



Public Health Professionals Gateway

Public Health Law News

November 2023



Public Health Law Program

National Center for State, Tribal, Local, and Territorial Public Health Infrastructure and Workforce
Centers for Disease Control and Prevention

Subscribe to the Public Health Law News

Disclaimers

Announcements

Registration Open | 2024 Public Health Law Practitioners Convening

The National Association of County Health Officials in concert with CDC will host the 2024 Public Health Law Practitioners Convening **April 30–May 2** in **New Orleans**. The theme is “Empowering Public Health through Law and Policy.” The convening invites policy professionals, students, public health attorneys, and practitioners to share insights and strategies with colleagues in the field. Early-bird registration is open until **February 29**. [Learn more and register](#) .

Call for Abstracts | 2024 Public Health Law Practitioners Convening

The committee for the 2024 Public Health Law Practitioners Convening is seeking abstract proposals about how law and policy can be used to support public health practice. Topics for submission include legal preparedness, workforce development, and the role of policy in addressing health equity, among many others. The abstract submission period will close **November 17**. [Learn more and submit an abstract](#) .

Application Open | Fellowship in Minority Health Policy at Harvard University

The Commonwealth Fund Fellowship in Minority Health Policy at Harvard University has announced [the call for applications](#) for 2024–25. The fellowship fund is accepting applications for this one-year, degree-granting, full-time fellowship until **December 1 at 5:00 pm (EST)**. [Learn more and access the electronic application system](#) .

Registration Open | 2024 Preparedness Summit

The 2024 Preparedness Summit will be held **March 25–28** in **Cleveland, Ohio**. The theme of the summit is “Public Health, Healthcare, and Emergency Management: Aligning to Address Cascading Challenges.” The summit aims to bring together attendees from all areas of practice including emergency management, academia, and government at the federal, state, and local levels. The early-bird rate ends on **January 31**. [Learn more and register](#) .

Tribal Announcements

Save the Date | 2024 International Indigenous Women’s Health Meeting

The International Indigenous Women’s Health Meeting will be held **March 13–15** in **Albuquerque**. The conference focuses on innovative obstetric and gynecologic clinical care models and community-based public health approaches for Indigenous women and families. During the conference participants will strengthen their knowledge about prevalent health problems facing Indigenous communities, learn promising strategies to improve wellness, and acquire practical skills. [Learn more](#) .

Resource | Centering Data Sovereignty, Tribal Values, and Practices for Equity in American Indian and Alaska Native Public Health Systems

As the first scientists on the American continents, American Indian and Alaska Native people followed various methodologies in the pursuit of knowledge to understand and respond to complex environmental situations. Current methodologies fail to accurately capture data on American Indian and Alaska Native populations, resulting in inaccurate and even harmful data outcomes. Efforts to improve public health data systems should begin with the reclamation of tribal knowledge systems and the reconstruction of these systems to fit our modern context and tribal data sovereignty, with intentionality toward future generations. [Learn more and access the resource](#) .

Job Announcements

Deputy Director of Policy, Equity, and Community Impact | Network for Public Health Law


The Deputy Director of Policy, Equity, and Community Impact will support the Network’s efforts to strengthen the connections between public health agencies and communities, with the goal of building engagement and capacity in law and policy to advance public health. The deputy director will lead strategy development, manage programs, provide technical assistance on specific issues, conduct training, develop tools and educational materials, and facilitate opportunities for networking and peer assistance. This is a hybrid or remote position. [Learn more and apply](#) .

Legal Tools & Trainings


Resource | The State of State-level Public Health Advocacy

To determine current state-level capacity for public health advocacy and how it can be strengthened, a team of public health attorneys contracted by the Network for Public Health Law researched specific markers of advocacy capacity and interviewed key respondents in 50 states and Washington, DC. Respondents included state and local health department representatives, elected officials, lobbyists, and partners in other sectors and organizations. This report presents the findings and results of research covering all 50 states and Washington, DC. [Learn more and access the resource](#) .


