NEW YORK STATE OF OPPORTUNITY.

Justice Center for the Protection of People with Special Needs

ANDREW M. CUOMO
Governor

DENISE M. MIRANDA
Executive Director

July 19, 2019

Arlene González-Sánchez
Commissioner
Office of Alcoholism and Substance Abuse Services
1450 Western Avenue
Albany, New York 12203

Dear Ms. González-Sánchez:

The Justice Center for the Protection of People with Special Needs (Justice Center) is charged with protecting people receiving services in facilities under its jurisdiction from abuse, neglect and other conduct that may jeopardize their health, safety and welfare pursuant to Article 20 of the New York Executive Law. To that end, the Justice Center conducts systemic reviews in order to identify risks to the health, safety and welfare of people receiving such services.

On March 12, 2019, the Justice Center issued a draft of our review entitled *Review of Contraband in OASAS Licensed Facilities*.[1] The Justice Center received a thorough response from the Office of Alcoholism and Substance Abuse Services (OASAS) dated July 17, 2019, outlining actions your office has already taken in follow up to the review findings as well as plans for additional corrective measures to be implemented in the future. The final review findings, including your response, is attached.

This review was conducted by the Justice Center and would not have been possible without the cooperation and professionalism that staff from OASAS provided during the the review. We appreciate and join you in your continuing commitment to the care of vulnerable people in New York State.

Sincerely,

Denise M. Miranda, Esq.
Executive Director

[1]This Review was performed pursuant to the Justice Center's authority as set forth in the Protection of People with Special Needs Act, Chapter 501 of the Laws of 2012.

cc: Charles Monson, OASAS
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NOTE: All correspondence related to this matter will be available for public inspection under Article 6 of the Public Officers Law. Material which will be required to be kept confidential or which is protected from disclosure under the Public Officers Law or other laws will be redacted prior to such disclosure.

NEW YORK STATE OF OPPORTUNITY.

Justice Center for the Protection of People with Special Needs

Prevention and Quality Improvement

Review of Contraband in OASAS Licensed Facilities

July 2019

161 Delaware Avenue, Delmar, New York 12054
518-549-0200
www.justicecenter.ny.gov

The Justice Center's Promise to New Yorkers with Special Needs and Disabilities

OUR VISION

People with special needs shall be protected from abuse, neglect and mistreatment. This will be accomplished by assuring that the state maintains the nation's highest standards of health, safety and dignity; and by supporting the dedicated men and women who provide services.

OUR MISSION

The Justice Center is committed to supporting and protecting the health, safety, and dignity of all people with special needs and disabilities through advocacy of their civil rights, prevention of mistreatment, and investigation of all allegations of abuse and neglect so that appropriate actions are taken.

OUR VALUES AND GUIDING PRINCIPLES

Integrity: The Justice Center believes that all people with special needs deserve to be treated with respect and that people's rights should be protected.

Quality: The Justice Center is committed to providing superior services and to ensuring that people with special needs receive quality care.

Accountability: The Justice Center understands that accountability to the people we serve and the public is paramount**.**

Education: The Justice Center believes that outreach, training, and the promotion of best practices are critical to affect systems change.

Collaboration: Safe-guarding people with special needs is a shared responsibility, and the Justice Center is successful because it works with agencies, providers, people who provide direct services, and people with special needs to prevent abuse and neglect.

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Executive Summary

Purpose

This systemic review, conducted by the Justice Center for the Protection of People with Special Needs (Justice Center), was initiated following audits of corrective action plans (CAPs) developed in response to abuse and neglect cases involving drug overdoses while people were receiving services in treatment agencies licensed by the New York State Office of Alcoholism and Substance Abuse (OASAS). From May 2015 to January 2018, the Justice Center received 17 unique reports of death related to an overdose while a person was receiving services at an OASAS licensed agency.[1] In this same time period, there were 175 unique reports made to the VPCR regarding illicit substances and other prohibited items discovered in OASAS agencies.[2] Such items are referred to as contraband in this review.

The purpose of this review is to:

1. assess treatment facility responses to contraband in facilities licensed by OASAS; and
2. provide recommendations to prevent contraband entering facilities and to more effectively address instances when contraband is found.

The Justice Center conducted site visits and reviewed documentation at six OASAS licensed agencies to complete this review.

Program Descriptions

The six OASAS licensed agencies selected for this review provide substance use and abuse treatment services, including housing and referrals to counseling, to help adults and adolescents achieve sobriety. Each Individual findings letter sent to the programs following the Justice Center's visit has been included in the appendix. The Justice Center visited agencies which provided inpatient services and community residential services. Inpatient services "include 24 hour, structured, short-term, intensive treatment services provided in a hospital or free standing facility."[3] Staffing for inpatient services include nursing and clinical staff 24 hours a day, 7 days per week. Community residential services "provide a structured therapeutic milieu while residents are concurrently enrolled in an outpatient chemical dependence service" for people whose living environment is not conducive to recovery.

