



▶ October is National Substance Abuse Prevention Month



▶ Over 100 people in the United States die from an opioid related drug overdose every day.



▶ The Office for Civil Rights released two new fact sheets that address nondiscrimination protections for qualified individuals with opioid use disorders.

OCR focus

DRUG ADDICTION AND NONDISCRIMINATION LAWS: A CHAT WITH
OCR DIRECTOR, ROGER SEVERINO

Joining the Fight Against the Opioid Crisis

Individuals with an Opioid Use Disorder May be Protected by Nondiscrimination Laws Enforced by the U.S. Department of Health and Human Services, Office for Civil Rights



Q. In 2017, President Trump and HHS declared the opioid crisis a “Public Health Emergency”. How has the Office for Civil Rights (OCR) responded to this call to action to address opioid misuse and addiction?

A. OCR launched a new public education campaign aimed to improve access to evidence-based opioid use disorder treatment and recovery services, including Medication Assisted Treatment (MAT), by clarifying civil rights protections that may apply to persons with opioid use disorders. OCR also released important guidance explaining when HIPAA permits healthcare providers and other covered entities to share a patient’s health information with loved ones and others involved in a patient’s care.

Q. What is the connection between civil rights protections and the opioid epidemic?

A. Nondiscrimination laws enforced by OCR prohibit discrimination and require covered entities to provide qualified individuals with an opioid use disorder with an equal opportunity to participate in a program activity, regardless of race, color, national origin, age, disability, exercise of conscience, religion, or sex. For example, covered child welfare agencies may not delay or deny parent-child visitation or reunification services to a parent receiving MAT, if the parent would be or is otherwise eligible to receive such services.

Q. Is an opioid addiction a disability under federal disability rights laws?

A. Drug addiction, including an addiction to opioids, is a disability under Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and Section 1557 of the Affordable Care Act, when the opioid addiction substantially limits a major life activity.

Q. When does an individual with a drug addiction “qualify” as an individual with a disability under federal antidiscrimination laws?

A. To be protected by federal disability rights laws, an individual with a disability, must be a “qualified” individual with a disability. This means that the individual must meet the essential eligibility requirements for receipt of services or participation in a covered entity’s programs, activities, or services. Under these laws, qualified individuals with a disability may not be excluded from participation in programs and services, be denied the benefit of, or otherwise subjected to discrimination based on the disability.

These laws require covered entities to reasonably modify rules, policies or practices, provide appropriate auxiliary aids and services, or remove architectural and communication barriers to ensure equal opportunities for qualified individuals with disabilities. (Cont’d)



(Cont'd) Joining the Fight

Discrimination, bias and stereotypical beliefs about persons with opioid use disorders can lead to unnecessary and unlawful barriers to Medication Assisted Treatment, and may contribute to delays in accessing critical health and human service programs.



U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES
**OFFICE FOR
CIVIL RIGHTS**

Federal disability rights laws also protect individuals if they:

Have successfully completed a supervised drug rehabilitation program or have otherwise been successfully rehabilitated and are not currently engaged in the illegal use of drugs;

Are participating in a supervised drug rehabilitation program and are currently not engaged in the illegal use of drugs; or

Are erroneously regarded as engaging in such use, but are not engaging in such use.

Q. Do federal disability rights laws protect individuals who are currently engaged in the “illegal use of drugs”?

A. Individuals who currently engage in the “illegal use of drugs” are specifically excluded from the definition of an individual with a disability when a covered entity takes an adverse action on the basis of that current use.

However, an individual is not to be denied health services, or services provided in connection with, for example, drug rehabilitation, on the basis of that current illegal use of drugs if the individual is otherwise entitled to such services.

Q. What is a covered entity?

A. A covered entity is any entity that receives federal financial assistance from the Department of Health and Human Services or is covered under Title II of the Americans with Disabilities Act as a program, service, or regulatory activity relating to the provision of health care or social services. Examples may include hospitals and health clinics, nursing homes, substance use disorder treatment programs, TANF and child welfare programs.

Q. How will OCR’s public education campaign help covered entities take additional steps to ensure compliance with federal nondiscrimination laws?

A. The fact sheets that OCR recently released highlight various compliance best practices for covered entities including:

Ensuring that individuals who primarily speak a language other than English, have meaningful access to critical health and human service programs, like MAT; and

Ensuring that opioid use disorder treatment programs and other critical health and human services are accessible, for example, to persons with physical or mobility impairments.

Q. Will OCR’s public education campaign be useful to patients or family members and friends of individuals suffering from opioid use disorders?

A. Absolutely. The first goal of the campaign is to improve access to evidence-based opioid treatment, including MAT, by informing covered entities about their civil rights obligations under the law. The second goal is to educate the public about civil rights protections that may apply to persons in recovery from an opioid addiction. OCR also launched a website which serves as a “one stop shop” for information that highlights both our civil rights and HIPAA work in this area.

“Discriminatory barriers in health and human services programs, including opioid use disorder treatment and recovery programs, can delay and prevent people with an opioid use disorder from getting the help and support they need.”

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You can also file a written complaint by mail, fax, e-mail, or via the OCR Complaint Portal found on our website.