

NEWS BITES

NOVEMBER 2022

LAPPA NEWS

PUBLICATIONS

LAPPA recently published four new fact sheets, the first of which pertains to substance use during pregnancy. There are a number of expert recommendations regarding how to identify, work with, and treat pregnant and postpartum individuals with substance use disorder to ensure the best outcomes for both parent and child. There are also legal requirements regarding notification to state child welfare agencies of infants born affected by prenatal substance exposure or experiencing withdrawal and the creation of family care plans (also known as plans of safe care). This fact sheet provides readers with an overview of those recommendations and requirements. Click [here](#) to read the Substance Use during Pregnancy and Family Care Plans Fact Sheet.

LAPPA also released the second fact sheet in a series addressing novel psychoactive substances, with this most recent installment focusing on Xylazine. This substance was developed in the 1960s for use in veterinary medicine, with the U.S. Food and Drug Administration approving its use as a sedative, analgesic, and muscle relaxant in dogs, cats, horses, elk, and deer. Xylazine, also known by the street names “tranq,” “tranq dope,” or “sleep cut,” is increasingly appearing as an adulterant in heroin and fentanyl mixtures in the U.S., particularly over the last two years. Click [here](#) to read the Xylazine Fact Sheet.

The third new fact sheet concerns the use of medications for addiction treatment (MAT) in correctional settings. Through the use of MAT, an individual’s substance use, withdrawal symptoms, and the physiological and psychological cravings can be controlled, enabling the person to begin treatment while in a correctional facility and be released as a person in, or on his or her way to, recovery. Research shows that that the use of MAT for opioid use disorder in correctional settings is a cost-effective and life-saving intervention. Click [here](#) to the read the Medication for Addiction Treatment in Correctional Settings Fact Sheet.

The final fact sheet is an update of a publication LAPPA first released two years ago about the herb kratom, an herb that is derived from a leafy Southeast Asian tree, known formally as *Mitragyna speciosa*. Kratom contains two psychoactive compounds, and humans historically began ingesting the substance to boost their productivity and as a substitute for opium. Despite kratom’s mainstream presence for a relatively short period in the U.S., its use has managed to cause much controversy, and regulators and kratom organizations are at odds about the potential dangers (or lack thereof). In addition to battles on the federal level, several states have banned, or are considering banning, kratom products. Click [here](#) to read the updated Regulation of Kratom in America Fact Sheet.

In addition to the fact sheets summarized above, LAPPa recently released a new 50-state summary on substance use disorder during pregnancy and state child abuse/neglect laws. In this document, LAPPa examined state-level statutes and regulations related to substance use during pregnancy and whether such use during pregnancy is considered child abuse or neglect in a particular jurisdiction. This analysis provides jurisdiction-by-jurisdiction tables describing aspects of each law or regulation including: statutory or regulatory citations of substance use during pregnancy and child abuse or neglect laws or regulations, if any; whether the jurisdiction addresses substance use during pregnancy or prenatal substance exposure in its child welfare laws; whether substance use during pregnancy or prenatal substance exposure is considered child abuse or neglect in the jurisdiction; practitioner requirements related to prenatal substance use or exposure, excluding mandatory reporting requirements; family care plan requirements in statute or regulation; miscellaneous provisions; and recently proposed legislation. Click [here](#) to read the 50 state summary.

Finally, in the Reports and Studies section of LAPPa's website, there is an updated version of the [ODMAP and Protected Health Information under HIPAA: Guidance Document](#). In this document, which is arranged in the form of an FAQ, LAPPa provides general information about both the Overdose Detection and Mapping Application Program (ODMAP) developed by Washington/Baltimore HIDTA (W/B HIDTA) and the Health Insurance Portability and Accountability Act's (HIPAA) Privacy Rule. From there, LAPPa describes how participating agencies' reports of information to, and use of information from, ODMAP is allowable under HIPAA. LAPPa updated the document in 2022 to reflect changes to ODMAP made by W/B HIDTA after the original date of publication (March 2020).

SPEAKING ENGAGEMENTS

On November 4, 2022, Legislative Analysis and Public Policy Association (LAPPa) Senior Legislative Attorney Jon Woodruff presented to attendees at the National Criminal Justice Association's [2022 Virtual Forum on Criminal Justice on "Managing Risk and Legal Liability in Deflection."](#) During the presentation, Jon discussed four general categories of risk that deflection initiatives may face and considerations for managing these risks. These categories of risks are legal liability, changes in the political/public perception of the initiative, applying the initiative unequally, and sustainability.