[1] This data was only tracked since May 2015.
[2] Information obtained from VPCR reports with key words "death," "contraband" and "unresponsive" as of January 2018.
[3] Program definitions obtained from: https://www.oasas.ny.gov/hps/state/CD_descriptions.cfm. Retrieved March 1, 2019.

St. Peter's Addiction Recovery Center (SPARC) Inpatient Rehabilitation is operated by St. Peter's Hospital of the City of Albany, located in Guilderland, New York. The agency provides inpatient rehabilitation services for men and women ages 18 and older who have been diagnosed with a substance use disorder. The maximum capacity is 40 people. The Justice Center conducted its site visit February 13, 2018. (Agency 1)

Addiction Care Interventions (ACI) Inpatient Rehabilitation is operated by A.R.E.B.A, located in New York, New York. The agency provides inpatient rehabilitation services for men and women ages 18 and older who have been diagnosed with a substance use disorder. The maximum capacity for the Inpatient Rehabilitation is 31 people. The Justice Center conducted its site visit March 20, 2018. (Agency 2)

The Hawthorne House Community Residence (CR) is operated by Halfway Houses of Westchester, located in White Plains, New York. The agency provides residential services for men aged 18 and up who have been diagnosed with substance use disorders. The maximum capacity of the home is 10 people. The Justice Center conducted its site visit May 16, 2018, and May 17, 2018. (Agency 3)

Crossroads Community Residence (CR) is operated by Volunteers of America-Greater New York, Inc., Mid-Hudson Homeless and Chemical Dependency Services located in New Rochelle, New York. The agency provides community residential services for men ages 18 and older with a substance use disorder diagnosis. The maximum capacity for the community residence is 18 people. The Justice Center conducted its site visit August 1, 2018. (Agency 4)

Never Alone Residential Rehabilitation Services for Youth (RRSY) is operated by Never Alone Inc., located in Hurley, New York. The agency provides residential treatment services for adolescent boys ages 12 to 18 with a substance use disorder diagnosis. The maximum capacity for the residence is 22 people. The Justice Center conducted its site visit September 18, 2018. (Agency 5)

Dynamic Youth Community Residence (CR) is operated by the Dynamic Youth Community, Inc., located in Brooklyn, New York. The agency provides community residential treatment for men and women ages 16 to 23.[4] The maximum capacity for the community residence is 16 people. The Justice Center conducted its site visit October 17, 2018. (Agency 6)

Key Findings

- Policy and procedure manuals did not contain written definitions of items considered to be contraband at all the agencies visited and OASAS provided no formal definition or guidance to agencies about items considered to be contraband.

[4] The agency *Policy and Procedure Manual* indicated there was some flexibility in the ages of people accepted to the program.

- Policy and procedure manuals lacked sufficient guidance to staff about searching for contraband at three out of six agencies.
- Changes were implemented to prevent contraband from being brought into programs at three facilities.
- Access to naloxone, used to treat narcotic overdoses in emergency situations, was limited in all agencies and was not in compliance with OASAS policy on naloxone availability and administration.[5]

Key Recommendations for OASAS

- Develop written guidance identifying items which would be considered contraband based on program type.
- Provide clear guidance and training on conducting searches of personal belongings as well as standards for environmental searches.[6] Agencies should establish a process to ensure search standards are followed.
- Develop and issue promising practices identified to support efforts to prevent contraband from coming into treatment settings.
- Ensure that provider agencies follow OASAS policy to make naloxone available to people receiving services and permit staff to immediately access naloxone in case of an emergency.

Review Findings

Background

The Justice Center for the Protection of People with Special Needs (Justice Center) is charged with protecting individuals in the care of facilities under its jurisdiction against abuse, neglect and other conduct that may jeopardize their health, safety and welfare pursuant to Article 20 of the New York Executive Law. The Justice Center conducts systemic reviews to identify risks to the health, safety and welfare of people receiving such services and to make recommendations to reduce these risks.

