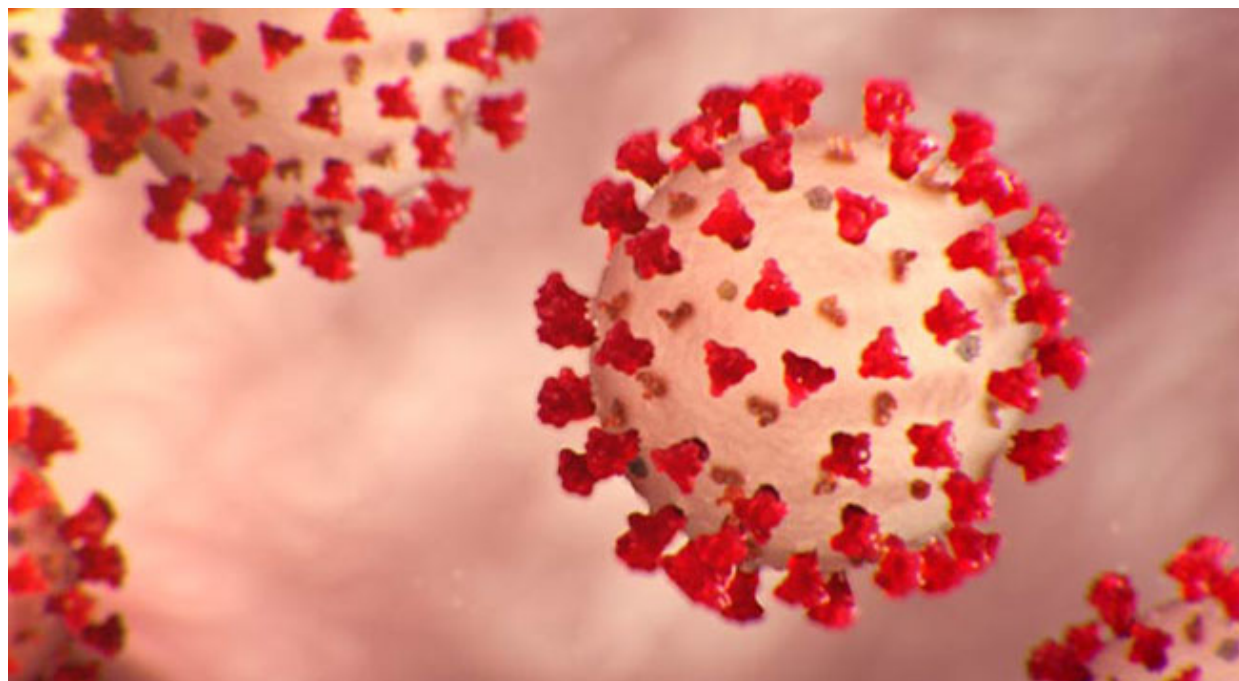




Public Health Professionals Gateway

Public Health Law News

March 2020



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

Subscribe to *Public Health Law News* 

COVID-19

Resources for Government Attorneys Working on COVID-19 Legal Issues

The [Centers for Medicare & Medicaid Services \(CMS\)](#)  website states “Section 1135 of the Act authorizes the Secretary of the Department of Health and Human Services to waive or modify certain Medicare, Medicaid, CHIP, and HIPAA requirements. However, two prerequisites must be met before the Secretary may invoke the § 1135 waiver authority. First, the President must have declared an emergency or disaster under either the Stafford Act or the National Emergencies Act. Second, the Secretary must have declared a Public Health Emergency under Section 319 of the Public Health Service Act. Then, with respect to the geographic area(s) and time periods provided for in those declarations, the Secretary may elect to authorize waivers/modifications of one or more of the requirements described in Section 1135(b). The implementation of such waivers or modifications is typically delegated to the Administrator of CMS who, in turn, determines whether and the extent to which sufficient grounds exist for waiving such requirements with respect to a particular provider/supplier, or to a group of providers, or to a geographic area.”

