Policy and Regulatory Opportunities to Address the Opioid and Overdose Crisis in 2024
Introduction

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Agenda

1. Introduction and Webinar Logistics

2. Assessing Federal Levers Addressing the Opioid Crisis
   Michele Gilbert, MPH (Senior Policy Analyst, Bipartisan Policy Center)

3. Overcoming Legal Barriers to a Whole-of-Government Approach to Overdose
   Nicolas P. Terry, LLM (Hall Render Professor of Law & Executive Director, Hall Center for Law and Health, Indiana University McKinney School of Law)

4. Fireside Chat
   Regina LaBelle, JD (Director of the Addiction and Public Policy Initiative, O’Neill Institute for National and Global Health Law, Georgetown University Law Center)
   Richard G. Frank, PhD (Leonard D. Schaeffer Chair and Director, Schaeffer Initiative on Health Policy, The Brookings Institution)
   Karen A. Scott, MD, MPH (President, FORE)

5. Question and Answer Session
Webinar Speakers

**FORE Grantees**

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*Bipartisan Policy Center*

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*Hall Center for Law and Health, Indiana University McKinney School of Law*

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*O’Neill Institute for National and Global Health Law, Georgetown University Law Center*

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*The Brookings Institution*
Webinar Logistics

1. The webinar is being recorded and will be available on [www.ForeFdn.org](http://www.ForeFdn.org) shortly after the session ends.

2. Presentation slides will be made available for download on our website.

3. Please use the “Q&A” found at the bottom of your Zoom screen.
   - If you have a similar question, please upvote using the thumbs up button on the question.
   - We will read as many questions live as time permits.

4. There will be a brief survey immediately following the webinar. Please provide us with feedback!
About FORE

Founded in 2018, the Foundation for Opioid Response Efforts (FORE) is a 501(c)(3) private, national, grantmaking foundation focused on one urgent public health emergency – the opioid crisis.

Vision
To inspire and accelerate action to end the opioid crisis

Mission
To convene and support partners advancing patient-centered, evidence-based solutions addressing the opioid crisis

Focus
With patients at the center, our focus includes:

- Professional education
- Payer & Provider strategies
- Policy initiatives
- Public awareness
Assess Federal Levers Addressing the Opioid Crisis

Michele Gilbert, MPH
Senior Policy Analyst
Bipartisan Policy Center
Background on BPC

• The Bipartisan Policy Center (BPC) is a Washington, DC-based think tank that actively fosters bipartisanship by combining the best ideas from both parties to promote health, security, and opportunity for all Americans.

• Our policy solutions are the product of informed deliberations by former elected and appointed officials, business and labor leaders, and academics and advocates who represent both sides of the political spectrum.
BPC’s Impact

• Over the past several years, we’ve developed solutions to address the nation’s mental health and substance use crises. This includes
  • BPC’s Opioid Crisis Task Force, which was comprised of former elected officials, academics, and health care leaders
  • We have also focused on crisis response, workforce, rural access to care, and other topics.

• We just launched our Youth Mental Health and Substance Use Task Force!

• BPC prioritizes one thing above all else: Getting things done.
Congress still needs to finish its 2023 to-do list

- Spending package
- SUPPORT Act
- Children’s online safety

2023 Legislative Agenda
Congress has advanced behavioral health policies in recent years...

Since 2024 is an election year, Congress may be content with their achievements thus far, including:

- **American Rescue Plan Act (ARPA):** Expanded resources for formula grant programs, workforce development efforts, and community-based services.
  - Many grants will expire in 2025 if they aren’t reauthorized
- **Bipartisan Safer Communities Act (BSCA):** Authorized additional resources for mental health and crisis care, including in schools.
- **Consolidated Appropriations Act of 2023:** Expanded workforce programs, strengthened integration with primary care (including telehealth), and eliminated the X waiver.
- **National Suicide Hotline Designation Act:** Authorized the new 988 program
… But there’s still room to build on progress

• **Youth substance use**
  - Social media companies
  - Schools

• **Address the fentanyl crisis**
  - Supply
  - Drug sales
  - Crisis response/harm reduction

• **Enhance care delivery**
  - Peer support/recovery specialists
  - Access to MOUD, especially methadone and training providers to prescribe buprenorphine
  - Digital health and technology (e.g., AI)

• **Reauthorize ONDCP and expiring grants**
BPC’s Impact: SUPPORT Act

BPC played an instrumental role in educating members of Congress and their staff on policies relevant to the SUPPORT Act. This has resulted in provisions that:

- enhance peer support and recovery specialists;
- improve access to care for justice-involved individuals;
- expand resources for key programs and services; and
- improve data reporting and evaluation potential.

BPC continues to educate members to ensure the SUPPORT Act includes evidence-based, bipartisan policies.
Opportunities in the Administration

Since 2024 is an election year, the Biden administration will showcase and add to their achievements.

• Behavioral health was part of President Biden’s Unity Agenda unveiled in 2022.
  • *HHS recently released their list of accomplishments*

• With telehealth flexibilities expiring on December 31, 2024, there is an opportunity to conceptualize next policy steps.

