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Medicaid 1115 Justice Waiver Opportunities:

Medication Assisted Treatment (MAT) for SUD in Carceral Settings

MEDICAID & JUSTICE INVOLVED POPULATIONS

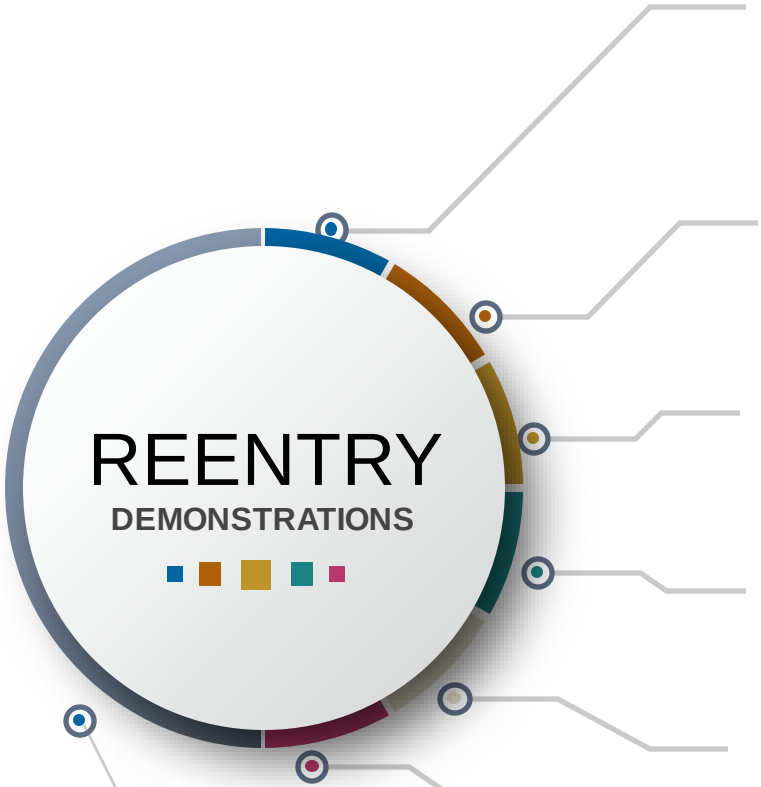
This five-part series, 1115 Medicaid Justice Demonstration Waivers: Bridging Healthcare, will focus on helping stakeholders optimize the continuity of care for persons in carceral settings and during their transition back to the community.

APR 5	• Medicaid Authority and Opportunity to Build New Programs for Justice-Involved Individuals (replay link HERE)
MAY 18	• 1115 Waivers to Improve Carceral Healthcare Delivery Information (replay link HERE)
JUNE 15	• 1115 Waivers & Transitions of Care (replay link HERE)
JULY 13	• Medication Assisted Treatment for SUD in Carceral Populations
AUG 17	• Healthcare Considerations for Incarcerated Youth

THE OPPORTUNITY: SECTION 1115 WAIVERS FOR REENTRY INITIATIVES

CMS designed the Reentry Section 1115 Demonstration Opportunity to improve access to community resources that address the health care and health-related social needs of the carceral population, with the aims of improving health outcomes, reducing emergency department visits, and inpatient hospital admissions for both physical and behavioral health issues once they are released and return to the community.

The purpose of this demonstration opportunity is to provide short-term Medicaid enrollment assistance and pre-release coverage for certain services to facilitate successful care transitions.



DATA INTERCONNECTIVITY
Data sharing agreements

BILLING
EHR Development, Provider Training, Claims Accuracy

MCO ENGAGEMENT
Role, Population Health Management

ASSESSMENTS
Who Facilitates? Assessment Fatigue

CARE COORDINATION
Complex Care Coordination

PHARMACY
Long-Acting Injectables

PEERS
Navigators, Community Health Workers

TODAY'S PRESENTERS:

Rich VandenHeuvel, MSW

Principal, HMA

Lansing, MI

- 25+ years of experience in community based behavioral health as a clinician, supervisor and CEO
- Former CEO for a public behavioral health managed care organization
- Former executive director of a multi-county community mental health organization
- Subject matter expert in in evidence-based treatment for justice involved individuals including medically assisted treatment, behavioral health and integrated care with multiple state departments of corrections and over 40 local jurisdictions nationally

Bren Manaugh, MSW LCSW-S, CCTS

Principal, HMA

Santa Fe, NM

- 25+ years of experience in community behavioral health care as an executive and supervisor, including experience developing and implementing innovative programs that integrate BH, medical care, community services and the justice system to improve outcomes
- Project Director for HMA learning collaboratives in California and Illinois supporting more than 70 county teams with implementation of Medication Assisted Treatment (MAT) in their jails
- Subject matter expert in MAT, mental health, and improving quality of and access to BH treatment for the justice-involved

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TODAY'S AGENDA

- MAT Trends & Standards of Care
- Building Connections to Community Based MAT
- Integrated and Coordinated Care
- Q&A

PREVIOUS SESSION: 1115 WAIVERS & TRANSITIONS OF CARE (JUNE 15)
KEY CARRYOVER POINTS TO TODAY'S SESSION

Some research shows that an estimated 65% percent of the United States prison population has an active SUD.

Anecdotally, more than 80 county jails we are currently supporting share that at least 80% - and sometimes as high as 90% - of their detainee population has a SUD or a co-occurring SUD/MH condition.

