

# NEWS BITES

NOVEMBER 2024

## LAPPA NEWS

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### PUBLICATIONS

#### *Model Laws*

[Model Access to Medication for Addiction Treatment in Correctional Settings Act](#): Drafted in partnership with the O’Neill Institute for National and Global Health Law at Georgetown University in 2020, LAPPA updated this model law, the purpose of which is to: (1) promote the use of all U.S. Food and Drug Administration-approved medication for addiction treatment options in correctional settings; (2) ensure that all incarcerated individuals with a substance use disorder are provided access to medication for addiction treatment while incarcerated, are treated as individual patients, and have individualized treatment plans reflecting their clinical needs and not a one-size-fits-all approach; and (3) ensure that, upon release from a correctional setting, individuals receiving medication for addiction treatment are provided with a connection in the community for continued care, including a prescription for the medication for addiction treatment and the necessary contacts and tools to continue their treatment.

[Model Overdose Reversal Agents Act](#): In 2024, given both the general progression of overdose reversal agent (ORA) laws across the country over the past three years as well as the emergence of non-prescription (*i.e.*, over the counter) options that are not yet addressed adequately in many state laws, LAPPA updated its 2021 model act on the topic. The provisions of this legislation intentionally push ORA access forward beyond where most, if not all, states are now. The key elements of this act are to: (1) remove all existing restrictions about who can receive, possess, store, transfer without cost, or administer an ORA such that any “person or entity” is eligible; (2) require specified individuals and entities to offer ORAs to individuals at increased risk of overdose; (3) require emergency access to ORAs at specified locations for use by any individual; (4) provide guidelines for ORA sales, in particular sales of non-prescription ORAs; (6) grant broad immunity to people or entities for prescribing, dispensing, giving, donating, transferring without charge, selling, or administering ORAs in the absence of gross negligence, malice, or criminal intent; (7) identify the required content for educational information about ORAs and specify when that information must be disseminated; (8) require Medicaid and other health insurance coverage for ORAs, including non-prescription ORAs, and prohibit discriminatory life and health insurance practices; and (9) create a bulk overdose reversal agent purchasing fund to assist persons and entities to fulfill requirements under the Act.

## 50-State Summaries

[Methods to Obtain Relief from the Collateral Consequences of Conviction](#): Collateral consequences are legal, regulatory, and policy barriers imposed against an individual arrested for, charged with, or convicted of a criminal offense that often have no connection to the criminal offense. In this new 50-state summary, LAPP: (1) provides a single resource highlighting each jurisdiction's laws related to collateral consequences; (2) allows for comparison of the laws between jurisdictions; and (3) identifies and highlights interesting or novel provisions.

[Home-generated Sharps Waste Disposal: Summary of State Laws and Regulations](#): During any one year in the United States, an estimated nine million sharps users administer over three billion injections outside of healthcare facilities. "Sharps" include items such as needles, syringes, lancets, auto-injectors, and infusion sets. Currently, there are not any federal requirements on the disposal of home-generated sharps, so LAPP undertook a recent analysis to update the current status of statewide laws and regulations addressing the collection and disposal of home-generated sharps.

[Overdose Fatality Review Summary of State Laws](#): Drafted in partnership with the Institute for Intergovernmental Relations, this document analyzes the laws on overdose fatality review boards (*i.e.*, teams that are established to review fatal drug overdose cases within their jurisdictions in order to determine what factors and characteristics may lead to a possible overdose). By understanding what influences a fatal overdose, the review board can recommend changes in law and policy that will better allow the state, city, or county to prevent future overdose deaths.

## Fact Sheets

[Collateral Consequences of Criminal Justice Involvement](#): In this fact sheet, LAPP provides an overview of the collateral consequences of becoming involved in the criminal justice system. Some of these consequences can include losing the right to vote, to serve on a jury, and to own a firearm. Often, these and other barriers are not related to the original criminal offense.



