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State Policies Relevant to Disease Intervention Specialists in the United States

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Abstract

Background: The functions of disease intervention specialists (DIS) represent core infectious disease control practices and have legal foundations in the United States (US). While important for state and local health departments to understand this authority, these policies have not been systematically collected and analyzed. We analyzed the authority for investigation of sexually transmitted infections (STIs) across all 50 US states and the District of Columbia (DC).

Methods: In January 2022 we collected state policies addressing the investigation of STIs using a legal research database. We coded these policies into a database on variables of interest: 1) whether the policy authorized/required investigation, 2) what type of infection triggers an investigation, 3) and the entity who is authorized/required to perform the investigation.

Results: All 50 US states and DC explicitly authorize/require investigation of cases of STI. Of these jurisdictions, 62.7% require investigations, 41% authorize investigations, and 3.9% both authorize and require investigations. Sixty-seven percent authorize/require investigations for cases of communicable disease (inclusive of an STI), 45.1% authorize/require investigations for cases of STIs generally, and 3.9% authorize/require investigations for cases of a specific STI. Eighty-two percent of jurisdictions authorize/require the state to investigate, 62.7% authorize/require local governments to investigate, and 39.2% authorize/require investigations by both state and local governments.

Conclusions: State laws that establish authority or duties regarding the investigation of STIs differ across states. It may be useful for state and local health departments to examine these policies relative to the morbidity of their jurisdiction and their STI prevention priorities.

BACKGROUND

The functions of disease intervention specialists (DIS) represent core infectious disease control practices and have legal foundations in the United States (US).[1] The regulation

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of infectious disease control practices is almost exclusively an issue of state law because of how different levels of government in the US derive their legal authority: the federal government is one of enumerated powers, which is to say, its powers are specifically granted to it in the US Constitution (e.g., the authority to regulate interstate commerce, to enter into treaties with foreign governments, etc.). States have what is called “plenary power” to enact laws: they can regulate anything that they are specifically not disallowed from regulating by the US Constitution. This power is often referred to as the state’s police power, which is the authority to regulate for the health, safety, and morals of a state.

In terms of DIS functions, contact tracing is a well-established public health practice for the control of infectious disease and “became a central public health strategy in the United States during the syphilis epidemic of the 1930s.”[1] Historically, the focus of contact tracing has been “to identify and locate the sexual contacts of infected people and other people at risk for behavioral or other factors… and then refer them for care and treatment, as appropriate.”[2] The origin of nearly all US state disease investigation laws can be traced to this era, many without modification for at least half a century. More recently, a one billion dollar investment under the American Rescue Plan Act, to be spent over five years, was made with the goal of supporting 21st century outbreak response needs.[3] These funds will be used to expand and enhance frontline public health staff; conduct DIS workforce training and skills building; build organizational capacity for outbreak response; and evaluate and improve recruitment, training, and outbreak response effort.

While the legal authority for performing DIS functions is virtually universal in the US, states vary in their approach. Understanding a jurisdiction’s legal authority for DIS functions may be critical to making informed sexually transmitted infection (STI) prevention program and policy decisions. To our knowledge, this analysis represents the first systematic legal research and analysis of DIS-related laws across all 50 states and the District of Columbia (DC) and was undertaken to facilitate analyses of STI prevention and program activities and comparisons across jurisdictions.

METHODS

In January 2022 we systematically collected statutes and regulations authorizing and/or requiring the investigation of STIs across all US states and DC using search terms in Westlaw Edge, a legal research database, consistent with standard public health law research methods.[4] We considered laws that prompted health department staff to ascertain the source of an infection, or to identify those who may have been exposed to an infection, as authorizing or requiring “investigation,” as well as those laws that simply directed health department staff to “investigate.” Furthermore, we included those laws that specifically addressed sexually transmitted infections (or interchangeable terms such as “sexually transmitted disease” and “venereal disease”), or laws that addressed a broader set of diseases that would be inclusive of STIs (such as “communicable” or “reportable” diseases) and authorized or required investigation on the basis of the identification of the case of STI. While policies addressing instigation of STIs often also address HIV, those policies exclusively addressing investigation of HIV were excluded.

Based on common themes across these laws of importance to STI prevention programs, we created a codebook of variables of interest. These variables included 1) whether the law creates a duty (requirement) or the power (authority) to investigate; 2) the identification of what type of disease triggers the legal requirement or authority to investigate (infectious, communicable, or reportable diseases that are inclusive of STIs; sexually transmitted disease, sexually transmitted infection, or venereal disease); or a specific STI (chlamydia, gonorrhea, or syphilis); and 3) what entity is authorized or required to conduct a disease investigation (a state health department or official, or a local health department or official). These variables were not mutually exclusive, as laws often addressed multiple variables simultaneously, and in some states different laws created different legal duties and authorities (e.g., require a local health department to investigate all cases of STIs and authorize the state health department to investigate all cases of communicable disease). An attorney experienced in public health law research methods and knowledgeable about STI program and policy analyzed and coded all laws that were identified during our legal search and created a dataset in Microsoft Excel.

