



Public Health Professionals Gateway

Public Health Law News

November 2021



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

Subscribe to *Public Health Law News* 


Letter from the Editor

In honor of American Indian and Alaska Native Heritage Month, the *Public Health Law News* dedicates this issue to the extraordinary public health attorneys and practitioners across Indian Country for their dedicated work in navigating federal, state, and tribal laws to improve public health for indigenous communities.

Abigail Ferrell, JD, MPA
Editor in Chief

Announcements

NativeDATA: A Data-Sharing Resource for Native Peoples and Organizations

NativeDATA is an online data-sharing hub full of free online resources that offer practical data-sharing guidance for tribes and Native-serving organizations. This resource contains specific information and tools supporting the five identified areas of activity related to the sharing of data: defining a goal, sharing data, building relationships, obtaining data, and getting approvals. It will also offer documents, trainings, videos, data-sharing stories from people working in the field, and an option to contact the NativeDATA site administrators with questions. [Learn more](#) .

Native American Heritage Month: CDC Strategies for Reducing Health Disparities

In honor of Native American Heritage Month, CDC highlights its *Strategies for Reducing Health Disparities—Selected CDC-Sponsored Interventions* reports, that provide real-world examples of how public health programs can address differences in health outcomes and their causes among different groups of people. [Learn more](#).

Register for the National American Indian Housing Council (NAIHC) Legal Symposium

NAIHC is hosting a legal symposium in **Las Vegas on December 6–8** for tribal housing and legal professionals from across the country working to address availability of and access to affordable housing for Native American families. The event will bring together more than 500 tribal housing professionals, tribal leaders, law firms serving Indian Country, tribal staff, federal officials, and others. [Register today.](#)

National Network of Public Health Institutes (NNPHI): 2022 Open Forum Accepting Abstracts

NNPHI is accepting abstracts for “2022 Open Forum: Next Generation.” The Forum will take place virtually **January 25–27**. Tracks and sessions focus on five cross-cutting topics relevant to public health post-pandemic: health and racial equity, workforce development for the next generation of the public health workforce, public health law and policy, performance management and quality improvement, and emerging issues or hot topics. Submission deadline is **December 7, 11:59 pm (PDT)**. [Learn more](#).

NNPHI: 2022 Public Health Improvement Training

NNPHI is hosting a virtual Public Health Improvement Training (PHIT) on June 6–8, 2022. PHIT offers networking opportunities, as well as interactive learning and skill-building sessions designed for different experience levels. There will be hands-on sessions and discussion groups that are designed to renew commitment to performance excellence and inspire new insight long after the event.

Call for Workshops:

- December – Call for Workshops information released
- Early January – Call for Workshops submissions open
- Early February – Call for Workshops deadline
- Late February – Registration opens

[Learn more](#). For questions, email [Meghan Wolfe](#).

Legal Training and Tools

ChangeLab Solutions Releases New “Good Governance” Training Series

ChangeLab Solutions has created the Building Healthy, Equitable Communities Series as part of its Good Governance online trainings. This series of six strategic trainings explores health equity through laws and policies, coupled with community power. The series uses a blog post, a webinar, and an interactive expert panel to educate trainees about how environments can help individuals achieve their full health potential. [Take the training](#).

NACCHO Roots of Health Inequity Training


This online learning collaborative training explores social processes that produce health inequities in the distribution of disease and illness. The training helps individuals strategize more effective ways to act on the root causes of health inequity. Participants also have the chance to form relationships with other local health departments working to ensure health equity. [Take the training](#).

Online Training: ChangeLab Solutions and CDC Offer “Public Health Threats & the US Constitution”

CDC’s Public Health Law Program and ChangeLab Solutions offer a free training titled “Public Health Threats & the US Constitution” through the [Public Health Law Academy](#). This training provides an overview of laws that affect how government can respond to health crises in ways that advance rather than hinder health equity. It introduces the constitutional principles and doctrines that protect individual civil liberties from government overreach. [Take the training](#).

