



# Public Health Law News

April 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

### Registration Open | 2023 NACCHO360



The National Association of County and City Health Officials (NACCHO) is hosting its annual member conference designed to help local health officials envision the future of local public health in their communities and provide them with the essential skills and strategies to achieve that vision. The conference will be hosted in **Denver, Colorado**, from **July 10–13**. Early bird registration has been extended to **Friday, April 28**. [Learn more and register](#) .

### Save the Date | National Association of Local Boards of Health

The National Association of Local Boards of Health is hosting its Annual Conference in **Tacoma, Washington**, from **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 and register](#) .


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### 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 are required to have a focus on health law within the context of anti-racism. [Learn more and submit an abstract](#)  [PDF – 93 KB] .


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### Registration Open | 2023 NACCHO Preparedness Summit

Registration is open for the 2023 NACCHO Preparedness Summit, **April 24–27** in **Atlanta**. The Preparedness Summit is the first and longest-running preparedness conference. The theme is “Recover. Renew: Reprioritizing All-Hazards Preparedness.” Registration for the in-person event has closed, but virtual registration will close on **April 27**. [Learn more and register](#) .


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### Registration Open | ASLME’s 46th Annual Health Law Professors Conference

Registration is open for ASLME’s 46th Annual Health Law Professors Conference, **June 7–9** in **Baltimore, Maryland**, 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](#) .


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### Registration Open | 2023 Maryland State of Reform Health Policy Conference

Registration is open for the 2023 Maryland State of Reform Health Policy Conference. This conference is focused on bridging the gap between healthcare policy and political reality. The conference will take place in **Baltimore, Maryland**, on **June 14**. [Learn more and register](#) .


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### Registration Open | APHA Policy Action Institute

Registration is open for the 2023 American Public Health Association Policy Action Institute. The event brings together public health leaders, students, and advocacy experts to discuss proven and proposed policy solutions to address today’s most pressing health threats at the local, state, and federal levels. The event will take place on **June 15** with an **in-person and online** option and **June 16** for in-person attendees in **Washington, DC**. [Learn more and register](#) .

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### Applications Now Open | de Beaumont Foundation 40 Under 40


The de Beaumont Foundation is now accepting nominations for its 40 Under 40 in Public Health Class of 2023, a program that aims to recognize and support 40 individuals under the age of 40 who are working on the public health challenges of today and tomorrow to progress towards healthier communities. Through this recognition and a two-year professional development program, honorees receive exclusive opportunities for personal enrichment and career advancement. Applications will be accepted **through May 17**. Individuals may nominate themselves or another person. [Learn more and apply](#) .

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## Tribal Announcements


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### Save the Date | National Indian Health Board 2023 National Tribal Public Health Summit

The National Indian Health Board will host the National Tribal Public Health Summit **May 1–5** in **Anchorage**. This annual summit is dedicated to elevating the impact of public health on tribes and has historically attracted more than 700 professionals, leaders, advocates, and researchers. Registration will close on **April 26**. [Learn more and register](#) .

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### Registration Open | NCUIH 2023 Annual Conference

The National Council of Urban Indian Health is hosting its annual conference on **May 15–18** with the option of joining in person in **Washington, DC**, or **virtually**. Featured sessions will focus on the benefits of developing culturally grounded behavioral interventions for urban Indians, LGBTQIA2S+ affirming and inclusive healthcare, and culturally responsive public health approaches to improve health and wellness in American Indian and Alaska Native communities. [Learn more and register](#) .

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### 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](#) .

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## Job Announcements

### Law Clerk | Health and Human Services, Office for Civil Rights

The Office for Civil Rights (OCR) in the United States Department of Health & Human Services, is seeking candidates for a contractor job opportunity via Chickasaw Nation Industries (CNI). The position is for a law clerk (investigator), contractor, with CNI in OCR's Mid-Atlantic Region. The law clerk will provide mission support to OCR regional offices to ensure compliance with the HIPAA rules and applicable federal civil rights, conscience, and religious freedom regulations. Candidates should have a JD and be able to obtain a Federal Public Trust Clearance. [Learn more and apply](#) .


