Addressing Socioeconomic Barriers to Health Equity through Law: A Preview of the 2018 Public Health Law Conference

July 26, 2018
How to Use WebEx Q & A

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Moderator

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- Research interests/areas of expertise:
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  - Scope of practice
  - Problem gambling
  - Oral health
Presenter


- J.D., Georgia State University College of Law
- Research interests/areas of expertise:
  - Mental and Behavioral Health
  - Telemedicine
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- Research interests/areas of expertise:
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  - Medical-Legal Partnership & policy development
  - Public health statutory and regulatory authority
  - Environmental health and climate change
  - Community health workers
Presenter

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Research interests/areas of expertise:
- Medicaid
- Child Health
- Managed Care in Medicaid
- Disability Rights
50-State Legal Epidemiology Assessment of State Telehealth Laws

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PHLC Tele-Public Health Panel

Collaborators:

- Brittney Bauerly, J D (The Network for Public Health Law)
  - Tele-Public Health: What the Legal Landscape of Telehealth Laws Means for Public Health Outcomes

- Ariadna Vazquez – (UNM Health Sciences Center)

- Emilee Soto – (Office of University Counsel at University of New Mexico)
  - Lessons Learned: Project ECHO’s Global Outreach Mission from a Legal Perspective
What Is Telehealth?

Telehealth:
- Broad term refers to “a collection of means or methods for enhancing health care, public health, and health education delivery and support using telecommunications technologies.” (Center for Connected Health Policy, 2018)

Telemedicine:
- Generally refers to clinical health care services that are delivered via telecommunications technologies.
First Things First: Expanding Broadband Access

Broadband Access:

• Referred to as a “super-determinant” of health because it affects numerous other social determinants of health, such as education, employment and health care access.

Broadband Deserts:

• As of early 2016, approximately 34 million people lacked broadband access, including 23 million Americans in rural areas. (FCC, 2016 data)
Telehealth Examples

- **Video Directly Observed Therapy** – Tuberculosis medication monitoring
- **Family Home Visiting** – Online parent support services
- **Substance Abuse Treatment** – Telehealth tools to address the opioid crisis
- **Telemental Health** – Virtual counseling and mental health services
- **Community Paramedicine** – Connecting patients in their homes with caregivers elsewhere
- **Project ECHO** – “Extension for Community Healthcare Outcomes”
CDC’s Public Health Law Program

• **What we do**
  • Advance the use and understanding of law as a public health tool

• **How we do it**
  • Training and Workforce Development
  • Communication and Partnerships
  • Legal Epidemiology
  • Research and Translation

• **Whom we serve**
  • State, tribal, local, and territorial communities and CDC programs

To submit a request or learn more about public health law, visit [www.cdc.gov/phlp](http://www.cdc.gov/phlp)
50-State Legal Epidemiology Assessment of Telehealth Laws
Telehealth – Defined by Health Organizations

World Health Organization definition:
“The delivery of health care services, where distance is a critical factor, by all health care professionals using information and communication technologies for the exchange of valid information for diagnosis, treatment, and prevention of disease and injuries.”

Health Resources and Services Administration definition:
“The use of electronic information and telecommunication technologies to support and promote long-distance clinical health care, patient and professional health-related education, public health and health administration. Technologies include video conferencing, the internet, store-and-forward imaging, streaming media, and terrestrial and wireless communications.”
Benefits of Telehealth

- Increases access to care
- Increases efficiency
- Potentially increases quality of care
- Potentially decreases costs
Legal Assessment of State Telehealth Laws

- Create a two-phase assessment with tiered analysis
  - Phase I:
    - Identify relevant legal provisions using Westlaw legal database
    - Categorize legal provisions by the nature of Telehealth use described in the law
  - Phase II: In-depth analysis of specific attributes within telehealth topics

Collection of Laws:

Phase I:
- Licensing
- Training
- Insurance
- Privacy

Phase II:
- Specific Attributes
- Specific Attributes
- Specific Attributes
- Specific Attributes
- Specific Attributes
- Specific Attributes
Methods

