COVID-19 Epi Snapshot

Emergency Legal Preparedness/Response/Recovery
Federal | State | Tribal | Local

Public Health Emergency Powers

Constitutional & Other Challenges

Additional Resources/Ask the Network
Transmission

- Transmissible person-to-person with potential infectivity rate exceeding annual influenza.
- Asymptomatic persons may clearly infect others.

Symptoms

- Respiratory symptoms, fever, cough, breathing difficulties, chills, muscle pains, headache, sore throat & loss of smell/taste
- In severe cases infection can cause pneumonia, respiratory issues, kidney failure & death.

Vaccines & Treatment

- There are no effective treatments or vaccines although several options are under close review or early assessments.
People Who Are at Higher Risk for Severe Illness

Underlying health condition/Risk factor for severe outcomes from respiratory infection (% with condition)
- One or more conditions (37.6%)
- Diabetes (10.9%)
- Chronic lung disease (9.2%)
- Cardiovascular disease (9.2%)

Emerging Epidemiology Trends

Antibodies may be insufficient to ward off additional infections.

Emerging cases surged over 50% related to re-opening activities.

Asymptomatic persons could account for 40-45% of infection spread.

5 potential vaccines are in Phase III clinical trials for safety & efficacy.
Prolonged Effects of COVID-19

- CDC study released July 24, 2020 finds that “COVID-19 can result in prolonged illness even among persons with milder outpatient illness, including young adults.”

- 35% of 292 symptomatic respondents reported not having returned to their usual state of health 16 days (median) from testing date:
  - 26% among those aged 18–34 years
  - 32% among those aged 35–49 years
  - 47% among those aged ≥50 years
COVID-19 Confirmed Cases & Deaths

Global Cases 16.30 million | Deaths: 649,662
U.S. Cases 4.24 million | Deaths: 146,700
U.S. Stats 26% all cases | 23% all deaths

Public health authorities and powers vary depending on the type of emergency declared at every level of government.

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Public health authorities and powers vary depending on the type of emergency declared at every level of government.
Federal Emergencies/Invocations

- HHS Public Health Emergency: Jan. 31
- HHS PREP Act Declaration: Feb. 4
- Stafford Act Emergency: Mar. 13
- National Emergencies Act: Mar. 13
- Defense Production Act: Mar. 20
Jan. 31: HHS Sec. Alex Azar declares national public health emergency effective as of Jan. 27

- Encourages interjurisdictional coordination
- Allows waivers of specific federal laws
- Authorizes real-time countermeasures through emergency use authorizations
- Supports social distancing measures

July 23: Sec. Alex Azar renews PHE declaration for 90 days effective July 25.
Mar. 13: President Trump declares dual emergencies via the National Emergencies Act and § 501(b) of the Stafford Act authorizing:

- Access to FEMA’s Disaster Relief Fund and reimbursement for eligible emergency protective response measures.
- Waivers under SSA § 1135 of select Medicare, Medicaid, S-CHIP, HIPAA Privacy Rule requirements
- Additional types of federal assistance to states & localities
Select Congressional Bills

7/27
Senate proposes a $1 trillion relief bill providing for a new round of stimulus checks, expanded unemployment benefits & additional school funding.

6/24
Senate introduces a bill to provide funding to address health workforce shortages & disparities highlighted by COVID-19.

6/24
Emergency House Protections & Relief Act introduced to prevent evictions, foreclosures & unsafe housing conditions resulting from COVID-19.

6/22
House introduces a bill to require COVID-19 drugs developed with federal support to be affordable & accessible.

5/15
House passes HEROES Act providing more economic stimulus & funds for contact tracing.
**July 27:** Senate proposes HEALS Act, a $1 trillion COVID-19 relief bill, including:

- Another round of $1,200 direct payment stimulus checks for individuals;
- Increased funding to the Paycheck Protection Program;
- Reduced unemployment benefits previously expended by the CARES Act;
- Liability protections for businesses so long as they make reasonable efforts to comply with CDC re-opening guidelines; and
- $100+ billion in funding for schools and colleges reopening.
**Major Enacted Federal Legislation**

**Families First**

*Mar. 18: Families First Coronavirus Response Act*
- Private health plans must provide $0 cost coverage for COVID-19 tests
- Temporarily increases federal portion of Medicaid
- Requires 14 days of paid sick leave for certain employees

