

NEWS BITES

JULY 2021

LAPPA NEWS

The Police, Treatment, and Community Collaborative (PTACC), of which LAPPA is a member of its national leadership council, has opened registration for its 2021 Deflection and Pre-Arrest Diversion Training Summit, taking place from October 12th through the 15th in Chicago, Illinois. As described on PTACC's website, the training summit will "provide opportunities to network with your peers, learn about deflection and pre-arrest diversion programs, and to honor the leadership and legacy of Chicago's Black Community in our nation's civil rights movement." The summit's two main goals are to: (1) provide information on topics of importance regarding deflection and pre-arrest diversion through plenary sessions and over 25 breakout and workshop sessions to equip individuals and teams with concrete practical knowledge and solutions they can take back to their jurisdictions, and (2) train multi-disciplinary teams from city, county, and tribal jurisdictions that want to start or enhance deflection or pre-arrest diversion programs. Representatives from LAPPA and PTACC will be speaking to attendees about their collaborative model deflection to treatment act. For more information, click [here](#) and to register for the summit click [here](#).



PUBLICATIONS

LAPPA recently published two model acts, the **Model Law Enforcement Event Deconfliction Act** and the **Model Withdrawal Management Protocol in Correctional Settings Act**.

LAPPA's *Model Law Enforcement Event Deconfliction Act* (the Act) is intended to implement procedures across the country to safeguard law enforcement from incidents of "friendly fire." The Act requires that law enforcement personnel utilize event deconfliction software, which will notify them of any potential conflicts with other law enforcement activity in the same area, including service of arrest or search warrants, surveillance operations, or other high-risk or specialized law enforcement activities. The Act further requires that law

enforcement personnel take positive action upon being notified by the event deconfliction system of a conflict and provides penalties for failure to take such action. The Act was drafted with the invaluable assistance of members of the law enforcement community. To read the full Act, click [here](#).

LAPPA's *Model Withdrawal Management Protocol in Correctional Settings Act* (the Act) requires evidence-based treatment of substance use disorders, including the use of FDA-approved medications; requires correctional settings to establish and implement administrative and clinical protocols when detaining individuals at risk of withdrawal; and provides state legislators, policymakers, and those in the correctional and health care professions with a comprehensive framework to better respond to withdrawal symptoms and related mental health crises of individuals in custody to decrease their mortality while in correctional settings. This Act was drafted and published in partnership with the O'Neill Institute for National and Global Health Law at the Georgetown University Law Center. To read the full Act, click [here](#).

There are two new fact sheets available on LAPPA's website (www.legislativeanalysis.org): one pertaining to **Urine Drug Screens** and another pertaining to **Fentanyl Test Strips**. The *Urine Drug Screen Fact Sheet* delineates what steps can be taken to better ensure the detection of fentanyl in urine drug screens and can be read [here](#). The *Fentanyl Test Strips Fact Sheet* sets forth how fentanyl test strips work as a drug checking tool, their harm reduction benefits, and the current challenges surrounding their legality; this fact sheet can be read [here](#).

PRESENTATIONS

On June 15, 2021, Jon Woodruff, LAPPA Senior Legislative Attorney, gave a presentation as part of a session entitled *Data Collection, Sharing, and Privacy: Legal Considerations and Examples from the Field* at the Comprehensive Opioid, Stimulant, and Substance Abuse Program's Rural Responses to the Opioid Epidemic (RROE) - 2021 Virtual Convening. Looking at both the Health Insurance Portability and Accountability Act's (HIPAA) Privacy Rule and 42 C.F.R. Part 2, Mr. Woodruff's presentation addressed: (1) key similarities and differences between the two; (2) a framework for RROE sites to use when analyzing real world data sharing issues; and (3) the required elements of patient authorization/consent. Other session presenters covered information sharing efforts put in place by RROE sites in Kansas and New York.

