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for Public Health Law

Ideas. Experience. Practical Answers.

Strategies for Equity in the Legislative Process

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“The Laws, Policies, and Politics of Public Health Emergency Powers”

Objectives



Explore what it means to apply a health equity lens and share examples and frameworks



Apply a health equity lens to the Model Public-Health-Emergency Authority Act and discuss implications



Describe strategies for advancing legislative proposals like the Model Act



Connect policy to practice by discussing considerations for implementation

Definitions

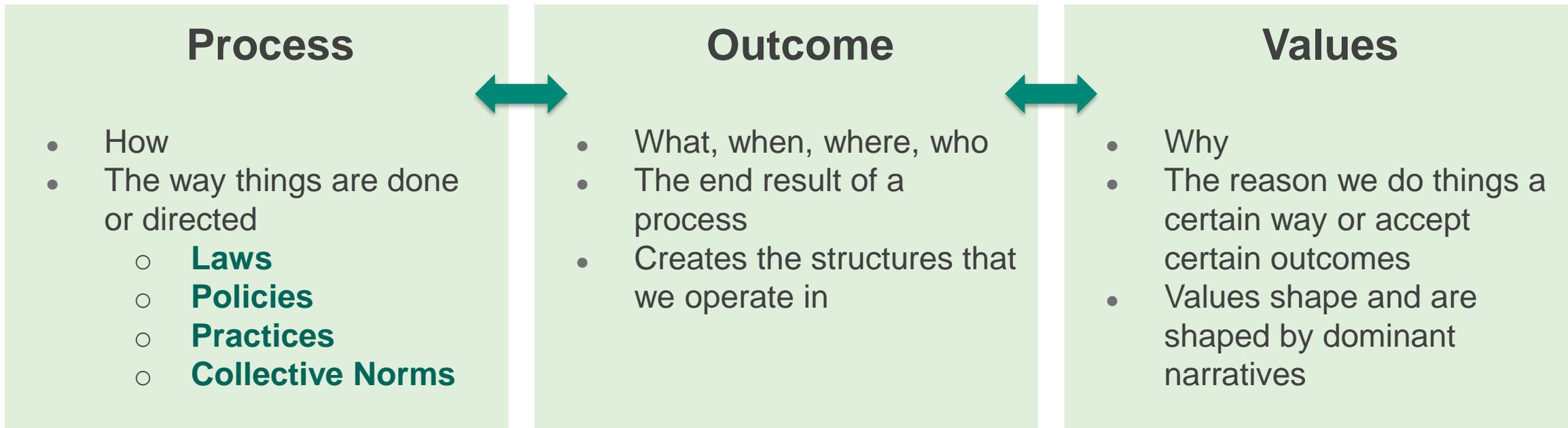
Equity is assurance of the conditions for optimal health and well-being for all people. Achieving equity requires valuing all individuals and populations equally, recognizing and rectifying historical injustices, and providing resources according to need. “Group”-based disparities in health and well-being will be eliminated when equity is achieved.

Racial equity requires monitoring for differences in outcomes and opportunities by “race” (the social interpretation of how one looks in a “race”-conscious society).

Equity is a process and an outcome.

How is racism operating here?

Adapted from C.P. Jones, (2018). Toward the Science and Practice of Anti-Racism: Launching a National Campaign Against Racism, *Ethn. Dis.* 28(Suppl 1): 231-234.



Look for the “absence of”.

Using an Equity Lens

Looking for the “absence of”

“Strategically, intentionally and holistically examining the impact of an issue, policy or proposed solution on underserved and historically marginalized communities and population subgroups.”

M.D. Douglas et al., (2019), **Applying a Health Equity Lens to Evaluate and Inform Policy**, *Ethn. Dis.* 29(Suppl 2): 329-342.

