

PUBLIC HEALTH LAW



HOW DOES IT APPLY TO US
AND
WHY SHOULD WE CARE

What is Public Health



- **Public health** is “the science and the art of preventing disease, prolonging life, and promoting physical health and efficiency through organized community efforts for the sanitation of the environment, the control of community infections, the education of the individual in principles of personal hygiene, [and] the organization of medical and nursing service for the early diagnosis and preventive treatment of disease.”

What is Public Health



It is the health of populations
Rather than
the health of individuals

Why Public Health



- The focus of public health intervention is to improve health and quality of life through the prevention and treatment of disease and other physical and mental health conditions, through surveillance of cases and the promotion of healthy behaviors.

Core Public Health Functions and 10 essential Public Health Services



- **I. Assessment:**
 - Monitor health status to identify and solve community health problems
 - Diagnose and investigate health problems and health hazards in the community
- **II. Policy Development:**
 - Inform, educate, and empower people about health issues
 - Mobilize community partnerships and action to identify and solve health problems
 - Develop policies and plans that support individual and community health efforts
- **III. Assurance:**
 - Enforce laws and regulations that protect health and ensure safety
 - Link people to needed personal health services and ensure the provision of health care when otherwise unavailable
 - Assure competent public and personal health care workforce
 - Evaluate effectiveness, accessibility, and quality of personal and population-based health services
 - Research for new insights and innovative solutions to health problems

10 Essential Public Health Services



- The ten essential public health services provide the framework for developing standards, by describing the public health activities that should be undertaken in all communities.

Essential Public Health Services



- Developed to improve the quality of public health practice and performance of public health by:
- Provide performance standards for public health systems and encouraging their widespread use
- Encourage and leverage national, state and local partnerships to build a stronger foundation
- Promote continuous quality improvement of public health systems
- Strengthen the science base for public health practice improvement.

Essential Public Health Services



- **Monitor** health status to identify community health problems.
- **Diagnose and investigate** health problems and health hazards in the community.
- **Inform, educate, and empower** people about health issues.
- **Mobilize** community partnerships to identify and solve health problems.
- **Develop policies and plans** that support individual and community health efforts.

Essential Public Health Services



- **Enforce** laws and regulations that protect health and ensure safety.
- **Link** people to needed personal health services and assure the provision of health care when otherwise unavailable.
- **Assure** a competent public health and personal healthcare workforce.
- **Evaluate** effectiveness, accessibility, and quality of personal and population-based health services.
- **Research** for new insights and innovative solutions to health problems

Public Health Law



- Is the branch of jurisprudence which treats the application of common and statutory law to the principles of hygiene and sanitary science.
- Should not be confused with medical jurisprudence
- a science in itself, to which, preventive medicine is an important contributor.

Public Health Agency



- “Public health agency” means any organization operated by federal, tribal, state, or local government that principally acts to protect or preserve the public’s health.

Public Health Infrastructure



- “Public health infrastructure” means the competencies and resources that enable public health agencies, in collaboration with other components of the public health system, to provide essential public health services and functions throughout the state.

Tribal Health Public Health Agency:



- Includes health programs of any tribal organization that carries out essential public health services and functions or otherwise acts to protect or preserve the public's health.

Mission of Public Health



- To protect and promote the health of the public to the greatest extent possible through the public health system while respecting
 - individual rights to dignity,
 - health information privacy,
 - nondiscrimination, due process,
 - and other legally-protected interests.

Mission of Public Health



- is to provide leadership and protect and promote the public's health by:
- Assuring the conditions in which people can be healthy;
- Providing or assuring the provision of essential public health services and functions that are culturally and linguistically appropriate for the populations being served;
- Encouraging collaboration among public and private sector partners in the public health system; and
- Seeking adequate funding and other sources to provide essential public health services and
- functions or accomplish public health goals through public or private sources.

Public Health Powers - In General



- Utilize a broad range of flexible powers to protect and promote the public's health, including compulsory or mandatory powers. (as defined in State and Tribal Codes)
- Provide public health information programs or messages to the public that promote healthy behaviors or lifestyles, or educate individuals about health issues;
- Promote efforts among public and private sector partners to develop and fund programs or initiatives that identify and ameliorate health problems;

Public Health Powers - In General



- Conduct, fund, provide, or endorse performance management standards for the public health system;
- Develop and provide certification, credentialing, or effective training for members of the public health workforce;
- Develop, adopt, and implement public health plans through administrative regulations, formal policies, or collaborative recommendations that guide or support individual and community public health efforts;

