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Public Health Law News

March 2023



Public Health Law Program

National Center for State, Tribal, Local, and Territorial Public Health Infrastructure and Workforce

Centers for Disease Control and Prevention


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Announcements


Applications Open | CDC's Public Health Law Fellowship

CDC's Public Health Law Program and ChangeLab Solutions are accepting applications for the Public Health Law Fellowship. This paid opportunity will provide graduate students (e.g., MPH, MPA, PhD), law students, and recent graduates of these programs with on-the-job training to prepare them for careers in public health law and policy. The fellowship was created to strengthen the public health law workforce by increasing diversity within the field and preparing the next generation of public health law professionals to respond to critical issues. The deadline for applications is **April 17**. [Learn more and apply](#).


Registration Open | Network for Public Health Law 2023 Public Health Law Conference

Registration is now open for the 2023 Public Health Law Conference to be held **October 24–26** in **Minneapolis**. The conference will consist of over 40 sessions that will address core issues related to structural inequities in health outcomes, public health data use to advance health equity, and more. An early-bird discount is available through **March 24**. [Learn more and register](#) .




Save the Date | Northeastern Law: Annual Health Law Conference

The Northeastern Law Center for Health Policy and Law will host its annual health law conference on **April 14** in **Boston**. The theme of this year's conference is "Viral Misinformation: Health Impacts and Legal Solutions." [Learn more and register](#) .


Save the Date | National Association of Local Boards of Health Annual Conference

The National Association of Local Boards of Health is hosting its annual conference in **Tacoma, Washington, July 31–August 2**. The conference will give attendees the opportunity to explore skills for advocacy and leadership roles for public health funding, workforce, and equity. [Learn more](#) .



Applications Open | American Bar Association Health Law Section Diversity & Inclusion Fellowship Program

The American Bar Association (ABA) Health Law Section Diversity & Inclusion Fellowship Award will be awarded to up to five young lawyers who meet [ABA Goal III Diversity criteria](#)  [\[PDF – 243 KB\]](#) , are actively practicing health law, and are interested in expanding their career development opportunities through networking within the Health Law Section. Fellows will serve September 1, 2023–August 31, 2024. Applications are open through **April 17**. [Learn more and apply](#) .


Applications Open | Bureau of Justice Assistance Fiscal Year 2023 Second Chance Act Pay for Success Program

Grant applications are now open for the Bureau of Justice Assistance Second Chance Act of 2007 (Public Law 110-199), reauthorized by the First Step Act of 2018. This grant funding opportunity is designed to "help communities develop and implement comprehensive and collaborative strategies that address the challenges posed by reentry and recidivism reduction." Applications are due **March 21**. Positions start in January, May/June, or August/September. [Learn more and apply](#) .



Call for Public Input | National Nature Assessment

The Office of Science and Technology Policy, on behalf of the US Global Change Research Program, is requesting public input concerning the [National Nature Assessment](#)  (NNA). They are accepting requests for further information through **March 31**. [Learn more and request information](#) .


Registration Open | "The Public Health Administrative State Under Fire: Restoring Trust in the CDC and FDA"

Registration is now open for the Georgia State University Law event, "The Public Health Administrative State Under Fire: Restoring Trust in the CDC and FDA." The event is **March 23–24** in **Atlanta**. There is also a **virtual** option. [Learn more and register](#) .


Call for Submissions | ASLME 3rd Annual Health Law and Anti-Racism Graduate Student Writing Competition

The American Society of Law, Medicine, and Ethics (ASLME) will accept submissions for the 3rd Annual Health Law and Anti-Racism Graduate Student Writing Competition through **July 1**. Papers must focus on health law within the context of anti-racism. [Learn more and submit an abstract](#)  [\[PDF – 93 KB\]](#) .


Registration Open | 46th Annual ASLME Health Law Professors Conference

Registration is open for the 46th Annual ASLME Health Law Professors Conference to be held **June 7–9** in **Baltimore**, hosted at the University of Maryland Francis King Carey School of Law. The conference aims to bring together professionals within the health law community. [Learn more and register](#) .

