NEW YORK STATE

Department of Health | Office of Addiction Services and Supports

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Subject: Buprenorphine and Methadone for Opioid Use Disorder in Emergency Departments

Dear Chief Executive Officer and Emergency Department Providers:

This letter is to inform providers across New York State of changes to State and Federal laws related to the provision of buprenorphine and methadone medications for the treatment of opioid use disorder (OUD). The changes to Federal and State restrictions on the prescribing, administering, and dispensing of buprenorphine and methadone directly impact Emergency Department (ED) prescribers.

Emergency Departments have been at the forefront for management of opioid use disorder, including treating complicated withdrawal syndromes, safely initiating medications for opioid use disorder (MOUD), implementing innovative initiation approaches with high-dose buprenorphine, and treating overdoses. With only an estimated 22% of individuals in the United States with an opioid use disorder in receipt of medications for opioid use disorder (NSDUH 2023), emergency departments increasingly will be the first point of contact for persons not yet engaged in treatment.

According to the NYS Department of Health,[1] between 2016 and 2021, emergency department visits in New York involving any drug overdose rose by 12% from 33,969 to 37,901. During the same time, emergency department visits involving opioid overdose rose by 22% from 11,298 to 13,836.

As the standard of care for treating OUD, methadone and buprenorphine have been shown to reduce both all-cause and opioid overdose mortality reductions by greater than 50%, especially in the first 30 days of treatment. [2] Studies of ED-initiated buprenorphine have demonstrated a substantial increase in SUD treatment engagement 30 days after initiation [3]. Increasingly, methadone initiation in the ED has shown at least equivalent success [4].

Federal and New York State laws related to expanding access to Medications for Opioid Use Disorder from the Emergency Department:

New York State Public Health Law § 2803-u and 10 NYCRR §§ 405.9, 405.19, and 405.20, require hospitals to have policies and procedures in place that include but are not limited to training staff to identify, assess, refer, and coordinate ongoing care with addiction services providers, for individuals seeking emergency care. Hospitals must also evaluate for and start

patients on medication for addiction treatment (MAT), including buprenorphine, in the Emergency Department as medically indicated prior to discharge, or refer the patient for medication for addiction treatment when Emergency Department initiation is not feasible.

Federal rules about the prescribing of medications for opioid use disorder have undergone significant revision. The Mainstreaming Addiction Treatment (MAT) Act of 2021 (S.445) was enacted on February 25, 2021 as part of the Consolidated Appropriations Act for 2023 and became effective on December 29, 2022. Important changes resulting from S. 445 include:

- An amendment to section 303(g) of the Controlled Substances Act (21 U.S.C. 823(g)) that eliminated the separate registration requirement for dispensing narcotic drugs in schedule III, IV, or V, such as buprenorphine, for maintenance or detoxification treatment, and for other purposes (this was commonly referred to as the X-waiver). More information about the removal of the x-waiver requirement can be found from Substance Abuse and Mental Health Services Administration and NYS Office of Addiction Services and Supports (OASAS).

Changes to 21 CFR § 1306.07(b) known as the *Three Day Rule*, now allow practitioners to dispense up to 3 days of narcotic medication to a person for purposes of initiating maintenance or detoxification. The rule had previously permitted only a single dose of medication per day for up to 3 days. Recent amendments to State Public Health law §3342 now allow a hospital emergency department without a full-time onsite pharmacy to dispense up to 3 days of a narcotic medication for this purpose consistent with federal rule changes.

Revisions to 42 CFR Part 8, the federal law regulating opioid treatment programs (OTPs) enacted in 2024, included significant changes to restrictive rules governing these programs. The rule prioritizes reducing barriers to initiating MOUD, in particular, allowing non-OTP practitioners to perform initial medical screening examinations required for OTP admission and modifying admission criteria so patients can more easily access methadone.

The following resources are available to providers:

- OASAS: Screening, Brief Intervention and Referral to Treatment (SBIRT), an evidence-based approach used to identify and assess individuals with substance use disorders

- OASAS Provider and Program Search Tool, used to search for state-certified outpatient or bedded programs, prevention programs, Clinical Screening and Assessment Services for Impaired Driving Offenders, and Problem Gambling and Treatment services.

- Initiating Buprenorphine Treatment in the Emergency Department, NIDA

- Guidance on The MAT Act, NYS DOH

New York State Department of Health and The Office of Addiction Services and Supports appreciates your partnership as we work together to decrease opioid overdoses and deaths. The initiation of buprenorphine and methadone in Emergency Departments has the potential to save countless lives, which can happen with your help.

If you have any questions, please contact the Division of Hospitals and Diagnostic & Treatment Centers by email at hospinfo@health.ny.gov or telephone at 518-402-1004.

Sincerely,

Stephanie Shulman, DrPH, MS
Director, Division of Hospitals and Diagnostic & Treatment Centers
NYS DOH

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References:

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