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Ideas. Experience. Practical answers.

Public Health and the Law Basics and Recent Changes and the Impact on State and Local Health Agencies

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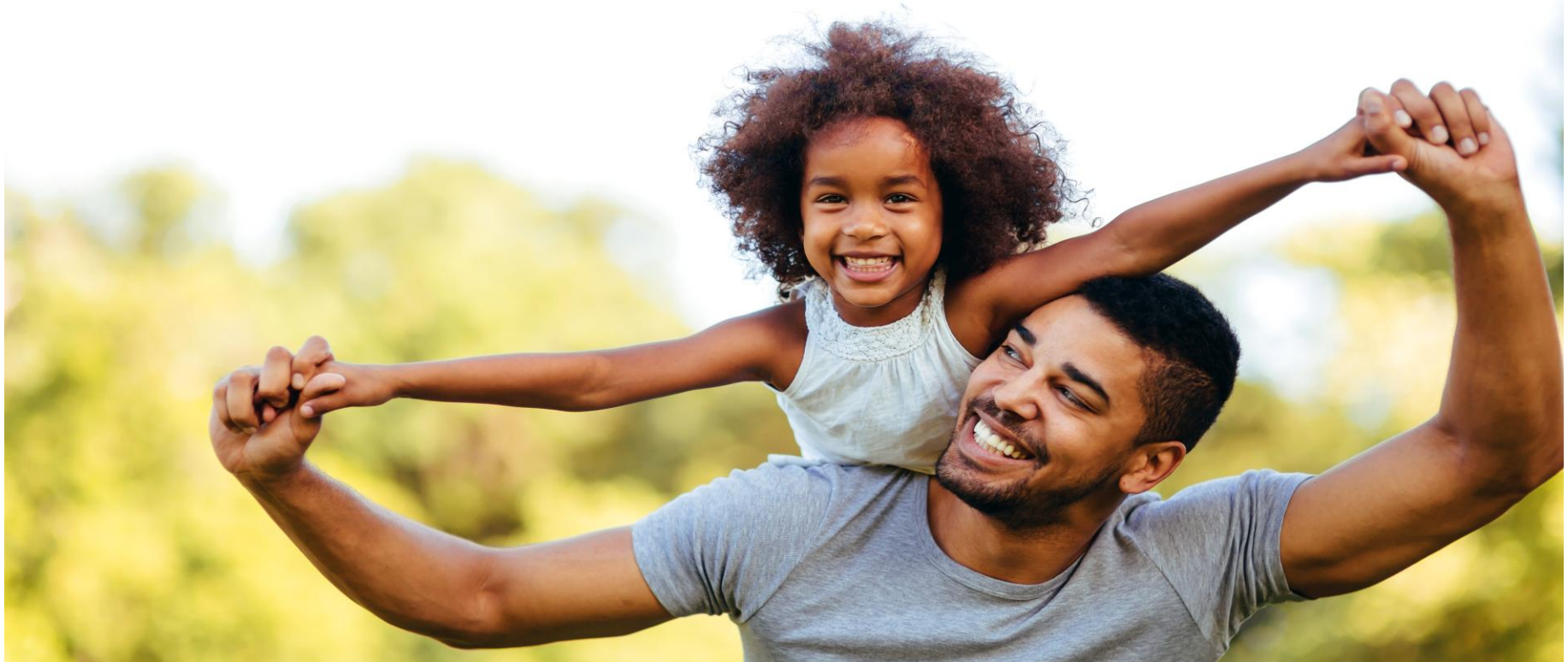
About the Network for Public Health Law

We believe in the power of public health law and policy to improve lives and make our communities safer, healthier, stronger and more equitable. We know that understanding, navigating and using law and policy can transform our communities so we work to help public health leaders, policymakers, researchers, educators, advocates and health care providers do just that.



Roadmap

Public Health and the Law Basics

» **Discussion of the source and scope of powers across levels and branches of government**

Recent Federal Changes and the Impact on State and Local Health Agencies

» **Executive Orders**

» **Supreme Court**

» **"Reorganization" and Funding Changes at HHS**

» **Select Impact Areas Relevant for State and Local Public Health**

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Public Health and the Law Basics

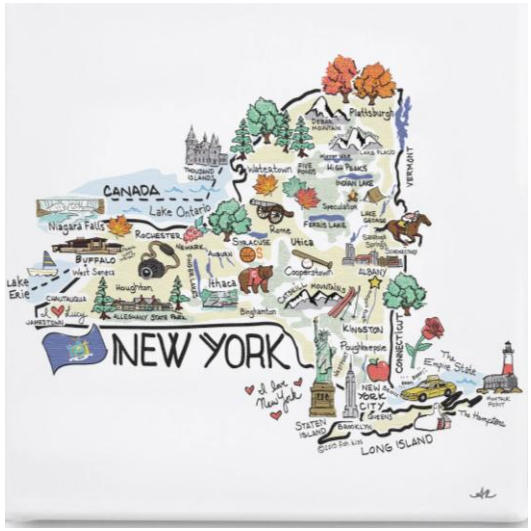
Schoolhouse Rock
(Kathi's Version)

PUBLIC HEALTH POWER IS SHARED . . .

