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Public Health Law News

April 2021



Public Health Law Program
Center for State, Tribal, Local, and Territorial Support
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Announcements

Health Law Writing Competition

The American University Washington College of Law is accepting submissions until **April 25** for its Annual Health Law Writing Competition. Current law students are encouraged to submit scholarly papers on health law and/or food and drug law. [Learn more about the requirements and submit your paper](#) ↗.

Feminist Legal Theory Virtual Conference

Join the University of Baltimore School of Law in its Feminist Legal Theory Conference on **April 22–23**. The theme is Applied Feminism and Privacy. The conference focuses on the intersection of gender and race, class, gender identity, ability, and other personal identities. Discussion topics will include menstrual justice, reproductive autonomy, and physical privacy. [Learn more and register](#) ↗.

Childbirth and the Law Virtual Conference

On **April 16–17**, the Beazley Institute at Loyola University Chicago School of Law and the Birth Rights Bar Association are hosting the third annual Conference on Childbirth and the Law. Topics include informed consent, systemic discrimination, and birth justice policy. [Here's how to register](#) ↗.

Virtual Training: Prison Abolition as a Route to Health Equity

The University of Michigan's Region V Public Health Training Center has released a [virtual training course](#) about the prison abolition movement and the prison system's impact on health disparities. CE credit is available. [View the course and enroll](#) .

Accepting Nominations: Jay Healey Teaching Award

The American Society of Law, Medicine & Ethics is accepting nominations for the Jay Healey Teaching Award, which **honors professors** who have devoted a significant portion of their career to teaching health law. [Submit your nominations by April 16](#) .

Tribal Announcements

New Journal Article—Public Health Law and Missing or Murdered Indigenous Persons

The Department of Justice Journal of Federal Law and Practice recently published "American Indian and Alaska Native Knowledge and Public Health for the Primary Prevention of Missing or Murdered Indigenous Persons." The article applies a **violence prevention and public health approach** to discuss the role public health can play in addressing and preventing the prevalence of missing or murdered indigenous persons. [Read the article \[PDF – 2.1 MB\]](#)  (begins on page 149).

Funding Opportunity: Dental Therapy

The National Indian Health Board (NIHB) is accepting applications until **April 30** for three grants supporting dental therapy in Indian Country. These funding opportunities are part of NIHB's Tribal Oral Health Initiative. [Learn more and apply](#) .

Tribal Health Governance Transformation: A Resource to Strengthen Sovereignty Through Public Health Authority

Released by Red Star International, Inc., and Seven Directions, this resource is a guide for enhancing tribal governance and public health law to **improve indigenous community health**. This resource explores indigenous models of nation building and healing and their role in promoting cultural and political sovereignty to promote governance for health. [View this resource](#)  [PDF – 4.3 MB] .

Hiring: Alaska Native Justice Center (Anchorage, AK)

The Alaska Native Justice Center is hiring a **paralegal** and **staff attorney** to support the Center in their representation of Alaska Tribes in child welfare matters and in providing civil legal services to primarily Alaska Native/American Indian victims and survivors of domestic violence, sexual assault, human trafficking, dating violence, and stalking. [Here's how to apply](#) .

Legal Tools

Environmental Health Bill Database

The National Conference of State Legislatures has released a searchable database containing **state-level environmental health bills**. The bills cover topics like asthma, food safety, and water quality from 2009 to the present. [Explore the database](#) .

Interactive Map: Status of State Medicaid Expansion Decisions

Currently, 39 states (including DC) have adopted the Medicaid expansion and 12 states have not adopted the expansion. Read the status of state Medicaid expansions with this **interactive map** from the Kaiser Family Foundation. A table detailing the relevant legislation is also included. [View the map](#) .

Top Stories

California: [USC agrees to \\$1.1 billion in settlement with hundreds of women alleging abuse by gynecologist](#) 
NBC News (3/25/2021) Doha Madani

Story Highlights

In a [settlement](#) approved by the Los Angeles County Superior Court, the University of Southern California (USC) will pay \$852 million in response to civil lawsuits by 710 women who alleged they were sexually assaulted by George Tyndall, a former student health center gynecologist at USC. An additional \$215 million settlement was approved last year in a related [class action suit](#) [PDF – 261 KB]. In total, this is the largest sex abuse pay-out in the history of higher education.

A 2018 [investigation](#) [PDF – 479 KB] by the US Department of Education Office for Civil Rights found that USC mishandled the allegations against Tyndall. In response, USC agreed to create a centralized system to track misconduct complaints against employees and the actions taken in response. However, John Manly, one of the lead attorneys for the plaintiffs, claimed the school “put the prestige, fundraising, and the university brand ahead of the well-being of students for 30 years.”

