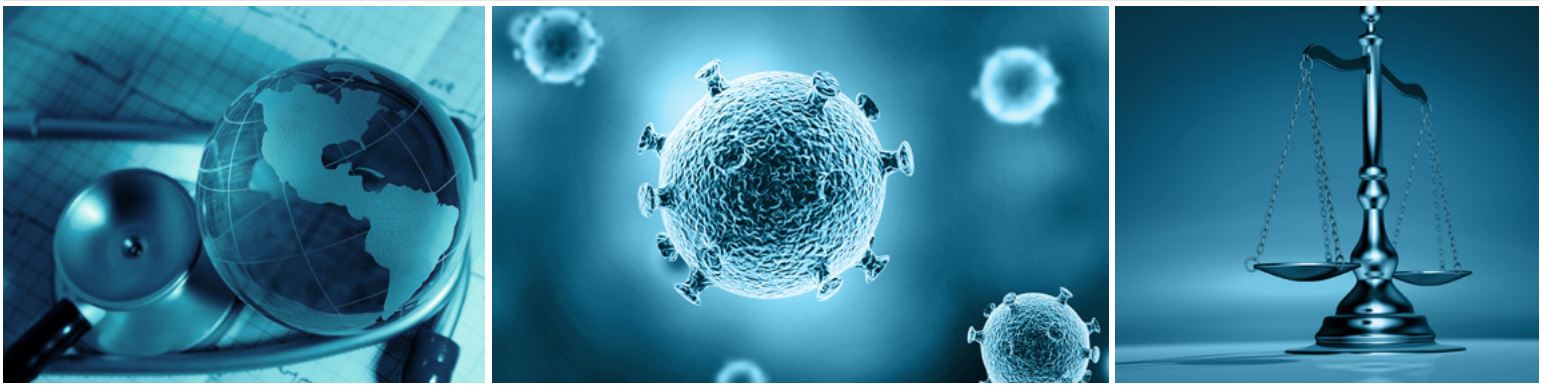# FRAMEWORK FOR ETHICAL DELIBERATION AND DECISION-MAKING IN PUBLIC HEALTH

A TOOL FOR PUBLIC HEALTH PRACTITIONERS, POLICY MAKERS AND DECISION-MAKERS

PROTECTING AND EMPOWERING CANADIANS TO IMPROVE THEIR HEALTH

Public Health Agency of Canada

Agence de la santé publique du Canada

Canada

TO PROMOTE AND PROTECT THE HEALTH OF CANADIANS THROUGH LEADERSHIP, PARTNERSHIP, INNOVATION AND ACTION IN PUBLIC HEALTH.

—Public Health Agency of Canada

FRAMEWORK FOR ETHICAL DELIBERATION AND DECISION-MAKING IN PUBLIC HEALTH

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PREFACE

As the main federal agency responsible for public health in Canada, the Public Health Agency of Canada's (PHAC) mission is to promote and protect the health of Canadians through leadership, partnership, innovation and action in public health. PHAC's efforts to support a strong and effective public health system are accompanied by a commitment to fostering a strong ethical culture, one in which ethical principles and values are incorporated into decision-making throughout the organization. The *Framework for Ethical Deliberation and Decision-Making in Public Health* embodies this commitment. It provides an ethics lens through which the implications of proposed public health programs, policies, interventions and other initiatives can be analysed and challenges or dilemmas, resolved.

Intended Audience

This framework is intended for use by all Public Health Agency of Canada employees, including public health practitioners, policy-makers and decision-makers.

Intended Application

This framework is intended to be applicable to the range of public health activities in which PHAC is involved, including the development and implementation of public health programs, policies, interventions and other initiatives. It is complementary to, and aligned with, existing Health Portfolio frameworks, policies, guidelines and directives that guide decision-making in PHAC. For example, the steps outlined in this framework generally correspond to the steps described in the *Health Canada Decision-Making Framework for Identifying, Assessing and Managing Health Risks*.[1] Moreover, Step 1 links in well with the stakeholder dialogue process described in the Health Canada and PHAC *Strategic Risk Communications Framework*.[2]

Acknowledgements

The *Framework for Ethical Deliberation and Decision-Making in Public Health* was developed by PHAC's Public Health Ethics Consultative Group and its Secretariat, with input from various individuals at PHAC who reviewed earlier drafts or participated in pilot testing. PHAC greatly appreciates the time and effort that all contributed to this endeavour.

