

# NEWS BITES

NOVEMBER 2020

## LAPPA NEWS

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### New Model Acts Released

The Legislative Analysis and Public Policy Association (LAPPA) recently released two new model acts, the *Model Expanding Access to Peer Recovery Support Services Act* and the *Model Access to Medication for Addiction Treatment in Correctional Setting Act*.

The *Model Expanding Access to Peer Recovery Support Services Act* was written in consultation with a host of subject matter experts including peer support workers and credentialing professionals. This Model provides a legislative framework for implementing a responsive and cohesive peer support worker credentialing program and offers policymakers in jurisdictions with established peer support programs dynamic strategies to improve their existing peer support credentialing process. The Act: (1) promotes uniformity by providing non-partisan consistent legislation that brings clarity and stability to the peer support credentialing process; (2) creates a legislative framework for streamlining a responsive and cohesive peer support worker credentialing program; (3) creates a multi-disciplinary Advisory Board that addresses substance use disorders to make recommendations and provide advice related to the creation or expansion of the peer support credentialing program; (4) tasks a single state authority or designated authority with contracting with a third-party organization or entity to oversee the credentialing of state peer support workers; and (5) requires the state Medicaid program and private insurers to include coverage for peer support services provided by a credentialed peer support worker. To read the full Act, click [here](#).

The *Model Access to Medication for Addiction Treatment in Correctional Settings Act*, written in collaboration with the O'Neill Institute for National and Global Health Law at the Georgetown University Law Center and a cadre of subject matter experts, sets forth a comprehensive, evidence-based framework for ensuring that all incarcerated individuals with a substance use disorder be provided access to FDA-approved medication for addiction treatment in state and local correctional settings. This Act: (1) promotes the use of all FDA-approved treatment options, including medications for addiction treatment for opioid use disorder, in correctional settings; (2) ensures that all incarcerated people with a substance use disorder is provided access to medication for addiction treatment while incarcerated; and (3) ensures that, upon release from a correctional setting, individuals receiving medication for addiction treatment are provided with a connection for continued care, including a prescription, and the necessary contacts and tools to continue their treatment. To read the full Act, click [here](#).

## Upcoming Model Acts

In September 2020, LAPPa convened its *Recovery Residence Certification Model Act* Drafting Meeting via the Zoom platform. Shannon L. Kelly, National HIDTA Program Director, kicked off the meeting by addressing the working group members and praising their tireless work in this area. The working group was comprised of approximately 20 individuals who are experts in the field of recovery with a particular focus on recovery residences and the issues affecting recovery residences. Members included those in the field of recovery residence certification, attorneys working to protect the rights of recovery residences, and representatives from organizations responsible for the management of recovery residences. Over two days of spirited discussion, the group worked to refine and craft a Model Act that addresses the complex issues involved with certification of recovery residences. LAPPa is currently working to incorporate all the suggestions into a comprehensive draft to be sent out to the working group members and other experts in the field for their review and comment. LAPPa plans to publish and disseminate the model in the winter of 2020/2021. For more information on the Model, please email [info@thelappa.org](mailto:info@thelappa.org).

## New Podcasts Available

Two new installments of LAPPa's podcast series, *One-on-One With LAPPa*, are available at [www.legislativeanalysis.org](http://www.legislativeanalysis.org). The first is an interview with Honesty Liller, Chief Executive Officer of the McShin Foundation. The McShin Foundation, founded in 2004, is a full-service recovery community organization committed to serving individuals and families in their fight against substance use disorders. In addition to being the CEO, Honesty Liller is a woman in long-term recovery and, in this interview, she talks about her experience and the importance of recovery housing and peer support. Click [here](#) to listen to the interview with Ms. Liller.

The second interview is with Annie Ramniceanu, Addiction and Mental Health Systems Director of the Vermont Department of Corrections. Ms. Ramniceanu discusses all the ways jurisdictions across the country are exploring to implement medication for addiction treatment in correctional institutions, where incarcerated persons have disproportionately high rates of substance use disorder as compared to the general population. To hear the full podcast, click [here](#).