IN THE NEWS

Woman Facing Felony Charge After Taking Prescribed Medication During Pregnancy

Thirty-six-year-old Kim Blalock suffered from excruciating back pain throughout a recent pregnancy and eventually turned to opioid painkillers prescribed by her physician to find some relief. Her newborn baby tested positive for opioids, precipitating an investigation by an Alabama state prosecutor and ultimately a charge of prescription fraud. County Attorney Chris Connolly stated this is the first time a pregnant woman has been prosecuted for fraud after refilling a prescription, and he asserts that Ms. Blalock concealed her pregnancy from her physician in order to obtain a refill for hydrocodone. Ms. Blalock suffers from arthritis and degenerative disc disease and had been prescribed hydrocodone by her orthopedist, though she stopped taking the medication until six weeks before the birth of her most recent child, when she claims the pain became unbearable, and she sought to refill her prescription. Nearly two dozen states consider substance use during pregnancy to be child abuse despite the fact that organizations like the American College of Obstetrics and Gynecologists oppose punishment for drug use during pregnancy. Advocacy groups across the country are watching this case closely and fear that if Ms. Blalock is convicted, it will serve as a precedent for limiting pregnant women from refilling prescriptions they would otherwise be allowed to fill if they were not pregnant. To read the full article from the *Washington Post*, click [here](#).

Efforts to Target Drug Cartels Unraveling

According to a senior Drug Enforcement Administration (DEA) official, a breakdown in cooperation between law enforcement agencies and militaries in the United States and Mexico has led to the unraveling of ongoing efforts to target drug cartels operating in Mexico and along the southwest border of the United States. This breakdown comes at a time when cartels are busy manufacturing and trafficking huge amounts of fentanyl and methamphetamine in Mexican super labs. Those substances are being smuggled into communities across the U.S., fueling an explosion of overdose deaths, including more than 90,000 American deaths in 2020. In a recent interview, the DEA's deputy chief of operations, Matthew Donahue, explained that the DEA began experiencing a "lack of engagement" from Mexican agencies and that cooperative operations have essentially come to a standstill. Donahue is hopeful that joint operations will resume in the near future, but some experts believe the Mexican government is going to remain focused on domestic issues, such as upcoming midterm elections. For more information and to hear the interview conducted by *National Public Radio*, click [here](#).

Marijuana Positivity Rate Up by Double Digits

A new analysis released by Quest Diagnostics finds that the marijuana testing positivity rate in the American workforce is up by 10 percent compared to 2016. This positivity rate is based on more than seven million urine drug tests collected between January and December of 2020, and a breakdown of the data showed that positivity rates are surging in states that have legalized the recreational use of marijuana. Data also suggests that marijuana is playing a growing role in workplace accidents, as post-accident testing is showing high positivity rates. Rates are up across different industry sectors, but the retail trade industry had the highest overall positivity rate for all drug categories, while the food service category had the highest workforce positivity rate for marijuana. For more information from Quest Diagnostics, click [here](#).

Food and Drug Administration Approves More Powerful Naloxone

In April of this year, the Food and Drug Administration (FDA) approved a more powerful version of naloxone, the fast-acting medicine that restores breathing halted by an overdose of fentanyl, heroin, or oxycodone. The FDA approval paves the way for Hikma Pharmaceuticals to double the strength of the life-saving nasal spray from the four-milligram dose currently available to a dose containing eight milligrams. There is, however, widespread disagreement about the potential value of more potent naloxone with current research showing more than four milligrams is rarely needed. Proponents of the more powerful dosage believe that the increasing potency of fentanyl requires a stronger antidote, while opponents are concerned that stronger naloxone could cause more harm by initiating intense, more rapid withdrawal from opioids. To read the full article from the *Washington Post*, click [here](#).

Study Shows Pharmacies Blocking Access to Addiction Treatment Medication

Researchers from the college of pharmacy at Oregon Health & Science University and Oregon State University recently concluded that one in five pharmacies are refusing to dispense Suboxone, a drug used to treat drug addiction. Suboxone, generically known as buprenorphine, is approved by the Food and Drug Administration to curb the intense cravings associated with opioid addiction. Buprenorphine is prescribed by physicians as part of a medication-assisted treatment protocol, and though approved at federal level, is being denied by both chain and independent pharmacies. Of the 900 pharmacies contacted as part of the study, researchers found that 183 (or about 20 percent) indicated they would not dispense Suboxone, and independent pharmacies were more likely to restrict such dispensations than chain pharmacies. To read the full study, published in the *Journal of Drug and Alcohol Dependence*, click [here](#).