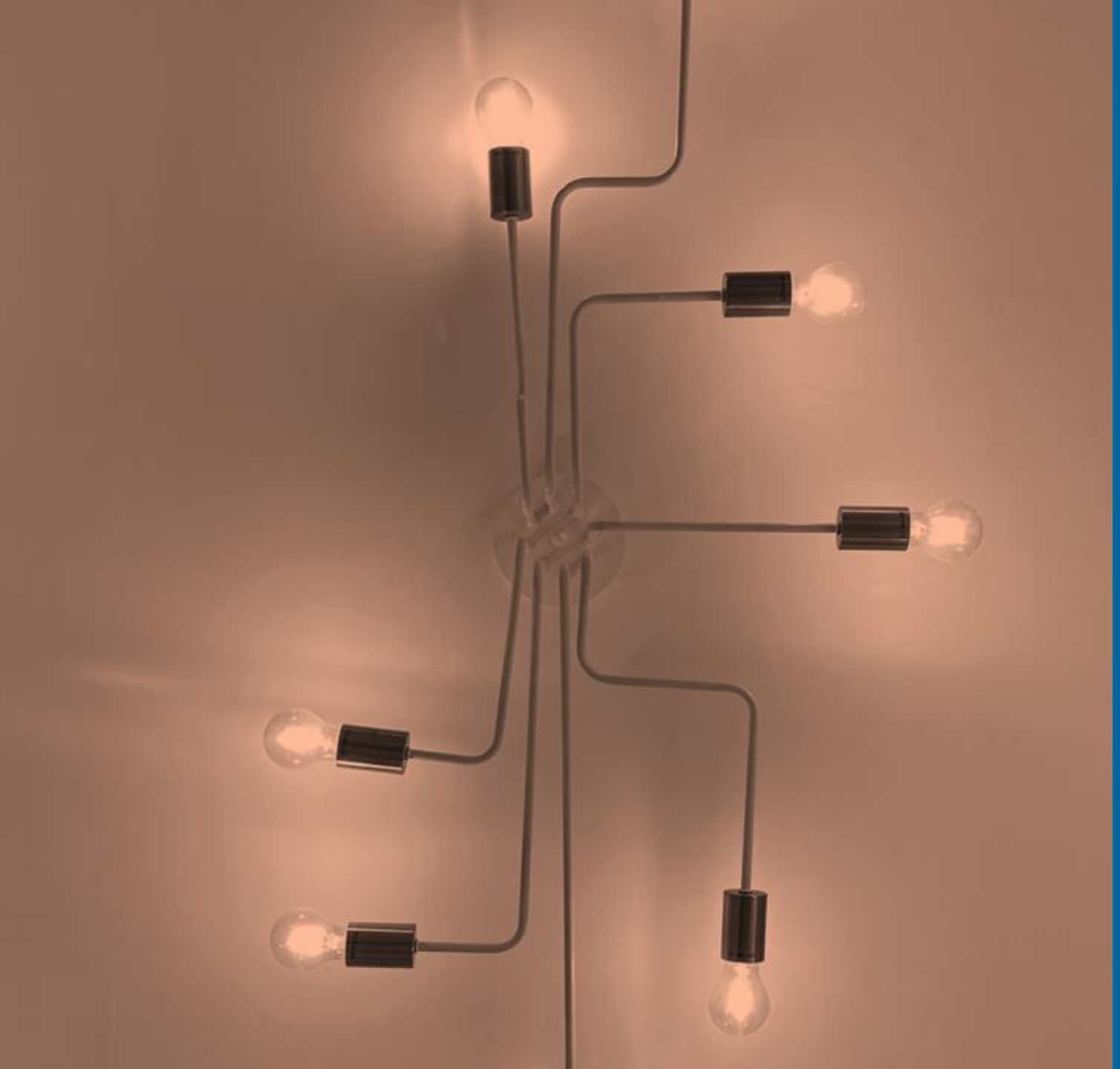
Overdose (opioids leading agent) is the #1 cause of death for those leaving prison.

Transition planning by the jail and community providers improves reentry outcomes. *(Reduced overdose incidents and fatalities; reduced recidivism.)*

The jail is a health care site in the community's health care safety net; the prison system is a health care system in the state's safety net.

The State Medicaid Director Letter emphasizes continuity of MAT, incl. (1) access to <u>all</u> forms of MAT and (2) A 30-day supply of <u>all</u> medications

<u>Click here</u> to watch parts 1-3 of this webinar series.



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MAT FOR INCARCERATED INDIVIDUALS: BENEFITS AND RISK MANAGEMENT

FOUNDATIONAL DEFINITIONS AND TERMS

MAT = Medication Assisted Treatment

OUD = Opioid Use Disorder

SUD = Substance Use Disorder

MOUD = Medications for Opioid Use Disorder

- FDA approved medications and evidence-based treatment for opioid use disorder

MAR = Medication Assisted *Recovery (IL)*

- An **agonist** is a drug that activates certain receptors in the brain. Full agonist opioids activate the opioid receptors in the brain fully resulting in the full opioid effect. **Partial agonist** opioids activate the opioid receptors in the brain, but to a much lesser degree than a full agonist.
- An **antagonist** is a drug that blocks opioids by attaching to the opioid receptors without activating them. Antagonists cause no opioid effect and block full agonist opioids.

Source: U.S. Department of Health and Human Services. Indian Health Services. Pharmacological Treatment https://www.ihs.gov/opioids/recovery/pharmatreatment/

FDA APPROVED MEDICATIONS FOR SUBSTANCE USE DISORDERS

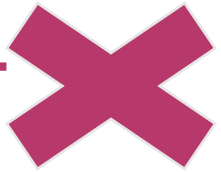
FDA Approved MAT

MAT for **Nicotine** Use Disorder

MAT for **Opioid** Use Disorder

MAT for **Alcohol** Use Disorder

No FDA Approved MAT



No FDA Approved MAT for *Marijuana* Use Disorder

No FDA Approved MAT for *Stimulant* Use Disorder

MEDICATIONS FOR OPIOID USE DISORDER

METHADONE
full agonist
activates opioid receptors which eliminates craving for other opioids

Dose prescribed keeps patient at normal dopamine level. Increased dose increases the effect.

