Washington State Health Care Authority

Substance Use and Recovery Services Plan Recommendation

Recommendation – Increase access to Opioid Treatment Program (OTP) services in rural areas

Definitions to know for recommendations

Opioid Treatment Program- An Opioid Treatment Program (OTP) is a behavioral health treatment agency which is licensed by the state and federal government, and in accordance with RCW 71.24.590 and 42 CFR § 8.11. OTPs offers both counseling services and medical services to all clients who attend. It is the only type of outpatient treatment setting, where an individual can receive all three types of medication for the treatment of an Opioid Use Disorder: Methadone, Buprenorphine products (Suboxone, Subutex), and Naltrexone (Vivitrol). A client who attends an OTP receives their MOUS medication and doses to take home directly from the OTP site, instead of a pharmacy. There are no prescriptions.

To provide this array of services, OTPs have multidisciplinary treatment teams that include: Prescribing practitioners (i.e., medical doctors, doctors of osteopathy, advanced registered nurse practitioners, physician assistants); Nurses (i.e., licensed practical nurses and registered nurses); and Counselors (SUD professionals)

- Opioid treatment program guide (wa.gov)

OTP Medication Unit- According to 42 CFR § 8.11(i)(1), a certified OTP may establish a medication unit or units to administer or dispense medication therapy. The state and federal licensed OTP assumes all responsibilities for any medication units associated with it. Such a unit is intended to facilitate access to medication-assisted treatment for patients who would otherwise have to travel great distances. These medication units under federal law can be (1) located as a free-standing facility; (2) co-located within in a variety of community settings such as but not limited to hospitals/medical primary care systems/pharmacies/FQHCs etc.; and (3) located as a mobile medication vehicle.

Detailed recommendations for consideration:

1. **Require the Dept. of Health's Health Services Quality Assurance (HSQA) division create a regulatory workshop with OTP provider stakeholders in 2023 to:**

   Create state rules/regulatory process for OTP that want to establish offsite medication units (1) located as a free-standing facility; (2) co-located within in a variety of community settings such as but not limited to hospitals/medical primary care systems/pharmacies/FQHCs, as well as correctional health settings, etc.

   - DOH already has set up a regulatory process for OTP to apply for mobile medication units specifically, but not other types of medication units.
   - DOH should set up a process for regulating and establishing all types of OTP medication units allowable under federal law.
   - Ensure DOH includes invited stakeholders from geographic regions areas of WA with lower population density, Eastern Washington, rural, tribal nations, etc. This way DOH can ensure decision making is done in a more equitable manner that is inclusive of important stakeholder partners who may be impacted by changes proposed to help their communities.

   Goal: To increase number of OTP and methadone access in Central and Eastern WA and/or rural areas

   Requires: Regulatory changes, and directive to State Agency- Dept. of Health

2. **Change** RCW 36.70A.200 and WAC 365-196-550 **to ensure that OTP branch sites of all kinds (including mobile, and fixed, site medication units) are clearly seen as "essential public facilities" and that they cannot be zoned out or stalled by moratoriums by City and/or County legislative authorities.**

   - RCW 71.35.590(b) references that OTP are to be seen as an essential public facility
   - However, RCW 36.70A.200 and WAC 365-196-550, which are written to define "essential public facilities" are written in a way that many City and County legislative Authorities, and their respective planning commissions have reported as being less than optimal in clarity, if Opioid Treatment Programs are included.

- Updating RCW 36.70A.200 and WAC 365-196-550 to be explicit that Opioid Treatment Programs are clearly defined as a "essential public facility" type would help city and county legislative authorities in their confusion, and hopefully help to assert that our continuum of care values this provider setting as "essential" brining dignity and equity to patients, declaring this is the same setting type as other healthcare setting types.
- WA State Opioid Treatment Authority has had to interact with many City and County Legislative Authorities and their respective planning commissions on this topic, and often local municipalities want to create zoning requirements for OTP that are different and more burdensome than other behavioral health and/or physical health setting types.
    - For example, many local municipalities have set up burdensome moratoriums before decision making and/or stigmatizing public comment periods specifically for prospective OTP providers, before allowing zoning feedback for Opioid Treatment Programs that should be treated the same as other healthcare facilities.
    - Recently 4 King County Cities would not allow a prospective OTP mobile medication unit to bring services to their cities, and several of the cities talked with the OTP about the need to set up moratoriums while they wait to decide if the OTP mobile medication unit should be zoned as a "food truck" and/or threatened to not allow them a permit to operate in a mobile capacity within city limits saying they needed to be zones as a "permanent" structure.
- Clearer state laws and rules on this topic would help local municipalities to make decisions with their respective planning commissions and help to bring much needed MOUD/methadone treatment to communities that previously have not had access to MOUD/methadone.