- Considering process, outcomes, and values
- Guided by a set of reflective questions that can lead to a different set of actions

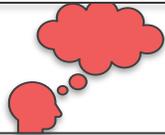
Equity Lens – Common Questions



Who is in the discussion and at the decision-making table?



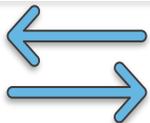
Who is impacted by the decision, and how will they be affected? Who benefits? Who is harmed?



What do the data tell us and what data are missing?



Will this worsen or ignore existing disparities, or does it close gaps?



Based on these questions, what can be done differently?

Reviewing the Model Public-Health-Emergency Authority Act Using an Equity Lens

1. Who is in the discussion and at decision-making table?

- Public health professionals and experts
- Community members and experts
- Communication and public reports

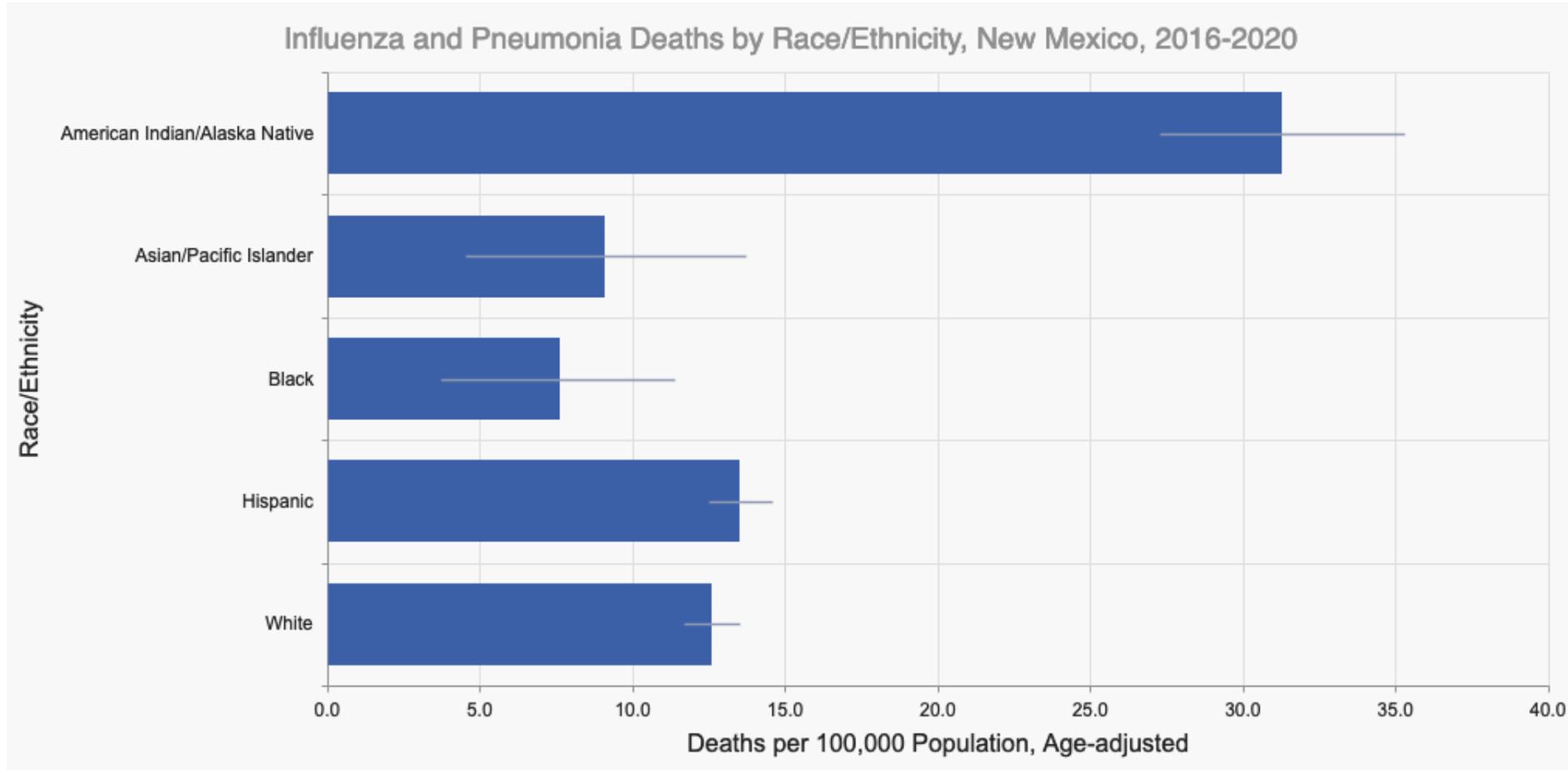


2. Who is impacted, and how will they be affected? Who benefits? Who is harmed?

- “Affected population”
- “Single case”
- “Population-level harm”



Affected Population - Examples



NM-IBIS,
retrieved
3/1/23

Affected Population - Examples

1918 Flu – initially urban areas and people of color, especially Native Americans. This pattern later shifted to white people but Native Americans still had the worst outcomes.

2009 H1N1 Pandemic – racial composition shifted over the course of the pandemic, but highest overall risk for death was among Hispanic patients. There were also prominent occupation-specific disparities.

G. McCarthy et al., (May 2022), **History Repeating-How Pandemics Collide with Health Disparities in the United States**. J Racial Ethn Health Disparities, 20:1–11.