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### Policy Lead | National Congress of American Indians

The National Congress of American Indians (NCAI) is seeking candidates for a policy lead position. The policy lead will support the policy and advocacy functions of NCAI by covering a portfolio of topics related to the individual's education, experience, and the organization's needs. Portfolio areas include, but are not limited to, health and emergency management. A law degree is not required but is a plus. [Learn more and apply](#) .


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### Project Associate | O'Neill Institute for National and Global Health Law at Georgetown University

The O'Neill Institute at Georgetown University is seeking candidates for a project associate. The project associate will work with the Institute's director, faculty members, and staff to conduct short-term advanced research projects, including legal and policy research on relevant national and global health law (for example, public health law, international health regulations, and health and human rights). Candidates should have a JD or JD/MPH and experience with health law and/or policy. [Learn more and apply](#) .

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### Research Assistant | Public Health Law Center at Mitchell Hamline School of Law

The Public Health Law Center at Mitchell Hamline School of Law is seeking candidates for graduate and law school student research assistants. Candidates should have a passion for working for the social good and who share a commitment to continued learning on issues related to racial and social justice and health equity, including the social determinants of health, implicit bias, and systemic oppression. Candidates must be currently enrolled in a JD program or a public health or urban planning graduate program. [Learn more and apply](#) .

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## Legal Tools & Trainings

### Journal Article | "Emergency Powers and The Pandemic: Reflecting on State Legislative Reforms and The Future of Public Health Response"

CDC's Office of Public Health Law Services and Office of Readiness and Response collaborated with the National Governors Association and the Association of State and Territorial Health Officials (ASTHO) on a new article in the *Journal of Emergency Management*. The article explores legislative trends from state and territorial legislation passed in 2020 and 2021 related to emergency powers of governors and state health officials. [Read the article](#) .

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### Resource Collection | "Understanding Paid Sick Leave & Preventive Cancer Screening"

ChangeLab Solutions, in partnership with CDC, created a business case fact sheet and model language for comprehensive cancer control plans. Other resources in the collection include a fact sheet and an infographic, which offer an overview of the policy landscape and benefits of paid sick leave. [Learn more](#) .

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### Journal Article | "Gender-Based Violence Laws in Ten African Countries with High HIV Prevalence and Incidence Among Adolescent Girls and Young Women"

Former PHLP intern Mariko Kageyama, along with other CDC employees and the Office of the US Global AIDS

Coordinator, published an article reviewing gender-based violence (GBV) laws and regulations from 10 eastern and southern African countries. The article examines laws pertaining to GBV in countries with high HIV prevalence, particularly among adolescent girls and young women. [Read the article](#) .

## Top Story

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**National:** [Health plans no longer have to cover all preventive care at no cost. Here's what to know](#) .  
New York Times (03/31/2023) Sarah Kliff

### Story Highlights

The Affordable Care Act (ACA) is a federal law in the United States, signed in 2010, that aims to increase access to healthcare while lowering healthcare costs. The ACA requires most individuals to have health insurance, expands Medicaid eligibility, prohibits insurance companies from denying coverage or charging higher premiums based on pre-existing conditions, and provides subsidies to help people afford insurance. The law also mandates coverage for certain preventive services and establishes a variety of regulations for health insurance companies. However, a recent court ruling has threatened the status of the preventive care mandate.

A federal judge in Texas has struck down the ACA policy that mandates private health insurers to fully cover preventive care services at no cost to patients. The ruling applies nationwide and affects potentially lifesaving preventive healthcare services that the federal government recommends. The ruling by Judge Reed O'Connor of the Federal District Court for the Northern District of Texas determined that the United States Preventive Services Task Force, one of the panels responsible for deciding which healthcare services private insurers must cover, lacked the constitutional authority to do so.

