



Public Health Professionals Gateway

Public Health Law News

December 2020



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

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Letter from the Editor

The Public Health Law Program (PHLP) thanks Jinyu Lu and Hannah Bunting for their exceptional researching and writing assistance on the September–December editions of the *Public Health Law News*.

Ms. Lu is an MPH candidate at Columbia University's Mailman School of Public Health. Ms. Bunting is an MPH candidate at Emory University's Rollins School of Public Health.

Additional student contributors to the *News* are:


- Lindsey Leonard, JD candidate at Case Western Reserve University School of Law
- Mikayla Thompson, BS/MPH candidate at the School of Public Health and Public Health Professions at the University of Buffalo

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.

Mara Howard-Williams, JD, MPH
Interim Editor

Announcements



Summit: Digital Health Innovation—Reimagining Healthcare

On **January 26**, join Alberta Innovates to discuss key digital health themes that include the social and legislative aspects of digital health and the governance and ethical considerations of health data. Hear directly from thought-leaders, entrepreneurs, and change-makers to explore what's possible in digital health and how to get there. [Here's how to register](#) .

CDC's Public Health Associate Program (PHAP): Apply to Be a Host Site


PHAP is accepting applications from prospective host sites **December 15–February 16**. PHAP is a two-year training program for early-career public health professionals, and host sites provide them with frontline public health experience, guidance, training, and supervision. State, tribal, local, and territorial public health departments, nongovernmental organizations, public health institutes and associations, and academic institutions are encouraged to apply. Learn more [about PHAP](#), the [benefits](#) of being a host site, and [how to apply](#).

2021 Washington State of Reform Virtual Health Policy Conference


Featuring experts and policymakers, this virtual conference scheduled for **January 6–7** will cover discussion topics including digital health, financing health reform, health policy and politics, vaccine science, and climate change. [Learn more](#)  about the conference and [how to buy tickets](#) .

Tribal Announcements



Funding Deadline: FEMA Flood Mitigation Assistance

The Federal Emergency Management Agency's (FEMA's) Flood Mitigation Assistance Grant has a **January 29 application deadline**. The grant aims to support jurisdictions implementing a sustained pre-disaster natural hazard mitigation program to reduce overall risk to the population and structures from future hazard events, while also reducing reliance on federal funding from future disasters. [Learn more about the grant](#) .




Funding Deadline: FEMA Building Resilient Infrastructure and Communities Grant

This FEMA grant offers states, US territories, Indian tribal governments, and local communities funding for pre-disaster mitigation activities. The application deadline is **January 29**. [Read about the requirements](#)[PDF - 690KB] .

Indian Health Service Statement About World AIDS Day


The Indian Health Service (IHS) recently released a statement honoring World AIDS Day and its 2020 theme of "Ending the HIV Epidemic: Resilience & Impact." In the statement, IHS also provided training resources and information about prevention efforts in fighting the HIV/AIDS epidemic in Indian Country. [View the statement](#)  [PDF - 540KB] .

Hiring: National Indian Health Board (Washington, DC)

The National Indian Health Board is seeking a **policy analyst** to support tracking and responding to federal health policies and regulations that affect Indian Country. Read the [job description](#)  [PDF - 122KB]  and view other [open positions](#) .

Legal Tools

Environmental Health State Bill Tracking Database

The National Conference of State Legislatures has a new database with free, searchable, up-to-date information about state environmental health bills from 2009 to 2020. Environmental health legislation addresses environmental factors that might adversely affect human health or the ecological balances essential to long-term human health and environmental quality, whether in the natural or man-made environment. [Explore the database](#) .

Special Diabetes Program for Indians 2020 Report

IHS has released the Special Diabetes Program for Indians 2020 Report to Congress, which documents the program's success in reducing diabetes prevalence in Indian Country. [Read the report](#) .

Top Stories

California: [Firefighters fret over health threats from what protects them](#)

Bloomberg Law (12/1/2020) Andrew Wallender & Fatima Hussein

Story Highlights

Two dozen firefighters are suing 3M Co., W.L. Gore & Associates, and Johnson Controls Inc., the foam makers and manufacturers of personal protective gear, in a California district court case.

The plaintiffs were diagnosed with different types of cancers after working for years as firefighters and had high levels of toxic chemicals called polyfluoroalkyl substances (PFAS) in their blood, which the plaintiffs' attorneys called "a substantial causal link." When responding to emergencies, these firefighters wear protective gear, created by the defendants, that was found to have large amount of PFAS, according to nuclear physicist Graham Peaslee. The lawsuit alleges the companies were aware of the harmful impact PFAS have on health without informing the firefighters.

The companies have denied responsibility. "3M's products have been tested and assessed to help assure their safety for their intended uses," said a spokesperson from 3M.

[Editor's note: Read CDC's information about [per-and polyfluorinated substances](#).]

China: [Her abuse was a 'family matter,' until it went live](#)

New York Times (11/15/2020) Elsie Chen

Story Highlights

China's laws against domestic violence were passed in 2016, yet women's rights group Beijing Equality estimates that more than 900 women have been murdered by their husbands or partners in China in the last four years.

National attention to this human rights issue was stirred after the recent death of Ms. Lhamo, a Tibetan farmer in southwestern China, who was seriously harmed, allegedly by her ex-husband, Tang Lu. The incident went viral, as Lhamo had been live-streaming herself on the Chinese app Douyin when she was attacked. Police are investigating Lu, suspecting that Lu was the one who doused her with gasoline and set her on fire. Lhamo died weeks later from the severe burns.