Other examples: HIV/AIDS, Mpox, opioid crisis

Affected Population - Examples

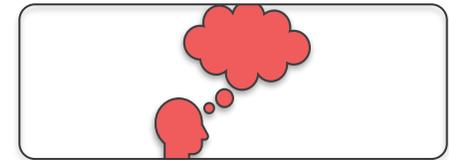
Adapted from
Tacoma-Pierce
County Health
Department,
Health in All Policies
**Health Lens
Analysis Tool**

Population Impacted	Positive Impacts for Population	Negative Impacts for Population	Potential Actions to Improve Impacts
Low income			
People of Color			
Non-English Speakers			
People with Disabilities			
Sexual Orientation			
Gender Identity			
Older Adults			
Youth			
Rural			
Low Education			
People Living in Poverty			
Housing Unstable			

Reviewing the Model Public-Health-Emergency Authority Act Using an Equity Lens

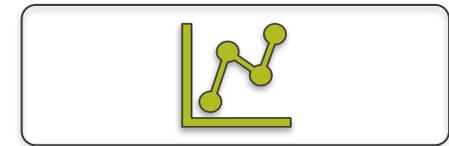
3. What do the data tell us and what data are missing?

- “Evidence” – Qualitative? Quantitative? Expertise?
- “...must be rationally based on evidence then available to the [Governor]”
- Terminating a public health emergency (basis of decision)



4. Will this worsen or ignore existing disparities, or does it close gaps?

- Identifying impact on disparities
- Terminating a public health emergency (impact)
- Issuing orders (factors)
- Race vs. Racism
- Systems vs. Individuals

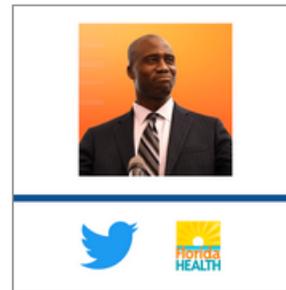


Evidence – Example

Source: Health Feedback

Florida Department of Health misleads on COVID-19 vaccine safety with erroneous comparison of VAERS reports.

<https://healthfeedback.org/claimreview/florida-department-health-misleads-covid-19-vaccine-safety-erroneous-comparison-vaers-joseph-ladapo/>



CLAIM

VAERS reports in Florida increased by 1,700% after COVID-19 vaccines became available, signaling safety concerns

VERDICT [?]

