

# NEWS BITES

JANUARY 2024

## LAPPA NEWS

### PUBLICATIONS

#### Reports



LAPPA recently released [\*State of the States: Legislative Roadmap for Reducing Overdose Deaths and Increasing Access to Treatment\*](#) (the Roadmap), a guide for state leaders on the most effective approaches to addressing the current drug epidemic. The Roadmap identifies 10 evidence-based policy approaches for reducing overdoses. Each points to a specific type of policy that states can implement to reduce overdose deaths and increase access to substance use treatment, such as increasing access to treatment in emergency department settings or requiring state and local correctional facilities to provide withdrawal management services. The Roadmap further includes: (1) general background information about each strategy; (2) a map showing which states have already adopted that particular strategy as well as an implementation timeline; (3)

information about why the strategy is important and the impact it can have if adopted in a state; and (4) implementation resources. For more information about this report and the Virtual Knowledge Labs Series, the project culminating in the Roadmap, visit the [Knowledge Labs](#) page on LAPPA's website.

#### Fact Sheets

There is a new fact sheet available on LAPPA's website - [\*Crack Cocaine and the Fair Sentencing Act\*](#) - which examines the racial disparities and stigma surrounding crack cocaine, from the late 1980s, that continue to this day. This document reviews the Fair Sentencing Act and how its provisions have helped to lessen the sentencing disparity between crack and powder cocaine.

Also available is an updated version of the previously titled *Urine Drug Screening* fact sheet. [\*Fentanyl Screening in Hospitals\*](#) details what hospitals can do to better ensure the detection of fentanyl in the urine drug samples of emergency department patients and what states are doing to make hospitals update their drug screen protocols. Despite fentanyl use becoming widespread across the country, most hospital laboratories do not routinely test for fentanyl as a part of their drug screen panels. States have the ability to enact laws requiring hospitals to update their drug screen panels to include fentanyl, and screening for fentanyl will provide health care providers with a clear clinical picture, allowing for more effective treatment.

## Maps

As part of its Virtual Knowledge Lab Series, LAPP identified each state's status with regard to its support of a particular policy shown to help reduce the incidence of opioid overdose. The 10 policy approaches or strategies represented by the [Knowledge Lab State Maps](#) are as follows:



- 1) The jurisdiction supports syringe services programs by having jurisdiction-wide laws that explicitly or impliedly authorize them;
- 2) The jurisdiction supports access to fentanyl test strips (FTS) via jurisdiction-wide laws that do not subject the possession or use of FTS to drug paraphernalia penalties;
- 3) The jurisdiction supports access to drug checking equipment (DCE) that tests for substances other than fentanyl by not subjecting such DCE to drug paraphernalia penalties;
- 4) The jurisdiction helps overdose fatality reviews (OFRs) effectively identify system gaps by having statewide laws that expressly authorize an OFR to obtain certain disclosure-protected information from state and/or local entities;
- 5) The jurisdiction requires access to medication for addiction treatment in all—or nearly all—state and local correctional facilities;
- 6) The jurisdiction disrupts the “school-to-prison” pipeline via laws or regulations that do not require that a drug-related incident at school be reported to the police;
- 7) The jurisdiction encourages emergency department (ED)-initiated interventions for substance use disorder by having statewide laws that require EDs to either establish specific discharge protocols for patients treated for substance use-related emergencies or initiate medication for addiction treatment for those patients, where clinically appropriate;
- 8) The jurisdiction supports incarcerated individuals in need of withdrawal management by requiring state or local correctional settings to provide withdrawal management services, via either statewide law or protocol/policy;
- 9) The jurisdiction encourages naloxone access by having statewide laws requiring all public high schools to keep naloxone on site for responding to overdoses at school or at school-sponsored events; and
- 10) The jurisdiction assists pregnant or postpartum individuals with substance use disorder in seeking help by having specific laws/regulations designed to help families with substance-exposed infants and not automatically considering substance use during pregnancy or giving birth to a substance-exposed infant to be child abuse or neglect.

## FEDERAL NEWS BITS

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**Calls for Increased Naloxone Availability in Federal Buildings:** The first update to federal building safety guidelines since 2009 is aimed at making naloxone available in all federal buildings alongside automated external defibrillators (AEDs). Under the new guidance, AEDs would be converted into so-called safety stations containing either an opioid overdose reversal agent like Narcan, a hemorrhagic control component like Stop the Bleed, or both.