**CARES Act**

*Mar. 27: CARES Act*
- Largest stimulus package in history
- Requires insurance providers to cover COVID-19 testing, vaccines & preventative services
- Protects volunteer HCWs from liability
- Authorizes PHI disclosure with written patient consent

**PPP & HEA**

*Apr. 24: Paycheck Protection Program & Healthcare Enhancement Act*
- Additional funding for hospitals & HCPs
- Supports testing & contact tracing efforts
- Requires governors to submit 2020 testing plan
- HHS Secretary must report on testing, cases & deaths
Federal Agency Coordination

Right click on each image to link to COVID-19 sites
Emergency Waivers

Mar. 13: HHS Sec. Azar issues § 1135 national waivers (retroactive effect on March 1) re:

- **EMTALA** sanctions for patient relocation purposes
- **HIPAA Privacy Rule** regulations (for limited duration)
- In-state **licensure requirements** for health care workers
- **Participation restrictions** on Medicare, Medicaid, & S-CHIP
- Medicare Advantage **payment limitations**
- **Stark Law** sanctions

April 15: CMS updates waivers for health care providers re:

- **Telemedicine provisions**, facilitating Medicare services
- **Patient rights** surrounding access to medical records, visitation & seclusion
- **Physical environments** to allow care in non-hospital settings during surge
Joe Biden’s COVID Plan

• **Restore trust & credibility in public officials**
  • Reinstate daily briefings, ensure decisions are made by public health officials and not politicians, restore the White House National Security Council for Global Health Security and Biodefense

• **Effective national emergency response**
  • Make testing widely available, create more capacity for prevention, response & treatment, accelerate development of treatment & vaccines, provide timely data & information

• **Eliminate cost barriers to prevention & treatment**
  • Ensure everyone irrespective of insurance coverage has access to free testing, preventative services & vaccines.

• **Support workers, small businesses & stabilize the economy**
  • Provide guaranteed paid sick & care-giving leave, expanded unemployment relief & state/local emergency funds.

• **Lead global responses to COVID-19**
  • Create a Global Health Emergency Board, advance global pandemic preparedness
COVID State & Select Tribal/Local Emergency Declarations

Click on the **date** of each state to view declarations

Link [here](#) for updates re: jurisdictional requests for FEMA disaster relief

- **Emergency - 33**
- **Disaster - 4**
- **Public Health**
- **Emergency/Disaster - 9**
- **Emergency + Public Health Emergency - 4**

**County/City**

**Tribal**

- Alaska (AK)
- Hawaii (HI)
- Puerto Rico (PR)
- Virgin Islands (VI)

**Public Health Disaster**

- Honolulu Co.
- Maui

**Emergency**

- Ka‘a‘a
- Edmonds
- Auburn
- Bellevue
- Snohomish Co.
- Lummi Nation
- Kitsap Co.
- Pierce Co.
- Redmond
- Seattle
- King Co.
- Clackamas Co.
- Portland
- Flint Co.

**County/City**

- Santa Clara Co.
- San Diego Co.
- San Francisco Co.
- Orange Co.
- Sonoma Co.
- Alameda Co.
- Los Angeles Co.
- Long Beach
- Orange Co.
- San Diego Co.

**Tribal**

- Lummi Nation
- Hoopa Valley Tribe
- Redmond
- Seattle
- King Co.
- Seattle
- King Co.
- Bexar Co.
- San Antonio
- Sonoma Co.
- Alameda Co.
- Los Angeles Co.
- Long Beach
- Orange Co.
- San Diego Co.

**County/City**

- Salt Lake Co.
- Salt Lake City
- Navajo Nation
- Eagle Co.
- Phoenix

**Tribal**

- Oglala Sioux Tribe
- Northern Arapaho

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- Alameda Co.
- Los Angeles Co.
- Long Beach
- Orange Co.
- San Diego Co.
Number of States Issuing Initial Emergency Declarations

For more information on the current status of state/territorial declarations, see the National Governors Association online resource.
## Select State Emergency Powers Explicitly Invoked by Declarations

