Strategies for Equity in the Legislative Process

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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?


<table>
<thead>
<tr>
<th>Process</th>
<th>Outcome</th>
<th>Values</th>
</tr>
</thead>
</table>
| - How  
  - The way things are done or directed  
    - Laws  
    - Policies  
    - Practices  
    - Collective Norms | - What, when, where, who  
  - The end result of a process  
  - Creates the structures that we operate in | - Why  
  - The reason we do things a certain way or accept certain outcomes  
  - Values shape and are shaped by dominant narratives |

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.”


• 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

<table>
<thead>
<tr>
<th>Question</th>
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<tbody>
<tr>
<td>Who is in the discussion and at the decision-making table?</td>
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<tr>
<td>Who is impacted by the decision, and how will they be affected? Who benefits? Who is harmed?</td>
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<tr>
<td>What do the data tell us and what data are missing?</td>
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<tr>
<td>Will this worsen or ignore existing disparities, or does it close gaps?</td>
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<tr>
<td>Based on these questions, what can be done differently?</td>
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</table>
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

Influenza and Pneumonia Deaths by Race/Ethnicity, New Mexico, 2016-2020

- American Indian/Alaska Native
- Asian/Pacific Islander
- Black
- Hispanic
- White

Deaths per 100,000 Population, Age-adjusted
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.


Other examples: HIV/AIDS, Mpox, opioid crisis
## Affected Population - Examples

<table>
<thead>
<tr>
<th>Population Impacted</th>
<th>Positive Impacts for Population</th>
<th>Negative Impacts for Population</th>
<th>Potential Actions to Improve Impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low income</td>
<td></td>
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<tr>
<td>People of Color</td>
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<tr>
<td>Non-English Speakers</td>
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<tr>
<td>People with Disabilities</td>
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<tr>
<td>Sexual Orientation</td>
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<tr>
<td>Gender Identity</td>
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<tr>
<td>Older Adults</td>
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<td></td>
<td></td>
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<tr>
<td>Youth</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Rural</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Low Education</td>
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<tr>
<td>People Living in Poverty</td>
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<tr>
<td>Housing Unstable</td>
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Adapted from Tacoma-Pierce County Health Department, Health in All Policies Health Lens Analysis Tool
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.


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


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 Borild 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

Pulse oximeters ability to measure oxygen saturation is affected by skin pigmentation and melanin
Black, Hispanic, and Asian American patients treated in ICUs had greater discrepancies in blood saturation levels versus white patients
Patients of color received less supplemental oxygen than white patients
This affected health outcomes

What is a dominant narrative about race and health outcomes?
Alternative Language – addressing the “absence of”


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

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

COVID Disparities Task Forces
Exploring the “absence of”

<table>
<thead>
<tr>
<th>KEY ISSUE</th>
<th>TOP POLICY RECOMMENDATIONS</th>
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</thead>
</table>
| Equitable data practices                | • 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      | • Ensure public input in developing recommendations for COVID-19 response  
• Facilitate public participation in decision-making processes                                                                                                    |
| Communication Strategies                | • 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
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.”*
## Lessons Learned: Getting Bills Passed

### Fiscal Impact Reports

```
BILL ANALYSIS

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>Companion:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Analyst:</td>
<td>Phone:</td>
</tr>
<tr>
<td></td>
<td>Sponsor:</td>
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</table>

<table>
<thead>
<tr>
<th>Lead Division:</th>
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<table>
<thead>
<tr>
<th>Topic:</th>
</tr>
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<table>
<thead>
<tr>
<th>Brief Summary of the bill:</th>
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<table>
<thead>
<tr>
<th>Concerns raised by bill:</th>
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</table>

<table>
<thead>
<tr>
<th>Benefits gained from bill:</th>
</tr>
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</table>

### Example from

**Washington State Department of Health**

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

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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 equity** or **health disparity**.
Example: New Mexico Senate Bill 223 (2017)

2013: Assessment of New Mexico’s public health laws based on the Model State Public Health Act

2014: Public Health Law Fellowship

2015: Introduction of SB362 (died)

2016-17: Internal review for 2016 and 2017 sessions

2017: Introduction of SB223

Signed into law! April 6, 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

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