Obesity Prevention and Control Legal Bibliography

Introduction
The obesity prevention and control legal bibliography provides a starting point for learning more about the intersection of obesity and law. The bibliography is not intended to be all-inclusive of the literature on obesity and the law, but it is intended to be a credible source of information about the influence law can have on the public health issue of obesity prevention and control.

Methods in Creating the Bibliography
In creating the bibliography, we established an initial parameter for items published in public health, medical, and law journals after January 1, 2000. The bibliography includes articles accepted for publication, but not published, if the article is accessible electronically through PubMed.

To identify articles in the public health and medical literature, a PubMed search was conducted using selected query terms as listed in Box 1.

To identify articles in the legal literature, Lexis Nexis and Westlaw searches examined U.S. law journal databases for articles containing “obesity” in their titles.

The results from these searches were reviewed for relevance. Articles were excluded if (1) they failed to address either obesity or law; (2) they addressed legal approaches to obesity only within the larger issue of chronic disease; (3) their focus on law was minor; or (4) they bore a limited relation to the issue of obesity and law within the U.S. Based on a review of the article abstracts and introductions, the articles were divided into topical categories, the descriptions of which are below. Some of the articles fit into multiple categories, but are in the category that appeared most relevant. Included at the end of the bibliography are selected reports and tools.

Box 1. PubMed Search Terms

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<td>Built environment</td>
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<td>Menu</td>
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<td>Obesity</td>
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<td>Physical Activity</td>
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Categories
Legal Strategies for Preventing or Reducing Obesity
Public health professionals and the legal practitioners who advise them have become increasingly aware that legal strategies are useful to address the obesity epidemic. Laws and legal authorities impact the nutrition standards at our nation’s schools, subsidies to farmers, zoning and transportation that impact our physical activity and insurance regulations that impact how professionals treat obesity.

The articles in this section primarily address two issues: (1) Should government take a role in preventing the obesity epidemic, and if so what
is its appropriate role? and (2) What legal strategies are likely to be most effective in combating the obesity epidemic? Articles fitting within this topic have been divided into four sub-categories depending on which legal avenue the article emphasizes.

The General Use of Law

The following articles address the use of law generally to fight the obesity epidemic. Several address the broader issue of whether government should be involved in the fight against obesity. Several present theoretical legal approaches to framing the issue of obesity and several discuss multiple legal approaches to reducing the prevalence of obesity.

**General**


The Use of Courts and Litigation:

The following articles explore the manner in which courts have and could be used to reduce the obesity problem. Many of the articles draw comparisons between the litigation strategies used in the war against tobacco and the current fight against obesity. Several articles also examine instances where courts have attempted to alter a child’s morbidly obese status by removing him or her from her parents and placing her in foster care.

**Judicial/Litigation**

• B. Falit, Recent Development, “Fast Food Fighters Fall Flat: Plaintiffs Fail to Establish that McDonalds Should be Liable for Obesity-Related Illnesses,” *Journal of Law, Medicine & Ethics* 31 (2003): 725-729.

The Use of Federal and State Legislation and Regulation
The following articles address the use of either legislation or regulations to address obesity. The articles range from ones that question the propriety of using legislation or regulation to fight obesity to those that propose specific types of laws or regulations. Many of the articles focus on preventing childhood obesity.

Legislation/Regulation


The Use of Community-Based Policies:
The following articles also consider legislative or regulatory strategies to address obesity, but focus more on policies that could be implemented on a local level, with an emphasis on community involvement. Such strategies include implementing policies to change the urban environment to encourage greater physical activity, increasing community participation in policy efforts, and introducing school-based policies that address obesity.

Community-Based Policies


Legal Challenges Posed by a Growing Population:
The following articles address some of the issues posed by having a heavier population. With an increasing percentage of the U.S. population overweight or obese, legal questions have arisen regarding how people and institutions react to obesity. These include the legal...
issues posed by workplace wellness programs and whether institutions should be permitted to discriminate based on weight.

**Legal Challenges Posed by a Growing Population**


**Additional References – Reports and Tools**

- The following are added references that will be useful to the reader who has an interest in the general policy issues addressing obesity prevention and control.

**Reports and Tools**