



Public Health Professionals Gateway

Public Health Law News

June 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 | American Health Law Association Annual Meeting

The American Health Law Association's annual meeting provides attendees with the most current information and in-depth analysis on issues facing healthcare clients and institutions. Attendees will hear practical solutions for addressing legal, regulatory, and operational issues facing the healthcare industry. This year's annual meeting will be hosted **June 26-28 in San Francisco**. [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 are required to have a focus on health law within the context of anti-racism. [Learn more and submit an abstract](#)  [PDF – 93 KB] .

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 **July 10–13** in **Denver**. In-person registration is closed, but virtual registration is available. [Learn more and register](#) .

Registration Open | National Association of Local Boards of Health Annual Conference

The National Association of Local Boards of Health is hosting its annual conference **July 31–August 2** in **Tacoma, Washington**. 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](#) .

Apply Now | Sallie Milam Public Health Data Scholarship—PHLC 2023

The Network for Public Health Law invites eligible candidates to apply for a full scholarship to attend the Network's Public Health Law Conference (PHLC) 2023, **October 24–26** in **Minneapolis**. The goals of the scholarship include cultivating skills of new and established attorneys to promote better collection, use and dissemination of public health data; and promoting use of law to improve public health and advance health equity, particularly through public health data. The full scholarship will cover registration for the conference and pre-conference workshops, travel, and lodging. [Learn more and apply](#) .

Join the Local Public Health Privacy Officer Peer Group | The Network for Public Health Law

The Network for Public Health Law has launched a Local Privacy Officer Peer Group that provides support, resources, and learning opportunities to privacy officers at local public health agencies. Members will participate in quarterly trainings and are included in a directory of local privacy officers. Members will also have the opportunity to interact with one another and connect directly to other local privacy officers around the country through the Peer Group's listserv. [Sign up to join the new peer group](#)  . The Network also has an existing [Peer Group for Privacy Officers at state health departments](#) .

Tribal Announcements

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

Communications Specialist—Public Health Law | NACCHO

NACCHO is seeking candidates for a communications specialist position to support the work of the Public Health Law & Policy, Chronic Disease & Disability, and Injury and Violence Prevention portfolios. The communications specialist contributes to the advancement of local public health practice by developing and distributing written material. Candidates should have a bachelor's degree in a relevant professional field with a minimum of 2–5 years of relevant experience. Master's degree in a relevant field is preferred. [Learn more and apply](#) .

Healthcare Equity Data Analyst | Fund for Public Health in NYC

The Fund for Public Health in NYC is seeking candidates for a healthcare equity data analyst position that will support the evaluation, public health surveillance, and data modernization efforts of the Bureau of Equitable Health Systems to combat health inequity in New York City by improving the quality of clinical care. The healthcare equity data analyst will

conduct descriptive and exploratory analyses on data from various population health data sources, including electronic health record and Medicaid claims data. Candidates should have a master's degree with specialization in an appropriate field of physical, biological, environmental sciences or in public health. [Learn more and apply](#) ↗.

Reproductive & Sexual Health Staff Attorney or Policy Analyst | The National Health Law Program

The National Health Law Program (NHLN) is seeking candidates for a junior staff attorney or policy analyst to help to develop and implement NHLN's legal, policy, and advocacy strategies for advancing access to quality reproductive and sexual health, with a focus on state work. The ideal candidate will have prior experience in reproductive and sexual health, rights, or justice, as well as working knowledge of the Medicaid program and Affordable Care Act. Graduate degree (JD, MPH, MA, or similar) or previous relevant experience is required. [Learn more and apply](#) ↗.

Legal Tools & Trainings

Webinar Materials | Legal Issues in School Health: Scope of Practice, Standardized Data, and Special Topics

The Network for Public Health Law hosted a webinar providing an overview of some of the legal issues that impact school nursing today. The webinar provided a discussion of the areas in which public health law can facilitate the important work the school nurses do at the intersection of health care and education. [View the webinar and download the materials](#) ↗.

Public Health Dataset | Act for Public Health Dataset

The Center for Public Health Law Research at Temple University has released their new longitudinal dataset, which includes laws addressing authority to respond to public health emergencies that were enacted between May 21, 2022, and April 23, 2023, in all 50 US states and the District of Columbia. This dataset will be updated monthly through the end of the 2023 legislative session. The dataset was created in collaboration with the Association of State and Territorial Health Officials and the Act for Public Health legislative tracking team. [Access the dataset](#) ↗.

Rural Policymaking Resources | Advancing Rural Prosperity and Racial Equity

ChangeLab Solutions has created new resources to help leaders promote prosperity and racial equity in rural communities. Increased awareness of the inequities resulting from structural discrimination, the impacts of climate change, and the growing wealth gap have led many to consider new kinds of rural solutions. These new resources are designed for community organizations, local and state policymakers, and changemakers who want to support rural communities in addressing these issues. [Learn more and access the resources](#) ↗.

