

2013 State Legislative Summary

The Association of State and Territorial Health Officials (ASTHO) tracks state legislation impacting state health agencies and public health across the states. We support the peer network of state health agency legislative liaisons to facilitate the sharing of information on trends and emerging issues. This document summarizes some of the issues ASTHO tracked and analyzed during the 2013 state legislative sessions.

Public Health Funding

Billing for Services

Health departments are facing budget cuts at the federal, state, and local levels. With expanded insurance coverage expected upon implementation of the Affordable Care Act (ACA), public health agencies will need to develop ways to provide services to both the insured and uninsured. Although health departments have traditionally provided clinical and preventive services at no cost, health departments will likely have to seek payment from public and private insurers going forward. In 2013, several states sought to remove barriers that prevented them from billing for services. Arizona enacted HB 2430, which gives local health departments the authority to enter into contracts with pupils' or parents' private health insurers to receive reimbursements for the cost of immunizations. The Ohio legislature considered, but did not pass HB 94, which would require a health insurance corporation, public employee benefit plan, or sickness and accident insurer to reimburse a board of health for any services that the board provided to an individual that the individual's plan covers. The West Virginia legislature considered HB 2749 and SB 428 to remove the limitations on billing patients and insurance companies for HIV and sexually transmitted disease testing done by state or local public health agencies. The bills were defeated. The state House Health and Human Resources Committee was hesitant to pass the bill given the questions remaining regarding ACA implementation. ASTHO's state legislative summary on health departments and third party billing is available [online](#).

Creating Nonprofits

Indiana enacted SB 415, which allows the state health department to establish a nonprofit subsidiary corporation that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code for the purposes of soliciting and accepting private funding, gifts, donations, bequests, devises, and contributions. The money shall be used to carry out the state health department's purposes and programs, which may include initiatives to reduce infant mortality, increase childhood immunizations, reduce obesity, and reduce smoking rates.

Public Health Accreditation

The Kansas legislature considered, but did not enact SB 160. As introduced, the bill provided that the determination of the roles, responsibilities, standards, and duties of the secretary of health and environment, county boards of health, local health officers, and local health program administrators are the sole responsibility of the state legislature or the combined responsibility of the state legislature and the governing board of the county or municipality. If enacted, the bill would have prevented all state and local public health agencies from seeking, requesting, implementing, advocating, or promoting any form of local health department accreditation or similar process. Ohio enacted HB 59, which allows the health department director to require general or city health districts to apply for accreditation by July 1, 2018 and be accredited by July 1, 2020 as a condition for receiving funding from the state health department. ASTHO's state legislative update on public health accreditation is available [online](#).

Regionalization and Shared Services

Ohio HB 59 also provides that the health department may require general or city health districts to enter into agreements for shared services. The health department will offer boards of health a model contract and memorandum of understanding that the boards can easily adapt when entering into shared services agreements. The health department will also offer financial and other technical assistance to boards of health to encourage the sharing of services. Oregon enacted HB 2348, which creates a task force to study the regionalization and consolidation of public health services and the future of public health services in the state to make recommendations for legislation. Recommendations are to focus on: creating a public health system for the future, exploring the creation of regional structures to provide public health services consistent with the population's distribution and established patterns of delivery of healthcare services, enhancing efficiency and effectiveness in the provision of public health services, allowing for appropriate partnerships with regional healthcare service providers and community organizations, and considering cultural and historical appropriateness.

Health Equity

Colorado enacted HB 1088, which modifies the state health department's work regarding health disparities to include health equity. The generally assembly noted in its findings that this change "reflects recent advancements in the field of health by broadening the scope of the office to include the economic, physical, and social environment, and offers a more inclusive approach to eliminating health disparities for all Coloradans." The state Office of Health Equity will work collaboratively within the health department and with affected stakeholders to set priorities, collect and disseminate data, and align resources within the department and across other state agencies. Oregon enacted HB 2134, which provides that the Oregon Health Authority (OHA), in collaboration with the state Department of Human Services, shall adopt uniform standards for collecting data on race, ethnicity, preferred spoken and written languages, and disability status. OHA and the Department of Human Services shall use the standards, to the extent practicable, in surveys they conduct and all the programs for which they collect, record, or report such data.