Major Medical Association Calls for Access to Substance Use Disorder Treatment in Prisons and Jails

A new policy adopted by the American Medical Association (AMA) calls for expanding and updating the organization's long-standing recommendations to require medication-assisted treatment for opioid use disorder as the standard of care for patients in correctional settings. The updated policy reiterates the need for (1) screening upon entry into jail or the prison system, and (2) post-incarceration treatment for mental health and substance use disorders. According to one member of the AMA's Board of Trustees, "access to medication treatment in correctional facilities is not only protected by the law but is essential for providing evidence-based care for our patients with a substance use disorder." To learn more, click [here](#) to visit the website of the American Medical Association. To read LAPP's Model Access to Medication for Addiction Treatment in Correctional Settings Act, click [here](#).

NEWS BITS

Alabama: A newly enacted law in Alabama aims to tackle the complicated issue of drug-impaired driving. Senate Bill 258, which takes effect in August of this year, gives oral fluid tests, also known as saliva tests, the same implied consent standard as breath and blood tests that are currently used to measure a driver's alcohol impairment. Drivers who are arrested for DUI in Alabama will now be required to submit to a saliva test or face losing their driving privileges for three months. According to authorities, saliva tests are an important tool because roadside samples can be taken at the scene of an arrest, as opposed to blood tests, which are often conducted hours after an arrest takes place.

Colorado: A recent state audit of Colorado's Prescription Drug Monitoring Program (PDMP) found that no penalties were levied against providers who failed to check the database prior to prescribing controlled substances to their patients. The audit further determined that the state has no way to intervene even if the data collected by the PDMP raises red flags with regard to prescribing practices. The problem stems from the fact that state law only requires that doctors check the PDMP when issuing a second prescription for an opioid, which would not account for a patient receiving prescriptions from more than one physician. A bipartisan effort to address loopholes in the state PDMP law and regulations is expected during the next legislative session.

Georgia: Bars in East Atlanta are taking a proactive and creative approach to preventing drug overdoses in the city by hosting trainings on how to administer the overdose reversal medication naloxone. Several bars have partnered with the Atlanta Harm Reduction Coalition and the Georgia Overdose Prevention Project to host the trainings, which teach people how to safely and effectively administer Narcan, a nasal spray that reverses the effects of an opioid overdose. Dozens of people attended a recent training, where attendees were given free doses of Narcan to take home.

Indiana: Despite pleas from law enforcement officers, health care workers, and community members, Scott County officials voted to end a needle exchange program that allowed drug users to replace used needles for new ones. County officials stated that they felt the program encouraged drug use and dangerous behavior, which they did not support. However, the county's health department administrator now is fearful of an HIV outbreak because those using needles will continue to do so, and will share them, if clean needles are not available. The final vote on the measure was 2-1, and the two commissioners who voted to end the program say they are concerned about a spike in HIV cases but more concerned with overdose deaths and the fact that providing needles may contribute to a rise in overdoses.

Maine: Governor Mills recently signed legislation making drug take-back programs more accessible to Maine's citizens. The measure mandates that drug manufacturers work together to create a drug-take back program that is more frequent and more reliable than the program currently in use. The purpose of the proposed

take-back program is to protect against the inappropriate use of drugs, particularly by minors, and to address environmental concerns created by improper drug disposal.

Michigan: Officials in Barry County are taking precautions to help citizens secure their marijuana by giving away free medical lockboxes. The goal is to keep legal drugs out of the hands of children where they can cause significant harm. The lockboxes were funded by a grant that the county received from the state, and the initiative is being sponsored by the Barry County Substance Abuse Task Force.

Missouri: Governor Parsons signed Senate Bill 63, a bill that will create a statewide prescription drug monitoring program (PDMP). Enacting this legislation has been a decade-long effort in the state, and although a St. Louis County PDMP has been in operation for a number of years, Missouri will now become the last state in the country to implement a statewide program. PDMPs are used to identify and flag doctor-shopping, the practice of an individual seeking multiple practitioners and accumulating a large supply of a drug, which can then be misused or sold. The new law will go into effect August 28, 2021.

Montana: As part of his pledge to donate his entire annual salary of \$120,000 to non-profit organizations, Governor Gianforte donated his first quarter salary to One Health Bighorn, a facility that treats substance use disorder. Gianforte has made combatting substance abuse one of his priorities while in office and said in a statement that, "One Health Bighorn's substance use disorder treatment services transform lives and rebuilds families and communities."