For COVID-19-specific information, view the [CMS Emergency Declaration Fact Sheet](#)  [PDF-429KB]  on the [COVID-19 1135 Waiver](#) , and please note the instructions for states to submit a request for an 1135 waiver at the bottom of page 3 of the fact sheet. For an example of a state 1135 waiver request, please see [Washington’s Request for Waivers Under Section 1135 of the Social Security Act](#).  [PDF-1MB]  CMS has posted responses to state waiver requests, such as [Florida’s Coronavirus 1135 waiver request](#)  [PDF-385KB] , on their [current emergencies webpage](#) .

Announcements

CDC Public Health Law Program Internships and Externships for Fall 2020

Motivated students have the opportunity to bring their perspective and gain experience at CDC. Students will explore how law intersects with public health to advance and impact public health goals. All internships and externships last 9 to

14 weeks in Atlanta. Deadline for fall 2020 applications is **April 30**. [Learn more about the internships and apply](#).

Now Available: CDC Fiscal Year 2019 Grant Funding Profiles

CDC has updated its CDC Grant Funding Profiles site with **fiscal year 2019** data and profiles. The profiles provide quick access to information about CDC funding provided to health departments, universities, and other public and private agencies in US states, territories and freely associated states, and DC. [View the new grant funding profiles](#).

2020 Public Health Law Conference

The conference is scheduled for **September 16–18** in Baltimore. Presenters and attendees will address law and policy pathways to improve children’s health, eliminate social barriers to health, legal capacity of public health departments, and more. [Save \\$100 by registering by April 16](#) [↗](#).

Training: Policy Surveillance Summer Institute 2020

This intensive, two-day training, scheduled for **June 1–2** in Philadelphia, is for those interested in tracking laws and policies across jurisdictions and evaluating them through the scientific process and creating empirical research. It will also teach **legal epidemiological mapping** methods. [Register by May 1](#). [↗](#)

AcademyHealth Annual Research Meeting (ARM)

ARM, scheduled for **June 13–16** in Boston, will enable attendees to discuss transforming delivery systems and healthcare in a changing landscape. ARM is packed with **new research**, cutting-edge methods, and discussions about health services research’s (HSR’s) impact on health policy and practice. The meeting will feature compelling sessions, panels on critical and emerging issues in HSR, and presentations of peer-reviewed research. [Submit your abstract by March 31 at 5:00 pm \(EDT\)](#) [↗](#).

Job Opening: Attorney at the Georgia Department of Community Health

Georgia’s Department of Community Health (DCH) is seeking an attorney for its **Office of Health Planning**. DCH is one of Georgia’s four health agencies serving the state’s growing population of almost 10 million people. DCH provides access to affordable, quality healthcare to millions of Georgians, including some of the state’s most vulnerable and under-served populations. [Get information about the position](#) [↗](#).

Legal Tools

Health Information & Data Sharing Resources

This database of tools and resources facilitates **data-sharing** between health agencies and can help address any legal barriers to data-sharing. Organizations can use these resources to help operate within proper policies, maintain HIPAA requirements, and be aware of other laws and regulations. [Go to the resources](#) [↗](#).

Toolkit: The Intersection of Syringe Use & HIV Criminalization

The Center for HIV Law & Policy has created a policy resource bank combined with case assistance, with a focus on systems and institutions that impact communities affected by HIV. The **LGBTQ community** is a focus of this toolkit. [Access the toolkit](#) [📄 \[PDF-541KB\]](#) [↗](#).

Telehealth & Telemedicine Resources

Telemedicine is a growing field and is expanding exponentially. CDC has created a database of legal and policy resources to help legislators, public health lawyers, and public health practitioners navigate the legal **landscape of telemedicine**. [Get started](#).

Top Stories

National: COVID-19 Emergency Declaration [↗](#)

[Editor’s note: Read [Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease \(COVID-19\) Outbreak](#) [↗](#) and visit [CDC’s COVID-19 website](#) for the most current updates about the CDC response and the COVID-

19 pandemic.]