The Centers for Disease Control and Prevention (CDC) reported 70,237 overdose deaths in the United States in 2017, a 9.6% increase from 2016.[7] New York State (NYS) was identified as one of 23 states having a statistically significant increase in drug overdose

[5] Narcan/Naloxone is used to treat narcotic overdoses in emergency situations. The generic name for Narcan is "naloxone" and that is the term that is used in this review.
[6] Search practices should be developed with consideration to and in accordance with 14 NYCRR §836 to maintain the rights of people receiving services.
[7] Information obtained from: Centers for Disease Control and Prevention; Drug Overdose Death Data. Retrieved January 6, 2019, from https://www.cdc.gov/drugoverdose/data/statedeaths.html.

death rates with an increase of 7.8%.[8] The New York State Department of Health released the *New York State-Opioid Annual* Report in October 2017 which contained information on NYS opioid overdoses broken down by county.[9] OASAS released agency guidance in October 2018 titled *Clinical Response Following Opioid Overdose: A Guide for Managers* which included data on NYS drug overdoses.[10] This guidance states that "accidental drug overdose is currently the leading cause of injury-related death for people between the ages of 35-54, and the second leading cause of injury-related deaths for people ages 18-34." On December 4, 2018, NYS allocated $9 million in federal funding to expand opioid addiction treatment services.[11] OASAS has launched a variety of opioid overdose prevention tools including a *We Can't Lose Anyone Else* campaign intended to "inform and educate New Yorkers about opioid addiction and the resources available to help," and a memorandum titled: *Policy on Naloxone Availability and Administration in OASAS Settings* which provides guidance on the distribution and administration of naloxone in OASAS treatment settings."[12,13] Additionally, the CDC provides a variety of resources for combating drug overdose on their website.[14] This review provides additional recommendations to OASAS on promising practices to help reduce the use of contraband items in treatment facilities to promote the health and safety of people receiving services.

Scope and Methodology

The Justice Center conducted a tour of each of the facilities, interviewed staff and people receiving services, and reviewed documentation.

Documentation reviewed

- Agency Policy and Procedure Manuals
  - Search polices
  - Safety/Security policies
  - Contraband policies
- Internal Incident Reports
- Search related documentation
- Naloxone training records
- Naloxone use records
- Daily Communication Log

[8] Information obtained from the CDC website January 6, 2019.
[9] https://health.ny.gov/statistics/opioid/data/pdf/nys_opioid_annual_report_2017.pdf Retrieved on January 6, 2019.
[10] https://oasas.ny.gov/workforce/documents/PostventionGuidanceDocfinalAccessible.pdf. Retrieved on November 26, 2018.
[11] Information attained from: https://www.governor.ny.gov/news/governor-cuomo-announces-more-9-million-federal-funding-secured-expand-opioid-addiction. Retrieved December 11, 2018.
[12] https://www.oasas.ny.gov/pio/press/we-cant-lose-anyone-else-campaign-launches.cfm
[13] https://www.oasas.ny.gov/legal/documents/OASASNaloxonePolicy5.31.18.pdf, Appendix A.
[14] https://www.cdc.gov/drugoverdose/resources/graphics.html, see Appendix B for an example.

Review Findings

Policies and Practices

1. **Four out of six agency's policy and procedure manuals contained written definitions of items considered to be contraband. The definition of contraband differed at each agency and OASAS did not provide guidance to agencies about items that should be considered contraband.**

   Four agencies had a comprehensive policy and procedure manual readily available to all staff which clearly identified items the agency considered to be contraband. Administrative staff at each agency reported contraband items were defined by the agency without guidance from OASAS. Each agency had different definitions of contraband.

   Agency 1, an inpatient treatment facility, had a comprehensive list of items considered contraband. This list was provided to people receiving services prior to their admission and reportedly reduced conflict over these items during the admission process. Administration at Agency 1 explained that they were more restrictive about approved items because people receiving services were in the early stages of recovery. The agency did not permit people receiving services to bring in any of their own personal hygiene products due to difficulty monitoring the items to ensure they did not contain illicit substances. All necessary hygiene items were provided by the agency.[15]

   Agency 2, an inpatient treatment facility, had a policy titled *[Agency 2] Contraband Policy* which clearly listed items considered to be contraband. This policy was provided to people in care upon their admission. Staff reported being aware of this list and were able to identify items considered contraband. Items identified as contraband were weapons, defined as any items which may cause serious harm to another, illicit drugs or drug paraphernalia, tobacco products, any alcohol-based products and any items which may contain harmful or toxic ingredients such as nail polish and glue.

   Agency 3, a residential program, did not have policies or procedures identifying contraband items. The clinical director on duty at the time of the site visit was unable to identify a list of items which specifically constituted contraband. However, when cigarettes were found during the tour of the facility, the clinical director reported people receiving services were not allowed to have tobacco products. Further, the Justice Center discovered that a person receiving services was allowed to keep prescription cough syrup with codeine on their person, even though the program didn't know when the prescription was issued and didn't ensure this medication was being used as prescribed. This practice conflicts with

[15] See Appendix C

the federal Drug Enforcement Administration's (DEA) *Controlled Substance Secure Storage Guidelines.*[16] OASAS requires compliance with DEA regulations as outlined in the *Local Services Bulletin No. 2012-03: Institutional Dispenser Limited License.*[17]

Agency 4, a residential program, maintained detailed policies and procedures which clearly identified contraband items. All policies were maintained in organized binders and were clearly labeled. The *Security Plan* policy listed items considered by the agency as contraband, including alcohol and products that contain alcohol (rubbing alcohol, cough syrup etc.), drug related paraphernalia, all forms of tobacco, and any smoking paraphernalia.[18] Clear guidelines were written regarding staff expectations when contraband is discovered, including notifying law enforcement when appropriate.