MISLEADING

SOURCE: Joseph Ladapo, Florida Department of Health, Twitter, 15 Feb. 2023 [↗](#)

DETAILS

Misleading: It is mandatory for healthcare professionals to report all serious adverse events following COVID-19 vaccination, regardless of whether the vaccine was the cause. The same requirement isn't imposed on other vaccines, therefore the greater number of reports associated with COVID-19 vaccines compared to other vaccines is expected even without any issues related to COVID-19 vaccine.

Misrepresents source: The study by Dag Berild *et al.* specifically stated that "No consistent associations were observed between the mRNA COVID-19 vaccines and coronary artery disease, coagulation disorders and cerebrovascular disease". However, the Health Alert cited it to support the implication that COVID-19 mRNA vaccines are unsafe.

KEY TAKE AWAY

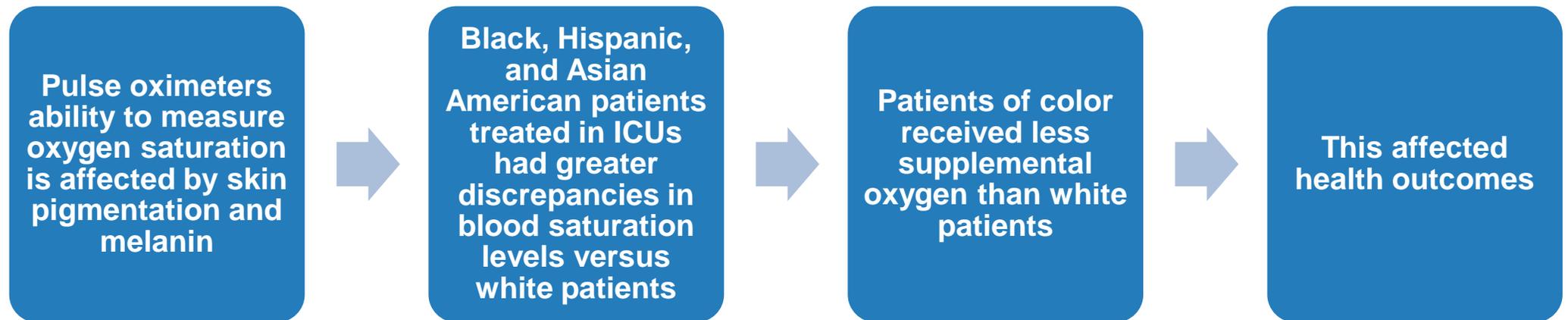


Multiple studies have shown that the benefits of COVID-19 vaccines outweigh their risks. One of the key reasons for the greater number of adverse event reports for COVID-19 vaccines is the mandatory requirement to report all serious adverse events regardless of causality. Other vaccines don't carry this requirement.

Systems vs. Individuals - Example

Article: **Assessment of Racial and Ethnic Differences in Oxygen Supplementation Among Patients in the Intensive Care Unit**

E.R. Gottlieb et al., (2022), JAMA Internal Medicine



What is a dominant narrative about race and health outcomes?

Alternative Language – addressing the “absence of”

NJ A4004/S2410, P.L.2021, c.106 – Establishes Coronavirus Disease 2019 (COVID-19) Pandemic Task Force on Racial and Health Disparities

Section 2.e.-f.

(1) address the racial, ethnic, and health disparities, and **historical and systematic inequalities** pertaining to race and ethnicity that have amplified the death rate in the State’s minority and vulnerable communities during the COVID-19 pandemic; and

(2) **reduce and eliminate disparities** among the various racial and ethnic populations within the State’s minority and vulnerable communities with respect to health status, access to high-quality health care, and utilization of health care services;

f. evaluate the communication, messaging, and dissemination of information regarding testing, contact tracing, and other related public health approaches necessary **to achieve health care equity and cultural competence** in the provision of physical and mental health treatment and services to the State’s minority and vulnerable communities during the COVID-19 pandemic;

How does the law reinforce narrative structures about race and racism?