Resource | Improving the Access and Outcomes of Home and Community-Based Services (HCBS) Use Among Older Adults of Color Enrolled in Both Medicare and Medicaid

Demographic trends forecast greater racial and ethnic diversity among America's growing older adult population. America's older adults are also living longer, making them more likely to need long-term services and supports (LTSS). Within LTSS, the essential services that help people age in place by delivering care in people's homes and communities are commonly known as home and community-based services (HCBS), which are generally preferred over care delivered in institutional settings. This new resource from Community Catalyst addresses whether the HBCS system is prepared to meet the needs of America's older adults. [Learn more and access the resource](#) .


Resource | Gender-Affirming Care and Religious Refusals

Hospital bans on medically necessary healthcare interventions for transgender people can impact their health and well-being. Healthcare services that improve the mental health and overall well-being of gender diverse, transgender, and nonbinary people are supported by decades of medical research and expert guidelines. But access to this lifesaving care for minors—and, increasingly, for adults as well—is threatened by a wave of state and proposed federal level bans and restrictions. This new fact sheet from Community Catalyst addresses the impact of religious hospital bans on medically-necessary healthcare for transgender people. [Learn more and access the resource](#) .

Resource | ADHD & School Environment

October was ADHD Awareness Month, drawing public awareness to attention deficit/hyperactivity disorder, which affects an estimated 6 million children in the United States. Exclusionary and punitive school discipline practices can be especially harmful for children with behavioral health conditions, including ADHD, indicating a need for new approaches in the education system to create supportive and inclusive school environments. ChangeLab Solutions has compiled resources that describe some of the strengths and needs of children with ADHD as well as supports within the educational systems that serve them. [Learn more and access the resource](#) .

Resource | New Model Policy on Proactive Rental Inspection

Proactive rental inspection (PRI) programs enforce housing codes through periodic inspections rather than relying on tenant complaints. PRI promotes health equity by ensuring safe and healthy housing conditions and reducing the likelihood that renters will be evicted or illegally punished for reporting hazards. Through PRI programs, local governments and housing advocates can work cooperatively with building owners to improve housing quality, protect tenant health and well-being, and keep people in affordable homes. This new model policy from ChangeLab Solutions provides guidance for localities. [Learn more and access the model legislation](#) .

Top Story

[New Mexico: American Indian and Alaska Native life expectancy: writing a new narrative](#)

JAMA (11/06/2023) Tassy Parker and Allyson Kelley

Story Highlights

Across American Indian and Alaska Native (AI/AN) populations, early death impacts families, tribes, and generations of culture. In 2021, AI/AN life expectancy at birth was 65.2 years, which was the lowest of any racial and/or ethnic group in the US and 10 years less than the life expectancy of the general population. The University of New Mexico's Center for Native American Health is reframing life expectancy to address current disparities and inequalities among AI/AN populations.

Health disparities experienced by AI/AN individuals only widened with the COVID-19 pandemic. Violence, historical and cultural losses, and social inequities contribute to physiological distress, unresolved trauma, and underfunded tribal healthcare systems that perpetuate unwellness and early death. A new narrative broadens the focus to honor the lived experiences of AI/AN people by investigating differential exposures that create conditions in which individuals rely on unhealthy behaviors to cope.

Indigenous knowledge, systems, structures, and beliefs should be revitalized to improve AI/AN health. One key belief is that intergenerational and holistic healing requires balance; however, colonial histories, structural violence, and ethnic and cultural genocide have created an imbalance. This imbalance prevents healing. While developing interventions and policies from AI/AN perspectives, a new narrative should address trauma to create healing opportunities.


AI/AN “life discrepancy” can be viewed as a call to action. Community-driven, sustainable, monitored, and adequately-resourced actions are critical for ending life discrepancies among AI/AN populations.

[Editor’s note: Learn more about [American Indian and Alaska Native health](#).]

Briefly Noted

California: [New California law offers fresh protection from steep ambulance bills](#) 

Lake County Record-Bee (11/07/2023) Bernard J. Wolfson

[Editor’s note: Learn more about [ground ambulance billing](#) .]

