



State of California—Health and Human Services Agency
Department of Health Care Services



GAVIN NEWSOM
GOVERNOR

**DHCS COVID-19 Frequently Asked Questions:
Narcotic Treatment Programs (NTPs)**

Updated July 8, 2021

Please see the [DHCS COVID-19 Response Website](#) for more information.

- 1. During the COVID-19 public health emergency, will alcohol and other drug (AOD) registered counselors be given additional time to complete the requirement to become certified with one of the DHCS recognized certifying organizations within five years of the date of registration? (Flexibility rescinded as of September 30, 2021).**

In order to ensure a sufficient workforce of AOD registered counselors during the emergency period, under the authority of Executive Order N-55-20, DHCS is suspending this requirement to allow AOD registrants impacted by the COVID-19 emergency to have an additional 3 months after the end of the COVID-19 emergency to complete their certification requirements.

- 2. Has the COVID-19 public health emergency affected HIPAA regulations in respect to communication technologies and telemedicine/telehealth?**

The Office for Civil Rights (OCR) at the U.S Department of Health and Human Services (HHS) announced on March 17, 2020, effective immediately, that it will exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of telehealth using non-public facing audio or video communication products during the COVID-19 public health emergency. This exercise of discretion applies to telehealth provided for any reason, regardless of whether the telehealth service is related to the diagnosis and treatment of health conditions related to COVID-19. A covered health care provider can provide services via telehealth to patients with any non-public facing remote communication product available.

Under this Notice, however, public-facing applications such as Facebook Live, Twitch, TikTok, and similar video communication services should not be used for telehealth. See the [OCR website](#) for details, including examples of acceptable applications.

In addition, [Executive Order N-43-20](#) states that the administrative penalties for health care providers specified in Health and Safety Code section 1280.17 related to safeguards of health information are suspended for health care providers as applied to any inadvertent, unauthorized access or disclosure of health information during the good faith provision of telehealth services as a result of the use of technology that does not fully comply with federal and state law.

**3. Does the patient need to consent prior to receiving services by telehealth?
Updated 6/6/21**

Per DHCS telehealth policy, consent may be documented verbally when services are provided by telehealth.

**4. Update: flexibility ends 6/30/21
Is there flexibility around criminal background checks (CBC)?**

DHCS may grant program flexibility when an NTP provider proposes to use alternate concepts to comply with existing CBC regulations. If you would like the Department to consider a request for flexibility, please describe the alternate concepts you are considering in meeting the intent of the CBC requirements and submit it to DHCSNTP@dhcs.ca.gov for consideration.

Additionally, to facilitate processing of CBC clearances during the COVID-19 pandemic, the Department has instituted the following:

- An online criminal background check may be considered.
- If the individual will solely be providing services through telehealth, and will have no direct contact with the patient, then a criminal background check will not be required.

5. Does Medi-Cal pay a different rate for services provided through telehealth than it pays for the same service provided in-person?

6/6/21 update: TBD, pending decision by legislature.

6. Are NTP patients required to utilize lock boxes when transporting take-home medications?

Current regulations do not require lock boxes to be utilized to transport take-home medications. Under 42 CFR Part 8, prior to allowing take-home medications, NTPs must have assurance from the patient that the take-home medications can be safely stored within the patient's home. In an effort to ensure NTP patients are not targeted, singled-out, or stigmatized, patients that choose to bring lock boxes to the

NTP to transport take-home medications should take some extra precautions. DHCS recommends that NTPs encourage the patients to carry the lock boxes in a bag in order to avoid unnecessary targeting and stigmatization.

7. What services may be provided by telehealth?

Updated 7/6/21: All telehealth flexibilities available during the public health emergency remain available until December, 2022. See [DHCS telehealth policy](#) for details.

Services delivered via telehealth and telephone are reimbursable in Medi-Cal managed care (physical health care), Specialty Mental Health Services (SMHS), the Drug Medi-Cal Organized Delivery System (DMC-ODS), and the DMC State Plan system.

More information on telehealth can be found on the [DHCS telehealth website](#).

During the national public health emergency, the Drug Enforcement Administration (DEA) announced it will waive the Ryan-Haight act¹ and allow the initial buprenorphine evaluation, prescription and all follow up care to be provided by telemedicine or telephone, without an in-person medical evaluation. If the prescribing practitioner has previously conducted an in-person medical evaluation of the patient, the practitioner may issue a prescription for a controlled substance after having communicated with the patient via telemedicine, telephone, or any other means, regardless of whether a public health emergency has been declared by the Secretary of Health and Human Services, as long as the prescription is issued for a legitimate medical purpose and the practitioner is acting in the usual course of his/her professional practice. In addition, for the prescription to be valid, the practitioner must comply with any applicable State laws.

