

# NEWS BITES

MARCH 2022

## LAPPA NEWS

### MODEL ACTS

LAPPA is pleased to announce the release of the *Model Law Enforcement and Other First Responders Deflection Act* (Model Act), a resource for states that encourages the development and use of deflection programs across the country. The Model Act was drafted in partnership with the Police, Treatment, and Community Collaborative (PTACC), an organization that provides vision, leadership, advocacy, and education to expand the practice of deflection and pre-arrest diversion programs. Deflection programs are needed because first responders, including law enforcement, often do not have many options when encountering people with substance use and/or mental health disorders, and in a growing number of states, public safety and public health partnerships “deflect” people with these disorders away from traditional criminal justice programs and connect them to evidence-based treatment, harm reduction, recovery, and prevention services. The Model Act, funded by the Office of National Drug Control Policy (ONDCP), expands access to the aforementioned programs across the country. If fully implemented, the Model Act would:

- Authorize law enforcement and other first responders to develop and implement collaborative deflection programs that provide proactive policing that assists individuals who are at risk for future calls for service;
- Offer immediate pathways to treatment, recovery services, housing, medication for addiction treatment, whole family services, and other needed supports, via peer support and case management, for individuals at risk of future law enforcement contact and/or living with substance use disorder, mental health disorder, or co-occurring disorders;
- Require deflection programs to have certain threshold elements to be eligible to receive grant funding from the state administering agency on criminal justice; and
- Require agencies establishing deflection programs to develop comprehensive memoranda of understanding in conjunction with, and agreed to by, all deflection program partners.



According to Jac Charlier, Executive Director of PTACC, policymakers “Will be able to adapt the model law to their own unique situations in their state to start or scale-up deflection initiatives right in their communities. Through the implementation of this model law, deflection promises earlier, upstream interventions for people with drug and mental health challenges, keeping families and children together, reducing drug use as well as drug-related crime, and decreasing government costs can be made real in any community doing deflection.” To read the press release about the Model Act from ONDCP, click [here](#) and to read the full text of the Model Act, click [here](#).

## 50-STATE SUMMARIES

The 50-state summary, *Drug Take-back and Disposal Programs*, examines state-level legislative and administrative responses to the public health risk posed by expired and unused prescription medications. In the last several years, states, in coordination with the federal Drug Enforcement Administration (DEA), have enacted legislation or promulgated administrative regulations to authorize drug take-back programs where expired or unused pharmaceuticals can be collected from the public by authorized persons and disposed of in a safe manner. Some states have enacted drug repository programs, which authorize the collection of specific unused medications that are redistributed to qualifying individuals. However, if a state does not have a drug take-back program authorized by statute or administrative regulation, the summary provides information on drug repository programs in the miscellaneous provision section for the applicable jurisdictions. Findings are presented by state for ease of comparison. Click [here](#) to read the full 50-state summary.

## REPORTS

In collaboration with Rulo Strategies, LAPPA recently released a new report entitled, *The Stigmatization of Justice-involved Individuals with Substance Use Disorders*. “Stigma,” defined as stereotypes or negative views attributed to a person or groups of people whose characteristics or behaviors are viewed as different from, or inferior to, societal norms, may be attached to any aspect of an individual’s perceived social identity or condition. The general public often views individuals who have had contact with the justice system as untrustworthy, unintelligent, and dangerous. Negative perceptions from community members, poor self-concept, and shame can hinder justice-involved individuals’ efforts to obtain employment and complete probation requirements, all of which may increase the risk of recidivism. Stigmatization occurs on societal, interpersonal, and individual levels and manifests itself on three levels: public stigma, self-stigma, and professional/institutional stigma. This report examines the complexities surrounding the stigma faced by individuals with a substance use disorder who have contact with the justice system. Click [here](#) to read the full report.



## PODCASTS

The podcast series, *One-on-One with LAPPA*, examines a variety of topics related to effective law and policy on the areas of public safety and health, substance use disorders, and the criminal justice system. Recent episodes have focused on:

- improving overdose prevention efforts and the availability of naloxone in higher education settings;
- the growing problem of diversion of drugs in healthcare settings;
- purchasing drugs on the dark web;
- recovery high schools; and
- overdose fatality review (OFR).

