

## 2018 State and Territorial Legislative Prospectus

### LEGISLATIVE SESSION AND ELECTION OVERVIEW

Fifty-five states, territories, and freely associated states will have legislative sessions in 2018.<sup>1</sup> Montana, Nevada, North Dakota, and Texas operate biennial legislative sessions during odd-numbered years. In addition, six states (AR, CT, ME, NM, NC, and WY) have limited scope sessions in 2018 that restrict the types of bills that can be considered. The most common restrictions include consideration of budget bills, bills that require a two-thirds majority, and emergency legislation.<sup>2</sup> Finally, twenty-two states, Washington, D.C., Guam, and Puerto Rico permit carry-over legislation and allow the consideration of bills introduced in 2017.

In addition to federal midterm elections, on Nov. 6 voters will select governors in 36 states, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands.<sup>3</sup> Issues such as the opioid epidemic, the future of health reform, and marijuana legalization will likely feature in campaigns and impact public health policy throughout the year.

### FISCAL IMPACTS ON PUBLIC HEALTH

State budget spending projections for 2018 are expected to remain level.<sup>4</sup> Funding from federal grants and programs comprises anywhere between 30 and 60 percent of state health agency funding.<sup>5</sup> In spite of the funding levels, state health agencies across the United States will strive to provide core public health services to individuals and communities, as well as respond to complex and expensive crises, including the opioid epidemic, natural disasters, and infectious disease outbreaks.

### POLICIES IMPACTING PUBLIC HEALTH: SUBSTANCE USE DISORDERS

With opioid and other substance use disorders (SUD) at epidemic levels, claiming over 33,000 lives and costing 504 billion dollars in 2015 alone,<sup>6</sup> a multi-tiered framework is needed to support policies that address primary, secondary, and tertiary prevention of SUD.

---

<sup>1</sup> National Conference of State Legislatures. "2018 Legislative Calendar." Available at <http://www.ncsl.org/research/about-state-legislatures/2018-state-legislative-session-calendar.aspx>. Accessed 1-24-2018.

<sup>2</sup> National Conference of State Legislatures. "Legislative Sessions with Limited Scope." Available at <http://www.ncsl.org/research/about-state-legislatures/legislative-sessions-with-limited-scope.aspx>. Accessed 11-28-2017/

<sup>3</sup> National Governors Association. "2017 and 2018 Gubernatorial Elections." Available at <https://www.nga.org/cms/1718Elections>. Accessed 11-28-2017.

<sup>4</sup> National Association of State Budget Officers. "Summaries of Fiscal Year 2018 Proposed and Enacted Budgets." Available at [https://higherlogicdownload.s3.amazonaws.com/NASBO/9d2d2db1-c943-4f1b-b750-0fca152d64c2/UploadedImages/Issue%20Briefs%20FY18\\_Proposed\\_and\\_Enacted\\_Budget\\_Summaries.pdf](https://higherlogicdownload.s3.amazonaws.com/NASBO/9d2d2db1-c943-4f1b-b750-0fca152d64c2/UploadedImages/Issue%20Briefs%20FY18_Proposed_and_Enacted_Budget_Summaries.pdf). Accessed 11-28-2017.

<sup>5</sup> Trust for America's Health. "A Funding Crisis for Public Health and Safety: State-by-State Public Health Funding and Key Health Facts, 2017." Available at <http://healthyamericans.org/report/136/>. Accessed 11-28-2017.

<sup>6</sup> The Council of Economic Advisors. "The Underestimated Costs of the Opioid Crisis." Available at <https://www.whitehouse.gov/sites/whitehouse.gov/files/images/The%20Underestimated%20Cost%20of%20the%20Opioid%20Crisis.pdf>. Accessed on 11-27-2017.

Policymakers at both the state and federal levels are leveraging executive and legislative authority to address the opioid epidemic. Governors in nine states (AK, AZ, FL, MD, MA, OR, PA, and SC), as well as Virginia's commissioner of health have all issued emergency declarations to address the opioid epidemic since 2014.<sup>7</sup> In addition, President Trump directed the acting secretary of HHS to declare a national public health emergency under the Public Health Services Act.<sup>8</sup> ASTHO expects states to address opioids by rulemaking and other executive actions in addition to lawmaking.

### **Primary Prevention**

Primary prevention strategies move upstream to prevent SUD. In context of the opioid epidemic, primary prevention strategies can be narrowly tailored to address opioid access and use, or targeted more broadly to address the social determinants of health and promote optimal health for all. To reduce the likelihood that an individual will develop a prescription opioid use disorder, jurisdictions will continue efforts to improve prescribing practices through provider education, adoption of prescription guidelines and limits, recognition of non-opioid directives for patients, and stronger regulatory oversight and enforcement of pain management clinics and specialists. In addition, reimbursement policies for non-opioid pain treatment options (e.g., alternatives like yoga or acupuncture) are being implemented.

