

Opioid and Other Substance Use Disorders Interim Study Committee

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Committee Charge

In 2017, the Opioid and Other Substance Use Disorders Interim Study Committee was created pursuant to Interim Committee Request Letter 2017-02 and met six times in the 2017 interim. House Bill 18-1003 continued the committee for two additional legislative interims in 2018 and 2019. The committee met five times in the 2018 interim and six times in the 2019 interim.

The committee is charged with the following:

- studying data, data analytics, and statistics on the scope of the substance use disorder problem in Colorado;
- studying the current prevention, intervention, harm reduction, treatment, and recovery resources;
- reviewing the availability of medication-assisted treatment and whether pharmacists can prescribe those medications through the development of collaborative pharmacy practice agreements with physicians;
- examining what other states and countries are doing to address substance use disorders;
- identifying the gaps in prevention, intervention, harm reduction, treatment, and recovery resources available to Coloradans and hurdles to accessing those resources;
- identifying possible legislative options to address gaps and hurdles to accessing prevention, intervention, harm reduction, treatment, and recovery resources; and
- examining law enforcement and criminal justice measures addressing penalties for trafficking illegal drugs, and jail-based and prison-based treatment and harm reduction programs and technologies.

Committee Activities

During the 2019 interim, the committee discussed and heard testimony on the following issues:

- the current status of national and state programs addressing substance use disorders;
- safe opioid prescribing and access to alternatives to opioids;
- access to opioid antagonists and clean syringes;
- criminal justice diversion programs and substance use disorder services provided in jails and prisons;
- various substance use disorder treatment models and their funding sources;
- increasing the behavioral health care workforce; and
- the availability of recovery support services in the state.

The following subsections discuss the committee's activities in further detail.

Substance use disorder prevention. Representatives from the Colorado Medical Society, the Colorado Pain Society, the American Physical Therapy Association, the Occupational Therapy Association of Colorado, the Acupuncture Association of Colorado, and the Colorado Chiropractic Association presented on programs that successfully address the prevention of substance misuse and abuse and the gaps that exist. The presenters discussed the following issues:

- the reduction in provider prescribing rates for opioids and the need for continuing education about the safe prescribing of opioids for medical professionals;
- the lack of insurance coverage for alternative pain treatments, the advantages of alternative treatments, and the need to identify more evidence-based treatments for pain management;
- the implementation of harm reduction strategies; and
- systemic improvements to referral and treatment services for patients with substance use disorder.

Representatives from Colorado State University and the University of Denver who study substance use and misuse prevention practice, policy, and science presented on the history of drug prevention strategies, and pointed out that programs such as "Just Say No" were not effective in decreasing drug use or delinquency. They discussed applying prevention science to create effective prevention programs focused on interventions that reduce risk factors and increase protective factors related to substance use. Representatives of the Office of Behavioral Health (OBH) in the Department of Human Services (DHS), and the Colorado Department of Public Health and Environment (CDPHE) presented on *Colorado's Statewide Strategic Plan for Primary Prevention of Substance Abuse: 2019-2024*, which aims to promote programs, policies, and strategies addressing substance abuse and other behavioral health problems, specifically in youth and their families.

Substance use disorder harm reduction. Representatives from CDPHE discussed the expansion of safe disposal sites for unused medication in Colorado, and the disposal of syringes. The representatives also updated the committee on efforts to purchase and distribute naloxone, an opioid antagonist, statewide. Representatives from syringe access organizations discussed the availability of clean syringes, funding to treat infectious diseases, and a pilot supervised injection site. Rural local public health representatives provided data from their harm reduction programs, and described difficulties implementing harm reduction programs in rural areas, including stigma toward persons with substance use disorder and lack of sustainable funding sources.

Substance use disorder and the criminal justice system. The committee heard testimony about concerns related to managing individuals with substance use disorders who come in contact with law enforcement agencies and the courts. Representatives of local law enforcement agencies, state departments, and the criminal justice system presented on the following topics related to managing and providing care to individuals with substance use disorder who come in contact with local and state law enforcement agencies:

- the success of local diversion programs and restorative justice programs and the need for communities to have flexibility and funding for diversion programs;
- the benefits of providing substance use disorder treatment to individuals in prisons and jails;
- positive outcomes for individuals who were able to access medication-assisted treatment while in custody; and
- the limited number of medication-assisted treatment providers near rural jails.