The allegations against Tyndall span the years 2009 to 2016. One of his first alleged victims was a student at USC in 1990. Tyndall was arrested in 2019 on several counts of sexual penetration and battery and has pleaded not guilty. A criminal trial is pending.

[Editor's note: Read [CDC's resources on sexual violence](#).]

Georgia: [One man charged after 8 people — mostly Asian women — were killed in 3 spa shootings in the Atlanta area](#) [PDF – 258 KB]
Insider (3/17/2021) Cheryl Teh, Ashley Collman, Yelena Dzhanova, and Azmi Haroun

Story Highlights

Robert Aaron Long, 21, of Woodstock, Georgia, has been charged with eight counts of murder and one count of aggravated assault in connection with three shootings at Atlanta-area spas. The shootings left eight [victims](#) dead, six of whom were women of Asian descent. Long, detained by Cherokee County authorities, waived his right to an attorney.

Investigators have yet to officially determine a motive or classify the attacks as hate crimes. However, the shootings follow a [rise in hate incidents](#) [PDF – 258 KB] against Asian Americans and Pacific Islanders in the past year, and the spa deaths have generated a shockwave of responses across the nation. The chair of the Congressional Asian Pacific American Caucus, Representative Judy Chu, tweeted, “Hurtful words and rhetoric have real life consequences.”

[Editor's note: Read [CDC's information about health disparities faced by Asian Americans](#) and a discussion about [when racial harassment is considered a hate crime](#) .]

Briefly Noted

National: [A yearslong push to ban hair discrimination is gaining momentum](#) [PDF – 2.2 MB]
PBS (3/30/2021) Candice Norwood

National: [Sackler family agrees to pay \\$4.2 billion as part of plan to dissolve OxyContin maker Purdue](#) [PDF – 2.2 MB]
CNN Business (3/25/2021) Laura Ly and Ramishah Maruf
[Editor's note: Read the [order](#) [PDF – 2.2 MB].]

Arkansas: [Arkansas governor signs transgender sports ban into law](#) [PDF – 2.2 MB]
Associated Press (3/25/2021) Andrew DeMillo
[Editor's note: Read the [bill](#) .]

California: [UnitedHealth must cover 'core' autism treatment, court rules](#) [PDF – 114 KB]
Reuters (3/8/2021) Brendan Pierson
[Editor's note: Read the [complaint](#) [PDF – 114 KB].]

Florida: Florida Senate seeks to clarify pelvic exam law [↗](#)

Health News Florida (3/18/2021)

[Editor's note: Read the bill [↗](#).]

Illinois: Illinois city 1st in US to offer Black residents reparations [↗](#)

Associated Press (3/23/2021)

Kentucky: Kentucky governor signs bill to cap insulin costs: 'Health care is a human right' [↗](#)

Fox17 (3/22/2021) Jordan Whittington

[Editor's note: Read the bill [↗](#).]

Michigan: Michigan ex-governor loses challenge to Flint water charges [↗](#)

Associated Press (3/18/2021) Ed White

Minnesota: State wins legal challenge to Minnesota's insulin affordability program [↗](#)

MinnPost (3/17/2021) Peter Callaghan

[Editor's note: Read the order  [PDF – 116 KB] [↗](#).]

New Jersey: Murphy signs bill protecting LGBTQ, HIV-positive seniors in long-term care facilities [↗](#)

NorthJersey.com (3/4/2021) Sammy Gibbons and Alex Biese

[Editor's note: Read the bill [↗](#).]

South Dakota: State hire will handle missing, murdered Indigenous cases [↗](#)

Associated Press (3/19/2021)

[Editor's note: Read the bill [↗](#).]

Global Public Health Law News

France: Paris court convicts, fines pharma firm for deadly diet pill [↗](#)

Associated Press (3/29/2021) Nicolas Vaux-Montagny and Francois Mori

Mexico: The fight to legalize cannabis in Mexico [↗](#)

CNN (3/30/2021) Karol Suarez

[Editor's note: Read the press release [↗](#).]

New Zealand: New Zealand approves paid leave for miscarriages and stillbirths for all women and their partners [↗](#)

USA TODAY (3/25/2021) Ryan Miller

[Editor's note: Read the bill [↗](#).]

Turkey: Turkey pulls out of international accord aimed at protecting women from violence [↗](#)

The Hill (3/20/2021) Jordan Williams

Court Filings and Opinions

New York: A New York appellate court held that the plaintiffs properly asserted that the Port Authority failed to maintain the George Washington Bridge in a reasonably safe condition, resulting in preventable harm, including suicides.

