

Public Health Law & The COVID-19 Pandemic (Letter to the Editor)

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Dear Editor

As the international community nears 3 years of the COVID-19 pandemic it seems appropriate to reflect on the importance of public health law as a tool in managing global health crises.

Most societies recognize a nation's police powers to protect its citizen's health and well-being. public health law is the mechanism utilized to direct a nation's health and social policies.

During the COVID-19 pandemic, public health law has been used to: regulate vaccination; contact tracing; quarantine; business operations; the provision of public education among other aspects of daily life.

While the operation of public health law seeks to protect a nation's population, critics argue that it impinges an individual right by restricting certain behavior. Policy makers would argue that those restrictions are necessary to protect the larger population from conditions that threaten its health.

Public health law in the United States derives its authority primarily from the 10th Amendment to the US Constitution and from an early 20th century US Supreme Court case *Jacobson v. Massachusetts*.

The 10th Amendment to the US Constitution is recognized as part of the Bill of Rights, comprised of the first 10 amendments which attempt

to specify the respective fundamental rights of the federal government and 50 state governments. The 10th Amendment gives the individual states the governmental powers not given specifically to the federal government by the Constitution. This has long been interpreted to include giving the states the authority to take actions in public health emergencies.

Jacobson v. Massachusetts is a 1905 US Supreme Court decision in which the court upheld the authority of the State of Massachusetts to authorize local governments to undertake public health measures. The case involved a resident of Cambridge who questioned the municipality's right to require him to be vaccinated against smallpox or to pay a fine for failing to do so.

In addition to challenges claiming violation of individual and human rights, public health laws are often challenged on procedural grounds including the legal authority of specific regulatory agencies to issue public health directives. A well-developed body of national public health laws usually means that most such challenges will not succeed.

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