Informatics

Kansas Gov. Sam Brownback signed substitute HB 2183 into law. The bill transferred the Kansas Health Information Exchange's responsibilities from the Kansas Health Information Exchange, Inc. to the Kansas Department of Health and Environment (KDHE) effective July 1, 2013. KDHE is now responsible for establishing and revising standards for approving and operating the statewide and regional health information organizations, as well as ensuring that such entities protect the security and privacy of health information.

Injury Prevention

Oregon enacted HB 2092. Subject to available funding, it provides that the OHA shall establish and administer a statewide injury and violence prevention program. Among other provisions, the bill grants OHA the authority to collect and analyze data on injury and violence; develop and revise a comprehensive state plan for injury and violence prevention; provide technical support and training to communities, local health departments, state and local agencies, organizations and individuals; prepare an annual report on injury and violence in the state; collect data, monitor, and evaluate activities related to risk and protective factors, causes, and prevention of morbidity and mortality resulting from injury; develop collaborative relationships with state agencies and others to establish injury and violence

prevention programs; and provide information to help develop institutional and public policies that will reduce injury and violence.

Preventing Firearm Injuries and Death

Following the tragic events in Newtown, Connecticut, and Aurora, Colorado, state legislators considered a wide range of bills related to firearms. Some states saw this as an opportunity to pass restrictions on purchasing firearms while others saw it as an opportunity to loosen such restrictions, and still others took it as an opportunity to address mental health systems and school safety. There were several states with significant activity this session. New York was the first state to pass a more restrictive gun law in response to the shootings in Connecticut. Gov. Andrew Cuomo signed the “Secure Ammunition and Firearms Security (SAFE) Act” (SB 2230/AB 2388) into law on the second full day of the state’s 2013 legislative session. Colorado (HB 1224, 1228, and 1229), Connecticut (SB 1160), and Maryland (SB 81) also took steps to strengthen the requirements for purchasing firearms. Challenges to these new gun laws are currently pending in the courts.

In relation to public health, New Jersey enacted SB 2340, which declares “violence to be a grave public health crisis” and establishes a commission to study violence to help raise awareness about this issue. The health department commissioner or a designee will serve ex-officio on the commission, which is required to: study the trends of violence, sources of violence, the impact of violence on the community, and develop a method to address the epidemic of violence at the federal and state levels; seek funding and grants to implement violence reduction programs; study insufficient access to mental health treatment and violence; study and make recommendations on the state’s special offenders unit designed to address criminal prosecutions against individuals with mental illness; and study the expansion of community-based mental health treatment system. The bill also provides that the commission shall conduct public hearings and issue a report to the governor and the legislature regarding its findings and recommendations. For additional information on this issue, please see ASTHO’s [Preventing Firearm Injury and Death web page](#).

Prescription Drug Abuse, Misuse, and Overdose

Today, opiate-based prescription painkillers account for a significant amount of morbidity and mortality in the United States. According to CDC, prescription painkiller overdoses have reached epidemic proportions over the past decade. States have the authority to impose additional regulatory requirements on controlled substances provided that they do not conflict with federal laws. State strategies to address this complex problem have included establishing new prescription drug monitoring programs (PDMPs) and strengthening existing PDMPs, addressing treatment of opioid addiction, and preventing overdoses through the use of naloxone.

Comprehensive Bills

Vermont enacted HB 522, a bill that provides a comprehensive approach to “combating opioid addiction and methamphetamine abuse ... through strategies that address prevention, treatment, and recovery and increase community safety by reducing drug related crime.” Provisions of interest include: (1) requiring healthcare provider licensing authorities to develop evidence-based standards to guide providers in the appropriate prescription of Schedules II–IV controlled substances for treating chronic pain; (2) requiring each dispenser of any Schedule II–IV controlled substances to register with the state PDMP and query the system under specified circumstances related to the prescribing of an opioid

Schedule II – IV controlled substance or writing a replacement prescription for a Schedule II – IV controlled substance; (3) creating a Unified Pain Management System Advisory Council for the purpose of advising the state health commissioner on matters relating to the appropriate use of controlled substances in treating chronic pain and addiction and preventing prescription drug abuse; (4) requiring the health department to study how the state can increase access to opioid treatment, including methadone and suboxone; (5) using the state School Health Profile survey to determine the substance abuse prevention education's quality and effectiveness in Vermont's schools; and (6) developing recommendations on the design and implementation of a statewide drug disposal program.