FEDERAL NEWS BITS

New England Prescription Opioid Strike Force Begins Efforts: The New England Prescription Opioid (NEPO) Strike Force made its first arrest and filed its first charges since launching the NEPO Strike Force this summer to combat unlawful prescribing. Maine doctor Meredith C. Norris, D.O. of Kennebunk allegedly prescribed opioids and other controlled substances outside the usual course of professional practice and without a legitimate medical purpose. Norris is charged in an indictment with 10 counts of illegal distribution of opioids and faces a maximum penalty of 20 years in prison on the top counts. NEPO operates as a partnership between prosecutors and data analysts of the Criminal Division of the U.S. Department of Justice; prosecutors with the U.S. Attorneys' Offices in New Hampshire, Maine, and Vermont; and special agents and investigators with Health and Human Services – Office of the Inspector General, Drug Enforcement Administration, Federal Bureau of Investigation, and other federal and state law enforcement law enforcement agencies, including State Medicaid Fraud Control Units. The mission of the NEPO Strike Force is to identify and investigate healthcare fraud schemes in the New England region and to prosecute individuals involved in the illegal distribution of prescription of opioids and other prescribed controlled substances.

CDC Study Links Antihistamines to Overdose: Researchers at the Centers for Disease Control and Prevention identified approximately 92,000 drug overdose deaths in 43 states and Washington, D.C. between 2019 and 2020, and found that at least 18 percent involved antihistamines. Sedating antihistamines, like

diphenhydramine (a common ingredient found in allergy medicines), can exacerbate opioid-induced respiratory depression, which is characterized by decreased breathing and which is the most common cause of death during an overdose. Naloxone can typically reverse the effects of an opioid overdose, including opioid-induced respiratory depression, but it has no effect on antihistamines and, as such, co-involved opioid and antihistamine overdoses might require naloxone administration plus other immediate medical response to prevent death. The study did not take into account why someone might have taken an antihistamine along with an opioid – which includes to enhance the effect of an opioid, to alleviate the side effects of long-term opioid use like itching, nausea, and disordered sleeping, or to treat an allergy. Health experts say more education is needed to inform people at both the practitioner level and the general population level about the risks of combining different substances.

New Plan from Biden Administration to Help Pregnant Women Fight Addiction: A new plan from the Biden Administration will expand the use of medications for addiction treatment (MAT) to treat pregnant women with a substance use disorder (SUD) through federal court and health programs. Under the plan, the Substance Abuse and Mental Health Services Administration (SAMHSA) will train judges to include opioid replacement drugs into sentencing plans for pregnant women with SUD. Additionally, (1) addiction experts will work to improve access to MAT in places with high addiction rates; (2) SAMHSA will expand services to include a dedicated associate administrator for women’s services; and (3) healthcare providers who treat veterans will begin training and pilot programs that integrate MAT into their care models for this high-risk group. Overall, pregnant women are approximately 17 percent less likely to be accepted for an opioid treatment appointment by buprenorphine providers, a percentage that this plan hopes to shrink.

NATIONAL NEWS BITS

Naloxone in Schools: Citing growing concern about student opioid use, especially fentanyl, a growing number of school districts across the country have begun equipping schools with naloxone, the drug that reverses the effects of an opioid overdose. State laws on naloxone vary widely, and many legislatures have amended their respective state codes in recent years to make it easier to dispense, prescribe, and administer the drug. Naloxone policies with respect to schools vary widely from state to state, as well, and most school districts that stock naloxone require training for a select group of staff who agree to be on-call to administer the drug if they are in the building during an overdose emergency. Federal data show that teen drug use hit a record low in 2021; yet, illicit drugs are significantly more potent, increasing the risk of overdose.

New Study Shows Which Groups Have Highest Overdose Death Rates: Drug overdose deaths in the U.S. increased dramatically throughout the COVID-19 pandemic, but this increase was not experienced proportionally across different age groups, genders, and ethnicities. For people ages 15 to 34, whites had the highest rate of overdose death in the year 2018. However, between 2018 and 2021, rates increased faster among other racial and ethnic groups, so that by the year 2021, American Indian and Alaska Native people had the highest rate of overdose deaths in this same age group. In the 35 to 64 age group, American Indian and Alaska Native people had the highest rate of overdose deaths in 2018, but by 2021, overdose death rates among Black men were higher than any other demographic group. The study’s findings highlight the need for expanding prevention efforts, access to treatment, and intervention – all tailored to specific populations, especially American Indian, Alaska Native, and Black populations.

Xylazine Linked to Overdoses: The flesh-eating animal tranquilizer xylazine has recently been linked to thousands of drug overdoses across the country as the substance is increasingly finding its way into the heroin and fentanyl supply. Known more commonly by its street name “tranq,” the powerful sedative is now found in samples of over 90 percent of Philadelphia’s heroin and fentanyl supply, according to a report issued at the end of August 2022. Xylazine causes wounds and sores on a user’s body, resulting in an increase in soft-tissue

infections and bone disease. The drug also slows blood flow and can render a user unconscious, slowing the body's ability to heal, worsening the previously listed conditions further, and often resulting in complete tissue death and amputation.

