Considerations

- Planning
  - Cross-sector collaboration
  - Essential role of aging services network
- Relevant legal authorities
- Categories of threats
- Considerations across phases of an event
The Guide

Identified Strategies

• Characterizing the population
• Using Geographic Information Systems
• Building, maintaining, and using registries
• Sheltering vulnerable older adults in the community
The Guide
Examples and Action Options

• State and community examples
  • Provide practical examples
  • Reflect current practices
  • Highlight various focus areas of the guide

• Action options
  • Are arranged by topic and are presented as a menu
  • List specific actions to take at the community, state, regional, and national levels to improve planning for vulnerable older adults
Vulnerable Older Adult Preparedness

For access to the vulnerable older adult preparedness guide and web portal visit:

www.cdc.gov/aging/emergency

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Question & Answer

Type your question in through the Q and A panel