

AMENDED PART 800 EFFECTIVE OCTOBER 1, 2022

OASAS SERVICES: GENERAL PROVISIONS
TITLE 14 NYCRR PART 800

[Statutory Authority: Mental Hygiene Law Sections 19.07(e), 19.09(b), 32.01, 32.07(a),
Executive Law, Article 15]

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Section 800.1 Applicability

The provisions of this Part shall apply to any program certified, funded, designated or otherwise authorized by the Office of Addiction Services and Supports (OASAS).

800.2 Legal base

- (a) Section 19.07(e) of the Mental Hygiene Law authorizes the Commissioner of the Office of Addiction Services and Supports to adopt standards including necessary rules and regulations pertaining to addiction services.
- (b) Section 19.09(b) of the Mental Hygiene Law authorizes the Commissioner of the Office of Addiction Services and Supports to adopt regulations necessary and proper to implement any matter under his or her jurisdiction.
- (c) Section 32.01 of the Mental Hygiene Law authorizes the Commissioner of the Office of Addiction Services and Supports to adopt any regulation reasonably necessary to implement and effectively exercise the powers and perform the duties conferred by Article 32 of the Mental Hygiene Law.
- (d) Section 32.07(a) of the Mental Hygiene Law authorizes the Commissioner of the Office of Addiction Services and Supports to adopt regulations to effectuate the provisions and purposes of Article 32 of the Mental Hygiene Law.

(e) Article 15 of the Executive Law enacts the Human Rights Law prohibiting discrimination against various protected classes.

800.3 Incorporation by reference

The following publications and/or federal laws and regulations are incorporated by reference where applicable to all Parts of this Chapter. Publications are filed with the Office of the Secretary of State of the State of New York, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231-0001, and may be viewed at the law libraries of the New York State Supreme Court, the Legislative Library in the NYS Capitol, or viewed by appointment with the New York State Office of Addiction Services and Supports, Office of Counsel, 1450 Western Ave., Albany, NY. Copies are also available by writing to the NYS Office of Addiction Services and Supports, Office of Counsel, 1450 Western Avenue, Albany, NY 12203-3526; federal documents may be purchased from the Superintendent of Documents, Government Printing Office, Washington D.C. 20402. Copies of the Code of Federal Regulations (CFR) are also available at many public libraries and bar association libraries.

(a) “The International Statistical Classification of Diseases and related Health Problems, Tenth Revision, Second Edition” published in 2004 by the World Health Organization.

(b) “The OASAS Level of Care for Alcohol and Drug Treatment Referral Protocol 3.0” or “LOCADTR 3.0” or “level of care determination protocol”, the various modules available and accompanying Guidelines for Level of Care Determination published by the Office and which is in the public domain.

(c) 21 Code of Federal Regulations Part 1301.72, et seq. regarding regulatory requirements for controlled substances.

(d) 42 Code of Federal Regulations Part 2, et. seq. regarding confidentiality of patient records.

(e) “The Medicare Provider Reimbursement Manual” or “HIM 15” published by the U.S. Department of Health and Human Services' Centers for Medicaid and Medicare Services and available from: Centers for Medicaid and Medicare Services, Division of Communication Services, Production and Distribution Branch, Room 577, East High Rise Building, 6325 Security Boulevard, Baltimore, MD 21207.

