

~ Letters to the Editor ~

Public health law and health

To the editor;
My father, a family doctor, treated patients in his office, in the hospital, in their homes and in our home. This allowed me to observe the delivery of health care throughout the community. I grew to understand that his medical practice provided health to the community, as well as to individuals and families.

My younger brother also chose a career in providing health care. However, I chose a career in law, where I have been roaming for the past 60 years.

Having watched a "country doctor" providing health care in the community led me, after law school, first into a newly developing area of law called "law and medicine" and later called "biomedicine and law." Here necessary legal rules and regulations were being developed to cover the increasingly complex relationship between individual doctors and their individual patients, i.e., principles of autonomy, beneficence, non-maleficence and justice.

Although the legal aspects of treating individual patients has continued to evolve, more recently the legal and ethical aspects of community health have become part of the expanding field of "Public Health Law."

With significant improvements in epidemiology (the study of diseases), threats to the community's health became clearer, expanding the mission and objectives of Public Health Law. A leading public health law scholar recently defined Public Health Law as "the study of (1) the state's legal powers and duties to assure conditions for people to be healthy by identifying, preventing

and reducing risks to the population's health; and (2) the limitations on the state's power to constrain individuals' autonomy, privacy and liberty for the common good. The prime objective of public health law is to pursue the highest possible level of the population's physical and mental health consistent with the values of social justice."

This definition reflects the balance in public health law between (1) the powers of government to act "to ensure the conditions to be healthy" and (2) the constraints on these powers in order to promote or protect individual rights. Neither public health powers nor individual freedoms are absolute.

Public health law is not solely about the government's inherent powers nor about the individual's fundamental rights. It is about how these elements generate meaningful and defensible legal interventions to advance the population's health.

The increasingly important area of Public Health Law involves the coordination of health care providers, government officials and the community. So, it may be worthwhile to briefly highlight the major points of Public Health Law.

The U.S. Constitution sets the legal foundation for public and private health interventions. The Constitution: (1) allocates power between the federal government and the states (Federalism); (2) divides power among the three branches of government (Separation of Powers); (3) prioritizes higher governments' laws over lower levels of government (Preemption); and (4) limits government power in order to protect individual

freedoms. The Constitution establishes the power to protect the public's health, but simultaneously curbs such powers in order to protect individual interests.

Federalism. Federalism distributes powers among the levels of government. Federal powers are separate and distinct from state and local powers. The powers of the national government are enumerated and limited. The states' residual powers authorize regulations affecting the health, safety and general welfare of both the public and individual citizens.

Separation of Powers. The federal Constitution, and many state constitutions, separate governmental powers into three branches: (a) the legislative branch creates laws; (b) the executive branch enforces laws; and (c) the judicial branch interprets laws. Each branch of government has unique constitutional authority to create, enforce and interpret public health law and policy.

The executive branch (primarily through public health departments or agencies) enforces health policy pursuant to its delegated legislative authority, primarily through health departments or agencies.

By enacting legislation federal and state legislatures create health policy and allocate necessary resources to carry it out. This includes enacting ordinances at the local level.

The judiciary interprets the law to resolve disputes that arise when individuals or groups disagree. Courts may be asked to decide: (1) if an individual or organization has power to challenge executive or legislative actions; (2) if public health laws or regulations are constitutionally sound; (3)

if executive agency actions are legislatively authorized; (4) and if public health officials have sufficient evidence to support their orders.

Preemption. Federal laws are supreme and can override conflicting state laws or local ordinances. State laws cannot preempt federal laws. But they can negate local ordinances that conflict with state law, such as a local ordinance prohibiting a state required public health practice.

But within the framework of these legal principles of public health law, we are left with important and difficult public policy questions. Public health law scholars remind us that as we think about the individual risks involved in any public health issue, we also need to think about the risks and benefits to the community. We cannot avoid two core ethical questions: (1) When should a community either authorize or restrict public or private action to benefit the population's health? and (2) What type of public health action should be undertaken?

{The points made here are taken from Public Health Law in a Nutshell (3rd Edition), a treatise for teaching and learning Public Health Law.}

Lance Tibbles
Professor of Law Emeritus
Capital University Law School
Columbus, Ohio

Fall back on Sunday



Daylight Savings Time will end at 2 a.m. Sunday, November 7. Everyone is reminded to turn your clocks back one hour before you go to sleep Saturday night.

Slottee scholarship available

The Beth Slottee Memorial Scholarship is available to former Heppner High School graduates entering their junior year, senior year or graduate school at an accredited college and is based on academic achievement and chosen field of study. Students must have a 2.5 GPA or higher to apply.

The student must be majoring or minoring in music, but if no applicants are available, it may be awarded to a student majoring or minoring in edu-

cation. The funds may be used for tuition, program fees, books, supplies, rent or other expenses.

To apply, email Brandi Sweeney at brandi.sweeney@morrowsd.org for a Google form link to complete and attach an unofficial transcript and current class schedule or verification of enrollment. All applications must be received by 4 p.m. on November 15, 2021. If selected, funds will be dispersed directly to the award recipients no later than December 31, 2021.

Holiday Bazaar planned

Friends of the Irrigon Library will hold their 3rd annual holiday bazaar on Friday, November 5 from noon to 4 p.m. and Saturday, November 6 from 9 a.m. to 4 p.m. at 4900 NE Main Ave, Irrigon.

Vendors participating at the bazaar include Doggie Delites, Pretty Pumpkin

Crafts, Dare to Dazzle with Angela, Designs by Daidra, Daisly Lily Designs, The Four Season Acres, Unicorner Designs and more.

A raffle will be held for a 43-inch Samsung TV, a small patio set, a Hoover carpet cleaner and trekking poles.

Scholarship offered

The board of the South Morrow County Scholarship Committee is offering new scholarships for students enrolled in trade school and post-secondary college or graduate school. The applications are available by emailing Brandi Sweeney at brandi.sweeney@morrowsd.org, a link to the Google form application will then be sent.

The post-secondary or graduate program scholarship is available to former graduates of Ione Community School and Heppner High School. Students must be currently enrolled in any trade school program at least one year after their high school graduation. A completed Google form application must be submitted with an attached verification of enrollment. Multiple scholarships may be awarded.

Applications must be received by 4 p.m. on November 15, 2021. The funds are to help students pay for program fees, books, supplies, rent and other expenses. If selected, funds will be dispersed directly to the award recipients no later than December 31, 2021.

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The trade school scholarship is available to former graduates of Ione Community School and Heppner High School. Students must be currently enrolled in any trade school program at least one year after their high school graduation. A completed Google form application must be submitted with an attached verification of enrollment. Multiple scholarships may be awarded.

Applications must be received by 4 p.m. on November 15, 2021. The funds are to help students pay for program fees, books, supplies, rent and other expenses. If selected, funds will be dispersed directly to the award recipients no later than December 31, 2021.

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A Reminder to Insulate Water Meters

The City of Heppner would like to remind everyone to insulate their water meters this winter.

It is important to protect the meter from freezing before the temperatures drop. Now is the perfect time. Pettyjohn's, the local hardware store stocks a piece of insulation that is a perfect fit. The cost is \$3.00, other building supply stores carry insulation as well. Anyone that has a difficult time accessing their meter to insulate it is encouraged to contact The City for assistance. The City charges \$75.00 plus materials for the repair of any uninsulated meter that becomes frozen. If there are any questions or concerns please contact The City at 541-676-9618 or stop by City Hall.

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