**Note:** this table tracks select, express authorities referenced via state emergency declarations ([link](#) on each state acronym for access). *Additional emergency powers may be authorized under state law through which the declarations are issued.*

| Emergency Powers                  | A | A | C | C | C | D | F | H | I | I | K | L | M | M | M | M | N | N | N | N | O | O | O | P | R | T | V | U | W | W |
| Altered Contracts | Procurements           |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Emergency Plans | ICS                     |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Funding | Resource Allocation     |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Intrastate Coordination         |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Isolation | Quarantine             |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Licensure Reciprocity          |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Price Controls re: Gouging     |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Surveillance | Reporting         |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Testing | Screening | Treatment |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Travel Restrictions            |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Waivers | Suspensions            |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |

Note: This table tracks select, express authorities referenced via state emergency declarations (link on each state acronym for access). Additional emergency powers may be authorized under state law through which the declarations are issued.
Projected Emergency Declaration Expirations by Month (2020)

# of states whose emergency declarations are projected to expire per month, absent further intervention
**Legal Triage**: efforts of legal actors & others during declared emergencies to build a favorable legal environment by prioritizing issues & solutions facilitating legitimate public health responses.
Balancing Individual & Communal Interests

**Individual Interests**
- Privacy
- Religious Freedoms
- Due Process
- Equal Protection

**Communal Interests**
- Surveillance
- Treatment
- Isolation & Quarantine
- Curfews & Closures

Emergency Preparedness and Response
Select Structural & Rights-based Constitutional Issues

- Separation of Powers
- Federalism
- Supremacy
- Preemption
- Judicial Deference
- Freedom of Expression
- Freedom of Assembly
- Freedom of Religion
- Due Process
- Right to Privacy
- Equal Protection
- Right to Travel
- Right to Bear Arms
- Cruel & Unusual Punishment
- Takings
Current & Emerging Legal Issues

Topics:
- Emergency Powers - Triage
- Crisis Standards of Care
- Social Distancing Measures
- Surveillance & Reporting
- Privacy
- Liability
- Testing/Screening/Treatment/Vaccination
March 3: VP Pence: “Any American can be tested . . . subject to doctor’s orders.”

March 21: Some health officials restrict **coronavirus** testing to HCWs & hospitalized persons, saying “the battle to contain the virus is lost [as we move] into a new phase of the pandemic response.”

April 11: CMS issues guidance requiring insurers to cover diagnostic testing & related services with **no patient cost-sharing**.

April 19: Antibody tests key to reopening country are in high demand, yet tests’ **availability** and **inaccuracies** raise alarms.

May 7: AZ Gov. Ducey **withdraws access** by university researchers to select health data for in-state surveillance, then reverses decision.
COVID-19 Vaccination Allocation

Click on image to access

Committee on Equitable Allocation of Vaccine for the Novel Coronavirus

First Committee Meeting Public Agenda

Friday, July 24, 2020
4:30 p.m. – 5:30 p.m. ET
Zoom Webinar

Meeting Objectives

- Hold an open session to hear from sponsoring agencies on their perspectives of the statement of task

Friday, July 24, 2020
OPEN SESSION
Multiple states & localities issue requirements based on CDC recommendations to wear face masks in public places.

- **Localities in 43 states and territories** require face masks to be worn by employees, customers, or others in public.
- **May 20:** Poll shows that 64% of respondents said everyone should be required to wear a mask.
- **July 7:** Freedom Foundation files lawsuit challenging the constitutionality of WA state mask mandate. On **July 27**, it sues Oregon re: its mask mandate.
- **July 10:** Circuit court judge rejects FL state representative lawsuit challenging the constitutionality of Orange County’s mask requirement.
Clashes over Mask Mandates in Georgia

July 15, 2020: Georgia Governor Brian Kemp issues executive order suspending any local mandates for face coverings.

July 16, 2020: Gov. Kemp files a lawsuit against the Atlanta City Council and Mayor Keisha Lance Bottoms for continuing to require face masks.

July 21, 2020: Two Georgia superior court judges recuse themselves from the Governor’s lawsuit, citing ethical conflicts.

July 27, 2020: Gov. Kemp withdraws his request for an emergency hearing and will continue to negotiate with Mayor Lance-Bottoms while a new hearing date is set for the case.
Contact tracing - efforts typically led by public health agents to ascertain specific contacts of persons infected with COVID-19 and notify them of potential exposure and seek testing.