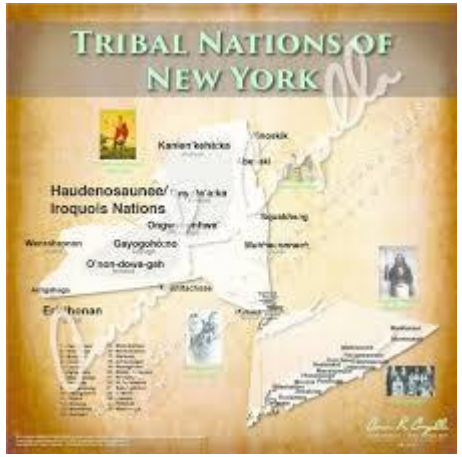
Across levels of government . . .

FEDERAL

STATE



TRIBAL



LOCAL

The U.S. Constitution
Federal Public Health Powers are Limited

Federal government has no general public health power.

CONSTITUTIONAL (ENUMERATED) POWERS CONGRESS RELIES ON IN PH

- ✓ **Commerce Clause:** To regulate interstate commerce, construed broadly but there are limits

- ✓ **Tax:** To incentivize or discourage behavior and secure funds for public health purposes.

- ✓ **Spend**: The power of the purse! Feds give with conditions to indirectly achieve public health goals.

The U.S. Constitution
State Public Health Powers are Plenary

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

10th Amendment

- ✓ ***Examine state constitution to determine how this power is exercised described and shared across the executive and legislative branches.***

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New York Constitution and Statutes
Local Government Public Health Powers are Broad

Counties, cities, towns, and villages are granted broad home rule powers, the scope of which is set in the NYS Constitution and statutes.

Local public health powers are likewise plenary and established in the Code.

Tribal Public Health Powers*

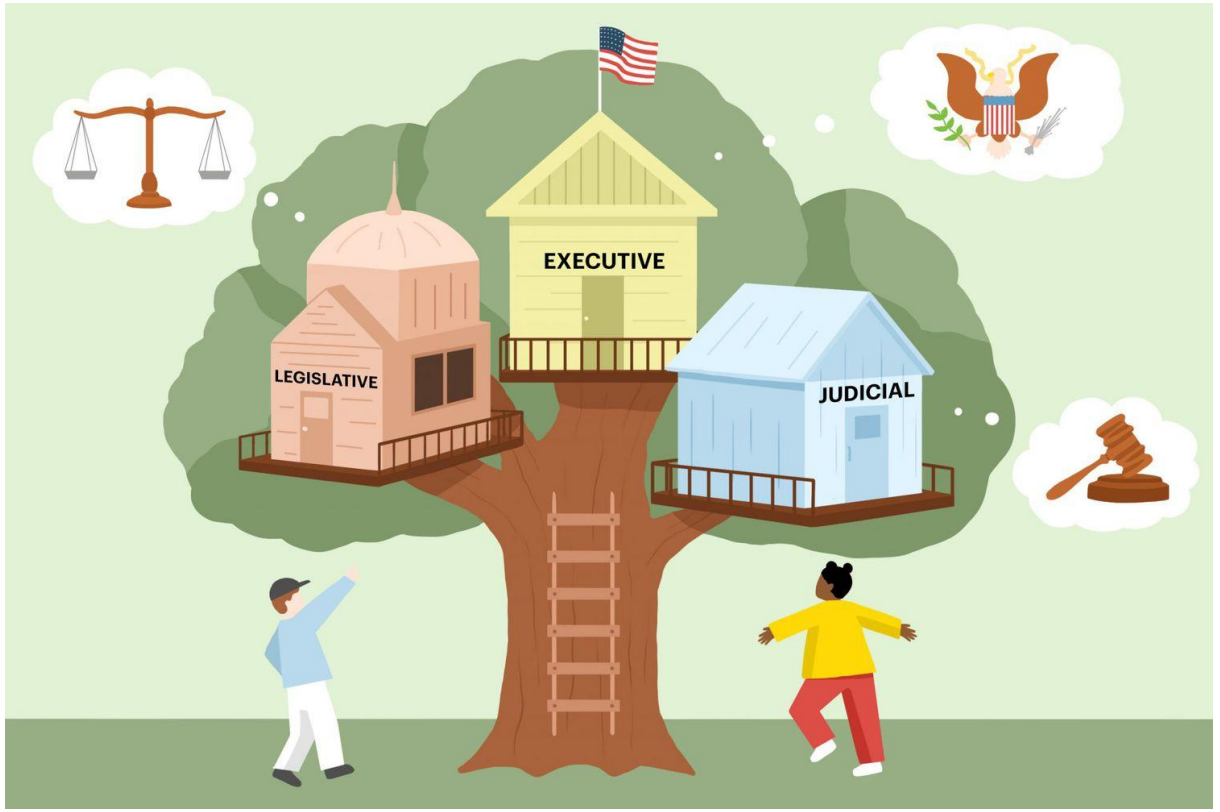
Tribal governments possess independent public health powers.