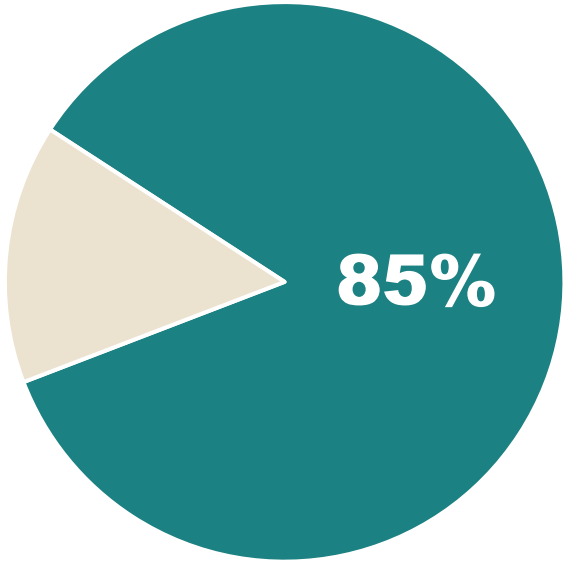
BUPRENORPHINE
partial agonist
activates opioid receptors in the brain, but to a lesser degree, which reduces craving for other opioids

Dose prescribed keeps patient at normal dopamine level. Increased dose does NOT increase the effect.

NALTREXONE
antagonist
blocks opioid receptor without activating it which eliminates opioid effect if opioids are taken

Medication blocks effect of any opioid.

WHY DO MAT IN JAILS AND PRISONS?



85% of the U.S. prison population has a substance use disorder or had substances play a role in their crime

65%

~65% of U.S. prison inmates have a substance use disorder

- **Many either had histories of substance abuse, were under the influence of alcohol or other drugs at the time of committing their crime, committed their offense to get money to buy drugs, or were incarcerated for an alcohol or drug violation.**

Sources:
https://nida.nih.gov/publications/drugfacts/criminal-justice
https://www.ada.gov/opioid_guidance.pdf
https://www.sheriffs.org/publications/Jail-Based-MAT-PPG.pdf

COMMON MISCONCEPTIONS ABOUT INCARCERATED PERSONS WITH OPIOID USE DISORDER

Inmates don't need MAT…they have not used drugs while they were incarcerated	**They have illicit access to these drugs while incarcerated; we should make MAT available to reduce overdose, deaths and recidivism.**
MAT is just substituting one drug for another	**MAT is an evidence-based medical treatment that replaces depleted dopamine in the brain to stabilize brain functioning and support recovery.**
MAT medications are diverted in jails / obtained illegally - they should be kept out of jails/prisons entirely	**Lots of meds are diverted. Jails/prisons are responsible to provide the emerging community standard of care which includes MOUD to reduce OD death and recidivism.**

COMMON MISCONCEPTIONS ABOUT INCARCERATED PERSONS WITH OPIOID USE DISORDER

We cannot start MAT in the jail unless we can confirm continuing treatment in the community after release	**Starting MAT reduces cravings and otherwise supports stabilization and recovery; it gives people a chance to start feeling normal.**
We cannot start MAT in the jail because we don't have BH counseling available	**Evidence-based BH counseling and recovery supports are important to aid someone in recovery. Per regulatory guidance, medication should not be withheld even if supports aren't available.**
MAT is the evidence based, community standard of care to treat OUD and reduce mortality from overdose	**Yes! Jails/prisons are responsible to provide the emerging community standard of care and data shows access to MOUD reduces OD death and also reduces recidivism.**

NEW FEDERAL RULES PROMOTE MAT AS CLINICALLY APPROPRIATE AND INDIVIDUAL CHOICE

- Medication Assisted Treatment
  - Medications for Opioid Use Disorder
  - Counseling (Group, Individual)
  - Recovery Supports – Assistance with Re-Entry, Connection to community-based services and treatment
- Medications should NOT be withheld because counseling is not available
- Patient can refuse medications and participate in other services

This Photo by Unknown Author is licensed under CC BY-SA-NC

Source: https://www.samhsa.gov/sites/default/files/dear-colleague-letter-fda-samhsa.pdf. May 9, 2023. US Department of Health and Human Services.

BENEFITS OF MEDICATION FOR OUD

- Treats withdrawal symptoms
- Replaces dopamine
- Helps people feel normal
- Increased retention in treatment
- Decreased cravings
- Decreased opioid use
- Decreased intravenous drug use and complications
- Decreased overdose
- Improves functioning
- Decreased mortality
- Decreased criminal behavior

Sources:
The ASAM National Practice Guideline for the Treatment of Opioid Use Disorder: 2020
Tsui JI et al., 2014
Metzger DS et al., 1993
Mattick, RP, et al. 2009
Mattick, RP, et al. 2014
Lobmaier, P et al. 2008
Lutgen-Nieves, L. et. al. 2021
Santo, T 2021

PUBLISHED OUTCOMES OF MAT/MOUD (CALIFORNIA DEPT OF CORRECTIONS AND REHABILITATION DATA)

Medical Outcomes

- **More Compliance:** 82.4% continued with MOUD after release
- **Less Infection:** Hospitalization rates for overdoses and skin/soft tissue infections have declined by 18% and 21%, respectively
- **Less HepC Reinfection:** Among those treated for hepatitis C virus (HCV), the reinfection rate for those prescribed MAT was 29% lower than for those with an opioid use disorder (OUD) who were not prescribed MAT

Humanitarian Outcomes

- **Less death:** ~60% decrease in overdose deaths after re-entry

Sources: *JAMA Psychiatry.* 2018;75(4):405-407. doi:10.1001/jamapsychiatry. 2017. 4614
Prev Med. 2019 Jul 4:105766. doi: 10.1016/j.ypmed.2019.105766.
American Journal of Public Health 108, 1207_1213, https://doi.org/10.2105/AJPH.2018.304514

WHAT WE HEAR FROM OUR WORK IN JAILS AND PRISONS

Jails participating in HMA-supported MAT implementation and reporting data indicate positive results.

