



Public Health Professionals Gateway

Public Health Law News

November 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 November Edition of *Public Health Law News* honors National Native American Heritage Month. The Public Health Law Program (PHLP) wishes to recognize 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.

Mara Howard Williams
Interim Editor

Tribal Announcements

2020 Alaska Tribal Conference on Environmental Management

This virtual annual conference to be held on **December 14–18** will bring together tribal environmental experts from across Alaska to connect with supporting environmental organizations and agencies to discuss best **resources** for improving local environmental health. [Learn more](#) .

SmokefreeTXT for American Indian and Alaska Native People

The Indian Health Service, in collaboration with the National Cancer Institute, has announced a messaging tool that provides **24/7 encouragement, advice, and tips** to American Indian and Alaska Native people who want to quit smoking. Access the [tool](#)  and [campaign materials](#) .

2020 Heroes in Health Awardees: National Indian Health Board

The National Indian Health Board has announced the winners of annual service awards for **extraordinary leaders** in local, regional, and national American Indian and Alaska Native public health. View the [recipient videos](#).

Hiring: Alaska Native Justice Center (Anchorage, AK)

The Alaska Native Justice Center (ANJC) is seeking a **tribal court facilitator** who will work closely with the ANJC team, rural healthcare providers, and tribal representatives to identify resources and gaps in victim-centered tribal justice delivery and develop tools that leverage existing resources to fill those gaps. [Learn more about the position](#).

Announcements

Law Student Writing Competition

The American Bar Association (ABA) Health Law Section launched its Annual ABA Health Law Student Writing Competition, which is open to any law student who is: currently enrolled in an ABA-accredited law school, over the age of 21, and a citizen or legal permanent resident of the United States. The entry deadline is **December 1**. Check out the [guidelines and criteria](#)  [\[PDF – 239KB\]](#).

2021 Health Datapalooza and National Health Policy Virtual Conference

In this dual conference to be held on **February 16–18, 2021**, Health Datapalooza and the National Health Policy Conference will provide a combination of virtual plenary, breakout, and poster sessions, along with networking and group activities, that focus on the **data** around significant health policy issues. [Here's how to register](#).

Legal Tools

Virtual National Indian Law Library

The National Indian Law Library (NILL) [online database](#) contains all titles held in the NILL collection. Copies of most resources can be delivered **free of charge** in most circumstances. Additionally, the [Indian Law News Bulletins](#) provide the **latest developments in tribal law** and related issues.

Legal Assistance Library: The Network for Public Health Law

This virtual library provides **technical support** for public health lawyers and practitioners seeking answers to specific legal questions. Explore resources in legal briefs, fact sheets, surveys of laws across all 50 states, or specific topics (e.g., food safety, health reform, cross-border public health). [Access the library](#).

Indian Health Service Fact Sheets

These fact sheets contain **snapshots and educational summaries** on Indian Health Service functions and specific American Indian and Alaska Native healthcare topics. [Explore the archive](#).

New Series: Public Health Law in a Minute

The Network for Public Health Law announced a new educational series—Public Health Law in a Minute—that aims to **increase accessibility** of the field of public health law by breaking down relatable topics that affect our communities. Check out [Public Health Law in a Minute](#).

Top Stories

National: [OxyContin maker to plead guilty to federal criminal charges, pay \\$8 billion, and will close the company](#)
CNN Business (10/21/2020) Chris Isidore

Story Highlights

On October 21, Purdue Pharma pled guilty to three federal criminal charges for its involvement in the opioid crisis as the manufacturers of OxyContin. CDC data estimate 450,000 opioid-related deaths have occurred since 1999, and one-third of overdose deaths in 2018 were linked to prescription opioids.

“Purdue Pharma actively thwarted the United States’ efforts to ensure compliance and prevent diversion,” said Tim McDermott, assistant administrator with the Drug Enforcement Administration. “The devastating ripple effect left lives lost and others addicted.”

Purdue Pharma was ordered to pay approximately \$8.3 billion in fines, forfeited past profits, and civil liability. Consequently, the bankrupt company will be dissolved and will become a “public benefit company.” Assets will be used to fund opioid treatment and abatement programs. Additional claims are anticipated, however, as states continue to file suits estimating over \$2 trillion in damages to the American economy and public health.

“Purdue deeply regrets and accepts responsibility for the misconduct,” stated Purdue Chairman Steve Miller.

[Editor’s note: View [CDC data and reports](#) about opioids. Read the Department of Justice’s [press release](#) .]

