

NEWS BITES

JULY 2023

LAPPA NEWS

KNOWLEDGE LABS



The Legislative Analysis and Public Policy Association (LAPPA) is excited to announce a new opportunity to engage with experts from around the country on a variety of topics ranging from overdose prevention to substance use during pregnancy. **Sponsored in partnership with the White House Office of National Drug Control Policy**, the [Model Law Virtual Knowledge Labs](#) are a virtual learning series that provides stakeholders with an opportunity to deepen their awareness and understanding of how model laws can assist jurisdictions in addressing substance use disorders and concomitant issues. Knowledge Lab speakers will share insights into the key components of LAPPA's model laws,

demonstrate how states have used these model laws to increase access to treatment and reduce overdose deaths, and discuss how the model laws balance the needs of those in the public health and public safety fields with the unique nature of state legislative processes. This will be a six-part series, with live discussions taking place throughout the summer and covering the following topics: *Harm Reduction and Overdose Prevention*; *Substance Use During Pregnancy and Family Care Plans*; *Overdose Prevention and Treatment in Correctional Settings*; *Overdose Fatality Review*; *School-based Overdose Prevention*; and *Treatment in Emergency Department Settings*. Click [here](#), to learn more and to register for the individual sessions, including the next scheduled session, **Overdose Fatality Review** scheduled for August 17th at 2:00 p.m.

PUBLICATIONS

Model Acts

LAPPA recently released [The Model Drug Take-back and Disposal Program Act](#) (Act), the primary purpose of which is to establish a comprehensive and uniform statewide system for the safe and convenient collection and disposal of unused, expired, and unwanted drugs. Research indicates that the quantity of unused drugs in American homes is substantial, with many of those drugs either becoming waste and potentially harming humans and marine and animal life or falling into the hands of individuals to whom they are not prescribed, providing opportunities for misuse and diversion. Per the provisions of this Act, states would: (i) designate an agency or department to oversee the statewide system of drug take-back programs; (ii) require that manufacturers that sell their product into the state pay an annual fee to help cover costs related to implementing the provisions of this

Act; (iii) promote public outreach that educates residents on the inherent risks of unused, expired, and unwanted drugs; the potential harm to the environment posed by improper drug disposal; and the options for collection and disposal of drugs available within the state; and (iv) ensure that state drug take-back and disposal programs operate in an efficient manner that prioritizes the safe and secure disposal of drugs.

Fact Sheets

There are three new fact sheets available on LAPPAs website, including the fourth in a series focused on novel psychoactive substances. [Isotonitazene](#), more commonly known as “Iso,” is a synthetic opioid for which there are currently no accepted medical uses in the United States or any other country. The substance is 500 times more potent than morphine and classified as a novel psychoactive substance since it first appeared on the illicit drug market in the U.S. in 2019. Since that time, reported seizures of Iso have increased, and like fentanyl, Iso can be mixed into other drugs to make a dealer’s product more potent and ultimately more profitable (and more deadly). Isotonitazene is classified as a Schedule I controlled substance under the federal Controlled Substances Act (CSA) and in nearly half of state CSAs. As the dangers associated with Iso grow, LAPPAs will continue to monitor relevant regulatory developments.

[Ketamine](#) is an anesthetic that has been used medically for decades in both humans and animals as a short-acting painkiller. Ketamine is classified as a dissociative anesthetic because it causes patients to feel detached from their pain and environment and because ketamine can produce such dissociative sensations, feelings of euphoria, and hallucinations, it is popular as a “club drug” among teens and young adults at dance clubs and raves. Most of the ketamine illicitly distributed in the U.S. is either diverted or stolen from legitimate sources, particularly veterinary clinics, or smuggled into the U.S. from Mexico. Illicit ketamine is found either as a clear liquid or as a white or off-white powder; liquid ketamine can be injected or mixed into drinks, while powdered ketamine can be snorted, smoked, or pressed into pills. The risk of overdose death from ketamine alone is uncommon due to the drug’s ability to cause unconsciousness with minimal impact on breathing or blood circulation. The risk of death from accidents, such as falling, drowning, or vehicular accidents, while intoxicated with ketamine, however, increases. Ketamine is often misused in combination with other substances, including alcohol, amphetamines, MDMA (commonly known as ecstasy), and cocaine, which increase the likelihood of serious complications or death. While ketamine misuse is currently rare in the U.S., reports of misuse are on the rise, and LAPPAs will continue to monitor the spread of novel ketamine analogs and any new regulatory responses at the state and federal levels.