• CMS has been working toward:
  • improved payment (e.g., CMMI’s most recent behavioral health integration payment model)
  • improved coverage for behavioral health services and providers

**Key opportunities:**
• Tele-behavioral health and tele-prescribing
• Medicare and Medicaid programs
• Physician payment
BPC’s Impact: Biden Administration

BPC supported the Biden administration in:

- developing a county-level dashboard for nonfatal overdoses (late 2022);
- joining advocates’ calls to eliminate the X waiver (late 2022);
- expanding access to treatment via telehealth (spring 2023);
- contributing to a GAO report exploring the State Opioid Response grant program (summer 2023);
- improving Medicare payment for unlicensed behavioral health providers (late 2023); and
- developing a CMMI model on reverse behavioral health integration (early 2024).
Overcoming Legal Barriers to a Whole-of-Government Approach to Overdose

Nicolas P. Terry, LLM
Hall Render Professor of Law & Executive Director
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Disclosures

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The speaker does not have any conflicts of interest to disclose.
Years and Years of Terrible Impact

12 Month-ending Provisional Number and Percent Change of Drug Overdose Deaths

Based on data available for analysis on: January 7, 2024

Figure 1a. 12 Month-ending Provisional Counts of Drug Overdose Deaths: United States

Years and Years of Terrible Impact

Figure 2. National Drug-Involved Overdose Deaths*, Number Among All Ages, 1999-2021

*Includes deaths with underlying causes of unintentional drug poisoning (X40–X44), suicide drug poisoning (X60–X64), homicide drug poisoning (X85), or drug poisoning of undetermined intent (Y10–Y14), as coded in the International Classification of Diseases, 10th Revision. Source: Centers for Disease Control and Prevention, National Center for Health Statistics. Multiple Cause of Death 1999-2021 on CDC WONDER Online Database, released 1/2023.

Years and Years of Terrible Impact

Overall life expectancy at birth in years

Chart: J. Emory Parker/STAT • Source: National Center for Health Statistics, National Vital Statistics System, Mortality

Don’t We Know Already What to Do/Where to Intervene?

Upstream

- Structural Determinants
- Intermediary/Social Determinants
- Clinical Health—Treatment
- Public Health—Harm Reduction

Downstream
Our Project: Improving Intervention Using W-G Lens

Whole of Government (W-G)

Assumption: What is required for effective policy making is comprehensive, coordinated government action across different agencies at one level of government (federal or state and between different levels (federal, state, tribal, and local)

The former = horizontal W-G
The latter = vertical WG.
Hypothesis #1: A House Divided Against Itself
Rethinking Policy Fundamentals

No more policy “pillars”
No more drug war
Hypothesis #2: A House Divided...

FEDERAL

CONGRESS
EXECUTIVE

CDC
CMS
DEA
DOJ
FDA
HHS
HRSA
NIH
ONDCP
SAMHSA

MORE THAN 50 STATES
AND TERRITORIES

LEGISLATURE
EXECUTIVE

Attorney General
Corrections
Courts
FSSA
Health
Health & Human Services
Insurance
Licensing
State Police

THOUSANDS OF CITIES,
TOWNS, COUNTIES

MAYORS / CITY COUNCIL / COUNTY COMMISSIONERS

Health Departments
Jails

Law Enforcement
Zoning Boards

VERTICAL ALIGNMENT

HORIZONTAL ALIGNMENT
What Explains the Sand in the Gears?
Low-Hanging Fruit

- Components of “Wicked” Problems frequently are other wicked problems (e.g., limited access to affordable health care)
- Horizontal—Lack of Interagency Alignment/Cooperation (e.g., DEA-DoJ-HHS-SAMHSA-FDA)
- Vertical—Federalism (e.g., Medicaid Expansion); Home Rule (NIMBYism)
- Federal Funding of State Action—Endorsed BPC’s “braiding” framework proposals/payer of last resort model
Identifying the LEGAL Barriers to Vertical and Horizontal Alignment

• 84 opportunities for US drug policy reform at the federal, state, and local levels.

• Identified across federal, state, and local governments

• Categorized across four overall policy domains:
  • Drug policing
  • Harm reduction
  • Health care
  • Social determinants of health
Harm Reduction

Build a modern harm reduction system and allow it to do its job with sharply reduced interference from contrary federal policies, inconsistent state laws, and structural barriers.

17 Harm Reduction Recommendations

• 4 referenced naloxone access
• 6 referenced syringe services
• 3 referenced overdose prevention centers (OPCs)
Health Care

• Accept that harmful substance use is not only a chronic condition but one that requires redesigning health care
• 38 health care recommendations
  • 8 referenced Medicaid
  • 11 referenced medications, primarily opioid agonist therapy (OAT)
  • 6 referenced increased regulation of private insurance to increase access/reduce cost
Opportunities, But Progress?

- Long term
  - Structural Determinants (including Drug policing)
  - Social Determinants
- Medium Term
  - Renewal of SUPPORT Act
  - Support Increased Access to Health Care
- Short term
  - Agency-Based Incremental Change
  - Vigilance in the Face of States’ Back-Sliding
Thank you!

We also recognize the contributions of the Expert Advisory Committee who provided valuable feedback while developing the white paper series over the course of this project. The EAC includes Daniel Blaney-Koen, American Medical Association; Fred Wells Brason, Project Lazarus; Jessica Breslin, ChangeLab Solutions; Nabarun Dasgupta, University of North Carolina at Chapel Hill Injury Prevention Research Center; Corey Davis, Network for Public Health Law; Jeremy Douglas, Housing Works; Taleed El-Sabawi, Florida International University; Tracie Gardner, Legal Action Center; Daliah Heller, Vital Strategies; Kelli Komro, Emory University; Matthew Lawrence, Emory University; Dave Lucas, Center for Court Innovation; Emma (Beth) McGinty, Weill Cornell Medicine; Keli McLoyd, City of Philadelphia; Jennifer Karas Montez, Syracuse University; Kate Nicholson, National Pain Advocacy Center; Anand K. Parekh, Bipartisan Policy Center; and Louise Vincent, Urban Survivors Union.

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Get the White Papers & Database of “Shovel-Ready” Legal Actions

Scan the QR code to access the full series of white papers addressing the W-G approach to opioid policy in the United States.
Fireside Chat

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Question and Answer Session

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Follow ongoing updates on our website:
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Take Care of Yourself!
Thank You For Your Work!