

OUTLINE

| | |
|--|------|
| PREFACE/INTRODUCTION..... | III |
| U.S. CONSTITUTION BILL OF RIGHTS & 14TH AMENDMENT | XI |
| TABLE OF CASES | XXI |
| GLOSSARY OF ACRONYMS | XXIX |

PART I. CORE STRUCTURE & BASES OF PUBLIC HEALTH LAW

| | |
|---|-----------|
| Chapter 1. The Field of Public Health Law..... | 5 |
| A. Public Health Law: Then & Now..... | 6 |
| B. Defining Public Health Law | 12 |
| C. Building Evidence for Public Health Law | 18 |
| D. The Role of Public Health Ethics | 21 |
| Chapter 2. Source & Scope of Public Health Legal Powers..... | 31 |
| A. The Constitutional Fountain of Public Health Powers | 36 |
| 1. Federalism..... | 36 |
| 2. Separation of Powers | 42 |
| 3. Preemption | 48 |
| B. Federal Public Health Powers | 56 |
| C. State Public Health Powers | 58 |
| 1. Police Powers..... | 59 |
| 2. <i>Parens Patriae</i> Powers | 60 |
| D. Local Public Health Powers..... | 62 |

| | |
|---|-----------|
| Chapter 3. Constitutional Rights & the Public's Health | 67 |
| A. Foundations of Rights-Based Limitations | 69 |
| B. Brief Overview of Specific Rights | 73 |
| 1. First Amendment Rights | 73 |
| 2. Due Process | 76 |
| 3. Right to Travel | 77 |
| 4. Equal Protection | 78 |
| 5. Privacy | 82 |
| 6. Additional Rights | 84 |
| C. Balancing Individual & Community Interests | 88 |
| D. Constitutional Cohesion..... | 98 |

PART II. LEGAL AUTHORITY TO PREVENT & CONTROL PUBLIC HEALTH CONDITIONS

| | |
|---|------------|
| Chapter 4. Preventing & Treating Communicable Conditions | 107 |
| A. Communicable Conditions—Defined | 108 |
| B. Voluntary, Mandatory & Compulsory Powers | 115 |
| C. Testing & Screening | 118 |
| D. Treatment & Related Therapies..... | 125 |
| 1. Directly-Observed Therapy | 127 |
| 2. Expedited Partner Therapy | 128 |
| E. Partner Notification | 130 |
| F. Vaccination | 133 |
| Chapter 5. Social Distancing Measures | 145 |
| A. State/Local Quarantine & Isolation | 147 |
| B. Federal Quarantine & Isolation | 155 |

C. Curfews & Closures..... 162
 D. Personal Liberties 165

Chapter 6. Addressing Chronic

Conditions 171
 A. Chronic Conditions—Defined 172
 B. Causes of Chronic Conditions..... 179
 C. Legal Authorities..... 186
 1. The Power to Tax 189
 2. The Power to Spend 194
 3. The Power to Regulate 198
 4. Addressing Disability Bias 208

Chapter 7. Mitigating the Incidence &

Severity of Injuries & Other Harms 217
 A. Primary Sources of Injuries, Harms &
 Deaths 219
 B. Addressing Harms via Tort Law 233
 1. Negligence 234
 2. Intentional Acts 238
 3. Strict Liability..... 239
 4. Products Liability 240
 C. Criminal Law & Public Health..... 251

**PART III. LAW & THE PROMOTION
 OF THE PUBLIC’S HEALTH**

Chapter 8. Public Health Information

Management, Privacy & Security 261
 A. Surveillance & Reporting..... 262
 B. Balancing Individual Privacy & Communal
 Interests 267
 C. Privacy, Confidentiality & Security 270
 1. Federal Privacy Laws 274

- 2. HIPAA Privacy Rule 278
- 3. State & Local Privacy Laws 284
- D. Privacy & the Right to Know 287
- E. Distinguishing Practice & Research 290

Chapter 9. Regulating Communications..... 299

- A. Public Health Education 300
- B. Required Disclosures of Public Health Information 307
 - 1. Warnings & Advisories 308
 - 2. Menu Labeling 317
- C. Controlling Commercial Communications.... 321
- D. Commercial Speech & Tobacco 327

Chapter 10. Monitoring Property & the

Built Environment..... 337

- A. Inspections & Oversight 338
- B. Search & Seizure 342
- C. Nuisance Abatement 346
 - 1. Public Nuisance 347
 - 2. Private Nuisance..... 352
- D. Takings..... 354
- E. Zoning & the Built Environment 358

Chapter 11. Public Health Emergency

Legal Preparedness & Response..... 367

- A. Defining Public Health Emergencies 370
- B. State & Local Public Health Emergency Powers 379
- C. Federal Public Health Emergency Powers ... 382
- D. Evolving Emergency Legal Environment 388
 - 1. Interjurisdictional Roles in Emergency Preparedness..... 388

2. Practicing Legal Triage 390
 3. Emergency Liability Protections..... 392

Chapter 12. COVID-19 Pandemic: Public Health Emergency Law & Policy

Responses 405
 A. Unprecedented Public Health Challenges & Responses..... 407
 B. Invocation of Emergency Public Health Declarations & Powers..... 413
 C. Judicial Challenges to PHE Interventions ... 420
 D. Legal Objections to Crisis Standards of Care 431
 E. Real-Time Development & Distribution of Vaccines 439
 F. Public Health Emergency Laws in the 21st Century 448
 INDEX..... 459