New York: Governor Cuomo signed legislation creating a dedicated fund for opioid settlement money in New York State, which will address the influx of tens of millions of dollars into the state from judgments against companies deemed partially responsible for the nationwide opioid epidemic. New York was part of a multi-state coalition that secured more than half a billion dollars in settlement funds stemming from a lawsuit filed against Purdue Pharma, Mallinckrodt, and Rochester Drug Cooperative. The push to create a dedicated fund for treatment programs was spearheaded by advocates who are trying to stem the rising tide of opioid addiction.

LAPPA is currently drafting a model act, in partnership with the O'Neill Institute for National and Global Health Law at the Georgetown University Law Center, that will provide guidance for states on how to protect settlement monies and assure they are used to fund substance use disorder services. The model act is expected to be published early this fall.

Ohio: Governor DeWine signed legislation limiting the sale of cough suppressant medication containing dextromethorphan (DXM). The measure seeks to curb DXM abuse by prohibiting the sale of products containing DXM to those under the age of 18, unless the minor has a prescription. The Substance Abuse and Mental Health Services Administration has reported that persons between the ages of 12-26 are most likely to abuse DXM, and although DXM overdose rarely results in death, it can cause significant impairment, especially when paired with other drugs. It is hoped that, in addition to the restrictions, the measure will serve to educate parents as to why it is important to monitor their children's use of, and access to, medications in the family medicine cabinet.

Rhode Island: Governor McKee signed into law a measure creating safe injection sites, thereby providing safe oversight for those who use illegal drugs. The enacted legislation makes Rhode Island the first to enact a statewide measure and establishes a two-year pilot program to prevent drug overdoses through the establishment of the safe sites, also being referred to as harm reduction centers. Advocates applaud the measure as a much-needed tool in the fight to combat a recent increase in accidental overdose deaths. Funding for the sites will come from foundations and private donors, with no earmarks for public or taxpayer dollars included in the final version of the legislation.

Tennessee: The Metro Public Health Department (MPHD) in Nashville recently announced its participation in a new test notification pilot program that alerts the public about spikes in overdose activity in a specific area. The MPHD Opioid/Overdose Response and Reduction Program will use several data sources to detect acute

increases in overdoses, including the Overdose Detection Mapping Application Program (ODMAP) developed by the Washington/Baltimore High Intensity Drug Trafficking Areas. High numbers of drug overdoses continue to be reported in Nashville, and more people have died from an overdose in the first 19 weeks of 2021 than in the same time period from 2020. Click [here](#) for more information on ODMAP, including LAPPAs model act on the data collection program.

Vermont: Vermont has become the first state in the country to legalize possession of buprenorphine, a prescription drug used to treat opioid use disorder. The newly enacted measure will allow personal possession of up to 224 milligrams of the drug – the equivalent of a two-week prescription – even if a person does not have the permission of, or a prescription from, a physician. Overdoses have spiked in Vermont, as they have across the nation, giving enactment of this measure a new sense of urgency in the state legislature. The measure will expire after two years, during which time experts will assess the effectiveness of the law.

West Virginia: A judge in West Virginia recently granted a group’s request to stop implementation of a law that would tighten requirements for needle exchange programs in the state. The American Civil Liberties Union filed a federal lawsuit last week, and a judge issued a temporary restraining order preventing the new law from going into effect as scheduled on July 9, 2021. Governor Justice’s office has not yet commented on the judge’s order – he signed the bill in April of this year over the objections of those who claim it will restrict access to clean needles all while the state is experiencing a spike in HIV infections.

Wisconsin: A state senator and a state representative are working together in Wisconsin, alongside community members, to legalize fentanyl test strips as part of an effort to prevent fatal overdose deaths. Deaths attributed to fentanyl have been steadily rising throughout the state, with 75 percent of overdose deaths in Milwaukee in 2020 attributed to fentanyl. A bill to exclude test strips from the list of illegal drug paraphernalia is pending in the state legislator but faces an uphill battle as opponents contend legalizing the strips equivocates to promoting drug use. To read LAPPAs fact sheet on fentanyl test strips, click [here](#).

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 correctional settings, and the involuntary commitment and guardianship of individuals with alcohol or substance use disorders.

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

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