Top Story

National: Supreme Court weakens EPA power to enforce Clean Water Act ↗

The Washington Post (05/25/2023) Robert Barnes, Timothy Puko, and Ann E. Marimow

Story Highlights

The Supreme Court has limited the power of the Environmental Protection Agency (EPA) to regulate wetlands, which is being viewed as a setback for the agency's efforts to combat pollution. The court case revolved around the interpretation of the Clean Water Act and the definition of "waters of the United States."

The court's conservative justices, led by Justice Samuel A. Alito, Jr., rejected the previous "significant nexus" test and imposed a narrower definition that could remove millions of acres of environmentally sensitive land from federal regulation. The court's liberal justices, including Justice Elena Kagan, objected to the decision, arguing that it undermines the EPA's ability to protect clean water and resembles previous efforts to limit the agency's authority in combating climate change. The ruling is expected to impact the EPA's authority to extend protections to upstream waters and could prevent federal regulations from being applied to a significant amount of wetland area.

This shift is significant as it will prevent the agency from imposing federal protections on over 118 million acres of wetlands. However, the decision is seen as a victory for property rights groups and developers, as it will make obtaining permits for construction projects easier. It may also require the Biden administration to reconsider its efforts to redefine the types of waterways that the EPA can protect, potentially shifting more power to state governments. The ruling is regarded as having far-reaching consequences, potentially impacting other environmental regulations and standards.

[Editor's note: Learn more about the [history of recreational water regulations](#).]

Briefly Noted

Alaska: [A bill to get nurses licensed more quickly in Alaska faces pushback from unions](#) ↗

Alaska Beacon (05/26/2023) Claire Stremple

[Editor's note: Learn more about [strategies to mitigate healthcare personnel staffing shortages](#).]

Florida: [Florida health systems working to address Black maternal health, food insecurities](#) ↗

State of Reform (05/19/2023) Shane Ersland

[Editor's note: Learn more about [Black maternal mortality](#).]

Georgia: [Mental health causing strain on South Georgia's correction system](#) ↗

WALB News (05/30/2023) Lenah Allen

[Editor's note: Learn more about [mental health](#).]

Minnesota: [Minnesota wanted to curb health spending. Mayo Clinic had other ideas.](#) ↗

Politico (05/30/2023) Megan Messerly

[Editor's note: Learn more about [healthcare expenditures](#).]

Missouri: [Missouri terminates emergency rule to limit trans care for minors and some adults](#) ↗

NBC News (05/17/2023) Charlie Riedel

[Editor's note: Learn more about [LGBT health](#).]

North Carolina: [North Carolina legislature passes insurance bill allowing Blue Cross to reorganize](#) ↗

WSOC-TV (05/31/2023) Hannah Schoenbaum

[Editor's note: Learn more about [HB346](#) ↗ [PDF – 150 KB] ↗ .]

Tennessee: [New lawsuit targets Tennessee law banning some gender-affirming care](#) ↗

News Channel 9 (05/26/2023) Jordan Karnbach

[Editor's note: Learn more about [gender-affirming care](#) ↗ [PDF – 340 KB] ↗ .]

Global Public Health Law News

Canada: [Individual cigarettes in Canada will soon carry health warnings](#) ↗

NPR (06/01/2023) The Associated Press

[Editor's note: Learn more about the [health effects of cigarette smoking](#).]

Japan: [Japan slowly wakes up to health risks of PFAS 'forever chemicals'](#) ↗

The Japan Times (05/28/2023) Tomoko Otake

[Editor's note: Learn more about [PFAS chemicals](#).]

Court Filings & Opinions

Pennsylvania:

The Commonwealth Court of Pennsylvania has reversed the Order and remanded to the Trial Court for dismissal the complaint by the County of Lehigh where seeking a declaratory judgment that lead paint is a public nuisance.

On October 12, 2018, the County of Lehigh filed an initial complaint, which included an assertion that the presence of lead paint in local residences “pose[s] a past, present, and ongoing risk of lead poisoning” to those living in the residences, children especially. The complaint also sought a declaratory judgment that identified lead-based paint as a public nuisance. In November 2020, this complaint was amended to include only the count of declaratory judgment. Atlantic Richfield Company, E.I. du Pont de Nemours and Company, NL Industries, Inc., PPG Industries, Inc., and The Sherwin-Williams Company (“The Manufacturers”) argued that common law public nuisance requires that the County of Lehigh prove that they “maintained control over the nuisance, that the defendant’s conduct interfered with a ‘right common to all members of the public,’ and that the conduct was the proximate cause of the alleged injuries.” The County of Lehigh then clarified its position that its complaint was based solely on the Certification Act, which “focused entirely and specifically on the hazards of lead paint.” The Trial Court overruled The Manufacturers’ Preliminary Objections and denied motions for reconsideration and pre-trial appeal.

On February 18, 2022, the court granted a petition for appeal. On appeal, The Manufacturers argued that under the Certification Act, mere presence of lead paint does not qualify as a public nuisance when reading the plain language and application of the act. They further argued that the County of Lehigh failed to establish causation as that they did not identify The Manufacturers “on a property-by-property” basis. The court found that the County of Lehigh did not properly identify the statutory basis for the public nuisance claim and they did not prove that The Manufacturers proximately caused the alleged injuries. The court overturned the order and remanded the case back to the lower court for dismissal.