Funding for Prescription Drug Monitoring Programs

Washington state enacted HB 1565, which provides funding for operating and managing the PDMP through the Medicaid fraud penalty account. The rationale for funding the program through this account was that PDMP helps reduce costs borne by Medicaid and assists in the detection of fraud. Alabama enacted HB 150, which creates the Alabama State Controlled Substances Database Trust Fund, a revolving trust fund in the state treasury for funds in the form of grants, donations, federal matching funds, interagency transfers, and appropriated funds designated for PDMP's development, operation, and maintenance.

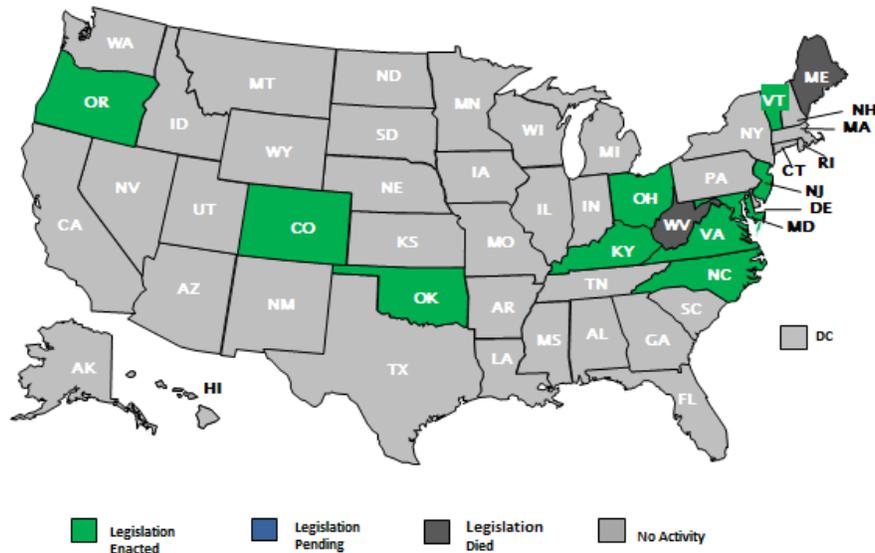
Health Department Access to PDMP Data

Utah enacted HB 270, which permits the Utah Department of Health director to allow designated individuals to access to the controlled substance database to conduct scientific studies regarding the use or abuse of controlled substances, provided that the designee adheres to applicable rules and regulations covering the use of protected health information. Similarly, Oklahoma enacted HB 1781, providing the state Department of Mental Health and Substance Abuse Services and the health department with access to the state's PDMP for statistical, research, substance abuse prevention, or educational purposes so long as the consumer's confidentiality is not compromised.

Naloxone Access

In 2013, 12 states considered legislation that would expand access to naloxone, an antidote that can reverse an opioid overdose. Naloxone must be administered quickly to reverse the effect of a drug overdose. As a result, there has been a push in some states to expand the types of medical personnel authorized to administer naloxone from paramedics to also include emergency medical technicians. Some states are going further and making naloxone available to people without medical training who may be bystanders to drug overdoses. Legislation enacted this session includes: Colorado SB 14, Kentucky HB 366, Maryland SB 610, North Carolina SB 20, New Jersey SB 2087, Ohio SB 57, Oklahoma HB 1782, Oregon SB 384, Virginia HB 1672, and Vermont HB 522. It should be noted that the Ohio legislation establishes a pilot project in Lorain County to allow qualified emergency responders there to obtain and administer naloxone to revive a person suffering from an apparent opioid-related overdose.

2013 State Legislation: Naloxone Access



Neonatal Abstinence Syndrome

Neonatal Abstinence Syndrome (NAS), or neonatal withdrawal syndrome, encompasses problems that occur in a newborn who was exposed to illegal or prescription drugs while in the mother’s womb. Tennessee was the first state to require reporting of NAS to the health department, which it achieved through the rulemaking process. This session, the Tennessee legislature enacted SB 459, the “Safe Harbor Act of 2013,” which incentivizes substance abuse treatment for pregnant women. The law provides that the department of children’s services shall not file any petition to terminate a mother’s parental rights or seek protection of a newborn solely because of the patient’s use of prescription drugs for nonmedical purposes during her pregnancy so long as the patient initiates and maintains compliance with drug abuse or drug dependence treatment and prenatal care throughout the pregnancy. Kentucky enacted HB 366, which requires facilities that identify NAS cases to report them to the state public health department.