Conducted literature review of telehealth law and policy topics

Developed search string for Westlaw legal database to identify telehealth statutes and regulations in each jurisdiction

Generated 20 coding categories to characterize legal attributes pertaining to telehealth
Public Health Topics

- Access to Care
- Rural Health
- Mental/Behavioral Health
- Justice System
- Health Data
- Children (Schools)
- Substance Abuse
- Veterans

Legal Topics

- Credentialing
- Reimbursement (Public and Private)
- Licensure
- State Medical Boards
- Privacy/Confidentiality
- “Face-to-Face” or In-Person Consultation Requirements
- Oversight & governance
Preliminary Results

- All 50 US states, Washington DC, the Commonwealth of Puerto Rico, the US virgin Islands, and the Territory of Guam have at least 1 law governing telehealth
  - Number and nature vary greatly by jurisdiction

- Jurisdictions used law to:
  - Designate a Rural Health Office to oversee a telehealth program
  - Set up pilot telehealth training and treatment programs
  - Establish reimbursement requirements for Medicaid
  - Set standards for telehealth training and practice
  - Facilitate broadband procurement
Designate a Rural Health Office to Oversee a Telehealth Program

North Carolina
N.C.G.S.A. § 143B-139.4B
Office of Rural Health to oversee and monitor establishment and administration of statewide telepsychiatry program
Set Up Specific Programs

Nebraska

Neb. Rev. St. 85-1414.01

*Oral health care; practice of dentistry; legislative intent; Oral Health Training and Services Fund; created; use; investment; contracts authorized; duties*

“(5) The plan shall include

. . . .

(c) a proposal to provide oral health services to residents of Nebraska using telehealth as defined in section 71-8503.”

Neb. Rev. St. § 71-5683

*Funding under act; use*

“Funding under the Rural Behavioral Health Training and Placement Program Act shall support:

. . . .

(3) Training and service provision expenses, including, but not limited to, travel to rural clinic sites, equipment, clinic space, patient-record management, scheduling, and *telehealth supervision.”*
Establish Who Can Be Reimbursed Under Medicaid

Mississippi
Miss. Admin. Code 23-225:1.5
Reimbursement

“B. The Division of Medicaid reimburses the originating site the Mississippi Medicaid telehealth originating site facility fee for telehealth services per completed transmission.

1. The following enrolled Medicaid providers are eligible to receive the originating site facility fee for telehealth services per transmission:

   . . .

   c) A Rural Health Clinic (RHC)”
Facilitate Broadband Procurement

Nevada

Duties of Director

“The Director of the Office of Science, Innovation and Technology shall:

5. Coordinate activities in this State relating to the planning, mapping and procurement of broadband service in a competitively neutral and nondiscriminatory manner, which must include, without limitation:

. . . .

(e) In consultation with providers of health care from various health care settings, the expansion of telehealth services to reduce health care costs and increase health care quality and access in this State, especially in rural, unserved and underserved areas of this State”
**Next Steps**

- Phase II: In-depth analysis of specific legal attributes within telehealth topics.
  - Rural health
  - Mental health
  - Definitions of telehealth, telemedicine
The findings and conclusions in this report are those of the authors and do not necessarily represent the official position of the Centers for Disease Control and Prevention.

Working with Medical-Legal Partnerships to Address Social Determinants of Health through Public Health Law

Colleen Healy Boufides, JD
Network for Public Health Law – Mid-States Region
July 26, 2018
(with thanks to Donna Levin, National Director, Network for Public Health Law & Madeline Morcelle, Staff Attorney, Network for Public Health Law - Western Region)
Objectives

What is a Medical-Legal Partnership?

How can MLPs contribute to public health legal change?