Call for Abstracts | APHA 2023 Annual Meeting and Expo


The Law Section of APHA will accept abstracts for the 2023 APHA Annual Meeting and Expo through **March 31**. The theme is “Creating the Healthiest Nation: Overcoming Social and Ethical Challenges.” The conference will be held **November 12–15** in **Atlanta**. [Learn more and submit an abstract](#) .

Registration Open | 2023 Maryland State of Reform Health Policy Conference


Registration is open for the 2023 Maryland State of Reform Health Policy Conference, which is focused on bridging the gap between healthcare policy and political reality. The conference will be held in **Baltimore** on **June 13**. [Learn more and register](#) .

Tribal Announcements


Save the Date | National Indian Health Board 2023 National Tribal Public Health Conference

The National Indian Health Board will host the National Tribal Public Health Conference **May 1–5** in **Anchorage**. This annual event is dedicated to elevating the impact of public health on tribes and has historically attracted more than 700 professionals, leaders, advocates, and researchers. [Learn more](#) .

Funding Opportunity | Improving Outcomes for Child and Youth Victims of Human Trafficking



The Office for Victims of Crime seeks to improve outcomes for children and youth who are victims of human trafficking by integrating human trafficking policy and programming at the state or tribal level. Funding will be granted for state or tribal jurisdictions to identify their greatest barriers to identifying and assisting child and youth victims of trafficking and/or investigating and prosecuting these cases, and to develop a jurisdiction-wide strategy to address these challenges. Grant applications are due on **April 6**. [Learn more and apply](#) .

Call for Manuscripts | *Arizona State Law Journal*


The *Arizona State Law Journal* (ASLJ) is seeking articles for the upcoming fall issue. ASLJ will consider articles discussing any area of Arizona law but will give priority and preference to manuscripts focused on Indian law. Submissions will be considered on a rolling basis until **June 23**. [Learn more and submit a manuscript](#) .

Job Announcements

Deputy Attorney General | Delaware Department of Justice



The Delaware Department of Justice is seeking candidates for a deputy attorney general to join its Health Law Unit, Civil Division, to represent the Department of Health and Social Services. The position will involve general counsel duties for the Division of Public Health and the Adult Corrections Health Care Review Board. [Learn more and apply](#)  [\[PDF – 123 KB\]](#) .

Law and Policy Analyst | Temple University Center for Public Health Law Research


The Center for Public Health Law Research at Temple University is seeking two candidates for law and policy analyst positions. The analysts will be primarily responsible for contributing to scientific legal mapping projects by researching and analyzing statutory and regulatory laws and policies across emerging public health topics. Candidates should have a JD and at least two years of post-graduate experience. [Learn more and apply](#) .

Legal Tools & Trainings

Mapping Tool & Toolkit | Rural Health Mapping Tool and the Rural Emergency Preparedness and Response Toolkit

CDC partnered with NORC at the University of Chicago and the Rural Health Information Hub to develop the Rural Health Mapping Tool and the Rural Emergency Preparedness and Response Toolkit. The mapping tool allows users to create a map view that displays only the rural counties in the United States, which can highlight areas of need. The toolkit provides evidence-based and promising models and resources to support emergency planning, response, and recovery efforts. Access the [mapping tool](#)  and [toolkit](#) .


Fact Sheet & Infographic | “Understanding Paid Sick Leave & Preventive Cancer Screening”

ChangeLab Solutions, in partnership with CDC, created a fact sheet and an infographic that provide an overview of the policy landscape for paid sick leave. These resources explain the importance of paid sick leave, outline key elements of a paid sick leave policy, and identify actions that public health professionals can take to encourage adoption of paid sick leave policies. [Learn more](#) .

Legal Policy & Assessment Tool | HIV Criminalization Legal and Policy Assessment Tool

CDC developed a new HIV criminalization assessment tool to assist state decision makers in assessing their HIV criminalization laws’ alignment with current scientific and medical evidence, and their intersection with HIV data privacy laws. [Learn more](#).

Legal Handbook | “Disaggregation of Public Health Data by Race & Ethnicity”

The Network for Public Health Law has developed a legal handbook to assist public health practitioners and attorneys across state, tribal, and local governments in the use of data to advance health equity. The handbook addresses the role of law in collecting and disseminating public health data disaggregated by race and ethnicity. [Learn more](#) .