["Tusi" – Pink Cocaine](#): In this fact sheet, LAPP addresses the emergence of "tusi," which is also known as pink cocaine. Tusi is a group of psychedelic drugs that are dyed pink, rarely contain cocaine, and are common among clubgoers. While tusi itself is not controlled under the Controlled Substances Act, its individual components like ketamine and fentanyl often are, and because users rarely know what is in the mix they are ingesting, they cannot anticipate the side effects.

## Reports

LAPP, in partnership with the Heller School for Social Policy and Management at Brandeis University, recently published [Pharmacy-based Methadone: Analysis of Current Laws and Regulations](#), a report that includes a comprehensive review of the laws and regulations that apply to methadone for opioid use disorder (OUD) to determine which laws and regulations would need to be amended in order to support pharmacy-based methadone treatment for OUD. This analysis: (1) includes a discussion of the agencies involved in governing methadone for OUD treatment; (2) explains the provision in federal Controlled Substances Act that creates the regulatory scheme for methadone treatment; (3) describes DEA regulations governing Narcotic Treatment Programs; and (4) summarizes the general types of state laws and regulations that place additional restrictions on methadone for OUD treatment.

## Toolkits

LAPPA, in partnership with the Institute for Intergovernmental Relations, developed information sharing fact sheets to provide guidance for overdose fatality review teams, public safety and public health agencies utilizing the Overdose Detection Mapping Application Program (*i.e.*, ODMAP), and law enforcement deflection partnership efforts on what can and cannot be legally shared regarding federal law (*e.g.*, 42 Code of Federal Regulations [CFR] Part 2 and the Health Insurance Portability and Accountability Act [HIPAA]). Click the links below to read the individual fact sheets including two newly posted documents on [Veterans Health Administration Records](#) and [Indian Health Service Information Sharing Guidance](#).

## Staff Updates

LAPPA Legislative Attorney [Cody Nagle](#) was recently sworn into the Washington State Bar Association, after passing the Washington D.C. Bar Examination this past February. Cody's journey from law student to licensed attorney was anything but easy and includes multiple arrests, incarceration, and seven attempts at treatment. Cody was eventually offered, and successfully completed, a drug court program under the guidance of the very same judge who swore her into the Bar. Cody's story was recently chronicled in an interview on a local affiliate of [National Public Radio](#) and published in a recent edition of [Alcoholism and Drug Abuse Weekly](#).

## NOTABLE STUDIES

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**Increased Naloxone Access Is Not Lowering Youth Opioid Deaths:** According to data recently published in the *Journal of the American Medical Association Pediatrics*, state laws expanding access to naloxone have not resulted in reduced death rates from opioid overdoses among adolescents and young adults. Researchers involved in the study gathered data on overdose deaths that occurred between January 1, 1999 and December 31, 2021 among people age 15 to 24 years. Generally, the data showed that most overdose deaths occurred among young adults aged 20 to 24 (79.8 percent) and that fentanyl and other synthetic opioids were responsible for 39 percent of all the overdose deaths recorded in the study. Researchers noted that before naloxone access laws were widely implemented, opioid overdose deaths in the study group were rising at a rate of approximately 7.8 percent per year – there was no significant reduction in the fatal overdose rate after states implemented laws increasing access to naloxone. Click [here](#), for more information about this study.

