



Public Health Professionals Gateway

Public Health Law News

February 2022




Public Health Law Program
Center for State, Tribal, Local, and Territorial Support
Centers for Disease Control and Prevention


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Announcements

Call for APHA 2022 Abstracts

Save the date: The American Public Health Association (APHA) Annual Meeting & Expo is scheduled to take place **November 6–9, 2022**, in **Boston**. This year's theme is "150 Years of Creating the Healthiest Nation: Leading the Path Toward Equity." Abstracts may be submitted now through **April 30**. [Learn more](#) .


Journal Article | Public Health Strategies: A Pathway for Public Health Practice to Leverage Law in Advancing Equity

The Journal of Public Health Management and Practice recently published an article written by CDC Public Health Law Program staff Samantha Weber, JD, and Matthew Penn, JD, MLIS. This important article outlines a pathway for public health departments and practitioners to incorporate law into their efforts to advance equity in health outcomes. Topics discussed include how examining and applying law can accelerate public health efforts to mitigate structural and systemic inequities, including racism. The article includes a case study involving a small, majority Black community in semirural Appalachia that spent almost 50 years attempting to gain access to the local public water system, despite being surrounded by water lines. [Read the full article](#) .


Job Opportunity | CDC Evaluation Fellowship Program

The CDC Evaluation Fellowship Program is seeking applicants for a two-year fellowship that places fellows in host programs to work on program evaluation and related activities across the agency. The fellowship offers on-the-job training, opportunities to network with other evaluators and other CDC employees, professional development, and mentorship. Applications are due by **February 22**. [Apply today](#).

Health Law Writing Competition


Epstein Becker Green is hosting the 24th Annual Health Law Writing Competition for JD and LLM students. This competition offers current students an opportunity to write a paper about any traditional area of law as it applies to healthcare or about areas of the law that are unique to the healthcare space. Submissions are due by **February 25**. [Learn more](#) .

Job Opportunity | Global Health Policy & Politics Associate


Georgetown University's O'Neill Institute for National & Global Health Law is seeking an associate for its Global Health Policy and Politics Initiative. This position is based out of Georgetown University Law School in **Washington, DC**. This associate will analyze laws, policies, and public health data. Applicants should have a JD, social science PhD, or similar advanced degree related to health policy. [Learn more and apply](#) .

Tribal Announcements


Remote Job Opportunity | Kanji and Katzen

The law firm Kanji and Katzen, PLLC, is hiring two or more attorneys. It has offices located in Seattle and Ann Arbor as well as an **option to work remotely full-time**. The firm represents tribes, tribal organizations, and tribal members on issues of sovereignty, resource and land protection, and economic development projects. Attorneys with all levels of experience are invited to apply. [Learn more and apply](#)  by sending your resume, cover letter, law school transcript, a writing sample, and references to employment@kanjikatzen.com.

Tribal Public Health Conference (Virtual Event)


The Southern Plains Tribal Health Board and 7th Generation are hosting the Tribal Public Health Conference **virtually on April 19–21**. The conference theme is “Community: Rising to a Changing Public Health Climate.” The conference will feature more than 40 presenters, awards and gratitude ceremonies, and tracks including the pandemic, policy and advocacy, maternal and child health, and more. [Register today](#) .

National Tribal Public Health Summit (Virtual Event)


The National Indian Health Board is hosting the National Tribal Public Health Summit **virtually on May 9–12**. The conference will feature workshops and roundtable discussions on featured topics including climate change and environmental health, health promotion and disease prevention, mental and behavioral health, and more. [Learn more and register](#) .

Legal Tools & Training

Online Training | Administrative Law & Health Equity Series

The Public Health Law Academy offers a new, three-part series on creating, implementing, and enforcing public health laws. “What Legal Powers Do Health Departments Have?” is available now, and the others will be released in early 2022. [Take the training](#) .

Webinar | Federal Vaccine Mandates

The Network for Public Health Law is offering a webinar titled “Federal Vaccine Mandates: Assessing Their Legality.” It will be held **February 24, 12:00–1:00 pm (EST)** and will cover the vaccine mandates from the Biden Administration during 2021, as well as the recent legal challenges to these mandates. [Register today](#) .

