



## Public Health Professionals Gateway

# Public Health Law News

August 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 | Open Forum Next Generation (NxGen)

Join the National Network of Public Health Institutes **September 27–29** in **Indianapolis** for the return of the Open Forum: Next Generation. The forum will focus on new ideas, networking, and conversations relevant to performance management and quality improvement. Early bird registration ends **August 18**. [Learn more and register](#) [↗](#).


### Request for Proposals | Annual Emerging Issues in Healthcare Law Conference

The American Bar Association's Health Law Section is accepting proposals for the 25th Annual Emerging Issues in Healthcare Law Conference (EMI), to be held **April 3–6, 2024**, in **New Orleans**. Submissions should reflect issues affecting the healthcare legal and business environment. The deadline to submit is **August 25**. [Learn more and submit a proposal](#) .


### Call for Abstracts | 2024 Preparedness Summit

The call for abstracts for the 2024 Preparedness Summit is officially open. The event will be held **March 25–28, 2024**, in **Cleveland**. The theme—*Public Health, Healthcare, and Emergency Management: Aligning to Address Cascading Challenges*—will provide an opportunity for sectors to come together, align missions, and discover better ways to work as true partners to meet the challenges of today and tomorrow. Abstracts are being accepted through **September 15**. A points system is in place to reward those who submit early: 10 points for submissions by September 1, 8 points for submissions by September 8, 3 points for submissions by September 15. [Learn more and submit an abstract](#) .

### Registration Open | APHA 2023


APHA 2023 will be held **November 12–15** in **Atlanta**, with a digital meeting **November 9–15**. Attendees will learn from leading experts, build leadership skills and knowledge, and connect with peers from around the globe. Advance registration runs through **September 18**. [Learn more and register](#) .

### Registration Open | 2023 Public Health Law Conference

The Network for Public Health Law will host the 2023 Public Health Law Conference **October 24–26** in **Minneapolis**. The conference will bring together public health officials, administrators, and practitioners; lawyers; researchers; leaders of community-based organizations; and others. Sessions will focus on addressing structural inequities to achieve health equity, access to reproductive healthcare, the use of public health data to improve community health, the role of law in facilitating system change, and other emerging topics. Registration ends **October 23**. [Learn more and register](#) .


## Tribal Announcements

### Director of Congressional Relations | National Council of Urban Indian Health

The National Council of Urban Indian Health (NCUIH) is seeking candidates for a director of congressional relations. The director will report to the Vice President of Policy and Communications and will have internal- and external-facing responsibilities to advance the mission of NCUIH through excellence in policy, advocacy, outreach, technical assistance, research projects, and related programs. Successful candidates will have a commitment to the mission of improving the health of American Indians and Alaska Natives and have experience administering federal grants and contracts. Knowledge of Indian healthcare programs is required for this position. [Learn more and apply](#) .

## Job Announcements


### Public Health Advisor | Centers for Disease Control and Prevention

The Centers for Disease Control and Prevention is seeking candidates for a program deputy director/special advisor to work outside of the US. The deputy director will lead the development and formulation of new programs and initiatives in accordance with CDC public health program goals, objectives, and policies. They will manage and analyze in-country needs and opportunities against CDC program strategic objectives and advise on how best to deliver in-country public health services that reflect international standards and host country policies and regulations. This application closes on **September 29**. [Learn more and apply](#) .

### Policy Analyst | NMAC



NMAC (formerly known as the National Minority AIDS Council) is looking for a policy analyst to strengthen the organization's capacity in enacting policy changes on issues that affect people living with HIV. This position will work closely with the Federal AIDS Policy Partnership and other coalitions to support NMAC's collective efforts in policy and funding. Candidates should have experience working for a Member of Congress and experience in policy review and development. The ideal candidate will be passionate about mobilizing people and resources to educate, inspire, and connect people to end the HIV/AIDS epidemic. [Learn more and apply](#). .

### Resource | Policy Process Evaluation for Equity

ChangeLab Solutions has developed resources that offer a menu of evaluation options and metrics for policymakers, community groups, and public health practitioners who are exploring how best to measure the effectiveness of community engagement efforts undertaken through policy partnerships. These resources share examples from retail-focused commercial tobacco prevention, but the principles can be applied to every policy area. [Learn more and access the resources](#) .

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### Report | Innovative Laws and Policies for a Post-Pandemic Public Health System

The Network for Public Health Law released a report that collects and categorizes policies that strengthen public health. It is neither a comprehensive policy surveillance exercise nor a legal epidemiology analysis; rather, it is meant to be a collection of meaningful categories—governance, funding, health equity, infrastructure, workforce, and public health interventions—and examples that point toward the possibilities of a stronger, more equitable, and more effective public health system. [Learn more and read the report](#)  [PDF – 762 KB] .

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## Top Story

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### Illinois: [Louie's Law: Illinois overdose education standards bill signed by Pritzker](#)

WAND TV (08/02/2023) Mike Miletich

#### Story Highlights

Illinois has enacted a new state law to enhance drug overdose education standards in K–12 schools. The law—named after Louie Miceli, who died from an overdose in 2012—seeks to address the lack of proper education on drug-related truths and potential risks faced by young people.