Research Report Tool: Expanding the Roles of Emergency Medical Services Providers: A Legal Analysis

The Association of State and Territorial Health Officials, in partnership with the Office of the Assistant Secretary for Preparedness and Response in the US Department of Health and Human Services, conducted a comprehensive assessment of various facets of community paramedicine. The assessment was part of a larger examination of plausible

approaches to increasing day to-day Emergency Medical Services in communities without changing scope of professional practice parameters in the United States. The primary objective of this project was to conduct innovative and relevant legal and policy research to discover core issues that may impede ongoing and future activities of health professionals in routine community paramedicine activities. [Read the legal analysis](#) .

Top Story

National: [How states are addressing violence against Indigenous women](#) 

US News (11/01/2021) Devon Haynie

Story Highlights

Missing and Murdered Indigenous Women (MMIW) activists have called attention to the lack of press attention given to thousands of Native American and Alaska Native women and girls who went missing or were murdered in recent years. In many instances, cases of murdered or missing White women receive much greater media coverage than cases involving MMIW.

According to CDC, from 1999 to 2019, homicide was the third leading cause of death among American Indian and Alaska Native women and girls between the ages of 12 and 30, while for their White counterparts, it was the fifth leading cause of death. Reservations are especially vulnerable areas, with American Indian homicide rates more than 10 times the national average. However, advocates suspect the real number of MMIW is higher than current data reflect. They cite systemic racism, jurisdictional confusion, lack of oversight, and poor data collection as reasons for underreporting and inadequate investigations.



The MMIW movement demands that authorities pay attention to the issue. Charon Asetoyer, founder of the Native American Community Board on the Yankton Sioux Reservation in South Dakota, says, "Women of color all over this country go missing every day and you never hear about it in the news. All life matters."

After decades of efforts by activists such as Asetoyer, in recent years law enforcement at the state and federal levels has begun working more diligently to address crimes against American Indian and Alaska Native women. For example, states with significant Native American populations, such as New Mexico, Arizona, Washington, and Minnesota, have launched task forces or other efforts to deploy search and rescue operations or to prosecute in MMIW cases. In 2021, South Dakota and Oklahoma created offices to address the issue of missing Indigenous people. Also this year, Kansas passed a law paving the way for relevant police trainings.

Other individuals, within and outside Indian Country communities, still question the design and efficacy of these programs. Annita Lucchesi, a Montana-based expert on missing Indigenous people, says state task forces are "Public relations stunts," with quick timelines and not enough progress to show efficacy.

Recent reports on the issue of MMIW, in Arizona, New Mexico, Wyoming, and Minnesota, have led to recommendations, including increasing funding for services that would help grieving family members and survivors, encouraging memorandums of understanding between tribal and nontribal law enforcement, implementing cultural training for police, and mandating data collection and reporting.

Activists for missing Indigenous people acknowledge the problem is complex and say there needs to be increased accountability and buy-in from state lawmakers.

[Editor's note: Learn more about [violence against American Indian and Alaska Native people](#)  [PDF – 379 KB] and read the Department of Justice Journal of Federal Law and Practice edition about [Missing or Murdered Indigenous Persons: Legal, Prosecution, Advocacy, & Healthcare, published March 2021](#) .

Briefly Noted

California: [Drug companies win in California opioid crisis lawsuit](#) 

AP News (11/02/2021) Robert Jablon and Donald Thompson


Minnesota: [University of Minnesota to offer free tuition to many Native American students](#) 

MPR News (11/01/2021) Dan Kraker

[Editor's note: Learn more about the [importance of academics on health](#).]

Montana: [New Montana laws enshrine health care alternatives, for better or worse](#) [PDF – 104 KB] 

US News (06/10/2021) Kaiser Health News

[Editor's note: Learn more about the new [Montana laws](#)  .]

Tribal: [Why protecting tribal rights is key to fighting climate change](#) 

Yale Environment 360 (10/27/2021) Jeremy Deaton

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

National: [Biden orders feds to tackle 'epidemic' of missing or murdered Indigenous people](#) 

USA Today (11/15/2021) Joey Garrison

[Editor's note: Read [Executive Order on Improving Public Safety and Criminal Justice for Native Americans and Addressing the Crisis of Missing or Murdered Indigenous People](#) .]