Webinar | Legal Tools for State, Tribal, Local, and Territorial COVID-19 Mitigation Measures

CDC's next PHEP Connects webinar is scheduled for **1 pm (EST) on Wednesday, March 9**. This webinar will discuss the evolution of state, tribal, local, and territorial (STLT) COVID-19 mitigation policies, how they were used, what was their impact, and the ways some of these legal tools have been challenged in court. Gregory Sunshine, JD, public health analyst for CDC's Public Health Law Program, and Mara Howard-Williams, JD, MPH, unit lead of CDC's COVID-19 Mitigation Policy Analysis Unit, will provide an overview of the legal authorities for STLT public health powers. The speakers will describe the methodology and scope used to track mitigation policies, such as business closures and vaccine mandates, as well as

the impact of these policies and their implications for future public health emergency response. Participants will expand their knowledge of public health laws implemented during the COVID-19 pandemic and their impact on STLT communities.

Participant Login Information


Dial-In: (669) 254-5252 (Audio only)

Meeting ID: 161 241 1865


Passcode: 569595

Web Link: <https://www.zoomgov.com/j/1612411865> 


Registration Open | Healthcare Ethics Consortium 2022 Annual Conference (Virtual Event)

Emory University Center for Ethics is hosting its 27th annual conference on healthcare ethics. The conference this year will be held **virtually on March 9–10**. Topics will include the challenges of the last two years, as well as other issues of healthcare ethics, specifically mistrust and uncertainty. Reach out to Kristina Johnson at hec@emory.edu with any questions. [Learn more and register](#) .

Registration Open | NACCHO 360 Conference (Virtual & In-Person Event)

Registration is open for the National Association of County and City Health Officials (NACCHO) 360 Conference. The conference is scheduled to be held virtually and in-person in Atlanta on **July 19–21**. The theme is “Looking to the Future: Reshaping the Public Health System” and will explore innovative and traditional approaches to restructure the public health system. [Register today](#) .

Registration Open | Public Health Law Summit (In-Person Event)

The Network for Public Health Law is hosting the 2022 Public Health Law Summit on **April 25–27**. It is scheduled to be held in-person in **Baltimore**. The theme for this year’s summit is “Strengthening Protections for Community Health.” Featured topics include *Jacobson v. Massachusetts* and the balance between public health and individual liberties, preemption and its impact on the role of public health officials, current legal challenges to public health measures, and more. [Register today](#) .

Top Story

New Jersey: A new law in New Jersey will expand access to clean syringes for drug users 

Philadelphia Inquirer (01/18/2022) Aubrey Whelan

Story Highlights

On January 18, New Jersey Governor Phil Murphy signed into law a bill that increases opportunities for more syringe-exchange programs throughout the state. The new law expands on the 2007 legalization of these programs. Prior to the passage of the new law, syringe exchanges required “municipal approval before a site could open,” limiting the number of needle exchanges in the state. Seven exchange locations have opened in New Jersey since 2007. With the new law, any entity is allowed to apply to the State Department of Health to open an exchange program.


New Jersey Harm Reduction Coalition executive director Jenna Mellor and others have been advocating for expansion of the 2007 requirements for years and identified summer 2021 as the “tipping point,” when the Atlantic City Council voted to close Oasis, the largest syringe-exchange program in the state. Council members who voted to close Oasis did so due to its location in the tourism district, believing that Atlantic City “has shouldered an unfair burden and that other communities besides Atlantic City should be providing addiction services to residents.” Council President George Tibbit was pleased about the new law, stating “[a]ll the work will not be put on just Atlantic City anymore. We’re looking forward to working with the state to do our fair share.”

[Editor’s note: Read about [Syringe Services Programs \(SSPs\)](#).]

Briefly Noted




California: [Study to target health impact of massive California gas leak](#) 

The Associated Press (01/19/2022)

[Editor's note: Read more about the [lawsuit and settlement](#) .]

North Carolina: [Contradictory state laws aimed at stopping drug overdoses aren't applied equally](#) 

NC Health News (01/06/2022) Melba Newsome

[Editor's note: Read about the [Good Samaritan Law](#)  and the [Death by Distribution Law](#)  [\[PDF – 130 KB\]](#) .]

Utah: [New program launched to increase access to medical cannabis for qualifying patients](#) 

Utah Department of Health (01/19/2022)

[Editor's note: Learn more about [Utah's Medical Cannabis Act](#) .]

Tribal: ['American Diagnosis' Episode 2: Reclaiming native food traditions to nourish Indigenous people](#) 

Kaiser Family Foundation (02/01/2022) Dr. Celine Gounder

[Editor's note: To learn more about traditional American Indian/Alaska Native foods and the role of food in health promotion, [read this article](#) from CDC.]