**Medicare Beneficiaries Lack Treatment Access:** According to a new report from the U.S. Department of Health and Human Services, Medicare beneficiaries are not getting the treatments they need for opioid use disorder (OUD), in part because only one in five enrollees is receiving medication to treat the disorder. Of the roughly 1.1 million beneficiaries who have OUD, just 18 percent received medication to treat it and in some states like Florida, that rate drops as low as six percent. The Office of the Inspector General (OIG) has made several recommendations to increase access, including educating providers about the use of buprenorphine to

treat OUD and about the fact that buprenorphine has a lower diversion risk, a concern for providers. The OIG also is recommending more education for enrollees and providers about naloxone and insurance coverage restrictions for the medication.

**New High-dose Opioid Overdose Reversal Medication Under Review:** The U.S. Food and Drug Administration (FDA) has agreed to review an application from the Swedish pharmaceutical company Orexo for a new, high-dose rescue medication for opioid overdoses. The drug, OX124, is a nasal spray that contains an extremely high dose of naloxone and is described as being able to meet the growing need for more powerful medication to improve the possibility of reviving individuals experiencing an overdose caused by synthetic opioids such as fentanyl. If approved, OX124 will be patent protected until 2039.

**Federal Government Looking to Add Fentanyl to Drug Testing Table:** The Substance Abuse and Mental Health Services Administration (SAMHSA) is asking for input related to possible updates to the Urine and Oral Fluid Analyte Table, specifically about fentanyl. SAMHSA explained that fentanyl accounts for a large proportion of overdose deaths in the U.S. and is increasingly used as a stand-alone substance of abuse, warranting a closer examination of how federal government agencies are responding.

**Test Approved for Identifying Opioid Use Disorder:** The FDA recently approved the first test that uses DNA to assess whether a person may have an elevated risk of developing OUD. The test is intended to be used prior to first exposure to oral opioid pain medication in patients being considered for a four to 30-day prescription for the treatment for acute pain. A health care provider would swab a patient's cheek to collect the DNA sample that will then be used to determine if that patient has a combination of genetic variants associated with an increased risk of developing OUD.

## STATE NEWS BITS

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**California:** An all-time high in overdose deaths in San Francisco is prompting city officials to expand wastewater testing for fentanyl and other substances so that public health officials can be better prepared to respond to a growing health crisis in the city. Officials will monitor wastewater samples for methamphetamine, amphetamine, cocaine, fentanyl, and xylazine. Research from other jurisdictions that monitor wastewater samples for opioids and other substances has shown some correlation between the presence of these substances in the samples, increases in overdose deaths, and increases in calls to 911 for overdose response services.

**Colorado:** Eight organizations throughout the state received Opioid Abatement Innovation Challenge grants for their efforts in opioid use prevention, early intervention, harm reduction, treatment, recovery, continuum of care, and promoting behavioral health within a criminal justice or law enforcement setting. The grants are funded by the money that the state received from the opioid litigation settlement and were awarded through a competitive application process that was launched in May 2023. In total, the eight organizations will receive \$44 million to implement their innovative ideas in affected communities throughout the state.

**District of Columbia:** D.C. Mayor Muriel Bowser declared a public emergency over the opioid crisis, directing city agencies to use a shared overdose tracking system so that outreach teams can respond to overdose hotspots more efficiently. In declaring the emergency, the mayor joins six states that have already done so. However, many are questioning the move, saying that the order does not come with any increased funding or an actual plan to improve the delivery of services such as housing, transportation, or employment opportunities, or adoption of evidence-based harm reduction measures.

**Hawaii:** Honolulu started off 2024 by becoming the first city in America to require that bars, nightclubs, and restaurants carry the opioid overdose reversal medication, naloxone. Although Hawaii already has the sixth lowest opioid death rate per capita as compared to other states, according to the Centers for Disease Control

and Prevention, members of the Honolulu City Council hope that implementing the naloxone measure will serve as an example to other communities that there is always more that can be done in the fight against the opioid epidemic.

**Illinois:** A new initiative in Cook County is looking to make a high dose injectable form of naloxone more available by placing it for free at gas stations in neighborhoods that have high numbers of reported overdoses. Convenience stores and gas station parking lots and bathrooms are among the most common locations for opioid overdoses to occur, which is why community advocates teamed up with the Cook County Sheriff's Office to launch this program. Approximately 15 gas stations in the Chicago area will receive doses of naloxone, with hopes to expand to other locations.

**Kentucky:** A state committee is considering funding research into the psychedelic drug, ibogaine, the compounds of which have shown some promise in treating opioid addiction. In the U.S., ibogaine is a Schedule I controlled substance, but it is unregulated in many other countries and has grown in popularity as a treatment for opioid use disorder. The Kentucky Opioid Abatement Advisory Commission plans to vote on whether to allow the funding of research, a move which would allocate \$42 million out of the nearly \$840 the state received from the opioid litigation settlement.