National: [Measuring what matters: Social drivers of health](#) 

The Commonwealth Fund (11/02/2021) Rachel Nuzum, Corinne Lewis, and Debbie I. Chang

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

Global Public Health Law News

Afghanistan: [Afghanistan's doctors urge world to put politics and prejudice aside to save its healthcare](#) 

The BMJ (11/03/2021) Geetanjali Krishna

[Editor's note: Learn more about [immigrant, refugee, and migrant health](#).]

Ethiopia: [Ethiopia declares nationwide state of emergency](#) 

Al Jazeera (11/01/2021)

India: [No 'one size fits all' approach to depression: Times when Supreme Court stood for mental health](#) 

India Times (11/03/2021) Sweta Sengar

United Kingdom: [Boris Johnson to consider calls to legalise magic mushroom drug psilocybin](#) 

BBC News (10/20/2021) Christina McSorley

Court Filings and Opinions

Alabama: The Court of Civil Appeals of Alabama held that the Alabama Department of Environmental Management (ADEM) violated state law by considering and approving an application to modify a landfill expansion permit before it received local governmental approval.

In September 2014, the city of Dothan, Alabama, began the process of expanding a local landfill, a process that would require modification of an existing landfill permit. Alabama law requires that municipalities seeking such modification submit applications and receive approval from ADEM, the state entity responsible for regulating solid waste management. However, state law also dictates that the relevant local governing body must approve its municipality's proposed modification before ADEM can consider the application. The court found that ADEM violated state law by granting the city's application before the measure receiving approval from the Dothan Board of Commissioners. While the board did pass a resolution that approved the landfill expansion generally, the resolution was passed before the city finalized a design or submitted its application for permit modification. Accordingly, the court of civil appeals found that ADEM did not receive appropriate local governmental approval, and the case was reversed and remanded to the trial court.

[Lewis v. Ala. Dep't of Env't Mngmt](#) 

Court of Civil Appeals of Alabama

No. 2200431

October 8, 2021

Opinion by Judge Moore

California: After a trial, a California state court issued a tentative ruling granting judgment in favor of several large pharmaceutical companies on claims seeking to hold the companies liable for their roles in the opioid crisis. The plaintiffs, several California counties, alleged the defendant companies engaged in deceptive marketing practices to increase unnecessary opioid prescriptions, ultimately causing adverse consequences that qualify as public nuisances.

The court found that the plaintiffs failed to meet their evidentiary burdens. First, the court explained that the plaintiffs failed to demonstrate an actionable public nuisance because they did not introduce any evidence proving a connection between the defendants' actions and an increase in medically unnecessary opioid prescriptions. Said differently, there was "no evidence to show that the rise in prescriptions was not the result of the medically appropriate provision of pain medications to patients in need." The court also held that the plaintiffs failed to identify any statements made by any defendant that qualified as false or misleading as a matter of law.

[People v. Purdue Pharma, L.P](#)  [PDF – 2.4 MB] 

Superior Court of the State of California, Orange County

Case No. 30-2014-00725287-CU-BT-CXC

November 1, 2021

Iowa: The Supreme Court of Iowa held that the Iowa Board of Medicine erred by releasing investigative information about a physician before a final decision had been made in his disciplinary proceeding. In March 2013, the board published the physician's name, the charges against him, and factual allegations relating to the matter being investigated. The physician sought declaratory relief, arguing that the board's actions violated state law. The court agreed, saying the Iowa Code specifies what investigative information the board may disclose, what information must be reported, and that the board's judgments are to become public record. Relying on statutory interpretation principles, the court reasoned that these elements unambiguously express the legislature's intent for investigative information to remain confidential until a final decision is published.

[Calcaterra v. Iowa Bd. of Medicine](#) 

Supreme Court of Iowa

No. 20-1429

October 22, 2021

Opinion by Justice Mansfield

New York: The Civil Court of the City of New York, New York County, found that it had the power to enforce Local Law 1, a law meant to protect tenants from lead paint, because another local law explicitly grants it subject matter jurisdiction in cases concerning housing standards.