China's social media platforms flooded with hashtags calling for stronger enforcement of the domestic violence laws and condemning the failure of agencies to prevent Lhamo's murder and address the systemic issue of domestic violence. Many of the trending hashtags were censored. "But why does it take a tragedy and a victim to sacrifice herself in such a bloody way before we make progress on law enforcement?" asks Wan Miaoyan, a women's rights lawyer in Chengdu.

The domestic violence law broadened the police's ability to investigate and granted easier access to restraining orders. Despite these additions, enforcement remains inconsistent, sentences are minimal, and women's claims are often dismissed. These conditions are exacerbated in the countryside or other areas where victims may not be aware of their rights or have a social support system to help them.

[Editor's note: Read the [BBC's article](#)  without a subscription and CDC resources on [intimate partner violence](#).]

Briefly Noted

Tribal: [Bill seeks to continue 'junk food' sales tax on Navajo Nation](#)

Albuquerque Journal (12/2/2020) Noel Lyn Smith

Arkansas: [Mental health court OK'd for Sebastian County](#)

Arkansas Democrat-Gazette (11/23/2020) Thomas Saccente

Missouri: [Missouri town averts rollback of fluoridation with help from early notification law](#) 

ADA News (11/23/2020) David Burger

Texas: [Texas education board set to revise sex education](#) 

The Associated Press (11/20/2020)

National: [Trump targets Medicare drug prices with cost-cutting measures](#) 

Fox Business (11/20/2020) Brittany De Lea

[Editor's note: Read the [Executive Order](#) .]

National: [Army agrees to review thousands of unfavorable discharges for veterans](#) 

New York Times (11/19/2020) John Ismay

Global Public Health Law News

Argentina: [Argentina to allow medicinal marijuana to be grown at home](#) 

Hindia News (11/13/2020)

Australia: [Criminalising coercive control may not make women and children safer, family violence advocates warn](#) 

Guardian (11/18/2020) Nino Bucci

Canada: [Canada moves to limit prescription drug exports after Trump order](#) 

The Hill (11/29/20) Zack Budryk

China: [In a critical test of China's #metoo movement, Beijing court starts hearing on landmark sexual harassment case](#) 

SupChina (12/2/2020) Jiayun Feng

EU: [EU takes Bulgaria, Greece to court over toxic air](#) 

Reuters (12/3/2020) Kate Abnett

France: [EU court strikes down French ban on cannabis extract](#) 

Courthouse News Service (11/19/2020) Molly Quell

Netherlands: [Dutch climate activists take Shell to court over emissions](#) 

The Associated Press (12/1/2020) Mike Corder


United Kingdom: [UK court rules against clinic in puberty blocking drugs case](#) 

The Associated Press (12/1/2020)

Court Filings and Opinions

Florida: The Eleventh Circuit Court of Appeals reversed the district court's denial of a preliminary injunction filed by two licensed marriage and family therapists concerning their ability to discuss anti-LGBTQ conversion with clients. The existing ordinances in Palm Beach County and Boca Raton City prohibit sexual orientation change efforts from professional counselors. The plaintiffs alleged that the law violated the First Amendment because it limited what a therapist can discuss with a client.

The court acknowledged that some may perceive these ordinances as harmful and that there may be moral and religious views in play. The court ultimately held that, although this type of speech may be controversial, the First Amendment does not prohibit controversial speech.

The court reasoned that “if the speech restrictions in these ordinances can stand, then so can their inverse,” citing a Supreme Court ruling that “if there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.” [Texas v. Johnson](#) , 491 U.S. 397, 414 (1989).

[Otto and Hamilton vs. City of Boca Raton](#)

United States Court of Appeals, Eleventh Circuit

Case No. 19-10604

November 20, 2020

Opinion by Grant, Circuit Judge

New York: The Appellate Division of the New York Supreme Court held that no private right of action exists for violations of Social Services Law article 11 (Social Services Law § 493), a part of New York’s Protection of People with Special Needs Act, “enacted to create a set of uniform safeguards to bolster the protection of people with special needs in New York.”

The plaintiff filed a lawsuit against Nayak Hospital for assault, battery, false imprisonment, and negligent hiring, supervision, and retention—citing violations of social services and civil rights laws. The hospital asserted that those laws do not create a private right of action.

On appeal, the question was limited to whether the laws allowed for a private right of action. The court held that it did not create a private right of action, in large part because the Act created the Justice Center, an “agency empowered to receive, investigate, and respond to allegations of abuse, neglect, or other ‘reportable incidents’ involving disabled residents receiving services in licensed facilities or provider agencies.” The court found that the statute specified the process for seeking a remedy. Individuals alleging harm would contact the Justice Center with allegations and complaints; the Justice Center would, in turn, investigate the allegations and determine next steps, giving details in its findings.

In ruling for the defendants, the court found that the legislative scheme indicated the Justice Center was responsible for investigating and pursuing allegations of the statutes, and that neither the language of the statute itself nor its legislative history implied an intent to create a private right of action.

[Christopher Joseph v. Nyack Hospital](#)

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

2018-12024, Index No. 30203/18.

November 25, 2020

Opinion by Leventhal, J.

Quiz Question: December 2020

Which regulatory agency is responsible for ensuring safe and healthful working conditions for working men and women by setting and enforcing standards?


Last Month’s Quiz Answer

Question: How many federally recognized tribes are in the US?

Answer: 574

Quote of the Month

“The problem is that domestic violence is a personal act. This is not to say that domestic violence is not a social problem . . . Any policy solution must therefore find that nexus between the personal and social.” —Tracy Davidson-Celestine, Secretary of Health, Wellness, and Family Development at the Tobago House of Assembly

[Editor’s note: This quote is from the article [More action needed to end domestic violence](#),  Trinidad and Tobago Newsday, (12/06/2020), Jada Loutoo.]

About *Public Health Law News*



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