Connecticut: [CT lawmakers could ban PFAS in public water in 2024 as lawsuits mount](#) 

Stamford Advocate (11/07/2023) Dan Haar

[Editor’s note: Learn more about [per- and polyfluorinated substances \(PFAS\)](#).]

Maine: [Red flag law, which Maine rejected, seen as best tool to remove guns during a mental health crisis](#) 

Portland Press Herald (10/30/2023) Randy Billings

[Editor’s note: Learn more about [firearm violence prevention](#).]

Minnesota: [Olmsted County bans use of cannabis in public places](#) 

Olmsted County News (11/07/2023)

[Editor’s note: Learn more about [marijuana and public health](#).]

Montana: [Montana public records suit seeks communications over new law defining sex](#) 

Victoria Advocate (10/17/2023) Blair Miller

[Editor’s note: Learn more about [sexual and gender identity terminology](#).]

New Mexico: [New Mexico governor extends gun violence public health order, touting progress](#) 

KOAT (11/03/2023) Faith Egbuonu

[Editor’s note: Learn more about [firearm research findings](#).]

North Dakota: [Burleigh County to contribute more money to public health; move comes after city requests](#) 

Bismarck Tribune (10/26/2023) David Velázquez

[Editor’s note: Learn more about the [underfunding of local public health](#) .]

Ohio: [Ohio Issue 1: Voters pass abortion rights amendment](#) 

Cincinnati Enquirer (11/08/2023) Jessie Balmert and Kayla Bennett

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

Texas: [Texas cities and counties are destroying expired Narcan. Some say it could still be used to save lives](#)  .

Texas Tribune (10/23/2023) Jason Buch

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

Washington: [Seattle law criminalizing public drug use takes effect Friday](#) 

KOMO News (10/19/2023) Paul Rivera

[Editor’s note: Learn more about [provisional overdose death counts](#).]

Malaysia: [Malaysia says cross-border air pollution law still possible](#) 

Reuters (11/07/2023)

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

Singapore: [Association between the extension of smoke-free legislation and incident acute myocardial infarctions in Singapore from 2010 to 2019](#) 

BMJ Global Health (10/10/2023) Jamie S Y Ho, et. al.

[Editor's note: Learn more about [comprehensive smokefree policies](#).]

Court Filings & Opinions

Federal:

The Third Circuit of the United States Court of Appeals denied a petition for review of the US Food and Drug Administration's (FDA's) denial of the applications to market menthol-flavored electronic nicotine delivery systems ("ENDS").

FDA is responsible for approving tobacco products not on the market before February 15, 2007. Products can only be approved if "permitting such tobacco product to be marketed would be appropriate for the protection of the public health." Since 2020, the FDA has attempted to limit the availability of flavored ENDS and initially the FDA acted to remove fruit- and dessert-flavored ENDS from the market.

Logic Technology ("Logic") applied for pre-market approval of menthol ENDS and FDA denied their application using the same regulatory framework used to limit other flavored ENDS, claiming that Logic's menthol ENDS were not appropriate for the protection of public health. The Third Circuit denied Logic's petition to review, explaining that FDA applied an appropriate regulatory framework and properly based its decision on new scientific studies and market changes.

[Logic Technology Development LLC v. United States Food and Drug Administration](#) 

United States Court of Appeals, Third Circuit

Case No. 22-3030

Decided October 19, 2023

Opinion by Circuit Judge Cheryl Ann Krause


Colorado:

The Supreme Court of Colorado held that a county within the state does not have standing to seek judicial review of rules adopted by the Colorado Air Quality Control Commission to minimize the emissions from oil and gas wells because the county did not demonstrate an injury to a legally protected interest.

The Colorado Air Quality Control Commission (the "Commission") is directed to adopt rules to reduce certain air pollutant emissions. Under this authority, the Commission enacted changes to Colorado's regulatory scheme, which required more frequent leak detection and repair inspections at certain oil and gas facilities as well as increased emission controls for oil and gas storage tanks. These rules were promulgated under standard notice and comment rulemaking procedure.

