



## Public Health Professionals Gateway

# Public Health Law News

January 2022



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

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### Announcements

#### Associate Application Period for CDC's Public Health Associate Program (PHAP) Now Open

**PHAP** is accepting applications from prospective associates **January 18–25**. PHAP is a competitive, paid, two-year training program for recent college graduates interested in public health careers. This unique program provides early-career public health professionals with opportunities for hands-on, real-life experience in the field. Associates are assigned to state, tribal, local, and territorial public health agencies; nongovernmental organizations; public health institutes and associations; community organizations; and academic institutions. Associates work alongside professionals in a variety of public health areas and gain broad experience in the day-to-day operations of public health programs. [Apply today](#).

#### American Health Law Association: Call for Leaders

The American Health Law Association is seeking applicants for multiple volunteer leadership positions. They are seeking leaders for the Practice Group and Infinity Group, Program Planning Committee, Women's Leadership Council and Young Professionals Council, Dispute Resolution Service Council, Development and Advancement Council, and the Journal of Health & Life Sciences Law Editorial Board. The application period closes on **January 28**. If you have questions about the positions or the application process, please email [volunteer@americanhealthlaw.org](mailto:volunteer@americanhealthlaw.org).

#### Host Site Application Period for CDC's Public Health Associate Program (PHAP) Open Through February 18

The PHAP application period for interested host sites is **January 3–February 18**. Host sites provide PHAP associates, recent graduates interested in public health, with the day-to-day public health experience and training that supports the PHAP curriculum requirements. Host sites also receive numerous benefits, including 1) CDC-funded field assignees who

are well-rounded, energetic, flexible, career-minded individuals bringing valuable skills to host agencies, and 2) capacity-building and human resources to fill gaps in agencies affected by budget cuts and staffing shortages. [Learn more about becoming a host site and apply.](#)

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#### **Job Opportunity—Senior Program Analyst: National Association of County and City Health Officials (NACCHO)**

NACCHO is seeking applicants for a Senior Program Analyst, Public Health Law and Policy. This position will manage Health in All Policies-related programs and also support general public health law activities. [Learn more and apply.](#)

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#### **Apply for the Pozen-Commonwealth Fund Fellowship in Health Equity Leadership**

Applications are now being accepted for the Pozen-Commonwealth Fund Fellowship in Health Equity Leadership at Yale University's School of Management. This fellowship is a 22-month, degree-granting program that covers the cost of the MBA for Executive Program and gives healthcare practitioners the skills they need to tackle major inequities in the US healthcare system. Round 2 applications are open through **January 31**. [Here's how to apply.](#) [↗](#)

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### Tribal Announcements

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#### **CDC/ATSDR Tribal Advisory Committee Meeting (Virtual)**

The 23rd Biannual Tribal Advisory Committee Meeting will be held **February 2–3**. This biannual meeting will convene leaders from tribal nations, CDC, and the Agency for Toxic Substances and Disease Registry (ATSDR) to discuss public health issues affecting tribal nations. [Learn more.](#)

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#### **Imagining Justice: American Indian Tribal Laws of Criminal Responsibility Webinar Recording**

The Stanford Center for Comparative Studies in Race and Ethnicity hosted a webinar about tribal law and Indian responsibility. It is a part of their "Imagining Justice" series, which offers interdisciplinary conversations exploring the intersection of race, ethnicity, and criminal justice. [Listen to the webinar recording](#) [↗](#).

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### Legal Tools & Training

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#### **Registration Open for the 2022 Preparedness Summit (In-Person)**

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. There is a discounted early bird registration rate through **February 21**. [Register today](#) [↗](#).

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#### **National Association of Local Boards of Health (NALBOH) Annual Conference (In-Person)**

NALBOH will hold its annual conference **August 1–3** in Grand Rapids, Michigan. NALBOH supports the work of local boards of health, focusing on strengthening good governance at the local level. [Learn more](#) [↗](#).

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#### **Registration Open for Society for Public Health Education (SOPHE) Annual Digital Conference (Virtual)**

SOPHE will hold its annual conference **March 22–25**. It will bring together health educators to share research, best practices, and their applications in the field. [More information and registration](#) [↗](#).

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### Top Story

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#### **National: A new ban on surprise medical bills starts today** [↗](#)

The New York Times (12/30/2021) Margot Sanger-Katz

A new ban on surprise medical billing took effect on January 1, protecting those with medical emergencies from receiving bills from doctors they did not choose and who do not accept their insurance.

"We shouldn't have to depend on people knowing minutia about insurance regulation in order for them to get care or not be unfairly billed," said Anthony Wright, the executive director of Health Access California, a patient group that supported the federal law and that fought for a law that banned surprise bills in California starting in 2017.