Public Health Powers - In General



- Establish formal or informal relationships with public or private sector partners within the public health system;
- Enforce existing laws and administrative regulations (including emergency regulations), and propose new laws, amendments to existing laws, or administrative regulations that may serve as tools to protect the public's health;
- Identify, assess, prevent, and ameliorate conditions of public health importance through surveillance; epidemiological tracking, program evaluation, and monitoring; testing and screening programs; treatment; abatement of public health nuisances; administrative inspections; or other techniques;

Public Health Powers - In General

- Promote the availability and accessibility of health care services:
 - preventive and primary health care (including acute and episodic care, prenatal and postpartum care, child health, family planning, school health, chronic disease prevention, child and adult immunization, testing and screening services, dental health, nutrition, and health education and promotion services)
- Systematically and regularly review the public health system to recommend modifications in its structure or other features to improve public health outcome

Tribal and State Agreements

A state or local public health agency may form agreements with :

- tribes and tribal public health agencies in the state,
- and a state public health agency may form agreements with tribes

to coordinate the provision of essential public health services and functions or to promote cooperation in addressing specific public health needs of Indians and non-Indians living on or near an Indian reservation, or Indians who reside outside the boundaries of such reservations.

Tribal and State Agreements



Among other purposes, these agreements may work to:

- Develop, test, or demonstrate solutions for specific public health needs that, if proven effective, may be applied by other public health agencies, tribes, tribal organizations, or tribal public health agencies, inter-tribal organizations, or other entities;
- Fund start-up and recurring costs of cooperative programs to deliver public health services to individuals located within tribal service areas as defined in the agreement;
- Conduct public health needs assessments and studies related to public health or health care issues concerning individuals located within tribal service areas;
- Provide for data sharing among state, local and tribal public health agencies, including sharing of identifiable health information.
- Provide for collaborative development of public health plans; or
- Encourage and support any other activity that will assist state, local and tribal public health agencies to improve or maintain the public's health

PUBLIC HEALTH AUTHORITIES/POWERS



- A state or local public health agency is authorized to use the powers and provisions to prevent, control, or ameliorate conditions of public health importance or accomplish other essential public health services and functions.

PUBLIC HEALTH AUTHORITIES/POWERS



Guiding Principles.

- In carrying out these authorities or powers, the state or local public health agency is guided by the following principles:
- Public health purpose.
- The exercise of any public health authority or power shall further or support improving or sustaining the public's health by accomplishing essential public health services and functions.
 - 1) Scientifically-sound practices.
 - 2) Well-targeted intervention.
 - 3) Least restrictive alternative.
 - 4) Nondiscrimination.
 - 5) Respect for dignity.
 - 6) Community involvement.

PUBLIC HEALTH AUTHORITIES/POWERS



Compiling Data.

The state or local public health agency is authorized to collect, analyze, and maintain databases of identifiable or non-identifiable information related to:

- Risk factors identified for specific conditions of public health importance;
- Morbidity and mortality rates for conditions of public health importance;
- Community indicators relevant to conditions of public health importance; and
- Any other data needed to accomplish or further the mission or goals of public health, or provide essential public health services and functions.

PUBLIC HEALTH AUTHORITIES/POWERS



Data Sources.

The state or local public health agency is authorized to obtain information from federal, tribal, state, and local governmental agencies (including tribal organizations); health care providers; or other private and public organizations.

- 1) The agency may use information available from other governmental and private sources, reports of hospital discharge data, information included in death certificates, other vital statistics, environmental data, and public information.
- 2) The agency may request information from or inspect health care records maintained by health care providers that identify patients or characteristics of patients with reportable diseases or other conditions of public health importance.

PUBLIC HEALTH AUTHORITIES/POWERS



Data Uses.

Identifiable health information may only be acquired, used, disclosed, and stored consistent HIPPA regulations

Non-identifiable data may be acquired, used, disclosed, or stored for any purpose or in any manner.

PUBLIC HEALTH AUTHORITIES/POWERS

Reporting

In General. The state public health agency shall establish a list of reportable diseases or other conditions of public health importance. The list may include diseases or conditions of humans or animals caused by exposure to toxic substances, microorganisms, or any other pathogens.