Federal Emergency Management Agency release 03/13/2020

On March 13, 2020, the President declared the ongoing Coronavirus Disease 2019 (COVID-19) pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"). State, Territorial, Tribal, local government entities and certain private non-profit (PNP) organizations are eligible to apply for Public Assistance.

In accordance with section 502 of the Stafford Act, eligible emergency protective measures taken to respond to the COVID-19 emergency at the direction or guidance of public health officials' may be reimbursed under Category B of the agency's Public Assistance program. FEMA will not duplicate assistance provided by the Department of Health and Human Services (HHS), including the Centers for Disease Control and Prevention, or other federal agencies. This includes necessary emergency protective measures for activities taken in response to the COVID-19 incident. FEMA assistance will be provided at the 75 percent Federal cost share.

This declaration increases federal support to HHS in its role as the lead federal agency for the federal government's response to COVID-19. The emergency declaration does not impact measures authorized under other Federal statutes.

FEMA assistance will require execution of a FEMA-State/Tribal/Territory Agreement, as appropriate, and execution of an applicable emergency plan. States, Tribal and Territorial governments do not need to request separate emergency declarations to receive FEMA assistance under this nationwide declaration.

FEMA encourages officials to take appropriate actions that are necessary to protect public health and safety pursuant to public health guidance.

Pennsylvania: [South Philadelphia to become site of nation's first supervised-injection facility, organizers say](#)

The Philadelphia Inquirer (02/26/2020) Aubrey Whelan and Jeremy Roebuck

[Editor's note: Read [US v. Safehouse](#)  [\[PDF-43KB\]](#)  , Civil Action No. 19-0519, filed 2/25/2020 in the US District Court for the Eastern District of Pennsylvania.]

Story Highlights

Supervised injection facilities are locations where drug users can bring and use recreational, and often illegal, drugs under the supervision of medical staff without fear of being arrested. Safehouse, the first supervised injection site in the US, is scheduled to open in Philadelphia the first week in March 2020. The opening comes after a two-year battle in the courts to determine whether the proposed facility would violate federal law.

Safehouse will allow individuals with addictions to use their own drugs in a medically supervised setting and also provide access treatment and medical intervention for overdose, if needed. Social stigma and shame keep many people with addiction from seeking help, and Safehouse aims to help ease those social deterrents to seeking treatment and recovery.

US attorney William M. McSwain and some neighborhood groups are wary of Safehouse and view it as enabling addiction instead of treating it. Opponents are also worried these types of facilities will encourage drug use and harm the neighborhood. The opioid crisis in Philadelphia is growing, as it is in the rest of the nation; nearly 3,500 people have died from drug overdoses in Philadelphia over the past 3 years. Currently, the zip code where Safehouse is opening experiences a rate of one death per week due to overdose.

Sites like Safehouse have been legally open in Canada and some European countries for decades. A meeting is already scheduled one week after opening to address any concerns and assess progress.

Briefly Noted

Alaska: [Transgender state employee wins lawsuit over sexual reassignment surgery costs](#)

Alaska Public Media (03/06/2020) Rashah McChesney

California: [Violence against healthcare workers continues despite hospital safety law](#) 

NBC Bay Area (02/20/2020) Jeremy Carroll, Sean Myers, Anthony Rutanashoodech, Mark Villarreal, Kevin Nious

[Editor's note: [Read about the original law](#) .]

Maine: [School meal debt rising under 'food-shaming' law](#) 

Sun Journal (03/06/2020) Karen Kreworuka

[Editor's note: Read Maine's [Food Rights Law](#) , which went into effect for the 2019–2020 school year.]

Washington: [Washington orders no deductibles, co-pays for coronavirus visits and testing on some health plans](#) 

Seattle Times (03/05/2020) Daniel Beekman and Joseph O'Sullivan

[Editor's note: Learn more about the Washington State Insurance Commissioner's [emergency order](#) .]

