

# NEWS BITES

SEPTEMBER 2020

## LAPPA NEWS

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### **Updates to Federal Privacy Laws – New Fact Sheet Available**

As part of an effort to make it easier to share protected health information among medical providers, Congress and the Substance Abuse and Mental Health Services Administration (SAMHSA) have updated two key pieces of legal authority related to the privacy of substance use disorder (SUD) treatment records. As part of the CARES Act passed in March 2020, Congress amended 42 U.S.C. § 290dd-2 to bring the consent requirements for disclosure and redisclosure of SUD treatment records more in line with the Health Insurance Portability and Accountability Act (HIPAA). In August 2020, SAMHSA finalized the adoption of amendments to 42 C.F.R. Part 2 which make it easier to coordinate care between a patient's treatment providers. To read a full summary of privacy law changes, click [here](#).

### **Good Samaritan Fatal Overdose Prevention Laws**

LAPPA recently completed an extensive research project on the current status of Good Samaritan fatal overdose prevention laws throughout the United States, the District of Columbia, and the U.S. territories. The results were presented in jurisdiction-by-jurisdiction tables describing the many aspects of each Good Samaritan fatal overdose prevention law currently in effect. The document reviews detailed aspects of these laws, including which individuals are eligible for Good Samaritan protections, from which crimes certain individuals are immune from prosecution, and whether reporting an overdose can serve as a mitigating factor for crimes not subject to the immunity provisions. As of June 2020, 47 states and the District of Columbia have Good Samaritan fatal overdose prevention laws.

In addition to detailing Good Samaritan fatal overdose prevention laws, as part of this project, LAPPA researched the current status of drug-induced homicide/drug delivery resulting in death laws (DIH/DDRD laws). DIH/DDRD refers to laws that establish a specific criminal charge, often manslaughter or murder, for individuals who furnish or deliver controlled substances to another individual who then dies as a result. There is tension between Good Samaritan fatal overdose prevention and DIH/DDRD laws, and an ongoing policy debate exists about whether the use, or potential use, of DIH/DDRD laws against those who might report an overdose negates the incentive to report such an incident provided by Good Samaritan protections. To review this research, click [here](#).

### **Incorporating Mental Health Screenings into COVID-19 Contact Tracing**

One of the key steps to controlling a pandemic, including the current novel coronavirus pandemic, is to have a system in place for identifying individuals who have the virus, who may have been exposed to the virus, and those who may have immunity to the virus. The system is often called contact tracing, and jurisdictions around the world have been racing to design and implement contact tracing frameworks. In order to do so successfully, tens of thousands of public health workers must receive specific training. Some experts have suggested that this training should include methods on how to screen individuals for mental health issues, which are on the rise since the onset of the COVID-19 pandemic. The mental health component of each screening would be voluntary, with the goals of reducing stigma, educating people about symptoms associated with mental health disorders, and assisting those suffering from such disorders. Most COVID-19 contract tracers call and interact with dozens of individuals every day, and while mental health screening would increase the time spent with each individual, that extra time could identify persons at risk of depression, suicide, and drug or alcohol misuse. The novel coronavirus pandemic, for all its downside, offers a unique opportunity to strengthen our community health infrastructure and help sharpen the tools used to address a variety of public health crises, including the looming mental health crisis. To read the full article in the *Journal of Health Affairs*, click [here](#).

### **Can Smaller Prescriptions Help Reduce Opioid-Related Deaths?**

Earlier this year, Australia implemented a number of new restrictions related to opioids as part of a response to a rise in opioid-related deaths. From 2007 to 2016, opioid-related deaths in Australia nearly doubled, and most of those deaths involved prescription medications, not illicit opioids such as heroin. A range of changes to the country's laws are planned, including changes to the amount of opioids that can be prescribed to an individual for short-term or acute pain and requiring patients using high-strength opioids for chronic pain to try other types of relief before being eligible to receive more potent medications. Research in both the United States and Australia shows that the higher the quantity of pills in a patient's first opioid prescription, the more likely it is that person will fall into a pattern of long-term opioid use. To read the full article in *The Conversation*, click [here](#).

### **Can Reliable Public Transportation Improve Substance Use Disorder Treatment?**

Researchers at the University of Connecticut are currently studying whether access to reliable public transportation can improve the efficacy of substance use disorder treatment. The researchers were awarded a \$500,000 grant from Systems for Action, a national program of the Robert Wood Johnson Foundation. The study will look at how transit systems can enhance treatment outcomes and reduce provider-level treatment costs for substance use disorder. Increasing access to treatment and retention in treatment services are critical components to improving outcomes, both of which could be impacted by the availability and reliability of public transportation. The three-year project will test how treatment differs before and after the addition of new transit lines or changes in transit service schedules. Of particular interest to the professors spearheading the project is the impact of public transportation on treatment access, the reduction in the number of missed appointments, and provider efficacy. For more information from *UConn Today*, click [here](#).

