



May 2024 | The Public Health Law News

WHAT TO KNOW

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.



Announcements

Registration Open | ASLME's 47th Annual Health Law Professors Conference

The 47th Annual American Society of Law, Medicine & Ethics (ASLME) Health Law Professors Conference will be held **June 5–7** in **Philadelphia**. This conference welcomes professors of health law, public health law, and bioethics. It is hosted by the Temple University Beasley School of Law Center for Public Health Law Research and ASLME. [Learn more and register.](#)

Registration Open | APHA Policy Action Institute

APHA's Policy Action Institute will be hosted **online** on **June 17** and in **Washington, DC**, from **June 17–18**. The event brings together public health leaders, students, and professionals to discuss proven and proposed policy solutions to tackle today's most pressing health threats at local, state, and federal levels. [Learn more and register.](#)

Registration Open | NACCHO30

NACCHO360 is the largest annual convening of local health department leaders and public health professionals in the United States. This year's convening will be held in **Detroit** and **virtually** from **July 23–26**. The conference theme this year is "Heard it Through the Grapevine: Public Health Partnerships, Collaboration, and Innovation." Attendees will engage with federal and state partners, gain insights from public health experts, and learn how to adopt effective practices. [Learn more and register.](#)

Tribal Announcements


Webinar | Data Sharing and Data Use from an Urban Indian Perspective

The National Council for Urban Indian Health is hosting a discussion on the legal and policy considerations related to data use and data sharing on **May 23** from **2:00–3:00 pm (EDT)**. This standalone virtual event will include a brief presentation on the Trusted Exchange Framework and Common Agreement and provide a space for Urban Indian Organizations to discuss insights, barriers, and best practices in data use and data sharing. [Learn more and register.](#)


Job Announcements

Bilingual (Spanish-English or Portuguese-English) Attorney, The Indian Law Resource Center

The Indian Law Resource Center is seeking a staff attorney with a demonstrated commitment to protecting and advancing indigenous people's rights, particularly indigenous women's rights. The attorney must be licensed to practice law in at least one state within the United States.


Knowledge and experience in United States federal Indian law and experience working with indigenous peoples' rights are required. Ideally, the attorney will have the ability to work in both Spanish and English or Portuguese and English, but this is not required. [Learn more and apply.](#) 

Associate Director, Policy, Community Catalyst


Community Catalyst's associate director for policy will oversee the implementation of the policy goals of the organization. The individual in this position will work with colleagues across the organization, identify points of connect between various initiatives, and improve coordination and collaboration within the organization. [Learn more and apply.](#) 

Legal Tools & Trainings


Webinar | Practical Approaches and Best Practices for Tobacco Retail Licensing Enforcement

Local enforcement of commercial tobacco regulations requires consideration of the financial feasibility and practical application for effective enforcement. Hosted by the Public Health Law Center from **noon to 1:00 pm (CDT)** on **May 23**, this webinar will provide an overview of best practices for the enforcement of tobacco retail licensing regulations, drawing upon requirements in state and federal law, as well as the vast experience gleaned from local public health officials and law enforcement. [Learn more and register.](#) 


Webinar | Trends in Data Privacy Enforcement and Litigation

The American Health Law Association will host a webinar on **May 23** from **2:30 to 3:30 pm (EDT)** covering recent developments in privacy and data security enforcement and litigation in health care and health privacy matters more generally. The webinar will focus on recent guidance and key enforcement actions brought by the Department of Health and Human Services' Office for Civil Rights and the Federal Trade Commission. Speakers will also provide an overview of significant litigation matters relating to health privacy, including regarding the use of online tracking technologies. [Learn more and register.](#) 


Webinar | Bigger Than COVID—The State of Vaccine Law

The height of the COVID-19 pandemic may be over, but there have been substantial developments in every area of vaccine law that health law attorneys and their clients need to know. Hosted by the American Health Law Association, this session on **May 29** from **2:00 to 3:30 pm (EDT)** will update participants about the major changes and trends in the law of vaccine regulation, intellectual property, access and funding, mandates and exemptions, injury compensation, and responses to antivaccine misinformation. [Learn more and register.](#) 


Resource | Understanding Legal Authority to Address Social Determinants of Health

This resource from ChangeLab Solutions is designed to help state, tribal, local, and territorial health departments understand why improving SDOH through changes to laws and policies is crucial to community health outcomes and health equity. It outlines the sources and limits of health departments' legal authority and highlights examples of how health departments across the United States have applied their legal powers to address SDOH and reduce inequities. [Learn more and access the resource.](#) 


Resource | Examining State Licensing Requirements for Select Master's-Level Behavioral Health Providers for Children

