

Healthy People: The Role of Law and Policy in the Nation's Public Health Agenda

Angela K. McGowan, K.T. Kramer, and Joel B. Teitelbaum

Overview of the Healthy People Initiative

Each decade for almost 40 years, the Healthy People initiative has established a set of science-based objectives with measurable targets that provide a strategic framework to motivate, guide, and focus action to improve the nation's health and communicate a vision for achieving health equity.¹ The current iteration - Healthy People 2020 (HP2020) — available at HealthyPeople.gov includes more than 1,200 objectives spanning 42 topic areas, including disease prevention, specific health behaviors and conditions, and specific populations.² HP2020 also includes Leading Health Indicators (LHIs) — an actionable subset of 26 objectives across 12 topic areas that communicates pressing public health issues and addresses determinants of health that promote quality of life, healthy behaviors, and healthy development across all life stages.³ Recognizing that many of the conditions that create and sustain health occur where Americans live, learn, work, worship, and play, social determinants of health (SDOH) were included

both as an overarching goal, a topic area, and an LHI for the first time this decade.⁴

By providing baseline measures, ambitious yet achievable targets, and tools and guidance to reach population health goals, the Healthy People initiative serves as a roadmap for the nation's health. Healthy People is a federally led, stakeholder-driven initiative housed in U.S. Department of Health and Human Services (HHS) Office of Disease Prevention and Health Promotion (ODPHP). A Federal Interagency Workgroup (FIW) (representatives from more than 30 departments, agencies, and offices) provides ongoing guidance to the initiative with leadership and support from ODPHP, the Centers for Disease Control and Prevention's (CDC) National Center for Health Statistics (NCHS) and 42 topic area workgroups with federal experts, as well as input from the public. To build on the legacy of past iterations, the Secretary of HHS convened an independent Advisory Committee (the Committee) comprised of 13 non-federal subject matter experts to inform the development and imple-

Angela K. McGowan, J.D., M.P.H., is a Project Director at the Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary of Health, U.S. Department of Health and Human Services (Centers for Disease Control and Prevention (CDC) Assignee). She works to advance the use of policy and law as tools to improve health, and leads an effort of partners to develop evidence-based products to highlight the state of laws and policies related to the national Healthy People Initiative. Her prior experience includes focusing on encouraging the use of policy, advocacy and law to help create a strong and comprehensive public health system, focusing on chronic diseases, serving in CDC's Epidemic Intelligence Service, and working as a legal services officer with the Georgia Division of Public Health. **Katheryne (K.T.) Kramer, J.D., M.H.A.**, is a public health analyst with the CDC Foundation working on the Law and Health Policy Project, a collaborative effort between the Department of Health and Human Services Office of Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, CDC Foundation, and Robert Wood Johnson Foundation. Her work focuses on the intersection of law and public health and ways for communities and decision-makers to use legal and policy tools to address the determinants of health and improve population health outcomes. **Joel B. Teitelbaum, J.D., LL.M.**, is Associate Professor, Director of the Hirsh Health Law and Policy Program, and Co-Director of the National Center for Medical-Legal Partnership at the George Washington (GW) University Milken Institute School of Public Health. He also carries a faculty appointment in the GW School of Law. He teaches and writes in the fields of health care civil rights, law and social determinants of health, health reform and its implementation, and medical-legal partnership. He is co-author of *Essentials of Health Policy and Law*, Fourth Edition (forthcoming 2019) and *Essentials of Health Justice* (2018).

mentation of Healthy People 2030 (HP2030).⁵ The Committee's structure, charge, and work completed thus far are described in the next section, followed by a discussion about the role of law and policy in past, current, and future iterations of Healthy People. Lastly, we discuss the importance of law and policy in achieving health and equity in the upcoming decade.

Developing the Framework of Healthy People 2030

The Committee's membership includes thought leaders from fields as varied as behavioral medicine, dental public health, disease prevention, digital health

objectives while ensuring that the selection criteria identify the most critical public health issues that are high-impact priorities supported by current, national data sets." The effort to prune the number of objectives comes in response to feedback from Healthy People stakeholders seeking a more focused set of actionable national priorities.