The plaintiffs—the estates of several individuals who committed suicide by jumping off the George Washington Bridge—argued that the Port Authority violated its duty to the public to maintain the bridge as a reasonably safe structure. There were no suicide barriers to prevent people from jumping over the bridge's low railing. The plaintiffs asserted that by

ignoring obvious health and safety hazards, the Port Authority facilitated suicides off the bridge. The Port Authority raised government immunity defense, asserting that it was serving a governmental—not a proprietary—function, even though it owns and maintains the bridge. The appeals court reversed a lower court decision that had dismissed the plaintiffs' wrongful death lawsuit against the Port Authority, so the case may proceed.

[Feldman v. The Port Authority of New York and New Jersey](#)

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

Index Nos. 153624/18, 156869/18, Appeal Nos. 13375-13375A, Case No. 2019-281

Decided on March 23, 2021

Opinion by Webber, J.

Federal: A district court held that the zoning restrictions of Munson Township, Ohio, likely violated the Americans with Disabilities Act (ADA) by prohibiting a women's sober living recovery house from operating in the township. The court granted a preliminary injunction and allowed the house to operate with five residents and a house manager until the final judgment.

The plaintiffs purchased Twelve Meadows, a recovery house for women with a history of drug use and alcoholism, in Munson Township. The township's zoning inspector denied the plaintiffs' zoning certificate application for Twelve Meadows because the recovery house failed to meet the minimum residency requirement under Ohio law. The plaintiffs immediately applied for an exception to the rule under the ADA accommodation clause for disability. The defendants again denied the plaintiffs' amended request.

The court recognized that addiction falls within the ADA's definition of disability but also stated that the plaintiffs could have avoided the zoning issue had they purchased a house in another town. The plaintiffs had limited choices in the existing tight housing market and testified that they would have selected Twelve Meadows despite the zoning issue because there was no suitable alternative. Furthermore, the plaintiffs said Twelve Meadows serves the public interest by allowing those struggling with drug and alcohol addiction to live in a sober environment. Taking into account the public interest promoted by the recovery center and little harm to the township, the court granted the injunction.

[Lake-Geauga Recovery Centers, Inc. v. Munson Township](#)

United States District Court, N.D. Ohio, Eastern Division

Case No. 1:20-cv-02405

Decided on March 19, 2021

Opinion by J. Philip Calabrese, District Judge

Federal: A district court held that a mother's medical malpractice case could proceed against the US government. The mother is suing a federally employed physician's assistant (PA) for the PA's failure to tell her that her infant showed signs of child abuse.

The plaintiff asserted that if she had been aware of the signs of abuse, she would have removed her child from the suspected source of the abuse. The defendant argued that the court did not have jurisdiction over this matter, claiming that under Maine common law, healthcare providers are not required to report suspected child abuse because they do not have a duty to protect against harm caused by a third party.

The court held in favor of the mother, finding that the failure to alert the mother could be viewed as a breach in medical providers' standard of care. The court further explained that the standard of care issue was separate from the defendant's rationale that there was a lack of duty to report suspected abuse to the government and allowed the case to move forward.

[Orduna v. United States](#)

United States District Court, D. Maine

Case No. 1:20-cv-00228-LEW

Decided on March 18, 2021

Opinion by Lance E. Walker, District Judge

Federal: A district court held that a class action case against Solvay Specialty Polymers USA for alleged contamination of groundwater could proceed.

The plaintiffs, residents of National Park, New Jersey, claimed that Solvay discharged carcinogenic chemicals, PFNA and PFOA, into the sewer system in National Park, contaminating its groundwater. Consequently, the National Park Water Department supplied contaminated water to all its residents. The plaintiffs sought damages for the health issues expected because of their exposure to contaminated water and for the expense of bottled water and water filtration systems. Solvay argued that any future injuries would be too far removed from the company's disposal of harmful chemicals. The defendants argued that the plaintiffs instead should sue the National Park Water Department for supplying contaminated water to the plaintiffs.

The court ultimately disagreed with the defendants and said a jury trial is warranted. The court recognized as plausible the plaintiffs' theory that the defendants' acts likely resulted in significant expenses to access clean water. Also, the court found that the plaintiffs provided enough facts supporting the possibility of future medical complications from exposure to PFNA and PFOA.

[Severa, et al. v. Solvay Specialty Polymers USA, LLC, et al.](#)

United States District Court, D. New Jersey

Case No. 1:20-cv-06906-NLH-KMW

Decided on March 10, 2021

Opinion by Noel L. Hillman, District Judge

Quiz Question: April 2021

Question: Which state was the first state to pass a CROWN Act?

Last Month's Quiz Answer

Question: What is the only state with a law that requires therapists to be supervised by a specialized psychologist?

Answer: North Carolina

Quote of the Month

"If you are a survivor of sexual assault, there is healing, hope and justice for you, as well" — Christy Leach

[Editor's note: This quote is from the above article [USC agrees to \\$1.1 billion in settlement with hundreds of women alleging abuse by gynecologist](#), NBC News (3/25/2021).]

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