



**Notice of Proposed Rulemaking
Regulatory Impact Statement
Amend 14 NYCRR PART 815
PATIENT RIGHTS**

1. Statutory Authority:

- (a) Section 19.07(c) of the Mental Hygiene Law (“MHL”) charges the Commissioner (“Commissioner”) of the New York State Office of Addiction Services and Supports (“the Office”) with the responsibility of ensuring that the personal and civil rights of persons receiving care, treatment and rehabilitation are adequately protected.
- (b) Section 19.07(e) of the MHL authorizes the Commissioner to adopt standards including necessary rules and regulations pertaining to addiction services.
- (c) Section 19.09(b) of the MHL authorizes the Commissioner to adopt regulations necessary and proper to implement any matter under their jurisdiction.
- (d) Section 19.20 of the MHL authorizes the Office to receive and review criminal history information from the Justice Center related to employees or volunteers of treatment facilities certified, licensed, funded or operated by the Office.
- (e) Section 19.20-a of the MHL authorizes the Office to receive and review criminal history information from the Justice Center related to persons seeking to be credentialed by the Office or applicants for an operating certificate issued by the Office.
- (f) Section 19.21(b) of the MHL authorizes the Commissioner to adopt regulations concerning the licensing, certification, inspection, and treatment standards of all facilities that provide addiction services.
- (g) Section 22.03 of the MHL requires the director of any addiction services program to establish, communicate and post patient rights, to include information about how to communicate with the Office and the Commissioner.
- (h) Section 22.07(c) of the MHL authorizes the Commissioner to adopt rules and regulations and take any other necessary action to ensure that the rights of individuals who have received or are receiving addiction services are protected.

- (i) Section 32.01 of the MHL authorizes the Commissioner to adopt any regulation reasonably necessary to implement and effectively exercise the powers and perform the duties conferred by article 32 of the MHL.
- (j) Section 32.07(a) of the MHL authorizes the Commissioner to adopt regulations to effectuate the provisions and purposes of Article 32 of the MHL.
- (k) Section 32.05 of the MHL indicates that no provider of services shall engage in the provision of addiction services without an operating certificate issued by the Commissioner.
- (l) Section 492 of the Social Services Law established the Vulnerable Persons' Central Register.
- (m) The Protection of People with Special Needs Act (chapter 501 of the Laws of 2012) established the Justice Center for the Protection of People with Special Needs.
- (n) Section 32.06 of the MHL prohibits the offering or acceptance of a payment, benefit or consideration in any form, in exchange for the referral of any person as a potential patient for substance use disorder services.
- (o) Article 15 of the Executive Law enacts the Human Rights Law prohibiting discrimination against protected classes of New Yorkers including on the basis of sexual orientation and gender identity or expression.

2. Legislative Objectives: The legislature has authorized OASAS to establish standards and regulations governing the provision of addiction services, including the provision of medications for addiction treatment, as well as standards for providers seeking to offer such services. Additionally, OASAS is tasked with the responsibility of ensuring that the personal and civil rights of persons receiving care, treatment and rehabilitation are adequately protected.

3. Needs and Benefits: Proposed amendments to Part 815 include updates to definitions and language used by all OASAS programs consistent with continued efforts and agency goals to reduce stigma and use person-first language for the delivery of addiction services. Additionally, provisions for medication for addiction treatment for substance use disorder are further clarified consistent with guidance issued by the Office and the medical standard of care for the treatment of substance use disorder. These amendments support OASAS overarching goals to ensure programs are responsive to community needs and provide person-centered care.

Furthermore, the ability for OASAS certified programs to conduct body cavity searches are prohibited in all circumstances. OASAS has guidance for providers for recommended alternatives when a body cavity search may have otherwise been considered. OASAS, pursuant to mental hygiene law, is tasked with the responsibility of ensuring that the personal and civil rights of persons receiving care, treatment and rehabilitation are adequately protected.

4. Costs: No additional administrative costs to the State, local government or agency are anticipated. The requirements outlined in the regulation are already required in guidance (both for medication access and naloxone education and access) and in the standard of care for the treatment of substance use disorder.

Programs which formerly utilized body cavity searches in their patient search procedures will need to update their policies in accordance with this regulation as body cavity searches are explicitly prohibited.

5. Paperwork: There is no additional paperwork beyond what is already required. OASAS programs are required to review and update policies and procedures to ensure compliance with OASAS regulations and guidance and evolving standards of care for the treatment of substance use disorder and problem gambling. Some programs will be expected to enter into agreements with Opioid Treatment Programs, which should not be difficult as many providers currently have agreements to facilitate linkage between different levels of care.
6. Local Government Mandates: There are no new local government mandates.
7. Duplications: This proposed rule does not duplicate, overlap, or conflict with any State or federal statute or rule.
8. Alternatives: The alternative is to leave the regulation as it currently reads, with language inconsistent across Title 14 regulations and providers unsure of their obligation to provide medication for addiction treatment for substance use disorders. Additionally, body cavity searches, which have no therapeutic value, are permissible until such time as the regulation is updated.
9. Federal Standards: This regulation does not conflict with federal standards.
10. Compliance Schedule: This rulemaking will be effective upon publication of a Notice of Adoption in the *State Register*.