

Committee on Mental Health, Disabilities and Addiction

Sara Sucher, *Legislative Counsel*

Cristy Dwyer, *Senior Legislative Policy Analyst*

Crihien Francisco, *Unit Head - Finance Division*



**THE COUNCIL OF THE CITY OF NEW YORK**

**COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION**

Andrea Vazquez, *Legislative Director*

Smita Deshmukh, *Deputy Director, Human Services*

**COMMITTEE ON MENTAL HEALTH, DISABILITIES AND ADDICTION**

Hon. Linda Lee, *Chair*

September 13, 2022

**PROPOSED INTRODUCTION NO. 0056-A:**

By Council Members Ossé, Powers, Hanif, Hudson, Nurse, Salamanca, Cabán, Restler, Joseph, Farías, Gutiérrrez, Schulman, Dinowitz, Louis, Moya, Williams, Krishnan, Bottcher, Stevens, Sanchez, Lee, Hanks, Menin, Narcisse, Won, Abreau, Velázquez, De La Rosa, Feliz, Rivera, Riley, Richardson Jordon, Gennaro, Brannan, Ayala, Marte, Avilés and Carr

**TITLE:**

A Local Law to amend the administrative code of the city of New York, in relation to establishing a nightlife opioid antagonist program

**ADMINISTRATIVE CODE:**

Adds a new section § 17-2101 to the Administrative Code.

## **I. Introduction**

On September 13, 2022, the Committee on Mental Health, Disabilities and Addiction (the Committee), chaired by Council Member Linda Lee, will hold a vote on Proposed Introduction Number 56-A (Int. 56-A) sponsored by Council Member Ossé, which would establish a nightlife opioid antagonist program. The legislation was previously heard at a hearing of the Committee on April 21, 2022, at which the Committee received testimony from the Office of Community Mental Health (OCMH), the NYC Department of Health and Mental Hygiene (DOHMH), mental health professionals, community-based organizations, and other interested parties.

## **II. Background**

In recent years, drug usage and overdose deaths have been on the rise. Most drug overdoses involve opioids, such as heroin and prescription painkillers. The presence of fentanyl – a potent opioid that can be mixed into illicitly sold substances – in drugs like cocaine is contributing to an overall increase in drug overdose deaths.<sup>1</sup> In New York City in 2015, just 17 of the city’s overdose deaths involved cocaine and fentanyl, without heroin; that number rose to 183 in 2019.<sup>2</sup> And although rates of drug overdose deaths were similar in 2016 to 2017, there was a dramatic shift in the demographics of those impacted: from 2016 to 2017, Black New Yorkers had the largest increase in the rate of overdose deaths.<sup>3</sup> In the first two quarters of 2021, there were a total of 1,233 overdose deaths in New York City, compared to 965 deaths during that same period in 2020.<sup>4</sup> If this trend continues, the New York City Department of Health and Mental Hygiene (DOHMH)

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<sup>1</sup> NYC Health, *Presence of Fentanyl in Cocaine Contributing to Increase in Drug Overdose Deaths*, NYC DOHMH (June 1, 2017), <https://www1.nyc.gov/assets/doh/downloads/pdf/han/advisory/fentanyl-advisory10.pdf>.

<sup>2</sup> Sarah Maslin Nir, *Inside Fentanyl’s Mounting Death Toll: ‘This is Poison,’* NY Times (Nov. 22, 2021), <https://www.nytimes.com/2021/11/20/nyregion/fentanyl-opioid-deaths.html>.

<sup>3</sup> Rates increased 26% among Black New Yorkers from 20.3 per 100,000 in 2016 to 25.5 per 100,000 in 2017. <https://www1.nyc.gov/assets/doh/downloads/pdf/epi/databrief104.pdf>

<sup>4</sup> NYC Health, *Epi Data Brief: Unintentional Drug Poisoning (Overdose) Deaths in New York City, 2000 to 2017*, NYC DOHMH (Sept. 2018), <https://www1.nyc.gov/assets/doh/downloads/pdf/basas/provisional-overdose-report-second-quarter-2021.pdf>.