- (f) The “American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition.” Arlington, VA, published by the American Psychiatric Association, 2013.
- (g) “Health Insurance Portability and Accountability Act of 1996”, 45 Code of Federal Regulations Part 160 and Subparts A and E of Part 164, et. seq. (HIPAA) regarding patient records.
- (h) The “Substance Use Disorder Counselor Scope of Practice” published in 2020 by the Office and which is in the public domain.
- (i) The “Telehealth Standards for OASAS Designated Providers” published in 2021 by the Office and which is in the public domain.
- (j) The “Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) Affirming Program Endorsement Standards for OASAS-Certified Programs” published in 2021 by the Office and which is in the public domain.
- (k) The “Ambulatory Patient Groups (APG) Clinical and Medicaid Billing Guidance” published in 2021 by the Office and which is available in the public domain.
- (l) The “Medicaid State Plan Children and Family Treatment and Support Services Provider Manual for Children’s Behavioral Health Early and Periodic Screening and Diagnostic Treatment (EPSDT) Services”, published in January 2021 by the NYS Department of Health and which is available in the public domain.
- (m) The “Clinical Practice Standards for Adolescent Programs” (CPS-AP) Program endorsement standards for OASAS certified programs published in 2022 by the Office and which is available in the public domain.
- (n) The “Standards for Open Access Services for OASAS Designated Providers” (OAS Standards) published in 2022 by the Office and which is available in the public domain.

800.4 Definitions

The following terms are defined for purposes of all Parts of Chapter XXI of this Title, unless a term is defined and indicated as applicable only for purposes of a specific Part.

- (a) “Addiction disorder” means substance use disorder as defined in this Part and/or gambling disorder as defined in this Title and/or problem gambling as defined in this Title.

- (b) “Addiction services” means examination, evaluation, diagnosis, care, treatment, or rehabilitation of persons with substance use disorder, gambling disorder, or problem gambling and their families or significant others.
- (c) “Approved medication” means any medication approved by state and federal authorities for the treatment of substance use disorder.
- (d) “Clinical staff” is staff who provide services directly to patients as prescribed in a treatment/recovery plan; clinical staff includes licensed medical staff, credentialed or licensed staff, non-credentialed staff, and student interns.
- (e) “Commissioner” means the Commissioner of the Office of Addiction Services and Supports unless otherwise indicated.
- (f) “Diagnosis” for purposes of admission, treatment and level of care transition planning (discharge planning) means the identification criteria contained in the most current editions of both the International Classification of Diseases, and the Diagnostic and Statistical Manual.
- (g) “Full Opioid agonist” means methadone.
- (h) “Medical Director”. (1) Each program must have a physician designated by the program governing authority to be the medical director. The medical director shall be a physician licensed and currently registered as such by the New York State Education Department and shall have at least one year of education, training, and/or experience in substance use disorder services. The medical director is a physician who has overall responsibility for the following (this overall responsibility may not be delegated):
- (i) medical services provided by the program;
 - (ii) oversight of the development and revision of policies, procedures and ongoing training for matters including, but not limited to, routine medical care, specialized services, specialized medications, medical and psychiatric emergency care, screening for, and reporting of, transmissible infections and infection in accordance with law, public health education including prevention and harm reduction;
 - (iii) collaborative supervision with the program director of non-medical staff in the provision of substance use disorder services;
 - (iv) supervision of medical staff in the performance of medical services;
 - (v) assisting in the development of necessary referral and linkage relationships with other institutions and agencies including, but not limited to, general or specialty hospitals and nursing

homes, health-related facilities, home health agencies, hospital outpatient departments, diagnostic and treatment facilities, laboratories and related resources;

(vi) ensuring program compliance with all federal, state and local laws and regulations.

(2) All medical directors, whether full-time or part-time, other than medical directors in place as of the effective date of this regulation, must hold a board certification in addiction medicine from a certifying entity appropriate to their primary or specialty board certification. Physicians may be hired as probationary medical directors if not so certified but must obtain certification within four (4) years of being hired. In addition, the medical director must have a federal DATA 2000 waiver to prescribe buprenorphine.

(3) The medical director may serve as medical director of more than one program certified by the Office.

(i) “Medical staff” means physicians, nurse practitioners, registered physician assistants, and registered nurses licensed and certified by the State Education Department practicing within the scope of, and in accordance with, the terms and conditions of such licenses and certifications, and working with, or under the supervision of a physician, or other medical professional if required by law.

(j) “Medication for addiction treatment” (MAT) means treatment of substance use disorder i.e., substance use disorder and concomitant conditions with medications requiring a prescription or order from an authorized prescribing professional.