[Atlantic Richfield Company, E.I. du Pont de Nemours and Company, NL Industries, Inc., PPG Industries, Inc., and The Sherwin-Williams Company v. The County of Lehigh, Pennsylvania](#) ↗

Commonwealth Court of Pennsylvania

No. 1260 C.D. 2021

Decided May 5, 2023

Opinion by Judge Ellen H. Ceisler

Arizona:

The Court of Appeals of Arizona affirmed the lower court’s decision siding with the State of Arizona, finding that the health centers that filed the complaint had no legal basis to insist the Department of Health Services review applications for medical marijuana dispensary registration certificates filed outside of the application period.

The Arizona Medical Marijuana Act (“the Act”) was passed in 2010, which includes a medical marijuana program administered by the Arizona Department of Health Services. Any non-profit seeking to become a dispensary must apply for a certificate. The Act dictates that there can be no more than one dispensary for every 10 pharmacies across Arizona, unless there is no certified dispensary in the county from which the organization is applying. The organizations that ultimately brought this lawsuit applied for certificates from counties without dispensaries during four consecutive years. For the first three years, no review by the Arizona Department of Health Services took place, and in the fourth year, the applications were submitted outside of an application period, which resulted in the Department of Health Services returning the applications and fees.

The plaintiffs filed a complaint seeking “declaratory judgement and mandamus relief, including an order ‘compelling’ the Department [of Health Services] to accept and process” their applications, arguing that under the Act, the Department of Health Services is required to issue certificates to qualified applications. The Department of Health Services argued that there was “no legal basis” for finding that the Department of Health Services is compelled to review applications filed outside an application window. The lower court agreed. On appeal, the Court of Appeals of Arizona affirmed, finding that the Act imposes no duty to require that the Department of Health Services review applications outside the application period.

[Joshua Tree Health Center, LLC, et al. v. State of Arizona, et al.](#) ↗

Court of Appeals of Arizona, Division One

No. 1 CA-CV 22-0427

Decided May 9, 2023

Opinion by Vice Chief Judge David B. Glass

Maryland:

On January 14, 2022, Pasquale Carannante and James Zimmerer, Appellants, filed a complaint seeking a temporary restraining order to enjoin the enforcement of the mask mandate, an injunction, and a declaratory judgment. Appellant Pasquale Carannante is the owner of Bella Napoli Restaurant in Pasadena, Maryland, and Appellant James Zimmerer owns a fitness business in Annapolis, Maryland. The Appellant business owners claimed the mask mandate resulted in their respective businesses losing revenue. Appellants asserted the County Health Officer had no authority to enter the mask mandate order, the act was unconstitutional violating the separation of powers doctrine, and as a result, the mandate was invalid, void, and *ultra vires*.

[Pasquale Carannante, et al., v. Steuart Pittman, Jr., et al.](#) ↗

Appellate Court of Maryland

No. 1012, September Term, 2022.

Decided May 23, 2023

Opinion by Judge Melanie M. Shaw

New York:

This is a pre-answer motion in which defendant seeks dismissal of plaintiff's complaint for failing to state a cause of action (CPLR 3211(a)(7)). By way of background, decedent was a resident at defendant's long term care facility from July 25, 2019, through April 13, 2020, and April 21, 2020, through May 6, 2020. Decedent was confirmed to be COVID-19 positive during his hospitalization between admissions (i.e., April 13-21), and died due to COVID-19 related complications on May 6, 2020. Plaintiff commenced this action in December 2022 alleging four causes of action, first is a violation of Public Health Law §§ 2801-d (Private Actions by Patients) and 2803-c (Rights of Patients), second is negligence (including negligent hiring, retention, and supervision), third is gross negligence, and fourth is wrongful death. According to defendant, the immunity defense provided by the Emergency Disaster Treatment and Prevention Act (EDTPA) under Public Health Law Article 30-D precludes plaintiff from maintaining the first (Public Health Law), second (Negligence) and fourth (Wrongful Death) claims. Defendant also argues that the complaint fails to allege facts beyond ordinary negligence; therefore, plaintiff's third cause of action for gross negligence must likewise be dismissed.

[Johnie Hasan, As Administratrix of the Estate of Wallace Hassan, Deceased v. Terrace Acquisitions II, LLC D/B/A Fordham Nursing and Rehabilitation Center, A/K/A Kings Terrace Nursing Home](#) ↗

Supreme Court, Bronx County

No. 818734/22

Decided May 18, 2023

Opinion by Judge Joseph E. Capella

Quote of the Month

"Today's decision upends the legal framework that has protected America's waters for decades," said President Biden.

[Editor's Note: This quote is from the above article [Supreme Court weakens EPA power to enforce Clean Water Act](#) ↗, Robert Barnes, Timothy Puko, and Ann E. Marimow, The Washington Post (05/25/2023).]

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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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Last Reviewed: June 15, 2023