Health policy experts consider full coverage for preventive care as one of the ACA's most transformative policies, and it is also one of the law's more popular provisions. The Biden administration plans to appeal the ruling, but this has brought the ACA back into the political fray, with a potential Supreme Court challenge looming.


The ruling affects approximately 150 million Americans who have private health coverage through their employers. However, the ruling does not appear to impact people with public insurance such as Medicare or Medicaid. The ruling does not affect all preventive care, as insurers are still required to cover all types of birth control and recommended vaccines at no cost to patients. Mammograms, Pap smears, and other common screenings recommended before 2010 are also still covered, but newer guidance on when those tests are appropriate is not required. Health insurers could potentially apply copayments and deductibles to the newer types of preventive healthcare, but it is unlikely for them to change benefits mid-year, especially with the ongoing court case.


The Biden administration plans to appeal the recent Texas court ruling that struck down the ACA's preventive care mandate and is expected to seek a stay of the ruling during the appeals process. A stay would put the decision on hold and bring the preventive care mandate back into effect until higher courts can weigh in on the case. If a stay is not issued, the case could move quickly and potentially reach the Supreme Court before the 2024 election. It is expected that the case would take years to reach the Supreme Court if a stay is issued.

[Editor's note: Learn more about the [Affordable Care Act](#) .

## Briefly Noted

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**California:** [Ruling affirmed in California sugary drink tax preemption lawsuit](#)   
ChangeLab Solutions (03/29/2023) Sabrina Adler

[Editor's note: Learn more about the [Keep Groceries Affordable Act of 2018](#) .

**Idaho:** [Idaho becomes second state to make gender-affirming health care for minors a felony](#)   
The Hill (04/05/2023) Brooke Migdon

[Editor's note: Learn more about [House Bill 71](#)  [\[PDF - 67 KB\]](#) .

**Kentucky:** [Kentucky governor signs medical marijuana legalization bill](#) 

Forbes (04/01/2023) A.J. Herrington

[Editor's note: Learn more about [Senate Bill 47](#) .]

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**Minnesota:** [Minnesota overhauled substance use treatment. Rural residents still face barriers](#) .


Kaiser Health News (04/03/2023) Christina Saint Louis

[Editor's note: Learn more about [substance use disorder treatment](#).]

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**Nevada:** [Mobile clinics bringing health care to more rural Nevadans](#) 

Reno Gazette Journal (04/04/2023) Jazmine Orozco Rodriguez

[Editor's note: Learn more about the [MOBILE Health Care Act](#) .]

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**New Jersey:** [NJ gov signs executive order protecting transgender youth health care](#) 

The Hill (04/04/2023) Brooke Migdon

[Editor's note: Learn more about [Executive Order No. 326](#)  [PDF - 97 KB] .]

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**Ohio:** [Ohio drivers can be pulled over for distracted driving starting Tuesday](#) 

Cleveland.com (04/03/2023) Jake Zuckerman

[Editor's note: Learn more about [distracted driving](#).]

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**National:** [Gun regulations could significantly help reduce firearm deaths among young people, study shows](#) 

Houston Public Media (04/04/2023) Rebecca Noel

[Editor's note: Learn more about [firearm injuries](#).]

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## Global Public Health Law News

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**France:** [In Paris referendum, 89% of voters back a ban on electric scooters](#) 

New York Times (04/03/2023) Tom Novian

## Court Filings & Opinions

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### California

The California Court of Appeals, Second Appellate District, has upheld a trial court's ruling to dismiss a court case filed by the plaintiff—an LA-based environmental advocacy organization, Los Angeles Waterkeeper (Waterkeeper)—against the defendants, the Regional Water Quality Control Board, Los Angeles Region (Regional Board) and the State Water Resources Control Board (State Board), regarding the Boards' alleged duty to prevent water waste. In 2017, the Regional Board renewed permits with several publicly owned treatment works (POTWs) in the region, allowing them to discharge millions of gallons of treated wastewater into the local waterways. Waterkeeper asked the State Board to review the Regional Board's permits and the State Board declined a review of the permits, at which time Waterkeeper filed petitions for writs of mandate against the State and Regional Boards, alleging that the Boards failed their duty under article X, section 2 of the California Constitution and the Water Code to avoid the unreasonable use and waste of treated water. Waterkeeper further contended that the Regional Board had failed to make findings required under the California Environmental Quality Act (CEQA) before issuing the permits to the POTWs.