Local health department information
For a list of local health department phone numbers go to: www.healthoregon.org/nd



OREGON PUBLIC HEALTH DIVISION REPORTING FOR CLINICIANS

By law,¹ Oregon clinicians must report diagnoses of the specified infections, diseases, and conditions listed on this poster. Both lab-confirmed and clinically suspect cases are reportable. The parallel system of lab reporting does not obviate the clinician's obligation to report. Some conditions (e.g., uncommon illness of public health significance, animal bites, HUS, PID, pesticide poisoning, disease outbreaks) are rarely, if ever, identified by labs. We depend on clinicians to report. Reports should be made to the patient's local health department² and include at least the patient's name, home address, phone number, date of birth, sex, diagnosis, and date of symptom onset. Most reports should be made within one working day of the diagnosis, but there are several important exceptions — please refer to the list on this poster. Disease reporting enables appropriate public health follow up for your patients, helps identify outbreaks, provides a better understanding of morbidity patterns, and may even save lives. Remember that HIPAA does not prohibit you from reporting protected health information to public health authorities for the purpose of preventing or controlling diseases, including public health surveillance and investigations; see 45 CFR 164.512(b)(1)(i).³

CIVIL PENALTIES FOR VIOLATIONS OF OREGON REPORTING LAW

A civil penalty may be imposed against a person or entity for a violation of any provision in OAR chapter 333, division 18 or 19.⁴ These regulations

IMMEDIATELY

- Anthrax (*Bacillus anthracis*)
- Botulism (*Clostridium botulinum*)
- Cholera (*Vibrio cholerae* 01, 0139, or toxigenic)
- Diphtheria (*Corynebacterium diphtheriae*)
- Hemorrhagic fever caused by viruses of the filovirus (e.g., Ebola, Marburg) or arenavirus (e.g., Lassa, Machupo) families
- Influenza (novel)⁵
- Marine intoxication (intoxication caused by marine microorganisms or their by products (e.g., paralytic shellfish poisoning, domoic acid intoxication, ciguatera, scombroid)
- Measles (rubeola)
- Plague (*Yersinia pestis*)
- Poliomyelitis
- Rabies (human)
- Rubella

New reportables are highlighted.

WITHIN 24 HOURS

- (including weekends and holidays)
- Haemophilus influenzae** (any isolation or identification from a normally sterile site)
- Neisseria meningitidis**
- Pesticide poisoning
- WITHIN ONE WORKING DAY**
- Animal bites (of humans)
- Arthropod vector-borne disease (babesiosis, California encephalitis, Colorado tick fever, dengue, Eastern equine encephalitis, ehrlichiosis, Kyasanur Forest disease, St. Louis encephalitis, West Nile fever, Western equine encephalitis, etc.)
- Brucellosis (*Bruceella*)
- Campylobacteriosis (*Campylobacter*)
- Chancroid (*Haemophilus ducreyi*)
- Chlamydia (*Chlamydia trachomatis*; lymphogranuloma venereum)

- Hepatitis B (acute or chronic infection)
- Hepatitis C (acute or chronic infection)
- Hepatitis D (delta)

Hepatitis E

- HIV infection (does not apply to anonymous testing) and AIDS
- Influenza (laboratory-confirmed) death of a person <18 years of age**
- Lead poisoning***
- Legionellosis (*Legionella*)
- Leptospirosis (*Leptospira*)
- Listeriosis (*Listeria monocytogenes*)
- Lyme disease (*Borrelia burgdorferi*)
- Malaria (*Plasmodium*)
- Mumps
- Pelvic inflammatory disease (PID, acute, non-gonococcal)
- Pertussis (*Bordetella pertussis*)

Reporting



Health care providers shall report all cases or suspected cases of the diseases, infections, microorganisms, and conditions specified below. The timing of Health Care Provider reports is specified to reflect the severity of the illness or condition and the potential value of rapid intervention by public health agencies.

Per Oregon Health Authority

Reporting



- **Licensed laboratories** shall report all test results indicative of and specific for the diseases, infections, microorganisms, and conditions specified below. Such tests include but are not limited to: microbiological culture, isolation, or identification; assays for specific antibodies; and identification of specific antigens, toxins, or nucleic acid sequences.

Per OHA

Information Sharing



An essential function of the public health system is to provide data and information about the health of Oregonians. Most of the information about the frequency of or risk factors for deaths, illnesses and injuries across the state comes from the public health system's "surveillance" activities.

<http://public.health.oregon.gov/DataStatistics/Pages/index.aspx>

Reports/county fact sheets

special populations

public health datasets

Chronic disease

communicable disease

environmental/occupational health

health related behaviors

injury and violence

vital statistics and health data

Rules and Regulations



- The health division monitors and regulates the activities and systems of many health-related businesses, agencies and organizations serving Oregonians. All licensing, certification, monitoring, inspection or regulatory requirements are developed from current laws.