### **Opioid Misuse Risk High in Nursing Facilities**

A recent study published in *Pharmacoepidemiology and Drug Safety* shows that patients who bring high-dose narcotic prescriptions into skilled nursing facilities are more at risk for opioid misuse. Research conducted for

the study indicates that many older patients start an opioid prescription for acute pain, slowly become chronic users, and eventually become dependent. The study involved examination of the records of 4,734 patients that were discharged from a hospital into a skilled nursing facility. Of those patients, 70 percent received an opioid prescription upon discharge from the hospital. Nearly 70 percent of those prescriptions were for oxycodone, and more than half were for a morphine milligram equivalent that prescribers are urged to avoid or carefully justify, per CDC guidelines. The study's authors want their research to serve as a starting point for a more in-depth review of prescribing practices centered around hospital discharges/entry into skilled nursing facilities. To read the full study, click [here](#).

### **Talking to Kids About Addiction**

Sesame Street is launching a new webinar series aimed at helping break down the complexities of addiction in a way that children can understand. According to the National Center on Substance Abuse and Child Welfare, almost six million children under the age of 11 are living with a parent who suffers from a substance use disorder. Those children are at higher risk of direct and indirect trauma, and the difficulties associated with the novel coronavirus pandemic are exacerbating that risk. Pediatric psychologists say that it is never too early to teach kids about substance use disorder, and the new series takes that difficult topic and masterfully makes the content appropriate and digestible for kids of all ages. To access the series, click [here](#).

### **Policy Changes in Massachusetts Could Lead to New Hope for Treatment of Opioid Disorder**

Massachusetts lawmakers are taking an innovative approach to addressing high overdose rates among individuals who are returning to the community after being incarcerated. The Act for Prevention and Access to Appropriate Care and Treatment of Addiction requires acute care hospitals with emergency services and satellite departments to initiate medication for addiction treatment (MAT) therapy with patients if they experience an opioid-related overdose. The law also requires some county jails to deliver all forms of Food and Drug Administration-approved MAT. A four-year pilot program initiated subsequent to passage of legislation expanded access to five jails in the state, and two additional jails joined the pilot voluntarily; officials in those facilities must make sure that (1) inmates receive their MAT prior to and during detention, (2) MAT is continued prior to release, and (3) assistance is offered when possible for released inmates to continue their MAT therapy after re-entry into the community. To read the full legislation, click [here](#).

LAPPA has been actively researching MAT in correctional settings and, in partnership with the O'Neill Institute for National and Global Health Law at Georgetown University Law Center, LAPPA will soon be releasing the Model Access to Medication for Addiction Treatment in Correctional Settings Act (MAT Act).

### **Opioid Use Can Trigger Deafness**

According to new research out of Rutgers University Medical School, opioid use in high doses can lead to deafness. The findings were published in the *Journal of Medical Toxicology*, and reviewed records from the New Jersey Poison Control Center from years 1999 to 2018. Researchers identified 41 people with opioid exposure who experienced either full or partial hearing loss or tinnitus, likely caused by toxicity of the ear. More than half of those identified had used heroin, and the others had used oxycodone, methadone, and tramadol. Most people reported effects in both ears, and 12 study participants experienced total deafness. The study notes that the ear is a very delicate structure and is highly susceptible to injury if oxygen supply becomes insufficient. The study's authors are hopeful that their findings will encourage providers to consider opioid use when evaluating patients for acute hearing loss. To read the full study, click [here](#).

## U.S. Senators Seeking Telehealth Expansion for Substance Use Disorder Treatment

Senators Rob Portman (R-OH) and Sheldon Whitehouse (D-RI) recently introduced legislation that would make certain emergency actions passed during the novel coronavirus pandemic permanent, specifically those aimed at boosting telehealth access for substance use disorder (SUD) treatment. Mental health and SUD treatment providers have long lobbied the federal government to remove restrictions on virtual care for SUD treatment, often butting heads with those who argue that online prescribing needs tighter restrictions. This bill would allow health care providers to skip the in-person exam requirement and prescribe medication for addiction treatment (MAT) via telehealth. The legislation would also expand Medicare coverage to include audio-only calls. To read more, click [here](#).

## App Links Those Overdosing to Naloxone Supply

A new application is available that links those suffering from an overdose or their companions to nearby volunteers who may be trained to administer naloxone, the opioid overdose reversal medication that has become critical during the opioid epidemic. A trial study of the app was conducted over a one-year period in the city of Philadelphia. About half of the participants in the 112-person trial said that they responded to an overdose via the app and about half also reported using the app to request help for an overdose. Philadelphia has the largest overdose rate of any large city in the U.S., and the trial study showed that approximately two lives were saved every month thanks to the app. The software is not designed to take the place of a professional medic but rather to supplement an over-burdened first responder system. Those experiencing an overdose or who are witness to one can send out an alert to nearby app users, and responders can then reply and proceed to the address of the overdose with a supply of naloxone. This study was funded by the National Institute on Drug Abuse. To read more, click [here](#).