Agency 5, a residential program, did not have a comprehensive list of contraband items. However, multiple policies and procedures described agency attempts to reduce contraband in the facility, even without a formal definition of items considered to be contraband. The *Client Personal Belongings* policy identified some personal belongings which people receiving services were not allowed to have while in treatment including "razors, cigarettes, lighters, inappropriate pictures or materials for rehab, etc."

Agency 6, a residential program, did not have any written documentation regarding the items it considered to be contraband. Staff on-site were unable to report what items might be considered contraband other than weapons. During a tour of the facility, the Justice Center found hand sanitizer containing ethyl alcohol in a bedroom. Administration present indicated that items containing alcohol such as sanitizer and mouthwash were permitted in this program. The only items specifically identified in the *Policy and Procedure Manual* as being prohibited in the program were acupuncture needles. The Justice Center was informed the agency used a "common sense" approach to limiting what items people receiving services could have while in treatment.

2. **Policy and procedure manuals lacked sufficient guidance for staff about searching for contraband at three agencies.**

At each visit, the Justice Center reviewed policies relevant to searches, and discussed with staff how searches are conducted. Staff at all six agencies reported a lack of training on how to conduct searches, and responses varied regarding other tools available to complete thorough searches.

[16] https://ehs.research.uiowa.edu/dea-controlled-substance-secure-storage-guidelines
[17] https://www.oasas.ny.gov/mis/bulletins/LSB2012-03.cfm
[18] See Appendix D: *Security Plan*

The practices and written policies at Agency 1 had conflicting information on completing searches. Staff explained that in addition to completing searches of rooms in use, empty rooms and common areas were also regularly searched. Further, they stated that common areas were kept locked when not in use. However, during the tour of the agency, a women's lounge was unable to be locked and was left unsecured. Agency 1 had a policy titled *[Agency 1] Patient and Room Searches,* which provided some instruction to staff on completing searches of bedrooms and people receiving services, however, it did not include searching common areas or empty bedrooms, where contraband items could be hidden. Notably, Agency 1 had recently implemented many practices to reduce contraband entering the facility including limiting items allowed in and completing searches of a person and their belongings before entering the treatment areas. People receiving services would rarely have reason to leave the facility, but the expectation of policy was that staff escort the person while off site and complete searches of the person and their belongings before re-entering the treatment program areas.

Agency 2 had a *Screening Checklist* form which staff were required to complete during admission. This form identified specific steps for staff to take during searches such as checking shoes, emptying luggage, searching socks and disposing of any alcohol-based products. However, forms for ten recent admissions showed that five out of the ten checklists were completed by the same staff member and were identical. Each of these searches were reported by the staff person to last exactly ten minutes. The other five checklists were identifiably unique as they were completed by different staff, were marked differently and staff reported that the searches took 15 or 20 minutes to complete.

There was no policy or standard expectation to search people in care or their belongings at admission, or when returning to the building at Agency 3. The Justice Center was informed that occasional searches of the residence were conducted, especially when there was suspicion of contraband in the residence. However, there was no written guidance on conducting a search or documentation of when searches were completed. People receiving services were able to leave and re-enter the facility without any staff supervision which would easily allow a person to bring in items contrary to a therapeutic environment.

The *Security Plan* policy for Agency 4 clearly outlined facility search requirements. This included identifying specific staff to complete daily visual checks of the "resident dorms, common areas, and bathrooms." Contraband items were listed in the policy along with instructions for staff to immediately confiscate any found contraband and turn it over to the program director, or the local police if illegal drugs weapons or other dangerous items were found. Staff were also required to document searches in the facility log. However, the Justice Center found that these searches were not consistently noted in the daily log. Administration reported the *Safety Plan* was under revision to include:

- Implementing searches for people receiving services upon their admission to the residence and upon return from passes,
- Revising the mail delivery practices to include the expectation that packages are opened in the presence of staff,
- Making clear notations in the daily log book of when facility searches are completed.

The *Routine Screenings* policy for Agency 5 clearly outlined search procedures and accompanying documentation for completing thorough searches of people receiving services, their belongings and the facility. Additionally, people receiving services were provided with a written explanation of why searches were conducted and how searches promote a therapeutic environment.[19] At admission, all people receiving services were required to sign a *Consent to Search* form and their person and belongings were searched.[20] Staff were expected to use room checks sheets to complete searches of the bedrooms of people in care which identified specific areas to assess during searches including if any tampering had been done to outlets, if there were broken items in the room and if any contraband was found. Staff were provided with an extendable mirror to assist in searching the tops of shelves and under beds. Of note, there was no corresponding policy directing staff on how to complete the room check sheets and 11 out of 13 forms reviewed were not fully completed. There was also no written policy about the frequency of room searches.