Click [here](#) to listen to episodes of One-on-One with LAPPA and if you have an idea for a podcast, please email [info@thelappa.org](mailto:info@thelappa.org).

## FEDERAL NEWS BITS

**Centers for Disease Control and Prevention (CDC):** The CDC, the nation’s leading public health agency, is proposing softening some of the guidelines pertaining to the prescribing of oxycodone and other opioid painkillers. Previous guidance, issued six years ago, helped to slow the over-prescribing that helped fuel the opioid epidemic, but that guidance also resulted in patients, who were legitimately benefitting from opioids, being cut off because their physicians would no longer prescribe opioids. The CDC has been collecting

anecdotal evidence pointing to instances where the guidance from six years ago was being misused and misapplied. The new draft guidance will roll back some of the suggested limits on prescribing, and the CDC will consider any comments made during the 60-day public comment period before finalizing the updated guidelines.

**Centers for Medicare and Medicaid Services (CMS):** CMS has expanded the definition of telehealth services that are permanently eligible for reimbursement under the Medicare program to now include audio-only services for established patients with mental illness/substance use disorders who are unable or unwilling to use video technology. This final rule on telehealth services is part of the 2022 Medicare Physician Fee Schedule which covers updates to physician payment among other regulations. The expansion of audio-only services applies only to mental illness/substance use disorders, which have been temporarily reimbursed as part of the federal government's response to COVID-19.

**U.S. Department of Health and Human Services (HHS):** HHS, through CMS, is working with states across the country to promote access to Medicaid services for people with mental health and substance use disorders. Under the Biden Administration's American Rescue Plan, states now have a new option for supporting community-based mobile crisis intervention services for individuals on Medicaid. Mobile crisis intervention services are critical tools for people in crisis and can provide rapid intervention 24 hours a day, 365 days a year.

**U.S. Department of Justice (DOJ):** A group of Senate Democrats is urging the DOJ to open an investigation into whether members of the Sackler family, founders of Purdue Pharma, personally engaged in criminal conduct in connection with the pharmaceutical company's role in the opioid crisis. Purdue Pharma was the manufacturer of the powerful opioid OxyContin, which is widely considered to be the drug that spurred America's opioid epidemic. As part of a legal settlement, Purdue Pharma pleaded guilty to three felonies, and the Sacklers resolved to cede control of the company, though no family members faced criminal charges.

**Food and Drug Administration (FDA):** The FDA is warning patients and prescribers about the potential for dental problems associated with buprenorphine medication that is dissolved in the mouth to treat pain and opioid use disorder. Dental problems, including tooth decay, cavities, dental abscesses/infection, tooth erosion, and in some cases total tooth loss, are being reported even in patients with no history of dental problems. Patients are being urged to take preventive measures such as rinsing thoroughly after the medication has dissolved and waiting an hour before brushing their teeth, to avoid coating the teeth in buprenorphine.

## NATIONAL NEWS BITS

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**Opioid Settlement Funds:** After a series of delays attributed to local government infighting and Covid-19, state governments are about to receive hundreds of millions of dollars from opioid litigation settlements. The complex deal, reached in July 2021, will dispense enormous sums of money to state and local governments and is intended to help mitigate some of the harm inflicted by pharmaceutical companies since the early 1990s. The settlement itself was only the beginning of a very long process that will see governments having to make tough decisions on how to use the funds to repair decades of damage. Some fear that there may be a repeat of what happened with tobacco settlement funds, when states used those monies for projects completely unrelated to the harms inflicted upon people by tobacco use. To prevent such a repeat, several states have formed trusts and set up advisory boards to safeguard the settlement funds and assure that opioid settlement funds are used specifically to address the opioid crisis. LAPP recently published a model law to help guide states through this process – click [here](#) to read the Model Opioid Litigation Proceeds Act.