When a patient has a medical emergency and they visit an urgent care center or emergency room, they cannot be charged more than the cost sharing they are accustomed to for in-network services. Patients will still be charged for deductibles and co-payments but should not receive other bills.

Doctors and hospital groups have challenged parts of the surprise billing law with lawsuits, but it is unlikely there will be an impact on medical bills if the lawsuits succeed. The lawsuits focus on what happens after an out-of-network doctor treats a patient and the process for how the doctor receives payment.

The new law only protects patients from surprise bills from doctors who patients did not choose in emergency situations. For non-emergency care and scheduled services, like knee operations and colonoscopies, patients should make sure they are seeing providers in their health insurer's network. While the government is working to make medical billing more transparent, it is important for consumers to understand what their health insurance plans cover.

[Editor's note: Learn more about the [No Surprises Act, H.R. 133; Division BB](#) [↗](#) .]

## Briefly Noted

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**Colorado:** [Colorado allocated \\$1.8 million to increase access to drug that can reverse opioid overdoses](#) [↗](#)

The Denver Post (01/05/2022)

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

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**Indiana:** [A catch-22 trips up some in legal guardianship who try to regain independence](#) [↗](#)

Kaiser Health News (01/07/2022)

[Editor's note: Learn about [disability and health promotion](#).]

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**New York:** [New York governor declares racism "public health emergency" amid new anti-discrimination legislation](#) [↗](#)

ABC News (12/30/2021) Kiara Alfonseca

[Editor's note: Learn more about [racism and health](#) and read the [declaration](#) [↗](#) .]

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**Oklahoma:** [Unintended consequence of SQ 780 may impact access to drug treatment courts](#) [↗](#)

State Impact Oklahoma (01/06/2022) Beth Wallis

[Editor's note: Learn more about [drug treatment courts](#) [↗](#) .]

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**Tennessee:** [Tennessee is the latest state to require hairstylists to complete domestic violence training](#) [↗](#)

CNN (01/09/2022) Kaanita Iyer

[Editor's note: Learn more about the new [requirement](#) [📄](#) [PDF - 234 KB] [↗](#) .]

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**Virginia:** [Virginia commission urges policy changes to address inequity in the state's economy, rural life, environment](#) [↗](#)

Washington Post (1/06/2022) Gregory S. Schneider

[Editor's note: Learn more about [health equity report](#).]

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**National:** [Biden's LGBTQ health bias bans face rash of legal roadblocks](#) [↗](#)

Bloomberg (01/07/2022) Lydia Wheeler

[Editor's note: Learn more about [LGBTQ+ health](#).]

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**Tribal:** [US tribes see hope for clean water in infrastructure bill](#) [↗](#)

Associated Press (12/23/2021) Gillian Flaccus, Felicia Fonseca, and Becky Bohrer

[Editor's note: Learn more about [tribal health](#).]

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**Canada:** [Following unanimous parliamentary approval in 2021, conversion therapy is now illegal in Canada](#) 

Yahoo News (01/08/2022) Morgan Keith

[Editor's note: Learn more about [LGBTQ+ health](#).]

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**Canada:** [Canada reaches agreement to compensate indigenous children from families](#) 

Yahoo News (01/05/2022) Anna Mehler Paperny and Ismail Shakil

[Editor's note: Read the Canadian government's [release](#) .]

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**Ireland:** [Ireland puts minimum price of alcohol to curb binge drinking](#) 

The New York Times (01/04/2022) Isabella Kwai

[Editor's note: Learn more about [alcohol and public health](#).]

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**Spain:** [Spain's beaches are now smoking free zones](#) 

Lonely Planet (12/28/2021) Fionnuala McCarthy

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

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## Court Filings & Opinions

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**New York:** A New York court upheld an administrative decision that the state Department of Education ("DOE") did not err by revoking an offer to renew a contract for operation of a universal pre-kindergarten center ("UPK").

Petitioner had a contract with the DOE to operate a UPK in Brooklyn, New York. The contract, set to expire in June 2020, stated that the DOE could extend the contract period at "its sole option." Between February and June 2020, the DOE sent the petitioner a series of letters explaining that it intended to renew the petitioner's contract subject to the petitioner's compliance with state operational and hygiene laws, noting the petitioner's previous health and safety violations. The DOE ultimately informed the petitioner that it declined to exercise its renewal power.

The court found that an administrative judge correctly determined that the DOE had a rational basis for the decision, explaining that the communication to the petitioner contained explicit conditions precedent and made clear that the renewal decision was within the DOE's sole discretion. In addition, the record showed six documented health and safety violations between 2018–2020 and state law allowed DOE to consider "any" such violations. Accordingly, the administrative judge's decision upholding the DOE's withdraw was not arbitrary or capricious.

