

## Final Proposed Filing - Coversheet

### **Instructions:**

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the "Rule on Rulemaking" adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of "Proposed Rule Postings" online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

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**PLEASE REMOVE ANY COVERSHEET OR FORM NOT  
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

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**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**Rules Governing Medications for Opioid Use Disorder**

/s/ Todd W. Daloz

, on 1/31/24

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

Printed Name and Title:

Todd W. Daloz  
Deputy Secretary  
Agency of Human Services

RECEIVED BY: \_\_\_\_\_

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

**Rules Governing Medications for Opioid Use Disorder**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

23P047

3. ADOPTING AGENCY:

Vermont AHS/Department of Health

4. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: Brendan Atwood

Agency: AHS/Department of Health

Mailing Address: 108 Cherry Street, Burlington, VT 05401

Telephone: 802-863-728 Fax: 802-951-127

E-Mail: ahs.vdhrules@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<http://www.healthvermont.gov/about-us/laws-regulations/public-comment>

5. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: Natalie Weill

Agency: AHS/Department of Health

Mailing Address: 108 Cherry Street, Burlington, VT 05401

Telephone: 802-863-728 Fax: 802-951-127

E-Mail: ahs.vdhrules@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?)* No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

3 V.S.A. § 801(b)(11); 18 V.S.A. § 4752.

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

3 V.S.A. § 801(b)(11) states, "'Adopting authority' means, for agencies that are attached to the Agenc[y] of...Human Services...the commissioner of [that] department."

18 V.S.A. § 4752 states, "[t]he Departments of Health and of Vermont Health Access shall establish by rule a system of opioid addiction treatment."

9. THE FILING HAS NOT CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS NOT INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS NOT INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

This rule establishes the requirements for providers treating patients with opioid use disorder (OUD). On December 29, 2022, Congress eliminated the federal requirement for healthcare providers who dispense medication for opioid use disorder to obtain an "X Waiver" prior to dispensing buprenorphine and ended the program that issued those waivers. However, the legislation does not impact current state regulations; the current (non-emergency) Vermont MOUD regulations still require providers to obtain this X Waiver (which is no longer obtainable) in order to dispense buprenorphine to treat substance use disorder. This rule eliminates the X Waiver requirements. Doing so will ensure Vermont's MOUD regulations do not inhibit access to MOUD providers by those in need.

The rule also aligns telehealth requirements with federal law.

Finally, a number of clarifications, terminology updates, and formatting changes were made.

**15. EXPLANATION OF WHY THE RULE IS NECESSARY:**

Without this rule, some health care providers may be restricted from providing MOUD to patients due to the X Waiver requirements in the Vermont MOUD Rule. This rule will eliminate that potentiality and bring the rule into alignment with federal requirements.

**16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:**

This rule aligns Vermont requirements with federal requirements. The decisions made by the Department regarding these regulations are factually based, rationally connected to those factual bases, and would make sense to a reasonable person.

**17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:**

Individuals with opioid use disorder, Office Based Opioid Treatment Providers, and Opioid Treatment Programs.

**18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):**

This rulemaking is not expected to have any economic impact.

**19. A HEARING WAS HELD.**

**20. HEARING INFORMATION**

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 1/9/2024

Time: 10:00 AM

Street Address: 108 Cherry Street, Rm 3B, Burlington, VT

Zip Code: 05465

URL for Virtual: Call in:

+1 802-828-7667,,475608038# United States, Montpelier

Phone Conference ID: 475 608 038#

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Date:  
Time: AM  
Street Address:  
Zip Code:  
URL for Virtual:

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Date:  
Time: AM  
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21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

1/16/2024

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Opioid use disorder

Medication for Opioid Use disorder

MOUD

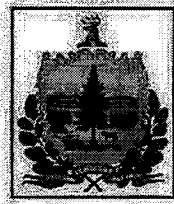
OBOT

OTP

Opioid treatment

Buprenorphine

280 State Drive – Center Building  
Waterbury, VT 05671-1000



OFFICE OF THE SECRETARY  
TEL: (802) 241-0440  
FAX: (802) 241-0450

JENNEY SAMUELSON  
SECRETARY

TODD W. DALOZ  
DEPUTY SECRETARY

STATE OF VERMONT  
AGENCY OF HUMAN SERVICES

MEMORANDUM

**TO:** Sarah Copeland Hanzas, Secretary of State

**FROM:** Jenney Samuelson, Secretary, Agency of Human Services

A handwritten signature in dark ink, appearing to be 'Jenney Samuelson', written over the 'FROM' line.