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[1]　Health Canada, *Health Canada Decision-Making Framework for Identifying, Assessing and Managing Health Risks* (2000), http://hc-sc.gc.ca/ahc-asc/alt_formats/hpfb-dgpsa/pdf/pubs/risk-risques-eng.pdf.

[2]　Health Canada and Public Health Agency of Canada, *Strategic Risk Communications Framework and Handbook* (2006), http://www.riskcommunications.gc.ca.

PART 1 – INTRODUCTION AND CONTEXT

1.1 INTRODUCTION

Ethics is a branch of philosophy that is concerned with human conduct, more specifically the behaviour of individuals in society. Ethics examines the rational justification for our moral judgments; it studies what is morally right or wrong, just or unjust.[3]

Those who work in the public health arena may ask how ethics is relevant to their day-to-day activities. Public health decisions are typified by complexity. Often there is considerable uncertainty surrounding the best course of action. Evidence, derived from the research literature and ongoing public health data collection activities (such as needs assessments and surveillance) and economic data (including a wide variety of cost analysis approaches), are considered to be essential inputs for these decisions. Yet ethical considerations pervade public health decisions and deserve consideration as the third necessary "E" alongside evidence and economics as inputs into well defended and considered decisions.

Ethics provides us with a moral map that we can use to work through challenging issues. In other words, ethics helps us:

- decide what we should do, *i.e.* identify options that are morally right or acceptable;
- explain why we should do it, by giving us the language of values and principles; and
- describe how we should do it.[4]

1.2 WHAT TO EXPECT FROM THIS FRAMEWORK

This framework provides a tool that public health practitioners, policy-makers and decision-makers can use to help them resolve ethics challenges or dilemmas that arise in the practice of public health, and to guide them through the analysis of the ethics implications of proposed public health programs, policies, interventions and other initiatives. It is not a mechanistic formula that provides a direct answer, but rather a tool to help users clarify issues, weigh relevant considerations, and identify possible options.

The Framework is comprised of 2 parts:

- Part 1 provides some background information and explains key concepts;
- Part 2 sets out a list of questions to guide the analysis of ethical issues.

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[3] Treasury Board of Canada Secretariat, *What is Ethics?,* www.tbs-sct.gc.ca/gui/eth-eng.asp

[4] Trillium Health Centre, *IDEA: Ethical Decision-Making Framework,* www.trilliumhealthcentre.org/about/documents/
TrilliumIDEA_EthicalDecisionMakingFramework.pdf

1.3 GOALS OF THIS FRAMEWORK

Public health decision-making, including the establishment of public health ends and goals, involves making choices about ethical and other value considerations. This framework is intended as a guide to help public health practitioners, policy-makers and decision-makers to:

- articulate ethics questions raised by decisions related to public health practice and policy
- identify ethics tensions and competing values and principles;
- articulate trade-offs between the relevant values and principles; and
- adopt a systematic approach for working through ethical issues and challenges in public health.

1.4 KEY CONCEPTS

1.4.1 What is an ethical issue?

Ethical issues arise every day in public health and often pertain to:

- what should be done or what course of action should be taken;
- which values or ethical principles should guide the decision to be made;
- how a conflict or tension between different values or principles might be resolved;
- once a decision has been made, how it should be implemented.

Ethical issues may arise when, for example:

- two different courses of action are supported by competing values or principles and choosing either course of action leads to the transgression of one or more ethical principles;
- a course of action or an initiative that might cause undue hardship or inappropriate harm to a stakeholder (and therefore appears unethical) is being proposed or carried out; or
- a stakeholder is in a situation of discomfort as a result of being unable to take what is perceived as the most ethical course of action due to organizational or other constraints.

1.4.2 Ethical Considerations and Interests

Public health decision-making often involves making difficult choices among competing or conflicting ethical considerations, including values and principles. Bringing an ethics lens to such dilemmas can help decision-makers broaden their perspectives, clarify concepts and meanings, and think critically. It requires being attentive to the interests at play – those of individuals, institutions, populations and communities – in addition to explicitly stating the values and principles at stake, reflecting on them and considering how they are interrelated.