(k) “Multi-disciplinary team” means a team of health professional staff including, at a minimum, one medical staff member (where applicable) as defined in this section, one credentialed alcoholism and substance abuse counselor (CASAC) and one other staff member who is a qualified health professional as defined in this section in a discipline other than alcohol and substance use disorder counseling. If the treatment service has a gambling designation on their operating certificate, the multi-disciplinary team must include Qualified Problem Gambling Professional (QPGP), consistent with this Chapter.

(l) “Naloxone emergency overdose prevention kit” means a kit as prescribed or distributed pursuant to state law and is used to reverse an opioid overdose.

(m) “Office” or “OASAS” means the New York State Office of Addiction Services and Supports.

- (n) “Opioid agonist” means methadone or buprenorphine and/or buprenorphine/naloxone, or any other agonist medication that may be approved by the federal or state government for the treatment of opioid use disorder.
- (o) “Opioid antagonist” for purposes of substance use disorder treatment medication means naltrexone. Opioid antagonist for purposes of overdose prevention medication means naloxone.
- (p) “Partial Opioid agonist” means buprenorphine and/or buprenorphine/naloxone.
- (q) “Peer advocate” is a Certified Recovery Peer Advocate (CRPA) who holds a certification from a certifying authority recognized by the Commissioner.
- (r) “Prescribing professional” is any medical professional appropriately licensed under New York State law and registered under federal law to prescribe approved medications.
- (s) “Program” means a location wherein a provider is authorized to provide addiction services.
- (t) “Provider” means an individual, association, partnership, corporation, public or private agency governing authority, as governing authority is defined in this Part, other than an agency or department of the state, which provides addiction services via one or more Office certified, funded or otherwise authorized program.
- (u)[“Qualified Health Professional” means any of the professionals listed below, who are in good standing with the appropriate licensing or certifying authority, as applicable, with a minimum of one year of experience or satisfactory completion of a training program in the treatment of addiction:
- (1) a credentialed alcoholism and substance abuse counselor (CASAC) who has a current valid credential issued by the Office, or a comparable credential, certificate or license from another recognized certifying body as determined by the Office;
 - (2) a counselor certified by and currently registered as such with the National Board for Certified Counselors;
 - (3) a rehabilitation counselor certified by the Commission of Rehabilitation Counselor Certification;
 - (4) a therapeutic recreation therapist certified by the National Council on Therapeutic Recreation or the American Therapeutic Recreation Association; or a person who holds a baccalaureate degree in a field allied to therapeutic recreation and, either before or after

receiving such degree, has five years of full-time, paid work experience in an activities program in a health care setting;

(5) a professional licensed and currently registered as such by the New York State Education Department to include:

(i) a physician who has received a doctor of medicine (M.D.) or doctor of osteopathy (D.O.) degree;

(ii) a physician[’s] assistant (PA);

(iii) a certified nurse practitioner (NP);

(iv). a registered nurse (RN);

(v) a psychologist;

(vi) an occupational therapist;

(vii) a social worker (LMSW; LCSW), including an individual with a Limited Permit Licensed Master Social Worker (LP-LMSW) only if such person has a permit which designates the OASAS-certified program as the employer and is under the general supervision of a LMSW or a LCSW; and

(viii) a mental health practitioner including: a licensed mental health counselor (LMHC), a marriage and family therapist (LMFT), a creative arts therapist (LCAT), and licensed psychoanalyst; and any mental health practitioner with a Limited Permit.

(v) “Quality improvement” means an ongoing process by which an addiction service systematically assesses the adequacy and appropriateness of the addiction treatment services provided to patients and provides recommendations for improvement.

(w) “Significant other” is an individual who is admitted to treatment and manifests psychological, behavioral and/or emotional effects arising from another person’s substance use disorder, regardless of whether the other individual is in treatment. A significant other must be determined to be able to participate actively in and benefit from the treatment process.