- ✓ **573 federally recognized American Indian and Alaska Native tribes and villages in the United States*, including 8 in New York*.**
- ✓ **Tribes are *sovereign nations* that maintain a government-to-government relationship with the U.S. and have the *inherent powers of self-government*.**
- ✓ **As sovereign nations, tribes are uniquely situated to *use law as a public health tool to promote the health and well-being of their communities*.**
- ✓ **Federal law creates a framework that governs the relationships among tribes, states, and the federal government that can affect tribal public health.**

**I acknowledge my limited knowledge in this space.*

PUBLIC HEALTH POWER IS SHARED . . .

Across branches of government . . .



EXECUTIVE BRANCH

Power vested in:

POTUS, Governor, County Executive, Mayor

Source: Federal or State Constitution or Statutes or Local Charter

Executive Agencies, including Boards of Health

Source: Federal, State, or Local "Enabling" Statutes

Power exercised via:

- ✓ ***Executive orders***
- ✓ ***Administrative regulations***
- ✓ ***Policy/Guidance***
- ✓ ***Enforcement of statutes***
- ✓ ***Budget control (if any) and use of funding***

LEGISLATIVE BRANCH

Power vested in:

Congress, State, or Local Legislature

Source: Federal or state constitution; state code and local charter

Power exercised via:

- ✓ ***Legislation***
- ✓ ***Budget control***

JUDICIAL BRANCH

Interprets and applies the law, including whether executive or legislative branch had power to act—often assesses scope of public health authority

Creates "common law"

SCOPE OF PUBLIC HEALTH POWERS

Impacted by:

- ✓ **Constitutional constraints**
- ✓ **Preemption**

That was A LOT!!!!

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Recent Federal Changes and the Impact on State and Local Health Agencies

Description of this Session Drafted in May

The presentation will then highlight recent federal-level developments, such as Executive Orders, Supreme Court decisions, and actions by the Department of Health and Human Services (HHS). Additional topics will include structural changes within HHS, substantive policy shifts around vaccines and other areas, and recent funding cuts.

What was I thinking?

Executive Orders

- Ending Radical and Wasteful Government DEI Programs and Preferencing
- Establishing the President's MAHA Commission
- Withdrawing the United States from the WHO
- Reduction of Federal Funding for Medical Research
- Enforcement of Healthcare Price Transparency Regulations
- Improving Oversight of Government Grantmaking
- Delivering Most-Favored-Nation Prescription Drug Pricing to American Patients
- Lowering Drug Prices by Once Again Putting Americans First
- Restoring Gold Standard Science

And more . . .

Supreme Court

- **Kennedy v. Braidwood**

Upheld US Preventive Services Task Force, whose recommendations determine certain aspects of ACA coverage

- **Medina v. Planned Parenthood South Atlantic**

Allowed SC to prohibit Medicaid reimbursement for covered services to any provider that also provides abortion care

- **Department of Education v. California**

Twisty-turvy case with other cases following that make it more difficult to challenge NIH and other grant cancellations

Changes at Federal Agencies

Hiring Freeze

- Technically ended October 15 (but shutdown)
- New rule: 1 hire for 4 departures

Termination of Probationary Employees

- Litigated; mostly allowed

Voluntary Separation/Deferred Resignations

- Offered buyout; lowered retirement age/service

Reductions in Force

- Before and During Shutdown

Changes at HHS

April 2025

- ✓ **Staffing reduction from 82k to 62k**
- ✓ **Elimination/significant reductions within HHS**
  - Office on Smoking or Health
  - National Institute for Occupational Safety and Health
  - National Center for Injury Prevention and Control
  - Office of Minority Health
  - Specialized Laboratories (STD; viral hepatitis)

Changes at HHS

October 2025

✓ **Staffing reduction by another 1,300+**

- Maybe 700 rescinded (MMWR; Epidemic Intelligence Service; Measles Response)
- Difficult to ascertain where cuts were made and/or returned

✓**Federal District Court has ordered a stop to the terminations during the shutdown pending further proceedings**

