

New York State Enacted Budget Includes Opioid Legislation

By

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As part of the 2018–2019 New York State Budget, the Governor and the Legislature have agreed to a package of legislation addressing the opioid crisis in New York that includes requiring opioid manufacturers and distributors to help fund treatment programs.

Prescription Limits

The final Budget contains legislation that will limit the prescription of opioids to a patient for the treatment of pain to three months or the period of time it normally takes for tissue to heal, unless the patient’s medical records contain a treatment plan. (§7 of Part D, S.7507-C/ A.9507-C.) All treatment plans must meet generally accepted national, professional, or government guidelines.

Patients who are being treated for cancer and are not in remission, patients in hospice or other end-of-life care, and patients being treated as part of a palliative care practice are exempt from this provision.

Fentanyl Analogs, Synthetic Cannabinoids Added to Controlled Substance Schedules

The Budget contains provisions that would add Fentanyl analogs, synthetic cannabinoids, and cannabimimetic agents to the list of Schedule I controlled substances under New York’s Public Health Law. (Part BB, S.7507-C/ A.9507-C.)

The schedules of controlled substances are used to combat the illegal use and trade of substances, or their analogs or derivatives, and to govern the use of those substances in health care.

Opioid Stewardship Payment

The Budget contains a provision called the “Opioid Stewardship Act.” (Part NN, S.7507-C/ A.9507-C.) The Opioid Stewardship Act requires all manufacturers and distributors of opioids to provide an annual payment to a new “Opioid Stewardship Fund” that will total \$100 million in all payments from all manufacturers and distributors.

The Fund will be used to support programs operated by the New York State Office of Alcoholism and Substance Abuse Services (OASAS) to provide opioid treatment, recovery, prevention, educational programs, and support for the state’s prescription monitoring program registry.

Each manufacturer and distributor will be required to pay a ratable share of the total payment, which will be based on the proportion of milligrams of morphine equivalents (MMEs) sold by each manufacturer or distributor in New York.

Independent Substance Use Disorder and Mental Health Ombudsman

Finally, the Budget creates an independent substance use disorder and mental health ombudsman within OASAS. (Part FF, S.7507-C/ A.9507-C.) The ombudsman will assist individuals with a substance use disorder or mental illness to ensure they receive

appropriate health insurance coverage.

The Jackson Lewis Government Relations practice monitors and tracks all legislation introduced in New York, advocates for client positions with New York's legislators, and helps clients oppose legislation that will be detrimental to their business interests. We have been involved in all phases of the New York State Budget process, from the Governor's Executive Budget Proposal, through the Final Enacted State Fiscal Year Budget. For details of other provisions in the Budget, see our articles, [New York Legislature Passes Significant Changes to Laws Combating Sexual Harassment in the Workplace](#) and [New York State Budget Includes Optional Employer Payroll Tax as a Potential SALT Cap Work Around](#).

Please contact any member of the Government Relations practice or the Jackson Lewis attorney with whom you regularly work for assistance.

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