In this appeals case, the appellate court affirmed the original judgements of the trial court to dismiss the case. The appeals court agreed that the Regional Board had no duty to evaluate the reasonableness of the POTWs' water disposal upon permit issuance, finding that article X, section 2 of the California Constitution uses language that does not specifically apply to the Regional Board's role in permit issuance. The appeals court also concluded that the specific provision of CEQA with which Waterkeeper contends the Regional Board failed to comply does not actually impose any environmental review requirements and is inapplicable to the wastewater discharge permit issuance process, since Water Code section 13389 excludes this permit issuance process from the CEQA environmental review procedures. The appeals court did, however, rule to reverse the trial court's judgements and writs of mandate against the State Board, noting that "neither that constitutional provision [article X, section 2] nor the Water Code imposes any limits on the State

Board's discretion in regard to preventing unreasonable use of water." The appeals court decided to reverse the original ruling about the State Board's limits of discretion regarding the use of water upon the finding that whatever duty the State Board has to prevent water waste, that duty is highly discretionary. Therefore, the appeals court overturned the ruling that Waterkeeper could compel the State Board to review the Regional Board's permits, instead judging that the discretionary nature of the State Board's duty disallows Waterkeeper's writ petitions seeking to compel the State Board to direct its authority and investigative powers toward water usage that Waterkeeper believes are wasteful.

#### [Los Angeles Waterkeeper v. State Water Resources Control Board](#)

Court of Appeal of California, Second Appellate District, Division One

Nos. B309151, B309153, B309155, B309148, B312949

Decided February 27, 2023

Opinion by Judge Helen I. Bendix

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#### California

The California Court of Appeals, Third Appellate District, upheld a trial court's ruling to deny the plaintiff, the Office of Environmental Health Hazard Assessment (OEHHA), a petition for a court order against the defendant, California Manufacturers & Technology Association (CMTA), ordering CMTA to withdraw its "public health goal" (PHG) for perchlorate in drinking water. In 2015, OEHHA set a PHG for the drinking water contaminant perchlorate at 1 part per billion. The plaintiff in this case, CMTA, filed a petition to order defendant OEHHA to withdraw their set PHG for perchlorate. The trial court denied the petition, and the plaintiff filed for an appeal, alleging that 1) OEHHA violated the statutory requirements necessary for arriving at a PHG, and 2) the PHG was not valid under the common law conflict of interest doctrine, since its author had a conflict of interest when setting the PHG for perchlorate.

The appellate court affirmed the trial court's decision. Specifically, the appellate court concluded that OEHHA complied with the statutory requirements necessary to set a PHG for an "acutely toxic substance," such as perchlorate, under the Health & Safety Code section 116365 (c)(1)(A). Since OEHHA properly set the PHG for perchlorate in drinking water to a level that would minimize IUI, a key indicator of potential adverse health effects from perchlorate exposure, the defendant set a PHG standard for perchlorate "at the level at which no known or *anticipated* adverse effects on health occur, with an adequate margin of safety," thereby complying with the Health & Safety Code's statutory requirements for arriving at a PHG. In addition, the appellate court found that the common law conflict of interest doctrine did not apply in this case, since the plaintiff did not provide any case law support applying the common law conflict of interest doctrine to cases that are a matter of quasi-legislative proceedings, such as this case, in which no procedural due process protections exist. Ultimately, the appellate court decided that they would not apply the common law conflict of interest doctrine to this case, since the doctrine had never, to their knowledge, been applied to other cases of similar circumstances. Therefore, the PHG set by OEHHA was not invalidated as a consequence of any conflict of interest with its author.