Tribal: [Native American tribes reach landmark opioid deal with Johnson & Johnson, drug distributors for up to \\$665 million](#) 

The Washington Post (02/01/2022) Meryl Kornfield

[Editor's note: Learn more about [opioid overdose prevention](#).]

National: [2022 mental health parity report to Congress highlights increased enforcement efforts](#) 

The National Law Review (02/04/2022) Helaine Fingold, Kevin Malone, David Shillcut, and Bailey Wendzel

[Editor's note: Read about the [Mental Health Parity and Addiction Equity Act \(MHPAEA\)](#) .

National: [EPA restores rule to limit power-plant mercury emissions](#) 

ABC News (01/31/2022) Matthew Daly

[Editor's note: Read about [environmental laws that apply to mercury](#) .]

National: [Food labeling is lacking in online grocery retailers](#) 

Science Daily (01/20/2022) New York University, Jennifer L Pomeranz, Sean B Cash, Morgan Springer

[Editor's note: Learn more about [food labeling and nutrition](#) .]

National: [Marketplace enrollment reaches new record of 14.5 million](#) 

Health Affairs (01/31/2022) Katie Keith

[Editor's note: Read the [announcement](#)  from the Biden Administration.

National: [New research shows how health risks to children mount as temperatures rise](#) 

The New York Times (01/19/2022) Winston Choi-Schagrin

[Editor's note: Read about [children's environmental health](#).]

Global Public Health Law News


United Kingdom: [Families win BBC payouts over 11 asbestos cancer deaths](#) 

The Guardian (01/30/2022) Denis Campbell

[Editor's note: Read about the [health effects of asbestos](#).]

India: [Putting an end to India's oxygen crises](#) 

United Nations News (01/31/2022)

Peru: [Peru appeals for help to clean up major oil spill linked to the Tonga volcano eruption](#) 

The Guam Daily Post (01/24/2022) Claire Parker

[Editor's note: Learn more about the [human health effects of oil spills](#).]

International: [End leprosy discrimination laws 'without delay', UN rights expert urges](#) 

United Nations News (01/29/2022)

[Editor's note: Read about [leprosy myths and facts](#).]

Court Filings & Opinions

Wyoming

Plaintiffs Calli and Phillip Cornella ("The Cornella family") appealed the lower court's grant of summary judgment for the City of Lander, Wyoming ("Lander"). The Cornella family sued Lander for negligence under the Wyoming Governmental Claims Act (WGCA) § 1-39-112. In September 2016, Ms. Cornella found a bat in her sons' room and called the Lander Police Department Animal Control Division to remove the bat. An officer arrived at the home, removed the bat with a net, and then drove the bat back to be tested for rabies, leaving the bat in the bed of his truck. On the way to be tested, the bat escaped the net and therefore could not be tested for rabies.

When Ms. Cornella reached out to check about the results of the testing, she was directed to the public health office, who told her to contact Dr. Karl Musgraves, State Veterinarian. Dr. Musgraves informed Ms. Cornella that recently seven bats in the area tested positive for rabies and thus recommended that her children be checked for bat bites and that the family all get rabies vaccines as bat bites are not always visible. The children's physician did not find any bite marks, but Ms. Cornella decided to take the entire family to the hospital to receive rabies vaccinations. The Cornella family (Calli, Phillip, and their two sons) was vaccinated for rabies over a 14-day span, receiving their first doses when they arrived at the hospital and subsequent doses after 3, 7, and 14 days. The bill for these vaccines was \$83,007.60.

The Cornella family filed a lawsuit against Lander for \$133,007.60 in damages for the cost of the vaccines as well as "mental anguish, time spent coordinating with state officials and medical professionals, and damage to their credit ratings." The trial court granted Lander's motion for summary judgment, which the Cornella family appealed.

On appeal, this court found error by the district court both procedurally and as a matter of law in its grant of summary judgment for Lander. The court found procedural error because the district court "granted summary judgment to [Lander] on grounds not raised by the parties without giving them 'notice and a reasonable time to respond.'" The court also found error in application of applicable Wyoming statutory authority (Wyo. Stat. Ann. § 15-1-103(a)(1)) to the facts of the case. Thus, the case was reversed and remanded.

