



## Public Health Professionals Gateway

# Public Health Law News

September 2021



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

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## September Is National Preparedness Month!

### Editor's Note

The Public Health Law Program (PHLP) thanks Eva González Villanueva and Nadine Mumford for their exceptional researching and writing assistance on the June, July, and August editions of the *Public Health Law News*. Ms. González Villanueva is a master of science in social work candidate at the University of Texas at Austin and a public health candidate at its School of Public Health. Ms. Mumford is a master of public health candidate at Purdue University.

Additional student contributors to the *News* are:


- Brian Chin, MD candidate, Penn State College of Medicine; JD candidate, Penn State Dickinson Law
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PHLP is honored to work with such outstanding students. We hold them in the highest regard and wish them every success in their future endeavors.

## Announcements


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### Exploring Competencies in Public Health for Attorneys: A Pilot Training

The National Association of County & City Health Officials (NACCHO) and ChangeLab Solutions invite health department staff to attend a pilot training introducing concepts in public health law, including a discussion on the newly developed Public Health Competency Model for Attorneys on **September 22, 1:30–3:00 pm (EDT)**. [Register today](#) .


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### Funding Opportunity: FY 2021 Regional Disaster Health Response System (RDHRS)

This funding opportunity is for a demonstration project that will help identify issues, develop leading practices, and demonstrate the potential effectiveness and viability of the RDHRS concept. The RDHRS structure is conceptualized as a tiered system that builds on the existing Medical Surge Capacity and Capability foundation for local medical response by enhancing coordination mechanisms and incorporating discrete clinical and administrative capabilities at the state and regional levels. RDHRS is not intended to alter or displace current local patient referral patterns but is instead intended to define the delivery of clinical care when catastrophic events exceed the existing referral patterns and healthcare delivery capacity. RDHRS is intended to provide additional healthcare integration and expertise into preparedness and response structures. Applications due by **September 20**. [Here's how to apply](#) .


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### 2021 Public Health Law Conference Now Virtual

The 2021 Virtual Public Health Law Conference, hosted by the Network for Public Health Law, will be virtual and held on **September 21–23**. The conference will provide an opportunity to learn how the strategic use of legal and policy tools can address fundamental drivers of inequity, promote health and well-being, and save lives. [Learn more](#) .


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### Register for the Virtual 23rd Annual Advocacy Summit

You are invited to attend the 2021 Society for Public Health Education (SOPHE) Advocacy Summit taking place virtually on **October 13–14**. SOPHE and other public health and advocacy professionals and students gather to engage in effective advocacy for a common agenda at national, state, and local levels. [Register today](#) .


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### Applications for National Leadership Academy for the Public's Health (NLAPH)

Applications are being accepted for NLAPH. Now in its 11th year, NLAPH helps teams with members from diverse sectors including health, housing, education, transportation, and law enforcement to grow individual leaders into a collective leadership team better suited to address today's complex issues and effectively transform their communities, improve health, and advance equity. Applications are due by **October 1, 8:00 pm (EDT)**. [Here's how to apply](#) .


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### HIV Criminalization Laws and Ending the US HIV Epidemic

A recent analysis published in *The Lancet* shows that HIV criminalization laws in the United States present significant challenges to reducing HIV transmission and ending the HIV epidemic. [Read more](#)  (subscription required).


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### Registration Open for 2021 Policy Surveillance Institute

Registration is limited and closes tomorrow, **September 17**. The Center for Public Health Law Research will host its most comprehensive policy surveillance training of the year online on **October 4–6**. The Institute will teach each step in the policy surveillance process with live training from experts from the Temple University Center for Public Health Law Research using policy surveillance software and through collaborative exercises. [Learn more and register](#) .


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### Register for American Public Health Association (APHA) 2021

APHA will hold its annual meeting and expo on **October 24–27** in Denver and online. The theme of APHA 2021 is *Creating the Healthiest Nation: Strengthening Social Connectedness*. [Learn more](#) .

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## Policy Surveillance Training Webinar Series

Registration is now open for the introductory and advanced policy surveillance training webinars. The free, one-hour webinars hosted by the Center for Public Health Law Research introduce methods and applications for policy surveillance and scientific legal mapping. [Learn more and register](#) .

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## Accepting Submissions: Maryland Journal of Health Care Law & Policy


The University of Maryland *Journal of Health Care Law & Policy* is accepting submissions for articles to be published in Volume 25 in fall 2021. Manuscripts may be submitted through Scholastica or directly to [JHCLPEXEC@law.umaryland.edu](mailto:JHCLPEXEC@law.umaryland.edu).

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## Tribal Announcements




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### National Indian Health Board (NIHB) 2021 National Tribal Health Conference

The nation's premier American Indian and Alaska Native health conference will take place virtually **October 4–8**. The National Tribal Health Conference explores health policy and its impact on tribes, advances tribal capacity to expand policy work, and serves as a forum to discuss policy and political work in the arenas of tribal healthcare and public, behavioral, and environmental health. [Learn more and register](#) .