Top Story

Washington: [Surprise-billing law loophole: when ‘out of network’ doesn’t quite mean out of network](#)

Harris Meyer (02/28/2023) Kaiser Health News

Story Highlights

Loopholes in surprise-billing laws leave patients at great risk of being hit with major bills. Due to these loopholes, patients need to be extremely careful about selecting hospitals in their network, even in emergency situations.

While on a family vacation in the San Juan Islands, Danielle Laskey, a Seattle resident in her 26th week of pregnancy, had to pay a surprise visit to a local emergency department (ED) after she thought she might be leaking amniotic fluid. After her ED visit, her OB-GYN urged her to seek immediate care and Laskey sought specialized care from the Swedish Maternal & Fetal Specialty Center-First Hill located in Seattle, WA. She was admitted to the hospital and stayed 7 weeks until the delivery of her baby. After delivery, Laskey was treated for several postpartum complications and was discharged the next day. Her son went home a month later. She later returned to Swedish Medical Center after developing a fever and body aches and was scheduled for a placenta fragment removal procedure.

Much to her surprise, Laskey received a \$121,000 bill for her medical care. While the specialized fetal clinic was in-network, Swedish Medical Center was not. The medical center initially deemed her visit as non-emergency since she was not admitted through the emergency department and out-of-network charges were applied.

Washington state and federal laws prohibit insurers from billing patients for out-of-network charges in emergency situations. Laskey says she was never told that her hospital stays were out of network, and she never signed anything agreeing to accept out-of-network charges.

Regence, the insurer, explained to Kaiser Health Network that “Swedish hospital, while out of network for [Laskey], had a broader contract with the insurer as a “participating provider” and so the insurer was not in violation of surprise-billing laws by approving Swedish’s out-of-network coinsurance charges.”

The designation as a “participating provider” allowed Regence to specify the terms and conditions under which emergency services are provided to plan members. Ashley Bach, a Regence spokesperson said, “Under the Washington state and federal balance-billing laws, the definitions of whether a provider is considered in network hinges on whether there is a contract with a specific provider.”

Matthew Fiedler, a senior fellow at the University of Southern California-Brookings Schaeffer Initiative for Health Policy, said it’s possible that other insurers have similar agreements with hospitals, and policymakers should consider addressing this gap in the laws. “Potentially this is a significant loophole, and it’s not what lawmakers were aiming for,” he said.

The Laskeys appealed these charges, and eventually the hospitalizations were reclassified as in-network, eliminating a majority of the bill.

[Editor’s note: Learn more about the [No Surprises Act, H.R 133; Division BB](#) .]

Briefly Noted

Colorado: [After capping insulin copays, Colorado sets its sights on EpiPens](#)

Helen Santoro (02/28/2023) The Colorado Sun

[Editor’s note: Read the [proposed state law](#) and learn more about [diabetes](#).]

Illinois: [Illinois poised to mandate paid leave for nearly all workers](#)

Claire Savage (02/21/2023) Illinois Newsroom

[Editor’s note: Read the [bill](#) and learn more about [the benefits of paid sick leave](#)  [\[PDF – 622 KB\]](#) .]

Kansas: [Kansas House votes to legalize fentanyl test strips because the drug is ‘killing people’](#)

Blaise Mesa (02/24/2023) HPPR News

[Editor’s note: Read the [bill](#) and learn more about [fentanyl](#).]

Kentucky: [Whiskey fungus sparks work stoppage at Jack Daniel’s site as property owners file lawsuit](#)

Mike Snyder (03/08/2023) USA Today

[Editor’s note: Learn more about [Baudoinia compniacensis](#) .]

North Carolina: [Medicare Advantage, insuring 1 million patients in North Carolina, faces new challenges to costs, practices](#)

Thomas Goldsmith (02/22/2023) NC Health News

[Editor’s note: Learn more about the [policy and technical changes to Medicare Advantage](#)  [\[PDF – 423 KB\]](#) .]

National: [Millions who rely on Medicaid may be booted from program](#)

Amanda Seitz (02/26/2023) The Associated Press

[Editor’s note: Learn more about [Medicaid](#) .]

