Using the ADA to Address the Opioid Crisis

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Learning Objectives

- The criminal justice system and health systems routinely deny persons with opioid use disorder access to their medications, which perpetuates the opioid crises.

- Federal civil rights laws protects individuals with opioid use disorder ensures access to medications used to treat their addiction.

- The Department of Justice has been actively working to reduce these barriers using all available federal civil rights statutes.

The Problem

The criminal justice system and health systems routinely deny persons with opioid use disorder access to their medications, which perpetuates the opioid crises.

The Problem

109,680 individuals died from opioid overdoses in the US in 2022.
This was the highest ever recorded.

Newly returned prisoners are 120 times more likely to die of an opioid overdose than the rest of the population.

Justice involved individuals make up most opioid overdose deaths.

Chronic disease

Opioid use disorder ("OUD"):

A chronic brain disease where a person has cravings for opioids, is compelled to chronically use opioids despite negative consequences, a need for increased use of opioids to achieve a "high," and withdrawal when not using opioids. Not everyone who uses opioids develops OUD — only about 24% do.

Mu receptor

Part of the brain that controls the body's pleasure system, triggered by opioids and other bodily processes. If you've heard of "endorphins" those are the body's natural opioids that activate this receptor.

OUD is highly treatable with three medications

Medication 1: Buprenorphine (Suboxone)

Activates the mu receptor but has a ceiling effect, so at a certain point, no matter how much more you take, it won't get you high (except for the opioid naive). Controls cravings and withdrawals. Can get it at a pharmacy. Ceiling effect reduces the ability of other opioids from working, so it prevents overdoses from other drugs.

Medication 2: methadone

Activates the mu receptor to prevent cravings and withdrawals. With properly calibrated dosage, patients will not get high. Because heavily regulated, cannot get dosed at a pharmacy in the United States. Have to visit methadone clinics daily.

Medication 1: buprenorphine (Suboxone)
Medication 2: methadone

These are both “opioid agonists” because they activate the mu receptor

Medication 3: naltrexone (Vivitrol)

Prevents the mu receptor from working, so stops all opioids from having an effect on the body. Also prevents the body's own opioids, such as endorphins, from working. Does not control cravings. Must have a shot every 28 days, which loses efficacy towards the end of the cycle.

Medication 3: naltrexone (Vivitrol)

This is an “opioid antagonist” – the opposite of the ”opioid agonist” – because it blocks (antagonizes) the mu-receptor

Opioid agonists reduce overdose death by more than 50%

But only 1 in 3 people with OUD have access to these medications

Stigma

Non-medical understanding of addiction prevalent in the recovery community focuses on “cold turkey” or abstinence. This theory sees MOUD as replacing “one drug with another.” This confuses “dependence” on a prescribed medication with “addiction,” which is the compulsion to use despite negative consequences.

Stigma

Even non-addiction doctors who understand that addiction is a disease prefer not to treat people with addiction, because "they are just going to use again" or that these patients are "needy."

Stigma

The U.S. criminal justice system is historically one of the largest barriers to MOUD. 80% of jails and prisons provide no forms of MOUD. Judges, probation officers, and parole officers have ordered people off buprenorphine.

Part 2: A tool that addresses the problem

Federal civil rights laws protects individuals with opioid use disorder ensures access to medications used to treat their addiction.

ADA: Addiction

Physical or mental impairment includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

Treatment is inherently linked to disability. So when barriers are created for treatment, those barriers are tied to disability.

Medical care provided to justice involved individuals is a “service” that disabled inmates must receive indiscriminately under the ADA.

Medical decisions that rest on stereotypes about the disabled rather than “an individualized inquiry into the patient’s condition” may be considered discriminatory.

Withholding a medication used to treat addiction without “an individualized inquiry into the patient’s condition” may be considered discriminatory.

Part 3: A tool that addresses the problem

The Department of Justice has been actively working to reduce these barriers using all available federal civil rights statutes.

Since 2018, DOJ has entered into more than 25 settlements to resolve discrimination involving OUD

Criminal Justice settings

Trial Courts and Probation

Corrections

Parole

Healthcare Settings

Long term care facilities

Surgeons

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