Reviewing the Model Public-Health-Emergency Authority Act Using an Equity Lens – Other Observations

1. Pre-emption of local public health power
2. Civil penalties and fines
3. Potential Gaps & Opportunities
 - Tribal Communities
 - Pandemic Policy Recommendations

Potential Gaps & Opportunities – Tribal Communities

“Absence of” specific provisions that recognize and authorize collaboration and coordination with tribes, pueblos, and nations.

- Authority may exist via other statutes.
- Is there value in recognizing Tribal sovereignty and coordination during a public health emergency in this Model Act?

Example – Language added to New Mexico’s Public Health Act, NM SB223 (2017):

“cooperate and enter into contracts or agreements with Native American nations, tribes and pueblos and off-reservation groups to coordinate the provision of essential public health services and functions;”

Potential Gaps & Opportunities – Pandemic Policy Recommendations

COVID Disparities Task Forces: Key Issues and Policy Recommendations



[This Photo](#) by Unknown Author is licensed under [CC BY](#)

- **Equitable Data Practices**
- **Community Engagement and Inclusion**
- **Communication Strategies**
- **Health Care Access**
- **Social Determinants of Health**
- **Implementation**

D. Hunter and B. Lawton, (2021), Centering Racial Equity: Disparities Task Forces as a Strategy to Ensure an Equitable Pandemic Response, 14 St. Louis U. J. Health L. & Pol'y.

COVID Disparities Task Forces

Exploring the “absence of”

KEY ISSUE	TOP POLICY RECOMMENDATIONS
Equitable data practices	<ul style="list-style-type: none"> • Standardize data collection, and collect and report more comprehensive data • Create health equity dashboards to inform the public, drive decision-making, and create accountability
Community Engagement and Inclusion	<ul style="list-style-type: none"> • Ensure public input in developing recommendations for COVID-19 response • Facilitate public participation in decision-making processes
Communication Strategies	<ul style="list-style-type: none"> • Develop culturally relevant messaging including communications in multiple languages • Entrust community members to deliver messaging to bolster trust between community groups and government entities providing resources

Lessons Learned: Getting Bills Passed

Assessing legislative policy proposals - factors

- ✓ Sound scientific/rational justification
- ✓ Cannot be achieved through rulemaking
- ✓ Aligned with Governor's priorities
- ✓ Low cost/No cost – reasonable budgetary request
- ✓ Support/Opposition
- ✓ *Equity impact*
- ✓ *Aligned with community priorities*

Lessons Learned: Getting Bills Passed

Fiscal Impact Reports

8. DISPARITIES ISSUES

- What population is being served by this bill (e.g. specific demographics, provider of services)?
- Describe any positive or negative impact the bill may have on health equity or health disparities, including any relevant data.

If there are no disparities issues, write “None.”

9. ALTERNATIVES

Are there mechanisms other than legislation that could accomplish what the bill proposes? If yes, describe them here.

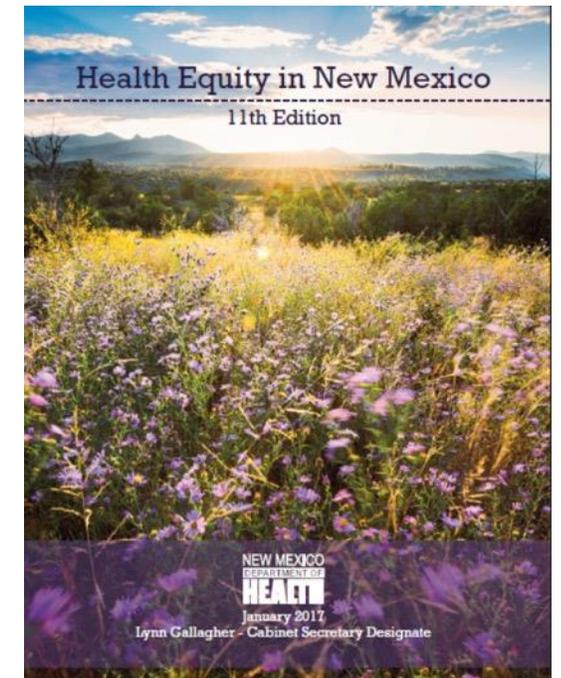
10. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

This should be the opposite of the synopsis. Example: If HB45 is not enacted, then...