States are hiring thousands for contact tracing activities within health agencies.

Apple & Google released Bluetooth technology on April 10 that sends automatic alerts to persons in range of COVID + persons, raising privacy concerns.

New bill signed into law in Kansas on June 8 restricts contact tracing to voluntary participants, provides strong confidentiality protections, and extensively limits liability.
COVID-19 & HIPAA Bulletin
Limited Waiver of HIPAA Sanctions and Penalties During a Nationwide Public Health Emergency

The Novel Coronavirus Disease (COVID-19) outbreak imposes additional challenges on health care providers. Often questions arise about the ability of entities covered by the HIPAA regulations to share information, including with friends and family, public health officials, and

COVID-19 and HIPAA: Disclosures to law enforcement, paramedics, other first responders and public health authorities

Does the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule allow a covered entity to share the name or other identifying information of an individual who has been infected with, or exposed to, the virus SARS-CoV-2, or the disease caused by the virus, Coronavirus Disease 2019 (COVID-19), with law enforcement, paramedics, other first responders, and public health authorities without an individual’s authorization?

For additional expert analyses and guidance, contact Denise Chrysler, JD, or Sallie Milam, JD, CIPP/US/G, in our Network–MidStates Region
Substantial change in usual healthcare operations and level of care due to a pervasive or catastrophic disaster.
Select States’ CSC Plans

Click on the date* of each state to view CSC plans (where available)

*The date provided indicates when a state’s CSC plan was published, not necessarily activated.
Practical, Ethical, and Legal Challenges Underlying Crisis Standards of Care

James G. Hodge, Jr., Dan Hanfling, and Tia P. Powell

- Allocation
- Patient’s Rights
- Reimbursement
- Licensure
- Scope of Practice
- Civil Rights
- Duty to Care
- Uniformity
- Liability
Despite risks, many legal liability protections apply in routine events & declared emergencies, especially concerning health care volunteers, workers, and entities.
Social Distancing Measures

- Control modes of transportation
- Increase distance among workers
- Dismiss schools
- Restrict public gatherings
- Isolation & quarantine
- Evacuation
- Curfew
- Shelter-in-place/ Lockdown
Quarantine
Separation from others of people exposed to a contagious condition prior to knowing if they may be ill or contagious

Isolation
Separation from others of people who are known to be infected, or capable of infecting others, with a contagious condition

See the National Conference of State Legislatures for a listing of state-based quarantine and isolation statutes.
Q & I Best Practices

- Safe, hygienic premises
- Monitoring & care
- Basic necessities
- Means of communication
- Least restrictive means
- Termination
Assembly Limits

Government limits on assembly and speech are constitutional provided they are narrowly tailored to a substantial governmental interest & allow alternative channels for communication. Clark v. Community for Creative Nonviolence, 468 U.S. 288 (1984)

- On what authority?
- By who specifically?
- At what governmental level?
- In what specific setting?
- For how long?
Mar. 29: Curfew order extends existing Stay at Home Order for the entire Navajo Nation. All persons, subject to some exceptions, must stay home from 8:00 p.m. - 5:00 a.m., 7 days a week.

May 5: Nearby Gallup, NM imposed strict confinement measures via use of “riot act” authorities allowed by NM Governor Michelle Lujan Grisham that ended on May 10, 2020.
Jan. 31: Trump Administration bans foreign national travel for those who have been in China w/in last 14 days and who pose a risk.

Feb. 29: Administration bans foreign national travel for those who have been in Iran, as well as travel warnings re: Italy, Japan & South Korea.

Mar. 11: President Trump institutes 30 day comprehensive travel ban for non-Americans arriving from EU, including U.K. & Ireland

Mar. 19: U.S. closes border with Canada & Mexico (through 7/20) to persons travelling for non-essential purposes (e.g. tourism).

Apr. 21: President Trump suspends limited immigration activities for 60 days initially, and extended to Dec. 31.

June 22: President Trump temporarily suspends foreign work visas through the end of 2020.
**Mar. 26:** “Governors Tell Outsiders From ‘Hot Zone’ to Stay Away as Virus Divides States”

- **Florida Governor Ron DeSantis** orders 14 day quarantine against anyone arriving from NY in prior 3 weeks
- **Hawaii Governor David Ige** recommends travelers postpone trips for 30 days and imposes 14 day quarantine on arrivals
- **Alaska Governor Mike Dunleavy** orders residents and others arriving in state to self-quarantine for 14 days

**June 24:** NY, NJ & CT Governors set 14 day quarantine requirement for persons returning or visiting from COVID “hotspot” states with > cases
June 23: Federal DOJ challenges constitutionality of HI’s 14-day quarantine order.

