

How to Advance Legal Education for Future Public Health Professionals

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Recent scholarship has advocated for schools and programs of public health (SPPHs) to move public health law from the periphery to the core of the public health curriculum, in recognition of law's role as a fundamental driver of health outcomes.^{1,2} The Five Essential Public Health Law Services—developed through a transdisciplinary collaboration of public health practitioners, researchers, advocates, and attorneys—emphasize that competency in public health law requires much more than the ability to summarize key statutes or court decisions.³ Rather, “[p]eople working in public health—whether in agencies, non-governmental organizations, health systems, research and even biomedical sciences—can expect to carry out a variety of functions that involve law, frequently without the assistance or even the involvement of lawyers.”¹ These functions include the design, development, implementation, enforcement, and evaluation of legal interventions (to prevent drug overdoses, ensure food safety, contain infectious disease outbreaks, and much more)—functions that have become more complex and politically charged, but no less important, since the onset of the COVID-19 pandemic.

The calls for improved training in public health law are not new. Indeed, public health practitioners throughout the world have been highlighting the need for stronger training in law for years. The first Public Health Workforce Interests and Needs Survey (2014) found that among state health agency employees, “[t]op areas of training need included influencing policy development, understanding the relationships between policies and public health challenges, and assessing factors that influence specific public health problems”—all areas in which law is central.⁴ The most recent version of the survey (2021) showed that these gaps remain. For example, >40% of public health managers and supervisors and an even higher percentage of public health executives identified “policy engagement” as a skill that is “highly important to their day-to-day work but [in which they rank]

their proficiency as low.”⁵ Yet, despite growing demand for change, law has remained on the periphery of public health education and training. It is perhaps not the “why” but the “how” that is a major barrier to moving law to the center of the curriculum. Here, we address the “how” by considering the practical barriers and facilitators relevant to making law a core element of public health curricula in SPPHs.

Role of the Council on Education for Public Health

It should come as no surprise that many public health practitioners self-rate their proficiency in law-related tasks poorly, because they are not exposed to this content in most SPPHs. In 2021, ChangeLab Solutions—with funding from and in partnership with the Centers for Disease Control and Prevention—published an environmental scan that focused on master of public health (MPH) programs; it found that

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“only 17.4% (33 of 190) of the [SPPHs] have a course dedicated to public health law topics” and only 6.8% (13 of 190) “have at least one course that addresses public health law topics that is required for all students for graduation.”⁶ Although other courses in the MPH curriculum may address law-related topics such as policy, ethics, and advocacy, the ChangeLab Solutions report found that “there is a lack of consistency in how or whether public health law concepts are integrated into MPH courses and program curricula.”⁶

The Council on Education for Public Health (CEPH) accredits SPPHs and defines the competencies that students must attain. Unfortunately, the CEPH competencies make no mention at all of law. They mention “the policy-making process,” ethics, and advocacy—but not law.⁷ By contrast, the 10 Essential Public Health Services, used in the accreditation of health departments, require the ability to “[c]reate, champion, and implement policies, plans, and laws that impact health” (emphasis added).⁸ This difference is not just a question of semantics; the omission of law from the CEPH competencies raises multiple obstacles in practice to the effective promotion of public health. Examining this omission of law, the CEPH standards only require the ability to “discuss the policy-making process, including the roles of ethics and evidence” (emphasis added).⁷ Absent, however, is instruction in the foundational knowledge of law and legal principles, as well as training in the *skills* needed to effectively employ law as a tool to protect and promote public health. Although advocacy is explicitly mentioned in the standards, without this foundational knowledge and skills in law, students may find it difficult to engage in meaningful policy advocacy. For example, without knowledge of basic legal concepts such as federalism, preemption, and delegation,⁹ students often cannot figure out which level and branch of government are the appropriate targets of their advocacy efforts.

Beyond this omission of legal skills, key aspects of public health law—such as the role of regulatory agencies in the implementation and enforcement of public health policies—are absent from the CEPH competencies altogether, despite being central to public health. Again, without this foundation, students leave their MPH programs without the knowledge and tools needed to understand, much less do, the work of public health professionals, much of which involves implementing and enforcing legislative directives or, phrased differently, carrying out the day-to-day work of regulation. MPH graduates who do not assume governmental roles (which is most of them) still need to understand the work of health departments and how that work is grounded in law to effectively engage in public health research, policy development, advocacy, consulting, and other roles.