## Legislative Updates

LAPPa recently undertook an extensive research project to determine the current status of naloxone access laws throughout the United States, including the District of Columbia and all U.S. territories. Naloxone is the generic name of an opioid antagonist drug used throughout the United States to reverse opioid overdoses. As of August 2020, all 50 states and the District of Columbia have some form of a naloxone access law; that is, a law designed to make access to naloxone by first responders and the general public easier. The laws vary significantly by state, but were implemented in an effort to save lives. Click [here](#) to read the full summary, and for more updates on legislative happenings across the states, read the "News Bits" section at the end of this publication.

## Webinars

- The 2020 National HIDTA Directors Meeting took place in person and virtually in Denver, Colorado on October 27-29, 2020. HIDTA Directors from across the country came together to update one another about issues and to discuss solutions to emerging threats. LAPPa's President, Susan P. Weinstein, discussed how LAPPa and the HIDTAs can work together to further the HIDTAs' mission of reducing drug misuse by "improving interagency collaboration, promoting accurate and timely information and intelligence sharing, and

providing specialized training and other resources to its law enforcement, intelligence, treatment, and prevention initiatives.”

- On October 28, 2020, the O’Neill Institute at Georgetown University School of Law hosted an interactive discussion on expanding access to evidence-based treatment for individuals with opioid use disorder. Access to such treatment during incarceration is central to any effective overdose prevention strategy. Medication based treatment in correctional settings is especially important given the elevated risk of overdose death for individuals leaving jails and prisons. Chan Kemper, Senior Legislative Attorney at LAPP, reviewed the recently released *Model Access to Medication for Addiction Treatment in Correctional Settings Act* for webinar participants. For information on this Act, please see above and visit the model laws section of LAPP’s website [here](#).

## IN THE NEWS

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### **Drug Czar Calls for Permanently Expanding Telehealth for Addiction Treatment**

Jim Carroll, Director of the Office of National Drug Control Policy, recently said that the federal government’s push to expand coverage for online visits - which have increased sharply during the coronavirus pandemic - will improve access to treatment, especially for rural Americans. Carroll noted that President Donald Trump issued an executive order to direct federal agencies to work together to fortify the infrastructure needed to support telehealth in rural communities. This effort could increase access not only for drug treatment but for other types of health care, as well. Expansion of these types of services beyond the current pandemic will eventually require a vote by Congress, but many stakeholders back the change. To read the full story as reported by *Fox News*, click [here](#).

### **Buying Drugs is Now Easier Than Ever**

Televand is an automated digital retail system that is allegedly being used to sell illegal drugs on the encrypted messaging app Telegram. The online commerce supported through the app is staffed and operated 24 hours per day by what are essentially robots. Users of the technology say that it is the fastest way to obtain illegal drugs, with the transaction being completed entirely online. Televand purports to have 200,000 registered users and more than 40,000 active users, though the Telegram channel only has around 15,000 subscribers and a few hundred dealers. Once a user adds Televand as a contact and navigates through several stages, he or she will encounter a list of vendors selling all manner of illegal substances through an entirely automated process. To read the full article from *vice.com*, click [here](#).

### **New Drug Being used to Treat Addiction**

In Glasgow, Scotland, more than 100 people are being treated with a new prescription drug that helps treat opioid addiction. Unlike traditional addiction treatment medications such as methadone, Buvidal is injected once per month which eliminates the need for patients to make frequent, often daily, visits to a clinician, an obstacle for many on the road to recovery. The hope is that this new treatment will provide more time for those suffering with opioid use disorder to focus on improving their lives and health as opposed to spending all their time managing their opioid dependence. One Glaswegian pharmacist stated that feedback related to Buvidal, which blocks opioid receptors in the brain, has been overwhelmingly positive. While the drug is not suitable for everyone, it is showing promise across the spectrum. To read the full story as reported by the *BBC*, click [here](#).

## **The Dangers of Diphenhydramine**

On September 24, 2020, the U.S. Food and Drug Administration (FDA) issued a warning that taking higher than recommended doses of the common over-the-counter allergy medication diphenhydramine (brand name Benadryl) can lead to serious heart problems, seizures, coma, and, in some instances, death. The FDA stated that the agency is aware of news reports regarding teenagers ending up in emergency rooms, and in some instances dying, after participating in the so-called “Benadryl Challenge,” a dare encouraged on the social media platform TikTok. The Benadryl Challenge encourages participants (mostly teenagers) to take excessive amounts of the allergy medication in effort to “trip out” from the drug and experience a high that could bring about hallucinations. To read the full release from the FDA, click [here](#).