Treatment of substance use disorder. A representative from the Department of Health Care Policy and Financing (HCPF) updated the committee on the status of a federal Medicaid waiver for coverage of inpatient and residential substance use disorder treatment. OBH discussed the status of the substance use disorder treatment bed capacity tracker, and provided information on federal funding for substance use disorder treatment providers. Substance use disorders treatment provider representatives presented on the substance use disorder treatment-on-demand model, aligning state law regarding civil commitments, better coordination of care for persons with substance use disorder, and increased funding for specialized substance use disorder treatments. A representative from CDPHE updated the committee on efforts to increase the behavioral health workforce through loan forgiveness programs. Local government representative and Mental Health Colorado presented on the increased use of methamphetamine in Colorado and specialized methamphetamine treatment programs.

Substance use disorder recovery. Representatives from the Colorado Health Institute, the Colorado Consortium for Prescription Drug Abuse Prevention, and Mental Health Colorado presented on elements of the state's Strategic Plan for Substance Use Recovery. The plan emphasizes a whole-person health approach, recovery in the continuum of care, integrating community voices, and understanding best practices for recovery. DHS representatives summarized recovery-related recommendations from the Behavioral Health Planning and Advisory Council and described DHS' Individual Placement and Support program, which provides vocational assistance to individuals with a mental health disorder or substance use disorder. Representatives from health advocacy groups and the Colorado Behavioral Healthcare Council discussed the dangers of relapse during recovery from substance use disorders, and the positive benefits of recovery support services and peer recovery coaches.

Stakeholder recommendations. Representatives from the Colorado Consortium on Prescription Drug Abuse Prevention presented on stakeholder feedback and suggestions regarding substance use disorder resources in Colorado. The consortium received over 200 policy recommendations from various organizations and private citizens for the committee regarding: gaps in payment and insurance coverage for substance use disorder treatment; innovative harm reduction policies; expanding substance use disorder treatment access and workforce; enhancing housing and vocational support services; and expanding the focus of the committee to other stimulants, benzodiazepines, and alcohol.

Other issues related to substance use disorder. Representatives from Illuminate Colorado, the Kempe Center for Prevention and Treatment of Child Abuse and Neglect, Colorado Counties, Inc., and Douglas County Department of Human Services presented on challenges facing families affected by substance use disorders. The presenters suggested that providing access to transitional housing and peer recovery supports and creating an environment of recovery and sobriety helps parents who are in recovery care for their families. This panel also discussed concerns related to drug testing of newborns as a determinate for subsequent child abuse and the need to use evidence-based substance use disorder treatment models to treat adolescents with substance use disorder.

Representatives of the Colorado Cross-Disability Coalition presented on the barriers people with disabilities face when accessing substance use disorder treatment. The panel explained that addressing the needs of persons with disabilities requires awareness, cultural competency, and

training. They also pointed out that individuals who use opioids to control pain have difficulty finding a provider who will prescribe opioids for pain control and are stigmatized when seeking care. Solutions presented for addressing the stigma persons with disabilities encounter when seeking care included protecting providers that treat complex patients, especially those who responsibly prescribe opioids and medication-assisted treatment and requiring Medicaid and state-regulated insurance to have exceptions to morphine milligram equivalent limits.

Members of the public testified at each meeting. Topics discussed during public testimony included alternative treatments for pain and obstacles chronic pain patients face accessing adequate treatment for pain.

Committee Recommendations

As a result of committee discussion and deliberation, the Opioid and Other Substance Use Disorders Interim Study Committee recommends the following five bills for consideration in the 2020 legislative session. The committee also approved sending one letter to the Joint Budget Committee regarding funding for substance use disorder efforts, and one letter to Colorado's Congressional delegation regarding changes to federal law and policy related to substance use disorder.

Bill A — Concerning Prevention of Substance Use Disorders. Bill A makes several changes to state law concerning the prevention of opioid and other substance use disorders, as described below.

Insurance carrier requirements regarding physical therapists, occupational therapists, or acupuncturists. Bill A prevents an insurance carrier that has a contract with a physical therapist, occupational therapist, or acupuncturist from prohibiting or penalizing these individuals for providing a covered person information on the amount of his or her financial responsibility for such services. In addition, an insurance carrier cannot require a physical therapist, occupational therapist, or acupuncturist to charge or collect a co-payment that exceeds the total charges submitted. If the Commissioner of Insurance in the Division of Insurance in the Department of Regulatory Agencies (DORA) determines that an insurance carrier has engaged in these practices, then the commissioner is required to institute a corrective action plan for the insurance carrier to follow.

