

**Practical Public Health
Ethics for ADPH Staff**

Produced by the Alabama Department of Public Health
Distance Learning and Telehealth Division

Faculty

**Jim Sacco, MSW, LCSW
Public Health Consultant
Atlanta, Georgia**

Learning Objectives

- Through this training, participants will:
 - Gain an overview of the basics of public health ethics
 - Learn how to apply ethics frameworks to public health decision making
 - Learn to apply public health ethics tools to address ethical challenges that commonly arise in the practice of public health

Learning Objectives

- Explore the overlap between ethics and law
- Examine how the use of case studies can assist with exploring ethical issues in public health practice
- Examine specific ways to integrate ethical considerations in the day-to-day decision making in health departments

What is Ethics?

- Identifying ethical principles to guide action
- Analyzing and evaluating the rightness or wrongness of particular actions
- Ethics asks:
 - What choices should we make and why?
 - What moral norms should guide our actions?

Ethical Theories

Actor/Agent	Action (Deontology)	Results (Consequentialism)
Virtue Ethics (Aristotle)	Ethical Duties (Kant)	Utilitarianism (J.S. Mill)
Focuses on what a person of character would do	Determines what action best fulfills one's duty	Weighs harms and benefits resulting from an action
A moral action exemplifies the virtues of a person of character	A moral action fulfills a duty or obligation one owes to oneself or society	A moral action provides the best net balance of benefits over harms for most people
Useful to assess skills and abilities needed for success	Duties defined in terms of moral principles or maxims	Implicit in cost/benefit or risk/benefit assessments
Reliability, trustworthiness, competence	Autonomy, justice, equity, human rights	Long versus short term harms and benefits, undue burdens

Fields of Ethics

- **Bioethics**
 - The study of ethical issues brought about by advances in biology and medicine
- **Clinical ethics**
 - Analysis of ethical issues and dilemmas in clinical practice



Fields of Ethics

- **Research ethics**
 - Protection of research subjects (In compliance with the Common Rule)
- **Public health ethics**
 - Practical decision making that supports public health's mandate

Research Ethics and the Belmont Principles

- **Basic Ethical Principles**
- **Respect for persons**
 - Autonomy
 - Protection of those with diminished autonomy

Research Ethics and the Belmont Principles

- **Beneficence and nonmaleficence**
 - Do not harm
 - Maximize possible benefits and minimize possible harms
- **Justice**
 - Giving persons what they deserve
 - Fair distribution of burdens and benefits

What are Public Health Ethics?

- **Ethical principles and moral norms particular to the practice of public health**
- **Study of or deliberation about moral norms that should guide public health decision-making**
- **A process for identifying, analyzing, and resolving ethical conflicts or tensions in public health**

Clinical Ethics vs. Public Health Ethics

Clinical Ethics	Public Health Ethics
Focus on individual patient-provider interactions	Focus on populations, institutions, communities
Individual liberty, autonomy	Interdependence of people
Authority vested in prestige of physicians and medical profession	Authority vested in the police powers of states
Patient consent	Societal consent through the political process; public engagement
Beneficence and non-maleficence	Social good and avoiding social harm
Justice	Social justice and equity

Benefits of Public Health Ethics

- Clarify, prioritize, and justify possible courses of public health action
- Increased capacity to recognize ethical issues
- Greater transparency in decision making

Benefits of Public Health Ethics

- Foster respectful deliberation about ethical tensions
- Enhanced public trust and relationship building
- Strengthened scientific integrity and professional excellence

What does Public Health Ethics Offer?

- Vocabulary and guidance: to illuminate the ethical dimensions of cases and policies
- Ethical principles and norms: which are “starting points” to guide ethical reflection about balancing the competing moral claims

What does Public Health Ethics Offer?

- Balancing moral claims is similar to the process officials use in understanding and making public health cost-benefit tradeoffs
- Difference: Instead of focusing on “quantifiable” health gains or losses, public health ethics focuses on identifying, weighing, and balancing moral interests at stake in a particular situation

An Ethics Guide for Public Health Decision Making

1. Analyze ethical issues
2. Evaluate the ethical dimensions of the alternate courses of public health action
3. Provide justification for public health action



An Ethics Guide for Public Health Decision Making

1. Analyze ethical issues
 - Risks and harms of concern?
 - Public health goals?
 - Moral claims of the stakeholders?
 - Is the source or scope of legal authority in question?