## **Buprenorphine Implants and Injections are Being Underused**

Injectable and implantable forms of buprenorphine, a partial opioid agonist used to treat patients with opioid use disorder, are less likely to be diverted than oral formulations of the treatment yet they are rarely prescribed. According to a recent report from the U.S. Government Accountability Office, the Department of Health and Human Services statistics show that 7,250 prescriptions were issued for injectable or implantable buprenorphine during 2019, while 700,000 patients received prescriptions for an oral form of the drug. Injections deliver a controlled dose for a one-month period while implantable devices provide maintenance treatment for six months. Click [here](#), to read the full report in the *Journal of the American Medical Association*.

## **New Legislation Aims to Expand Opioid and Substance Use Training**

Senators Michael Bennett (D-CO) and Susan Collins (R-ME) have introduced a bi-partisan measure that would require physicians, physician assistants, nurses, nurse practitioners, and other providers to complete an opioid and substance use training to ensure that prescribers of controlled medications, like opioids, have a foundational knowledge of addiction prevention, treatment, and management. The proposed legislation, the Medication Access and Training Expansion Act of 2020, would:

- Require all health care practitioners licensed to prescribe controlled substances or registered with the DEA to dispense controlled substances to complete a one-time training on treating and managing patients with opioid and other substance use disorders;
- Encourage accredited medical schools, residency programs, physician assistant schools, and schools of advanced practice nursing to integrate the study of substance use disorders and treatment into their curricula;
- Support the inclusion of bias and anti-racism training within training programs to reduce racial and ethnic disparities; and
- Satisfy the DATA 2000 waiver training requirement needed to prescribe addiction medications like buprenorphine.

To read the full text of the legislation, click [here](#).

## **Guidelines Proposed for Hair Drug Testing**

The Substance Abuse and Mental Health Services Administration recently proposed scientific and technical guidelines for hair drug testing in federal workplace drug testing programs. The proposed guidelines, which were published in the Federal Register on September 10, 2020, will allow federal executive branch agencies to collect and test hair specimens for pre-employment drug tests and random drug tests. Hair has a longer window of drug detection than does urine and is more easily collected, transported, and stored. Hair is also more difficult to adulterate since hair collections are done under direct supervision. One drawback to testing hair as opposed to urine is that drugs are generally not detectable in hair for at least five to seven days after ingestion,

so this method is not appropriate for reasonable suspicion testing or post-accident testing. To read the full text of the proposed guidelines, [click](#) here to search the Federal Register online.

## NEWS BITS

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**California:** U.S. Customs and Border Protection officers at the Otay Mesa commercial facility in San Diego recently seized more than 3,100 pounds of methamphetamine, fentanyl powder, fentanyl pills, and heroin as part of the second largest methamphetamine bust along the southwest border in the history of the agency. The drugs were all discovered in a tractor-trailer shipment of purported medical supplies which, upon inspection, were intermingled with the illegal substances. Estimated value of the seized material is \$7 million dollars.

Governor Gavin Newsom signed Senate Bill 855, which increases health and disability insurers' coverage obligations for mental health and addiction diagnosis, prevention, and treatment in the state. The measure expands mental health parity by extending its application to all medically necessary mental health and substance abuse addiction treatment and also provides new medical necessity standards and mandates criteria for clinical guidelines for assessing medical necessity.

**Connecticut:** Inmates that are discharged from the Connecticut Department of Corrections are provided with Narcan nasal spray kits to pre-emptively try and save lives lost to opioid overdose. The kits cost approximately \$75. A spokesperson for the Department of Corrections says that 768 two-dose boxes have been issued over the past year. One hundred thousand dollars has been set aside to fund the program, with the majority of that amount coming from federal funding sources. Inmates receive training on how to use the nasal spray and are encouraged to pass that knowledge on to family in case a relative finds them in the midst of an overdose.

