



Summer Newsletter 2022:

Summer recess is winding down for the New Jersey Legislature, but there are still many developments in the area of legislation and policy with respect to mental health and substance use disorders. In apparent recognition of the unprecedented mental health crisis and fatal overdose epidemic the people in New Jersey are experiencing, the government has allocated historic amounts of funding in response. More specifically, fiscal year 2023 budget appropriated \$28.8 million – \$12.8 million for 988 implementation and \$16 million for mobile crisis response to support individuals in crisis who need in-person care.¹ In addition, the Department of Human Services (DHS) launched a Naloxone Distribution Program in partnership with the Department of Health and the Office of the Attorney General.² The program allows eligible agencies the opportunity to request direct shipments of naloxone online anytime they need it. In addition, efforts are being made to increase access to syringe-exchange programs. State Sen. Joe Vitale (D-Middlesex), lead sponsor of the 2006 law that created New Jersey’s clean-needle program, said the Department of Health has “identified some higher-risk communities,” with elevated rates of intravenous drug use or blood-borne infections, like HIV/AIDS, “and will be working with them shortly” to establish new syringe exchange programs.³ These efforts could not come at a better time as recent federal data has shown that a bystander present in nearly 42% of the overdose deaths recorded in 2019 and 2020, but naloxone was administered in less than 20% of those situations.⁴ In addition, according to NJ Cares, through June 30, 2022, there have been 1,476 Suspected Drug Related Deaths reported and 7,135 reported Naloxone Administrations.⁵ These numbers reveal that the state is on pace to have roughly the same amount of deaths and Naloxone administrations as 2021.⁶

New Jersey, like many other states, adopted a ‘war on drugs approach’ in an effort to ameliorate substance use disorder. However, after nearly 50 years, it is painfully clear that not only is this strategy ineffective, punitive, and draconian, it is likely exacerbating the incidence of substance use disorder. One unintended consequence of criminalizing substance use and mental health

¹ Speaker Coughlin Highlights Mental Health Care Crisis Response Investments Ahead of 9-8-8 Launch. <https://www.nj.gov/governor/news/news/562022/20220715e.shtml>

² Murphy Administration Launches Naloxone Distribution Program: Website and Distribution Make Naloxone Directly Available to Eligible Agencies at No Cost. <https://www.nj.gov/humanservices/news/pressreleases/2022/approved/20220728.html>

³ Stanton, Lilo. (2022). NJ adds more weapons to its harm-reduction arsenal. *NJ Spotlight News*. <https://www.njspotlightnews.org/2022/08/harm-reduction-needle-exchange-mail-in-needle-exchange-department-of-health-department-of-human-services-clean-syringes-hiv-aids-hepatitis-c-substance-use-disorder-gov-phil-murphy-overdose-deaths-cov/>

⁴ See *id.*

⁵ <https://www.njoag.gov/programs/nj-cares/nj-cares-suspected-overdose-deaths/>

⁶ <https://www.njoag.gov/wp-content/uploads/2022/04/Naloxone-Administration-Report-Dec2021.pdf>

disorders is that even long after the action that led to the criminal charge/conviction, long-lasting barriers to successful re-entry into society remain. Federal law alone imposes close to 1,200 collateral consequences, and another 1,088 New Jersey statutes or regulations trigger additional exclusions.⁷ Professor Gabriel Chin has called these exclusions a “new civil death,” defining “a pervasive system of collateral consequences applicable to people convicted of crimes.”⁸ The vast majority, approximately 70%, of these collateral consequences serve as barriers to employment. More specifically, many professions and careers require licenses, which can prove elusive to obtain for those branded as “felons”. The New Jersey Supreme Court recently took a bold step forward to address this inequity. In the Matter of Dionne Larrel Wade,⁹ the Supreme Court unanimously stated:

“We believe it is time to re-evaluate the current approach to permanent disbarment. To be clear, lawyers will still be disbarred in all matters in which they knowingly misappropriate client or escrow funds, consistent with decades of precedent. The question -- and the challenge -- is whether and how to create a rigorous system that can determine if a lawyer disbarred for those reasons deserves a second chance years later. . . . Under any such system, it is unlikely that attorneys who stole from clients and caused substantial harm could ever be trusted to practice law again. On the other end of the spectrum, lawyers who knowingly misappropriated client funds while suffering from addiction, mental health issues, or great personal challenges; who did not cause harm; and who have been rehabilitated, might prove worthy of having their license restored at a later date.”