NCMLP/NPHL Initiative & Opportunities
MEDICAL-LEGAL PARTNERSHIP is an intervention where legal and health care professionals collaborate to help patients resolve SOCIAL & ENVIRONMENTAL FACTORS that contribute to HEALTH DISPARITIES and have a remedy in civil law.
# How lawyers solve SDOH problems

<table>
<thead>
<tr>
<th>I-HELP™</th>
<th>How Lawyers Can Help</th>
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<tbody>
<tr>
<td>Income &amp; Insurance</td>
<td>Food stamps, disability benefits, cash assistance, health insurance</td>
</tr>
<tr>
<td>Housing &amp; utilities</td>
<td>Eviction, housing conditions, housing vouchers, utility shut off</td>
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<tr>
<td>Education &amp; Employment</td>
<td>Accommodation for disease and disability in education and employment settings</td>
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<tr>
<td>Legal status</td>
<td>Assistance with immigration status (e.g. asylum applications); Veteran discharge status upgrade; Criminal background expungement</td>
</tr>
<tr>
<td>Personal &amp; family stability</td>
<td>Domestic violence, guardianship, child support, advanced directives, estate planning</td>
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MLPs at 333 health care orgs in 46 states

- 121 General Hospitals / Health Systems
- 33 Children’s Hospitals
- 98 HRSA-funded health centers
- 25 VA Medical Centers
- 56 Other Health Care Sites
Studies show that with MLP services:

- People with chronic illnesses are admitted to the hospital less frequently.
- People more commonly take their medications as prescribed.
- People report less stress and experience improvements in mental health.
- Less money is spent on health care services for the people who would otherwise frequently go to the hospital, and use of preventative health care increases.
- Clinical services are more frequently reimbursed by public and private payers.

Read the research.
“Is Preventing Injustice Possible?”

How can medical-legal partnership contribute to public health legal change?
Going further upstream...

“The Health Impact Pyramid” (Frieden, 2010)
Prevention Paradigms

Individualist / Biomedical / High Risk

- Biomedical → testing, screening, early intervention
- Individualist → personal responsibility, education
- Secondary and Tertiary Prevention

Public Health / Population

- Population-based → reduce / remove exposure
- Social epidemiology → change environment / context
- Primary Prevention

Clinicians & Lawyers

Public Health Experts

The Health Impact Pyramid

The LEGAL Impact Pyramid

Based on “The Health Impact Pyramid” (Frieden, 2010)
Comparing Legal Impact to Health Impact

“The Health Impact Pyramid” (Frieden, 2010)
Law & Social Determinants of Health

“Law of the Books”

“Law of the Streets”

The Five Essential Public Health Law Services

Access to Evidence and Expertise → Expertise in Designing Legal Solutions → Building Political Will → Implementing, Enforcing and Defending Legal Solutions → Policy Surveillance and Evaluation

Better Health Faster for All

The 5 Essential Public Health Law Services

1. **Access to Evidence + Expertise**
   - Epidemiology; legal and policy options; local political, social, and physical context

2. **Expertise In Designing Legal Solutions**
   - Developing laws that are technically sound, politically feasible, and within the scope of authority

3. **Building Political Will**
   - Educate and mobilize to get the good idea into law

4. **Policy Surveillance + Evaluation**
   - Assess impact of solution, what works

5. **Implementing, Enforcing + Defending Legal Solutions**
   - Ensure capacity and accountability for implementation and defense

Accessing Evidence + Expertise

Epidemiology; legal and policy options; political, social, and physical context

MLP Team:

• Interdisciplinary expertise and real-time, real-life evidence to examine population health problems

**Design Legal Solutions**

Developing laws that are technically sound, politically feasible, and within the scope of authority

**MLP Team:**

- Assess and issue-spot new law- and policy strategies
- Offer insight into the likely unintended consequences of proposed and existing policies

*Burris, Ashe, Blanke, Ibrahim, Levin, Matthews, Penn, & Katz., Better Health Faster: The 5 Essential Public Health Law Services, PHR (2016)*
Engage Communities, Forge Partnerships, + Build Political Will

Educate and mobilize to get the good idea into law

MLP Team:

• Offer insight into the likely unintended consequences of proposed and existing policies

• Engage in allowable policy advocacy activities armed with real-time, real-life experience
  • Education and outreach
  • Coalition-building (address community issues; advance advocacy campaign)
  • Public processes (regulatory comments; testimony)
  • Lobbying

Implement, Enforce, + Defend Legal Solutions
Ensure capacity and accountability for implementation and defense

MLP Team:

• MLP lawyers can share valuable information from the front lines of individual advocacy; proactively file complaints, and support or challenge implementing agencies

• MLP health care and community service providers can support implementation by writing letters of support and leveraging additional legal remedies to help enforce protections

Policy Surveillance + Evaluation

Assess impact of solution, what works

MLP Team:

• Provide rare insight into unintended consequences, unanticipated gains, and remaining gaps in the law

• Can monitor public policy outcomes through screening and tracking MLP patient population and disseminate findings

How can the National Center for Medical-Legal Partnership (NCMLP), the Network for Public Health Law (NPHL), and individual MLPs work together to promote better public health law and policy?
How can NCMLP, NPHL, and individual MLPs work together to promote better public health law and policy?

- Identify & share systemic issues amenable to public health policy intervention
- Provide legal technical assistance to support MLPs in public health policy work
- Support state and local health department engagement in MLP work
Regional Collaborations

**Northern Region Collaboration**
- Network—Northern Region Office
  Edina, MN
- The MT Health Justice Partnership
  Montana Legal Services Association, MT
  Montana Primary Care Association, MT

**Western Region Collaboration**
- Network—Western Region Office
  AZ State University—College of Law, Phoenix, AZ
- Medical-Legal Community Partnership
  Los Angeles Department of Health Services, CA
  Neighborhood Legal Services Center of LA County, CA

**Southeastern Region Collaboration**
- Network—Southeastern Region Office
  UNC Gillings School of Global Public Health, Chapel Hill, NC
- Medical-Legal Partnership
  Legal Aid of North Carolina, Durham, NC

**Mid-States Region Collaboration**
- Network—Mid-states Region Office
  University of MI — School of Public Health, Ann Arbor, MI
- Multiple MLP Partners
  Community Legal Aid Services, Inc., Akron, OH
  LAF, Health Forward/Salud Adelante, Chicago, IL
  Advocates for Basic Legal Equality, Inc., Toledo, OH

**Eastern Region Collaboration**
- Network—Eastern Region Office
  University of MD—School of Law, Baltimore, MD
- Delaware Medical-Legal Partnership
  DE Division of Public Health, Newark, DE
Priority areas:
- Lead poisoning
- Housing conditions

Childhood lead screening

Memorandum:
- examining shortfalls in lead screening rates
- outlining legal requirements and barriers
- providing legal and policy solutions
Join us at PHLC 2018!

October 5, 3:00 – 4:15 pm

- Joel Teitelbaum, National Center for Medical-Legal Partnership; George Washington University
- Dennis Hsieh, Los Angeles Department of Health Services – Whole Person Care; Harbor-UCLA Medical Center
- Alice Setrini, LAF Chicago, Health Forward / Salud Adelante

Moderator: Colleen Healy Boufides, Network for Public Health Law – Mid-States Region
Thank you!
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And thanks to:

Donna Levin, National Director, Network for Public Health Law
Madeline Morcelle, Staff Attorney, Network for Public Health Law - Western Region
Ellen Lawton, National Center for Medical-Legal Partnership
Kate Marple, National Center for Medical-Legal Partnership
Integrating Clinical and Community Health Using Medicaid’s Child Health Benefit

Sarah Somers, Network for Public Health Law – Southeastern Region
Project Introduction

Goals

» Promote implementation and understanding of EPSDT benefit

» Achieve cross-sector understanding of EPSDT’s role in the social safety net.