- Decrease in county overdose deaths overall due to OUD
- Decrease in overdose deaths of previously incarcerated who receive MAT while incarcerated
- Reduction in recidivism
- Reduction in inmate/inmate and inmate/CO incidents

Jails are making progress toward sustainable forms of funding, including general funds and 1115 waivers

HMA has worked with more than 80 jails and prison systems across the country

CURRENT STATE OF MAT IN JAILS/PRISONS NATIONALLY

Recent data show that only 5% of people with OUD in jail and prison settings nationally receive MAT. *

- Most jails and prisons provide withdrawal management with only symptom response ("comfort meds") is common
- Forced withdrawal from MAT when incarcerated is common, especially in jails, where the majority of individuals are unsentenced

However, trends are changing in jails & prisons:

- Transition to accepting OUD as identical to other chronic diseases
- Growing recognition that appropriate treatment reduces custody challenges

*National Academies of Sciences, Engineering and Medicine. 2019. Medications for Opioid Use Disorder Save Lives. Washington, DC: The National Academies Press.

MAKING THE CASE FOR MAT FOR JUSTICE-INVOLVED INDIVIDUALS

***Click here** to watch Medication Assisted Recovery: Making the Case*

- Illinois: Why should counties make MAT* accessible to people in jail?

- Video from Illinois custody professionals and other champions and a person with lived experience

**Otherwise referred to as MAR in Illinois*

MAT AND OVERDOSE PREVENTION IN JAILS AND PRISONS

Key Challenges and Opportunities

- Engaging sheriffs/wardens/jail leadership, probation, & drug courts in MAT
- Overcoming stigma about addiction and MAT and other barriers to implementation
- Initial, and sustainable, access to FDA-approved medications
- Continuity of care – Real and perceived challenges (e.g., “shouldn’t start MAT in jail if can’t assure it will be continued”; realities of care coordination and resource limitations)

WHY TREAT ADDICTION IN JUSTICE SETTINGS?

EVERYBODY WINS

- Persons with OUD can attain recovery and gets their life back
- Overdose deaths are prevented
- Crime is prevented

Goals	Benefits
Suppress withdrawal symptoms	*Improved retention in treatment*
Reduce illicit opioid use	*Decreases relapse*
Decrease cravings	*Improved abstinence*
Blunt effects of illicit opioids if used	*Decreased overdoses*
Minimize side effects	

NEXT STEPS IN STANDARD OF CARE IN JAILS: MANAGEMENT OF SUBSTANCE WITHDRAWAL

Guidelines for Managing Substance Withdrawal in Jails: A Tool for Local Government Officials, Jail Administrators, Correctional Officers, and Healthcare Professionals

Developed by:

- Department of Justice Bureau of Justice Assistance
- National Institute of Corrections
- American Society of Addiction Medicine
- National Commission on Correctional Healthcare
- Expert Advisory Panel of medical and custody experts from large and small jails

https://www.cossapresources.org/Tools/JailResources/Guidelines

Ensures:

- policies and procedures are present & updated; comport to legal, regulatory and clinical standards
- proper staffing
- proper training
- medical contracts have measured outcomes
- continuous quality improvement process

DOJ Bureau of Justice Assistance. (2022). Managing Substance Withdrawal in Jails: A Legal Brief. https://bja.ojp.gov/doc/managing-substance-withdrawal-in-jails.pdf

ALL JAILS MUST MANAGE WITHDRAWAL…SCREEN, ASSESS, TREAT

How and who delivers care is the question

- In person
  - Medical staff
  - Custody
- Telehealth
- Partnership with community providers
  - Emergency departments