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### Job Opportunity: Policy Analyst at the NIHB Policy Center

NIHB is seeking to hire a policy analyst to help with activities to support tracking and responding to federal health policies and regulations as they affect Indian Country. [Learn more](#)  and [apply](#)  [PDF - 170 KB] .

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### Job Opportunity: Policy Research Analyst at the NIHB Policy Center


NIHB seeks an experienced policy research analyst. This position requires a combination of education, experience, skills, and cultural competency that would adequately prepare one for a critical role at a national, tribal, nonprofit organization. [Learn more](#)  and [apply](#)  [PDF - 182 KB] .

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## Legal Tools

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### Virtual Training: Public Health Authority and Health Equity

CDC's Public Health Law Program (PHLP) and ChangeLab Solutions offer free training entitled "Public Health Threats & the US Constitution: What Responders Need to Know About Equity, Law, and Public Health Authority" 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](#) .

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### Virtual Training: Public Health Emergency Law

This suite of free, online trainings from PHLP prepares state, tribal, local, and territorial practitioners to make informed legal decisions related to emergency preparedness and response activities in their jurisdictions. [Take the training](#).

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### Virtual Training: Law and Epidemic Emergency Preparedness (LEEP) Training

CDC's free, online training covers provisions and concepts applicable to epidemic response, including various challenges faced during the 2014 Ebola response, and applies them to future infectious disease emergency response planning. LEEP examines legal underpinnings of emergency preparedness and response systems, what actions are authorized, and how to minimize legal barriers to an effective large-scale communicable disease response. [Take the training](#).

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## Top Story

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**National:** [The cocaine was laced with fentanyl. Now six are dead from overdoses](#) .

The New York Times (08/31/2021) Sarah Maslin Nir

## Story Highlights

In the last year, law enforcement and prosecutors have seen an uptick in fentanyl-laced heroin and cocaine. Fentanyl is more readily available than heroin and cocaine, but even a very small amount of it can be fatal.

Over the course of three days in August, one small community in Suffolk County, New York, experienced eight overdoses from fentanyl-laced cocaine. Six of the eight people who overdosed died. The increase in fentanyl-related deaths is an unfortunate trend across the country, with San Francisco and Nebraska also seeing fentanyl overdoses among individuals who thought they had only taken cocaine.

Experts believe the increase in fentanyl-related deaths is related to the same supply-and-demand issues seen in legitimate industries over the past 18 months.

“The same market forces that are causing shortages in everyday products are also putting pressures on the drug markets. All the while we have seen demand skyrocketing from users because of the impact the pandemic has had on them,” said Timothy D. Sini, Suffolk County District Attorney.

The most recent drug-related deaths are part of the ongoing tragedy of the opioid epidemic. According to CDC, 93,000 people died from opioid overdose in 2020—the highest number of overdose deaths ever recorded in the history of the United States.

While the justice system seeks to prosecute dealers severely, it is difficult to successfully convict drug dealers of manslaughter because, to do so, prosecutors must prove that the dealer acted recklessly. New York legislators have proposed a “a death by dealer” law that, if enacted, would allow felony homicide charges and harsher sentences for drug dealers. According to the Drug Policy Alliance, nearly half of US states already have such laws on the books.


Some experts feel harsher criminal penalties will not save lives. “What we need to be doing is doing a better job as a country, as a society, helping people know when their supply is tainted, and having safe places for people to use to prevent overdose,” said Grey Gardner, a senior staff attorney with the Drug Policy Alliance.

[Editor’s note: Learn more about [opioid-related injury](#) and [fentanyl](#).]

## Briefly Noted

**Louisiana:** [In wake of Ida’s devastation, Louisiana Supreme Court issues emergency orders](#) 

The Advocate (09/01/2021) Joe Gyan, Jr.

[Editor’s note: Learn more and [read the orders](#) .]

**Louisiana:** [4 nursing home residents dead after Hurricane Ida, 700+ rescued from facility under investigation](#) 

Nola.com (09/02/2021) Andrea Galo and Emily Woodruff

[Editor’s note: Learn about [hurricane and tropical storm preparedness](#).]


**Massachusetts:** [Happy hour, fireworks, spiking TCI gas plan OK’d for Massachusetts ballot](#) 

The Boston Herald (09/01/2021) Erin Tiernan

[Editor’s note: Learn more and read [Massachusetts’s 17 certified ballot initiative petitions](#) .]

**New Jersey:** [New Jersey receives disaster declaration in the wake of Hurricane Ida](#) 

NorthJersey.com (09/06/2021) Katie Sobko

[Editor’s note: Learn more about the [disaster declaration](#) .]

**North Carolina:** [Cooper signs 3 laws focused on police accountability, but says NC needs to go further](#) 

The News & Observer (09/02/2021) Danielle Battaglia

**Tribal:** [Caldor fire may imperil fish important to Lake Tahoe-area tribes](#) 


AZCentral.com (09/01/2021) Debra Utacia Krol

[Editor's note: Learn more about [American Indian and Alaska Native hunting and fishing rights](#)  [PDF – 208 KB].]

