

Substance Misuse and Overdose Prevention



Legislative Overview Series: 2024 Public Health Spotlight

Introduction

Preventing [substance misuse](#) is a public health goal, as misuse can lead to negative health outcomes and potential injury. There were more than [109,000 fatal overdoses](#) in the U.S. in 2022, and the national overdose crisis remains a priority for public health leaders. This crisis is exacerbated by the increase of the highly potent synthetic opioid [fentanyl](#) and animal tranquilizers like [xylazine](#) entering the illicit drug supply.

To combat the overdose crisis, state and territorial legislatures are considering measures to support appropriate use of legal substances and prevent overdoses, including supporting harm reduction efforts, investing in peer support programs to assist people struggling with substance misuse or addiction, and regulating substances with the potential for misuse.

Legislative Trends

Harm Reduction Efforts

[Harm reduction](#) is a set of practical strategies and ideas aimed at reducing negative consequences associated with behaviors, including drug use. The various harm reduction [policy trends](#) under consideration by states and territories include decriminalizing drug checking equipment, such as fentanyl test strips or xylazine test strips, and authorizing overdose prevention centers.

In 2023, at least 15 states introduced legislation to decriminalize fentanyl test strips and/or drug checking equipment. Of those at least seven states—Hawaii ([HI SB 671](#)), Illinois ([IL HB 3203](#)), Kentucky ([KY HB 353](#)), Mississippi ([MS HB 722](#)), New Hampshire ([NH HB 287](#)), South Dakota ([SD HB 1041](#)), and Utah ([UT SB 86](#))—enacted legislation decriminalizing fentanyl test strips. States that have already decriminalized fentanyl are also taking steps to specifically ensure that xylazine test strips can be lawfully distributed. Delaware enacted legislation ([DL SB189](#)) that scheduled xylazine as a state controlled substance and expressly legalized xylazine test strips. Additionally, two states—Vermont ([VT H 222](#)) and New Jersey ([NJ S 3957](#))—enacted laws expanding the authorization for fentanyl test strips to allow all harm reduction supplies, including drug checking equipment.

States are also considering [overdose prevention centers](#), also known as supervised consumption sites, which provide a space for people to consume pre-obtained drugs in controlled settings, with onsite staff who can provide care and other services. In 2023, six states—Florida ([FL SB 1650](#)), Illinois ([IL SB 78](#)), Massachusetts ([MA SB 1242](#)), Nevada ([NV AB 115](#)), New York ([NY AB 338](#)), and Vermont ([VT SB 70](#)) introduced legislation to authorize overdose prevention centers. In addition, Maine enacted [LD 1364](#), which aims to convene a workgroup to study methods of preventing opioid overdose deaths by authorizing overdose prevention centers.

This past year, FDA approved [two non-prescription naloxone spray products](#), which reverse opioid overdoses, for over-the-counter use: RiVive 3-mg and 4-mg Narcan.

Investing in Peer Support Programs

[Peer support specialists](#) are people in recovery from substance misuse or addiction who provide critical support to others experiencing similar situations. Peers use shared understanding, respect, and mutual empowerment, skills that differ from traditional services providers. [Research shows](#) that assistance from peers can increase individuals' uptake of or continued use of treatment or services, decrease substance use, reduce hospitalization rates and durations of stay, and increase individuals' likelihood of continuing treatment or services.





In 2023, some states considered legislation to require that health insurers cover peer support services. New York introduced [SB 3519](#), which would mandate commercial insurance coverage of peer support services as part of treatment for substance use disorder. Washington state enacted [SB 5555](#), which creates a state certified peer specialist (and trainees) as a new health profession and requires private insurance coverage of services by 2026, comparable to the current Medicaid reimbursement.

Substance Regulation

State legislatures are also taking action to regulate substances with the potential for abuse or misuse, including [kratom](#) (an herb that can produce stimulant-like or opioid-like effects when consumed) and products derived from the Cannabis sativa plant, like [Delta-8 tetrahydrocannabinol](#) (“Delta-8”). FDA has not approved the use of kratom, but there are currently reports of people [using kratom](#) to manage opioid withdrawal symptoms and chronic pain.

During the 2023 legislative sessions, at least 25 states considered bills to restrict the sale of kratom products to people 21 years or older, establish labeling requirements for kratom products sold within the state, require producers of kratom products to obtain a food processing license, or require only in-person sales of kratom products. Texas enacted [SB 497](#), which requires kratom processors to label each product and prohibit adulterating the products or adding synthetic alkaloids or synthetic compounds to the product. At least four states—Florida ([FL HB 179](#)), Louisiana ([LA SB 94](#)), Virginia ([VA SB 1108](#)), West Virginia ([WV SB 220](#))—passed laws prohibiting the sale of kratom to anyone under 21. West Virginia’s law also grants the commissioner of agriculture the authority to regulate the manufacture, processing, distribution, and sale of kratom products.

Additionally, at least 12 states considered bills related to hemp-derived products or products derived from *Cannabis sativa*. Tennessee’s new law ([TN SB 378](#)) limits the sale of hemp-derived products to people 21 or older and

requires suppliers and retailers to obtain a license from the department of agriculture. Similarly, Kentucky enacted [HB 544](#) this year, which limited the sale of Delta-8 and other hemp-derived products to people 21 and older and directed the health department to [promulgate rules](#) governing the manufacturing, labeling, and testing of Delta-8 products.

Looking Ahead

ASTHO expects states and territories to continue considering and adopting laws to prevent substance misuse and overdose, including those that:

- Decriminalize drug checking equipment like fentanyl test strips and xylazine test strips.
- Establish overdose prevention centers (also known as supervised consumption sites), which provide a safe space for people to consume pre-obtained drugs in controlled settings with on-site staff, access to sterile supplies, and referrals to services.
- Expand coverage for peer support specialists and establish baseline professional standards for peer support specialists for substance use.
- Establish state regulatory frameworks for commercially available substances with the potential for misuse, including kratom and Delta-8.

Policies to prevent overdose can be informed by [overdose fatality review boards](#), which are multidisciplinary groups that review the underlying causes and factors leading to a fatal overdose. During the 2023 legislative sessions, at least three states—Arizona ([AZ HB 2194](#)), Nebraska ([NE LB 227](#)), and Oklahoma ([OK HB 2818](#))—enacted legislation to establish or continue their drug/opioid overdose fatality review teams.

Learn more at www.astho.org

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