Screen

- Substance use
- Substance withdrawal

Assess

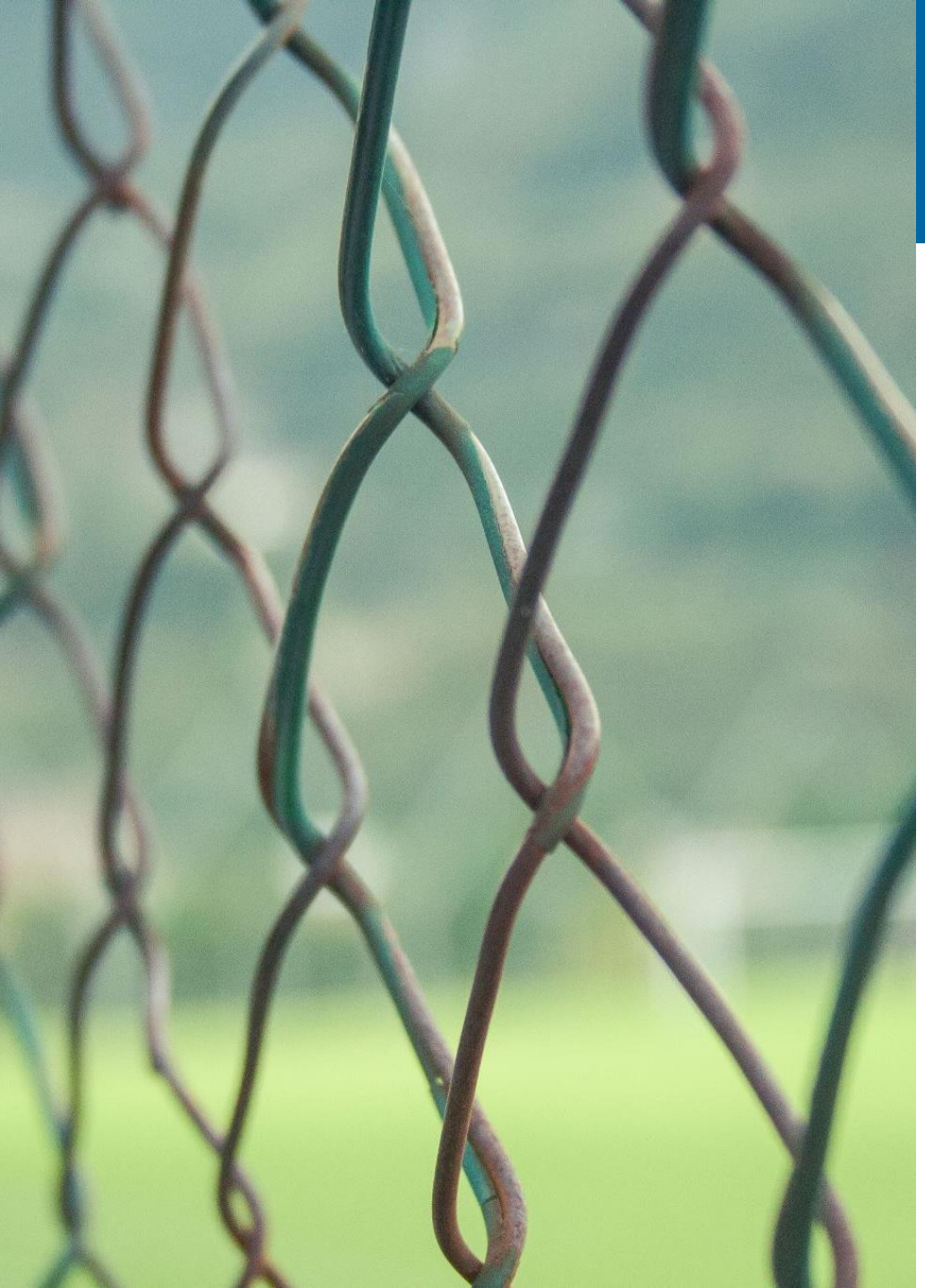
- Substance withdrawal
- Substance use disorder

Treat withdrawal

- Alcohol/ benzodiazepines
  - Medications and support
- Opioids
  - Medications and support
- Stimulants- supportive treatment

<u>Withdrawal Severity Assessments</u>

- Clinical institute Withdrawal Assessment of Alcohol Revised (CIWA-AR)
- Clinical Opioid Withdrawal Scale (COWS)



THE LEGAL ENVIRONMENT: WHY PROVIDE MAT?

There is a growing body of case law ruling in favor of plaintiffs with findings of liability for not providing access to MAT to incarcerated persons (not providing treatment in accordance with “evolving standards of health care in the general community”)

A HIGH-LEVEL SUMMARY OF THE ROLE OF COURTS IN INCREASING ACCESS TO MOUD IN CARCERAL SETTINGS

deliberate indifference

deliberate indifference + disability discrimination

1976: Estelle v. Gamble

- Plaintiff: Incarcerated person
- Argument: Withholding medical care violates 8A

2018: *Smith v. Fitzpatrick*

- Plaintiff: Person awaiting incarceration
- Argument: Policy limiting MOUD violates 8A & ADA

2019: *Kortlever v. Whatcom Cnty.*

- Plaintiff: Class of incarcerated persons
- Argument: Policy limiting MOUD violates 8A & ADA

2022: *M.C. V. Jefferson Cnty.*

- Plaintiff: Class of pretrial detainees and class of incarcerated persons, both now and in the future
- Argument: Policy limiting MOUD violates 8A, 14A, & ADA

December 2022: *Disability Rights New Mex. v. Lucero* (pending)

- Plaintiff: P&A (and its constituents with OUD)
- Argument: Policy limiting violates 8A, 14A, ADA, §504, & §1557

"WE CAN'T START MAT BECAUSE OF RISK"

Federal & state lawsuits verdicts and settlements, including hospitals, jails/prisons and outpatient practices that have refused treatment of patients on MAT:

Eighth Amendment prohibits cruel and unusual punishment

- Violation if
  - Incarcerated individual has serious medical need (OUD is a serious medical need) and
  - Officials are knowingly, purposefully, and deliberately indifferent to the serious medical need

Americans with Disabilities Act prohibits discrimination based on disability

- Violation if
  - person has a disability, substance use disorder
  - the person is denied the public entity's services/programs/activities-medical care
  - because of their disability

Source: DOJ Civil Rights Division (2022) The Americans with Disabilities Act and the Opioid Crisis: Combating Discrimination Against People in Treatment or Recovery and ACLU (2022) How the Failure to Provide Treatment for Substance use in Prisons and Jails Fuels the Overdose Epidemic Over-Jailed and Un-Treated

THE FEDERAL POLICY ENVIRONMENT SUPPORTING MAT

Managing Substance Withdrawal in Jails: A Legal Brief Office of Justice Programs Bureau of Justice Assistance (Feb. 2022)

- *Purpose*: an overview of constitutional rights and key legislation related to substance use withdrawal; outlines steps for creating a comprehensive response to SUD
- *Laws Creating Liability*: federal civil rights claims under the **Constitution** (8A, 14A, 5A) and **statutes** pursuant (§ 1983, CRIPA, ADA); **state tort law** (wrongful death, medical malpractice, IIED)

The Americans with Disabilities Act and the Opioid Crisis: Combating Discrimination Against People in Treatment or Recovery Department of Justice Civil Rights Division (April 2022)

- *Purpose*: information about how the ADA can protect individuals with OUD and other SUD from discrimination
- *Example Violation*: "A jail does not allow incoming inmates to continue taking MOUD prescribed before their detention. **The jail's blanket policy prohibiting the use of MOUD would violate the ADA.**" *Enforcement*: investigations, warning letters, and lawsuits against jails and prisons