In a new journal article in *Psychiatric Services*, ChangeLab Solutions staff and co-authors published the results from their review of licensing requirements for licensed clinical social workers, licensed professional counselors, and licensed marriage and family therapists in all 50 US states and the District of Columbia. Their research is part of a larger effort to identify policy levers that states can use to increase the supply of master's-level providers of children's behavioral health services. Increasing the availability of providers could help address inequities experienced by children and adolescents in the US mental health system. [Learn more and access the resource.](#) 

Resource | Some States Unwisely Cling to One-to-One Syringe Exchange Instead of Evidence Based Needs-Based Distribution

Syringe services programs (SSPs) serve a crucial role as legal and health interventions. Multiple studies have shown that the best model for SSPs is needs-based syringe distribution, in which SSP participants are provided with the quantity of supplies they need in order to use safely. The Network for Public Health Law found that many states require participants to return a used needle for every new needle they are given, resulting in undue health risks and other harms. [Learn more about state syringe laws and access the resource.](#) 

Resource | Expanding the Behavioral Health Workforce

Shortages of behavioral health care providers contribute to the deepening mental health crisis among US children and adolescents. These workforce shortages most acutely affect children who live in rural areas and children who identify as Black, Indigenous, or otherwise as people of color. In partnership with CDC and Milken Institute School of Public Health at George Washington University, ChangeLab Solutions release three new publications for state legislators, state licensing board members, and changemakers working to improve health for children and families. [Learn more and access the resources.](#) 

Top Story

National: [What marijuana reclassification means and the effects of rescheduling](#) 

The Washington Post (05/01/2024) Fenit Nirappil

Story Highlights:

Attorney General Merrick Garland has provided recommendations to reclassify marijuana from a Schedule I to a Schedule III substance. While this reclassification would not legalize or decriminalize cannabis, this historic shift in federal policy would support legal cannabis businesses and ease barriers to future research. The holistic implications of rescheduling are still unclear, but it would not eliminate regulatory challenges.

The Controlled Substances Act created five "[schedules](#)" to categorize and regulate drugs based on their medical benefits and risk for abuse. Categorized as having "no currently accepted medical use and a high potential for abuse," Schedule I currently includes drugs like heroin, ecstasy, and marijuana. By de-scheduling marijuana to Schedule III, cannabis would be grouped with drugs such as ketamine, testosterone, and Tylenol with codeine, which have "a moderate to low potential for physical and psychological dependence." Regardless of rescheduling, marijuana will remain illegal at the federal level and penalties will not change for major federal marijuana cases.

De-scheduling marijuana would, however, impact cannabis companies and research. Currently, cannabis companies cannot deduct business expenses for selling Schedule I substances under Internal Revenue Code Section 280E. By being eligible for the tax breaks, some businesses could be propelled into profitability; no longer having to pay an effective tax rate of 70% or more. In terms of research, de-scheduling would remove requirements like registering with and submitting protocols to the Drug Enforcement Administration. There would still be limitations on directly studying how marijuana is sold and marketed to consumers.

[Editor's note: Learn more about [marijuana use, effects, and other public health data](#).]

Briefly Noted

National: [Biden-Harris administration finalizes first-ever national drinking water standard to protect 100M people from PFAS pollution](#) 

EPA (04/10/2024)

[Editor's note: Learn more about the [PFAS National Primary Drinking Water Regulation](#)  .

National: [White House drops plan to ban menthol cigarettes](#) 

Roll Call (04/26/2024) Lauren Clason

[Editor's note: Learn more about [menthol tobacco products](#).]


National: [17 states challenge federal rules entitling workers to accommodations for abortion](#) 

LA Times (04/26/2024) Andrew DeMillo

[Editor's note: Learn more about the [Pregnant Workers Fairness Act](#) .

Alaska: [Alaska tribal health consortiums are legally immune in many cases, state Supreme Court says](#) 

Alaska Beacon (04/27/2024) James Brooks

[Editor's note: Learn more about [tribal sovereign immunity](#) .

California: [EPA suit alleges San Francisco discharges sewage into bay and onto beaches](#) 

SFGATE (05/02/2024) Amy Graff

[Editor's note: Learn more about [stormwater best management practice](#)  .

Indiana: [Indiana AG Todd Rokita files lawsuit against 22 manufacturers of toxic PFAS forever chemicals](#) 

Indianapolis Star (04/10/2024) Sarah Bowman

[Editor's note: Learn more about [how PFAS affect population health](#).]

Kansas: [Kansas anti-abortion groups are celebrating legislative wins. Here's what that means for patients](#) 

KCUR (05/04/2024) Rose Conlon

[Editor's note: Learn more about [statewide abortion policies and access](#) .