Under this legislation, students will be educated about the history of drugs and health policy in Illinois and the United States, the impact of zero tolerance, and the significance of restorative justice practices. The Illinois State Board of Education will work in conjunction with various agencies—including the Department of Human Services, Department of Child and Family Services, Department of Public Health, and the Illinois Opioid Crisis Response Advisory Council—to improve health education standards by July 1, 2024.

High school students will receive training on recognizing an overdose, utilizing fentanyl test strips, and administering Naloxone. Importantly, the legislation takes a non-punitive approach, as advocates emphasize that punitive drug policies contribute to the stigmatization of individuals struggling with addiction.

Representative Joyce Mason (D–Gurnee) highlighted the law's significance in addressing the heroin and opioid addiction epidemic, which has been exacerbated by substances like fentanyl.

The bill, Senate Bill 2223, was passed unanimously in both the Senate and House, and it took immediate effect. The goal of this law is to ensure that young people are properly educated about drugs and their potential dangers, ultimately helping to save lives.

[Editor's note: Learn more about [overdose prevention](#).]

## Briefly Noted

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### Colorado: [Some gender-affirming care barriers eliminated in Colorado Medicaid policy](#)

Colorado Newslines (08/04/2023) Lindsey Toomer

[Editor's note: Learn more about [gender affirming care](#)  [PDF – 651 KB] .

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### Connecticut: [Connecticut proposes new clean air car and truck emissions standards](#)

NBC Connecticut (07/26/2023)

[Editor's note: Learn more about [respiratory health and air pollution](#).]

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**Idaho:** [Idaho is almost done removing Idahoans on Medicaid it flagged to remove](#) 

Idaho Capital Sun (08/04/2023) Kyle Pfannenstiel

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

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**Iowa:** [Iowa finalizes policy for free and reduced school meals](#) 

Southeast Iowa Union (08/02/2023)

[Editor's note: Learn more about [school meals](#).]

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**Kentucky:** [Appeals court lets Kentucky enforce ban on transgender care for minors](#) 

ABC News (07/31/2023) Matthew Barakat

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

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**Michigan:** [In Michigan, immigrants have to wait years for public health insurance. That's about to change.](#) 

Michigan Advance (07/31/2023) Anna Gustafson

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

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**Missouri:** [Missouri kicked 32,000 residents off Medicaid last month. Half were kids](#) 

St. Louis Public Radio (07/31/2023) Clara Bates

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

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## Global Public Health Law News

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**Canada:** [New regulations mean warnings like 'poison in every puff' will soon be on every cigarette](#) 

The Canadian Press (08/01/2023) Christopher Reynolds

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

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## Court Filings & Opinions

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### Federal:

The United States Tenth Circuit Court of Appeals affirmed in part, reversed in part, and remanded the lower court's decision, finding that El Paso County ("the County") violated the Fair Housing Act Amendments ("FHAA"), and additionally finding that the lower court's grant of summary judgment against Courage to Change Recovery Ranch (more recently known as "Soaring Hope Recovery Center") was in error.

The FHAA states that "municipalities cannot discriminate against disabled residents by denying them fair housing opportunities available to nondisabled residents." Soaring Hope Recovery Center claimed that the County limitations on group home options for disabled persons resulted in the closure of one of the group homes. This court found that the occupancy limitations from the County are "facially discriminatory . . . without a legally permissible justification." Additionally, Soaring Hope Recovery Center included a claim for intentional discrimination due to the County's prohibition of some therapeutic activities that are permissible in other group-living situations but prohibited at the group home at issue in this case. This court held that Soaring Hope Recovery Center "raised a genuine issue of material fact" on this issue, and thus the lower court's grant of summary judgment against the party was in error and should be reversed and remanded for further consideration.

[Courage to Change Ranches Holding Company, a Colorado nonprofit corporation, d/b/a Soaring Home Recovery Center; Joan Green; John Green v. El Paso County, Colorado](#) 

United States Court of Appeals, Tenth Circuit

No. 21-1227

Decided July 18, 2023

Opinion by Circuit Judge Phillips

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## California:

The Supreme Court of California reversed and remanded the Court of Appeal's decision for further proceedings, finding that the State Department of Health Care Services misunderstood "relevant legal principles governing the reimbursement of medical provider costs."

Healthcare providers receive reimbursement of "reasonable costs" for Medicaid beneficiary care, as dictated by both federal and state Medicaid law. Federally qualified health centers (FQHCs) are nonprofit health centers that provide healthcare regardless of a person's ability to pay, as well as outreach and education for the local community about the healthcare services available. Family Health Centers of San Diego ("Family Health") sought reimbursement for its outreach and education services provided to Medicaid-eligible patients. The State Department of Health Care Services found the costs in questions were "categorically nonreimbursable" and the Court of Appeals affirmed.