At a fundamental level, policy, for purposes most relevant to public health, *is* law. Virtually any important advance in public health—or public policy of any sort—has depended on law for its content, implementation, enforcement, and ultimate impact.¹⁰ Expecting students to understand, much less engage in, the policy-making process without first

grounding them in the structure, function, and principles of public health law leaves a gap in the curriculum. It is like trying to teach statistics or epidemiology without first ensuring that students have mastered basic math. In a context in which “the majority of American students have taken, at most, a single, one-semester civics course during their entire K-12 education,” this is a recipe for failure.¹¹

Accordingly, we strongly encourage CEPH to rework its criteria to make explicit the central role of law in public health. Doing so would spur the creation of new public health law courses that could also be used to teach the existing competencies in the “policy in public health” category, including advocacy and ethics, in a more comprehensive way. Importantly, ethics is not the same thing as law, and instruction in ethics, although critical, is not a substitute for teaching the intricacies of the relationship between law and public health. Ethics analyzes what people or institutions *should* do to act virtuously in various situations, while laws—which may or may not be built on a foundation of ethical principles—are the principal mechanism “through which populations organize their governments, regulate social and economic interactions, and guide behavior.”¹² We strongly support ongoing efforts to improve MPH training in advocacy skills and ethics, but to equip future public health leaders with the tools needed to navigate the political and legal landscape that influences public health, this training needs to be deeply grounded in foundational legal knowledge and skills.

CEPH competencies and associated guidance powerfully influence the courses taught by SPPHs and the content embedded in them. But CEPH does not dictate what courses SPPHs must offer or *how* they must train students in the required competencies. Accordingly, adjusting CEPH competencies is only a starting point. In a recent article, Schneider et al found wide variation in how advocacy is taught (which, as noted previously, *is* explicitly mentioned in the CEPH competencies).¹³ The authors noted that despite the advocacy competency, *no* SPPH mandated a course on public health advocacy for graduation; many advocacy courses deprioritized skills, if they were taught at all; and “faculty had limited exposure to advocacy-related activities with which to base their advocacy teaching.”¹³ Similar challenges will undoubtedly face any law-related CEPH competencies, and these challenges must be anticipated and addressed.

Building the Capacity to Teach Public Health Law

To fully prepare MPH and other public health students for practice, SPPHs need qualified faculty and instructors who can effectively teach foundational legal concepts and skills. The ChangeLab Solutions report found that many SPPHs view the lack of qualified instructors as the key barrier to teaching public health law courses.⁶ From our perspective, this barrier is real but not insurmountable.

One approach is for SPPHs to hire full-time faculty with legal training. Currently, most SPPHs do not have any faculty members with a law degree (ie, juris doctorate [JD]).² This gap in faculty capacity is problematic given law's central role in driving public health outcomes and health disparities. In part, this gap may be the result of funding structures and training pipelines that do not support hiring faculty with JDs as their terminal degree. But despite a substantial upfront cost associated with hiring new faculty members, engaging faculty who have JD degrees may offer advantages that ensure a high return on investment.

First, lawyers can serve effectively as teaching faculty and often have the flexibility to teach across degree programs offered by SPPHs—undergraduate, MPH, master of health administration, doctor of public health, and doctor of philosophy (PhD). Although it should not be assumed that lawyers (by which we mean faculty who have JD degrees, whether acting as practicing attorneys or not) have the relevant background and expertise to teach any law-related course, they may have the ability to teach courses in public health law, health care law, health policy, health systems, health justice, environmental justice, global health law and policy, advocacy, public health ethics, research ethics, health and human rights, and more. Furthermore, lawyers can provide support to other faculty who are looking to expand their existing course content to include law or ensure the accuracy of their current law-related course content but lack the expertise necessary to do so. For example, lawyers could work collaboratively with colleagues to develop or enhance course offerings that explore the relationship between a specific public health topic, such as infant mortality, and the law. Additionally, PhD and MPH students are increasingly seeking training in legal epidemiology (the “scientific study and deployment of law as a factor in population health”¹⁴), and lawyers engaged in such research can help fill that training gap.