There were no search policies at Agency 6. Administration explained that staff may conduct searches if there was suspicion of substances in the program, but there was no expectation regarding regular searches. There was also no documentation about searches that may have been conducted.

Contraband Prevention

3. Agencies adapted a variety of methods to reduce contraband, though some risks remained.

Agency 1 identified a trend of contraband being brought into the facility. In response, they implemented a pro-active approach to preventing contraband from coming into the facility by attempting to limit the number of personal belongings that could be brought in to the facility. All personal belongings were searched outside of the treatment area of the facility, and any items not approved to go to the person's room were stored in a locked room. People receiving services were only allowed a week's worth of clothing items, shoes and five dollars for the purchase of stamps through the facility and did not have access to the items that were locked up until their discharge. Quality control assessments revealed these procedures had a noticeable impact on the amount of contraband in the facility.

[19] See Appendix E: *Routine Screenings*
[20] See Appendix F: *Consent to Search*

Agency 2 was in the process of planning a move to a newer building in Brooklyn which would help address some of the risks identified by staff while the Justice Center was on-site. These risks included safety concerns while in the room used to conduct searches. The room used for searches was located down a long hallway that was not regularly being used by staff. The room itself was used for storage and contained items such as broken medical equipment. Staff expressed concerns for their safety if a person receiving services got angry during the search. The common rooms were also not centrally located and were not easily visible from staff offices.

Minimal controls were in place at Agency 3 to reduce the presence of contraband. When the Justice Center arrived on-site, the staff office containing confidential records and medications was unlocked and no staff were present. In addition, the keys to access the controlled substance lock-box were left on top of the lock box. The building also had multiple storage rooms which were not secured, including the maintenance room which contained paint and other cleaning chemicals. None of these spaces could be easily monitored by staff.

Agencies 4 and 5 had recently completed significant improvements to their buildings, which also contributed to the overall safety of the facility. These improvements included upgrades to bedrooms and bathrooms, and improvements to common areas frequently used by people receiving services. Administrative staff at Agency 5 stated that the improvements were specifically planned to reduce locations where contraband could be hidden. These agencies also had security systems in place, however, the cameras for Agency 4 had recently malfunctioned and were not working at the time of the Justice Center visit. Agency 4 had one main point of entry for people receiving services which required them to pass by a staff office when entering and leaving the building.[21] Medications were stored behind multiple locks at both agencies. Agency 4 had all keys in a secured lock-box, and Agency 5 secured keys in a combination code lockbox which was only accessible to approved staff. All medications, including over the counter medications, were locked up at both agencies.

Agency 6 adopted a “common sense” approach to contraband and did not institute any specific contraband prevention measures. Administration reported they relied on the people receiving services to not bring contraband into the agency.

Naloxone

4. Naloxone access was limited at each agency and not in compliance with the OASAS policy on Naloxone Availability and Administration.

[21] There was also a back door at agency 4, but this door was fitted with an alarm and staff would be alerted if it was opened.

OASAS issued the *Policy on Naloxone Availability and Administration in OASAS Settings* on May 31, 2018, which outlined the expectation that "each OASAS setting must have on hand, at minimum, one naloxone kit to be used in the event of an overdose on the premises.[22] The identity of available staff and the location of the naloxone kit should be readily available." This policy also states that naloxone training and a naloxone kit or a prescription be provided to all people receiving services. Three of the agencies in this review were visited by the Justice Center before this policy was issued. Four out of the six sites included in this review had naloxone available in multiple locations throughout the facility but the access to naloxone was limited to certain staff. Agency 6 was the only agency which allowed people receiving services to keep naloxone on their person while in treatment.

Naloxone was secured in a locked cabinet in the secured nurse's office on the second floor of the building at Agency 1. At the time of the Justice Center's visit on February 13, 2018, before OASAS issued this policy, only the nurse could administer naloxone.[23] The agency was in the process of providing naloxone training to people receiving services and staff. All people receiving services were provided with naloxone after the training, but it was locked up with the person's personal belongings until their discharge.

At the time of the Justice Center's visit to Agency 2 on March 20, 2018, naloxone was available throughout the facility, however it was secured in locked rooms such as staff offices. There were postings throughout the agency which stated "Narcan emergency overdose prevention kit available at front desk." These postings also listed staff who were approved to administer naloxone. However, the lists did not consistently identify the same approved staff members. Further, staff interviewed were under the impression that only nurses could administer naloxone, but the posted lists identified a variety of staff members from different disciplines.