#### [California Manufacturers & Technology Association v. Office of Environmental Health Hazard Assessment](#)

Court of Appeal of California, Third Appellate District

Nos. C093351, 34-2015-80002120-CU-WM-GDS

Decided March 23, 2023

Opinion by Judge Andrea Lynn Hoch

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#### California

The California Court of Appeals, Second Appellate District, ruled to affirm a trial court's judgment in favor of the Defendant, the City of Los Angeles (the City), in which the City was judged to be immune from liability under Government Code section 855.4. In the trial court case, a City Hall worker alleged that she had contracted typhus due to the dangers of public property in a parking lot adjacent to her place of work—the dangerous conditions of which the City knowingly failed to remedy. The appellate court ruled in agreement with the trial court that the City was immune from liability under Government Code section 855.4, which maintains that a public entity—such as the City—is not liable for any injury resulting from the decision to perform or not to perform any public health actions if the decision was the result of the public entity's choice, given the authority vested in the public entity to make such decisions (§ 855.4).

In review of the trial court's decision, the appellate court looked at the plaintiff's claims and provision of facts to determine whether the lower court abused its discretion by not offering her leave to amend. Given that the appellate court agreed with the trial court that Government Code section 855.4 provided the City with immunity for liability against the plaintiff's allegations, the appellate court affirmed the trial court's judgment of City immunity in this case. In addition,

the plaintiff made the same, previously rejected, arguments under Government Code 855.4 in her appeals case and, in doing so, did not provide additional facts to change the first amended complaint to render her allegations viable in her appeal; therefore, the appellate court ruled that the lower court did not abuse its discretion in denying the plaintiff leave to amend her complaint and state a cause of action for the dangerous condition of the public property.

### [Greenwood v. City of Los Angeles](#)

Court of Appeal of California, Second Appellate District

No. B313852, 19STCV39849

Decided March 27, 2023

Opinion by Judge Frances Rothschild

## COVID-19 Court Filings & Opinions

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### Texas

On July 29, 2021, appellant, Governor Greg Abbott, citing the Texas Disaster Act, issued Executive Order GA-38 prohibiting local government entities, including a city, from requiring the use of face coverings. Several local Texas government entities sought and received injunctive relief prohibiting the governor from enforcing GA-38 on the basis that it was issued without legal authority and is, therefore, *ultra vires*.

Similarly, appellee, the City of El Paso (“El Paso”), filed a petition asking the trial court to declare that GA-38 was illegally issued and enjoin the governor from enforcing it. After an evidentiary hearing, the trial court denied the governor’s plea to the jurisdiction and issued a temporary injunction. We agree with our sister courts of appeal that the Governor acted outside his scope of authority when he issued GA-38. As a result, because El Paso was able to meet the other requirements necessary for obtaining a temporary injunction, we affirm the trial court’s order. We also hold the trial court did not error in denying the Governor’s plea to the jurisdiction.

### [Abbott v. The City of El Paso](#)

Court of Appeals of Texas, Eight District, El Paso

No. 08-21-00149-CV, 2021-DCV-2805

Decided February 28, 2023

Opinion by Judge Yvonne T. Rodriguez

## Quote of the Month

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“We are celebrating the strong ruling issued by the court, which affirms what we have known all along: parts of this law are blatantly illegal, and charter cities should not be punished for exercising their constitutionally protected authority to enact policies that improve health and advance health equity,” said Sarah de Guia, JD, chief executive officer of ChangeLab Solutions.

[Editor’s note: This quote is from the above article [Ruling affirmed in California sugary drink tax preemption lawsuit](#) , Sabrina Adler, ChangeLab Solutions (03/29/2023).]

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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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