[Cornella v. City of Lander](#) 

Supreme Court of Wyoming

No. S-21-0135

Decided January 18, 2022

Opinion by Justice Boomgaarden

Federal

Appellant RICU, "one of the largest inpatient telehealth companies in the United States" appealed the dismissal of its February 2021 complaint alleging that a determination made by HHS regarding telehealth service Medicare reimbursement violated the Administrative Procedure Act and was contrary to law and arbitrary and capricious. In 2020, under Congressional authorization, HHS made a temporary modification to the Medicare requirements adding critical care telehealth to the reimbursement list. Prior to this modification, a telehealth service was required to be on the telehealth list to qualify for reimbursement, which excluded critical care intensive care unit telehealth.

In response to this modification, RICU sought "urgent clarification" to determine whether this modification allowed for reimbursement for telehealth services performed by physicians located outside of the United States. The CMS Director responded that the Medicare Act ban on payments for physicians outside of the United States "remains in effect during a public health emergency" and therefore such services could not be reimbursed. Following this clarification, RICU filed the

complaint that led to this appeal. The complaint was initially dismissed pursuant to Federal Rule of Civil Procedure 12(b) (1) as RICU “had not presented a concrete claim for payment to the Department as required by the Medicare Act channeling procedure.”

On appeal, RICU argued that it met the presentment requirement of the Medicare Act by seeking an eligibility determination, and alternatively argued that the Supreme Court has recognized an exception to the presentment requirement. This court found that neither of these were satisfied and affirmed the dismissal of RICU’s complaint for lack of jurisdiction over the matter.

[RICU LLC v. Dept. of Health and Human Services](#) 

United States Court of Appeals for the District of Columbia Circuit

No. 21-5186

Decided January 18, 2022

Majority Opinion by Rogers, C.J.

Federal

This case arises out of the pandemic and subsequent emergency orders in Oklahoma. On March 15, 2020, Oklahoma Governor Kevin Stitt (“Governor Stitt”) declared a state of emergency and on March 17, 2020, the city of Stilwell, Oklahoma (Stilwell) declared a local health emergency. On March 24, 2020, Governor Stitt issued an executive order that called for the closure of “all businesses not identified as being within a critical infrastructure sector as defined by the US Department of Homeland Security.” Following this order, on March 20, 2020, Stilwell Mayor Jean Ann Wright (“Mayor Wright”) drafted a letter providing notice about Governor Stitt’s order and required all nonessential businesses to close. The letter included information about penalties for noncompliance (a \$3,000 fine and 6 months in jail). This letter was delivered to Plaintiff’s business, Vonnie’s Pawn Shop (“Vonnies”) on March 26, 2020, and Vonnie’s subsequently closed and remained closed through April 15, 2020.

The parties dispute the intent behind the letter. Plaintiffs argue that delivery of the letter required Vonnie’s to close. Defendants argue that the letter was delivered to inform about Governor Stitt’s order, and that each business could decide whether it fell within the essential category or not.

Plaintiffs allege two causes of action: “(1) violation of the Oklahoma Pawnshop Act and (2) violation of the Due Process Clause pursuant to 42 U.S.C. § 1983.” Defendants moved for summary judgment on both causes of action. The court granted summary judgment as to the violation of the Oklahoma Pawnshop Act because the ordinance underlying Plaintiff’s claim has been repealed, making the claim moot. The court denied summary judgment as to the violation of the Due Process Clause, finding that “a reasonable jury could conclude that Plaintiff had a protective property interest which was violated by Defendants” and that “the facts underlying the government action are in dispute,” making Defendants not entitled to judgment as a matter of law.

[Jones v. City of Stilwell](#) 

United States District Court, E.D. Oklahoma

No. 20-CV-305-RAW

Decided January 5, 2022

Opinion by White, D.J.

Quiz Question: February 2022

Question: What is the final day to submit an abstract for the APHA Annual Meeting and Expo?

Last Month’s Quiz Answer

Question: When does the early bird discounted rate for NACCHO’s Preparedness Summit end?

Answer: February 28. NACCHO will hold its annual Preparedness Summit **April 4–7** in Atlanta, Georgia. The theme of the conference is “Reimagining Preparedness,” which will reflect on lessons learned from the pandemic and reimagine the future of preparedness. [Register today](#).

Quote of the Month

“It is time for all States concerned to make a choice: whether to keep such discriminatory laws against persons affected by leprosy in violation of international human rights standards, or to eliminate such discrimination in law without delay” said Alice Cruz, UN Special Rapporteur.

[Editor’s note: This quote is from the above article [End leprosy discrimination laws ‘without delay’, UN rights expert urges](#) , United Nations News, 01/29/2022.]

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