**Higher Doses of Buprenorphine May Improve Treatment Outcomes:** Research funded by the National Institutes of Health suggests that adults with Opioid Use Disorder (OUD) who receive a higher daily dose of the addiction medication buprenorphine may have a lower risk of subsequent emergency department visits or use of inpatient services related to behavioral health than adults who receive the current recommended dose. This finding could indicate that higher doses of buprenorphine could be more effective in managing OUD. Researchers reviewed insurance claims data from over 35,000 people who had a diagnosis of OUD and initiated treatment with buprenorphine between 2016 and 2021. They found that 12.5 percent experienced an emergency department or inpatient visit related to behavioral health within the study period. The recommended target dose for buprenorphine is 16 mg per day, but according to researchers, patients taking 16 to 24 mg per day took 20 percent longer to have a subsequent emergency department or inpatient visit; those taking 24 mg went 50 percent longer before that visit compared to those taking 8 to 16 mg per day. The study's authors note significant barriers to high-dose buprenorphine, such as insurance restrictions and state laws restricting access, and suggest that further research is needed including data from non-commercial insurance companies and a greater variety of demographic groups. Click [here](#), to read more about this study.



## FEDERAL NEWS BITS

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**FDA Approves REMS Modification:** The Food and Drug Administration (FDA) approved a modification to the Opioid Analgesic Risk Evaluation and Mitigation Strategy (OA REMS); companies participating in the OA REMS program were notified that this modification will require them to begin providing pre-paid drug mail-back envelopes upon request to outpatient pharmacies and dispensers of opioid analgesics by March 31, 2025. Once the modification has been fully implemented, the intent is for patients and caregivers to be provided with a free mail-back envelope (MBE) – other changes to the OA REMS include: (1) updates to the Patient Guide including the information related to the risk of unused OAs and the importance of safe disposal; and (2) a new Patient Education Sheet explaining the risk of unused OAs and the importance of safe disposal to be included with each pre-paid drug MBE.

**DEA Shuttering Offices:** The Drug Enforcement Administration (DEA) is closing two offices in China, despite ongoing struggles to stem the flow of precursor chemicals from that country that continue to fuel the fentanyl epidemic. According to DEA Administrator Anne Milgram, the closings are a result of limited resources which the agency must direct to places where it believes that the most American lives can be saved. The closing of offices in Shanghai and Guangzhou, leaves only those in Beijing and Hong Kong, and several members of the U.S. Senate have asked for further explanation as to why the offices in China are being closed at such a critical time. Although China has warned companies against shipping fentanyl-producing chemicals, it remains the world's largest source of fentanyl precursors. Many U.S. officials are frustrated by the closure announcement as it took years of negotiations to get China to even agree to allow the DEA to open offices outside the capital city of Beijing. DEA offices are also slated to close in Russia, Cyprus, Indonesia, the Bahamas, Egypt, Georgia, Haiti, Kazakhstan, Mozambique, Myanmar, Nicaragua, and Senegal.

## NATIONAL NEWS BITS

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**Chroming is the New Huffing:** “Chroming” is the practice of getting high by inhaling hydrocarbons through the misuse of a variety of legal products like permanent markers, aerosol deodorant, nail polish, metallic paint, computer duster, carburetor cleaner, paint thinner, gasoline, and hair spray. The specific term “chroming” comes from the aftereffect of inhaling metallic paints when they are sprayed on a rag, and then inhaled, leaving chrome or metallic residue on a person's face. The most common forms of chroming involve inhaling fumes, via nose or mouth, directly from a container containing the substance or from a rag or plastic bag saturated with the substance. Teen inhalant use was steadily declining from 2015 to 2022, according to data from the Substance Abuse and Mental Health Services Administration, but over the last two years inhalant use among 12-17 years olds is on the rise, likely due in part to widespread substance inhaling-related content on social media. Repetitive chroming can result in kidney and liver dysfunction, neuropathy, addiction, brain damage, heart damage, memory loss, ulcers, nosebleeds, mental health problems, mood changes, paranoia, and irritability.