National: [HHS adopts new retail pharmacy HIPAA transaction requirements for schedule II drug prescriptions](#) 

Health Industry Washington Watch (02/20/2020) Debra A. McCurdy

[Editor's note: Read about the [HHS requirements](#)  [\[PDF-318KB\]](#) .]

National: [Marines to review proposed 1-year maternity leave policy for new moms](#) 

Military.com (02/21/2020) Gina Harkins

[Editor's note: [Read about the current policy](#) .]

National: [Medicaid enrollment programs offer hope to formerly incarcerated individuals and savings for states](#) 

Health Affairs (02/20/2020) Abaki Beck

[Editor's note: Read [2018 Medicaid budget review by state](#) .]

National: [She didn't want a pelvic exam. She received one anyway.](#) 

The New York Times (02/17/2020) Emma Goldberg

Global News

Chile: [Sugary drink consumption plunges in Chile after new food law](#) 

The New York Times (02/11/2020) Andrew Jacobs

[Editor's note: Read about [the study evaluating the law and its outcomes](#) .]

New Zealand: [Southern schools ready to join free lunch programme](#) 

Otago Daily Times (02/21/2019) John Lewis

[Editor's note: Read about [the government's free and healthy school lunch program](#) .]

Italy: [Coronavirus live updates: Italy extends 'red zone' to entire country, limiting movement](#) 

New York Times (03/09/2020)

[Editor's note: Learn more about [confirmed COVID-19 cases](#) across the globe.]

Scotland: [Scotland set to be first country to provide free pads and tampons](#) 

New York Times (02/27/2020) Ceylan Yeginsu

[Editor's note: Read about [the Period Products bill](#) .]

China: [China's ban on wildlife trade a big step, but has loopholes, conservationists say](#) 

New York Times (02/27/2020) James Gorman

[Editor's note: Read the analysis by the [Wildlife Conservation Society](#) .]

Title: Public Health (Policy) Analyst, Healthy Food Environment Team, Division of Nutrition, Physical Activity and Obesity (DNPAO), National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), CDC

Education: MPA, specialization in Health Policy, University of Georgia School of Public and International Affairs; BS, Psychology, University of Georgia



Public Health Law News (PHLN): Please describe your career path.

Warnock: Straight out of my graduate program, I worked for several years at the Florida Legislature's Office of Program and Policy Analysis and Government Accountability, which essentially acts a "mini Government Accountability Office" for the Florida Legislature. I was assigned to the Health Policy Unit, and our job was to meet with state representatives who were about to vote on healthcare legislation and were seeking objective research to inform their decisions. What I loved about the job was the variety of qualitative and quantitative data we collected to ultimately inform our policy and programmatic recommendations. For example, one minute I'd be interviewing healthcare agency administrators about their programmatic and fiscal operations, and the next I'd be conducting a policy impact analysis for a legislative bill that had been introduced to the healthcare committee.

I learned a lot in that job, much of which I still use in my job today. For example, I learned how policymakers prefer to consume data and information, which is quite different from classically trained researchers or academics. I watched firsthand how representatives debated controversial topics and how the art of storytelling can be used to motivate action and achieve consensus. I learned that budget is often a primary driver of decision-making, so proposed solutions should always be highlighted in terms of their financial feasibility and potential cost-savings. I still use a lot of these communication and framing techniques in the development of the public health policy resources I work on today. It truly was invaluable training in my early career.

PHLN: What do you do in your day-to-day job?

Warnock: I've worked at CDC since 2008, and during my time here, I've always been engaged in nutrition and obesity policy research, including obesity prevention policy tracking at the local, state, and federal levels. I currently co-lead the agency's Nutrition and Obesity Policy Research and Evaluation Network (NOPREN), a network of policy researchers coordinated by CDC and the University of California, San Francisco. NOPREN's primary goals include improving the capacity of policy research and evaluation through a diverse and multi-disciplinary network and disseminating strategic research findings to decision makers.