**DATE:** January 31, 2023

**SUBJECT:** Signatory Authority for Purposes of Authorizing Administrative Rules

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I hereby designate Deputy Secretary of Human Services Todd W. Daloz as signatory to fulfill the duties of the Secretary of the Agency of Human Services as the adopting authority for administrative rules as required by Vermont's Administrative Procedure Act, 3. V.S.A § 801 et seq.

Cc: Todd W. Daloz

## Adopting Page

### **Instructions:**

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

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1. TITLE OF RULE FILING:

**Rules Governing Medications for Opioid Use Disorder**

2. ADOPTING AGENCY:

Vermont AHS/Department of Health

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

Rules Governing Medication-Assisted Treatment for Opioid Use Disorder for:

1. Office-Based Opioid Treatment (OBOT) Providers
2. Opioid Treatment Programs (OTP)

October 15, 2021 Secretary of State Rule Log #21-024



## INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

**Meeting Date/Location:** November 13, 2023, virtually via Microsoft Teams

**Members Present:** Chair Sean Brown, Brendan Atwood, Jared Adler, Jennifer Mojo, John Kessler, Diane Sherman, Michael Obuchowski, and Nicole Dubuque

**Minutes By:** Melissa Mazza-Paquette and Anna Reinold

- 2:02 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the October 9, 2023 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- Note the following emergency rules were supported by ICAR Chair:
  - On 10/23/23: Emergency Housing Transition Benefit, by the Agency of Human Services, Department for Children and Families
    - This emergency rule is necessary to continue providing emergency housing assistance in accordance with Act 81.
    - Act 81 established an emergency housing transition benefit that provides continued housing in a hotel or motel for households that were housed through the pandemic-era General Assistance Emergency Housing Program as of June 30, 2023. Under Act 81, the transition benefit ends April 1, 2024. This emergency rule maintains the eligibility criteria initially established in 23-E05, with the following changes: 1) language clarifying that a household must accept and maintain a hotel or motel housing placement for the duration of the eligibility reassessment period to maintain eligibility for the transition benefit; 2) not including “upon expiration of the eligibility reassessment period” from rule 2652.5(D)(i) to align with the requirement in Act 81 that eligibility terminate upon noncompliance with the criteria established in the Act; 3) new definition of misconduct; 4) language addressing hospital-level care and short-term alternative housing placements; and 5) language addressing notice and appeal rights.
  - On 10/23/23: Expansion of Eligibility Criteria for Temporary Housing Assistance, by the Agency of Human Services, Department for Children and Families
    - This emergency rule is necessary to continue providing temporary housing assistance to families with children under 18 years of age and calculating the income contribution based on average or current daily motel rate.
    - Temporary housing assistance under the General Assistance program provides up to 84 or 28 days of housing in a hotel or motel. Households that are without housing due to a catastrophic situation may be eligible for up to 84 days. Households that are ineligible under catastrophic criteria may be eligible for up to 28 days if the household has a member belonging to a vulnerable population. This rule maintains categorical eligibility for 28 days of housing for families with children under 18 years of age or who are 18 or 19 years of age and attending school, as initially established in 23-E05. This rule also maintains the update to the basic needs standard chart in rule 2652.4 and the methodology for calculating the 30 percent income contribution in rule 2652.4, as



initially established in 23-E05. This rule adds language addressing lodging licensing violations. Criteria related to the Act 81 transition benefit are not included in this rule and will be included in a separate emergency rule.

- Public comments made by Jay Greene, Office of Racial Equity regarding the General Assistance Temporary Housing Assistance proposed rule by the Department for Children and Families
- Presentation of Proposed Rules on pages 3-6 to follow.
  1. Rules Governing Medications for Opioid Use Disorder, Department of Health, page 3
  2. General Assistance Temporary Housing Assistance, Department for Children and Families, page 4
  3. Regulations for Lead Control, Agency of Human Services, Department of Health, page 5
  4. Vermont Fire Service Training Council Rules and Policies, Vermont Fire Service Training Council, page 6
- Next scheduled meeting is December 11, 2023 at 2:00 p.m.
- 3:11 p.m. meeting adjourned.