Insurance carrier requirements regarding atypical opioid or non-opioid medication. Bill A prohibits an insurance carrier from limiting or excluding coverage for an atypical opioid or non-opioid medication that is approved by the federal Food and Drug Administration (FDA) by mandating a covered person undergo step therapy or requiring pre-authorization. The insurance carrier is required to make the atypical opioid or non-opioid medication available at the lowest cost-sharing tier under the health benefit plan applicable to a covered opioid with the same indication. The Commissioner of Insurance is required to promulgate rules to define atypical opioid and to create a list of covered non-opioid analgesics with lower fatality rates than pure opioid agonists.

Mandatory insurance coverage provisions. Bill A requires health benefit plans to provide coverage for at least six physical therapy visits and six occupational therapy visits per year, with a maximum of one co-payment per year for these covered visits. The Commissioner of Insurance must promulgate rules that establish diagnoses of covered conditions for which nonpharmacological alternatives to opioids

are appropriate and the treatment that may be appropriate. The commissioner is also required to conduct an actuarial study to determine the economic feasibility of including acupuncture as a covered treatment.

Prescribing limitations. Under current law, an opioid prescriber is prevented from prescribing more than a seven-day supply of an opioid to a patient who has not had an opioid prescription in the last 12 months unless certain conditions apply. The prescribing limit is set to repeal on September 1, 2021. Bill A continues the prescribing limitation indefinitely.

Prescription drug monitoring program (PDMP). Under current law, health care providers are required to query the PDMP before prescribing a second fill for an opioid. This requirement, which is set to repeal on September 1, 2021, is continued indefinitely by Bill A. In addition, Bill A requires health care providers to query the PDMP before prescribing a benzodiazepine under certain circumstances, and authorizes the State Board of Pharmacy to require a query of the PDMP for additional controlled substances and other prescription drugs. Lastly, Bill A allows the Department of Health Care Policy and Financing (HCPF) and health information organization networks to access the PDMP.

State and local public health funding. Bill A annually appropriates \$2.0 million to the Colorado Department of Public Health and Environment (CDPHE) to pursue measures at the state and local levels to address opioid and other substance use disorder priorities.

Screening, Brief Intervention, and Referral to Treatment (SBIRT) grant program. For FY 2019-20 through FY 2023-24, Bill A requires the General Assembly to make an annual appropriation of \$500,000 to continue the operation of the SBIRT grant program operated through HCPF.

Education for providers. Bill A requires the Center for Research into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies (center) at the University of Colorado to include in its educational activities best practices for prescribing benzodiazepines and the potential harm of inappropriately limiting prescriptions to chronic pain patients. The center must report its findings and recommendations to the Opioid and Other Substance Use Disorders Committee by August 1, 2021. For FY 2020-21 through FY 2024-25, Bill A requires the General Assembly to make an annual appropriation of \$250,000 to DHS for an allocation to the center. In addition, Bill A directs the executive director of DORA to promulgate rules establishing competency-based continuing education requirements for physicians and physician assistants concerning prescribing practices for opioids.

Colorado substance use disorders prevention collaborative. Bill A requires the Office of Behavioral Health (OBH) in the Department of Humans Services (DHS) to convene a Colorado substance use disorders prevention collaborative (collaborative) with institutions of higher education, nonprofit agencies, and other state agencies. The collaborative must implement a statewide strategic plan for prevention of substance use disorders, implement evidenced-based programs, work with stakeholders, and direct efforts to raise public awareness of the cost saving prevention measures. Bill A requires the General Assembly to appropriate money for the collaborative for FY 2020-21 through FY 2023-24. OBH must report to the General Assembly by September 1, 2021, and by September 1 each year thereafter through 2024.

Bill B — Concerning Measures to Reduce the Harm Caused by Substance Use Disorders. Bill B requires health insurers to reimburse hospitals for prescribing opiate antagonists to covered individuals; creates immunity for individuals who administer an expired antagonist; allows pharmacists to sell non-prescribed clean syringes or needles to individuals without a prescription; allows local public health agencies to operate clean syringe programs without approval from the county board of health and allows hospitals to operate a clean syringe program; and increases appropriations to the Harm Reduction Grant Program Cash Fund.