In DNPAO's Obesity Prevention and Control Branch, I split my time between two teams. I primarily sit on the Healthy Food Environment Team and provide technical assistance to CDC-funded state and local practitioners working to embed food service guidelines (nutrition standards) into various types of policy mechanisms—such as food vendor contracts, organizational policies, and state and local legislation. The goal of our work is to get more healthy food options into community institutions that sell or serve food to millions of Americans each day (e.g., parks and recreation centers, universities, senior centers, hospitals, worksites). In addition, for the last three years, I've worked with the Early Care and Education (ECE) Team, leading the division's monitoring of state-level childcare licensing work. In this capacity, I oversee the collection, review, and rating of childcare licensing regulations for all 50 states and DC and report on the extent to which they include nationally recommended obesity prevention standards.

PHLN: What do policy systems and environmental (PSE) change have to do with public health outcomes?

Warnock: Whether we're cognizant of it or not, laws and policies at all levels—organizational, municipal, state, and federal—shape the environments in which we live our lives and make decisions that impact our quality of life and health. Many of the PSE changes that impact diet and health originate in non-health sectors (e.g., transportation, food systems, housing, and economic development). As the field of public health continues to collaborate with nontraditional sectors to influence health, it's important to remember that good partnerships begin with listening and learning. We cannot effectively change a system without first fully understanding the environment in which it operates and the motivating factors that affect it. This is particularly true when we work to identify policies or legal solutions that have the highest potential for population-level health impact and reduction of health disparities in the US.

PHLN: How do law and policy relate to nutrition and health?

Warnock: Nutrition research documents that neighborhoods with predominately low-income and racial and ethnic minority residents have disparities in access to healthy foods, and this can be a factor in people's food choices. These neighborhoods tend to have limited access to retailers of healthier food options, such as full-service supermarkets, and are disproportionately served by retailers of calorically dense processed foods, like convenience marts and fast food outlets, or what some call "food swamps" (neighborhoods that have excess access to unhealthy foods and beverages.)

Story and Kaphingst (2008) built upon the Social-Ecological Model of Health to create a model that suggests community food environments are a central factor in supporting healthy eating behaviors. Over the last decade, a range of policy interventions have focused on improving access to healthy foods by increasing economic incentive programs and opening new retailers in underserved communities. Furthermore, federal policies also address nutrition and health. For example, policies that determine what nutritional information is on food labels or what types of foods can be part of government supported feeding programs.

PHLN: How did you become interested in food policy and public health?

Warnock: I've always been fascinated by how diet quality and physical activity can not only impact our physical health, but also improve other important areas of our life, such as our productivity, performance, mental health, and ability to deal with stress. From a societal perspective, a healthy diet and regular physical activity can also help prevent costly chronic conditions, like type 2 diabetes, obesity, and heart disease. When the Social-Ecological Model was first identified as a framework for addressing the obesity epidemic in a systematic and sustainable manner, I jumped all in. The field of public health was moving from individualized education and counseling approaches for improving health, to the use of PSE strategies to make population-level improvements in health outcomes and prevent obesity. This systems approach aligned with my public health interest and training.

PHLN: What are food deserts and how can they be addressed with policy and law?

Warnock: The language in the 2008 Farm Bill defined a "food desert" as an "area in the United States with limited access to affordable and nutritious food, particularly such an area composed of predominantly lower income neighborhoods and communities" ([Title VI, Sec. 7527](#) [↗](#)).

In 2004, Pennsylvania launched its Fresh Food Financing Initiative to give financial incentives for healthier food retail. This springboard model led to a national initiative that financially incentivized healthier food retailers to enter underserved communities. Shortly thereafter, similar policy incentives began to spread at the state level. As part of a *Healthy People 2020* objective, DNPAO tracked state-level policies that established various financial incentives in the form of tax breaks and property and zoning exemptions for supermarkets that located in underserved neighborhoods. These policies were meant to encourage healthier food retailers to build or locate in underserved communities, presumably increasing the likelihood that residents could purchase healthier foods and improve their diet quality.