July 3: U.S. District Judge rules that Hawaii’s quarantine is reasonable in a public health crisis & constitutional, allowing the quarantine order to continue to be implemented.
State Shelter-In-Place or Stay Home Orders

Click on the date of each state to view the order

Note: data are based in substantial part on NYT (March 24, 2020)

Shelter-in-Place or Stay Home Orders – 43 states
Shelter-in-Place or Stay Home Orders – 3 partial states
Justifying Social Distancing

Assess Epi

Assure Mobilization

Acquire PPE

Find Treatments

Develop Vaccines

Save Lives
Assessing the Consequences

- Unemployment
- Business Failures
- Government Bailouts
- Active Protests
- Mental Health
- Lost Lives
April 16: The White House releases guidelines for “Opening Up America Again,” a 3 phased approach for state/local officials to consider. States must first meet regional gating criteria:

- Downward trajectory of COVID illnesses reported w/in 14 days
- Downward trajectory of cases or positive tests w/in 14 days
- Hospitals must treat all patients outside CSC or implementation of a “robust reporting system”

April 21: U.S. Attorney General William Barr instructs U.S. Attorneys to litigate against states failing to comply with national re-opening strategies
Phase 1

- Vulnerable individuals shelter-in-place
- Practice social distancing and avoid socializing in groups >10
- Employers should encourage telework and most businesses remain closed

Phase 2

- Resume non-essential travel
- Schools, gyms, and bars may re-open

Phase 3

- Vulnerable individuals may resume public interactions, with social distancing
- Large venues may reopen
Re-opening Efforts

Essential Business

Light Retail

Salons & Barbers

Bars

Gyms

Restaurants
July 8: President Trump threatens to cut funding for schools that do not reopen and criticizes CDC’s school safety guidelines as tough & expensive.

July 17: CA Gov. Gavin Newsom issues an executive order forbidding schools from reopening in counties on California’s COVID-19 watch list until certain criteria are met. On July 21, the Center for American Liberty, representing parents, filed a lawsuit challenging the order’s constitutionality.

July 23: CDC emphasizes the importance of school re-opening, citing evidence indicating school-aged children are at low risk for COVID-19 and are unlikely to “be major drivers” in spreading the virus.

Multiple legal issues extending from school reopening include: lawful authority to open (or not), liability claims (related to potential outbreaks), liability protections, discrimination, demands for tuition refunds, rights to education, and teacher union disputes.
Select Changes to School Vaccination Policies Due to COVID-19

Permitting Delays

- **Nevada** is granting immunization extensions for the 2020-21 school year because the postponement of non-essential medical services halted necessary enrollment vaccinations. Students may enroll irrespective of immunization status.
- A **Tennessee school principal** stated that a grace period on the school’s immunization schedule may be given if parents demonstrate they attempted to catch their kids up on shots.

Maintaining Immunization Requirements

- **Ohio schools** are requiring vaccination for the 2020-21 school year (like many school systems nationally).
- **Kentucky schools** require that records be up-to-date on required vaccines for the 2020-21 school year with exemptions for religious or medical reasons.

Drive-thru Immunization Clinics

- **Cleveland County (NC) schools** are partnering with the county’s public health center to provide immunizations via drive-thrus.
- **Sweetwater County (WY) public health authorities** are offering a drive-thru immunization clinic for incoming 7th graders required to get Tdap and Meningococcal vaccines.
Epidemiologists are concerned that factors unique to residential universities (e.g., shared living spaces, large gatherings) heighten risks for significant outbreaks.

CDC & American Association of University Professors released guidance on reopening campuses emphasizing safety for faculty, staff & students.

In May, 14 university presidents met with VP Pence and Sec’y of Educ. DeVos to seek liability protections as campuses reopen, citing concerns of lawsuits over outbreaks and tuition fees.