(x) “Governing authority” means the provider of service or an entity that substantially controls or has the ability to control substantially the provider of service. For the purpose of this Part, factors used to determine whether there is substantial control shall include, but are not limited to, the following:

(1) the right to appoint and remove directors or officers;

(2) the right to approve bylaws or articles of incorporation;

- (3) the right to approve strategic or financial plans for a provider of service; or
- (4) the right to approve operating or capital budgets for a provider of service.
- (y) “Student Intern” means a person enrolled in a formal educational program which could lead to a degree, certification or credential which may qualify that person as a Qualified Health Professional.
- (z) "Substance use disorder" means a group of cognitive, behavioral, and physiological symptoms indicating that an individual continues using substances despite significant substance-related physical, psychological and social problems as determined through assessment and diagnosis using the most recent version of the DSM. Substance use disorder, or addiction, is a treatable, chronic medical condition. Substance use disorder treatment shall include alcoholism, alcohol abuse, substance abuse, substance dependence, chemical dependence, chemical abuse and/or chemical dependence.
- (aa) “Substance use disorder services” or “chemical dependence services” shall mean and include examination, evaluation, diagnosis, care, treatment, or rehabilitation of persons with substance use disorders and their families or significant others.
- (bb) “Utilization review” means a process by which a service systematically monitors the appropriateness of admissions, the need for continued stay, and the necessity for an alternative level of care.

800.5 Access to Treatment

- (a) Efforts to reduce disparities in access to services: Programs shall develop policies and procedures to address and make efforts to reduce disparities in access, quality of care and treatment outcomes and which prohibit discrimination on the basis of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, marital status or disability in accordance with the NYS Human Rights Law, as well as specifically addressing policies and procedures for older adults, Veterans, individuals who are deaf & hard of hearing, individuals who are Limited English Proficient, immigrants, and individuals re-entering communities from criminal justice settings. Such policies and procedures shall include, but are not limited to the following:
 - (1) increasing access to care and reducing barriers in accessing care;
 - (2) ensuring quality of care;

- (3) increasing positive treatment outcomes;
 - (4) implementing written policies on affirmative action which are consistent with the affirmative action and equal employment opportunity obligations imposed by state and federal law for program staff;
 - (5) employing staff that are proficient in the most prevalent languages spoken by services users.
- (b) Priority admission. All certified programs shall have priority admission policies and procedures which establish immediate admission preference for pregnant persons, people who inject drugs, parent(s)/guardian(s) of children in or at risk of entering foster care and individuals recently released from criminal justice settings. If the individual does not meet admission criteria or is otherwise inappropriate for admission, the program rapidly must refer and engage the individual with an appropriate treatment provider.
- (c) Plan of safe care. All certified, licensed or otherwise authorized programs shall offer development of a plan of safe care to any pregnant patients in accordance with guidance issued by the Office.
- (d) Records retention: Patient records must be retained for ten (10) years after the date of discharge or last contact, or three (3) years after the patient reaches the age of eighteen, whichever time period is longer.
- (e) All programs shall deliver services in a manner that is strength based, person centered and trauma informed.

800.6 Access to Medication for Addiction Treatment

- (a) All programs certified pursuant to this Title shall provide patient education on all available forms of approved medication for substance use disorder treatment and facilitate expeditious access to medication for addiction treatment, based on the clinical need and preference of the patient, through direct provision of the medication, [ø] contracting with private prescribing professionals or, where staffing structure or federal rules do not allow for direct provision of medication, linkage agreements with other Office certified programs. Such agreements must ensure rapid access sufficient to meet patient needs without undue barriers such as long waiting periods for appointments or waiting lists.

(b) No program may condition patient access to medication for addiction treatment for substance use disorder on patient participation in any additional services offered by the program. All physicians, physician assistants and nurse practitioners employed in a treatment program certified pursuant to this Title must have a federal DATA 2000 waiver to prescribe buprenorphine.

