TurningPoint
Collaborating for a New Century in Public Health
A National Program Supported by The Robert Wood Johnson and W.K. Kellogg Foundations

Public Health Statute Modernization Collaborative

Alaska Turning Point
Deborah Erickson, BS, *Chair*
Cheryl Kilgore, BA

Colorado Turning Point
Denise Hase, CPA
Averil Strand, MSN

Nebraska Turning Point
David Palm, PhD
Mary Munter, RN, BSN

Oregon Turning Point
Kathryn Broderick, MPA
Tom R. Engle, RN, MN
Grant Higginson, MD, MPH
Jerry Street, MPA

Wisconsin Turning Point
Terry Brandenburg, MBA, MPA
Stephen Braunginn, BS, MA
Elizabeth Zelazek, RN, MS

Turning Point National Program Office
Ray (Bud) Nicola, MD, MHSA

American Public Health Association
Barbara Hatcher, RN, MPH, PhD

Association of State and Territorial Health Officials
Kevin E. Charles, BA

National Association of County & City Health Officials
Donna Brown, JD, MPH
Douglas Nelson, MSW

National Association of Local Boards of Health
Lee K. Allen, MCPO USN (Ret)
Vaughn Upshaw, DrPH, EdD

National Governors Association
Joan Henneberry, MS

National Conference of State Legislatures
Tracey Hooker, MSHA
Lisa Speissegger, BS

Federal Agency Liaisons

Centers for Disease Control and Prevention
Heather Horton, JD, MHA
Anthony Moulton, PhD

Health Resources & Services Administration
Karen Thiel, PhD

Advisors
Guthrie S. Birkhead, MD, MPH
Kristine Gebbie, DrPH, RN
James Pearson, DrPH
Nancy Thomann, MPH
Teresa Wall, MPH
Robert Wallace, MD

Consultants
Lawrence Gostin, JD, LLD (Hon)
James Hodge, Jr., JD, LLM
Myra Munson, JD, MSW

Lead State Coordinator
Patricia Nault, MPA
Alaska Division of Public Health
P. O. Box 110610
Juneau, AK 99811-0610
(907) 465-8617
FAX (907) 465-8637
Patricia_Nault@health.state.ak.us

Turning Point Model State Public Health Act

Talking Points

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The following talking points can be used for talking about the Turning Point Act with public health professionals, journalists and other target audiences. The document includes basic talking points about the Act and the Collaborative, as well as talking points for some of the "hot button" issues within the Act.

While we have little control over what other people may say about the Turning Point Act, delivering these messages when communicating about the Turning Point Act will address the basic questions and concerns most audiences will have about the Turning Point Act.

It is always okay to refer a journalist to James Hodge and/or Larry Gostin, drafters of the Turning Point Act, for answers to specific questions about the Act and relevant issues. These talking points should be used in general discussions only.

Contact information for Messrs. Hodge and Gostin:

James G. Hodge, Jr., J.D., LL.M.
Email: jhodge@jhsph.edu
Phone: (410) 955-7624

Lawrence O. Gostin, J.D., LL.D. (Hon)
Email: Gostin@law.georgetown.edu
Phone: (202) 662-9373

To read, search, or download the Turning Point Model State Public Health Act in Adobe Acrobat Reader on the Internet, visit:

www.turningpointprogram.org
or
www.hss.state.ak.us/dph/improving/turningpoint/MSPHA.htm

For general information about the Turning Point Act or the Turning Point Public Health Statute Modernization Collaborative, please contact Patricia Nault, Lead State Coordinator, at patricia_nault@health.state.ak.us or (907) 465-8617.

Lobbying issues: Organizations that receive funding from the Robert Wood Johnson Foundation (RWJF) must be aware of the lobbying constraints imposed in federal tax rules on tax-exempt private foundations. These rules limit the ways in which RWJF grant funds may be used to communicate about the Turning Point Act.

According to federal tax rules, lobbying is defined as *attempting to influence legislation*. The Turning Point Act is considered to be legislation for the purposes of tax rules. Tax rules define the kinds of activities that are considered to be lobbying; the rules also define six types of communications that are not considered to be lobbying. RWJF funds cannot be spent on any activity that is defined in tax rules as lobbying, but it can be used to support activities that are defined as exceptions to lobbying.