Development of HP2030 is occurring in phases. The first phase, which began in December 2016 and required developing the overall framework, was completed in June 2018. The second phase, which involves developing objectives and the framework for the LHIs for HP2030, is ongoing, and the final phase — the

While law and policy have been considered in the Healthy People initiative since its inception, the current iteration of Healthy People, HP2020, explicitly incorporated policy in its mission statement, calling for collaboration and action "to strengthen policies and improve practices that are driven by the best available evidence and knowledge." HP2020 also includes for the first time — through collaboration between ODPHP, CDC, the CDC Foundation, and the Robert Wood Johnson Foundation — the Law and Health Policy Project (Project), which aims to help communities leverage laws and policies to meet Healthy People targets. Project activities include developing reports on priority issues — such as nutrition and weight status — that identify evidence-based legal and policy health promotion strategies; a webinar series highlighting lessons learned and promising practices; and support for the use of law and policy in the development of HP2030.

innovation, nursing science, health statistics, health disparities, and equity. Notably — and building on the growing importance of law and health policy work with HP2020 — the Committee included a public health law expert for the first time. While Committee members serve in the most public-facing capacity among the Healthy People team during the HP2030 development process, a large and critical collection of individuals, public agencies, and community organizations inform, support, promote, and implement the work of the Committee. This group includes, but is not limited to: ODPHP; the FIW; national public health associations; state, territorial, and local government entities; businesses; schools and universities; and faith-based organizations.

The HP2030 Committee was charged with assisting the HHS Secretary "in reducing the number of

launch of HP2030 — should occur in early 2020.

The HP2030 framework consists of several elements.⁶ Key components include the HP2030 *vision* and *mission*, a series of 7 *foundational principles*, a series of 5 *overarching goals*, and a series of 8 *action plan items*. Additionally, the Committee developed a series of 7 issue briefs about subjects that may lie beyond the ken of Committee members themselves to provide clarity and context to their recommendations for HP2030.⁷ The briefs cover the following topics: Health and Well-Being, Health Equity, Health Literacy, Health Promotion, Summary Measures, Systems Science and Modeling, and Law and Policy. Before describing the latter brief and the role of law and policy in HP2030 in more detail, a historical description of the role of law and policy in prior iterations of Healthy People is provided.

Figure 1

Law and Policy in Healthy People Objectives

| Decade | Objectives Related to Law and Policy | Topic Areas with Law and Policy Objectives | Relevant Topic Areas |
|---|--------------------------------------|--|--|
| Healthy People 1990 | 4 of 226 objectives | 3 of 15 topic areas | Toxic Agent and Radiation Control, Smoking and Health, Nutrition |
| Healthy People 2000 | 27 of 319 objectives* | 10 of 22 topic areas | Tobacco, Substance Abuse: Alcohol and Other Drugs, Violent and Abusive Behavior, Unintentional Injuries, Occupational Safety and Health, Environmental Health, Food and Drug Safety, Cancer, Diabetes and Chronic Disabling Conditions, Immunization and Infectious Diseases |
| Healthy People 2010 | 23 of ~1000 [^] objectives | 6 of 28 topic areas | Environmental Health, Injury and Violence Prevention, Physical Activity and Fitness, Public Health Infrastructure, Substance Abuse, Tobacco Use |
| Healthy People 2020 | 59 of >1,200 [^] objectives | 10 of 42 topic areas | Adolescent Health, Early and Middle Childhood, Environmental Health, Injury and Violence Prevention, Maternal, Infant and Child Health, Nutrition and Weight Status, Physical Activity, Preparedness, Substance Abuse, Tobacco Use |
| <p>* In HP 2000, some objectives were included under more than one topic area. Duplicate objectives were given more than one objective number (e.g., 3.11 and 10.18) to indicate that they fell under each of those topic areas. For this exercise, these objectives are counted twice to reflect they are in both topic areas.</p> <p>[^] In HP2010 and HP2020, some objectives are grouped under a main objective “header.” The sub-objectives are the measurable objectives. The number of relevant objectives reflects all measurable objectives that are related to law and policy.</p> | | | |