STATE NEWS BITS

California: The San Francisco Board of Supervisors voted unanimously to approve a new resolution decriminalizing all psychedelic substances. The measure instructs local law enforcement and court officials to de-prioritize arrests and prosecution of adults for psilocybin mushrooms, ayahuasca, mescaline, or any other plant-based entheogen. More than a dozen U.S cities have passed similar measures and, although these ordinances urge law enforcement to back down on enforcement, they do not actually change a jurisdiction's drug laws.

Delaware: The Delaware Division of Public Health has created new resources and a new webinar specifically for pharmacists as part of its ongoing work to reduce substance use disorder. The Delaware-specific, evidence-based, education-based materials aim to reduce the risk of unintentional opioid prescription overdose. A webinar is also available that educates pharmacists specifically on the effects of co-prescribing naloxone with certain opioid prescriptions.

Maine: A recently released survey shows that citizens support prioritizing treatment for people who use drugs over punitive measures such as incarceration. The survey, which was developed by professors at the University of Maine, found that 74 percent of people supported decriminalizing drug use by diverting people with a substance use disorder out of the criminal justice system for low-level, non-violent offenses and toward community-based treatment programs that put people on the path to recovery.

New York: As of August 12, 2022, it is illegal for anyone under the age of 21 to purchase aerosolized whipped cream in the state of New York. The nitrous oxide (aka, laughing gas) in the whipped cream canisters can cause a person to get high if inhaled, and the practice of doing so-called "whip-its" is becoming increasingly common among teenagers. Inhaling nitrous oxide can cut off oxygen to the brain, resulting in severe effects on the body's cardiovascular system. Selling whipped cream canisters to someone under 21 comes with a \$250 fine for the first offense and up to \$500 for subsequent violations.

New York: The Columbia County Department of Health recently re-released years of detailed overdose data that showed the broad impact drugs have had on the local community. The data released are part of the ODMAP, or Overdose Detection and Mapping Application Program, a widely used public health tool that is normally only accessible to first responders and health officials. Columbia County made the data available to ensure that county residents understand that overdoses and overdose deaths affect everyone. The map will be updated every two weeks, and users will be able to click on a particular community to view overdose data from that area.

Pennsylvania: More than 2,500 Pennsylvanians with minor, nonviolent marijuana criminal convictions have applied for a pardon under a new program launched by Governor Tom Wolf and Lieutenant Governor John Fetterman. Under the program, anyone with a conviction for possession of marijuana, or a possession of a small amount of marijuana for personal use, is eligible to apply for a complete pardon. If such pardon is granted, the conviction is expunged from the person's record. The application is free and available online. State officials estimate that thousands are eligible.

South Carolina: The state Department of Corrections will soon offer a new digital tracking service to support addiction therapy for inmates in the state's main prison for women. Eligible inmates will report their substance use, cravings, and triggers on a smart device, and counselors will use the results to inform individualized therapy sessions. The program is funded by the state's Department of Alcohol and Other Drug Abuse Services and is the first of its kind in a U.S. prison.

Texas: State leaders rolled out a new pilot program to combat the opioid epidemic, one that will run through the school system. “Friday Night Lights Against Opioids” is aimed at stopping opioids from spreading in Texas communities by focusing on educating young people, especially student athletes. Over 3.5 million at-home medication/drug disposal packets will be distributed during high school football games during the fall 2022 football season, and public service announcements will be made during those same games. The state’s Attorney General hopes the campaign will become the largest drug prevention disposal campaign in history.

Virginia: The Virginia Department of Health developed an online calculator to show how much the opioid epidemic impacted Virginians in terms of lost labor, health care, crime, and other costs. According to the calculator, the overall cost of the epidemic in 2020 was \$3.5 billion, and more than four people a day died of an opioid drug overdose in the commonwealth every day in that same year. The project was funded through the Centers for Disease Control and Prevention’s Overdose Data to Action initiative.

Washington: Seattle public libraries are planning to allow trained staff members to administer naloxone to people who overdose on library grounds. Staff will not be required to administer the opioid overdose reversal medication but will be trained to do so on a volunteer basis, meaning there may be locations with no staff volunteers who are appropriately trained. Once ordered, the naloxone will be placed into first aid kits and delivered to any locations that have at least one staff member who has undergone the voluntary training.

Wyoming: Lawmakers in the state have decided not to sponsor legislation that would make some kinds of drug use while pregnant a felony. The draft legislation was modeled after a bill that failed to pass in a previous legislative session which classified methamphetamine and certain narcotic drug use by a pregnant woman as child endangerment. Most lawmakers who spoke at the committee hearing where the legislation was considered argued that the punitive approach outlined in the bill would discourage prenatal care and, ultimately, do more harm to unborn children. Wyoming is one of the few states that does not require hospitals to report when newborns have been exposed to controlled substances.

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 for addiction 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/>.