February 22, 2023

Subject: Invited testimony regarding H222: An act related to reducing overdoses
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To: Vermont House Committee on Human Services

Chair Wood, Vice Chair Brumsted, and distinguished members of the Committee:

My name is Kenneth Feder, and I am faculty at Johns Hopkins Bloomberg School of Public Health. I am offering invited testimony today on House Bill 222. The views expressed here are my own and do not necessarily reflect the policies or positions of Johns Hopkins University & Medicine.

In 2021, Vermont Act 46 eliminated criminal penalties for possessing 224 milligrams or less of buprenorphine, but that bill contained a two-year sunset clause. H. 222 would make buprenorphine decriminalization permanent.

At the request of Vermont's Chief Prevention Officer, my research team conducted an evaluation of Act 46. Our report investigates the use of non-prescribed buprenorphine in Vermont and the potential impact of decriminalization of buprenorphine on the health and criminal justice experiences of people who use drugs in Vermont.

Vermont eliminated criminal penalties for buprenorphine possession at a time when many other factors, including COVID-19, were dramatically affecting the health of people who use drugs. We therefore felt it would be impossible to determine if decriminalization of buprenorphine possession prevented drug overdoses in the short term. Instead, we surveyed two key constituencies impacted by buprenorphine decriminalization. Our goal was to provide context to understand the impact of removing criminal penalties for buprenorphine possession over the long term.

First, we conducted a survey of 474 Vermont residents who have recently used illicit opioid drugs or received treatment for opioid use disorder about their use of non-prescribed buprenorphine and experiences related to decriminalization. Our key findings were as follows:

1. Three-quarters of respondents had, at some point in their life, used buprenorphine that was <u>not</u> prescribed to them. Of these, 95 percent said they had done so to try to prevent withdrawal, while fewer than half said they had done so even once to try to get high.
2. We asked respondents why they took buprenorphine that was not prescribed to them, instead of obtaining a prescription. Many respondents told us they took buprenorphine that was not prescribed when accessing prescribed buprenorphine was difficult or when they experienced gaps in treatment, for example when transitioning between systems of care.
3. We asked respondents how taking non-prescribed buprenorphine affected their lives. Most respondents described positive effects of taking non-prescribed buprenorphine: principally preventing withdrawal and helping respondents to avoid heroin or fentanyl use until they could enroll in or resume treatment. Some respondents also described positive effects on ability to work and fulfill familial roles.
4. Respondents with a history of non-prescribed buprenorphine use were also more likely to report participation in buprenorphine treatment. Non-prescribed buprenorphine use usually preceded prescribed buprenorphine use among respondents who had used both.

5. Fewer than a third of respondents were aware buprenorphine possession is decriminalized.
6. Among those aware of decriminalization, almost none said they had increased their use of non-prescribed buprenorphine, or started giving, selling, or trading their own buprenorphine prescriptions more frequently.
7. More than four in five respondents did not think Vermont should have criminal penalties for possessing non-prescribed buprenorphine. When asked why, respondents most often pointed to the fact that buprenorphine is safer than heroin or fentanyl, and said people should not be punished for trying to be safer.
8. Finally, just under one in five respondents told us they had been arrested at least once while in possession of buprenorphine, and one in ten said they had been punished for violating the terms of their parole or probation because of buprenorphine possession. Respondents who were not white were more than twice as likely to report having been arrested while in possession of buprenorphine.

In addition to our survey of people who have recently used opioid drugs, we also surveyed 117 clinicians who have recently prescribed buprenorphine in Vermont. We found:

9. Just under two-thirds of buprenorphine prescribers were aware that Vermont had eliminated criminal penalties for buprenorphine possession.
10. More than nine in ten buprenorphine prescribers did not think Vermont should have criminal penalties for possessing non-prescribed buprenorphine.
11. Almost no providers said they had reduced or changed their prescribing of buprenorphine as a result of decriminalization.

In summary, our study has the following implications.

First, people with a history of illicit opioid use in Vermont use non-prescribed buprenorphine to prevent withdrawal symptoms and avoid heroin and fentanyl while experiencing barriers to or gaps in formal treatment. Most residents in buprenorphine treatment started with non-prescribed buprenorphine, suggesting non-prescribed buprenorphine use may be a pathway to buprenorphine treatment. As noted in our report, similar studies in other states have reached the same conclusion.

Second, residents who were not white were more than twice as likely to report having been arrested while in possession of buprenorphine. In the long term, decriminalization of buprenorphine possession may help reduce race-based disparities in contact with the criminal justice system.

Finally, we found no evidence decriminalization of buprenorphine possession has had unintended negative consequences. Fewer than a third of people who use drugs and fewer than two thirds of providers in our survey were aware that Vermont had eliminated criminal penalties for buprenorphine possession. Almost no respondents in either survey reported changing their behavior in response to decriminalization. Both groups strongly supported buprenorphine decriminalization.

I have appended our complete report, submitted to the Chief Prevention Officer, to this testimony. Thank you for the opportunity to testify, and I welcome any questions.