**States Try Less Punitive Approach to Drug Testing Pregnant Women:** Under federal law, practitioners are required to notify protective agencies when a newborn has been affected by its mother's substance use; however, in 2016, the federal rules were updated to emphasize that substance use disorder on its own does not constitute child abuse and that each state is required to develop a plan of safe care to promote the long-term health of mothers and newborns. Federal laws and guidelines left much open to interpretation, so state laws on this issue vary widely, and even within states, practice varies from hospital to hospital – but several states are beginning to enact or consider enacting specific measures that codify a less punitive approach. For example, legislation has been introduced in Massachusetts that seeks to protect parents from prosecution when their

infant has been exposed in-utero. In 2020, Colorado updated its state code definition of child abuse and neglect to exclude cases when a newborn tests positive for substance or alcohol exposure and the mother is on medication-assisted treatment. Connecticut directs healthcare providers to shield the identity of the parents when reporting a positive test to child welfare authorities and to instead offer supportive services to the infant's caregivers. Click [here](#), to read LAPPAs Model Act related to plans of safe care.

## INTERNATIONAL NEWS BITS

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**U.K. Banning Xylazine:** The United Kingdom will move for a complete ban on the substance xylazine, the powerful horse tranquilizer commonly known as “tranq.” The drug, which has legitimate uses in veterinary medicine, is referred to as the “Zombie drug” and can cause flesh-rotting lesions in those who inject it that can lead to amputation. Xylazine has been linked to 11 deaths in the UK in the last two years and is particularly dangerous because it is not an opioid and thus, its effects cannot be reversed by opioid overdose reversal medication. In 2023 the White House designated xylazine combined with fentanyl as an emerging threat in the U.S., but the substance has not been banned on a national level in this country. Click [here](#), to read LAPPAs fact sheet on Xylazine.

**Purdue's Global Counterparts Make \$531M in Two Years:** From 2020 to 2022, nine Mundipharma companies, in which several members of the Sackler family have financial interests, in Europe and Australia profited \$531 million on the sale and distribution of pharmaceuticals. The beneficiaries of this financial windfall include several members of the Sackler family, owners of Purdue Pharma, the company that stands accused of fueling the opioid crisis in the U.S. through its aggressive marketing of highly addictive pain medication. The Sacklers have pledged to sell their respective interests in Mundipharma companies to help settle all the lawsuits pending against them and Purdue, and with litigation ongoing, their liabilities are likely to be substantial. Pain and addiction specialists have been warning that Mundipharma is promoting opioids in much the same way Purdue Pharma did in the U.S. – encouraging opioid use for chronic pain all while minimizing the risk of addiction. European prosecutors have begun charging individuals with providing illegal kickbacks to doctors just for promoting opioids to their patients. Data on global prescription opioid use and addiction is not as precise as in the U.S. but most experts agree that opioid use, addiction, and overdose rates are all on the rise and the window to prevent a crisis like the one that engulfed the U.S. is closing.

## STATE NEWS BITS

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**California:** Governor Gavin Newsom signed legislation allowing local governments to license Amsterdam-style cannabis cafes. The measure had strong bipartisan support as it moved through the state legislature, passing out of the senate by a vote of 30-7 and the assembly with a vote of 63-5. California was one of the first states to adopt medical cannabis and through this new measure, the state is looking to capitalize on the social nature of cannabis use through coffee, food, and live music – like on the streets of Holland's capital. Newsom vetoed a similar bill last year, and in his veto message he urged more protections from second-hand smoke for those who would be working in the establishments as servers in the “cannabis lounges.”

**Georgia:** One pharmacy in the state has begun selling medical marijuana, in open defiance of warning letters sent by the Drug Enforcement Administration (DEA) a year earlier warning that that pharmacy dispensing of cannabis violates federal law, regardless of what state law may allow. Georgia's medical marijuana law is the first in the nation that, in theory, allows all registered pharmacies to dispense cannabis – the plan to do so has been on hold since the DEA warning letters arrived last November reminding licensed pharmacies that they may only dispense controlled substances in Schedules II-V; cannabis is a Schedule I controlled substance per the federal Controlled Substances Act. It is unclear what penalties, in any, the pharmacy that is selling cannabis may face.

