

BEST PRACTICES SERIES: LEGAL MANDATES AND GOVERNANCE FOR NPHIS

More than eighty-five countries have established NPHIs to coordinate and lead their public health functions. Governments have established NPHIs using different legal and administrative actions and different approaches to governance. Regardless of how an NPHI is constituted, its mandate and its relationship to and degree of autonomy within the Ministry of Health should be explicit.

LEGAL AND ADMINISTRATIVE ACTIONS TO ESTABLISH OR RESTRUCTURE AN NPHI

NPHIs have been established or restructured by authorizing legislation, administrative action, or ministerial authorization or decree, depending on the country. Creating an NPHI through legislation can increase its stability and legitimacy. Developing and passing legislation can require several years, a sustained political commitment, and investment of resources. In some cases, as with the Public Health Institute of Malawi, countries launch NPHIs in advance of a legislative mandate, with the intent to eventually pass a law. When high levels of government are committed to moving quickly to create an NPHI, as in Liberia and Guinea after the Ebola outbreaks, legislation creating an NPHI can be accomplished very quickly.

NPHI GOVERNANCE APPROACHES

Most NPHIs are line agencies, some are parastatal agencies, and some mix features of both.

Line agencies are under the direct authority of the Minister of Health and use Ministry procurement and civil service systems. Examples are the Nigeria Centre for Disease Control (NCDC) and the U.S. Centers for Disease Control and Prevention (US CDC). The potential for a line agency to have stronger linkages to the Ministry -- and therefore greater ability to influence policy, program, and budget decisions -- is often a consideration in decisions of governments to establish new NPHIs as line agencies.

Some IANPHI members are **parastatal agencies**. Parastatal agencies (also known as autonomous agencies) are usually managed by a Board of Directors that is presided over by the Minister or by a Chair designated by the Minister or Council of Ministers. Parastatals usually have more financial and administrative flexibility than is typical for a line agency and may operate more efficiently and be more effective in attracting donor funds. Parastatal NPHIs may potentially offer more competitive salaries, more flexible and straightforward hiring processes, and more efficient purchasing and procurement processes compared to line agencies.

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Until recently, IANPHI members structured as parastatal agencies have been primarily research-focused institutes, such as the Tanzanian National Institute for Medical Research (NIMR). Recently, some NPHIs with broad public health mandates, such as the National Public Health Institute of Liberia, are being established as parastatal agencies or are exploring becoming parastatal agencies.

Although parastatal agencies often receive some government funding, they may rely more on external funding sources than line agencies. Parastatals sometimes have difficulty supporting work on the country's highest priority public health issues or gaining the attention of Ministry leadership. Also, the establishment of a parastatal often requires setting up new administrative systems, which can be expensive and time-consuming. Even if the decision is made to create a parastatal, NPHIs are often initiated as line agencies but with a longer-term plan to develop them into parastatals.

Some NPHIs, such as Guinea-Bissau's INASA, [mix features](#) of both governance models. That is, they remain under direct control of the Minister but are in some cases able to use alternative pathways for procurement and other processes.

LEGAL, POLICY, AND JURISDICTIONAL CONSIDERATIONS IN ESTABLISHING OR RESTRUCTURING AN NPHI

- **Scope** – Consideration of scope includes the core public health functions the NPHI conducts, the conditions it addresses, and its role in subnational and global health. Most NPHIs will not address all core NPHI functions comprehensively, but an NPHI will do many of them and will have linkages to other parts of the Ministry or other organizations that address the other critical functions. Most NPHIs also have responsibility for supporting some aspects of subnational public health capacity, such as training related to surveillance, lab capacity development, or assistance in outbreak response. Almost all are involved in

Core NPHI Functions

Core NPHI functions help countries organize and conduct their public health services. They are based on the Essential Public Health Functions framework, which has been in use for more than a decade. Of the 11 core functions identified in IANPHI's Framework for the Creation & Development of NPHIs, three are considered most critical:

- ✓ Evaluation & analysis of health status
- ✓ Public health surveillance, problem investigation, and control of risks and threats to public health
- ✓ Public health research

<http://ianphi.org/documents/pdfs/Core%20Functions%20IANPHI%20Brief.pdf>

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some degree in work related to the International Health Regulations and other priority international efforts.