Drug diversion is defined as “a criminal act or deviation that removes a prescription drug from its intended path from the manufacturer to the patient,” and while drug diversion can occur in a variety of settings and be committed by anyone, it is particularly likely to occur in healthcare settings by healthcare workers due to the ease in which they can access prescription drugs. [Drug Diversion in Healthcare](#) is a serious issue that can result in patient harm, financial loss to the healthcare entity, and civil and criminal litigation based on the perpetrator’s actions. Some researchers estimate that as many as 10 to 15 percent of all healthcare workers divert drugs at least once in their careers, with most of the medications diverted from healthcare settings being used to support the use (or misuse) of the drug by that same healthcare worker. A healthcare worker can divert drugs through several mechanisms: (i) false documentation (*e.g.*, stating in a patient’s medical record that the worker gave the patient the drug without doing so or falsely listing a medication as wasted); (ii) scavenging wasted medication (*e.g.*, removing residual medication from used syringes or the trash); or (iii) theft by tampering (*e.g.*, substituting or diluting medication with a similar looking substance, such as saline). Drug diversion in healthcare settings is an issue that can harm patients, healthcare facilities and workers, and the public in a variety of ways and can only be detected when proper controls are in place.

50-state Summaries

There is a new 50-state summary available pertaining to [Fentanyl-specific Criminal Provisions](#) in which LAPPA provides jurisdiction-by-jurisdiction tables describing aspects of each law or regulation in effect as of June 8, 2023, followed by a table related to state and federal legislation relative to all fentanyl-specific criminal provisions. The state tables include information regarding the following: (i) statutory or regulatory citations of fentanyl-specific criminal provisions, if any; (ii) the effective date(s) of such provisions; (iii) criminal provisions, including penalties where applicable, related to fentanyl and fentanyl-related compounds; (iv) whether the penalties for violations related to fentanyl are different than the penalties for other controlled substances; and (v) any recently proposed legislation or regulations. The addition of pending legislation/regulations will be found in all of LAPPA's 50-state summaries as they are updated throughout the summer. These documents can be found in the [Legal and Legislative Research](#) section of LAPPA's website.

PRESENTATIONS

Senior Legislative Attorney Jon Woodruff recently presented at the Association of Prosecuting Attorneys' 13th Annual MacArthur Foundation Safety and Justice Challenge Prosecutorial Leadership Institute in Portland, Oregon. The focus of the Leadership Institute was *Sustaining System Change Through Working with State and Local Legislators*, with special emphasis on local or state legislative efforts. Jon's presentation, "Sustainability Efforts: Substance Use Model Legislation MacArthur Foundation Safety and Justice Challenge" can be viewed [here](#).

Senior Legislative Attorney Jon Woodruff and Legislative Attorney Stephanie Noblit both recently presented on the implications of nonprescription naloxone, for the National Governors' Association and National Conference of State Legislators, respectively. The U.S. Food and Drug Administration approved sales of over-the-counter naloxone in March of 2023, and it is expected that the opioid overdose reversal medication will be widely available without a prescription across the country by late summer. Jon and Stephanie's presentations can be viewed [here](#).

FEDERAL NEWS BITS

U.S. Sanctions Foreign Firms: The United States sanctioned more than a dozen Chinese and Mexican companies, accusing the entities of selling and shipping equipment capable of making counterfeit pills. These pills are often laced with fentanyl and are a leading cause of overdose deaths across the country. [Pill press](#) machines are sometimes sold to individual buyers, but U.S. officials allege that in most instances, the presses are sold to Mexican suppliers who, in turn, provide the machines to super labs in Mexico that have the capacity to produce millions of fentanyl-laced pills on a weekly basis. Assets of sanctioned companies have been blocked and reported to the Office of Foreign Assets Control in the U.S. Department of the Treasury, a move that typically bars American nationals from conducting any business with those companies. The Chinese Embassy condemned the sanctions, stating that they effectively create an obstacle to U.S.-China counter-narcotics cooperative efforts.

AGs Ask Congress to Act on Xylazine: In an effort to stem the widespread use and trafficking of xylazine and slow the steep rise in xylazine-related deaths, the National Association of Attorneys General recently sent a letter on behalf of a bipartisan group of 39 state and U.S. territory attorneys general asking Congress to pass the [Combating Illicit Xylazine Act](#). Xylazine is currently approved by the U.S. Food and Drug Administration only as a veterinary medicine used to sedate and relieve pain in large animals. In humans, the drug can depress breathing and heart rate, lower blood pressure, and cause unconsciousness, necrosis, and sometimes death. Xylazine is not an opioid, so existing opioid overdose reversal medications such as naloxone are not effective in countering the drug's

potentially deadly effects. According to statistics from the Drug Enforcement Administration, 23 percent of fentanyl powder and seven percent of fentanyl pills seized by the agency in 2022 contained xylazine; this is but one of many alarming statistics prompting recent actions by state officials, including urging the federal government to take legislative action. The Executive Branch recently signaled how seriously a threat it considers xylazine to be, as the Director of the White House Office of National Drug Control Policy used executive designation authority to designate fentanyl combined with xylazine as an emerging threat to the U.S.