An Ethics Guide for Public Health Decision Making

- Are precedent cases relevant?
- Do professional codes of ethics provide guidance?

An Ethics Guide for Public Health Decision Making

2. Evaluate the ethical dimensions of the alternate courses of public health action
 - **Utility:** Does a particular public health action produce a balance of benefits over harms?
 - **Justice:** Are the benefits and burdens distributed fairly?

An Ethics Guide for Public Health Decision Making

- **Respect for individual and community interests:** Does the public health action respect individual and civic roles and values (e.g., honesty, trustworthiness)



An Ethics Guide for Public Health Decision Making

3. Provide justification for public health action
 - **Effectiveness:** Is the public health goal likely to be accomplished?
 - **Proportionality:** Will the probable benefits of the action outweigh the infringed moral considerations?

An Ethics Guide for Public Health Decision Making

- **Necessity:** Is overriding the conflicting ethical claims necessary to achieve the public health goal?
- **Least infringement:** Is the action the least restrictive and least intrusive?

An Ethics Guide for Public Health Decision Making

- **Public justification:** Can public health agents offer public justification that citizens, and in particular those most affected, could find acceptable in principle?

Examples of Ethical Challenges Identified by Public Health Officials

- Resource allocation
- Negotiating the political context
- Data use and management, including privacy and confidentiality protection
- Control of infectious diseases
- Immigration
- Community engagement
- Balancing individual choice with protecting the public good

Examples from Public Health Practice

- Environmental health
 - Enforcing child lead poisoning prevention laws when families with lead poisoned children lack the resources to remediate lead hazards in their homes



The Complementary Roles of Public Health Ethics and Public Health Law

- Why consider law in an ethics training?
 - Laws define the boundaries for lawful action
 - Laws may be a useful starting point for consideration of public health action

The Complementary Roles of Public Health Ethics and Public Health Law

- Laws may rely on common ethical principles
- Laws may reveal social moral consensus
- Laws and legal advice may provide the framework for decision making

Ethics and Law Share Similar Decision Making Processes

- Deliberate consideration and articulation of:
 - Facts, questions, conflict
 - Options
 - Decision
 - Reasons for the decision
- And, in the end, reasonable minds may still disagree

Key Concept: Police Powers

- Defined: Powers exercised by the states to enact legislation and promulgate regulations to protect the public health, welfare, and morals, and to promote the common good
- Examples:
 - Investigations of infectious disease outbreaks

Key Concept: Police Powers

- Childhood vaccinations as condition for school entry
- Ban on distribution of free cigarette samples in areas around schools and other places frequented by minors

Key Concept: Police Powers

- Involuntary detention of persons with certain communicable diseases
- Property seizure and destruction to control toxic substance threats

Constitutional Limits on Government Action

- Substantive limits - Jacobson v. Massachusetts framework
 - Public health necessity
 - Reasonable means
 - Proportionality
 - Burden must be reasonable to anticipated benefit (least restrictive alternative)

Constitutional Limits on Government Action

- Harm avoidance
 - Should not impose undue health risk on the subject
- Procedural limits
 - Due process requirements
 - Includes right to notice, hearing, representation of counsel, periodic review

Parameter Setting Role of Law

- Laws provide the boundaries
 - Tell you what you must do
 - Tell you what you can do
 - May be explicitly authorized in statute OR
 - May be inferred from statutes, case law

Parameter Setting Role of Law

- Tell you what you cannot do
- But may not tell you what you should do (among options)
- In some cases, law may conflict with what ought to do

Dealing with Uncertainty

- Lawyer may be unable to provide advice about what one ought to do
 - Where law does not require or prohibit
 - And no legal precedent to guide
 - Limit of professional role
- Ethics may help in thinking through options

Dealing with Uncertainty

- Identifying options
- Delineating justification for or against

Summary

- Law in Public Health: Provides authority, limitations on state power, incentives and disincentives for behavior; often allows for much professional discretion
- Ethics in Public Health: Provides ongoing analysis, deliberation about, and justification for public health action and policy, often when law is indeterminate