The core ethical dimensions discussed in Section 1.4.3 represent a way of articulating and balancing values and interests. They are meant to guide decision-making and action in public health. They are also a valuable complement to the values set out in the *Public Health Agency of Canada Values and Ethics Code*, to which Agency employees are required to adhere in all activities related to their professional duties (see Appendix 1).

1.4.3 Core Ethical Dimensions in Public Health

Respect for Persons and Communities

Respect for persons entails recognition that all persons have unconditional worth and, as such, are due consideration and respect. Respect for communities requires consideration of all communities and groups that may be affected by an initiative, and attention to the potential impact of proposed initiatives on these communities or groups including potential harm or stigmatization.

Respect for autonomy is traditionally seen as an important element of respect for persons and communities. It means, in the case of persons, acknowledging people's capacity and interest in making choices about their own destiny and, in the case of communities, observing choices made by communities, learning their perspectives and collaborating with them.

Autonomy is not absolute however. In the public health context, respect for persons and communities may entail:

- recognising a right to participate in decisions through respectful consultation;
- recognising the right to be informed of the interests at stake and to have the basis of decisions explained;
- providing the opportunity to form, express and exercise maximum choice consistent with the interests of others (e.g. individuals, communities);
- supporting the ability of individuals and communities to identify and act on public health issues where and when they can.

Non-maleficence and Beneficence

The principle of non-maleficence asserts an obligation to avoid causing harm to others (i.e. individuals or groups) or to minimise risk of harm. While many actions entail a risk of harm, such harm should not be undue. In other words, any harms and the risk that they may occur, should be lesser in proportion to the benefits being pursued and to the need that is being addressed.

The principle of beneficence requires individuals, agencies and communities to contribute to the welfare of others. It entails a duty to promote well-being and support flourishing of individuals and communities. Well-being is achieved, for example, through the provision of beneficial actions, the prevention of harms and removing or reducing specific harms.

Trust

Trust refers to the faith or confidence that individuals, groups and the public have in other persons, institutions or things, in particular in their reliability, integrity, good will and loyalty. Trust is an essential component of relationships. Experience in the practice of community and public health ethics has shown that trust is established through long-term, sustainable and mutually fair relationships with both individuals and communities.

Trust is essential to the success of public health initiatives. Conversely, successful public health initiatives help to establish and maintain trust between individuals, populations and public health institutions.

In order to build public trust, it is important to promote:

- reciprocity, by providing support to those who face a disproportionate burden in order to protect the public good, and minimising these burdens to the extent possible;

- solidarity, by considering the well-being of the community as a whole and valuing interconnections and shared interests; and

- openness, honesty, truthfulness in the relationship with the public and transparency in decision making processes by communicating and making accessible decisions and their rationales to stakeholders.

Justice

Justice entails giving people what is due to them and treating them with equal concern and respect. It also entails treating groups fairly and equitably. In the context of public health, this means that any potential or actual inequities in the distribution of burdens and benefits linked to interventions, and of other health-relevant resources and opportunities, should be eliminated or minimised as much as possible.

In promoting justice, it is important to consider, among other things:

- whether health inequalities are due to unfair treatment of individuals and groups;

- what is the potential impact of initiatives on different groups, individuals, and populations, including ones that can easily become invisible or overlooked, such as future generations;

- whether initiatives are or will be deployed in ways that inadvertently stigmatize certain groups or populations or lead to unfair treatment;

- whether resources are or will be deployed in ways that respect principles of distributive justice.

1.4.4 Procedural Considerations

Good decisions are based on the best information available and a solid, shared understanding of what values, principles and considerations are important. Procedural considerations such as those outlined below contribute to good decisions by helping to ensure that the best information is gathered, that relevant values and principles are identified and that all stakeholders' views and interests are considered. A good decision-making process helps to build trust, to increase the legitimacy and acceptability of decisions, and to effectively implement them. It also contributes to compliance with the decision, even if stakeholders are not all in agreement with the decision made.

Accountability

Accountability refers to an organization, group or individual being answerable to others for the type and quality of decisions made or actions taken. Accountability can be to the public, to other organizations (e.g. other levels of government, a professional association), to groups or to individuals to whom one has responsibilities.

Inclusiveness

Inclusiveness requires that all groups or individuals who have a stake in the initiative be engaged in the decision-making process. As such, they should have the opportunity to provide input into the deliberations and to challenge the proposed initiative.

