



Opioid Update

(as of 7/16/18)

Colorado Legislative Actions

- SB10-189: authorized clean syringe exchange programs to be approved by county or district boards of public health
- SB13-014: allowed for third-party administration of naloxone and provided criminal and civil immunity for those who use it in the event of an overdose
- SB15-053: established standing orders for naloxone to be dispensed by pharmacies and harm reduction centers so that anyone in the state can get access to it. Over 400 pharmacies now stock naloxone, though large areas of rural CO still have no pharmacies that provide it. Officers in 140 law enforcement departments carry naloxone. Five county jails (Arapahoe, Boulder, Denver, Douglas, and Jefferson) are distributing naloxone upon an inmate's release, using state dollars administered by CDHS' Office of Behavioral Health (OBH).
- SB16-202: expands access to substance use disorder services by requiring managed service organization to prepare a community action plan to address service gaps and provided marijuana tax cash funds to support the implementation of these plans.
- SB17-074: uses Marijuana Tax Cash Funds to train more medication-assisted treatment providers in Pueblo and Routt Counties through a pilot program to be repealed in 2020.
- SB18-022: limits first-time prescriptions and refills for opioids to a seven-day supply
- SB18-024: offers loan repayment and scholarships for behavioral health specialists working in rural or urban areas where there is a lack of substance-abuse professionals
- SB18-270: establishes the Community Transition Specialist Program in the Colorado Department of Human Services' (CDHS) Office of Behavioral Health (OBH) to coordinate referrals of high-risk individuals to transition specialists that will help provide them with services related to housing, program placement, access to treatment, advocacy, and other supportive services.
- HB18-1003: allocates \$775,000 of Marijuana Tax Cash Funds to CDHS' OBH to expand access to behavioral health therapy, intervention, and prevention services. CDHS will also grant \$1.5 million to one or more organizations to operate a substance abuse screening, brief intervention, and referral to treatment practice. The bill also authorizes the Opioid and other Substance Use Disorders Interim Study Committee to be continued until 2020.
- HB18-1007: requires quicker insurance/Medicaid approval of certain medication-assisted opioid addiction treatment to prevent patient relapse
- HB18-1136: asks the federal government to let Colorado add residential and inpatient treatment to the list of Medicaid benefits



Legal Activity

Multi-District Litigation (MDL)

As of February, nearly 500 counties, 300 cities/towns, and one state have officially filed or are publicly discussing filing federal opioid-related lawsuits. The suits filed in federal court around the country have been consolidated into one suit. The suit, *In re: National Prescription Opiate Litigation* (MDL No. 2804), is being heard in the US District Court in the Northern District of Ohio with Judge Dan Aaron Polster.

There are three lawyers who are acting as co-lead counsel for the plaintiffs: Paul Hanly from Simmons Hanly Conroy LLC; Joseph Rice from Motley Rice LLC; and Paul Farrell from Greene Ketchum Farrell Bailey & Tweel LLP. Purdue Pharma, inventor of Oxycontin, Janssen Pharmaceuticals, distributors AmerisourceBergen, McKesson, and Cardinal Health, and pharmacy benefit managers like Express Scripts, are among the defendants.

The US Justice Department has filed a statement of interest to participate in the settlement discussion as a friend of the court, and Attorney General (AG) Jeff Sessions has said the federal government will be seeking reimbursement of many costs they've incurred in the epidemic.

Judge Polster has also invited representatives of state AGs to sit in on settlement agreements. Though the AGs are not parties to the federal MDL proceedings, their views are important because the defendants will likely want any settlement to cover state lawsuits as well. About 10 state AGs have filed lawsuits in their home state courts.

Judge Polster has set the trial date for the Ohio cases for March 2019, which is incredibly fast for litigation this large. His intention is to have this case serve as a “bellwether trial” or, essentially, a test case that will serve to better inform the settlement process.