Naloxone was located in the staff office at Agency 3 when the Justice Center visited the agency on May 16 and 17, 2018. The Justice Center was informed that all staff were trained on administering naloxone, however people receiving services did not receive training on naloxone. The *Policy and Procedure Manual* required staff training on naloxone as soon as possible after being hired. Staff on duty explained there was an intercom located upstairs which would provide easy communication to the administration office in the event of an emergency. Of note, this intercom was not working at the time of the Justice Center visit as the batteries had died.

Naloxone was available in the staff office at Agency 4, along with a posted list of staff trained to administer naloxone when the Justice Center visited the agency on August 1, 2018. The Justice Center was informed that all staff were trained on

[22] See Appendix A: *Policy on Naloxone Availability and Administration in OASAS Settings*
[23] Nursing staff was available 24 hours a day, seven days a week.

administering naloxone. Naloxone was readily available in the main staff office. The naloxone was labeled with an expiration date and the *Naloxone Administration* policy clearly outlined staff expectations for monitoring and using naloxone. The policy also included when to administer naloxone in cases of a suspected overdose stating, “If staff is unsure as to whether the client is actually overdosing, please be aware the administering naloxone will not injure the client and that staff are acting in good faith to reverse an overdose.” Staff were specifically instructed to notify 911 of a suspected overdose and the plan to administer naloxone. Further, each step in the process of administering naloxone was outlined for staff including managing the environment after the overdose incident. Postings on naloxone training were located on bulletin boards for people receiving services interested in learning naloxone administration. The agency also had naloxone available in the agency’s emergency to-go bag located in the main staff office.

Naloxone was available throughout Agency 5 when the Justice Center visited the agency on September 18, 2018. Naloxone was included in first aid kits, though these kits were all locked and there was no label that indicated that first aid kits or naloxone were available in the kits. Administration of Agency 5 reported being unaware of the policy issued by OASAS and were not providing the people receiving services with naloxone education.

Agency 6, visited on October 17, 2018, was the only agency that allowed people receiving services to maintain naloxone on their person and did not secure naloxone in a locked room. The Justice Center did observe some naloxone kits stored in the rooms of people receiving services. There were no postings readily visible of where naloxone was stored or who was approved to administer naloxone. Further, the program director was unable to locate the naloxone when asked by the Justice Center, though the Justice Center did find naloxone stored in the staff office on the residential floor.

Recommendations

The Justice Center's specific recommendations are detailed below. Specific documents referenced throughout this review are made available as appendices to share promising practices observed during site visits or as a result of the review of agency records. While this review focused on six agencies, the Justice Center recommends that OASAS assess all state-operated and licensed agencies with attention to these findings and apply the recommendations across all programs, as appropriate.

Policies and Practices

1. OASAS should develop written guidance identifying items that are considered contraband. Such guidance from OASAS would provide consistency throughout all treatment programs and assist staff and people receiving services in understanding which items may be harmful to recovery.

2. OASAS should provide guidance and training on searches and standards for environmental searches, including the provision of an explanation to people receiving services about why searches are conducted and how searches promote a therapeutic environment. Agencies should establish a process to ensure search standards are followed.

Contraband Prevention

3. OASAS should issue guidance regarding efforts to reduce contraband and to ensure a therapeutic environment such as where searches are completed and what systems provider agencies use to monitor the whereabouts of people receiving services.

Naloxone

4. OASAS should ensure that provider agencies follow OASAS policy to make naloxone available to people receiving services and permit staff to immediately access naloxone in case of an emergency.

NEW YORK STATE | Office of Alcoholism and Substance Abuse Services

ANDREW M. CUOMO
Governor

ARLENE GONZÁLEZ-SÁNCHEZ, M.S., L.M.S.W.
Commissioner

July 17, 2019

Ms. Denise M. Miranda
New York State Justice Center
for the Protection of People with Special Needs
161 Delaware Avenue
Delmar, New York 12054-1310

Dear Ms. Miranda:

On behalf of Commissioner Arlene González-Sánchez, please accept this response to the Prevention and Quality Improvement Review of Contraband in New York State Office of Alcoholism and Substance Abuse Services Licensed Facilities Report. OASAS would like to thank the Justice Center for the Protection of People with Special Needs (Justice Center) for their efforts to meaningfully contribute to addressing the heroin and opioid epidemic that is currently impacting not only New York, but the entire nation. As the Prevention and Quality Improvement Review of Contraband in OASAS Licensed Facilities Report (the report) issued on March 12, 2019 accurately points out, the loss of life caused by legal and illicit opioids is far too high. The purpose of this review was to:

1. assess treatment facility responses to contraband in facilities licensed by OASAS; and
2. provide recommendations to prevent contraband entering facilities and to more effectively address instances when contraband is found.