PHLN: Why is addressing food deserts not a complete answer for improving individuals' access to and consumption of healthy foods?

Warnock: Although geographic access to retail venues is an important first step toward improving diet quality, it is only one determinant. For many families, increased physical access is necessary—but insufficient by itself. When a new grocery store opens in a community that lacked one, people do shift where they shop, but changing individual purchasing behaviors to improve overall diet quality takes both individual and macro-level changes (e.g., learned preferences, economic, societal, and cultural norms).

For example, a recent study by Hunt Allcott et al. (2019) used Nielson Scan food purchasing data to investigate what other variables might be driving nutritional inequality in food deserts. The study found that just bringing in a new supermarket did little to affect healthier food purchasing patterns in food deserts. Rather, the study identified income level, overall educational attainment, and nutritional and health knowledge as key factors associated with increased purchasing of healthier foods. Therefore, policy interventions devised to decrease nutritional inequalities in food deserts could aim not only to increase physical access to grocery stores, but also address individuals' knowledge of food and nutrition, offer pricing incentives that make healthier offerings more affordable, consider design elements of the retail environment to help customers easily locate and identify healthier options, and ensure that foods that are sold are in step with the cultural and regional food preferences of the community.

In addition, given our technology-driven society, physical proximity to a supermarket isn't the only point of access we need to consider. Recently, there has been some testing of online marketplaces (e.g., AmazonFresh, Instacart) for food shopping by low-income individuals, which can help inform our understanding of how virtual retail stores may help support healthier diets.

PHLN: What other policy interventions might improve access to healthier foods?

Warnock: Some other policy approaches that increase healthy food access, as well as other drivers of healthy food selection and consumption, include the following:

Adoption of nutrition standards and food service guidelines: While policies and programs have aimed to improve access to supermarkets or improve nutrition in schools, other institutions—such as work sites, childcare centers, and hospitals—are also important partners in improving diet quality and healthy food access. These community-based institutions can align their food service and procurement policies to prioritize healthier food offerings by implementing nutrition standards and food service guidelines. Collectively, these institutions provide frontline access to foods for millions of Americans each day.

Policies to support nutrition education for young children: Increasingly, we realize that supporting children's knowledge and experiences regarding healthy food early in life can foster longer-term healthy habits. We've seen states strengthen childcare licensing for healthier food offerings and nutrition education, as well as adopt policies that create farm-to-education programs for the first time. These programs teach children about the benefits of fruits and vegetables, promote local farmers through local sourcing preferences, and support field trips and experiential activities, such as taste testing and gardening.

PHLN: How is your office working to understand and spread the word about these law and policy interventions?

Warnock: Our Healthy Food Environment Team works to identify, track, and accelerate uptake of policy approaches that increase the demand, supply, and purchasing of healthier foods and beverages. To improve population-level dietary habits, we need policy supports as part of the solution to improve the availability and affordability of healthy foods where Americans live, work, learn, and play. To learn more about food service guidelines and nutrition interventions within early care & education settings visit CDC's [Healthy Food Service Guidelines](#) and [Early Care and Education](#) web pages.

PHLN: Where can folks learn more about healthy food policy?

Warnock: Our team produces several reports that track policy supports for healthier food access, and NOPREN supports national workgroups on topics that include food insecurity, rural food access, drinking water, Food Service Guidelines (FSG), and school wellness policies. Here are just a few recent publications and resources that highlight nutrition policy interventions that DNPAO supports through partnerships with states and communities:

- [2018 State Indicator Report on Fruits and Vegetables](#)
- [State- and Local-Level FSG Policy Publications](#) 
- [Early Care and Education State Indicator Report](#)
- [Nutrition Metrics on DNPAO's Data, Trends, and Maps](#)
- [CDC's Food Service Guidelines Policy](#)  [PDF-290KB]
- [CDC's Nutrition and Obesity Policy Research and Evaluation Network](#) 

PHLN: Have you read any good books lately?