On review, the Supreme Court of California held that the findings of the Chief Administrative Law Judge ("Chief ALJ") were rooted in misunderstanding of the legal principles that apply to outreach and education reimbursement of an FQHC. The Chief ALJ's findings relied upon the "informal guidance on the application of Medicare reasonable cost principles" from the Centers for Medicare and Medicaid Services' Provider Reimbursement Manual, and deemed Family Health's outreach "nonreimbursable advertising." This court disagreed, finding that because the language of the manual is general in nature, these sorts of expenses are not necessarily precluded. The court remanded the case for further proceedings with a broader reading of the definition of outreach and education reimbursement.

### [Family Health Centers of San Diego v. State Department of Health Care Services](#)

Supreme Court of California

No. S270326

Decided July 24, 2023

Opinion by Justice Leondra R. Kruger

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## Texas:

The Supreme Court of Texas reversed the lower court's decision and dismissed for lack of jurisdiction, finding that morbid obesity does not qualify as an impairment without an underlying physiological disorder or condition.

Claimant Dr. Lindsey Niehay started her medical residency at Texas Tech University's El Paso emergency department ("Texas Tech") in 2015. Early in her residency, concerns were raised about her performance during more complex and lengthy procedures, due to her need to take breaks and sit during the procedures, as well as her errors in technique during these procedures. Dr. Niehay's supervisors raised these concerns as well as others regarding how her weight may be impacting her performance as a physician. Supervisors also documented other unrelated issues, including missed shifts without prior notification and a self-prescribed refill of a prescription. These issues resulted in a probation, and ultimately a dismissal from the residency program.

Dr. Niehay brought suit, arguing that her termination was illegal discrimination in violation of the Texas Commission on Human Rights Act ("TCHRA"), because obesity qualifies as a disability under this act. The Americans with Disabilities Act definition of impairment was incorporated into the TCHRA. Dr. Niehay argued that on its own, morbid obesity is considered an impairment that would qualify her for accommodations. Texas Tech argued that without an accompanying physiological condition or disorder, morbid obesity alone does not fit the definition of impairment that would qualify Dr. Niehay for accommodations. The court disagreed with Dr. Niehay's perspective, finding that interpreting impairment in this way would turn it into "a catch-all cause of action for discrimination based on appearance, size, and any number of other things far removed from the reasons the [TCHRA] was passed." Due to this finding, combined with Dr. Niehay's lack of evidence to support a finding of any physiological disorder or condition, the court reversed and dismissed the case, finding in favor of Texas Tech.

### [Texas Tech University Health Science Center – El Paso v. Dr. Lindsey Niehay](#)

Supreme Court of Texas

No. 22-0179

Decided June 30, 2023

Opinion by Chief Justice Nathan L. Hecht

## Oregon:

Petitioner seeks judicial review of the denial of her application for pandemic unemployment assistance under the Coronavirus Aid, Relief and Economic Security Act (CARES Act) Pub L 116-136, 134 Stat 281 (2020). In her first assignment of error, she asserts that the Employment Appeals Board (EAB) impermissibly applied eligibility requirements from 20 CFR section 625.4 to pandemic unemployment assistance eligibility determinations. In her second, third, and fourth assignments of error, petitioner argues that EAB made findings that were not supported by the record and failed to consider evidence she had submitted into the record. In her fifth assignment of error, petitioner asserts that EAB erred by failing to provide legal citations in its findings of fact. For the reasons explained below, we affirm.

[Jennifer J. Calef v. Employment Department](#) 

Court of Appeals of Oregon

Nos. 2021EAB0229; A176016


Decided July 12, 2023

Opinion by Judge Kristina Hellman

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## New York:

In this proceeding pursuant to CPLR article 78, the petitioner seeks judicial review of a March 28, 2022, determination of the City of New York Reasonable Accommodation Appeals Panel (the Panel). That determination affirmed an October 5, 2021, arbitration award in favor of the respondent Board of Education of the City School District of the City of New York (DOE) that, in turn, had confirmed an initial September 22, 2021, DOE determination denying the petitioner's request for a reasonable accommodation exempting her, on religious grounds, from the City's mandatory COVID-19 employee vaccination requirement. The DOE and the respondent Community School District 25 of the Board of Education of the City of New York (together the DOE respondents) answered the petition and submitted the administrative record. The petition is denied, and the proceeding is dismissed.

[Matter of Annabelle Matyas v Board of Education of the City School District of the City of New York, Community School District 25 of Board of Education of the City of New York, and the United Federation of Teachers](#) 

Supreme Court, New York County

No. 156203/2022

Decided July 11, 2023

Opinion by Supreme Court Justice John J. Kelley

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## Quote of the Month

"You can imagine the anguish of being in a new country, having a child with a chronic condition and knocking on every door and being told to wait five years," said Susan Reed.

[Editor's note: This quote is from the above article, [In Michigan, immigrants have to wait years for public health insurance. That's about to change.](#) , Anna Gustafson, Michigan Advance (07/31/2023).]

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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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