Responsibility

In addition to legal authority and responsibility, there are two related facets of responsibility:

- the ability to act independently and make decisions; and
- the fact of being morally accountable for one's decisions and actions.

Responsiveness

Responsiveness entails that decisions should be revisited and revised as new information emerges, and that stakeholders should have the opportunity to voice their concerns regarding decisions.

Transparency

Transparency refers to operating in such a way that stakeholders know, in a full, accurate and timely manner, what decisions are being made, why and what criteria were applied. Transparency is an essential part of respect for persons and communities. It builds trust and contributes to good decision-making practices.

PART 2 – THE FRAMEWORK[5]

This framework consists of 5 steps. In each step, there are a number of open-ended questions designed to guide users through the deliberation of ethical considerations that come into play when making decisions about proposed public health programs, policies, interventions or initiatives, or ethical dilemmas that arise in the practice of public health. The questions are a guide. They are not meant to be applied as a formula, nor are they necessarily exhaustive. Some questions may be more relevant to certain types of decisions than others. Users therefore should feel free to explore only the questions that are relevant to their situation. Each step also includes an introduction that explains the objectives of the step. Though the steps are presented sequentially, there is interplay among them. Information gathered in one step may inform other steps and may require users to go back to a previous step in order to revisit facts or conclusions. Users should feel free to move between the steps as needed.
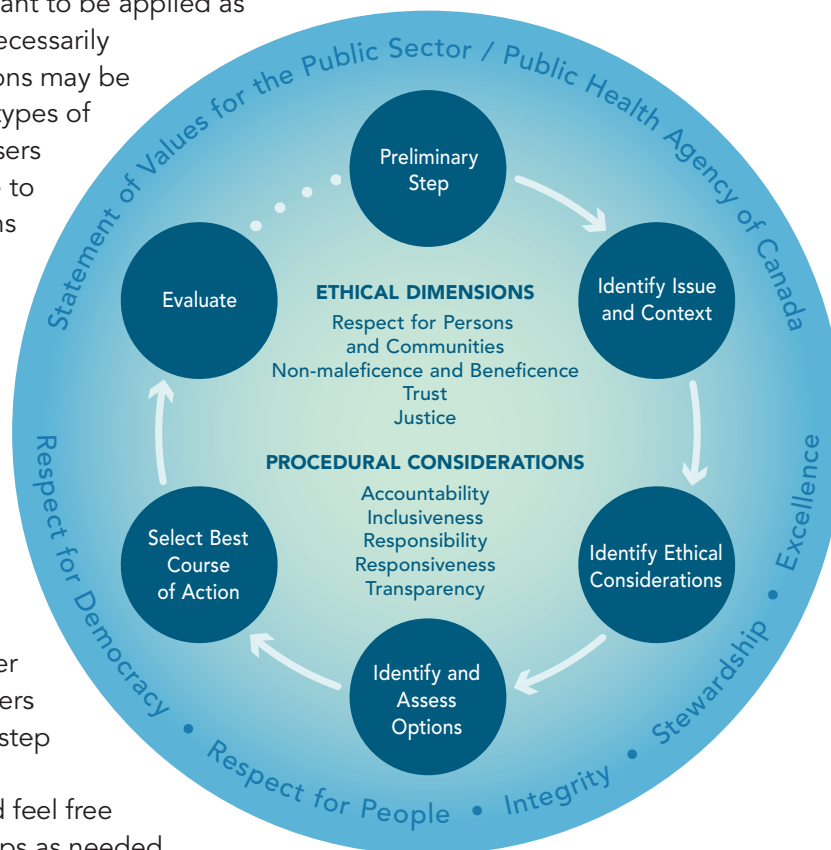
PRELIMINARY STEP

Before undertaking the 5 steps of the Framework, users should determine how they will structure the decision-making process (i.e. who will be responsible for the implementation of the framework, for involving all the relevant stakeholders and for leading the ethical deliberation and analysis), and when and where the work will be carried out. Users should also clarify who has the authority to make a decision about the proposed initiative.

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[5]   This framework is adapted from: Trillium Health Centre, *ibid.*, N. Kass, "An Ethics Framework for Public Health" (2001) 91:11 Am. J. of Public Health 1776, and P. Nieburg, R.G. Bernheim & R.J. Bonnie, "Ethics and the Practice of Public Health" in R.A. Goodman *et al.*, *Law in Public Health Practice* (Oxford: Oxford University Press, 2003) 43 at 50.