**Maine:** Drug overdose, specifically from fentanyl, is now the leading cause of death for young adults in the State of Maine. As opposed to 15 years ago, when the typical individual entering a treatment program was somewhere between their late 40s and early 60s, roughly two thirds are now under the age of 30 at a specific treatment center in the state. The rate of mortality attributable to opioid overdose in Maine is more than double that of most of the rest of the country.

**Maryland:** Governor Wes Moore signed an Executive Order establishing Maryland's Office of Overdose Response within the state department of health – the office will coordinate and promote efforts across state agencies to address the overdose crisis. The governor's order also established the Maryland Overdose Response Advisory Council which will include participation from 18 state government agencies and offices to promote data sharing and develop strategic guidance for increasing access to substance use care.

**Michigan:** The Oakland County Sheriff's Office is the first in the nation to use the medication, Opvee, to reverse overdoses, as opposed to naloxone, the reversal agent currently in wide use across the country. Unlike naloxone, Opvee is approved specifically to treat overdoses related to synthetic opioids, like fentanyl, that do not respond well to naloxone. Opvee binds very tightly to opioid receptors, resulting in a longer lasting effect than naloxone, demonstrating why it is more efficient in reversing overdoses involving synthetic opioids that are generally more potent than other opioids. The Sheriff's Office has been quick to remind the community that Opvee is not a replacement for naloxone and that all opioid reversal medications are extremely important tools in the fight against the opioid epidemic.

**Minnesota:** Law enforcement officers in the state will soon begin a pilot project that uses oral test technology to detect the presence of marijuana and other drugs when assessing whether a driver is under the influence. The testing devices that will be used during the pilot can detect six classes of drugs from an oral fluid sample within about five minutes, including marijuana, cocaine, opioids, amphetamine, methamphetamine, and benzodiazepines. During the course of the pilot project, which is expected to last about one year, the results will not be admissible in court and cannot be used as probable cause for an arrest.

**New Jersey:** Governor Phil Murphy recently signed legislation expanding access to harm reduction supplies like naloxone, fentanyl test strips, and clean syringes, building on his administration's commitment to ending the opioid epidemic. Harm reduction supplies that are be exempt from state penalty, if by an authorized harm reduction center, include any materials or equipment used to prevent death and physical harm, reduce the spread of disease, or mitigate the adverse effects associated with the personal use of controlled dangerous substances. By exempting these items from existing drug paraphernalia laws, harm reduction advocates will no longer face legal consequences for possessing or supplying materials on the list of exempted items.

**New York:** The City Council passed a bill that requires all public schools to carry naloxone, though it is unclear whether Mayor Eric Adams plans to sign the bill into law. High schools have stocked the overdose reversal medication since the fall of 2023, but this new measure expands the requirement to do so to all public middle and elementary schools. A media inquiry conducted at the beginning of 2023 revealed that nearly all public schools across the state stock naloxone nasal spray, except New York City Public Schools.

**Oregon:** As of the start of 2024, hospitals, detox facilities, and clinics that treat opioid use disorder are required to supply all patients with at least two doses of Narcan (or an equivalent) upon release after completing treatment or at the end of the patient’s stay at the facility. This requirement does not apply when a patient is transferred from one facility to another or leaves a facility against medical advice. The legislation provides that the Oregon Health Authority will facilitate access to the Narcan, but the language of the bill is silent as to where the funding for the medication will come from – currently two doses of over-the-counter Narcan costs approximately \$45.

**Virginia:** Governor Glenn Younkin recently announced eight grant awards that will invest in building emergency room alternatives for patients who are experiencing a behavioral health crisis, which will help ensure that Virginians have somewhere to go to receive care that they need in the short-term, while also investing in the long-term treatment infrastructure the state needs. The grants are part of the Governor’s Right Help, Right Now plan, launched in December 2022, aimed at transforming Virginia’s outdated behavioral healthcare system.

**West Virginia:** The state recently completed the nation’s first statewide Medicaid pilot program using app-based motivational incentives as part of addiction treatment. The practice is known as digital contingency management, and in this instance was used with a group of West Virginia Medicaid patients over a two-year period from 2021-2023. The program’s sponsors reported that 93 of 121 eligible participants downloaded and completed all of the training, 65 percent of initial patients were still participating at the six-month mark, and of those who completed the entire program, 55 percent demonstrated verified abstinence.

## ABOUT THE 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, treatment in emergency settings, alternatives to incarceration for those with substance use disorders, medication for addiction treatment in correctional settings, and syringe services programs.

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

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