A Historical Perspective of Law and Policy in Healthy People

Laws and policies have been used to help create, strengthen, and support the systems and infrastructure that protect the nation’s health and promote fair and realistic opportunities for individuals to optimize their health. For example, key public health achievements like increased vaccination rates and reducing tobacco use would not have been possible without laws and policies.⁹

More specifically, laws and policies have a foundational role in shaping physical, social, and economic environments in ways that can both promote and inhibit health and well-being.¹⁰ As such, they could be used to address the SDOH, reduce disparities in health outcomes, and strive for health equity. As with other public health interventions, evaluating both new and existing laws and policies to understand their interaction and influence on health helps to ensure that desired outcomes are achieved, health-harming consequences are mitigated, and proven and promising strategies are disseminated to maximize impact.¹¹

As part of the development of HP2030, objectives from the past four iterations were reviewed to better understand the role of law and policy in the initiative and its evolution. Criteria used to determine which objectives were related to law and policy were defined conservatively to capture only those with explicit legal or policy strategies; objectives where such an approach was implied or could be beneficial are not included. Figure 1 summarizes the findings from this historical scan. While the number of objectives expressly referencing law and policy has increased with each of decade of Healthy People, the majority are concentrated in just a few topic areas (e.g., tobacco use).

While law and policy have been considered in the Healthy People initiative since its inception, the current iteration of Healthy People, HP2020, explicitly incorporated policy in its mission statement, calling for collaboration and action “to strengthen policies and improve practices that are driven by the best available evidence and knowledge.”¹² HP2020 also includes for the first time — through collaboration between ODPHP, CDC, the CDC Foundation, and

the Robert Wood Johnson Foundation — the Law and Health Policy Project (Project), which aims to help communities leverage laws and policies to meet Healthy People targets.¹³ Project activities include developing reports on priority issues — such as nutrition and weight status — that identify evidence-based legal and policy health promotion strategies; a webinar series highlighting lessons learned and promising practices; and support for the use of law and policy in the development of HP2030.

The Role of Law and Policy in Healthy People 2030

A lesson from the historical scan of Healthy People objectives and other activities focused on law and policy is that there are opportunities to more systematically and comprehensively incorporate law and policy into HP2030. As described in the Committee's HP2030 Law and Policy issue brief, local, state, tribal, and federal laws and policies can influence health, well-being, and equity in many ways:¹⁴

- They often serve as direct responses to health-harming social conditions and needs (e.g., state-level public health codes, Medicaid);
- They can perpetuate social conditions that can be inequitable and harmful to health and well-being (e.g., redlining or denying services or funding to certain communities);
- Their selective application can affect distributions of health and perpetuate inequities (e.g., the disproportionate application of federal drug laws against people of color, even while illicit drug utilization rates are effectively the same for African-Americans and whites¹⁵);
- The under-enforcement of laws (e.g., tobacco regulations or community housing codes) can impede health and equity; and
- A law's interpretation by a regulatory agency or court can affect health (e.g., the U.S. Supreme Court's decision that the Affordable Care Act's Medicaid expansion is optional, rather than mandatory).¹⁶

Because law and policy are powerful determinants of health, well-being, and health equity, they warrant greater visibility in all phases of HP2030.

A convergence of new frameworks, tools, and approaches in the fields of public health law research and practice offer new ways to consider how laws and policies can improve the nation's health. The Five Essential Public Health Law Services, a framework developed by CDC and other leading public health law organizations, draws on the diverse skills of a multise-

tor workforce and transdisciplinary considerations of quality improvement and evaluation to improve public health law and policy.¹⁷ Legal epidemiology — the scientific study of laws as a factor in the cause and distribution of disease and injury — can serve to assess, evaluate, and develop evidence to understand how laws and policies improve or hinder progress towards Healthy People objectives.¹⁸ Through a “health and well-being in all policies/laws” approach in designing objectives, LHIs, and implementation strategies, there are opportunities for HP2030 to foster multi-sectoral collaborations to best leverage laws and policies that aim to level economic, physical environment, and social environment playing fields.¹⁹