<http://public.health.oregon.gov/RulesRegulations/Pages/index.aspx>

[Disease Control, Laboratory Testing and Immunizations](#)

[Emergency Medical Services and Public Health Preparedness](#)

[Food Facilities and Recreation Activities](#)

[Health and Wellness](#)

[Healthy Environments](#)

[Hospitals and Healthcare](#)

Maternal Child Health Title V block grants

- Is the only federal program devoted to improving the health of women
- Provides funding to states to support state activities
- Funds are used to address maternal and child health priorities:
- Surveillance and data about the health status of Oregon's MCH population;
- Assessment and monitoring of needs to assure health and wellness;
- State and local collaboration to assure access to preventive health services and information; and
- Linkages to health care and other maternal and child health services in the community.

10 Oregon State Priority Goals - Title V

- Family violence
- Alcohol and drug use
- Mental health
- Oral health
- Resources for parent education and skills
- Overweight and obesity in children/adolescent
- Physical and mental health services for children
- Linkage to mental health services
- Access to specialized services
- Access to family support services

Title VI programs



- The Older Americans Act was signed into law on July 14 1965. It established the Administration on Aging within the Department of Health, Education and Welfare, and called for the creation of State Units on Aging. The Older Americans Act, which was passed in the same year as Medicare, established the primary vehicle for organizing and delivering community-based services through a coordinated system at the state level.
- There are 246 Native American Title VI programs in the US
- The Goal is to keep seniors in their homes

Oregon Health Authority Addictions and Mental Health Division



- Establish rules and regulations for
 - Licensure
 - Medicaid reimbursement
- Local Mental Health Authority means:
 - The board of county commissioners of one or more counties that establishes or operates a Community Mental Health Program (CMHP);
 - The tribal council, in the case of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services; or
 - A regional local mental health authority comprised of two or more boards of county commissioners.

Reporting to Detect and Track a Public Health Emergency

- **Pharmacists.**

A pharmacist shall report any unusual variations in prescription rates, types of prescriptions, or pharmacy visits that may be potential causes or indicators of a public health emergency

Oregon Prescription Drug Monitoring Program

The Oregon Prescription Drug Monitoring Program (PDMP) is a tool to help healthcare providers and pharmacists provide patients better care in managing their prescriptions. It contains information provided by Oregon-licensed retail pharmacies.

Reporting to Detect and Track a Public Health Emergency

- **Animal diseases.** A veterinarian, livestock owner, veterinary diagnostic laboratory director, or other person having the care of animals shall report animals having or suspected of having any diseases or conditions that may be potential causes or indicators of a public health emergency

Public Health Codes for YTHC

- Federal regulations: Licensure of health care professionals & Pharmacy
- State regulations – communicable diseases, MCH, WIC, immunizations, Health and wellness
- Tribal Codes :
 - Environmental health & safety
 - Housing
 - Fire and emergency Services
 - Criminal codes – reporting of child and & elder abuse
 - Sex offender
 - Juvenile code
 - Workers benefits
 - Land development

CTUIR Public Health and Safety Codes

- Protecting the public health and safety of the Tribal community is the fundamental purpose of the Tribal government.
- Article 2 of the CTUIR Constitution states that “the purpose and powers of the Confederated Tribes shall be... to protect and promote the interests of the Indians of the Umatilla Indian Reservation.”

source: Review compiled by Dan Hester, Attorney at Law

Environmental Health and Safety Code



- **Purpose.** The purpose of the Code is “to assure the highest quality of environmental, public, and personal health and safety on the Umatilla Indian Reservation.”
- **Scope.** The Code provides provisions regarding on-site sewage disposal, solid waste management, food sanitation, public swimming and spas, summer camp programs, dog control, livestock management, meth lab decontamination, and workplace safety.
- **Enforcement.** Section 3.005 states that the Code is to be enforced by the Tribal Environmental Health Officer. Andy Dumont is the Tribal Environmental Health Officer and he is in within the Tribal Planning Office. The Tribal Environmental Health Officer has the authority to investigation and issue citations for Code violations and to impose immediate remedial action in the event of an imminent hazard to public health and safety. The Umatilla Tribal Court has jurisdiction to adjudicate citations issued under the Code.