Maine: [Maine governor signs new gun laws, mental health supports in wake of Lewiston shootings](#) 

WJAR (04/26/2024) WGME Staff

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

Mississippi: [From dummy bill to Hail Marys: How Mississippi's Medicaid expansion efforts failed](#) [↗](#)

Mississippi Today (05/04/2024) Geoff Pender

[Editor's note: Learn more about the [status of state Medicaid Expansion decisions](#) [↗](#).]

Navajo Nation: [Navajo politicians ask Biden to stop company transporting uranium from Arizona to Utah](#) [↗](#)

News from the States (05/03/2024) Kyle Dunphey

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

Ohio: [Judge temporarily halts Ohio law to keep Columbus, other cities from regulating tobacco](#) [↗](#)

Columbus Dispatch (04/19/2024) Bill Bush

[Editor's note: Learn more about how [preemption can impede local tobacco protection efforts](#).]

Washington, DC: [Heated arguments at the Supreme Court in newest abortion case](#) [↗](#)

NPR (04/24/2024) Nina Totenberg

[Editor's note: Learn more about the [Emergency Medical Treatment & Labor Act \(EMTALA\)](#). [↗](#)]

Global Public Health Law News

Global: [WHO Global Malaria Programme launches new operational strategy](#) [↗](#)

World Health Organization (04/23/2024) WHO

[Editor's note: Learn more about [WHO's Global Malaria Programme](#). [↗](#)]

Africa: [Communiqué: United in the fight against Mpox in Africa—high-level emergency regional meeting](#) [↗](#)

Africa Centers for Disease Control and Prevention (04/13/2024) Africa CDC

[Editor's note: Learn more about [the seasonal trends of mpox in Africa](#).]

Americas: [Strengthening maternal health care: joint support from UNFPA and PAHO/WHO to Haitian health authorities](#) [↗](#)

Pan American Health Organization (04/23/2024) PAHO

[Editor's note: Learn more about [maternal health in Haiti](#) [\[PDF\]](#) [↗](#).]

Sierra Leone: [BREAKING: President Bio declares national emergency on drug and substance abuse](#) [↗](#)

Sierraloaded (04/04/2024) Sorie Abubakar

[Editor's note: Learn more about [Sierra Leone's response to kush](#) [↗](#).]

Court Filings & Opinions

Federal:

The United States Court of Appeals for the District of Columbia Circuit affirmed the district court, finding that the petitioners—a group of state and fossil fuel industry members—lacked standing.

The case concerns a dispute over the Environmental Protection Agency's ("EPA") reinstatement of a 2013 waiver permitting California to establish its own, stricter standards for vehicle emissions under the Clean Air Act ("the Act"). The petitioners contested the EPA's decision, arguing it exceeded the Act's authority, that California was preempted by federal statute to set its own regulations, and that it violated a constitutional requirement for fair treatment among the states. Initially, the lower courts upheld the EPA's decision, ruling that the petitioners lacked standing. Petitioners subsequently appealed the issue to the Court of Appeals.

Following review, the Court of Appeals affirmed the lower court, concluding that the industry petitioners lacked standing for their statutory claim, and the state petitioners lacked standing for their preemption claim. Neither group successfully demonstrated that their alleged injuries would be resolved by a favorable court decision. Additionally, the Court dismissed the state petitioner's constitutional claim, asserting that the EPA's decision did not violate the constitutional requirement of equal state sovereignty.

[Ohio v. Environmental Protection Agency, et al.](#) [↗](#)

United States Court of Appeals for the District of Columbia Circuit

Case No. 22-1081

Decided April 9, 2024

Opinion Per Curam

New York:

The Supreme Court of Kings County partially granted and partially denied Defendants Dr. Kolawole Jegede, NYU Langone Orthopedic Hospital, NYU Hospital for Joint Diseases, and NYU Langone Health System's ("Defendants") motion for summary judgment, specifically granting acts of the NYU defendants, the informed consent cause of action, and the punitive damages claims and denying all others.

Plaintiff Suzanne Antonello ("Plaintiff") suffered from extensive back pain and initially had a consult with Dr. Jegede. Following a series of injections from a pain management physician that did not improve her circumstance, Plaintiff was scheduled for surgery at NYU Langone Orthopedic Hospital, which appeared to be a successful surgery. However, Plaintiff began to experience abdominal pain and swelling and stated that since the operation she was "virtually incapacitated." At her follow-up visit with Dr. Jegede, his notes reflect proper healing of her incision points and resolution of her back pain, and noted her ongoing pain in her groin and hip, but included nothing about her stomach pain and swelling. Plaintiff testified that the doctor spoke about her stomach in the follow-up but nothing in the notes references this. Days after the follow-up, Plaintiff was having such sharp pains that she went to the hospital and the Interventional Radiology team performed a left nephrostomy, and eventually Plaintiff needed two more surgeries to repair her ureter.