DRAFT

**Proposed Rule: Rules Governing Medications for Opioid Use Disorder, Department of Health  
Presented By: Brendan Atwood**

Motion made to accept the rule as presented without any changes by John Kessler, seconded by Nicole Dubuque, and passed unanimously except for Brendan Atwood and Jared Adler who abstained.

DRAFT



## Economic Impact Analysis

### **Instructions:**

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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#### 1. TITLE OF RULE FILING:

**Rules Governing Medications for Opioid Use Disorder**

#### 2. ADOPTING AGENCY:

Vermont AHS/Department of Health

#### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

Individuals with opioid use disorder: No impact is anticipated.

Office Based Opioid Treatment Providers, and Opioid Treatment Programs: No economic impact is anticipated.

#### 4. IMPACT ON SCHOOLS:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

No impact is anticipated.

5. **ALTERNATIVES:** *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

Given there will be no impacts to school districts, those alternatives have not been considered.

6. **IMPACT ON SMALL BUSINESSES:**

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

No impact is anticipated.

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

Given there will be no impacts to small businesses, those alternatives have not been considered.

8. **COMPARISON:**

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

Without this rulemaking, some providers may not be able to comply with the regulations.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The Department has provided the relevant information that is available.

# Environmental Impact Analysis

## **Instructions:**

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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1. TITLE OF RULE FILING:

**Rules Governing Medications for Opioid Use Disorder**

2. ADOPTING AGENCY:

Vermont AHS/Department of Health

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

No impact is anticipated.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

No impact is anticipated.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

No impact is anticipated.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*

No impact is anticipated.

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*  
No impact is anticipated.

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*  
No impact is anticipated.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

This analysis considered the potential impacts of these amendments to the areas listed above, and there will be none.

## Public Input Maximization Plan

### **Instructions:**

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

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1. TITLE OF RULE FILING:

**Rules Governing Medications for Opioid Use Disorder**

2. ADOPTING AGENCY:

Vermont AHS/Department of Health

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

A public hearing will be held.

The rule will be posted on the Department of Health website: <https://www.healthvermont.gov/laws-regulations/laws/public-comment>

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Vermont Medical Society (VMS)

Vermont Association of Hospitals and Health Systems (VAHHS)

Vermont Department of Vermont Health Access

Vermont Office of Professional Regulation

Vermont Board of Nursing

Vermont Board of Medical Practice

Dr. Fred Lord, MOUD provider



January 5, 2024

Brendan Atwood  
Public Health Policy Director  
Vermont Department of Health  
[Brendan.Atwood@vermont.gov](mailto:Brendan.Atwood@vermont.gov)

**RE: ATA ACTION COMMENTS ON PROPOSED RULES GOVERNING  
MEDICATIONS FOR OPIOID USE DISORDER ANNOTATED TEXT**

Dear Mr. Atwood,

On behalf of ATA Action, I am writing to you to express support for provisions of the ongoing rules governing medications for Opioid Use Disorder rulemaking. The proposed rules include telehealth provisions not included in the emergency rule adopted in August of 2023, and ATA Action supports their inclusion in the permanent version of the rule.

ATA Action, the American Telemedicine Association's affiliated trade association focused on advocacy, advances policy to ensure all individuals have permanent access to telehealth services across the care continuum. ATA Action supports the enactment of state and federal telehealth coverage and fair payment policies to secure telehealth access for all Americans, including those in rural and underserved communities. ATA Action recognizes that telehealth and virtual care have the potential to truly transform the health care delivery system – by improving patient outcomes, enhancing safety and effectiveness of care, addressing health disparities, and reducing costs – if only allowed to flourish.

The adoption of these proposed rules would serve as a rational expansion of Vermont's telehealth and opioid use disorder treatment policy. By enabling eligible Medication for Opioid Use Disorder (MOUD) providers to prescribe MOUD and conduct evaluation requirements via telehealth the Department of Health will open the door to greater flexibility and choice for patients when accessing the care and treatment they need for Opioid Use Disorder (OUD). Not only can telehealth be more convenient for patients, but it can also come with cost savings, particularly for those in rural or underserved areas who may have to make long trips or take time off work to access care which a telehealth appointment can provide without the need for such efforts. Furthermore, telehealth care for MOUD is an attractive option for patients who face stigma while seeking treatment for OUD, especially in small communities.

Additionally, telehealth has proven to be a very effective tool for treating OUD. An October 2023 study found that Medicaid enrollees who initiated buprenorphine treatment for OUD via telemedicine had better odds of 90-day retention when compared to patients who did not initiate