The Colorado Office of the Attorney General (COAG)

Attorney General Cynthia Coffman has not filed a lawsuit in state or federal court. COAG is primarily looking at potential violations of the CO Consumer Protection Act which would be resolved in state court. COAG has partnered with about 40 other states to investigate major manufacturers and distributors in preparation for potential Multi-State Litigation (MSL). MSL is different than the MDL discussed above, however they have participated in meetings together. The decision for a state court case in the MSL to be consolidated into the MDL is a state-by-state judicial determination and has not happened in any state at this time.

COAG has stated that they would like to be the office that distributes to local governments any money received from settlements/litigation. They envision convening a distribution committee with regional representatives from various government entities to determine how the money should be divided and used. Counties will not be excluded from distribution if they hire private counsel, and if COAG files an action in the state, a county may still file a separate action. Counties will not be a party to any lawsuit filed by COAG, but counties could recover proceeds that the state distributes.



Education/Resource Opportunities

- Healthier Colorado:
 - Partnerships in Local Advocacy: provides resources and support (including financial support and campaigning) for local public policy campaigns for broad areas of interest, including improving mental and behavioral health. Eagle County partnered with Healthier Colorado to successfully pass a marijuana sales tax to fund mental health and behavioral health programs, and substance abuse treatment.
 - Community education forums/panels: Healthier Colorado pays for and organizes community forums/panels around the state to discuss the opioid epidemic in different communities. These panels have feature county commissioners, legislators, and other stakeholders. Routt County recently did one in June.
- Mental Health Colorado:
 - Like Healthier Colorado, Mental Health Colorado is launching a local advocacy program that will provide resources and support for local public policy campaigns targeting mental and behavioral health.

Funding Opportunities

Federal

- In the FFY18 budget, Congress provided nearly \$4 billion to address the opioid epidemic. Some of the following opportunities may be available for state or local programs:
 - \$447 million for Dept. of Justice grant programs to support drug courts, treatment, prescription drug monitoring, task forces, overdose reversal drugs, and at-risk youth programs. There includes \$145 million in the Comprehensive Opioid Abuse Program for local overdose outreach projects and data-driven responses to opioid misuse.
 - \$476 million in grants from the Centers for Disease Control & Prevention for opioid overdose surveillance and prevention at the state and local level
 - \$130 million for the Rural Communities Opioid Response grant program within the US Dept. of Health & Human Services. Applications are currently being accepted for grants to develop plans to implement opioid use disorder prevention, treatment, and recovery interventions.
 - \$52 million for Distance Learning and Telemedicine Grants through USDA to help rural communities connect to treatment services
- US Dept. of Agriculture (USDA) Rural Development Loans/Grants:
 - The USDA currently has three types of Rural Development loans/grants to assist rural communities combat the opioid crisis. Examples of potential eligible activities include funds for law enforcement, treatment clinics/hospitals, mobile treatment centers, first responder facilities, telemedicine, housing, and many more.



- Substance Abuse and Mental Health Services Administration (SAMHSA) Funding:
 - State Opioid Response Grants: SAMHSA is currently accepting applications from states for grants to increase access to medication-assisted treatment, reduce unmet treatment need, and reduce opioid overdose deaths. Over \$900 million is available for grants. CO has already received \$15.7 million over two years from this grant.
 - CO received funding under the Medication-Assisted Treatment & Prescription Drug and Opioid Addiction grant program. The funds are being used to increase treatment access in seven counties.
- Agency for Healthcare Research and Quality Funding:
 - University of Colorado Denver received a grant to expand access to medication-assisted treatment across 24 counties in eastern and southern Colorado.

State

- Naloxone for Life Initiative:
 - Launched in 2016 by the Colorado AG's office, the initiative uses funds from settlements with pharmaceutical companies to purchase Narcan rescue kits for law enforcement and first responders in 17 counties with high rates of overdose deaths. The money was also used to hold training in six regions of the state.
- Jail-Based Behavioral Health Services:
 - CDHS' OBH runs a program that provides staffing to rural and frontier jails to provide access to provide mental health counseling, substance use disorder treatment, and transitional care coordination for inmates
- State Targeted Response to the Opioid Crisis Grant:
 - CDHS's OBH received \$15.7 million over two years from the federal government to provide funding