**Florida:** In Charlotte County, Florida, the number of people involuntarily admitted for substance use disorder treatment has nearly tripled since the beginning of the coronavirus pandemic. Admissions pursuant to the Marchman Act, a state law that provides a means for family and friends to seek involuntary services for a person with a substance use disorder, are climbing dramatically. The law provides that involuntary examination orders can be issued for up to 72 hours, and placement petitions are heard within five days. If a patient meets certain criteria, a court may order involuntary commitment in 90-day increments.

**Massachusetts:** Under a new law passed by Boston's city council, city pharmacies must now provide sharps disposal kiosks for used hypodermic syringes. The measure takes aim at the used hypodermic needles that have increasingly littered Boston's streets, parks, schoolyards, and sidewalks, and mandates large pharmacies that sell syringes must also provide kiosks so unwanted sharps can be safely disposed of. The ordinance, which was years in the making, passed unanimously after receiving a favorable recommendation from the Committee on Government Operations.

**Michigan:** The city of Ann Arbor, Michigan has become the third city in the United States to decriminalize entheogenic plants and fungi. (Entheogenic plants and fungi are those with mind-altering properties.) The relevant resolution does not legalize the possession, production, or commercialization of these substances, but makes planting, cultivating, purchasing, distributing, and engaging in practices with entheogenic plants a low law enforcement priority. Commercial sales and manufacturing of these plants and fungi, possession and distribution of these materials in schools, and driving under the influence are all still punishable by law.

**New Jersey:** The New Jersey Legislature's Assembly Health Committee, by unanimous vote, favorably reported on a bill that would require opioid antidote prescriptions for certain high-risk patients. Assembly Bill 3869 requires that practitioners who prescribe opioids to patients with a history of substance use disorder, whose daily opioid prescription is greater than 50 morphine milligram equivalents or who have a concurrent benzodiazepine prescription, must also issue an annual prescription for a Food and Drug Administration-approved product that can reverse opioid overdoses, such as naloxone.



**New York:** New York State now bans insurers from denying life insurance coverage simply because an applicant has been prescribed Naloxone or Narcan, the medications used to block the effects of opioids and prevent fatal overdoses. Assembly Bill 5952A, signed into law by Governor Cuomo, outlaws as unfair discrimination the refusal to issue a life insurance policy or annuity contract based solely on the existence of an opioid overdose drug prescription. The bill was signed without comment and took effect immediately.

**Oregon:** On election day in Oregon, voters decided that their state will become the first in the nation to decriminalize possession of small amounts of hard drugs, such as heroin, cocaine, and LSD. Measure 110 was one of the most watched initiatives in the country because it will drastically change how a justice system treats people caught with amounts for their personal use. Instead of being arrested, going to trial, and facing possible jail time, offenders will have the option to pay \$100 fine or attend a new addiction recovery center free of charge. These centers will be funded by tax revenue from retail marijuana sales in the state that was the country's first to decriminalize marijuana possession.

**Pennsylvania:** Mental health parity bill (House Bill 1439) was signed into law by Pennsylvania's governor and will take effect immediately. The new law will hold insurance companies accountable and ensure that those dealing with these critical issues will have access to programs for which they are already paying under their health insurance policy and are able to get the help they need. House Bill 1439 requires insurers to annually attest that they are in compliance with the Federal Mental Health Parity and Addiction Equity Act or that the Act is not applicable to their policy form submission.

**Vermont:** In an effort to reduce overdoses and get more people into treatment, leaders in Vermont's largest city recently voted to consider creating a supervised injection site for persons who use heroin and other illicit drugs. The Burlington City Council voted unanimously in favor of a resolution that asks the City Attorney to analyze the legal challenges associated with creating an overdose prevention site, also known as a safe injection or safe consumption site. Opponents argue that such facilities are unsafe and counterproductive to efforts to curb substance use.

**Wisconsin:** Pursuant to a new policy, incarcerated Medicaid members will now be able to have their health care benefits suspended and re-evaluated before they are released from jail or prison rather than eliminated under the previous policy. The Department of Health Services and Department of Corrections worked diligently to bring about this policy change, in part to try and lower the disproportionately high mortality rate faced by adults leaving jail and prison.

## 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/>.