STATE NEWS BITS

California: Marin County is using state-of-the-art technology to analyze wastewater samples, testing for the presence of methamphetamine, fentanyl, nicotine, and cocaine. Wastewater monitoring is increasing in popularity as a way for communities to detect and track the prevalence of certain diseases, including substance use disorders. Data can help a community, like Marin County, implement a targeted strategy, increase naloxone distribution, and evaluate ongoing intervention efforts.

Delaware: Lieutenant Governor Bethany Hall-Long announced a pilot program to distribute combination fentanyl and xylazine test strips newly developed by SIVAD Diagnostic Medical Group LLC and validated by a U.S. Food and Drug Administration-registered testing lab. The strips detect both fentanyl and xylazine in various substances including powders, pills, and residue from bags and cookers. QR codes embedded in the strips will contain information on local resources such as counseling services and emergency naloxone distribution locations.

Illinois: Starting in June of 2024, certain concert venues in Illinois will be required to stock the overdose-reversal drug naloxone. Legislation signed by Governor J.B. Pritzker during the 2023 legislative session requires for-profit music venues with an occupancy of 1,000 or more to have opioid overdose antidotes on site along with trained staff to administer the drugs. The new law applies to any music venue that hosts live concerts or musical performances for which tickets are sold for entry.

Maryland: A pharmacy in the city of Cumberland must pay a \$120,000 civil penalty and enter a consent decree restricting opioid prescriptions for alleged violations of the federal Controlled Substances Act. The U.S. Department of Justice claims, though the pharmacy has not yet admitted liability, that: (i) patients were allowed to pay cash for medicine despite having insurance coverage for prescriptions; (ii) filled orders included prescriptions for combinations of drugs that are not medically legitimate; and (iii) dosages of opioids dispensed were far greater than recommended.

Minnesota: Blue Cross and Blue Shield (BC/BS) of Minnesota announced that starting in 2024, access to peer support specialists will be a covered benefit for all members who are enrolled in a fully-insured commercial plan. Peer support specialists are trained individuals with lived experience who provide support, encouragement, and connections to resources for others facing recovery and mental health challenges. BC/BS will be the first non-profit health plan in Minnesota to offer this benefit to individuals with employer-sponsored insurance as well as those who purchase plans on their own through the state's marketplace.

New York: Governor Kathy Hochul recently announced a new scholarship program for students interested in starting a career in addiction services. Funded through money from the state's opioid settlement litigation proceeds, the program will provide nearly three million dollars in scholarships to students at three state colleges/universities who are looking to get degrees in addiction studies or otherwise meet the education requirements to receive credentials from the New York State Office of Addiction Services. Eventually this program will support as many as 300 individuals at Alfred State College, Stony Brook University, or Empire State University.

South Carolina: Officials in the town of Mount Pleasant plan to spend \$300,000 in federal money to support a partnership between police and a local non-profit organization, as part of a plan to address the ongoing opioid epidemic. The funds, which are part of the opioid settlement reached between the nation's pharmaceutical distributors and state and local governments, will: (i) help purchase resource kits for those at risk of overdose; (ii) increase the town's supply of naloxone; and (iii) fund a peer support specialist who will be responsible for conducting follow-up visits with overdose victims.

Texas: Governor Greg Abbott signed a new bill into law, that: (i) allows prosecutors to charge fentanyl distributors with murder; (ii) specifies how fentanyl deaths are recorded on death certificates; (iii) provides funding for naloxone at universities; (iv) increases the penalty for manufacturing and distributing fentanyl; and (v) funds a statewide awareness campaign aimed at the state's youth. The measure specifies that a person who provides fentanyl that is used in a fatal overdose, even if mixed with other fatal drugs, may be held liable for the overdose victim's death.

UPCOMING EVENT



In April 2023, at its Annual Business Meeting, the Police, Treatment, and Community Collaborative (PTACC) National Leadership Council (NLC) authorized the first-ever **National Deflection Week**. This action was in recognition of the advancement of the field of deflection and pre-arrest deflection/diversion

since its inception just over a decade ago. This decision by the PTACC NLC recognizes that the field has grown and learned enough to say that deflection is here to stay. From this point forward, National Deflection Week will take place during the third week of July, running from Sunday through Saturday and will continue until otherwise modified by the PTACC NLC.

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/>.

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