Tribal: [Donald Trump signs Savanna’s Act, ‘a critical first step’ to address missing and murdered Native Americans](#) 
USA Today (10/11/2020) Jessica Flores

Story Highlights

On October 10, 2020, President Trump signed Savanna’s Act and Not Invisible Act into law, a step to direct the Attorney General to review, revise, and develop appropriate law enforcement and justice protocols to address missing and murdered Native Americans.

“For far too long, the crisis of missing and murdered Native American women went unknown outside Indian Country,” said former North Dakota Senator Heidi Heitkamp. “When I first introduced Savanna’s Act in 2017, I wrote this bill to take a critical first step to help address this crisis and help raise awareness about it by bringing these women out of the shadows and making them not invisible.”

Savanna’s Act increases coordination and communication among federal, state, and tribal officials. Training to tribes and law enforcement agencies by the US Department of Justice are needed regarding the data report and data entry on missing or murdered Native Americans.

[Editor’s note: Read [Savanna’s Act](#)  [\[PDF-256KB\]](#) , S227.]

Briefly Noted

Tribal: [Progress for Indian Tribes Act helps Native nations move towards self-governance](#) 

Your News Leader (10/22/2020) Max Grossfeld

[Editor’s note: Read the [Senate Committee on Indian Affairs release](#) .]

Tribal: [Navajo Nation sues 33 farmers over hemp, marijuana farms](#) 

Farmington Daily Times (10/28/2020) Noel Lyn Smith

Tribal: [Cherokee Nation offering free flu vaccines through Dec. 16](#) 

Native News (10/06/2020)

California: [Oakland approves rules to restrict homeless encampments](#) 

NBC Bay Area (10/21/2020) Olga R. Rodriguez

[Editor’s note: View the [policy](#)  [\[PDF-225KB\]](#) .]

Georgia: [Trump administration approves Georgia health plan](#) 

The Associated Press (11/02/2020) Sudhin Thanawala

North Carolina: [President Trump backs recognition bill for the Lumbee Tribe of North Carolina](#) 

USA Today (10/24/2020) Paul Woolverton

[Editor's note: Read the [Recognition Act](#)  , S.1735.]

National: [Court vacates Trump administration rule that sought to kick thousands off food stamps](#) 

NPR news (10/19/2020) Bill Chappell

[Editor's note: Read the [court opinion](#)  [PDF – 668KB]  .]

National: [New law creates 988 hotline for mental health emergencies](#) 

NPR (10/19/2020) Rhitu Chatterjee

[Editor's note: Read the [National Suicide Hotline Designation Act](#)  , S.2661.]

National: [Trump administration finalizes rule requiring health insurers to disclose price and cost-sharing information](#) 

The Southern Maryland Chronicle (11/02/2020)

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

Global Public Health Law News

Canada: [In 'lobster war,' indigenous Canadians face attacks by fishermen](#) 

The New York Times (10/20/2020) Dan Bilefsky

Canada: [Federal health minister appeals to Alberta to reconsider closing opioid treatment program](#) 

Microdose Psychedelic Insights (10/18/2020)

China: [China adopts law to safeguard biosecurity](#) 

People's Daily (10/18/2020)

India: [India proposes law to handle country's fatal air pollution](#) 

India Legal (11/02/2020)

Japan: [Fukushima: Japan 'to release contaminated water into sea'](#) 

BBC News (10/16/2020)

New Zealand: [New Zealand votes to legalize euthanasia for terminally ill patients](#) 

CNN (10/30/2020) Joshua Berlinger and Angus Watson

United Kingdom: [Legal loophole allows children to get free vape samples](#) 

The Guardian (10/25/2020) Jamie Doward

Court Filings and Opinions

Florida: The fractured Florida Court of Appeals issued a divided opinion that reversed the state's Medicaid coverage denial for a 12-year-old girl's growth hormone treatment. The court held that, while a state "may adopt standards for determining medical necessity" including, for instance, placing "reasonable limits on a physician's discretion," "such standards must be reasonable and congruous with the purpose of the [Early and Periodic Screening, Diagnostic, and Treatment (EPSDT)]," and therefore "cannot be limited to a predefined list of criteria."

The Agency for Health Care Administration (AHCA) rejected an endocrinologist's prior authorization request for a growth hormone to counter the child's failure to grow as expected. In its denial of the requested growth hormone coverage, the AHCA stated that the plaintiff did not meet all requirements to qualify for "medically necessary" growth hormone treatment.