STEP 1: IDENTIFY THE ISSUE AND THE CONTEXT

Ethical issues often arise because of a lack of clarity about what is the appropriate course of action in a given situation or because of a conflict of values regarding a problem or issue that needs to be resolved. This may be related to a disagreement about relevant facts or lack of information or evidence. The first step of this framework therefore involves explicitly identifying the facts and the interests at play, and gathering sufficient information about the relevant contextual factors.

Questions

What is the public health issue that needs to be addressed?

Is there a specific question that needs to be resolved?

If you are considering a specific public health intervention, policy, program, or other initiative:

- What are the public health goals of the proposed intervention, policy, program or other initiative?
- Is there reason to believe the proposed initiative will achieve its goals?

Who are the stakeholders in this issue? (i.e. Who has an interest? Who is proposing the initiative? Include individuals, communities, the public, federal, provincial, territorial and municipal public health entities.)

What are their roles and responsibilities?

What specific issues are at stake for each of them? What are their concerns, needs or interests?

Do any stakeholders have conflicts of interest? Conflicts of obligation?

Are there any issues of power imbalance between the stakeholders and if so, how can these be addressed?

Have all the relevant stakeholders been engaged? If not, how can they be engaged?

Are there any relevant laws or regulations that help frame the issue?

Are any PHAC or other federal policies relevant to the situation?

Are there any other relevant contextual factors?

What other information may be required to make a decision?

Reframing the issue:

What is the public health issue or question that needs to be addressed? (Once the relevant facts have been identified, this initial question should be revisited since the public health issue may need to be reframed in light of the information gathered.)

STEP 2: IDENTIFY ETHICAL CONSIDERATIONS

After having identified the issue and the context, the next step is to discuss the values and principles that stakeholders find most important, in order to clarify the ethical considerations at hand. This requires an exploration of the nature and scope of the core ethical and procedural considerations identified in Sections 1.4.3 and 1.4.4 of this document. The resulting set of principles or decision-making criteria will guide decisions about options and selected course of action.

Questions

What ethical values, principles and considerations are involved in this issue or decision?

Which of these principles, values or consideration are most important?

Do any public health or other professional groups or associations provide relevant guidelines or recommendations?

What other factors, values or principles do stakeholders consider important for making an ethical decision about the proposed initiative?

Are there any special considerations about the vulnerability of those most at risk?

Are there any special considerations about health inequities?

STEP 3: IDENTIFY AND ASSESS OPTIONS

The third step involves the identification of, and reflection on, a range of possible courses of action. More than two practicable options should be identified if possible, and their strengths and limitations compared. Each option will also be examined in light of the principles or criteria identified in Step 2.

Questions

What are the options to address the public health issue at hand?

OR

If you are considering a specific intervention, policy, program or other initiative, are there alternative approaches?

Is doing nothing a valid option to consider?

What are the benefits of the proposed course of action or initiative – for individuals, communities, and the public?

What are the known potential burdens of the proposed course of action or initiative – for individuals, communities, and the public?

Will the proposed course of action or initiative entail greater burdens or disadvantages for an already disadvantaged individual or group?

Do the expected benefits justify the identified burdens?

Ought the burdens be minimised? For particular groups? For all?

How can the benefits and burdens of the initiative be fairly balanced?

How much certainty or uncertainty is there about the effectiveness of each option?

What are the other strengths and limitations of each option?

Which option best respects the rights and interests of all who have a stake?

Which option treats people equally or proportionately?

Which option best serves the community or the population as a whole rather than just some members?

Which option best reflects the mission, vision and values of PHAC?

To what degree is each option consistent with the current positions and policies of the federal government? What are the foreseeable consequences of potential inconsistencies?

STEP 4: SELECT BEST COURSE OF ACTION AND IMPLEMENT

Step 4 involves identifying the preferable option in light of its acceptability and the analysis conducted in Step 3, and taking steps to implement it. The decision and the process followed to make the decision should be documented. An implementation plan and a process for evaluating the decision should be developed. This information should be communicated to the relevant stakeholders.

Questions

Which option is preferable?

How can the initiative be implemented, or the course of action carried out, fairly?