New Jersey is one of only eight states in the country where disbarment is permanent. In addition, New Jersey’s current permanent disbarment practice contravenes the recommendation by the American Bar Association, which also proposes criteria for reinstatement. The Court ruled that a committee will be convened comprised of various professionals and members of the public to reconsider New Jersey’s treatment of disbarment. Jeralyn Lawrence the President of the New Jersey State Bar Association lauded this decision noting, “[d]isbarment is a punitive and extreme remedy, especially in instances such as this case where no client or member of the public suffered any harm. We believe it is important for the Court to consider the merits of the particular facts of each case and exercise the ability to craft an alternative sanction.”¹⁰

Finally, August 31st was International Opioid Overdose Awareness Day. Vital Strategies, a nationwide campaign to support harm reduction strategies, announced a traveling national Overdose Memorial. The digital display will travel throughout the country to commemorate

⁷ See National Inventory of Collateral Consequences of Conviction, <https://niccc.csgjusticecenter.org> (narrow database search to federal law or New Jersey)

⁸ Gabriel Chin, *The New Civil Death: Rethinking Punishment in the Era of Mass Conviction*, 160 U. Pa. L. Rev. 1789, 1799 (2012).

⁹ https://www.njcourts.gov/attorneys/assets/opinions/supreme/d_132_20.pdf?c=bvy

¹⁰ Statement of NJSBA President Jeralyn L. Lawrence Regarding New Jersey Supreme Court Decision *In the Matter of Dionne Larrel Wade*. June 7, 2022. <https://tcms.njsba.com/PersonifyEbusiness/Default.aspx?TabID=14408>

lives lost to fatal drug overdose.¹¹ The digital mosaic of pictures of human beings whose lives were lost was first revealed in New Jersey at Newark Public Library.¹² The Memorial will travel to Michigan and Pennsylvania later in the year, and then on to four other states heavily impacted by the opioid crisis and overdose deaths.¹³

In addition, on International Overdose Awareness Day, Governor Murphy signed Executive Order 305 that announced the creation of an online portal and Advisory Council to receive input from members of the public and stakeholders on the use of opioid settlement funds.¹⁴ Governor Murphy stated “[o]n Overdose Awareness Day, we not only commemorate the lives tragically lost to overdoses, we also honor their memories by renewing our efforts to help those struggling with substance use disorder and prevent further tragedies from taking place.”¹⁵ The Governor also welcomed the public to weigh in on how these funds should be used to help those most impacted by the opioid crisis. Executive Order 305 further engages those with lived experience, stating, “[t]he ten public members shall reflect the diversity of New Jersey and shall include public health and policy experts; as well as people with lived experience from the opioid epidemic, including those with a substance use disorder or a history of opioid misuse or addiction, and loved ones of those with a substance use disorder or a history of opioid misuse or addiction.” NCARR supports using these funds for harm reduction and evidence-based treatment.

¹¹ National Overdose Memorial Is Launched as Overdose Deaths Climb to All-Time High.

<https://www.vitalstrategies.org/national-overdose-memorial-is-launched-as-overdose-deaths-climb-to-all-time-high/>.

¹² Nieto-Munoz, Sophie. August 31, 2022. Harm reduction advocates gather in Newark to bring awareness to drug overdoses. https://www.victoriaadvocate.com/harm-reduction-advocates-gather-in-newark-to-bring-awareness-to-drug-overdoses/article_e3296844-a2e2-5089-8e49-4f29c984282f.html

¹³ See *Id.*

¹⁴ <https://nj.gov/infobank/eo/056murphy/pdf/EO-305.pdf>

¹⁵ Governor Murphy Announces Creation of Online Portal & Advisory Council to Receive Input from Members of Public, Stakeholders on Use of Opioid Settlement Funds. August 31, 2022. <https://www.nj.gov/governor/news/news/562022/20220831a.shtml>