RESULTS

All 50 US states and DC have laws that authorize or require investigation of cases of an STI (Figure 1). Of these jurisdictions, 62.7% (n=32) jurisdictions require investigations, 41% (n=21) authorize investigations, and 3.9% (n=2) both authorize and require investigations under difference circumstances (Figure 2, 3). Sixty-seven percent (n=34) of jurisdictions authorize or require investigations after the identification of a case of any communicable disease (including STIs), 45.1% (n=23) authorize or require investigations after the identification of a case of an STI, and 3.9% (n=2) require investigations after the identification of a specific STI (Arizona: syphilis; Hawaii: chlamydia, gonorrhea, pelvic inflammatory disease, and syphilis). Eighty-two percent (n=42) of jurisdictions authorize or require state governments to perform investigations, 62.7% (n=32) authorize or require local governments to perform investigations, and 39.2% (n=20) authorize or require investigations by both state and local governments.

Of the 32 jurisdictions that require investigation, 56.3% (n=18) do so for communicable disease broadly, 43.8% (n=14) do so for STIs specifically, and 6.3% (n=2) do so for specific, individual STIs. Furthermore, 71.9% (n=23) of jurisdictions require these actions of state governments, and 81.3% (n=26) require them of local governments (Figure 1).

Of the 21 jurisdictions that authorize investigation, 72.6% (n=16) do so for communicable disease broadly and 42.9% (n=9) do so for STIs specifically. Furthermore, 90.5% (n=19) of jurisdictions authorize these actions by state governments and 28.6% (n=6) authorize them by local governments (Figure 1).

DISCUSSION

All US states and DC explicitly authorize or require investigation of cases of STI. More jurisdictions require investigations than authorize them. This may reflect a perceived urgency or importance on the part of policymakers, although requirements may confine

the public health department's ability to allocate its own resources for optimal public health practice. Conversely, investigation authority may reflect deference to the expertise of a jurisdiction's public health department in terms of resource allocation. Where a law requiring investigation does so in a manner that involves many cases (e.g., chlamydia), public health departments may wish to examine the feasibility of performing these duties with their current resources.[5]

Furthermore, disease investigation requirements are relatively more likely to be made of local governments than state, and relatively few states (n=6) solely authorize local governments to perform disease investigation. Given the demands on local health departments, particularly in the event of public health circumstances that demand more resources than are available to them, local health departments may wish to closely examine these types of policies.

Both state and local health departments may wish to examine their duties and responsibilities relative to the public health circumstances of their jurisdiction. For example, for states that authorize or require investigation of communicable diseases inclusive of an STI, or refer to a "list" of STIs, syphilis is always referenced and chlamydia and gonorrhea are very commonly referenced. On the other hand, congenital syphilis is never specifically referenced. In a jurisdiction that is required to investigate every case of chlamydia, health department leadership may want to consider how this weighs in their priorities and whether this is consistent with conventional public health practice.[5] For example, could more thorough syphilis case investigation among women of reproductive age be a more effective strategy for reducing morbidity and mortality from STIs within the jurisdiction?[6]

Furthermore, in 2021 the National Academies of Sciences, Engineering, and Medicine (NASEM) released its report, Sexually Transmitted Infections: Adopting a Sexual Health Paradigm, in which it suggested that the roles of DIS be expanded to field testing and treatment, including expedited partner therapy.[7] While outside the scope of this analysis, this expansion of DIS functions is likely not authorized in all US jurisdictions under their current laws. Furthermore, since testing and treatment have traditionally been considered the purview of medical professionals, whether DIS are authorized to perform such expanded roles would likely involve an analysis of both a state's disease investigation laws as well as other areas of law, such as medical scope of practice. States seeking to implement the recommendations of NASEM may wish to engage their legal counsel in terms of their current legal authority for DIS functions.