In 2004, the New York City Council enacted a series of laws requiring landlords to proactively investigate for the presence of lead if any children under age six reside in apartments built before 1960. Local Law 1 mandates that landlords compile their findings into a report, deliver the report to tenants, and keep all relevant records for ten years. Tenants of a building in New York City brought an action pursuant to Local Law 1, alleging that their landlord failed to investigate for lead paint, inquire about presence of children under age six, or provide an annual report as required by law. Because the New York City Civil Court Act empowers courts to "employ any remedy, program, procedure or sanction authorized by law for the enforcement of housing standards" and Local Law 1 concerns housing standards, the court found it had jurisdiction to order injunctive relief. Accordingly, the court ordered that the tenants be provided all required and applicable records within 60 days.

[656 W. 162nd St. Tenants Assn. v. Edelstein](#) 

Civil Court of the City of New York, New York County

Index No. LT-303126-21/NY

October 8, 2021

Opinion by Judge Frances A. Ortiz

Federal:The federal court in California vacated the Environmental Protection Agency's (EPA's) 2020 Clean Water Act Section 401 Certification Rule (the 2020 Rule).

The 2020 Rule narrowed the authority of states and authorized tribes to deny permits for projects that could harm waterways within those jurisdictions. The EPA requested that the court remand the 2020 Rule without a decision on the merits and, while indicating its intent to promulgate a new Certification Rule in 2023, the EPA opposed vacating the 2020 Rule. However, the plaintiffs—states, tribes, and nonprofit conservation groups—sought remand with vacatur, citing the environmental consequences of leaving the 2020 Rule in effect.

After weighing the arguments before it, the court stated that any disruptive effects from vacating the 2020 Rule were outweighed by the potential environmental harms described by the plaintiffs. Additionally, the court noted that the 2020 Rule likely violates federal law, a notion bolstered by the EPA's recognition that "it could not or will not adopt the same rule upon remand." Accordingly, the court granted the EPA's request for remand and vacated the 2020 Rule.

[In re: Clean Water Act Rulemaking](#) 

United States District Court, Northern District of California

Nos. C 20-04636 WHA, C 20-04869 WHA, C 20-06137 WHA

October 21, 2021

Opinion by Judge William Alsup

Quiz Question: November 2021

Question: What does MMIW stand for?

Last Month's Quiz Answer

Question: What mosquito-borne disease kills nearly 500,000 people annually?

Answer: Malaria

Quote of the Month

"One of the biggest barriers to getting a college education is funding . . . [a]nd for our children, removing that barrier is a huge deal. And creating access to higher education is the way to uplift our community," said Sam Strong, Secretary of the Red Lake Band of Chippewa, on the University of Minnesota offering many Native students free tuition.

[Editor's note: The quote is from the above article [University of Minnesota to offer free tuition to many Native American students](#) , MPR News, Dan Kraker (11/01/2021)]

About *Public Health Law News*

The *Public Health Law News* is published the third Thursday of each month except holidays, plus special issues when warranted. It is distributed only in electronic form and is free of charge.

The *News* is published by the Public Health Law Program in the Center for State, Tribal, Local, and Territorial Support.

Subscribe!

[Subscribe to *Public Health Law News*](#) or [access past issues](#). To make comments or suggestions, send an email message to PHLawProgram@cdc.gov.

Disclaimers

Public Health Law News (the *News*) content is selected solely on the basis of newsworthiness and potential interest to readers. CDC and HHS assume no responsibility for the factual accuracy of the items presented from other sources. The selection, omission, or content of items does not imply any endorsement or other position taken by CDC or HHS. Opinions expressed by the original authors of items included in the *News*, persons quoted therein, or persons interviewed for the *News* are strictly their own and are in no way meant to represent the opinion or views of CDC or HHS. References to products, trade names, publications, news sources, and non-CDC websites are provided solely for informational purposes and do not imply endorsement by CDC or HHS. Legal cases are presented for educational purposes only, and are not meant to represent the current state of the law. The findings and conclusions reported in this document are those of the author(s) and do not necessarily represent the views of CDC or HHS. The *News* is in the public domain and may be freely forwarded and reproduced without permission. The original news sources and the *Public Health Law News* should be cited as sources. Readers should contact the cited news sources for the full text of the articles.