Weld County, the largest oil and gas producing county in Colorado, participated in the rulemaking process and claimed that the rule as proposed would result in up to 35% of the oil and gas wells within its jurisdiction being closed. After the Commission adopted the rules, Weld County brought a challenge alleging that the Commission failed to prioritize the county's concerns about the rules' economic impact. Weld County also alleged that the defendants violated the Colorado Administrative Procedures Act by relying on flawed economic-impact and cost-benefit analyses and by accepting a late-filed proposal and adopting portions of that proposal. The trial court dismissed Weld County's action, and the Court of Appeals affirmed.

The County's alleged injuries included harm to their tax base, procedural rights, and land use authority. The Court determined that the alleged harm to procedural rights was insufficient because the County was allowed to participate in the rule making process while the other alleged injuries were too indirect and speculative to confer standing. Therefore, the Supreme Court of Colorado affirmed, holding that Weld County did not have standing to pursue these claims because the county did not show any injury in fact.

[Weld County Board of County Commissioners v. Jill Hunsaker Ryan, in her official capacity as the Executive Director of the Department of Public Health and Environment for the State of Colorado; Colorado Department of Public Health and Environment; and Colorado Air Quality Control Commission, an agency of the State of Colorado](#) 

Supreme Court of Colorado

Case No. 22SC242

Decided October 16, 2023

Opinion by Justice Melissa Hart

Minnesota:

Kelly and Evarist Schneider II (“Appellants”) brought action under the Minnesota Health Records Act (MHRA) claiming that the respondents, Children’s Health Care (“Children’s”) disclosed the protected health information (PHI) of Appellants’ child without their consent. The Supreme Court of Minnesota affirmed the court of appeals, which upheld summary judgment for Children’s.

The federal government established rules regulating how healthcare facilities must handle PHI through the Health Insurance Portability and Accountability Act (HIPAA). HIPAA allows the disclosure of PHI without consent only in limited circumstances. Some states, including Minnesota, have implemented laws that add protection for patients in their jurisdiction. Minnesota, through the MHRA, only allows disclosure of PHI if there is patient consent or “a specific authorization in law.”

The parties agree that the PHI in question was disclosed for “fundraising activities.” While HIPAA exempts healthcare facilities from obtaining consent prior to disclosing PHI for fundraising activities, Appellants argue that there is no specific authorization in Minnesota state law for this type of disclosure, and therefore it is prohibited by the MHRA. Children’s argues that the statutory construction of “a specific authorization in law” captures the federal regulations implementing HIPAA.

The Court sided with Children’s, finding that the MHRA’s requirement of a “specific authorization in law” included applicable federal law, such as HIPAA. Therefore, summary judgment granted for Children’s by the district court was affirmed.

[Kelly Schneider, et al., on behalf of themselves and all others similarly situated v. Children’s Health Care, d/b/a Children’s Hospital and Clinics, et al.](#) 

Supreme Court of Minnesota

Case No. A22-0275

Decided October 11, 2023

Opinion by Chief Justice Natalie Hudson

Pennsylvania:

The Commonwealth Court of Pennsylvania affirmed the lower court’s decision, holding that the Allegheny County Health Department (“Department”) met the necessary burden in justifying the civil penalties associated with the violations at Michael Rosato and Augusto Sciallo’s (“Appellants”) rental unit.

The Appellants co-owned a rental unit in Allegheny County, Pennsylvania, which was inspected by the Department in August 2019. The inspection resulted in several violations such as “an inadequate number of electrical outlets in a second-floor bedroom, a gap in the living room floor, a hole in the kitchen ceiling, a covered radiator, and a missing stair rail.” At follow-up inspections after notification of these violations, inspectors noted that the violations had not been remedied, which resulted in a \$2,500 civil penalty imposed on Appellants’ property in January 2020. The issues addressed were corrected in March 2020, with a follow-inspection in May 2020 to confirm the corrections. Appellants appealed the civil penalty in January 2020 with the Department, which was denied. After this denial, Appellants appealed the denial to the Trial Court, where the denial was affirmed. This led Appellants to appeal the denial to the current court.