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**Tribal:** [Louisiana's Native communities face a long recovery after Hurricane Ida](#) 

Grist (09/01/2021) Mark Armao

[Editor's note: Learn more about the [United Houma Nation](#) .]

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**Tribal:** [Muscogee Nation offers resources, financial aid to Hurricane Ida victims](#) 

News9.com (09/03/2021) Amelia Mugavero

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**National:** [Climate change is the greatest threat to public health, top medical journals warn](#) 

NPR (09/07/2021) Lauren Sommer

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

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**National:** [Purdue Pharma is dissolved and Sacklers pay \\$4.5 billion to settle opioid claims](#) 

The New York Times (09/01/2021) Jan Hoffman

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**National:** [Sometimes lawyers can improve a patient's health when doctors can't](#) 

NPR (08/31/2021) Jakob Rodgers

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## Global Public Health Law News

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**Afghanistan:** [98 countries pledge to accept Afghans after US military departs](#) 

The New York Times (08/29/2021) Lara Jakes

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

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**France:** [Paris speed limit falls to 30km/h](#)  (18.64/mph)

BBC (08/30/2021)

[Editor's note: Learn more about [global road safety](#).]

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## Court Filings and Opinions

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### Massachusetts:

Massachusetts' highest court held that peremptory jury strikes based on the presumed sexual orientation of potential jurors are prohibited under both the Massachusetts and United States constitutions.

After two mistrials, defendants Antwan Carter and Daniel Pinckney were convicted of first degree murder. The defendants subsequently filed appeals based on the jury selection process. The Massachusetts Supreme Judicial Court vacated Carter and Pinckney's convictions, ruling that the trial court should have required the Commonwealth to articulate a race-neutral reason for striking at least one prospective juror who was the same race and approximate age of the defendants.

The court also addressed defendants' contention that a juror was improperly eliminated based on sexual orientation. While it concluded that the defendants failed to demonstrate reversible error on this basis, the court found that peremptory strikes based on sexual orientation violate Massachusetts law and the Equal Protection Clause of the Fourteenth Amendment.

[Commonwealth vs. Carter](#) 

Massachusetts Supreme Judicial Court

No. SJC-11517

Decided August 16, 2021  
Majority Opinion by Georges, J.

[Editor's note: In jury trials, each side may move to strike prospective juror's empanelment to the jury, either "for cause" when there is evidence of biases, or by using a preemptory" jury strike when the party feels the juror in question would not be favorable but there isn't evidence to strike for cause. The number of preemptory strikes is limited and can vary by jurisdiction. Read about [Massachusetts's Jury selection rules](#) .]

#### Federal:

The United States Court of Appeals for the District of Columbia Circuit ordered the Federal Communications Commission (FCC) to revisit its 2019 determination that existing FCC wireless emissions standards adequately protect against the effects of exposure to radiofrequency radiation from wireless devices. FCC published the at-issue decision after a notice of inquiry and public comment period. FCC stated that the emissions standards—set in 1996—remained effective in preventing cancer and protecting people from harmful mobile transmissions. Accordingly, FCC declined to initiate the rulemaking process.

In its opinion, the court found that FCC's decision violated the Administrative Procedure Act (APA) by failing to provide sufficiently detailed or reasoned responses to the scientific evidence it received during the comment period. First, the court explained that, while FCC demonstrated that radiofrequency emissions from connected devices do not cause cancer, it did not adequately consider evidence related to other negative health effects. The court also noted that the record was replete with substantive evidence of potential environmental harms, including a letter from the Department of the Interior voicing concerns about the impact of radiofrequency radiation on bird migration patterns. However, FCC did not address such concerns. The court held that these shortcomings ran afoul of the APA, remanded the matter to FCC, and ordered FCC to provide a reasoned explanation as outlined in the opinion.

[Env't Health Trust v. Fed. Commc'ns Comm'n](#)  [PDF – 477 KB] 

United States Court of Appeals for the District of Columbia Circuit

No. 20-1025

Decided August 13, 2021

Majority Opinion by Wilkins, C. J.

#### Quiz Question: September 2021

**Question:** What month is National Preparedness Month?


#### Last Month's Quiz Answer

**Question:** According to the Department of Agriculture, what is the leading cause of Black involuntary land loss?

**Answer:** Heir's property—informal land ownership in which families hold property collectively and without clear title.

#### Quote of the Month

"People who use cocaine think that the overdose epidemic is not relevant to them . . . Part of the problem nationally is that the narrative has been around opioids, and what we've seen is that it's not just opioids — it's cocaine," said Dr. Chinazo O. Cunningham, Executive Deputy Commissioner, New York City Department of Health and Mental Hygiene.

[Editor's note: The quote is from the above article: [The cocaine was laced with fentanyl. Now six are dead from overdoses](#) , The New York Times, by Sarah Maslin Nir (08/31/2021).]

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.

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