- Cases filed by union employees

Reorganization at HHS

Creates Administration for a Healthy America, consolidating:

» Health Resources Services Administration (HRSA)

» Substance Abuse and Mental Health Services Administration (SAMHSA)

» Agency for Toxic Substances Disease Registry (ATSDR)

» National Institute of Environmental Health Services

» Office of the Surgeon General

» Reduces regional centers from 10 to 5

» Several CDC Centers

Litigation on Changes to Reorganization and Terminations at HHS

State of New York v. Kennedy

» Challenges workforce reductions based on negative impacts on state and local public health operations

» Preliminary injunction granted

American Federal of Government Employees v. Trump

» Challenges RIFs and other aspects of reorganization

» SCOTUS (shadow docket) found government likely to prevail against claims that reducing/defunding certain agencies/activities interferes with Congress' power

» Similar outcome for Department of Education dismantling in *McMahon v. New York*

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Funding Changes at HHS

Termination of $12 BILLION in Grants to State and Local PH

» CDC directed to reclaim $11.4 billion for COVID response and recovery

» Canceled $1 billion SAMHSA grants

One Big Beautiful Bill Act (OBBA) + Proposed FY26 Budget

» Will create deeper cuts across many HHS and other agencies that impact public health

Select Impact Areas Relevant for State and Local Public Health

- Vaccines
- Reproductive Health Care
- Tobacco
- Food Safety

Vaccine Policy Impacts: $$

PRESENT IMPACT:

- Freezing/Reducing Funding for State and Local Efforts
- Cutting CDC Infectious Disease/Vaccine Staff

FUTURE IMPACT:

- Reallocating $500 million for “next-generation vaccines” to study a type of “whole-virus" vaccine
- Funding “research” on connection between autism and vaccines (through sole source)

Vaccine Policy Impacts: ACIP

Advisory Committee on Immunization Practices

Recommended dismantling several long-standing immunological protections:

- ✓ Advised against giving children under 4 a single vaccine against measles, mumps, rubella, and varicella—taking MMRV for under 4 out of ***Vaccines for Children Program***
- ✓ Replaced clear guidance recommending COVID vaccine for older adults and children to a ***vague "shared clinical decision-making" recommendation***

Vaccine Policy Impacts: What's Next

What's Next for ACIP:

Workgroup to study:

- Timing and order of vaccines for children
- Use of certain ingredients, including aluminum

What's Next for CDC/FDA:

- Encouraging manufacturers to separate MMR into separate vaccines

Preemption (and financial constraints) give state and local public health very limited power to respond to ACIP and FDA changes.

Vaccine Policy Impacts: Big Picture

Reduced funding for state and local vaccine distribution

Lack of insurance coverage for vaccines

Potential scarcity in vaccine availability

Mistrust in ACIP/CDC/HHS means:

- Increased vaccine hesitancy
- Need for states to step up: Northeast Public Health Collaborative—NYS and NYC
- Assessing state and local policy that refer to ACIP guidance

Individuals suffer.

Herd immunity wanes.

Disease eradication is threatened.

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Reproductive Health Care Access Impacts

Title X Funding

Medicaid Reimbursement for Reproductive Health Care Services for Certain Providers

Elimination of Reproductive Health Care Privacy Rule

Potential Changes in Availability of Medication Abortion

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Tobacco Control and Prevention Impacts

HHS "Restructuring"/Staffing Cuts

- Eliminated Office on Smoking or Health
- Deep cuts to FDA Center on Tobacco Products

Federal Funding Cuts and Delays

- Quitline funding eliminated

Surveillance Programs at Risk

- National Youth Tobacco Survey
- National Survey on Drug Use and Health
- Behavioral Risk Factor Surveillance System

Research Funding

- Grants examining health disparities terminated
- Data analysis on use by LGBTQ+ terminated

Food Safety Impacts

- **Scaled back Foodborne Diseases Active Surveillance Network (FoodNet) to cover only two pathogens**
  - *Covers salmonella and Shiga toxin-producing E. coli (STEC)*
  - *Does not cover campylobacter, cyclospora, listeria, shigella, vibrio and Yersinia*
- **Disbanded the National Advisory Committee on Microbiological Criteria for Foods and the National Advisory Committee on Meat and Poultry Inspection**
- **Eliminated DOJ's Consumer Protection Branch that investigated and prosecuted companies that sell contaminated food**
- **Withdrew a proposed rule to reduce salmonella outbreaks in poultry**

Many Other Areas of Impact or Concern

- ✓ Public Health Funding Cuts Harm the Economy
- ✓ Health Care Coverage Cuts in OBBA and Pending Trump Budget
- ✓ HIV/AIDS Prevention and Treatment
- ✓ Water Fluoridation
- ✓ Climate Impacts

And so much more . . .

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QUESTIONS?

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