Tribal: [Montana Indian Child Welfare Act passes key House vote](#)

JoVonne Wagner (02/27/2023) Montana Free Press

[Editor’s note: Read the [bill](#) and learn more about [tribal health](#).]

Tribal: [‘Nothing can stop us’](#)

Kolby Kickingwoman (02/27/2023) Cherokee Phoenix

[Editor’s note: Learn more about [advanced appropriations for IHS](#) .]

Global Public Health Law News

Australia: [Australia has a vaping problem, but no easy health or political solution](#)

Tom Lowrey (02/23/2023) ABC News


[Editor’s note: Learn more about [vaping laws in Australia](#) .]

Court Filings & Opinions

Pennsylvania

Pennsylvania Recovery Organizations Alliance, Inc. ("Recovery Alliance"), a non-profit organization involved in addiction recovery, has filed a petition seeking to prohibit certain improper regulatory actions of the Department of Drug and Alcohol Programs of the Commonwealth of Pennsylvania ("Department"). Specifically, Recovery Alliance contends that, in authorizing a private, non-profit corporation ("Pennsylvania Certification Board" or "PCB") to modify the state-wide credentialing requirements of Recovery Specialists, the Department improperly delegated governmental regulatory duties and powers to a private entity. In the Pennsylvania Commonwealth Court, Recovery Alliance asked that the Court declare the Department's new regulation for PCB-promulgated Recovery Specialist training requirements as a rulemaking violation and an unlawful delegation of governmental regulatory authority to PCB. In response, the Department filed a preliminary objection, which argues that it has not passed and enforced a new regulation for Recovery Specialist certification, nor does it certify Recovery Specialists or require Recovery Specialist certification or training by PCB in order for an addiction recovery program to receive funding from the Department.

The Court, examining documented evidence and the allegations of Recovery Alliance against the Department, overruled the Department's preliminary objection to the petition, since there was found to be sufficient evidence that the Department has established "a binding norm," which constitutes a regulation according to the ruling of *Northwestern Youth Services* (2010), in that rules enforced by agencies—such as the alleged Recovery Specialist certification requirements in this case—establish standards of conduct and carry the force of law. It remains, however, unclear for the Court's legal process whether the Department's regulatory action was in violation of the State's rulemaking process for regulations. The Court directed the Department to answer Recovery Alliance's amended petition for review.

[Pennsylvania Recovery Organizations Alliance Inc. v. Department of Drug and Alcohol Programs of the Commonwealth of Pennsylvania](#) 

Commonwealth Court of Pennsylvania
No. 30 M.D. 2022
Decided February 15, 2023
Opinion by Senior Judge Mary Hannah Leavitt

Michigan

Salem Springs SE, LLC ("Salem Springs") appealed a decision denying their writ of mandamus claim and rendering moot their claim for declaratory relief. Salem Springs bought almost 400 acres of land in Salem Township zoned for urban development. The land did not have public water or sewer services and the Township created plans for services from Wayne County and Ypsilanti Community Utilities, but the permit application was only reviewed upon Court order. The application was quickly denied for failure to establish any criteria set forth in Superior Township Ordinance 169-85. The ordinance on unlawful discharges of water was amended to prohibit sewage lines not owned or controlled by the Township unless there is a public health emergency, the connection is the only feasible way to avoid a public health emergency, or the parties agree.

A writ of mandamus is a court order, compelling an official or body to comply with a legal duty. The Court of Appeals found the writ of mandamus was properly dismissed because Salem Springs failed to demonstrate the Township actually owed rights and duties. According to the Court, Salem Spring should have claimed arbitrary or unreasonable denial of their application instead. Additionally, the trial court improperly rendered Salem Springs' claim for declaratory relief moot. The Court of Appeals remanded this issue to the trial court to create the record because the remedy is not disclosed due to the denial to issue a writ of mandamus.