2022 National Drug Control Strategy Office of National Drug Control Policy (April 2022)

- *Purpose*: increase access to MOUD for BOP, state prisons, and local jails; normalize low-threshold access to **all three MOUD** throughout the criminal legal system, including **maintenance** and **rapid initiation**, and at **medically appropriate dosing**
- *Target Agencies*: DOJ/OJP, BOP, NIC HHS/ASPE, NIH

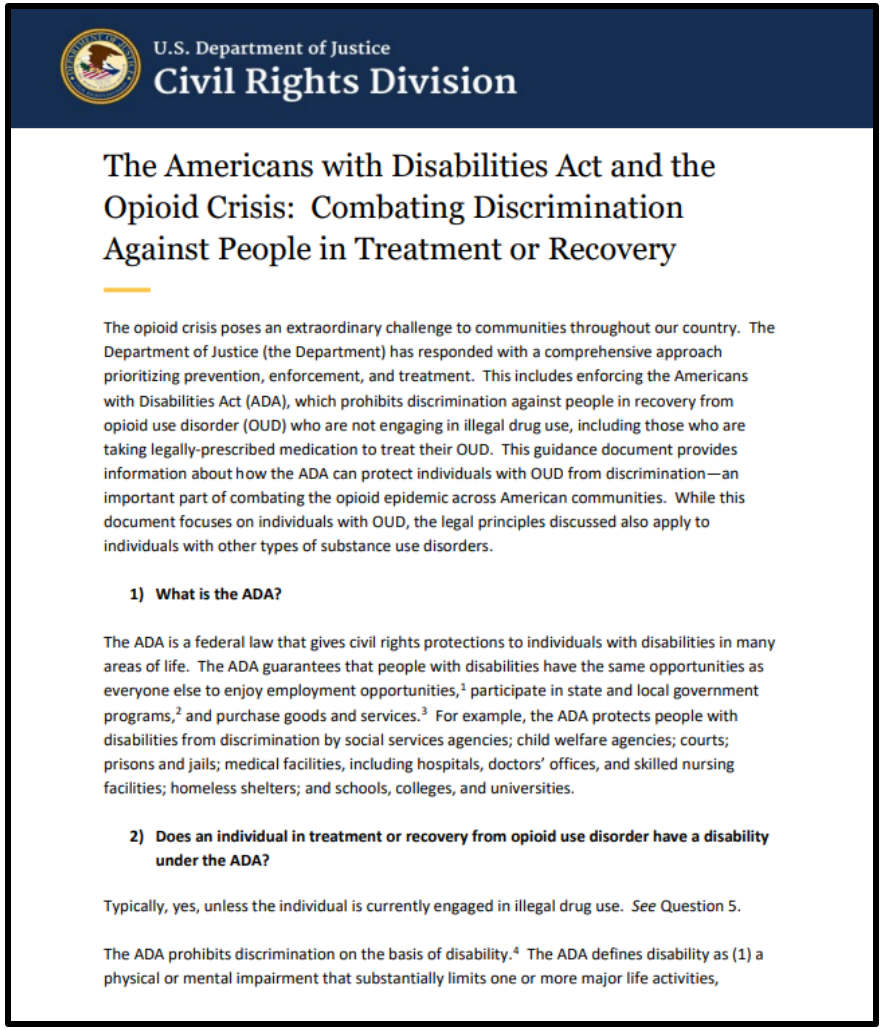
https://bja.ojp.gov/doc/managing-substance-withdrawal-in-jails.pdf

https://archive.ada.gov/opioid_guidance.pdf

https://www.whitehouse.gov/wp-content/uploads/2022/04/National-Drug-Control-2022Strategy.pdf

DEPARTMENT OF JUSTICE (DOJ) MOUD GUIDANCE

- "This guidance document provides information about how the ADA can protect individuals with OUD from discrimination—"
- "A jail does not allow incoming inmates to continue taking MOUD prescribed before their detention. The jail's blanket policy prohibiting the use of MOUD would violate the ADA."



U.S. Department of Justice
Civil Rights Division

The Americans with Disabilities Act and the Opioid Crisis: Combating Discrimination Against People in Treatment or Recovery

The opioid crisis poses an extraordinary challenge to communities throughout our country. The Department of Justice (the Department) has responded with a comprehensive approach prioritizing prevention, enforcement, and treatment. This includes enforcing the Americans with Disabilities Act (ADA), which prohibits discrimination against people in recovery from opioid use disorder (OUD) who are not engaging in illegal drug use, including those who are taking legally-prescribed medication to treat their OUD. This guidance document provides information about how the ADA can protect individuals with OUD from discrimination—an important part of combating the opioid epidemic across American communities. While this document focuses on individuals with OUD, the legal principles discussed also apply to individuals with other types of substance use disorders.

1) **What is the ADA?**

The ADA is a federal law that gives civil rights protections to individuals with disabilities in many areas of life. The ADA guarantees that people with disabilities have the same opportunities as everyone else to enjoy employment opportunities,[1] participate in state and local government programs,[2] and purchase goods and services.[3] For example, the ADA protects people with disabilities from discrimination by social services agencies; child welfare agencies; courts; prisons and jails; medical facilities, including hospitals, doctors' offices, and skilled nursing facilities; homeless shelters; and schools, colleges, and universities.

2) **Does an individual in treatment or recovery from opioid use disorder have a disability under the ADA?**

Typically, yes, unless the individual is currently engaged in illegal drug use. *See* Question 5.