While relatively more states require disease investigation as opposed to authorizing it, and the relative mix of states authorizing versus requiring disease investigation is distributed fairly evenly across the US, there is a notable cluster of contiguous states in the South that authorize disease investigation at the state level only (Figure 2). This may be the result of legislative "borrowing" among states of similar societal and public health attributes. Future studies could investigate the public health impacts of the various approaches to authorizing and requiring disease investigation, as well as the societal attributes associated with certain types of policies. It is also important to note that many of the policies analyzed under this analysis authorized or required investigation for a range of infectious diseases inclusive of

STIs. Therefore, this analysis may be instructive in assessing disease investigation outside of STIs, although a jurisdiction's approach to investigating may differ based on the infectious disease at issue (e.g., STIs versus emerging infections).

This analysis has limitations. The categorization of states is based on the explicit language of a jurisdiction's law, and therefore does not consider how these policies are implemented. Technically a state that is only authorized to investigate cases of STIs could not investigate any cases and this practice would be consistent with its law. Conversely, the repercussions of not performing investigations that are required by law are not clear. Furthermore, the question of implied authority is beyond the scope of this analysis. Nevertheless, it may be advantageous for jurisdictions to have laws that are consistent with the STI morbidity and mortality of its state and its STI prevention priorities. While laws that require investigation of HIV exclusively were excluded from this analysis, many of the laws authorizing or requiring investigation of STIs also authorize investigation of HIV. Future analyses could expand upon this analysis to investigate the authority for HIV investigation.

To our knowledge this is the first analysis of the authority for investigation of STIs across the US. It illustrates universal authority for STI investigation by public health departments in the US. However, this analysis does not inform how these laws are implemented, nor consistency with public health practice in states. This analysis may serve as a resource to states as they examine disease investigation functions and policies in light of their current STI prevention priorities, feasibility of performing legal duties given finite resources, and other public health challenges.

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Brief Description

The legal authority for investigation of sexually transmitted infections varies significantly across United States jurisdictions in terms of authorizing versus requiring investigation, for which diseases, and by whom.

