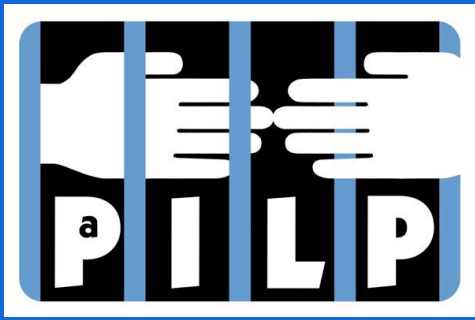




Pennsylvania Institutional
Law Project

WHAT IS MOUD OR MAT?

Medication for Opioid Use Disorder (MOUD) or Medication-Assisted Treatment (MAT) is a clinically proven treatment for opioid use disorder (OUD) or opioid addiction. OUD is a chronic disease that changes the brain, making it difficult for people to quit. MOUD/MAT is considered the gold standard of care in the medical field.

WHY ARE MEDICATIONS USED?

Medications are used to help reduce withdrawal symptoms and control cravings. These medications help stop the worst of these symptoms and reduce pain, so people can function normally and participate fully in treatment. Agonist medications used in MOUD treatment such as Methadone and Buprenorphine (Suboxone) have proven to be more effective than the antagonist medication, Naltrexone (Vivitrol).

Legal Rights Related To Medication for Opioid Use Disorder (MOUD) Or Medication Assisted Treatment (MAT) In Jails And Prisons

Reasons why it is important to have MOUD/MAT while incarcerated

- Helps people refrain from opioid use without withdrawal
- Helps people conduct normal activities without debilitating drug cravings
- Helps people manage their behaviors, thoughts, and emotions so they can work on recovery
- Prevents overdoses and death that result from decreased drug tolerance
- Decreases maternal-fetal death during pregnancy
- Decreases the risk of contracting HIV and Hepatitis C from needle sharing
- Reduces the revolving addiction-incarceration cycle.

How can you obtain MOUD/MAT while incarcerated?

If you have OUD, inform intake staff and/or medical staff immediately that you want MOUD/MAT medications. If you have a prescription for MOUD/MAT at the time you are incarcerated, let the staff know where you were treated and that you want to continue those medications. You should sign a release to have your medical records sent to the jail medical staff or have your family send them. If you have not previously been prescribed MOUD/MAT, explain to medical staff, verbally and in writing, that you have OUD and would like to be placed on MOUD/MAT.

What are your constitutional rights in obtaining MOUD/MAT?

You have a right to adequate medical care in jail or prison under the 8th and/or 14th Amendments. The jail or prison cannot show “deliberate indifference” to a serious medical need. *Estelle v. Gamble*, 429 U.S. 97, 103 (1976). Deliberate indifference includes knowingly failing or refusing to provide treatment, delaying treatment, or denying treatment for non-medical reasons. OUD and symptoms of withdrawal are likely serious medical needs. If the jail or prison knows that you have OUD and they fail to provide MOUD/MAT, that could violate the constitution.

What are my rights under the Americans with Disabilities Act (ADA) and the Rehabilitation Act?

- The ADA and the Rehabilitation Act prohibit discrimination against people with disabilities. These laws require prisons and jails to modify policies and provide accommodations to ensure equal access to programs and services for people with disabilities.
- Some courts have found that OUD is a disability. A disability is an “impairment which substantially limits one or more of such person's major life activities.” Major life activities include things like sleeping, working, take care of oneself, and the ability to think clearly.
- Federal disability rights laws protect individuals if they are participating or have successfully completed a drug rehabilitation program and are not currently using drugs.
- A jail or prison’s denial of MAT/MOUD to people with OUD likely violates the ADA because it discriminates against people based on their disability.
- Under the ADA, the jail or prison is required to provide “reasonable modifications” to their policies and practices for people with disabilities. For example, they may have to change their usual practice in order to provide you with access to MOUD/MAT.

What should you do if you are denied MOUD/MAT?

If you are denied MOUD/MAT, you should file a grievance through your institution’s administrative remedy process. Be sure to follow all requirements and deadlines described in your institution’s inmate handbook and appeal the grievance to the top level.

In the grievance, you should indicate that:

- You were prescribed MOUD/MAT medications before incarceration (if this applies).
- You are requesting MOUD/MAT medications.
- Why you need MOUD/MAT, including specific details about the harm (physical and other symptoms) you are experiencing without the medication.
- Failing to provide MOUD/MAT is a violation of the 8th/14th Amendments and the ADA.
- Be sure to read your institution’s policy carefully. You may need to include other information, like the names of the people responsible, or an amount for compensation.
- You should file separate grievances regarding other health issues you have been experiencing. Explain that denial of care for those issues may violate your constitutional right to adequate medical care.
- You should keep a log of your sick calls, requests for treatment, grievances, responses, and any other written or verbal communications with jail or prison staff.

IS DENYING MOUD/MAT MEDICAL MALPRACTICE?

Denial of MOUD/MAT may be a medical malpractice claim as MOUD is the medical standard of care for OUD. However, many states, including Pennsylvania, have additional requirements for medical malpractice claims such as including a certification from a doctor.

WHAT SHOULD YOU DO IF YOUR INSTITUTION IS PLACING YOU AT RISK?

If you are incarcerated in Pennsylvania and feel that your rights are being violated because of any procedures or conditions at your institution, please write or call us. Our services are available for free, not including costs the facility may impose for mail/phone calls.

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The Pennsylvania Institutional Law Project (PILP) is a civil legal aid organization that seeks to advance the constitutional and civil rights of people incarcerated and detained in Pennsylvania. The Lewisburg Prison Project (LPP) is affiliated with PILP. Together, we provide free information, legal advice, legal advocacy and representation on civil rights matters related to conditions of confinement.