The court considered several factors in deciding whether to uphold the penalty, including “the economic benefit gained by such person by failing to comply with the Article [that provides the civil penalties], the willfulness of the violation, the actual and potential harm to the public health, safety and welfare and to the environment, the nature, the frequency and magnitude of the violation, and any other relevant factors.” The court found that there was economic benefit to be gained by Appellants as violators, as they intended not to fix the violations and instead sell the property. The court also noted that the violations persisted for six months after initial notification of violation, which supports the nature,

frequency, and magnitude of the violations. There was also significant potential for harm to the public health, particularly with the inadequacy of the electrical systems, holes, and unshielded heating systems. Thus, the Commonwealth Court affirmed the Trial Court decision denying Appellants' appeal of the imposed penalties.

[Michael Rosato and Augusto Sciuillo v. Allegheny County Health Department](#) 

Commonwealth Court of Pennsylvania

Filed October 19, 2023

Opinion by Judge Christine Fizzano

COVID-19 Court Filings & Opinions

Arkansas:

TMG, Inc., d/b/a David's Fire Equipment (TMG) appeals an adverse decision from the Arkansas Board of Review (Board) granting unemployment benefits to its former employee, Charles Salts. TMG contends on appeal that the Board erred in awarding benefits to Salts because there was insufficient evidence to support its finding that Salts had good cause for ending his employment with TMG over Salts's objection to TMG's vaccine mandate. Accordingly, TMG asks this court to reverse the award of benefits. Because we agree that Salts failed in his burden of producing evidence sufficient to substantiate his medical and religious objections, we reverse the award of benefits.

[TMG, Inc. v. Director, Division of Workforce Services](#) 

Court of Appeals of Arkansas, Division III

Opinion Delivered October 18, 2023

Opinion by Judge Cindy Grace Thyer

Illinois:

The plaintiff, Laura Lenz, appeals from the circuit court's order dismissing her complaint for unlawful discrimination against the defendant, Advocate Health and Hospital Corp. d/b/a Advocate Christ Medical Center (Advocate). For the reasons which follow, we affirm the judgment of the circuit court.

On February 15, 2022, the plaintiff filed a complaint in the instant action, charging that Advocate discriminated against her in violation of section 5 of the Illinois Health Care Right of Conscience Act (Act) (745 ILCS 70/5 (West 2020)). Specifically, the complaint alleged the following. On or about August 4, 2021, Advocate released its Immunization Policy which required the plaintiff and other employees to either provide proof of completion of the COVID-19 immunization series by October 15, 2021, or receive an approved religious exemption. On August 10, 2021, the plaintiff submitted a request for a religious exemption from Advocate's immunization requirements. On September 3, 2021, Advocate denied the plaintiff's request, claiming that it was made "based on misinformation." On September 7, 2021, the plaintiff filed an appeal from the denial which Advocate denied stating that the request was "missing sincere religious belief." On October 15, 2021, Advocate fired the plaintiff from her position as a nurse. She alleged that she was fired in violation of section 5 of the Act for refusing to receive health care services contrary to her conscientious convictions.

[Laura Lenz v. Advocate Health and Hospitals Corp.](#)  [PDF - 80.5 KB] 

Appellate Court of Illinois First District

Filed October 12, 2023

Opinion by Honorable Judge John J. Curry, Jr.

Quote of the Month

"Indigenous knowledge and practices provide opportunities for healing the past, living with mindfulness and intention in the present, and planning for future generations."

[Editor's note: This quote is from the above article, [American Indian and Alaska Native life expectancy: writing a new narrative](#) , Tassy Parker and Allyson Kelley, JAMA (10/06/2023).]

About *Public Health Law News*



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.

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.