

THOMAS P. DiNAPOLI  
STATE COMPTROLLER



110 STATE STREET  
ALBANY, NEW YORK 12236

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

July 9, 2024

James McDonald M.D., M.P.H  
Commissioner  
New York State Department of Health  
Corning Tower  
Empire State Plaza  
Albany, New York 12837

Dear Commissioner McDonald:

Please see the attached letter sent to Comptroller DiNapoli, regarding the method used by the New York State Department of Health (DOH) to procure naloxone intranasal inhalers.

There are currently no pending contracts before OSC relevant to this matter. DOH entered into an agreement (contract C037913) with Emergent Devices Inc. on August 1, 2022 for 4mg Narcan nasal spray that expires on July 31, 2024 and contains three remaining one-year renewals. To date, DOH has not submitted a renewal to the Emergent agreement or other contract for the purpose of procuring naloxone intranasal inhalers to OSC for review and approval, which would extend the procurement beyond the current July 31, 2024 end date of the Emergent agreement. Since no contract is before our Office at this time and, under New York State Public Health Law § 3309, DOH is solely "authorized to establish standards for approval of any opioid overdose prevention program, and opioid antagonist prescribing, dispensing, distribution, possession and administration," I forward these concerns to your attention to be addressed in any future submission to our Office as part of the procurement record.

Sincerely,

A handwritten signature in blue ink that reads "Terri B. Crowley".

Terri B. Crowley  
Executive Deputy Comptroller  
Office of Operations

ATT.

Cc: Sue Mantica, DOH



The Honorable Thomas DiNapoli  
New York State Comptroller  
110 State Street  
Albany, New York 12236

July 2, 2024

Dear Comptroller DiNapoli:

We join as colleagues in recovery, harm reduction, and treatment to urge you to immediately address a critical flaw in New York State's opioid overdose response policy that results in untold lost lives and millions of wasted tax dollars each year. Specifically, we are calling on you to immediately suspend sole-source, noncompetitive contracts administered by the New York State Department of Health and the Office of Addiction Services and Supports that dramatically limit the availability of life-saving, state-approved naloxone tools; and, further, to use any powers at your disposal to open the state's procurement for these critical tools to a competitive bid process.

Virtually the entire spectrum of harm reduction, recovery, and treatment perspectives recognize that the broad availability of naloxone is the first line of defense in preventing opioid overdose deaths. While other states are seeing significant reductions in these preventable deaths, New York lags behind. We believe the waste and distribution limitations associated with these monopolistic state contracts feed that failure.

#### **Emergent's Naloxone (Narcan) Monopoly in New York State**

Since 2016, New York's Opioid Overdose Prevention Program has procured and distributed millions of doses of 4 mg naloxone intranasal inhalers, along with other overdose reversal tools delineated in a "standing order" issued by NYSDOH. These tools are procured primarily through no-bid, single source contracts with the pharmaceutical company Emergent BioSolutions (for its 4 mg naloxone inhaler product Narcan). However, beginning in 2021, numerous (at least four) FDA-approved generic Narcan equivalents have become available at steeply lower costs. Inexplicably, New York has yet to avail itself to these lower-cost, more accessible options.

Almost 40 states, including Pennsylvania, Maryland and Ohio have dramatically expanded the availability of 4 mg naloxone inhalers, saved more lives and significantly reduced their per unit costs by putting their naloxone procurement out to competitive bid. For example, California currently pays \$23 for a two-dose box of 4 mg naloxone intranasal inhalers. We believe New York is paying almost twice that amount. However, notwithstanding formal FOIA requests, both the Office of the Comptroller and the relevant Executive state agencies have refused to disclose any per unit costs for a program that now approaches \$30 million annually.

Why does New York insist on paying more to get less at a time when 15 New Yorkers die from opioid overdose every day? The state's perennial abiding of these single source contracts constitutes a failure to meet both its public health and fiscal obligations. It must be corrected immediately.

The current single source, no-bid contract between NYSDOH and Emergent (contract # C037913) expires on July 31, 2024. We need you to intervene now to ensure this procurement better comports with the spirit if not the letter of state procurement and finance laws. Subjecting this matter to competitive bid will reduce costs and better ensure tax dollars are more efficiently used to procure and distribute more doses of this life-saving medication. Today, unconscionably, a significant percentage of the public resources dedicated to this program are driving corporate revenues, when with your intervention, these wasted resources can be redirected to procure and distribute more naloxone—and save more lives.

Please act today before we are, yet again, locked into indefensible sole-source contracts that needlessly costs us lives and dollars.

Sincerely,

Christopher Assini, *CRPA-P*  
Director of Policy, Friends of Recovery New York

Avi Israel  
President, Save the Michaels of the World

Linda Ventura, *CRPA*  
Founder/Executive Director, Thomas' Hope Foundation

Janice Talento  
Chair, Drug Free Long Island

Dennis Gregg  
HEAL Madison County

Paulette Phillippe  
Gabriel's Giving Tree

Richard Buckman  
Founding Member, Long Island Recovery Association

Ashley Livingston, *CRPA*  
Friends of Recovery Warren Washington Counties

Jonathan Westfall  
Executive Director, RoCovery Fitness

Anthony Rizzuto  
Director of Provider Relations, Seafield Center

Rob Kent  
Former General Counsel  
White House Office of National Drug Control Policy