**Missouri:** State officials are preparing to award \$5 million to study whether psilocybin (magic mushrooms) can help in the treatment of opioid use disorder and ultimately lower the number of overdose deaths. The state department of mental health is asking contractors to help the agency develop competitive grants for the psychedelics project, and eventually, there will be a request for proposals on psilocybin-related opioid research. The awarded grants will be funded by an allocation from the state's opioid settlement fund.

**Montana:** When the Substance Abuse and Mental Health Services Administration updated its guidance governing opioid treatment programs (OTPs) in April 2024, Montana was one of the first states to significantly change how OTPs operate in that state. The changes made are aimed at improving patient safety and treatment program retention. Under Montana's new rules, patients will no longer need to visit a clinic with the same frequency as before – instead, the patient's provider will determine an appropriate number of take-home doses based on individual patient criteria, effectively reducing the number of in-person clinic visits needed. Other changes were implemented as well, with the general notion that more flexibility allows for more individualized care and, in turn, more successful outcomes.

**New Jersey:** Governor Phil Murphy signed legislation making it illegal to sell intoxicating hemp products in the state without a cannabis license. Supporters of the measure have long claimed that Delta 8 and other unregulated hemp products were readily available to minors and should be regulated by the state's cannabis regulatory commission. Opponents of the bill worry that over-regulation of the hemp industry will drive legal hemp companies out of business. One of the main concerns opponents are voicing is that cannabis licenses are not currently available in all New Jersey municipalities, and the enacted legislation does not provide an exemption for businesses in those localities that sell products containing hemp.

**Oregon:** By a vote of 7-1, the Portland City Council rejected Mayor Mark Dion's one-to-one needle exchange program, opting instead for a buy-back plan that will be paid for with opioid settlement funds. The new program will pay individuals five cents per used syringe returned to the city, with a cap of \$10 per day – the thought being that the cash payments will incentivize intravenous drug users to return used needles, cutting down syringe litter across the city. Opponents of the buy-back program fear that by not providing clean needles, there will be an increase in the spread of blood-borne illnesses. Portland has had a needle exchange program since 1988, and according to data provided by the city, that program handed out 786,000 clean needles to 2,329 people in a recent one-year period.

**South Dakota:** The state's department of corrections is partnering with South Dakota State University (SDSU) to expand and facilitate services for individuals transitioning out of prison and reentering the community. SDSU will use a \$3 million grant from the Health Resources and Services Administration within the U.S. Department of Health and Human Services to fund its START-SD (Stigma, Treatment, Avoidance and Recovery in Time) program to: (1) increase access to treatment services for substance use disorder; (2) establish peer coaching services; (3) expand reentry programming; and (4) provide post reentry support. Those leaving carceral settings will have increased access to medication assisted treatment, counseling, behavioral therapy, and peer coaching services.

**West Virginia:** West Virginia's new drug czar, Stephen Loyd, MD has been treating patients with substance use disorder for decades and was once addicted to prescription painkillers himself. His personal story is part of the reason why he works every day to end his state's opioid crisis, a state which continues to have one of the highest rates of overdose deaths in the country. Dr. Loyd has shared his story with lawmakers, he was an inspiration for the character played by Michael Keaton in the Hulu series "Dopesick," was an expert witness in a case leading to Tennessee's first conviction of a pill mill doctor, and has testified against opioid manufacturers and distributors in several trials laying out their culpability in the nationwide crisis that resulted in massive monetary opioid settlements.

## 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. The

LAPPA produces model laws on critical issues as well as comparative analyses, publications, educational brochures, and other tools that can be used by national, state, and local public health and public safety practitioners who want the latest comprehensive information on law and policy. Examples of topics on which LAPPA has assisted stakeholders include naloxone access, treatment in emergency settings, Medicaid Section 1115 demonstration waivers, medication for addiction treatment in correctional settings, collateral consequences of conviction, syringe services programs, and the health information disclosure provisions of HIPAA and 42 C.F.R. Part 2.

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

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