   Engage diverse stakeholders in target states (NC, SC, VA)
   » Develop local action plans to improve child health

Engage national legal experts (e.g. housing, food and nutrition, education, environmental, consumer, and disability program)

   » Create federal legal safety net scan

EPSDT education efforts

   » Child advocate and stakeholder training
Project Introduction

State Focus

» **State Partner Organizations**
  - North Carolina Justice Center
  - South Carolina Appleseed Legal Justice Center
  - Virginia Poverty Law Center

» **Stakeholders**
  - Health care, public health, advocacy, school, faith-based, governments

» **Two stakeholder convenings**

» **Identification of state-specific child health indicators to target for improvement**
Project Introduction

What we will produce:

» **Comprehensive scans:**
  - federal safety net benefits and rights
  - State-specific rights and benefits

» **EPSDT training materials**

» **Final state blueprint for child health improvement**
  - specific federal and state policies and benefits to be targeted
  - stakeholder responsibilities
  - specific data for measuring success
Medicaid Basics

Entitlement*

» **Covered population groups, *e.g.***
  
  Children, foster and adopted children, pregnant women, aged, blind, disability

» **Covered services**

  Mandatory and optional
  
  *e.g.*, Hospital, physician, home health, behavioral health

» **Due process notice and hearing rights if eligibility/services are denied/terminated**

*Watching Congress, tbd*
Medicaid’s Benefit for Children & Youth

\[ E = \text{Early} \]
\[ P = \text{Periodic} \]
\[ S = \text{Screening} \]
\[ D = \text{Diagnostic} \]
\[ T = \text{Treatment} \]
Why a separate benefit?

Poor children are more likely to have:

- Vision, hearing and speech problems
- Untreated tooth decay
- Elevated lead blood levels
- Asthma
- Behavioral health problems
Available at: http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Early-and-Periodic-Screening-Diagnostic-and-Treatment.html (June 2014)
EPSDT Guidance

“The EPSDT benefit is more robust than the Medicaid benefit for adults and is designed to assure that children receive early detection and care, so that health problems are averted or diagnosed and treated as early as possible. The goal of EPSDT is to assure that individual children get the health care they need when they need it—the right care to the right child at the right time in the right setting.”

CMS, EPSDT – A GUIDE FOR STATES: COVERAGE IN THE MEDICAID BENEFIT FOR CHILDREN AND ADOLESCENTS (June 2014)
EPSDT Participation Rate, All Ages Birth to 21, By State, 2015
EPSDT Screening

Medical
  » Developmental history
  » Unclothed physical exam
  » Immunizations
  » Lab testing
  » Health education

Vision

Hearing

Dental
  » Periodic – pre-set intervals
  » Interperiodic – as needed

Any encounter with a treating provider is a screen
EPSDT Treatment Requirements

States must arrange (directly or through referral) for corrective treatment needed as a result of a screen

» Federal scope of benefits

» Federal definition of medical necessity
EPSDT settings

- *Services in schools* can be covered, e.g., service provided through an IEP, basic health services such as vaccinations
- *Most integrated setting appropriate*, if necessary to comply with Title II of the ADA
- *Transportation* covered
EPSDT Informing Requirements

States must inform Medicaid families & children about EPSDT

Informing must be effective

- Oral and written
- Translated for Limited English Proficiency (LEP)
- Accessible for hearing/vision impaired
- Targeted (e.g. pregnant teens, non-users)

Appointment scheduling assistance (prior to due date of each periodic screen)

Coordination with other entities
EPSDT Coordinating Responsibilities

Maternal and Child Health Agencies
WIC
Head Start
Schools
Join us at PHLC 2018

Integrating Clinical and Community Health Using the Medicaid Benefit: A Three State Experiment

» Sarah Somers, Southeastern Region of Network

» Lee James, National Health Law Program
How to Use WebEx Q & A

1. Open the Q&A panel
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3. Type your question
4. Click “Send”
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2018 Public Health Law Conference
Health Justice: Empowering Public Health and Advancing Health Equity
October 4 – 6 in Phoenix, AZ
PHLC2018.org