In July, Sec’y of Educ. DeVos and President Trump promulgate physical re-opening of schools for the Fall 2020 semester.
Re-opening Legal Controversies

Federal v. State

State v. Local

State v. Tribal

Employee v. Employer

Public v. Private Sector
May 19: A high ranking DOJ official sent a letter to CA Governor Gavin Newsom, threatening to intervene if CA does not alter its stay home order and re-opening policy.

• While restaurants and malls can open in phase 2 re-opening strategies, religious entities cannot do so until phase 3.
• DOJ characterizes this deferential treatment as unconstitutional pursuant to *Lukumi v. City of Hialeah*.

May 29: U.S. Supreme Court Chief Justice John Roberts opined that the limitations put in place by Governor Newsom’s order are constitutionally-sound under the First Amendment and pursuant to judicial discretion of executive acts.
May 12: Pennsylvania Governor Tom Wolf threatens multiple counties attempting to open businesses in contravention of existing state-level stay-at-home orders with denial of discretionary federal funds and various sanctions for offending businesses including loss of license and payment of unemployment benefits for employees unwilling to work for safety reasons.

May 13: Texas Attorney General issues letter to local officials in Dallas, Austin, and other municipalities to cease enforcement of multiple social distancing and preventive measures related to religious institutions, wearing of masks, and contact tracing efforts under threat of litigation.
May 13: In Wisconsin Legislature v. Palm, the WI Supreme Court determined that Department of Health Secretary Andrea Palm’s stay home “order” issued pursuant to Governor Evers’ emergency declaration was actually an unconstitutionally crafted “rule,” and consequentially nullified the order.
Reopening Communities

• **From May 1-10**, NM Gov. Michelle Lujan Grisham invoked emergency powers to lock down the City of Gallup to stop tribal members (largely from Navajo Nation) from spreading COVID to state residents.

• After a partial reopening July 14th, the St. Regis Mohawk Tribe (NY) renewed emergency protocols on July 24th following eight new confirmed cases as the region around it reopens.

Restricting Travel

• On **May 8**, SD Gov. Kristi Noem ordered checkpoints on state highways to be removed and requested federal assistance when tribes refused. Following threats from the Bureau of Indian Affairs to withdraw law enforcement funding if checkpoints are not removed, the Cheyenne River Sioux Tribe filed a lawsuit, seeking to stop the federal government from withdrawing funding.

Reopening Casinos

• CT Gov. Ned Lamont recognized the Mashantucket Pequot and Mohegan Tribes’ sovereignty over the decision to **reopen on June 1** but warned of impacts of reopening casinos on state and tribal partnerships, as well as public health. The casinos have **yet to report any infections**.
Public v. Private Litigation

**Friends of Danny DeVito v. Wolf** – On April 13, PA’s Supreme Court ruled that the temporary closure of non-essential businesses within the scope of the Governor’s emergency order did not constitute a taking.

**Tesla Inc. v. Alameda County** - On May 9, Tesla sued Alameda County alleging it violated principles of due process & equal protection by disallowing Tesla to operate its manufacturing plant. The case was dismissed after Tesla was allowed to do basic operations.

• **Workers compensation** - often exclusive remedy for workplace injuries
• **Wrongful termination** - e.g., employee faces adverse action for seeking protections
• **Discrimination** - e.g., persons are discriminated based on age, parenthood, health, sex, or other protected characteristics
• **Nuisance** - e.g., employer workplace hazards pose public or private nuisance. Recent judgement in Oakland against McDonald’s® requires new employee safety protocols to sustain reopening.
• **Negligence & intentional torts** - e.g., employer fails to implement CDC/OSHA safety measures
Select Acts of Intimidation of Public Health Officials

Since April, over 2 dozen state & local health leaders have “resigned, retired, or been fired” in multiple states.

In April & May, the Tri-County (CO) Health Department was vandalized on 3 different occasions (i.e., broken windows, spray painting vulgarities, harassing notes).

As of May 9, the residence of Ohio’s state health director was picketed. On June 11, armed protestors surrounded the property, lending to her resignation that same day.

As of June 8, the health officer of Orange County (CA) resigned after public meeting and social media threats.

As of June 22, L.A. County’s public health director received threats of being shot.
Thank You Contributors!

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For More Information

Access these and other Network materials [here](#)

- **Ask the Network** re: questions/comments relating to this information or other legal preparedness & response efforts

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