The majority reasoned that Florida's definition of medical necessity was "overly restrictive," and that the hearing officer should have applied the federal EPSDT, which would have allowed the growth hormone to "correct or ameliorate" the child's condition, instead of the state law, which found the treatment was not medically necessary.

[Q.H. v. Sunshine State Health Plan](#)

District Court of Appeal of Florida, Fourth District

Case No. 4D20-741

October 7, 2020

Robert M. Gross, District Court Judge

Georgia: The Georgia Court of Appeals reversed a lower court's grant of summary judgment in favor of the plaintiff, primarily based on the exclusion of expert witness testimony. The court held that the lower court abused its discretion by excluding the testimony because it was not wholly speculative and therefore did "not mandate the exclusion of the opinion but, rather, present[ed] a jury question as to the weight which should be assigned" to the expert opinion. Relatives of the deceased plaintiff brought a suit against industrial food manufacturer Mother Murphy, alleging its diacetyl-containing ingredients were present in the air and contributed to the lung disease that ultimately ended his life. To support these claims, plaintiffs submitted testimony from two different medical experts.

The lower court excluded some of the testimony, finding that it did not prove specific causation as required under Georgia law. The appellate court held that the trial court's rulings were internally inconsistent regarding what constitutes "speculative testimony," and whether genuine issues of material fact were reliant on that testimony alone. The court reversed and remanded the grant of summary judgment, instructing that the trial court re-assess the case "with the benefit of the entire record, and issue an order making clear its ruling."

[Wadley v. Mother Murphy's Laboratories](#)

Court of Appeals of Georgia, Fourth Division

Case No. A20A0899

October 21, 2020

Brian M. Rickman, District Judge

Ohio: An Ohio appellate court addressed the balance of the law's punitive and rehabilitative purposes in upholding the lower court's imposition for prison time in lieu of in-patient rehabilitation. The defendant, who has more than four dozen prior convictions, was indicted for domestic violence and pled guilty to a fourth-degree felony. The pre-sentence investigation revealed that the defendant had an addiction to alcohol and argued that his "sentence should focus on rehabilitation." All parties and the court agreed that the defendant would benefit from mental health treatment.

By statute, the court must consider the purposes of felony sentencing, which are "to protect the public from future crime by the offender and others, to punish the offender, and to promote the effective rehabilitation of the offender using the minimum sanctions that the court determines accomplish those purposes." The court acknowledged that the abuse the defendant suffered in childhood likely had a strong impact on his repeated convictions but found that his prior stays at in-patient treatment facilities in lieu of prison time did not prevent his recidivism.

Therefore, the court found that the defendant's lack of progress in other rehabilitation programs indicated that prison confinement was the appropriate course of action for the domestic violence conviction.

[State v. Hawkins](#)

Ohio Court of Appeals, 2nd Appellate District

Appellate No. 2019-CA-34

October 30, 2020

Opinion by Froelich, J.

Federal: A United States Court of Appeals affirmed a Florida district court’s ruling that the City of Miami properly terminated a consent decree designed to protect people experiencing homelessness from theft, harassment, and unnecessary arrests.

In 1998, the City of Miami signed a consent decree designed to strengthen the rights of the people experiencing homelessness, including limitations on arrests for loitering, harassment from the public, and the wanton destruction and/or removal of their personal property. In 2018, the city terminated the decree after holding an evidentiary hearing, citing improved conditions for people experiencing homelessness, increasing public safety concerns, and the city’s history of “substantial, good-faith compliance” with the decree that “obviated the need for continued judicial oversight.” Representatives for Miami’s population of people experiencing homelessness argued that the city had not shown a strong history of compliance and challenged the decree’s termination in a class-action suit.

The court ruled that the city did not misinterpret, misapply, or illegally terminate the consent decree.

[Peery v. City of Miami](#) 
United States Court of Appeals, 11th Circuit
Case No. 19-10957
October 1, 2020
William Pryor, Chief Judge

Quiz Question: November 2020

How many federally recognized tribes are in the US?

Last Month’s Quiz Answer

Question: What day is World Mental Health Day?
Answer: October 10

Quote of the Month

“[They worked hard] to help bring an end to the ongoing losses of life, trauma, and devastation caused by the missing persons crisis across our country. We have many members of the Navajo Nation who are very compassionate and dedicated to helping families who have missing loved ones. We look forward to seeing the benefits that these two bills will have.”—Navajo Nation President Jonathan Nez

[Editor’s note: This quote is from the above article [Trump signs Savanna’s Act and Not Invisible Act into law](#)  , Navajo-Hopi Observer (10/13/2020)]

About *Public Health Law News*

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