The following information is excerpted from Internal Revenue Service Publication 557:

Attempting to influence legislation means:

1. Any attempt to influence any legislation through an effort to affect the opinions of the general public or any segment thereof (grassroots lobbying), and
2. Any attempt to influence any legislation through communication with any member of or employee of a legislative body or with any government official or employee who may participate in the formulation of legislation (direct lobbying).

However, the term *attempting to influence legislation* does not include the following activities.

1) Making available the results of nonpartisan analysis, study, or research.
2) Examining and discussing broad social, economic and similar problems.
3) Providing technical advice or assistance (where the advice would otherwise constitute the influencing of legislation) to a governmental body or to a committee or other subdivision thereof in response to a written request by the body or subdivision.
4) Appearing before, or communicating with, any legislative body about a possible decision of that body that might affect the existence of the organization, its powers and duties, its tax-exempt status, or the deduction of contributions to the organization.
5) Communicating with a government official or employee, other than:
   a) A communication with a member or employee of a legislative body (when the communication would otherwise constitute the influencing of legislation).
   or
   b) A communication with the principal purpose of influencing legislation.

Also excluded from the definition of lobbying are communications between an organization and its bona fide members about legislation or proposed legislation of direct interest to the organization and the members, unless these communications directly encourage the members to urge nonmembers to attempt to influence legislation, as explained earlier.

Additional information about lobbying is available at www.irs.gov and from *Being a Player: A Guide to the IRS Lobbying Regulations for Advocacy Charities* which is available for purchase at www.allianceforjustice.org.

TURNING POINT ACT

- The Turning Point Act provides a model series of public health statutory provisions that can be used by state, local, and tribal governments to assess their current public health laws and identify areas that may need updating or improving.

- The Act is not meant to be adopted in whole, nor does it provide provisions that are specifically tailored for any given state, tribal, or local government. Rather, its provisions should be adapted to the specifics of any jurisdiction.

"NEEDS CASE"

- Public health laws are vital during emergency and everyday situations to maintain the public's safety and well-being. State, tribal, and local public health laws have been used to respond to threats ranging from bioterrorism to emerging infectious diseases such as SARS and West Nile virus.

- Just like modern vaccines and public health science, public health laws must be regularly examined and updated to help public health agencies respond to new and existing threats.

- In order to be effective, public health laws should clarify the responsibilities of a public health system and provide a standard approach for controlling contagious diseases.

- Unfortunately, many public health laws are antiquated, ineffective, and insufficient for addressing these and other modern public health needs. [NOTE: You can use 1 or 2 of the examples below to illustrate this statement.]

  - **Many public health laws have been built in layers during the 20th century in response to specific diseases or health threats.** Some public health laws have separate sections for specific communicable diseases (TB, HIV, etc.) instead of standard approaches for addressing infectious disease. The need for updated laws was highlighted when SARS hit the U.S. Some states' disease-specific laws were ill-equipped to deal with new threats. For example, in one state, the state legislature had to quickly approve a measure to include SARS in a law outlining quarantine authority.

  - **In many states, public health laws do not clearly define responsibilities and powers in the public health system.** For example, in some states, laws that address the roles and responsibilities of local governments do not define the extent of public health powers. Conversely, many states' statutes give broad discretionary power to public health departments and boards without due process. Some states' laws authorize state health departments to quarantine people *whenever* officials determine it is necessary, providing very little guidance to the factors necessary for quarantines.

  - **Some current public health laws do not reflect advances in public health science and practice. Instead, they rely on outdated public health practices that may not be as effective in dealing with modern disease threats.** In one state, public health laws suggest that confinement is the first action that must be taken for people who refuse to accept treatment for a communicable disease. Today, many interventions other than confinement are considered to be more appropriate and less intrusive to civil liberties.

- **Some current public health laws may not reflect modern concepts in constitutional law.** Many existing state laws predate advances in constitutional law around civil liberties, including due process, privacy, and anti-discrimination.

- **Public health laws are inconsistent within and among states.** This inconsistency creates problems when communicable diseases cross state lines. For example, public health and wildlife officials contend that the wide variety of state laws is partially to blame for the monkeypox outbreak in the Midwest.

- With effective public health laws in place, public and private sector partners in public health are better prepared to respond to existing and future public health situations.

COLLABORATIVE

- The Turning Point Act was developed over the past three years by a Collaborative consisting of a partnership with representatives from five states (AK, CO, NE, OR, and WI) and a number of national organizations, government agencies, and public health experts.