Warnock: Yes, just finished a few last month. For professional development, I recommend *CREATE or HATE, Successful People Make Things* by Dan Norris, and for personal development, *12 Rules for Life: An Antidote for Chaos* by Jordan Peterson.

PHLN: Do you have any hobbies?

Warnock: I recently started teaching my two daughters (2 and 4) to swim, so I've rediscovered my love of all things water (ocean, pool, and lake). I also love watching college football—of course, rooting on the Georgia Bulldogs. There is truly nothing better than fall days spent in Athens, Georgia, with great friends, great food, and great football.

PHLN: Is there anything else you would like to add?

Warnock: At a basic level, I get a lot of satisfaction from translating CDC’s data and science into compelling resources that decision-makers can understand, relate to, and act on. So, if you enjoy identifying factors that contribute to the development of effective public health policy, and how good data and science can inform it, then check out the emerging field of legal epidemiology and/or consider becoming a public health policy analyst at the CDC!

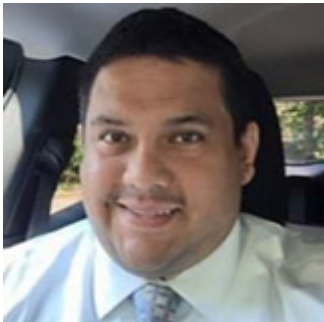
Quiz Question March 2020

Which country recently banned trade of wildlife for food, but not for medicinal purposes, as a measure to protect public health?

The first reader to correctly answer the quiz question will be featured in a mini public health law profile in the next edition of the *News*. Email your entry to PHLawProgram@cdc.gov with “PHL Quiz” as the subject heading (entries without the heading will not be considered).

February 2020 Quiz Winner

René F. Najera, MPH, DrPH



February Question:

What is psilocybin, and which jurisdiction decriminalized its use in January 2020?

Winning Answer: Psilocybin is a psychedelic hallucinogen produced by certain mushroom species, and the city of Santa Cruz, California, decriminalized its use in January 2020 by a unanimous vote of the city council.

Employment organization and job title: I am the Mental Health and Substance Use Program Manager at the Fairfax County Health Department in Virginia.

A brief explanation of your job: I help mental health and substance use programs in the county evaluate their implementation and effectiveness, provide them with background on evidence for their approaches, and I conduct epidemiological analyses of data related to mental health and substance use. I also do community outreach to present new programs and educate the public on the public health needs that those programs will address. When necessary, I serve as the subject matter expert to county agencies on certain topics related to epidemiology. Once in a while, I also assist in other work in the department since I have a background in infectious disease epidemiology.

Education: I have a doctorate in public health from Johns Hopkins University Bloomberg School of Public Health; a master’s degree in epidemiology and biostatistics from George Washington University; and a bachelor’s degree in medical technology from the University of Texas at El Paso.

Why are you interested in public health law? The nature of the work that I do brings me into contact with policymakers, so I need to take into account the legal aspects of what I’m trying to do. These programs always have to take into account the legalities of how we deal with mental health and controlled substances.

Favorite section of the *Public Health Law News*: I love reading about recent cases (Court Filings and Opinions) and how they were argued and/or decided. My mother is a lawyer, and she always used her cases to teach me how to successfully debate my points. I find myself reading those cases and wondering how I would have approached them.

What is your favorite hobby? Photography. When I go to a new place or even out for a hike, I bring my camera with me and try to capture as many interesting scenes as possible.