The court assessed this medical malpractice action and considered whether Plaintiff "offer[ed] sufficient evidence from which a reasonable person might conclude that it was more probable than not that the defendant's deviation was a substantial factor in causing injury." The NYU defendants in the case made a case that none of the deviations from the standard of care that Plaintiff discussed in her case were attributable to them, thus those claims for summary judgment were granted. In addition to the partial grant and partial denial of summary judgment, the court also ordered that the parties present for an Alternative Dispute Resolution conference for the remainder of issues not addressed.

[Suzanne Antonello, et al. v. Kolawole Jegede, MD, et al.](#) 

Supreme Court, Kings County

Case No. 519837/2019

Decided March 18, 2024

Opinion by Justice Genine D. Edwards

COVID-19 Court Filings & Opinions

Connecticut

Defendant Adrian Peeler, who is serving a term of imprisonment at FCI McDowell in West Virginia post-conviction on conspiracy to possess with intent to distribute and to distribute cocaine base, moved to reduce his sentence under 18 U.S.C. § 3582(c)(1)(A) and the First Step Act of 2018, ECF No. 439. Peeler claims that the need to care for his father, his age at the time of the criminal conduct, his rehabilitation efforts, and the threat of contracting a virus in custody present extraordinary and compelling circumstances warranting his release under 18 U.S.C. § 3582(c)(1)(A). *Id.* at 1. The Government filed a memorandum in opposition (ECF No. 448), Peeler filed a response/reply to the Government's memorandum in opposition (ECF No. 455), and the Government filed a sur-reply (ECF No. 458). I have carefully considered these materials and the exhibits attached thereto. I have also reviewed the original presentence report (ECF No. 390-5) and the two supplemental reports. ECF Nos. 390 and 425. For the reasons that follow, Peeler's motion is denied.

[United States v. Peeler](#) 

United States District Court, District of Connecticut

Case No. 3:99-cr-00067-MPS-2

Decided April 16, 2024

Opinion by District Judge Michael P. Shea

North Carolina

Plaintiffs appeal from the trial court's order granting summary judgment for Defendant and dismissing all their claims arising out of Defendant Executive Order No. 141 issued in response to the COVID-19 pandemic. On 17 March 2020, Defendant issued Executive Order No. 118 closing all bars including those in restaurants. On 20 May 2020, Defendant issued Executive Order No. 141 letting some types of bars reopen with specific safety precautions but requiring private bars, including those owned by Plaintiffs, to remain closed. Defendant relied on "science and data" he claimed created a reasonable basis to distinguish between types of bars, thus letting some reopen while keeping others closed. We have considered the information Defendant provided to the trial court to justify this distinction in the light most favorable to Defendant. Defendant's "science and data" tends to show that bars in general did present a heightened risk of COVID-19 transmission, as people normal

gather, drink, and talk in bars of all sorts. We have considered the "science and data" presented by Defendant to justify the distinction between closing some types of bars and not others, but this information does not support Defendant's position, even if we consider all such information to be true. Some of the information did not exist at the time of Executive Order No. 141, so Defendant could not have relied on it. Most of the information is news articles, at best anecdotal reports of various incidents in different places around the world. None of the information addresses any differences in risk of COVID-19 transmission between Plaintiffs' bars and the other types of bars allowed to reopen. For the reasons explained below, we have determined the trial court erred when it denied Plaintiffs' summary judgment motion and dismissed Plaintiff claims under N.C. Const. art. I, § 1, the "fruits of labor clause," and for denial of equal protection under N.C. Const. art. I, § 19. The trial court properly dismissed Plaintiffs' other claims, and we have also determined the trial court lacked jurisdiction to award attorneys' fees on Plaintiff Public Records Act claim. We therefore affirm in part, reverse in part, and remand to the trial court for further proceedings.

[North Carolina Bar and Tavern Association v. Cooper](#) 

Court of Appeals of North Carolina

Case No. COA22-725

Decided April 16, 2024

Opinion by Judge April Wood

Quote of the Month

"Reclassifying marijuana from a Schedule I substance to Schedule III would mark a historic shift in federal policy, but the implications are still murky."

[Editor's note: This quote is from the above article, [What marijuana reclassification means and the effects of rescheduling](#) , Fenit Nirappil, The Washington Post (05/01/2024).]

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