Are we (the decision-makers) comfortable with the decision?

Who will the decision be communicated to?

STEP 5: EVALUATE

After a decision has been made and implemented, the decision-makers and stakeholders should reflect on the decision to assess whether objectives were met, identify lessons learned and consider whether the selected course of action should be modified.

Questions

How could the decision-making process have been improved?

Were the results of the course of action or initiative consistent with the intention or the objectives of its proponents? If not, why not?

Did the course of action or initiative lead to any unintended consequences? If so, what was the impact of the unintended consequences?

Upon reflection, were some stakeholders left out or unduly represented?

Were better options identified after the initiative was implemented or the course of action carried out?

Should the decision be revisited?

EVALUATING THE FRAMEWORK

The Public Health Ethics Consultative Group is interested in finding out about users' experience of, and their thoughts about the usability of, the Framework.

1. Was your understanding of ethical issues enhanced through the use of the Framework?
2. Did the Framework help you make a decision with which all decision-makers were comfortable?
3. Would you use the framework again? If not, why?

Please send your feedback to the Public Health Ethics Consultative Group Secretariat at phecg.secretariat@phac-aspc.gc.ca.

APPENDIX 1

STATEMENT OF VALUES FOR THE PUBLIC SECTOR/PHAC[6]

Respect for Democracy

The system of Canadian parliamentary democracy and its institutions are fundamental to serving the public interest. Public servants recognize that elected officials are accountable to Parliament, and ultimately to the Canadian people, and that a non-partisan public sector is essential to our democratic system.

Respect for People

Treating all people with respect, dignity and fairness is fundamental to our relationship with the Canadian public and contributes to a safe and healthy work environment that promotes engagement, openness and transparency. The diversity of our people and the ideas they generate are the source of our innovation.

Integrity

Integrity is the cornerstone of good governance and democracy. By upholding the highest ethical standards, public servants conserve and enhance public confidence in the honesty, fairness and impartiality of the federal public sector.

Stewardship

Federal public servants are entrusted to use and care for public resources responsibly, for both the short term and long term.

Excellence

Excellence in the design and delivery of public sector policy, programs and services is beneficial to every aspect of Canadian public life. Engagement, collaboration, effective teamwork and professional development are all essential to a high-performing organization.

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[6] Public Health Agency of Canada, *The Public Health Agency of Canada Values and Ethics Code* (April 2012) http://mysource.hc.sc.gc.ca/sites/default/files/phac-vec-cve-eng.pdf

APPENDIX 2

FURTHER READING

A number of other public health ethics frameworks and decision support tools or guides have been developed in recent years, and may provide additional guidance. These include:

BC Centre for Disease Control, *BCCDC Ethics Framework and Decision Making Guide* (2015), www.bccdc.ca/resource-gallery/Documents/Guidelines%20and%20Forms/Guidelines%20 and%20Manuals/BCCDC_Ethics_Framework_Decision_Making_Guide.pdf.

R.G. Bernheim, P. Nieburg & R.J. Bonnie, "Ethics and the Practice of Public Health" in R.A. Goodman *et al.*, *Law in Public Health Practice* (Oxford: Oxford University Press, 2003) 43.

J.F. Childress *et al.*, "Public Health Ethics: Mapping the Terrain" (2002) 30:2 J Law Med Ethics 170.

Institut national de santé publique du Québec, *Référentiel de valeurs pour soutenir l'analyse éthique des actions de santé publique* (2015), www.inspq.qc.ca/pdf/publications/2010_ Referentiel_Valeurs_Analyse_Ethique.pdf.

N.E. Kass, "An Ethics Framework for Public Health" (2001) 91:11 Am J Public Health 1776.

Nuffield Council on Bioethics: *Public Health: Ethical Issues* (2007), http://nuffieldbioethics.org/ wp-content/uploads/2014/07/Public-health-ethical-issues.pdf.

Ontario Public Health, *A Framework for the Ethical Conduct of Public Health Initiatives* (2012), www.publichealthontario.ca/en/eRepository/PHO%20%20Framework%20for%20Ethical%20 Conduct%20of%20Public%20Health%20Initiatives%20April%202012.pdf.

R.E.G. Upshur, "Principles for the Justification of Public Health Interventions" (2002) 93:2 Can J Public Health 101.