Summary

- Law
 - Formal institution
 - Statutes
 - Regulations
 - Court decision
 - Public proceedings with a “reasonable person” standard

Summary

- Ethics
 - Less formal
 - Moral norms, values
 - Professional codes
 - Previous cases
 - Publicly justifiable positions based on ethical reasoning

Examples from Public Health Practice

- Multidrug resistant TB
 - Integrating ethics and legal powers to address the health needs of the community while respecting rights of individuals and families



Multidrug Resistant TB Case

- Family adopts several children from developing country with endemic TB
- Family has strong religious beliefs about medical care; has refused immunizations
- Children homeschooled
- One of the adopted children, a teenager, develops a cough and other symptoms

Multidrug Resistant TB Case

- Pediatrician diagnoses active TB and notifies health department
- Health department intervenes...

Public Health Ethics Tools

- Case - based approach
- Stakeholder analysis
- Deliberative process
- Prioritizing values
- Professional values: *Principles of the Ethical Practice of Public Health*



Case-based Approach

- Traditional method of using cases to develop practical moral judgment and resolve ethical issues
- The case approach reasons “up” inductively from particular instances to more generally applicable moral conclusions
- Similar to the development of common law which uses legal precedents

Advantages of Case-based Approach

- Encourages ethical reflection and discussion
- Reinforces basic ethical concepts through application to concrete cases
- Highlights practical decision making

Advantages of Case-based Approach

- Allows learners to consider different perspectives
- Sensitizes learners to complex, multi-dimensional context of issues in public health practice

Stakeholder Analysis

- Consider interests, values, and moral claims of stakeholders
- Identify potential partners and areas of tension
- May involve community engagement or consultation



Deliberative Process

- Ensures fairness of process
- Weighs stakeholder values in relation to core public health values
 - Health
 - Community
 - Evidence - based decision making

Deliberative Process

- Designs alternatives consistent with stakeholder and public health values
- Chooses between competing alternatives

Professional Values → Principles of the Ethical Practice of Public Health

- Principles translate values into moral rules for action
- Emerged out of the practice of public health
- Key notion: the importance of recognizing the interdependence of community members



Prioritizing Values

- No absolute best
- Determining best depends on context
 - Local circumstances
 - Stakeholder values
- A decision always implies a prioritization of values
- Ethical analysis makes implicit values explicit

Prioritizing Values

- Helps make decisions more transparent
- Useful for justifying decisions, policies, recommendations

Values, Beliefs, and Key Assumptions of a Public Health Perspective

- Health
- Interdependence
- Community, collaboration and engagement
- Science-based information for action

Common Ethical Topics

- Balancing the rights of individuals versus protecting the public good
- Allocation of limited public health resources
- Protection of underserved / marginalized populations
- Protection of individual privacy and data confidentiality
- Community engagement

Anytown, AL Childhood Obesity Initiative

- Any town health department has identified childhood obesity as a community problem
- School menus have been altered, playgrounds have been revamped, city-wide tax on trans fat and soda is being proposed by the city council

Anytown, AL Childhood Obesity Initiative

- Local business owners fear loss of revenue and say this is 'big government' at its worst
- Local parents protest what they perceive as child - shaming for overweight children
- An increase in bullying among grade school / middle school children has been reported

Small Group Discussion of Cases

- Break into groups
- Identify a recorder and one member who will report to the larger group when we reconvene
- Take 10 minutes to discuss the case
 - What ethical challenges does the health department face?

Small Group Discussion of Cases

- How are the rights of individuals and business considered?
- What is the best solution for the health department education staff?

**Implementing Public Health Ethics
in your Health Department**

- **Ethics deliberative process**
- **Networking and partnerships**
- **Training through professional associations and webinars**
- **Resources**
 - **CDC Public Health Ethics Website**
 - **APHA Ethics Special Primary Interest Group**

Thanks!

- **CDC – Office of the Associate Director for Science**
- **AL Wise Woman**
- **ADPH Office of SW**
- **ADPH Communications**
- **Mom and Dad**

www.jimsacco.com