More broadly, policymakers will continue to advance policies that promote preventive factors and mitigate risk factors to improve community resiliency and decrease the chance that an individual turns to addictive substances. Critical to these efforts are integrating data sources to identify links between determinants of health and health outcomes, as well as developing multi-sector interventions that encompass areas such as public health, education, economic development, and public safety.

### **Secondary Prevention**

Secondary prevention strategies aim to diagnose and treat SUD and shift individuals from crisis interventions to recovery. Policymakers will continue to advance approaches to better connect emergency medical care for those suffering from overdoses with longer-term recovery services. Policy approaches may include discharge planning requirements for emergency rooms and increasing SUD treatment locations and capacity. In light of federal changes allowing advance practice registered nurses and physician assistants to provide buprenorphine, jurisdictions will encourage these providers to obtain necessary waivers to increase treatment. Recovery options will also be expanded by establishing new categories of recovery professionals, including peer support specialists and recovery coaches. To ensure appropriate and high-quality treatments, policymakers will continue to address reimbursement and payment policies, such as mental health parity laws, and strengthen regulation of recovery treatment and sober living environments.

### **Tertiary Interventions**

At the tertiary level, policymakers are strengthening policies that prevent the life-threatening adverse outcomes of SUD. By the end of 2017, all states and Washington, D.C. had enacted laws or adopted

---

<sup>7</sup> ASTHO. "Emergency Declarations and Opioid Overdose Prevention." Available at <http://www.astho.org/StatePublicHealth/Emergency-Declarations-and-Opioid-Overdose-Prevention/6-8-17/>. Accessed on 11-28-2017.

<sup>8</sup> Department of Health and Human Services. "Determination that a Public Health Emergency Exists." Available at <https://www.hhs.gov/sites/default/files/opioid%20PHE%20Declaration-no-sig.pff>. Accessed on 11-28-2017.

regulations to allow for naloxone access in some capacity. In 2018, jurisdictions will continue to modify the scope of their programs, by facilitating naloxone prescriptions through standing orders, encouraging locations such as schools and libraries to stock naloxone, and developing financing structures to ensure that communities, public safety groups, and individuals can meaningfully access naloxone. In addition, policymakers will continue to establish and modify syringe services programs to mitigate the risk of bloodborne diseases and connect individuals who inject substances with recovery support services. Finally, bills both in favor and opposing safe consumption sites will likely be filed in 2018.

#### **POLICIES IMPACTING PUBLIC HEALTH: COMMUNITY AND POPULATION HEALTH STRATEGIES**

In late 2017, Seema Verma, administrator of the Centers for Medicare and Medicaid Services, articulated a vision for the Medicaid program allowing greater flexibility for states and other jurisdictions to develop innovative and responsive programs that reflect the unique needs of their residents.<sup>9</sup> The ongoing implementation of federal changes in the Medicaid program and beyond, as well as the development of state-based approaches to integrate public health, population health, and clinical care will continue to shape healthcare and public health policy in 2018. Critical efforts will likely include developing, integrating, and sharing data to identify and monitor promising practices and effective interventions, aligning reimbursement and other financing mechanisms to incentivize wellness, and establishing and supporting partnerships with stakeholders to address the determinants of health.

#### **POLICIES IMPACTING PUBLIC HEALTH: BALANCING PUBLIC GOODS WITH PERSONAL CHOICE**

Public health programs and policies often require a balance between the public good and personal choice. Striking that balance is a consistent challenge often revisited by legislators, executive agencies, and the judicial branch spanning issues such as vaccinations, food safety, injury prevention, and chronic disease prevention. While these debates began long before 2018 and will undoubtedly continue, areas of focus for the coming year will likely include increasing the minimum age of tobacco use to 21, modifying mandatory vaccine requirements and exemptions, taxing or placing warning labels to address sugar consumption, and raw milk and cottage food policies.

#### **POLICIES IMPACTING PUBLIC HEALTH: MARIJUANA LEGALIZATION**

A majority of the U.S. population lives in a jurisdiction with legalized medical marijuana and more than a quarter reside in a jurisdiction with recreational marijuana. Initial legalization for both medical and recreational marijuana, as well as efforts to reform and modify existing marijuana programs, will continue to impact public health policy discussions in 2018. Given the limited research on the risks and benefits of marijuana use, it is vital to include responses to public health concerns, such as product and consumer safety, impaired driving, youth initiation, and the protection of smoke-free social norms.

*The 2018 State and Territorial Legislative Prospectus was made possible through funding from CDC PPHF 2013: OSTLTS Partnerships - CBA of the Public Health System (Cooperative Agreement 5U38OT000161-03 REVISED). ASTHO is grateful for CDC's support. For more information on ASTHO's state health policy initiatives, please contact K.T. Kramer, director of state health policy, at [kkramer@astho.org](mailto:kkramer@astho.org)*

---

<sup>9</sup> Centers for Medicare and Medicaid Services. "Verma Outlines Vision for Medicaid, Announces Historic Steps Taken to Improve the Program." Available at <https://www.cms.gov/Newsroom/MediaReleaseDatabase/Press-releases/2017-Press-releases-items/2017-11-07.html>. Accessed on 11-28-2017.