(c) All programs must allow for provision of medication for addiction treatment and may not deny admission based on use of medication, patient intent to obtain medication for addiction treatment or patient preference for a specific medication. Programs must continue access to medications for addiction treatment and plan for the continuity for medication administration during admission and post-discharge.

(d) All physicians, physician assistants and nurse practitioners employed in a treatment program certified pursuant to this Title must have a federal DATA 2000 waiver to prescribe buprenorphine.

(e) Each program that dispenses medications must develop and implement a diversion control plan (DCP) as part of its quality improvement plan, such DCP must include specific measures to reduce the possibility for diversion of controlled substances from legitimate treatment use and shall assign specific responsibility to the medical and administrative staff of the program for carrying out the diversion control measures and functions described in the DCP.

(f) Programs shall provide access to Medication for Addiction Treatment (MAT) for Substance Use Disorder in accordance with this Part, the Part under which the program is certified or otherwise authorized, and guidance issued by the Office.

(1) All programs shall maintain a patient with substance use disorder on approved medication, including those federal Food and Drug Administration (FDA) approved medications to treat substance use disorder, if deemed clinically appropriate and in collaboration with the patient's existing provider, and with the patient's consent, in accordance with federal and state rules and guidance issued by the Office. The program shall document such contact with the existing program or practitioner prescribing such medications.

(2) To facilitate access to full opioid agonist medication for patients who are maintained on such medication at the time of admission or who choose to start such medication during admission, all programs shall develop a formal agreement with at least one Opioid Treatment Program (OTP) certified by the Office to facilitate patient access to full opioid agonist

medication, if clinically appropriate. Such agreements shall address the program and the OTPs responsibilities to facilitate patient access to such medication in accordance with guidance issued by the Office.

(3) All programs shall provide FDA approved medications to treat substance use disorders to an existing patient or prospective patient seeking admission to an Office certified program in accordance with all federal and state rules and guidance issued by the Office.

(4) All programs shall provide education to an existing patient or prospective patient with substance use disorder about FDA approved medications for the treatment of substance use disorder if the patient is not already taking such medications, including the benefits and risks. The program shall document such discussion and the outcome of such discussion, including a patient's preference for or refusal of medication, in the patient's record.

(5) All programs shall ensure that the patient's discharge plan includes an appointment with a treatment provider or program that can continue the medication post-discharge.

(g) Programs shall provide access to overdose prevention education, training and supplies in accordance with this Part, the Part under which the program is certified, funded or otherwise authorized and/or guidance issued by the Office.

(1) All programs must maintain an emergency medical kit at each certified or funded location; such kit must include basic first aid and naloxone emergency overdose prevention kit(s) in a quantity sufficient to meet the needs of the program and that are available for use during all program hours of operation.

(2) All programs shall provide overdose prevention education and naloxone education and training to a patient or prospective patient, and their significant other(s), in accordance with guidance issued by the Office.

(3) All programs shall make available to patients and prospective patients, and their significant other(s), a naloxone kit or prescription as appropriate, in accordance with guidance issued by the Office.

800.7 Waiver

(a) The Commissioner may grant a waiver of a Part 800-series addiction services regulatory requirement not specifically required by law, if the Commissioner determines that:

(1) meeting the requirement would impose an unreasonable hardship;

- (2) the health and safety of patients/residents would not be diminished; and
 - (3) the best interests of the patients/residents and the service would be served.
- (b) In considering a request for a waiver, the Commissioner will consider such factors as the special needs of the population(s) to be served, geographic distances and transportation problems, staff availability, long range plans of the addiction services, alternatives and any other relevant information.
- (c) A request for a waiver must be submitted in writing, must contain substantial documentation to support the need for the waiver, and must include such other information as the Commissioner may require.
- (d) Special limits, conditions or restrictions may be established by the Commissioner in granting a waiver.
- (e) A waiver shall be in effect for no longer than the time period between granting of the waiver and the conclusion of the subsequent re-certification inspection and review.

800.8 Severability

If any provision of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provisions or applications, and to this end the provisions of this Part are declared to be severable.