**Vaccine for Opioid Use Disorder:** Scientists at the University of Washington are working to develop a vaccine that may be able to help the fight against opioid addiction. The vaccine that is under development would stimulate the body's immune system to attack and destroy opioid molecules before they can enter a person's brain. Once administered, the vaccine would not actually prevent the drug cravings commonly

experienced by those with opioid use disorder, but its components would block the effects of opioids including euphoria, pain relief, and even overdose. A new research center at the university recently opened and to date has raised more than two million dollars to help fund research related to the vaccine. A clinical trial is scheduled to begin soon.

**Dangers of Tianeptine:** Companies are illegally marketing and selling products containing tianeptine, an unapproved drug associated with serious health risks and death. Companies are also making dangerous and unsubstantiated claims that tianeptine can improve brain function and treat anxiety, depression, pain, opioid use disorder, and several other conditions. The FDA has actively warned consumers about the dangers of tianeptine, yet vendors continue to market and sell the drug, mostly online, in tablet or powder form.

## STATE NEWS BITS

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**California:** For the first time in three years, the number of overdose deaths in San Francisco declined, with a seven percent decrease in 2021 compared to the previous year. The city's mayor, London Breed, credits the drop to: (1) several programs whose aim is to prevent overdose; and (2) increased funding for drug use and mental health treatment programs. A combined effort by coordinated city services successfully reversed 4,300 overdoses with naloxone in 2020 and more than 6,800 in the first nine months of 2021. San Francisco is also planning on opening a new drug sobering center, which will serve as a safe space for intoxicated people, as well as a safe consumption site where people can ingest drugs under the watchful eye of mental health and medical professionals.

**California:** Santa Barbara County will soon begin participating in a federal program designed to entice low-income methamphetamine users to quit using drugs by offering them stipends and vouchers worth \$600, over a six-month period, in exchange for testing negative for meth during that time frame. According to the county's director of substance abuse programs, the new effort will start sometime in the fall of 2022, assuming Santa Barbara County can meet all the qualification requirements. While fentanyl continues to be the leading cause of deadly overdoses, county statistics show that fatal methamphetamine-related overdoses are rising sharply, and unlike opioids, there are currently no medications that can be used to treat methamphetamine addiction.

**Colorado:** Governor Jared Polis and the Colorado Department of Public Health and Environment (CDPHE) recently announced that \$1.8 million in funding has been allocated to the state's Naloxone Bulk Purchase Fund. The funds, available through the American Rescue Plan, will allow harm reduction organizations, local law enforcement agencies, and local governments to purchase naloxone at no cost to the purchaser. Between January 2019 and December 2021, CDPHE administered 98,314 doses of naloxone, and the demand for the opioid overdose reversal drug currently exceeds available funding. To learn more about naloxone, click [here](#) to read a 50-state summary of naloxone laws and click [here](#) to read LAPP's model act on increasing access to opioid antagonists like naloxone.

**Colorado:** State lawmakers are rethinking a 2019 state law that made possession of thousands of lethal doses of fentanyl a misdemeanor instead of a felony. House Bill 1263, passed three years ago in the state with bipartisan support and per its provisions, possession of up to four grams of almost all drugs is a misdemeanor, with a few exceptions for known "date-rape drugs" such as GHB and ketamine. The issue is that four grams of fentanyl can amount to almost 2,000 lethal doses of fentanyl. Governor Polis is on the record as saying that the 2019 bill, which he signed into law, "got some things wrong," and new laws are expected to strengthen penalties for fentanyl possession.

**Connecticut:** The city of Waterbury received \$900,000 in federal grant funding to reduce opioid overdoses and deaths, which increased by 14 percent in the state in 2020. The program receiving the funding is a "warm hand-off" program, a transfer of care between two members of the health care team, where the handoff occurs in front of the patient and family. Such programs help assure providers that they are offering patients the

appropriate services and that nothing falls through the cracks, as is often the case when it comes to providing successful treatment to someone with a substance use disorder. Since the program in Waterbury launched, the state's health department reports that fatal overdoses decreased from 2019 to 2020 and then decreased again from 2020 to 2021.