Bill C — Concerning Substance Use Disorder Treatment in the Criminal Justice System. Bill C makes several changes to state law concerning substance use disorder treatment and the criminal justice system, as discussed below.

Provide opioid agonist and antagonist in jails and prisons. Bill C requires the Department of Corrections (DOC), private contract prisons, local jails, multijurisdictional jails, municipal jails, and DHS facilities to make available at least one opioid agonist and one opioid antagonist to a person in custody with an opioid use disorder throughout the duration of the person's incarceration or commitment. Further, DOC and local jails are required to ensure that a person who is treated for a substance use disorder while incarcerated is provided with continuity of care prior to release.

Creation of safe stations. Bill C creates safe stations that allow a person to dispose of any controlled substances and request assistance in finding access to treatment for a substance use disorder. Under Bill C, a safe station is any municipal police station, county sheriff's office, or municipal, county, or fire protection district fire station. Safe stations are responsible for the disposal of controlled substances and are required to facilitate transport to a medical facility if the person appears in need of immediate medical attention.

Information resources for inmates. Bill C requires the executive director of the DOC to consult with DHS, HCPF, the Department of Local Affairs, and local service providers to develop resources for inmate post-release that provide information to help prepare inmates for release and reintegration into their communities.

Criminal record sealing. If a person has entered into or successfully completed a substance use disorder treatment program in a case that is the subject of a petition to seal, Bill C requires the courts to consider this factor favorably in determining whether to grant the petition to seal.

Criminal justice diversion programs. Bill C includes an appropriation of \$1.15 million to OBH to increase the number of Law Enforcement Assisted Diversion (LEAD) pilot programs.

Bill D — Concerning Treatment for Substance Use Disorders. Bill D enacts several initiatives to improve access to substance use disorder treatment, as outlined below.

Independent community assessments on substance use disorder services. Bill D requires managed service organizations to contract with an independent entity to assess the sufficiency of substance use disorder services in communities every two years, and to create a community action plan that must be submitted to DHS and HCPF. The assessment and action plan must include input and review from community entities and individuals.

State child care and treatment study. DHS and HCPF are required to commission a state child care and treatment study and final report to make findings and recommendations concerning gaps in family-centered substance use disorder treatment and to identify alternative payment structures for funding child care and children's services alongside substance use disorder treatment of a child's parent. The report must be provided to the General Assembly by March 31, 2021.

Access to treatment. Bill D prohibits managed service organizations, withdrawal management services, and recovery residences from denying access to medical or substance use disorder treatment services, including recovery services, to persons who are participating in prescribed medication-assisted treatment for substance use disorders.

Employment of grant writers. Bill D appropriates \$250,000 annually to OBH from FY 2020-21 through FY 2024-25, for allocation to the center at the University of Colorado to employ grant writers to assist local communities in drawing down federal and state funds to address substance use disorder.

Behavioral health care provider loan forgiveness and scholarships. Bill D increases funding for the Colorado Health Services Corps program in CDPHE from \$2.5 million to \$3.5 million annually beginning in FY 2020-21 for the purpose of providing loan forgiveness and scholarships to behavioral health care providers, licensure candidates, and addiction counselors. Bill D requires the Primary Care Office in CDPHE to utilize best practices for increasing diversity in applicants.

Managed care entity requirements. Medicaid managed care entities are required to provide coordination of care for the full continuum of substance use disorder treatment and recovery, including transition services for a person who leaves a facility for treatment.

Coverage and reporting requirements for insurance carriers. Bill D requires insurance carriers to provide coverage for the treatment of substance use disorders in accordance with the most recent edition of American Society of Addiction Medicine (ASAM) criteria for placement, medical necessity, and utilization management determinations. Bill D requires that medications used in medication-assisted treatment be included on insurance carriers' formularies. Bill D also requires insurance carriers to cover certain drugs without prior authorization and without imposing any cost-sharing requirements. Bill D requires that insurance carriers report on the number of in-network providers licensed to prescribe or actively prescribing medication-assisted treatment for substance use disorder. The Commissioner of Insurance may promulgate rules concerning insurance carrier requirements and reporting.

Enhanced dispensing fee for administration of injectable medication-assisted treatment. Bill D authorizes pharmacies in a collaborative pharmacy agreement with one or more physicians to receive an enhanced dispensing fee for the administration of all FDA-approved injectable medications for medication-assisted treatment.