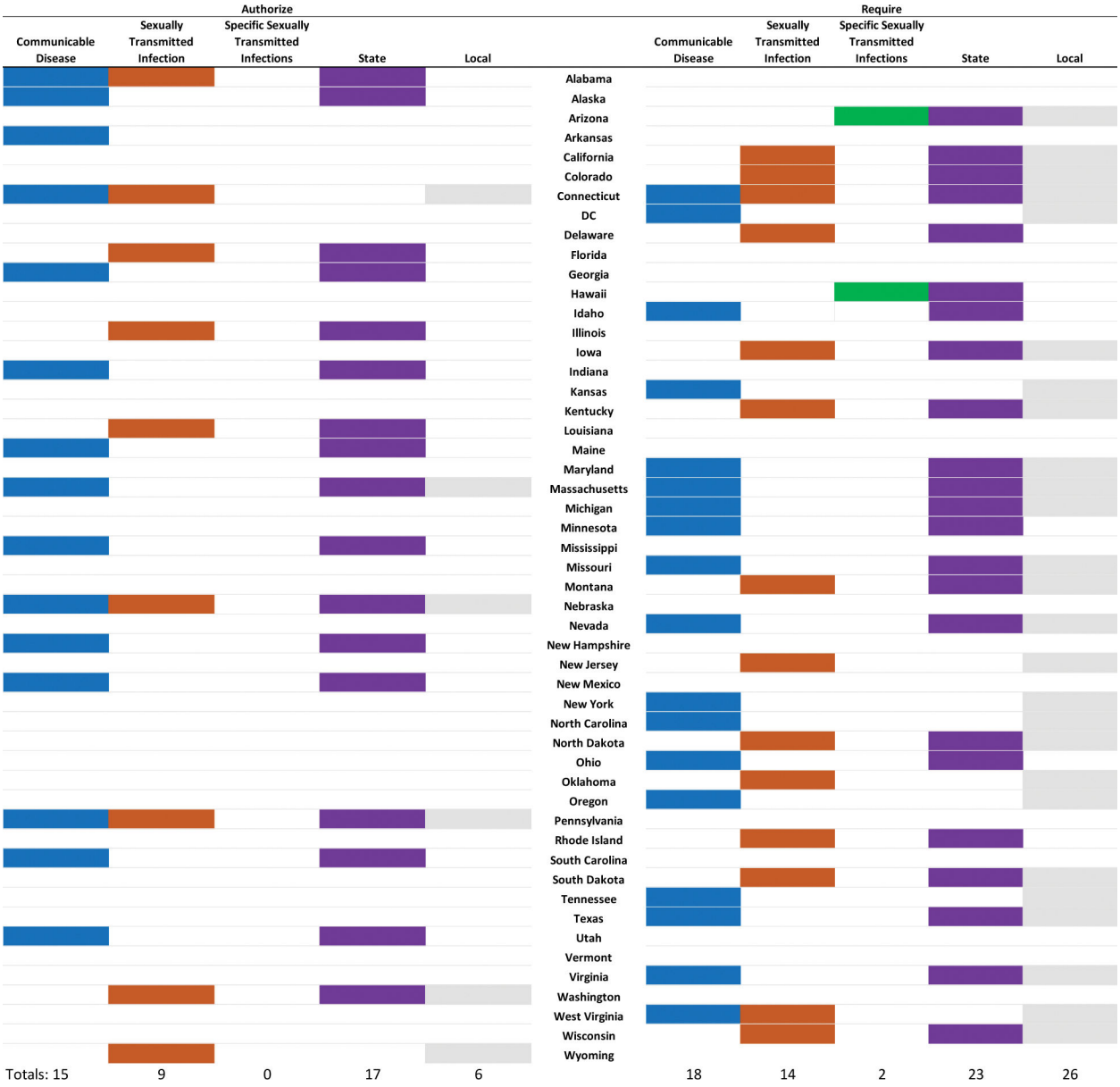

Figure 1:

Laws Authorizing or Requiring State or Local Health Departments to Investigate Communicable Diseases, Sexually Transmitted Infections, or Specific Sexually Transmitted Infections

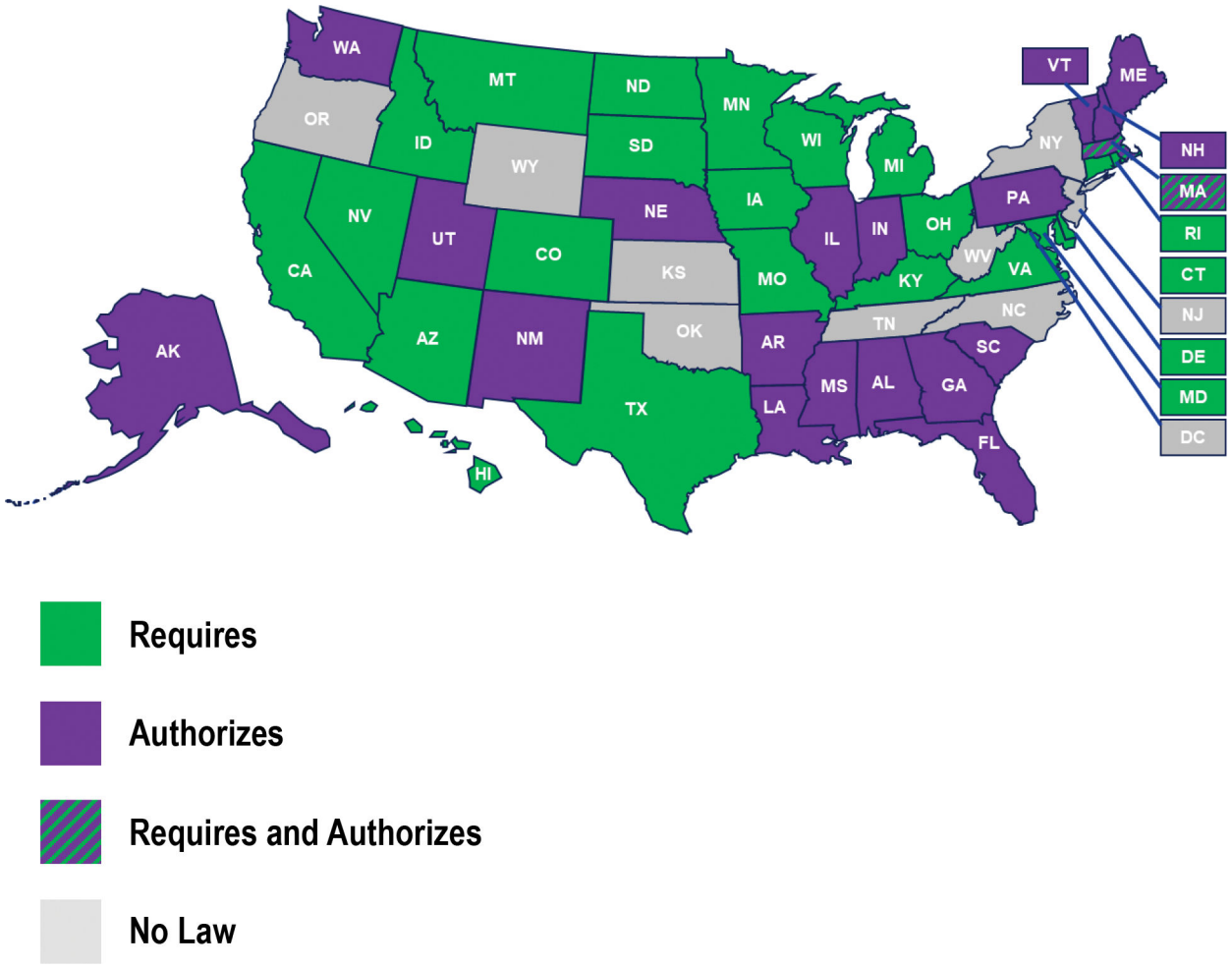

Figure 2:
Map of United States by Whether a State Authorizes or Requires State Governments to Investigate Cases of Sexually Transmitted Infection