**Florida:** The Pasco County Sheriff's office is urgently alerting residents about the presence of a new synthetic opioid in the area. Isotonitazene, commonly known as ISO, is a synthetic substance 20 times more potent than fentanyl and may even be potent enough to render the opioid overdose reversal medication naloxone ineffective. When Pasco County law enforcement first started seeing an uptick in overdoses, county officials assumed that fentanyl was the culprit, but follow-up testing in a lab confirmed the presence of ISO in collected samples. Trace amounts of ISO can lead to severe symptoms and a deadly overdose in just minutes. Pasco County reported 1,500 overdoses in the year 2020, a 71-percent increase from the previous year.

**Illinois:** The Chicago Public Library and the Chicago Department of Public Health (CPHD) announced a new program that will offer the overdose reversal medication, naloxone, at select branches of the library system. The medication will be available in wall-mounted boxes and people will not need to provide any information to access the opioid antagonist. Fourteen locations where naloxone will initially be available were chosen based on a geographical analysis of opioid-related overdoses conducted by CPHD. In Chicago, many public libraries are located in the neighborhoods that have been most impacted by opioid overdose, and this new program is being implemented at a time when overdose rates in the city are at an all-time high.

**Kansas:** Inside a number of sheriffs' offices in Kansas, momentum is gaining for a plan to allow inmates to continue treatment for their substance use disorder (SUD) while serving their sentences. The Sedgwick County Jail in Wichita no longer takes people off of any prescriptions for medications like buprenorphine when they are booked into the jail. Nationally, only a small fraction of jails allows those who are incarcerated with an SUD to receive a combination of counseling and medication, even though studies show that two-thirds of the inmates have such a disorder. Proponents of treatment in the criminal justice system are attempting to change attitudes and point out that allowing inmates to continue previously prescribed addiction treatment medication can break the cycle of incarceration. To learn more about access to medication for addiction treatment in correctional settings, click [here](#) to read LAPPA's model act on the subject.

**Maryland:** Two state legislators are making their third attempt to decriminalize the possession of drug paraphernalia, including syringes, hypodermic needles, and other tools used to introduce drugs into the body. The bill they proposed would also reduce the penalty for possession of such items from a maximum of four years in prison and a \$25,000 fine to a maximum of one year in prison accompanied by a \$1,000 fine. The intent of the bill is to assist harm reduction organizations in their efforts to reduce instances of drug users participating in dangerous behaviors as Maryland, like the rest of the country, grapples with both the COVID-19 pandemic and the opioid epidemic.

**Massachusetts:** The Norfolk County Sheriff's Office recently announced that it had intercepted and confiscated what was estimated to be \$14,000 worth of Suboxone from an inmate who was attempting to smuggle the controlled substance into the county jail. Suboxone is the brand name for a pharmaceutical drug that is used to treat opioid addiction – it is a prescription film that is meant to be dissolved under the tongue and is a combination of buprenorphine and naloxone. The inmate was attempting to smuggle 35 strips of the film which, according to the sheriff, could have threatened the recovery of other justice-involved individuals from substance use disorder.

**Nebraska:** A new website in the state is making it easier for citizens to obtain access to Narcan – stopodne.com is a recently launched website that allows users to enter their zip code and in return receive a map showing nearby locations that offer free Narcan, an opioid overdose reversal medication. Site users also receive information about treatment resources with all information being provided by the Department of Health and Human Services Division of Behavioral Health. Currently 44 pharmacies across the state are participating.

**Nevada:** In response to an increase in fentanyl-related overdose deaths, the Southern Nevada Health District is now offering fentanyl test strips at no cost to the public. The strips are easy to use, show results in an easy-to-read format, and detect fentanyl and its analogs. Fentanyl has quickly become a national concern due to its potency and often has an undetectable presence in the illicit drug supply. Overdose deaths in Clark County alone increased 34 percent in one year, an increase driven primarily by fentanyl. Free test strips can be picked up, with no questions asked, at the Southern Nevada Health District's pharmacy.

**New Jersey:** Governor Phil Murphy signed legislation giving the state department of health control over any syringe services programs (SSPs) in the state, effectively ending the efforts of some localities to bring an end to these programs. The new law decriminalizes possession of syringes and allows for expungement of previous convictions. According to data from the Centers for Disease Control and Prevention, people who have access to SSPs are less likely to die from a fatal overdose, are five times more likely to start a drug treatment program, are three times more likely to stop chaotic drug use, and 50 percent less likely to acquire HIV and Hepatitis C than those without access to safe syringes. To learn more about syringe service programs SSPs across the country, click [here](#) to read LAPPA's fact sheet on SSPs, and click [here](#) to read LAPPA's model act regarding SSPs.