The ADA prohibits discrimination on the basis of disability.[4] The ADA defines disability as (1) a physical or mental impairment that substantially limits one or more major life activities,

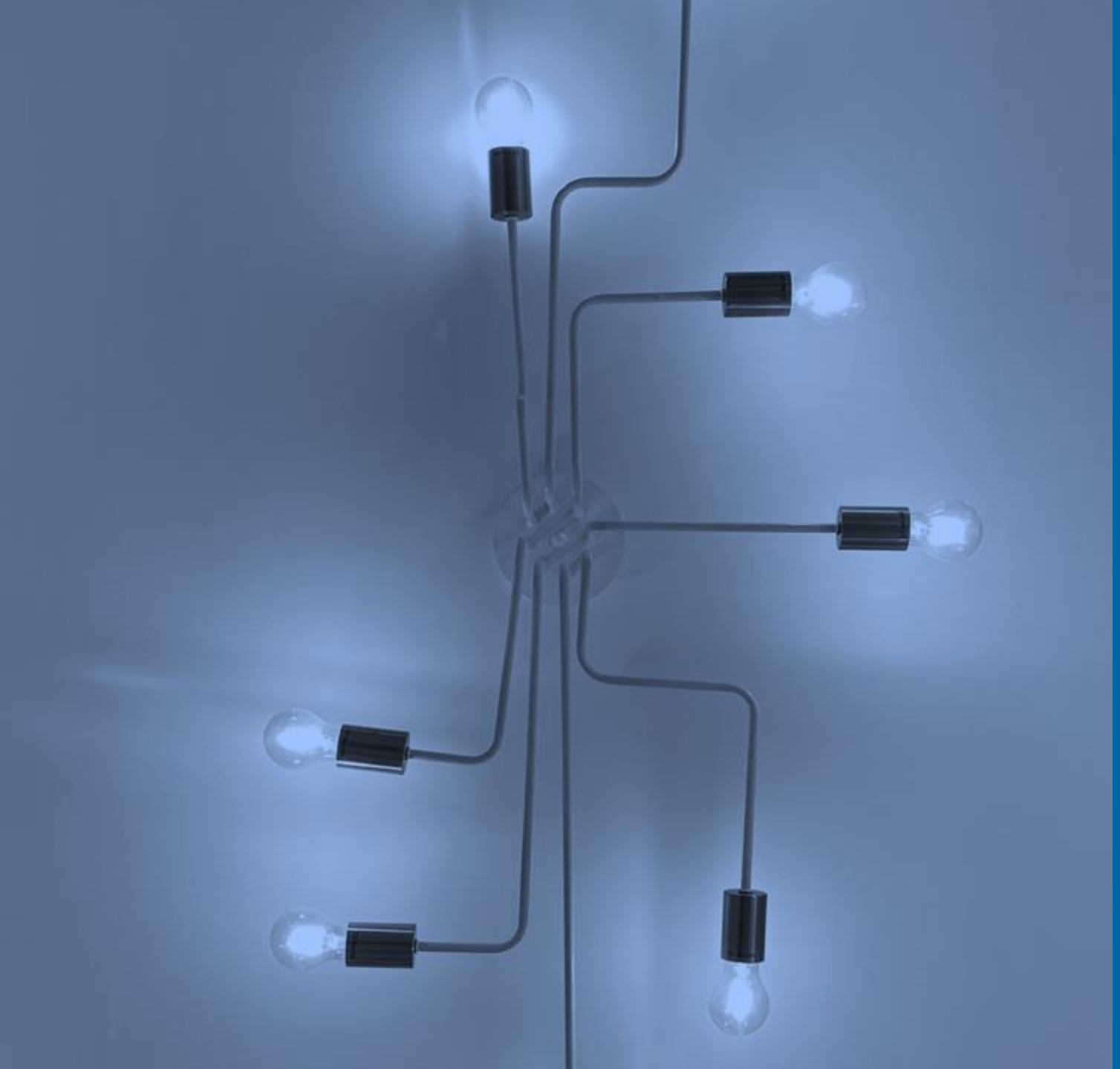
https://archive.ada.gov/opioid_guidance.pdf

AVOID LIABILITY FOR ONE-SIZE-FITS-ALL POLICIES LIMITING ACCESS TO MAT

Take reasonable measures to address the risk of the serious harm presented by withdrawal

Conduct an individualized assessment—including for safety or diversion concerns

Adhere to the standard of care for that person (the right MAT at the right dosage), particularly where proper care has been previously established by the detainee's provider in the community