11. AMENDMENTS

Propose exact language, and note the exact page, section, and line number for the change. If there are no proposed amendments, write “None.”

Example from New Mexico Department of Health



Lessons Learned: Getting Bills Passed

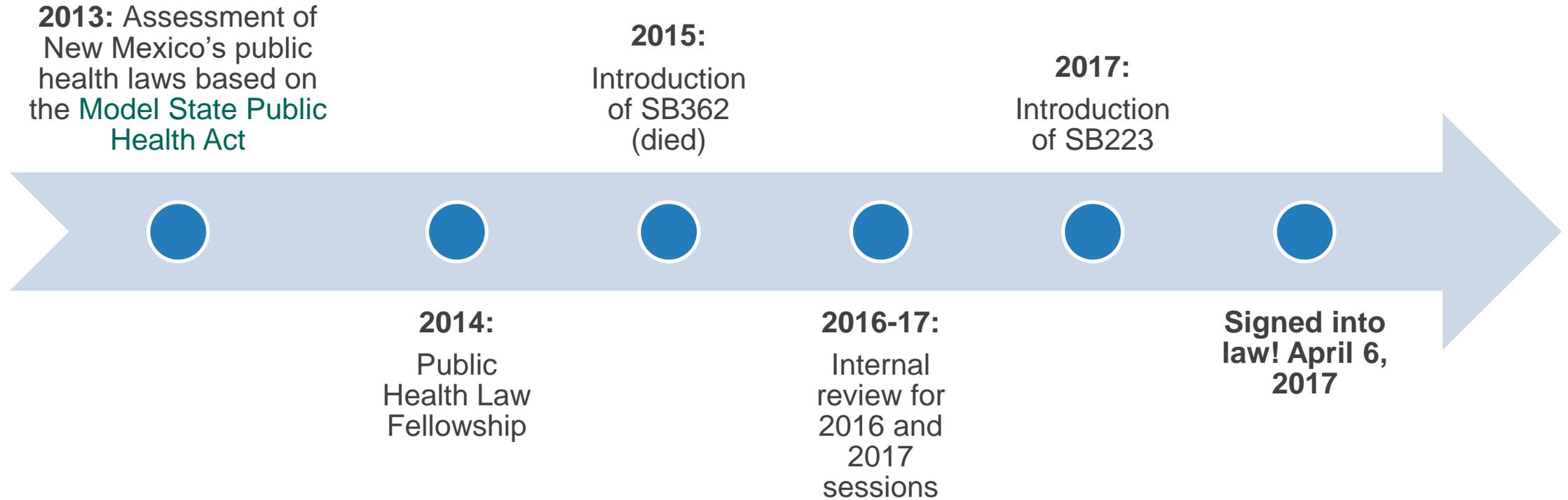
Fiscal Impact Reports

BILL ANALYSIS		
<small>Form Revised: 1/7/15</small>		
Bill Number:	Companion:	Date:
	Analyst:	Phone:
Lead Division:	Sponsor:	
Topic:		
Brief Summary of the bill¹:		
Concerns raised by bill:		
Benefits gained from bill:		
Describe any positive or negative impact the bill may have on tribal health concerns.		
Describe any positive or negative impact the bill may have on health equity² or health disparity³.		

Example from Washington State Department of Health

Shared during APHA
Annual Meeting, Nov. 4,
2015: Applying a Health
Equity Lens When
Completing Bill Analyses

Example: New Mexico Senate Bill 223 (2017)



Example: New Mexico Senate Bill 223 (2017)

Why update?