**New York:** Manhattan's newly elected district attorney is advocating for new guidelines aimed at lowering incarceration rates by ending prosecution of low-level offenders, downgrading some felonies, and asking prosecutors not to seek life sentences without the possibility of parole. District Attorney Alvin Bragg explained in a memo to his staff that the proposed changes will "free up prosecutorial resources to focus on violent crime." A professor at New York University School of Law calls the new guidelines a steep departure from past administrations and suggests that resistance is likely from the city's police officers, who will not want to be sent out to enforce laws that the district attorney will not ultimately prosecute.

**Ohio:** A new study from the Ohio State University College of Social Work concluded that neighborhoods in the state with high overdose rates also have higher rates of child abuse. The study looked at every instance when an EMS responder used naloxone in an attempt to reverse an opioid overdose, and in neighborhoods that showed an elevated overdose incidence rate, there were concurrently higher rates of: (1) referral for child welfare investigations; and (2) substantiated incidents of child abuse and neglect reports. Researchers noted that their results show how the nation's opioid crisis not only affects those who overdose but also those individuals' children and the neighborhoods in which they live.

**Oregon:** The state ranks second in the country in a new survey from the Substance Abuse and Mental Health Services Administration that measured rates of substance use disorder. According to the survey, nearly one in five Oregonians struggles with addiction and 18 percent of them who need treatment do not receive it, pushing the state to 50<sup>th</sup> in terms of access to treatment. Oregon also ranks first in the nation for both opioid misuse and methamphetamine misuse, with meth use in the state skyrocketing more than 50 percent since 2019.

**South Carolina:** Health officials in the state are saying that fentanyl isn't just killing people with substance use disorder – it's also killing children who aren't aware that they are taking it. With increasing regularity, fentanyl is being found in vape pens on high school campuses throughout the state. Concern is growing that students are being targeted by individuals who make their own fentanyl pills disguised as oxycodone, Adderall, and Xanax. Fentanyl is already killing more adults aged 18-45 than anything else in the United States, and representatives from South Carolina fear that the statistic will trickle down to those under the age of 18.

**Utah:** Deaths and crashes linked to drunk driving dropped almost 20 percent in Utah, the only state in the country with a legal blood alcohol limit for driving of .05, the strictest DUI law in the nation. Utah's statistics are an anomaly during a pandemic period where alcohol-related driving deaths rose at the highest rate ever recorded, despite fewer cars on the road, shorter distances driven, and more safety features in new cars. Based in part on data from Utah, other states are now considering following suit, with legislation being considered in both New York and Hawaii that would lower the legal blood alcohol limit to .05.

**Washington:** State lawmakers are considering legalizing the use of psilocybin (“magic mushrooms”) to treat a variety of illnesses like PTSD and depression. Senate Bill 5660 would enable those 21 years and older to be treated with the mushrooms at licensed care centers under the supervision of licensed facilitators. An addiction psychologist and researcher from the University of Washington told a legislative committee that current evidence suggests that psilocybin administered in a controlled environment, under a provider’s care, can reduce symptoms of depression, anxiety, trauma, and a range of substance use disorders. Regardless of the disposition of the legislation in this state, psilocybin remains illegal on the federal level.

**Wisconsin:** The state department of health announced that it will be holding virtual learning sessions throughout Wisconsin to help determine how settlement funds from opioid manufacturers and distributors can be used to enhance the state’s system of prevention, harm reduction, treatment, and recovery support services for opioid use. There will be 12 listening sessions that include opportunities for partners and stakeholders and the public to weigh-in on how settlement dollars should be invested to achieve maximum benefit for the greatest number of people. LAPPa recently released the Model Opioid Litigation Proceeds Act (Model Act), a tool to help guide states through the process of receiving, spending, and safeguarding funds from the opioid settlement. Click [here](#) to read the Model Act.

## 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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