- The Collaborative's goal is to develop a tool for state, local, and tribal governments to use to assess their current public health laws and to identify areas that need updating and improving.

- A draft version of the Turning Point Act was sent out for public review in January 2003 and the final Act includes recommendations from many citizens, health professionals, public officials, and legal scholars.

- Funding for this effort was provided by The Robert Wood Johnson Foundation as part of its Turning Point Initiative to improve the public health system in the United States.

MODEL STATE EMERGENCY HEALTH POWERS ACT

- Following the 2001 anthrax attacks, it became apparent that many states did not have adequate laws to handle large-scale emergency situations that could affect public health, such as a widespread smallpox outbreak.

- With funding from the Centers for Disease Control and Prevention and others, legal experts at the *Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities* developed the Model State Emergency Health Powers Act (MSEHPA) in collaboration with national organizations representing

governors, legislators, public health commissions, and attorneys generals.

- MSEHPA was designed to help states review and consider their public health laws so they were prepared to handle public health emergencies.

- At the same time, Lawrence Gostin and James Hodge of the *Center* were working with Turning Point's Public Health Statute Modernization Collaborative to develop a tool for state, local, and tribal governments to use to assess their current public health laws and to identify areas that need updating and improving.

- Some components of MSEHPA have been incorporated into the Turning Point Act, making it a comprehensive tool for states to use to ensure that they have strong public health laws that can address modern public health needs in both everyday and emergency situations.

DEFINING POWERS

- In order to be effective, public health laws should clarify the responsibilities and powers of a public health system.

- Unfortunately, some current public health laws do not clearly define the powers and responsibilities within public health systems. For example, in one state, laws do not define any specific public health powers nor do they clearly describe the relationship that should exist between state and local governments on public health issues.

- Other states have laws that give broad discretionary power to public health departments and boards, without providing clear standards and fair procedures for decision-making. For example, one state authorizes the state health department to quarantine people *whenever* its officials believe it is necessary. In another state, the health officer has the power to quarantine people who refuse to be examined or treated for sexually transmitted diseases.

- The Turning Point Act's model provisions emphasize the need to clearly define all of the powers and responsibilities in a public health system. It can be used by state, local, and tribal governments to assess their current health laws and identify areas that need clarification and definition.

- Public health laws should clearly define powers, but they should also provide checks and balances to prevent abuses of these powers.

INDIVIDUAL RIGHTS

- The Turning Point Act strives to balance individual freedoms with the health, security, and well-being of the public at large.

- States need to have a certain amount of authority to protect the public's health, including the power to prevent individuals from endangering others. For example, a person who has been exposed to an infectious disease should be required to undergo testing and/or medical examination, and if infectious, to be vaccinated, treated, or isolated.

- Public health officials may need to have powers over property when a state's governor has declared an official "public health emergency" because something has happened in a community that has the potential to cause widespread harm to the public. For example, in a public health emergency, public health officials may need to manage private property if there is a shortage of vaccines, medicines, or hospitals.

PRIVACY PROTECTIONS

- The Turning Point Act includes provisions from the Model State Public Health Privacy Act of 1999 (drafted by Gostin and Hodge) and is consistent with the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996.

- Information sharing is critical to protect the public's health. The Turning Point Act contains clearly defined provisions about the nature of information that can be shared and the processes for sharing it among health care providers, pharmacists, veterinarians and laboratories, public health agencies, emergency management teams, and public safety departments.

- Protecting privacy is a priority for public health professionals, but so is protecting the population. Thus, when potentially dangerous situations occur, the Turning Point Act provides a framework for making sure that information is available to those who must work to detect and address the situation.

LOCAL CONTROL

- Although the title of the Turning Point Act refers extensively to state public health systems, the Collaborative supports the importance of working together with local and tribal public health systems to ensure the most effective laws are in place to protect and promote the public's health.

- The Collaborative understands that most public health activities take place at the local and state levels and that public health laws must consistently support well-defined relationships.

RELIGIOUS FREEDOM/CULTURAL RESPECT

- Public health laws work to balance individual freedoms and the health, security, and well-being of the public at large.

- States need to have a certain amount of authority to protect the public's health, including the power to prevent individuals from endangering others. However, the Turning Point Act does include some religious exemptions from exercises of state public health authority. For example, the Act's vaccination section provides that parents may seek an exemption from school vaccination requirements for their children based on religious beliefs.