

NEW YORK STATE
**PUBLIC HEALTH
LEGAL MANUAL**



A GUIDE *for*
JUDGES, ATTORNEYS *and*
PUBLIC HEALTH PROFESSIONALS

SECOND EDITION



NEW YORK STATE
Unified Court System



NEW YORK STATE
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FOREWORD

Chief Judge Janet DiFiore:

In today's world, we face many natural and man-made catastrophic threats, including the very real possibility of a global influenza outbreak or other public health emergency that could infect millions of people. While it is impossible to predict the timing or severity of the next public health emergency, our government has a responsibility to anticipate and prepare for such events. An important element of this planning process is advance coordination between public health authorities and our judicial and legal systems. The major actors in any public health crisis must understand the governing laws ahead of time, and must know what their respective legal roles and responsibilities are. What is the scope of the government's emergency and police powers? When may these be invoked, and by which officials? What are the rights of people who may be quarantined or isolated by government and public health officials?

These questions must be researched and answered now—not in the midst of an emergency—so that the responsible authorities have a ready-made resource to help them make quick, effective decisions that protect the public interest. This *New York State Public Health Legal Manual* is designed to serve this purpose. It will be an absolutely essential tool in guiding us through the effective management of future public health disasters. I am pleased that the New York State Unified Court System was able to play a key role in this historic collaboration along with the New York State Bar Association, the New York State Department of Health, and the New York City Department of Health and Mental Hygiene. I thank each of these organizations for their invaluable cooperation and contributions.

Henry M. “Hank” Greenberg, President, New York State Bar Association:

A core mission of the New York State Bar Association is to serve as a resource for the profession, policymakers and public on complex and important public policy issues. Just such issues are presented today by the coronavirus pandemic—a contagion that poses the gravest public health crisis in American history.

Lawyers, judges and public health officials will find this volume a useful resource, containing a superb and readily accessible survey of the law governing the containment of communicable diseases. It is the product of

a collaborative effort, bringing together the state's leading health lawyers and other experts. The New York State Bar Association is grateful for the extraordinary efforts of the Office of Court Administration to produce this volume and for the tremendous support from the New York State Department of Health and the New York City Department of Health and Mental Hygiene.

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The Committee members for the first edition are Michael Colodner, Esq., Editor-in-Chief, Robert Abrams, Esq., Hon. Richard T. Andrias, Barbara A. Ashfield, Esq., Holly Mitchell Dellenbaugh, Esq., Lawrence M. Martin, Esq., Justin D. Pfeiffer, Esq., Robert N. Swidler, Esq., Hon. Shirley Troutman, Roslyn Windholz, Esq., and Ronald P. Younkins, Esq.

Robert L. Burhans, former Director of the Office of Emergency Preparedness of the New York State Department of Health, and Lawrence M. Martin, Esq., New York City Law Department, also contributed to the first edition.

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