Second, more and more SPPHs are hiring legally trained faculty as tenure-track research faculty—and not only in health services, policy, and management departments but in epidemiology, environmental health, and other departments as well. As governmental and nongovernmental funders shift toward addressing social and structural determinants of health, lawyers are well positioned to lead and otherwise contribute to innovative research projects that illuminate the law-related causes of health inequity at the local, national, and global levels. A brief search in NIH RePORTER identified 40 National Institutes of Health–funded research studies since 2021 with “law” or “legal” in the title on topics ranging from criminal justice to genetic testing.¹⁵ Substantial awards with legally trained investigators as the principal investigators remain the exception rather than the norm; yet, legally trained researchers—especially those with experience in public health practice or advocacy—are often well equipped to contribute as coinvestigators to interdisciplinary collaborations that advance grant proposals, projects, and articles

that are sensitive to structural elements of public health research (legal, policy, regulatory). The lack of such legal expertise, particularly when studies seek to assess the pervasive effect of law on health outcomes, “has led to the publication of and reliance on scientific studies that are sometimes incomplete, inaccurate, or misleading.”¹⁶ In an era of increased scrutiny and political polarization, such errors can seriously undermine confidence in the reliability of public health research.

Third, lawyers are often able to fill other important roles in and for SPPHs. They may be able to contribute to medical–legal partnerships,¹⁷ oversee policy-related internship programs and MPH capstone projects, and contribute to workforce training efforts, which can be an income generator. Joint appointments with schools of law, public policy, or public affairs can help offset salaries, build interdisciplinary connections, and support growing interest in JD/MPH programs and other joint degree programs. Lawyers who have chosen to pursue unconventional career paths are often academic entrepreneurs interested in building and promoting new research centers and academic programs, and they often take on leadership roles in university governance as well.

There are, of course, some obstacles to hiring lawyers into SPPHs. Lawyers may be likely to carry substantial student loans, and faculty positions in SPPHs cannot compete with private practice salaries or law school faculty salaries. Accordingly, these positions will only attract attorneys who care deeply about public health, and more must be done to identify and expand the supply of such lawyers. Furthermore, lawyers, at least those without PhDs, will bring a different skill set to SPPHs than other faculty members. For example, faculty with JDs may need to consider cochairing dissertation committees so that a colleague can support the statistical or epidemiology aspects of a student's project. Additionally, their published research and scholarship may span law reviews and policy journals, in addition to public health and medical journals. These publications have the potential to reach a wide range of audiences, but because the grant-seeking and publication patterns of faculty with JDs may differ from their colleagues, it is important for tenure and promotion expectations to be clear from the outset for any faculty with JDs who are hired into tenure-track positions. The growing community of attorneys teaching in SPPHs is helping to informally share career guidance with people entering into these roles.

As a more near-term opportunity, SPPHs can take advantage of new textbooks, teaching guides, and related resources that can help enable nonlawyers to teach law courses. Resources are increasingly available to support such teaching in public health law,^{12,18} global health law,¹⁹ and health justice.²⁰ Additionally, practicing lawyers—especially those engaged in public health practice, such as attorneys working in health departments—can coteach courses with full-time faculty. Having practicing lawyers coteach with full-time faculty is likely to improve the quality of law-related

instruction while deepening ties between SPPHs and local health departments.²¹ Ideally, some of these courses can be oriented toward practice-relevant exercises that provide real-world support to health departments. Such exercises can teach practice-relevant skills, increase student engagement, and foster students' appreciation for the complex work of public health practitioners.²² Finally, SPPHs can partner with law schools to create cross-listed or cotaught courses. Usually, however, such courses are electives that engage only a small percentage of MPH students, so they are not a substitute for comprehensive curricular changes.

Conclusion

More than 20 years ago, an Institute of Medicine committee called on SPPHs to improve training in law, emphasizing that “[m]ost public health policies are embodied in or effectuated through law, and law provides the institutional framework and procedures through which policies are debated, codified, implemented, and interpreted.”²³ Progress has been far too slow, but as the field of public health has shifted toward a focus on social and structural drivers of health, hopefully there is now much wider recognition of the need to make this change. CEPH plays an important role in driving curricular changes, but SPPHs need not wait for CEPH; as we have outlined previously, they can act now to increase their capacity to teach legal concepts and skills.

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