## NEWS BITS

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**California:** Officers from U.S. Customs and Border Protection recently seized more than 43,000 pounds of illicit drugs at various ports of entry along the California/Mexico border with a street value of more than 90 million dollars. Marijuana comprised the majority of the seizure, along with more than 7,500 pounds of methamphetamine, more than 600 pounds of cocaine, more than 150 pounds of heroin, and more than 150 pounds of fentanyl.

**Colorado:** Recently enacted Colorado Senate Bill 20-007 requires insurance carriers to provide coverage for the treatment of substance use disorder in accordance with the most recent edition of the American Society of Addiction Medicine's (ASAM) criteria for placement, medical necessity, and utilization management determinations. The act also authorizes the Commissioner of Insurance, in consultation with the Department of Human Services (DHS) and the Department of Health Care Policy and Financing, to identify by rule alternate nationally-recognized substance use disorder-specific treatment criteria if the ASAM criteria are no longer available, relevant, or reflective of best practices.

**Florida:** Alachua County announced a new co-responder program that pairs a mental health specialist with a sheriff's deputy trained in crisis intervention. The paired teams respond together to calls related to mental health crises and substance use disorder. The Alachua program is similar to one that was launched in another part of the state in 2018, where 91 percent of those who were the subject of a call to law enforcement were referred to mental health resources rather than being arrested and booked into the criminal justice system.

**Maine:** The Governor’s administration is planning to launch a statewide rapid response team that would make use of real-time data to look for spikes in nonfatal drug overdoses and offer assistance to people with substance use disorder who may not have otherwise sought out such assistance. The program is expected to cost about three million dollars and comes after a drug overdose report showed that 127 Maine residents died from an overdose during the first quarter of 2020.

**New York:** A recent poll showed that over half of New York’s residents say they have been impacted by opioid abuse. Poll participants also said that doctors are showing more care in prescribing opioids, and nearly 80 percent of state residents responded that opioid abuse is a serious problem. Seventy-four percent of New Yorkers believe that hospitals, law enforcement, and government entities all acknowledge, and are working on, a solution for the opioid epidemic.

**New York:** Governor Andrew Cuomo recently advanced regulations that require insurers to provide equitable coverage for mental health and substance use disorders. The new mandate dictates that insurers must identify discrepancies in coverage of services for treatment, such as for mental health and substance use disorder. Once differences are identified, insurers must devise a plan for addressing disparities.

**Pennsylvania:** Governor Tom Wolf renewed the state’s opioid disaster declaration for the eleventh time. The declaration allows the state to work outside of typical procedures to expedite aid and implement initiatives aimed at assisting persons suffering from substance use disorder. The disaster declaration was first issued in January 2018 and logistically helps facilitate collaboration among agencies that are working to mitigate the opioid crisis.

**Texas:** A woman has been arrested for allegedly leaving a friend to die in a hot car after the pair had been using drugs together the night before. The arrest affidavit states that police believe that the woman left the man she was with in a hot car, leading directly to the man’s death. She has been charged with criminally negligent homicide.

**West Virginia:** Thanks to funding from a State Opioid Response Grant, the West Virginia Mountain Transit Authority (MTA) is providing free transportation services to individuals enrolled in a drug treatment plan for opioid addiction. The goal of the program is to help people remain in treatment and long-term recovery programs. MTA provides transportation to medication for addiction treatment centers or programs and evidence-based services that identify and engage individuals in treatment.

## ABOUT LEGISLATIVE ANALYSIS AND PUBLIC POLICY ASSOCIATION

The Legislative Analysis and Public Policy Association (LAPPA) is a 501(c)(3) nonprofit organization whose mission is to conduct legal and legislative research and analysis and draft legislation on effective law and policy in the areas of public safety and health, substance use disorders, and the criminal justice system.

LAPPA produces up-to-the-minute comparative analyses, publications, educational brochures, and other tools ranging from podcasts to model laws and policies that can be used by national, state, and local criminal justice and substance use disorder practitioners who want the latest comprehensive information on law and policy. Examples of topics on which LAPPA has assisted stakeholders include naloxone laws, law enforcement/community engagement, alternatives to incarceration for those with substance use disorders, medication-assisted treatment in prisons, and the involuntary commitment and guardianship of individuals with alcohol or substance use disorders.

For more information about LAPPA, please visit: <https://legislativeanalysis.org/>.