On March 31, 2020 the DEA [released guidance](#) that states for the duration of the national public health emergency (unless DEA specifies an earlier date), NTPs are allowed to dispense, and DATA-waived practitioners are allowed to prescribe, buprenorphine to new patients with an opioid use disorder for maintenance treatment or detoxification treatment following an evaluation via telephone, without first performing an in-person or telemedicine evaluation. This may only be done, however, if the evaluating practitioner determines that an adequate evaluation of the patient can be accomplished via the use of a telephone. The prescription also must otherwise be consistent with the practitioner's aforementioned obligation to only prescribe controlled substances for a legitimate medical purpose while acting in the usual course of professional practice.

¹ See SAMHSA guidance: <https://www.samhsa.gov/sites/default/files/faqs-for-oud-prescribing-and-dispensing.pdf>

DHCS Medi-Cal policy requires that the initial assessment must be done by telehealth or in-person; telephone (audio-only) assessment visits are not reimbursable in Medi-Cal.

8. Updated 6/6/21: For COVID-19 related questions, providers should consult CDC and CDPH websites for updated guidance.

9. Should NTPs submit exceptions through the SAMHSA Opioid Treatment Program (OTP) extranet website?

During the National Emergency related to COVID-19, NTPs do not need to submit exceptions through the SAMHSA OTP extranet website for the following:

- a) Blanket take-home medication exceptions (see [SAMHSA update](#) and question 8 for detail);
- b) Blanket urinalysis (UA) exceptions; and
- c) Blanket counseling exceptions.

To obtain blanket exceptions, NTPs must submit a letter of need to DHCS for review and approval. If approved for a blanket UA exception, NTPs must still provide adequate drug testing or analysis, including at least eight random drug tests per year per patient in maintenance treatment, in accordance with generally accepted clinical practice.

If approved for blanket counseling exceptions, NTPs must provide adequate substance use counseling for each patient as clinically necessary. DHCS encourages NTPs to provide services via telehealth.

10. Will DHCS approve blanket exceptions for take-home medications?

DHCS will review each letter of need, and approve, as appropriate, blanket exceptions for take-home medications as follows:

- a) **Stable Patients:**
A blanket exception for all stable patients in a NTP to receive 28 days of take-home doses
- b) **Less Stable Patients:**
A blanket exception for less stable patients in an NTP to receive up to 14 days of take-home doses

Stable patients have already earned step level 2 and above and have meaningfully fulfilled the eight take-home criteria for a sufficient period of time to suggest likely

ongoing compliance. During this national emergency, these patients have demonstrated enough clinical stability to warrant allowing extended take-home dosing.

Less stable patients are patients who are on step level 0-1. During this national emergency, these patients have a tolerable risk profile and the benefit may exceed the risk of home dosing. The medical director should evaluate these patients frequently.

Prior to the last scheduled take home dose, the NTP should schedule a call with the patient to verify the patient's symptom status via a phone screening. Based on the patient's responses, the NTP will determine if the patient should resume daily in-clinic dosing or resume take-homes. NTPs should ensure the benefits outweigh the risks, based on the individual patient's situation.

NTPs shall ensure that patients are able to properly safeguard their medication before take-homes are dispensed. The efficacy and safety of this take-home strategy will be continually assessed. All medical exceptions should provide appropriate and complete documentation.

11. Can NTPs provide medication delivery for patients to the home or a controlled treatment environment?

On March 16, 2020, [DEA granted an exception](#) to 21 CFR 1301.74(i) during the National Emergency. The delivery of the medications to the patient's home or place of residence may be conducted by an authorized NTP staff member, law enforcement officer, or National Guard personnel. An authorized NTP staff member is a physician, registered nurse, physician assistant, psychiatric technician, vocational nurse or a pharmacist as defined in Section 11215 of the Health and Safety Code. NTPs must have a chain of custody documentation on file for take-home deliveries. Resources to offer this level of service may vary by program.

12. Is there a risk of medication shortages and/or disruption of a medication supply for methadone and/or any buprenorphine-containing products?

At this time, there has been no reported state or federal concern about disruption in the medication supply for methadone and/or any buprenorphine-containing product. The FDA [maintains a list of medications](#) with anticipated shortages; at the time of publication, neither buprenorphine nor oral methadone are included on the list. DHCS recommends NTPs maintain at least a four week stock of medications, and ensure there is a sufficient supply to manage the increased number of patients with take-homes.

13. Is there flexibility around annual assessments and intake requirements?

SAMHSA indicated during a conference call on March 17, 2020 with State Mental Health Commissioners that the required annual patient assessments may be deferred until after the state of emergency has resolved and that NTPs may conduct abbreviated intake assessments and defer mandatory data collection not immediately related to the patient's presenting conditions, as long as correct information is collected from patients continuing care after the state of emergency is resolved.

14. Are there resources on developing and implementing disaster plans for NTPs?

- a) DHCS recommends NTPs submit disaster plans to DHCS describing how patients are receiving clinical services during this national emergency.
- b) All disaster plans need to be consistent with applicable state and federal laws and regulations.
- c) For additional guidance on developing and implementing disaster plans, please work with the State Opioid Treatment Authority and refer to [TAP 34: Disaster Planning Handbook for Behavioral Health Treatment Program](#).