Criminal Code



- **Purpose.** This Code established the criminal laws applicable to Indian persons within the boundaries of the Umatilla Indian Reservation.
- **Scope.** Many chapters of this Code affect public health and safety. These include:
 - Crimes of domestic or family abuse, crimes against minors, elders and incapacitated adults.
 - Offenses against public order including prohibitions on public intoxication, purchase and possession of tobacco products by minors, explosives and firework prohibitions, etc. and
 - Offenses involving narcotics, drugs and alcohol.
- **Enforcement.** The enforcement of the Code is performed by the Umatilla Tribal Police Department, the Tribal Prosecutor and other Court personnel (Probation Officer, etc.) The Umatilla Tribal Court has jurisdiction for the prosecution of Indian persons under the Code.

Fire Prevention and Emergency Services Code.



- **Purpose.** The Code was enacted to protect the human and physical resources of the Umatilla Indian Reservation from injury or damage due to fire or related hazards.
- **Scope.** The Code established the Umatilla Tribal Fire Department and associated emergency medical services, and adopts the International Fire Code for Reservation facilities. The Code also addresses hazardous materials, regulates the parking of trucks transporting hazardous materials and regulates field burning.
- **Enforcement.** The Code is enforced by the Umatilla Tribal Fire Chief.

Housing Code



- **Purpose.** The Code was enacted to address the “shortage of decent, safe and sanitary dwelling accommodations available at rents or prices which persons of low income can afford.”
- **Scope.** The Code established the Umatilla Reservation Housing Authority and authorized it to develop and maintain housing for low income families.
- **Enforcement.** The Code is enforced by the Umatilla Reservation Housing Authority. The Umatilla Tribal Court has jurisdiction to enforce homeownership, lease and rental agreements under the Housing Code and the Tribal Landlord/Tenant and Mortgage Code.

Juvenile Code



- **Purpose.** Based upon the Code recognition that Tribal children are the “most important resource,” the Juvenile Code was “developed as a means as safeguarding the health, safety, welfare and culture of the [CTUIR] for all future generations.”
- **Scope.** The Code establishes the juvenile court system and procedures, defines juvenile offenses and associated treatment and penalties. The Code also imposes reporting and investigation of child abuse and neglect upon adults and Tribal officials.
- **Enforcement.** The Code is enforced by the Department of Children and Family Services and Tribal Court personnel. The Umatilla Tribal Court has jurisdiction to prosecute juveniles and enforce the Code.

Sex Offender Registration Code



- **Purpose.** The Code was enacted to implement the federal Sex Offender Registration and Notification Act (SORNA) and to protect Reservation residents from sexual crimes.
- **Scope.** The Code requires sexual offenders to periodically register with the Tribal Police Department regarding their residential address, employment, photo and other identifying information. Chapters 4 and 5. The CTUIR provides information about the sex offenders on a public sex offender registry website.
- **Enforcement.** The Code is enforced by the Umatilla Tribal Police Department.

Workers Benefit Code



- **Purpose.** The Code was enacted to provide benefits to Tribal government and enterprise employees who are injured on the job.
- **Scope.** The Code applies to all Tribal government and Tribal enterprise employees regardless of the location of their work station. The Code provides lost wages, medical benefits and impairment benefits.
- **Enforcement.** The Code is implemented by an Administrator who handles and makes initial decisions on claims. Administrator benefit decisions can be appealed to an arbitrator. The arbitrator's decision can be appealed to the Umatilla Tribal Court. Overall Code oversight and rulemaking is carried out by the Tribal Employment Benefits Committee.

Land Development Code



- **Purpose.** The Code was enacted to zone the Reservation and establish building codes for Reservation development.
- **Scope.** The Code zones, establishes building codes for and regulates development on all lands within the Umatilla Indian Reservation.
- **Enforcement.** The Code is administered by the Tribal Planning Office and the Natural Resources Commission. Decisions by the Tribal Planning Office and the Natural Resources Commission may be appealed to the Umatilla Tribal Court.

Putting it all together



- There is a lot of information regarding Public Health and Public Health Law in general
- There is very little information regarding Public Health law and Tribal Community Health Departments.
- How we meet the 10 essential public health functions should be addressed in our policies and procedures – identifying which regulations Federal, State or Tribal take precedence
- Priorities need to be established, an improvement and strategic plans developed.
- We have the tools, personnel and the data to begin.

References



Ctuir Status; <http://www.umatilla.nsn.us/laws.html>

Oregon Health Authority, <http://public.health.oregon.gov>

TurningPoint: Collaborating for a New Century in Public Health

September 2003, Presented by the Public Health Statute Modernization National Excellence

Collaborative Model State Public Health Act A Tool for Assessing Public Health Laws

<http://www.hss.state.ak.us/dph/improving/turningpoint/PDFs/MSPHAweb.pdf>