- **Jurisdiction** – Some jurisdictions and/or powers are shared by different levels or divisions of government. In some countries, like the United States and Kenya, the constitution provides a basis for defining which powers are to be carried out at the national level and which at subnational levels, with most authority for addressing local issues provided to subnational levels of government.
- **Scientific independence** – Although the political context and formal position of an NPHI within the governmental hierarchy will vary from country to country, the scientific independence of the NPHI (and of the director) is essential. To be effective, an NPHI must have credibility and be technically expert and somewhat apolitical, which requires independence from parent ministries on technical issues. NPHIs cannot be insulated from political influence, but an NPHI's priorities should be driven largely by science and data; an institute's scientific work and scientific advice to decision makers should be conducted free from political influence; and NPHI leadership should be selected based on professional, scientific, and managerial expertise and experience.

NPHI creation in response to new priorities, opportunities, and threats

What motivates countries to create an NPHI?

The Ethiopian Public Health Institute (EPHI) was created in 2014 from the former Ethiopian Health and Nutrition Research Institute (EHNRI), reflecting the government's decision to make the institute a leader in public health research, emergency management, and laboratory science. EPHI was established by the Council of Ministers as an autonomous Institute accountable to the Federal Ministry of Health.

In the aftermath of a destructive civil war, Guinea-Bissau's INASA united four national agencies to start anew in meeting the country's public health challenges.

Some institutes in more recent years have been created in the wake of major and dramatic health crises that demanded an effective response. For example, Liberia's new NPHI was established in response to the Ebola epidemic in West Africa, which highlighted the need for better coordination and strengthening of public health functions and services and improved preparedness for the next public health threat.

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- **Authority to conduct regulatory activities** – NPHIs vary widely in their regulatory authority. Most often, NPHIs provide evidence-based guidance to other national agencies and to subnational public health entities that have regulatory authority. However, in some countries, the role of the NPHI includes regulation of activities such as pharmaceutical production and medical care.
- **Special powers during public health emergencies** – Many countries provide NPHIs with special powers during emergencies that pose particularly great risk to the population. An example is the ability to quarantine individuals or communities during epidemics.
- **Collaboration and data sharing** – Many NPHIs have collaborative relationships with sister institutes, international organizations, universities, NGOs, and professional societies. These partnerships may involve memoranda of understanding or collaborations around specific health issues or research projects. Frameworks that establish NPHIs should be structured to facilitate international cooperation and a global approach to disease control.

ADDITIONAL CONSIDERATIONS IN DEVELOPING A NEW NPHI

- **Leadership** - Strong leadership is essential to ensure that a new institute develops a cohesive identity and exploits the opportunities and synergies created by restructuring. (See *NPHI Best Practices Series: Recruiting an NPHI Director.*)
- **Commitment** – It often takes decades from the time an NPHI is first created until it can perform many or most of the core NPHI functions and address a range of health problems. Even fully developed NPHIs are constantly changing due to new situations, new initiatives, political concerns, or emergencies. Creating an NPHI and continuing to reshape it to meet new challenges requires a long-term commitment to the health of a country's population from NPHI leadership, the Ministry of Health, other levels of government, and stakeholders. It also requires flexibility and adaptability to address issues and priorities as they arise.
- **Operational context** – NPHIs should be part of government. Although universities and other groups may carry out some core functions to support the institute, an NPHI operates in a different context from a university and must consider many political and societal factors when making assessments and providing recommendations to government or the public.

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- **Creation from existing units or organizations** – NPHI creation can involve the restructuring of existing components, often drawn from several parts of the Ministry of Health, and/or the addition of new elements. Experience has shown that simply renaming an existing unit or organization as the NPHI is generally not successful. The NPHI needs to represent a change in the way work is done, including integration of groups that can work more efficiently and effectively when part of the same organization, and a renewed commitment to using data and evidence to inform policies and programs.
- **Privacy and confidentiality** – NPHI legislative frameworks and policies require clarity about the NPHI's authority regarding data collection and dissemination, requirements for consent, and the balance between individual privacy and effective surveillance activities.
- **Impact on other governmental organizations** – In many countries, public health activities of national importance are conducted by a variety of groups and networks, sometimes with little coordination and with different and uncoordinated funding. Discussions about building a national public health presence and designating an organization to play a leadership role sometimes raise concerns about autonomy and territory. Thus, creating a comprehensive NPHI requires working through issues to mitigate resistance and tensions with the organizations that will be substantively affected.

FOR FURTHER INFORMATION

- IANPHI's *Framework for the Creation and Development of National Public Health Institutes* – The Framework provides a common conceptual basis and language for discussing NPHIs, presents models of how they function, and suggests approaches for countries thinking of creating or expanding their NPHIs.
ianphi.org/documents/pdfs/frameworkfornphi
- Examples of legal and policy approaches/documents used by various countries to create in NPHI creation.
<http://www.ianphi.org/resources/toolkit/nphilegislation.html>