As a part of this report, the Justice Center recommended that OASAS:

1. Develop written guidance identifying items which would be considered contraband based on program type.
2. Provide clear guidance and training on conducting searches of personal belongings as well as standards for environmental searches.
3. Establish a process to ensure search standards are followed.
4. Develop and issue promising practices identified to support efforts to prevent contraband from coming into treatment settings.
5. Ensure that provider agencies follow OASAS policy to make naloxone available to people receiving services and permit staff to immediately access naloxone in case of an emergency.

OASAS will be issuing a communication to the field that provides additional guidance for programs to maintain a safe and therapeutic environment for patients. In conjunction with the guidance, OASAS will provide a training resource that offers additional best practices and recommendations for implementation. These activities will be in addition to search policy and procedure reviews that are conducted by OASAS staff during onsite visits. Further, please note that OASAS has implemented both regulatory and recertification review changes to increase access to naloxone at every program site which is described in greater detail on page four of this response.

OASAS would, however, offer the following concerns and clarifications regarding the report, which we believe would more accurately reflect both the disease of addiction and the care being provided to patients.

FOUNDATION OF REPORT

A substance use disorder, and specifically an opioid use disorder, is characterized as a chronic relapsing medical condition. Currently, the State and the nation are facing an overdose and suicide epidemic which is exacerbated by fentanyl and fentanyl analogues which can be fatal in minute doses. This report noted that 17 overdoses were reported by OASAS programs from May 2015 to January 2018. Two of the 17 cases occurred in the least intensive residential setting, supportive living, which does not have intense monitoring and/or screening of service recipients. Three of the 17 overdose cases identified were for the same individual. Similarly, of the incidents identified through a keyword search of "death" "contraband" and "unresponsive", 117 of those incidents are associated with patients who are not under 24/7 supervision because they are in outpatient programs, opioid treatment programs, or supportive living programs. 46 incidents identified through the keyword search specifically note that the overdose occurred while the patient was outside of the treatment setting in their private residence or in the community.

We note that the data used as the basis for the site reviews and subsequent report did not quantify data in a way that recognized the variation within the OASAS continuum of care, which is purposefully structured to allow recipients to have greater freedom and responsibility as they progress through treatment.

OASAS-CERTIFIED LEVELS OF CARE REVIEWED

The OASAS system serves approximately 234,000 individuals every year in settings that span a wide array of services and supervision. This continuum of services includes medically supervised withdrawal and stabilization services with intensive medical supervision to the least restrictive scatter site supportive housing where clients live in individual apartments and see program staff once per week. While the report is analyzed overdose incident reports from across the system, the site visits focused heavily on intermediate levels of care, including three provider sites that are classified as Community Residential (CR), which is defined as follows:

> *Community residential services means chemical dependence residential services providing supervised services to persons making the transition to abstinent living. Persons appropriate for this service Require the support of a drug and alcohol-free environment while receiving either outpatient services or educational and/or vocational services.* ***These transitional residential services are for individuals who are completing or have completed a course of treatment****, but who are not yet ready for independent living due to outstanding clinical issues or unmet needs for personal, social or vocational skills development. These services are appropriate for individuals who require ongoing clinical support.*

Historically, CR programs have utilized a less intensive surveillance structure because individuals have attained a degree of sobriety after a previous course of treatment. While many residents are criminal justice involved, CR programs have avoided implementing security measures that duplicate the criminal justice system as a way to foster development of a therapeutic rapport with and between recipients that can more effectively decrease the presence of contraband.

OASAS is working diligently to modernize and harmoniously blend the historical community residential models. At the same time, OASAS-certified programs have seen increased criminal justice referrals and an increasing need to balance therapeutic approaches with preventing the presence of substances of abuse, which have significantly increased in lethality and potency. This requires providers of all levels of care to be cognizant of the potential for those admitted to the facility to attempt to bring contraband (e.g., alcohol; tobacco/tobacco paraphernalia; other drugs; weapons; etc.) into the facility, and to utilize evidence-based and trauma-informed strategies to address these concerns. This includes practices which educate patients regarding items that are considered contraband before and during the admission process.

SCREENINGS/SEARCH ACTIVITIES

As noted in patient rights regulations, programs are permitted to conduct patient screenings and in extreme circumstances to conduct body cavity searches. However, programs must do so in a way that is respectful and does not further traumatize the patient. There is a continual balance between offering a therapeutic and respectful environment while also preserving the safety of the individual patient and the community.

In addition, OASAS certified providers are currently required to establish policies and procedures to protect patient rights. See. 14 NYCRR §815.4(a). Patient rights include the right to a "*therapeutic environment that is safe, sanitary, and free from the presence of addictive substances*". See. 14 NYCRR §815.5(a)(3). Each provider, as part of the OASAS certification process, is required to develop such policies for review by OASAS.