[In re Edwards v. New York City Dep't of Educ.](#) 

Supreme Court of New York for Kings County

No. 511176/2020

December 10, 2021

Opinion by: Katherine A. Levine, J.

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**New York:** A New York appellate court dismissed a challenge to a regulatory provision defining the standard for school vaccination medical exemptions. State law provides that a child is entitled to a medical exemption from mandatory school vaccinations only if a physician determines a specific vaccine may be detrimental to that child's health. To clarify this standard, the defendant, the New York Department of Health (the "Department"), passed a regulation stating that a vaccine is "detrimental" where a "physician has determined that a child has a medical contraindication or precaution to a specific immunization consistent with Advisory Committee on Immunization Practices guidance or other nationally recognized evidence-based standard of care."

Plaintiffs challenged the regulation, arguing the Department exceeded its authority and violated the separation of powers doctrine by usurping the state legislature's duties. The court disagreed and explained that legislative delegation was both permissible and widely established under New York law. In addition, the Department had explicit statutory authority to pass rules and regulations meant to effectuate the school vaccination statute. The court also noted that the Department's regulation was consistent with the statute's stated purpose of obtaining "the highest reasonable level the immunity of the children of the state against communicable diseases."

[In re Kerri W.S. v. Zucker](#) 

Appellate Division of the Supreme Court of New York, Fourth Department

636 CA 20-00854

December 23, 2021

Opinion by: NeMoyer, J.

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**North Carolina:** The North Carolina Court of Appeals affirmed a lower court's decision that a state Medicaid rule implemented by the North Carolina Department of Health and Human Services ("NCDHHS") was unenforceable because it was unsupported by any federal statutory or regulatory authority. Specifically, the court held that NCDHHS could not deny or limit Medicaid coverage for Medicaid beneficiaries who are eligible for, but not enrolled in, Medicare Part B. Federal law explicitly dictates that Medicare is not a condition of Medicaid eligibility.

[Hendrixson v. The Div. of Soc. Servs.](#) 

North Carolina Court of Appeals

COA20-282

January 4, 2022

Opinion by: Murphy, Judge

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**Federal:** The United States Court of Appeals for the Tenth Circuit upheld a six-figure civil penalty assessed against Defendant Diesel Power Gear, LLC, for violations of federal motor vehicle emissions standards; however, the court remanded the matter and instructed the district court to determine the extent to which the defendant's violations occurred in Utah, weigh the seriousness of the defendant's conduct based on statutory factors, and reassess the civil penalty accordingly.

The plaintiff, a nonprofit organization of healthcare professionals and citizens, filed suit against the defendant for violations of motor vehicle emissions standards under Utah state law and the Clean Air Acts ("CAA"). The plaintiff alleged that the defendant's conduct caused adverse health conditions and reduced the natural beauty of scenery in the Wasatch Front, an area of Utah that the Environmental Protection Agency (EPA) determined to be a "nonattainment area." Nonattainment areas are geographic zones that fail to meet federal air pollution standards. Following a bench trial, the US District Court for the District of Utah found that the defendant unlawfully sold or retrofitted diesel trucks with equipment that disabled required emission control systems in violation of state and federal law.

On appeal, the Tenth Circuit held that the plaintiff had Article III standing to pursue its CAA claims against the defendant for the defendant's contribution to pollution in the Wasatch Front because the plaintiff and the pollution emissions resided in the same nonattainment area. However, because the EPA did not indicate that the Wasatch Front extended outside Utah, the plaintiff failed to present evidence of actual or imminent injury caused by pollutants outside the state. As such, the court held that the plaintiff can assert claims against the defendant only for violations within Utah. Finally, the court found that the district court failed to appropriately give weight to the seriousness of the defendant's violations, a statutory factor in the assessment of CAA penalties.

[Utah Physicians for a Healthy Env't v. Diesel Power Gear, LLC](#)  [PDF - 291 KB] 

United States Court of Appeals, Tenth Circuit

No. 20-4043

Dec. 28, 2021

Opinion by: Hartz, Circuit Judge

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## Quiz Question: January 2022

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

## Last Month's Quiz Answer

**Question:** What CDC program for recent graduates interested in becoming public health professionals has an application period that opens January 18, 2022?

**Answer:** CDC's Public Health Associate Program (PHAP). [Learn more about becoming a PHAP associate or a host site.](#)

## Quote of the Month

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"People with significant disabilities have long been discriminated against because people think that they [lack] the ability to make decisions," said Derek Nord, director of the Indiana Institute on Disability and Community.

[Editor's note: This quote is from the above article [A catch-22 trips up some in legal guardianship who try to regain independence](#) [↗](#), Kaiser Health News, Carter Barrett, 01/07/2022.]

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