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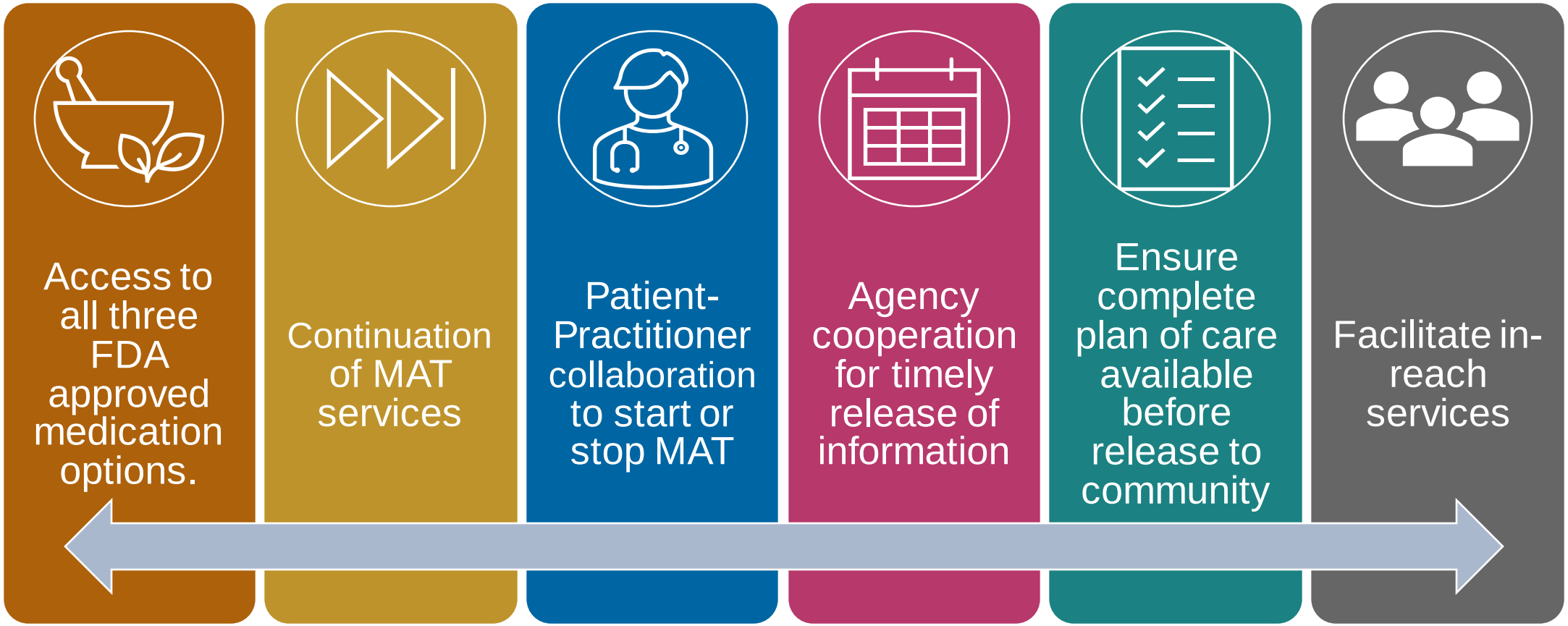
BUILDING CONNECTIONS TO COMMUNITY BASED MAT - INTEGRATED AND COORDINATED CARE

BEST PRACTICES FOR RE-ENTRY: NATIONAL JUSTICE REENTRY RESOURCE CENTER – KEY POINTS



https://nationalreentryresourcecenter.org/resources/best-practices-successful-reentry-people-who-have-opioid-addictions

HEALTH TEAMS IN INCARCERATION SETTINGS: PRIORITIZING CONTINUITY OF HEALTH CARE

In-custody focus:

- Safety/security, including limiting diversion and misuse of medications and mitigation of overdose and other adverse events
- Medications
- Withdrawal
- Effect of incarceration on behavioral health symptoms

Other needs to support successful transition:

- Housing
- Insurance benefits
- Family and other social supports
- Income/means of support

The primary focus of re-entry services is on continuity of medical/mental health care.

Source: nytimes.com

WHO HAS RESPONSIBILITY FOR PLANNING AND SUPPORTING RE-ENTRY?

- A comprehensive re-entry plan is ideal to establish roles and responsibilities:
  - Jail/Prison medical/behavioral health staff?
  - Probation/Parole?
  - Specialized reentry programs?
  - Health Plan care coordinators/managed care plans?
- Siloes often are a barrier
- Jail/Prison staffing resources and capacity often are a barrier and vary significantly
- Where the responsibilities fall, and how this capacity is assessed and developed, are key considerations for 1115 demonstrations

COORDINATION FOR EFFECTIVE RE-ENTRY PLANNING

Before you start your re-entry assessment consider:

- What assessments have already been completed?
- Where is this information stored and how can it be accessed and shared?
- Do I know who all key partners are?
- Do we have needed enhanced referral relationships in place?
- Do providers have capacity and willingness to serve the re-entering JI population to the clinical standard of care?

Collaboration and consideration is key!

THE ROLE OF PEERS IN MAT FOR THE JUSTICE INVOLVED

"People who have been successful in the recovery process who help others experiencing similar situations through shared understanding, respect, and mutual empowerment, peer support workers help people become and stay engaged in the recovery process and reduce the likelihood of relapse."

Source: https://www.samhsa.gov/brss-tacs/recovery-support-tools/peers

PEER SUPPORT WORKERS

While many licensed clinicians have been successful themselves in the recovery process, the peer support worker role is distinct from a therapist or clinician.

Peer support workers may hold formal designations such as:

- Certified Recovery Support Specialist (IL Dept. of Human Services)
- Certified Peer Support Specialist (MI)
- Substance Use Navigator (CA)
- Certified Recovery Peer Advocate (NY)
- Peer Navigator or Peer Recovery Navigator

PEERS AND THE JUSTICE INVOLVED

Peer support workers engage in a wide range of activities, including:

- In-reach from a community-based agency to support successful community re-entry
- MAT or SUD Navigators in the jail
- Training inside the correctional facility to attain certification or training others to do so
- Sharing resources and building skills through individual and group interactions
  - Leading recovery groups
  - Mentoring and setting goals

KEY TAKEAWAYS

- MAT/MOUD is evidence-based treatment
- Incarcerated persons should have access to standard of care, including MAT, aligned with the county/state community standards of care
- All who have role in providing, coordinating or paying for treatment have responsibility to assure this access
- Coordination and integration are key to effective care and improved outcomes inside the incarceration setting and to support effective re-entry

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Our subject matter experts are currently partnering with state, county, and city governments, healthcare systems and service providers to address the many challenges faced in providing care to persons who are justice involved:

- 1115 Waivers
- Reentry/Transitions in Care
- SUD/MAT
- Workforce and staffing
- Crisis/988
- Quality and patient safety
- COVID pandemic response
- Infection control
- Urgent, emergent, and chronic disease management
- Healthcare screening and assessment
- Risk mitigation
- Interface/collaboration between custody and clinical teams
- Integration of behavioral health, dental, and primary care
- Telehealth and innovations in care delivery
- Data-driven operations and quality/patient safety solutions

Questions?

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