expects the number of overdose deaths in 2021 to exceed those in 2020, which saw the highest number of overdoses in New York City since records began in 2000.<sup>5</sup>

### **III. Bill Analysis**

**Proposed Int. No. 0056-A** – A Local Law to amend the administrative code of the city of New York, in relation to establishing a nightlife opioid antagonist program

This bill would require DOHMH to create the Nightlife Opioid Antagonist Program to help prevent opioid overdoses in nightlife establishments. The program would permit nightlife establishments in the City to request and retain up to 5 opioid antagonist kits at a time, free of charge, to keep on premises for administration to patrons, staff or individuals on the premises experiencing an opioid overdose. This bill would also require DOHMH to offer free resources and training to staff of participating nightlife establishments on the administration of opioid antagonists. The bill would also require DOHMH to report annually to the Mayor and the Speaker of the Council on the program established under this bill. If passed, this bill would take effect 120 days after it became law.

Since it was heard, the bill was amended to remove potential barriers for establishments that are looking to participate in the program.

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<sup>5</sup> NYC Health, *Overdose Continues to Rise in NYC as Harm Reduction Programming Scales Up*, NYC DOHMH (April 14, 2022), <https://www1.nyc.gov/site/doh/about/press/pr2022/overdose-increases-as-harm-reduction-program-scales-up.page>.



1 administered to individuals on the premises of such establishment. Such program shall be operated  
2 in compliance with existing federal, state and local laws, rules and regulations relating to the  
3 distribution of an opioid antagonist.

4 § 17-2103 Terms and conditions. a. An employee of a nightlife establishment may request  
5 up to 5 kits of an opioid antagonist at one time.

6 b. To request an opioid antagonist, such employee shall provide the following information  
7 to the department:

8 1. Name, mailing address, zip code and contact information of such employee or  
9 establishment;

10 2. Number and type of opioid antagonist kits requested; and

11 3. Any other information the department determines is required to provide an opioid  
12 antagonist to such employee.

13 c. The department shall not charge a fee for receiving an opioid antagonist.

14 d. Such employee shall comply with all applicable federal, state and local laws, rules and  
15 regulations, including the requirements of this chapter.

16 § 17-2104 Training and administration of an opioid antagonist. The department shall offer  
17 a nightlife establishment resources and training for employees on opioid overdose prevention and  
18 administration of an opioid antagonist. An employee of a nightlife establishment who has received  
19 such training, who has received training from another opioid overdose prevention program  
20 approved pursuant to section 3309 of the public health law, or who is otherwise in compliance  
21 with relevant federal, state and local laws, rules, and regulations regarding the administration of  
22 opioid antagonists may administer an opioid antagonist to a person such employee reasonably  
23 believes is experiencing an opioid overdose.

1           § 17-2105 Disclaimer of liability for nightlife establishments and their employees. The  
2 administration of an opioid antagonist pursuant to this chapter shall be considered first aid or  
3 emergency treatment for the purpose of any statute relating to liability. A nightlife establishment  
4 or an employee of such establishment, acting reasonably and in good faith in compliance with this  
5 section and section 3309 of the public health law, shall not be subject to criminal, civil or  
6 administrative liability solely by reason of such action. Nothing contained in this chapter or in the  
7 administration or application hereof shall be construed as creating any private right of action  
8 against a nightlife establishment or an employee of such establishment for use of or failure to use  
9 an opioid antagonist in the event of an overdose.

10           § 17-2106 Construction. Nothing in this chapter prohibits any other program or policy to  
11 provide an opioid antagonist to any person allowed to obtain and use an opioid antagonist in  
12 accordance with federal, state and local laws, rules and regulations.

13           §17-2107 Report. a. No later than March 1, 2023, and annually thereafter, the department  
14 shall submit a report to the mayor and the speaker of the council on the program established by  
15 this chapter.

16           b. Such report shall include, but need not be limited to, the following information for the  
17 previous calendar year:

18           1. The total number of opioid antagonist trainings offered by the department to an employee  
19 of a nightlife establishment; and

20           2. The total number of opioid antagonist kits provided to an employee of a nightlife  
21 establishment, disaggregated by zip code.

22           § 2. This local law takes effect 120 days after it becomes law

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