No prohibition of medication-assisted treatment by courts or corrections. Bill D prohibits courts and parole, probation, and community corrections from prohibiting the use of prescribed medication-assisted treatment as a condition of participation or placement.

Changes to civil commitment procedures. Bill D consolidates two sections of state law governing the voluntary, emergency, and involuntary commitment for alcohol misuse and substance misuse. Bill D also modernizes language related to substance use disorder and adds a section regarding patients' rights in statute; discontinues the mandatory hearing for short-term commitments but allows for a hearing if requested; and adjusts the duration of the initial commitment from 30 days to up to 90 days.

DHS training and community outreach program. Bill D requires OBH to create and provide a training and community outreach program on the availability of civil commitment for persons with a substance use disorder and other substance use disorder resources offered by OBH. The training program must be provided to first responders, law enforcement, emergency departments, primary care providers, and persons and families of persons with a substance use disorder.

Bill E — Concerning Substance Use Disorder Recovery. Bill E provides funding for the implementation and expansion of several programs and makes changes to state law concerning an individual's recovery from a substance use disorder, as discussed below.

Peer coaching and peer specialist training. Bill E includes an annual appropriation of \$250,000 to the Department of Labor and Employment for the purpose of providing individuals with peer coaching or peer specialist training.

Continuation of Opioid and Other Substance Use Disorders Committee. Bill E continues the Opioid and Other Substance Use Disorders Committee for an additional four years and allows it to meet up to six times every odd year.

Opioid bill review. Bill E requires the Substance Abuse Trend and Response Task Force to convene stakeholders to review progress in bills originating in the Opioid and Other Substance Use Disorders Committee and generate policy recommendations. The task force is required to submit a report to the Opioid and Other Substance Use Disorders Committee.

Child abuse, neglect, or dependency. Bill E modifies the definition of "child abuse or neglect" in regard to substance exposure in the Colorado Children's Code to include any newborn child who is affected by alcohol or drug exposure and where factors are present that threaten the health or welfare of the newborn child. Under current law, "child abuse and neglect" from substance exposure is defined as when a child tests positive for a schedule I or schedule II controlled substance, unless the schedule II controlled substance is the result of the mother's lawful use of that drug. There is an exception for when substances are taken as prescribed while being monitored by a licensed health care provider. Bill E requires the DHS to promulgate rules to determine whether a child is abused, neglected, or dependent under this new criteria.

Housing assistance program. Bill E creates a housing assistance program in OBH to provide temporary financial housing assistance to individuals with a substance use disorder who have no other supportive housing options. Bill E includes an annual General Fund appropriation of \$4.0 million for the program. DHS must submit a report on the housing assistance program to the General Assembly by February 1, 2021, and by February 1 each year thereafter.

Review of treatment and recovery services. Bill E directs the center to conduct a comprehensive review of Colorado's substance use disorder treatment and recovery services to inform a state plan. The state plan will address the delivery of services across the continuum of care for individuals at risk of experiencing relapse after a period of recovery. The center must report its findings and recommendations to the Opioid and Other Substance Use Disorders Committee by August 1, 2021. Bill E includes an appropriation of \$500,000 to the center for this purpose.

Perinatal substance use data linkage project. Bill E requires the perinatal substance use data linkage project, operated by the center, to conduct ongoing research related to the occurrence of perinatal substance exposure for determining child abuse, neglect, or dependency. Bill E includes an annual General Fund appropriation of \$75,000 to the center for this purpose.

Individual Placement and Support Program. Bill E includes an annual appropriation of \$2.0 million to OBH to expand the Individual Placement and Support Program.

Recovery support services grant program. Bill E creates the Recovery Support Services Grant Program to provide recovery-oriented services to individuals with a substance use and co-occurring mental health disorder. Grant funds may be used to assist individuals by providing guidance on navigating treatment support systems, connecting them with resources, or offering opportunities to engage in activities focused on mental or physical wellness or community service. Bill E includes an annual appropriation of \$3.5 million to OBH. DHS shall submit a report on the grant program to the General Assembly by March 1, 2021, and by March 1 each year thereafter.

Committee Letter 1 – The committee approved sending a letter to the Joint Budget Committee requesting prioritization of substance use disorder funding in the state budget and requesting support for the committee's legislation.

Committee Letter 2 – The committee approved sending a letter to the Colorado Congressional delegation requesting changes to federal law and policy related to substance use disorder.