Consistent with this requirement and responsive to the recommendations noted in the report, OASAS will provide additional guidance to certified providers regarding the need for policies and procedures that clearly define contraband and identify circumstances when an individual or space will be searched. This policy and procedure must also comply with Patient Rights prohibitions against unreasonable screening and should not negatively impact the therapeutic environment. See. 14 NYCRR §815.10. The policies will not be prescribed but will be determined by the provider based upon the unique needs of each individual program. Each level of program type serves different populations, and there are provider and regional variations; therefore, what is considered contraband will vary. Contraband will include those items not permitted by agency policy to be in a recipient's possession due to the potential to cause harm to individuals. This may include but is not limited to the following: psychoactive substances that are not prescribed and/or kept per medication policies and procedures, weapons, items that pose a fire hazard, etc. This guidance will offer fundamental elements of policies and procedures that a provider should utilize in the creation of modification of existing policies. This guidance will also provide recommendations for interacting with patients to dissuade bringing contraband to a program and addressing contraband when it is found.

In addition, OASAS is currently developing a training specifically for residential levels of care that would more comprehensively cover best practices for creating a safe and therapeutic environment.

NALOXONE POLICY RECOMMENDATIONS

On May 31, 2018, OASAS issued guidance to substance use disorder providers for the distribution and administration of naloxone in OASAS Treatment settings. This guidance required programs to offer naloxone trainings to patients and their significant others and to make either a prescription or naloxone kit available to patients. This guidance was developed to ensure that individuals leaving

treatment for any reason (e.g., planned discharge; administrative discharge; decision by the patient to leave; etc.) were provided with naloxone as a preventative measure in the event of relapse. This guidance does not require a provider to train and provide a naloxone kit to patients immediately upon or within close proximity to admission. While OASAS supports education and provision of naloxone to patients, providing patients with naloxone while still within the program can present an additional risk, especially if a patient experiences an overdose, reverses that overdose with naloxone and does not notify any staff. In this case, there is a possibility of a subsequent overdose after the initial naloxone dose has worn off. As such, it is dependent upon the provider to assess having naloxone available throughout the facility in patient's possession.

In addition, each provider is expected to have at least one naloxone kit on site and at least one staff person on every shift must be trained to administer naloxone. The identity of the available staff and the location of the naloxone kit should be readily available. Please note, however, that OASAS guidance sets the minimum standard for program requirements and providers may exceed these expectations.

As part of our efforts to increase access to naloxone, OASAS revised Part 800 regulations, which are applicable to all OASAS programs, to require that an opioid overdose prevention kit be included in the emergency medical kit at each certified or funded location. As a result, OASAS staff conducting programmatic or recertification reviews will be monitoring compliance with this requirement. In addition, OASAS has modified its recertification site review instruments for OASAS certified 817 Residential Rehabilitation for Youth, 818 Inpatient Rehabilitation, 820 Residential and 822 Outpatient programs to include questions regarding emergency naloxone access, naloxone as a part of discharge planning, and staff and patient training.

EFFORTS TO INCREASE THERAPEUTIC ALLIANCE

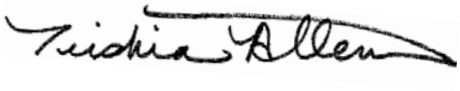
In October 2018, OASAS provided guidance and offered training entitled **Clinical Response following Opioid Overdose: A Guide for Managers**. The primary focus of the training was to educate managers on how to support staff and prevent care giver fatigue. This was an effort designed to improve caregiver interaction with patients and the therapeutic environment as staff and clients attempted to cope with overdose deaths. The reason being that even the best search policy and procedure can fail to identify contraband. However, developing a therapeutic environment that promotes open and honest communication between staff and service recipients is the most effective tool at preventing contraband and overdose deaths. This technique will be covered in depth through OASAS provider notification and subsequent training.

HAWTHORNE HOUSE

Regarding Hawthorne House, the Justice Center issued a recommendation that the provider update their Medication Record to accurately reflect the status of the medication. In addition, the Justice Center raised concerns that the service recipient was in possession of their own medication during the day while at their place of work. OASAS supports the recommendation that providers have accurate documentation and a process in place to identify the location of any controlled substances prescribed to patients. We did however want to share information regarding the requirements of Public Health Law §3345 which prohibits the "*ultimate user of a controlled substance to possess such substance outside of the original container in which it was dispensed*". A violation of this provision is subject to a fine.

In closing, OASAS would like to thank the Justice Center again for your efforts to meaningfully contribute to addressing the current heroin and opioid epidemic. Should you have any questions or concerns, you may contact OASAS Counsel at (518) 485-2312.

Sincerely,



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