- ✓ Many state statutes are quite old – 40 to 100 years old – and were often passed with a focus on a particular disease (like TB).
- ✓ Turning Point Model State Public Health Act (September 2003)
- ✓ Consistency with other state laws (for example, the Public Health Emergency Response Act, Section 12-10A-1 *et seq.* (NMSA 1978))
- ✓ Other factors: SB362 (2015) was impacted by the Ebola outbreak of 2014

Example: New Mexico Senate Bill 223 (2017)

Strategies

**Build
relationships**

**Understand
programs and
operations**

Have a theme

**Assess
alternative
approaches**

**All parties should
have a thorough
understanding of
the proposal**

Assessing Policy Options

CATEGORIES OF PROPOSED CHANGES

	New statutory language	Moderate changes to statutory language	Minor changes to statutory language	Changes through regulatory authority	Repealing provisions
Conditions of Public Health Importance Framework	Define testing and screening authority				
Updates to reflect modern legal and public health standards	Give NMDOH power to issue 24-hour public health order	Revise health planning process to align with accreditation	Change STD to STI		
Facilitate collaboration	Explicit responsibility to coordinate with Native Americans				Remove required stakeholder engagement to promote flexibility
Remove obsolete provisions and references					Remove a provision prohibiting school employment of individuals with a communicable disease
Ensure the protection of individuals	New due process protections for isolation and quarantine				

Implementation



Findings:

- ✓ Need for increased awareness among workforce of legal basis for public health authority
- ✓ Top training needs:
 - **How to influence law and policy development**
 - **How to understand the effects of law and policy on health**

Challenges and Opportunities for Strengthening the U.S. Public Health Infrastructure: Findings for the Scan of the Literature, May 2021, National Network of Public Health Institutes.

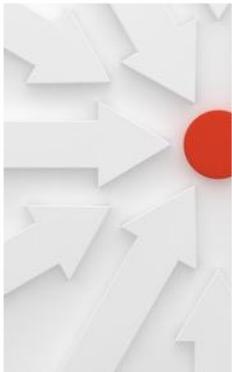
Accreditation: Community Engagement and Collaboration



Domain 4: Strengthen, support, and mobilize communities and partnerships to improve health.



Measure 4.1.3 A: Engage with community members to address public health issues and promote health.



Examples include:

- Making the decision-making structure **inclusive and transparent** to empower community members or developing **mechanisms for shared ownership** in the process.
- Enhancing residents' capacity to **understand levers of power or influence** in policy change.
- Ensuring consistency and transparency in how the health department engages with the community, such as, **creating space for community participation** on workgroups, [and] hosting meetings in locations and times convenient to community members or partners....

Accreditation: Influence Policies, Plans, and Laws



Domain 5: Create, champion, and implement policies, plans, and laws that impact health.



Measure 5.1.2 A: Examine and contribute to improving policies and laws.



Required elements of a review include:

- Consideration of evidence-based practices, promising practices, or practice-based evidence.
- **Assessment of the impacts of the policy or law on equity.**
- Input gathered from stakeholders or strategic partners.
- Documentation must include both the review and how it was shared.

Communication



 **Brittani James, MD** 
@DrBrittaniJ

Instead of the Healthcare community asking how we can get Black folks to trust us, we should instead be asking “how do we become trustworthy?”

8:08 PM · 31 Jan 21 · [Twitter for iPhone](#)

946 Retweets **49** Quote Tweets **4,408** Likes

Rebuilding Trust in Public Health



Making Public Health More Trustworthy

Collaborative for Anti-Racism and Equity HereNow.org

- Streamline access to key resources and information
- Facilitate connections
- Center and amplify community-led efforts and community-generated ideas
- Inform legal and policy solutions

PARTNERS



Thank you!

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