Regulation of Compounding Pharmacies

In September 2012, a fungal meningitis outbreak was linked to improperly purified vials of a steroid injectable that the New England Compounding Center (NECC) made. The product, which was distributed to 23 states across the country, has resulted in 750 cases of fungal meningitis and 64 deaths according to CDC. Although FDA has clear authority to regulate drug manufacturing, oversight of compounding falls into a gray area between federal and state oversight. In 2013, 16 states considered and eight states enacted legislation further regulating compounding pharmacies. Trends in state legislation included: clarifying the definition of compounding versus manufacturing, requiring the licensing and inspection or registration of out-of-state pharmacies, requiring nonresident pharmacies to obtain a sterile compounding pharmacy license from the state board of pharmacy before shipping into the state, requiring sterile compounding facilities to obtain a permit before performing their work in the state, and requiring the compounded drug products to include the label of the pharmacy responsible for compounding and dispensing.

complaint. Montana enacted HB 630, which created a project to assess its food laws, including the extent to which home kitchens can be used to prepare cottage foods for sale while maintaining food safety for the public. Nevada enacted SB 206, which excluded cottage food operations from the definition of “food establishment,” but requires cottage food operations to be registered with the health authority. This session also saw states with existing cottage food laws consider amendments to expand their laws by adding additional products to their lists of non-potentially hazardous foods. For example, Arkansas considered legislation (HB 1010) to include salsa in the list of foods exempt from regulations. In Washington, a bill (HB 1135) was introduced to remove the annual gross sales limits for cottage foods. Both bills failed to pass, but the Washington bill has been retained for reintroduction next session.

Raw Milk

Although FDA has banned the interstate sale of raw milk, state legislatures have been grappling during the past few sessions with whether to permit the intrastate sale of raw milk for human consumption. In 2013, approximately 14 states considered bills to loosen restrictions on raw milk sales. Because raw milk is unpasteurized, it can contain harmful bacteria leading to foodborne illnesses. Legislators are in the position of balancing the potential risks to human health against consumer freedom of choice. In 2013, few raw milk bills gained traction. Two state legislatures passed bills expanding access to raw milk, Nevada (AB 209) and Maine (LD 1282), but Govs. Sandoval and LePage vetoed the bills, respectively. Arkansas enacted HB 1536, allowing raw milk to be sold directly from farms provided that the farms have signs indicating that milk products are not pasteurized or regulated by the state. North Dakota enacted SB 2072, which allows for herd-sharing – a shared animal ownership agreement under which an individual is entitled to a proportionate share of the animal’s raw milk production. New Mexico was the only state to consider legislation, SB 286, prohibiting the sale of raw milk. That bill did not pass. For additional information on this topic, see ASTHO’s [raw milk issue brief](#).

Tobacco

Electronic Cigarettes

According to National Youth Tobacco Survey findings published by CDC, the percentage of U.S. middle and high school students who used electronic cigarettes more than doubled from 2011 to 2012. Altogether, more than 1.78 million middle and high school students nationwide had tried electronic cigarettes in 2012. FDA is being urged to regulate electronic cigarettes in the same way it regulates tobacco products. In the meantime, a number of states joined the growing list of jurisdictions that prohibit the sale of electronic cigarettes to minors. States prohibiting the sale of “alternative nicotine products” or electronic cigarettes to minors this session included: Alabama (HB 286), Arkansas (SB 1087), Hawaii (HB 672), Illinois (SB 1756), Indiana (HB 1225), Mississippi (HB 613), North Carolina (SB 530), South Carolina (HB 3538), and Wyoming (SF 103).