Court Filings and Opinions

Nevada: The Las Vegas coroner's office refused to release autopsy reports upon a statutory public records request by the *Las Vegas Review-Journal* (LVRJ) for all juveniles who died between 2012 and 2017. In lieu of the full autopsy reports, the office provided a spreadsheet containing the "name, age race, and gender, as well as the cause, manner, and location of death," citing confidential medical information as the reason for withholding the full reports. The Court balanced the statutory confidentiality provision with the public's interest in accessing public records. Finding a strong legislative support and intent to provide the public with as much access to information as possible, the Court ruled that the autopsy reports must be disclosed to the LVRJ, citing reasons including public oversight of programs such as the state's Child Abuse Prevention and Treatment Act and ensuring that "a member of the public, a relative of the child, a member of the media, or a member of a child welfare organization" to protect children against abuse. To balance public access with privacy interests, the Court required the reports be redacted, which would satisfy the public interest in obtaining records.

[Clark County Office of the Coroner/Medical Examiner v. Las Vegas Review-Journal](#)

Supreme Court of Nevada

Case No. 74604

Filed February 27, 2020

Opinion by Justice Ronald D. Parraguire

Texas: In 2014, a nurse cared for a patient who had contracted Ebola. The nurse then visited a bridal shop in Ohio. When the nurse fell ill and was diagnosed with Ebola, the Ohio health authorities temporarily closed the bridal shop to decontaminate it. Although the business reopened, it ultimately went out of business because of customers' health concerns. The bridal shop sued the Texas hospital, alleging that the hospital's failure to protect the nurse from contracting Ebola caused its company to close. The Court found that the bridal shop had alleged a "substantive nexus" between the hospital's "healthcare-provider duty" and the company's claimed injury and that expert testimony would be required to provide the causal link between the hospital's alleged negligence and the store's closing. Therefore, the Court held that the suit was a proper healthcare liability suit under the act.

[Coming Attractions Bridal and Formal, Inc. v. Texas Health Resources](#)

Supreme Court of Texas

Case No. 18-0591

Opinion Delivered February 21, 2020

Opinion of the Court delivered by Justice Jane Bland

Federal: Tiffni Altes filed a motion for preliminary injunction against the coffee maker Bulletproof 360 Inc. alleging that Bulletproof makes "numerous deceptive and misleading health claims," such as "Brain Octane Oil," "free of 27 energy-sapping toxins," and "Essential for Hair, Skin & Nails." She further argued that, because the brand "makes health benefit claims," it should be classified as a new drug and require approval from the FDA. The court acknowledged that Bulletproof may be engaging in illegal conduct but failed to find any irreparable harm that would allow the court to grant a preliminary injunction. Although Altes asserted that consumers could suffer adverse health effects—for instance, by misconstruing the "'zero sugar' claim to mean that the product is low in calories,"—the court did not believe a "reasonable consumer will be so deceived."

[Altes v. Bulletproof 360, Inc.](#)

United States District Court, Central District of California

Case No. 2:19-CV-04409-ODW

February 25, 2020

District Judge Otis D. Wright

Federal: In 2016, the City of Leander Fire Department (Texas) began requiring Tdap vaccinations. An employee of the fire department objected based on religious grounds. The fire department offered to either transfer him to a job that did not require vaccinations or to wear a mask during shifts and complete additional medical screening to remain in his current job. The employee did not comply with either option provided and was subsequently fired on grounds that he deliberately refused to obey instructions from a supervisor. The employee alleged discrimination "in violation of Title VII and the TCHRA, and a violation under the 42 U.S.C. § 1983" of his First Amendment right to freely express his religion. The court concluded that there was no religious discrimination since the fire department offered him the option to wear a mask while on shift and still freely exercise his religion.

[Horvath v. City of Leander](#)  [PDF-217KB] 

United States Court of Appeals, Fifth Circuit

Case No. 18-51011

Filed January 13, 2020

Opinion by Judge James L. Dennis

Quote of the Month

“We should never ask our Marines to choose between being the best parent possible and the best Marine possible.”—
Commandant Gen. David Berger , United States Marine Corps

[Editor’s note: This quote is from the article above titled “[Marines to review proposed 1-year maternity leave policy for new moms](#) ,” Military.com, 02/21/2020.]

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.