Conclusion

Because a great deal of individual and population health is influenced by upstream social, economic, and environmental structures which, in turn, can be supported and influenced by laws and policies, it is crucial to better integrate legal and policy considerations into the design and implementation of next decade's national health goals. Indeed, many structural and social factors that negatively influence health and well-being are not “natural” — they are human-made, often through the creation, revision, repeal, or lack of law and legal policy.²⁰ As a result, many of these factors can be dismantled by intentional human efforts. The HP initiative provides a science-based framework that can help assess how disparities and inequities are impacting population health outcomes. Developing a legal and policy agenda with a deliberate health and equity focus that aligns with Healthy People's objectives could serve a vital role in achieving the HP2030 vision of creating “a society in which all people can achieve their full potential for health and well-being across the lifespan.”²¹

Note

Mr. Teitelbaum reports he is a member of the U.S. Department of Health and Human Services Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2030. Ms. Kramer reports grants from the Robert Wood Johnson Foundation during the conduct of the study. Ms. McGowan reports grants from Robert Wood Johnson Foundation and grant support from CDC Foundation during the conduct of the study.

References

1. Department of Health and Human Services (HHS), Office of Disease Prevention and Health Promotion (ODPHP), “About Healthy People,” *available at* <<https://www.healthypeople.gov/2020/About-Healthy-People>> (last visited February 28, 2019).
2. HHS, ODPHP, “Leading Health Indicators,” *available at* <<https://www.healthypeople.gov/2020/Leading-Health-Indicators>> (last visited February 28, 2019).
3. *Id.*

4. HHS, ODPHP, "Social Determinants," *available at* <<https://www.healthypeople.gov/2020/leading-health-indicators/2020-lhi-topics/Social-Determinants>> (last visited February 28, 2019).
5. HHS, ODPHP, "Healthy People 2030 Development Framework," *available at* <<https://www.healthypeople.gov/2020/About-Healthy-People/Development-Healthy-People-2030/Framework>> (last visited February 28, 2019).
6. *Id.*
7. HHS, ODPHP, "The Secretary's Advisory Committee for 2030: Committee Reports and Meetings," *available at* <<https://www.healthypeople.gov/2020/About-Healthy-People/Development-Healthy-People-2030/Committee-Meetings>> (last visited February 28, 2019).
8. Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for Healthy People 2030 (Advisory Committee). Issue briefs to inform development and implementation of Healthy People 2030: Submitted to the Secretary of the U.S. Department of Health and Human Services [Internet]. 2018 Nov. Law and policy as determinants of health and well-being, at 157-64, *available at* <https://www.healthypeople.gov/sites/default/files/HP2030_Committee-Combined-Issue%20Briefs_2019-508c.pdf> (last visited May 20, 2019).
9. *Id.*
10. *Id.*
11. S. Burris et al., "Better Health Faster: The 5 Essential Public Health Law Services," *Public Health Reports* 131, no. 6 (2016): 747-753.
12. See ODPHP, *supra* note 1.
13. HHS, ODPHP, "Law and Health Policy," *available at* <<https://www.healthypeople.gov/2020/law-and-health-policy>> (last visited February 28, 2019).
14. See *supra* note 8.
15. S. Burris, "Law in a Social Determinants Strategy: A Public Health Law Research Perspective," *Public Health Reports* 126, Suppl. 3 (2011): 22-27.
16. See *supra* note 8.
17. See Burris et al., *supra* note 11.
18. S. Burris et al., "A Transdisciplinary Approach to Public Health Law: The Emerging Practice of Legal Epidemiology," *Annual Review of Public Health* 37 (2016): 135-148.
19. See *supra* note 8.
20. E. Tobin-Tyler and J. B. Teitelbaum, *Essentials of Health Justice: A Primer* (Massachusetts, Jones & Bartlett Learning, 2019): at 167-68.
21. See ODPHP, *supra* note 5.