Tobacco Taxes

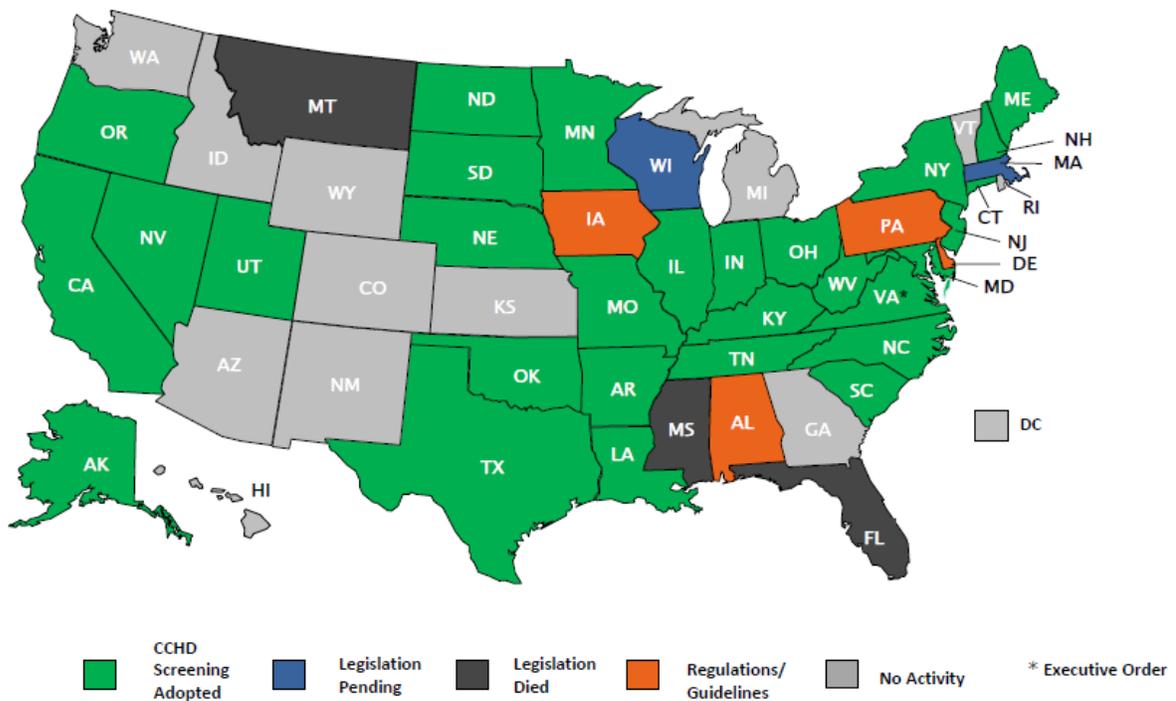
Minnesota enacted HF 677, which increased the excise tax on cigarettes from 24 mills to 141.5 mills per unit for cigarettes weighing not more than three pounds per thousand, and from 48 mills to 283 mills for cigarettes weighing more than three pounds per thousand. The total tax increase is \$1.60 per pack of 20 cigarettes, meaning effective July 1, 2013, the price increased from \$1.23 to \$2.83 per pack.

Newborn Screening

Critical Congenital Heart Disease

In 2013, 27 states considered legislation to add screening for critical congenital heart disease (CCHD) to their newborn screening programs. Twenty states successfully enacted legislation requiring pulse oximetry screening for CCHD: Alaska (SB 87), Arkansas (HB 1468), Illinois (HB 2261), Kentucky (SB 125), Louisiana (HB 322), Maine (LD 460), Minnesota (HF 1233), Missouri (SB 230), North Carolina (SB 98), North Dakota (SB 2172), Nebraska (LB 225), Nevada (SB 92), New York (AB 2316/SB 270), Ohio (SB 4), Oklahoma (HB 1347), Oregon (SB 172), South Carolina (SB 341), South Dakota (SB 168), Texas (HB 740), and Utah (HB 276). In addition, Florida enacted SB 1500, which appropriates \$155,592 in reoccurring funds and \$50,000 in non-reoccurring funds from the state Grants and Donations Trust Fund for the inclusion of CCHD testing within the state’s newborn screening program. Unlike legislation enacted in other states, the Florida legislation does not require hospitals and birthing facilities to screen infants for CCHD. For additional information on state implementation of CCHD screening, see ASTHO’s [CCHD issue brief](#).

Newborn Screening – Critical Congenital Heart Defects
Current Status



In 2013, FL appropriated \$155,592 in reoccurring funds and \$50,000 in non-reoccurring funds for the inclusion of newborn screening for CCHD into the state’s newborn screening program. However, chapter 2013-40 does not mandate newborn screening for CCHD.

For more information on ASTHO’s state health policy initiatives, please contact Andrea Garcia, director of state health policy, at agarcia@astho.org.