[Salem Springs SE, LLC v. Superior Charter Twp.](#) 

Court of Appeals of Michigan
No. 357945
Decided February 9, 2023
Opinion by Judges Yates, Jansen, and Servitto

COVID-19 Court Filings & Opinions

Delaware

Plaintiffs Terri Hansen, as a personal representative of the estate of Charles Secrest, and Beverly Shinnen, as a personal representative of the estate of Sophie Star Sakewicz, filed this lawsuit against Defendant Brandywine Nursing and Rehabilitation Center, Inc. (Brandywine) on March 23, 2021 in the Superior Court of the State of Delaware. Secrest and Sakewicz were elderly residents at Brandywine when they contracted COVID-19 and died from resulting complications in 2020. Plaintiffs alleged in their Superior Court complaint state law claims for wrongful death, survival rights, gross negligence, willful and wanton negligence, and respondeat superior liability.

Brandywine removed the case to this Court on May 5, 2021, asserting that Plaintiffs' claims are preempted by the federal Public Readiness and Emergency Preparedness Act (PREP Act) and that the state law claims arise under federal law.

[Hansen v. Brandywine Nursing & Rehab. Ctr., Inc.](#) 

Superior Court of Delaware

No. N21C-030233 CEB

Decided January 23, 2023

Opinion by R.J. Butler

Minnesota

This case arises from Governor Walz's declaration of a peacetime emergency under the Emergency Management Act, Minn. Stat. §§ 12.01-.61 (2022), and the executive order Governor Walz issued that required that Minnesotans wear face coverings. See Emerg. Exec. Order No. 20-01, *Declaring a Peacetime Emergency and Coordinating Minnesota's Strategy to Protect Minnesotans from COVID-19* (Mar. 13, 2020); Emerg. Exec. Order No. 20-81, *Requiring Minnesotans to Wear a Face Covering in Certain Settings to Prevent the Spread of COVID-19* (July 22, 2020). Appellants petitioned for a writ of quo warranto challenging Executive Order 20-81-the face-covering mandate (mask mandate).

According to appellants, Governor Walz's declaration of a peacetime emergency to combat a public health crisis overstepped his powers under the Emergency Management Act, and Executive Order 20-81 violated their constitutional rights in several ways. On these grounds, appellants asked the district court to enjoin enforcement of Executive Order 20-81, along with "any other emergency executive order related to COVID-19" issued under the Emergency Management Act. The court affirmed in part the decision of the court of appeals dismissing the appeal, reversed that decision in part, and remanded to the court of appeals to consider the merits of Snell's appeal of his claim that the Minnesota Emergency Management Act does not allow the Governor to declare a peacetime emergency in response to the COVID-19 pandemic.

[Snell v. Walz](#) 

Supreme Court of Minnesota

No. A21-0626

Filed February 8, 2023

Opinion by Chief Justice Gildea

Washington

In early 2020, life in the state of Washington changed dramatically due to the public health emergency caused by the novel coronavirus (COVID-19). Six months after United States and global health authorities declared COVID-19 a public health emergency, the city of Seattle (City) passed an ordinance authorizing hazard pay for certain workers who deliver food to consumers' homes. By that time, Governor Inslee had issued stay-at-home orders requiring Washingtonians to leave home only for the most essential of trips. Many businesses were closed, and many businesses and state offices that remained in operation were closed to the public, with many employees working remotely. Those who could stayed home and stayed away from others as much as possible, compelled by the rapid spread of the deadly virus and the emergency it caused. But we had to eat. Given the rapid spread of COVID-19 and the risk of exposure, many were faced with a dilemma: How can we safely buy food? The court affirmed in part, reversed in part, and remanded to the trial court for further proceedings consistent with the opinion.

[Washington Food Indus. Ass'n & Maplebear, Inc. v. City of Seattle](#) 

Supreme Court of Washington

No. 99771-3

Filed February 9, 2023

Opinion by Justice Montoya-Lewis

Quote of the Month

"Working families face enough challenges without the concern of losing a day's pay when life gets in the way," said Governor J.B. Pritzker of Illinois.

[Editor's note: This quote is from the above article [Illinois poised to mandate paid leave for nearly all workers](#) , Claire Savage (2/21/2023) Illinois Newsroom.

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CDC's Public Health Law Program (PHLP) works to improve the health of the public by performing research, creating tools, and providing training to help practitioners understand and make law and policy decisions. Every month, PHLP publishes the *Public Health Law News* with announcements, legal tools, court opinions, job openings & more.

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Last Reviewed: March 16, 2023