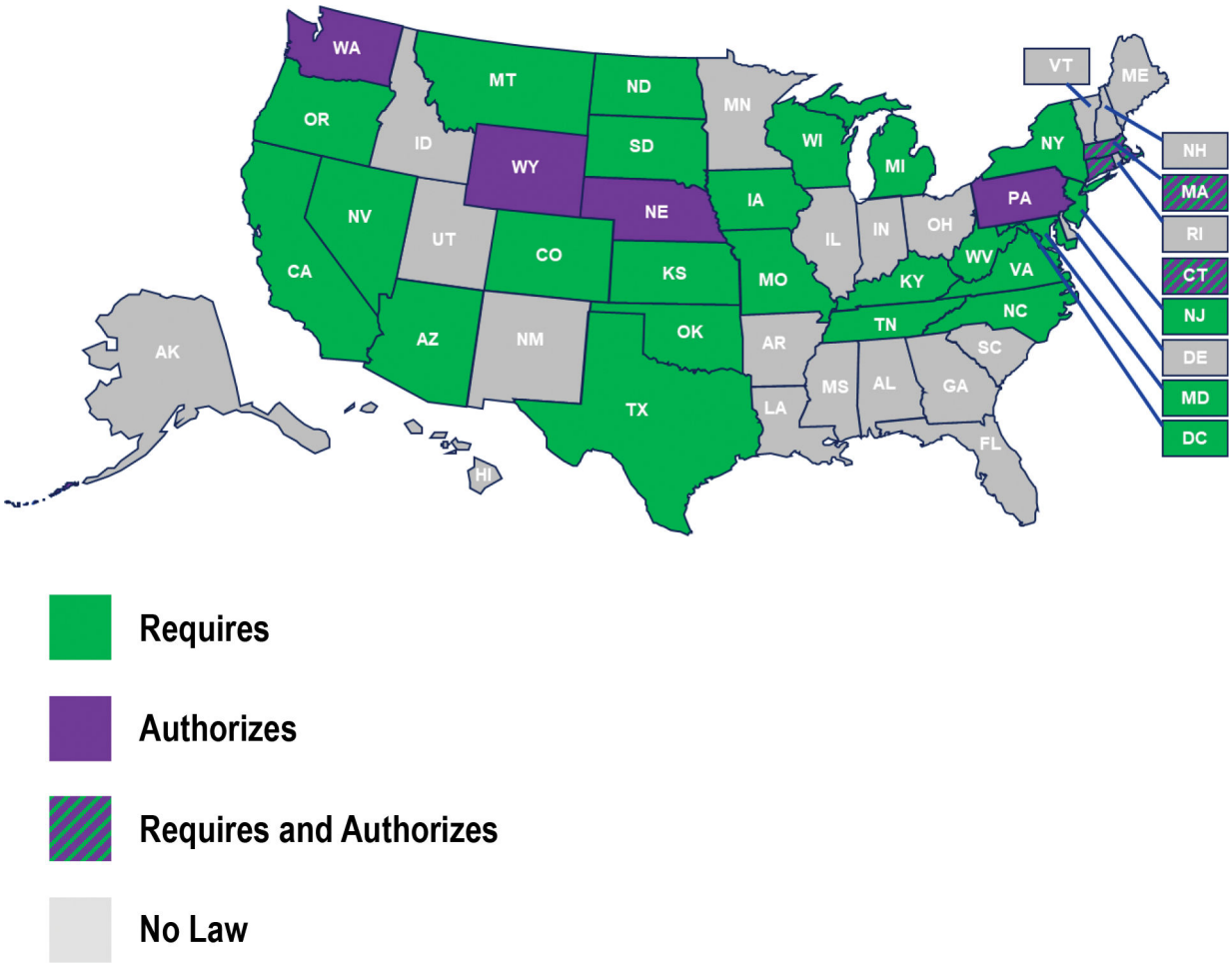

Figure 3:
Map of United States by Whether a State Authorizes or Requires Local Governments to Investigate Cases of Sexually Transmitted Infection