Goal: To increase number of OTP in Central and Eastern WA and/or rural areas, bring more alignment with state and federal civil rights laws like ADA and WLAD, and bring more equity and dignity and respect for patients

Requires: Regulatory Changes, and changes to RCW and WAC

3. **Update RCW 71.24.590 to remove several requirements for the citation of Opioid Treatment Programs that stigmatize the treatment setting type and treat it in ways that other SUD behavioral health agencies and health care facilities settings are not.**

   This would include removing the largely symbolic RCW requirement in RCW 71.24.590(2) that allows a county legislative authority to cap the patient census of an OTP specific setting, at no less the 350 individuals.

   This would include removing all OTP public hearing requirements in this RCW, that describe how DOH must facilitate a public hearing in the community which an OTP will be cited in, before a new OTP can open to operate.

   Consideration for resources to help create opportunities for public engagement that center patients and prospective patients at educational opportunities for the general public. Include a community engagement process that seeks to reduce stigma around those with substance use and has a primary goal to center and protect patients through education related to sharing evidence-based treatment outcomes related to OTP.

   - Recommend removing all "patient census cap" language in this RCW. Instead, specifically state that "no city or county legislative authority can create a patient census cap" at an OTP.
   - Possibly tie a reference into any changes to RCW, related to the previous recommendation that an OTP be noted clearly as a "essential public facility" and assert clearly that they need to be treated like any other essential public healthcare facility and be privy to the same reasonable conditional use requirements as other health care settings.
   - Remove all OTP public hearing requirements in this RCW, as DOH is legally required to license any qualified treatment setting provider and causing OTP to need to go through public hearings is not a good use of taxpayer dollars, adds time and burden to providers who seek to become licensed by WA State to open an OTP and allows for further stigmatization against this setting type in the communities where they operate.
   - No other behavioral health agency setting type, or medical setting type needs to undergo an RCW mandated public hearing facilitated by WA DOH HSQA staff. Why are OTP being treated

differently than any other SUD Behavioral Health Agency (BHA) provider type? It is stemming from a history of stigma and "othering" that needs to end.
- The citation of OTP treatment settings should be treated in a manner similar to the citation of other behavioral health agencies, and health care facilities in WA State.

Goal: To increase number of OTP in Central and Eastern WA and/or rural areas, bring more alignment with state and federal civil rights laws like Americans with Disabilities ACT (ADA) and Washington Law Against Discrimination (WLAD), and bring more equity and dignity and respect for patients

Requires: Regulatory Changes to RCW 71.35.590

4. **Funding for capital construction costs to help start up OTP in Central and Eastern- WA**

   A model of funding already exists where Dept. of Commerce has been given funds by the WA Legislature to help with capital construction costs to build recovery housing/transitional housing stock- Perhaps a similar model should be offered to help cover capital construction costs to build new OTP.

   - The service delivery and treatment services of an OTP are already insurance reimbursable, so the request for funding would go to helping with capital construction, startup costs only to help bring an OTP to specific regions of the state that currently lack OTP/methadone access.
   - Recommendation could easily be scaled upward and downward and implemented in a targeted region(s).
   - Please see high level estimated budget costs below.
   - More detailed cost estimates could be available from HCA staff upon request in the event the Legislature seeks to fund this.
   - Could also be recommended as a use of opioid settlement funds, GSF etc.
   - There should be support for provider evaluation of outcomes

   Goal: To increase number of OTP in Central and Eastern WA and/or rural areas, bringing treatment to new populations who have previously not had access to MOUD/methadone.

   Requires: Resources and funding and legislative directives with State Agency- Dept. of Commerce.

5. **The Governor's Office and/or Legislature should provide funding to a State Agency such as WA Health Care Authority to provide an RFI/RFP to resource established OTP in WA State to operate an increased number of OTP medication units to expand their geographic reach**

   These medication units could be established in a variety of forms. (1) Located as a free-standing facility; (2) co-located within in a variety of community settings such as but not limited to hospitals/medical primary care systems/pharmacies/FQHCs etc.; and (3) located as mobile medication vehicles.

   This could be done to extend the geographic reach of OTP and bring medications for opioid use disorder, counseling, and other recovery support/SUD treatment services to greater geographic areas and to literally meet novel patient patients where they are at.

   - WA Legislature funded 5 OTP mobile medication units in the State of WA with funding to be spent out by Jan 1, 2022. Implementation is in the works at the present time.
   - Recommendation could easily be scaled upward and downward and implemented in a targeted region(s).
   - Please see high level estimated budget costs below.
   - More detailed cost estimates could be available from HCA FSD staff upon request in the event the Legislature seeks to fund this.
   - Also, could be recommended as a use of opioid settlement funds, SABG, SOR and GSF funds.
   - There should be support for provider evaluation of outcomes

   Goal: To increase number of OTP and methadone access in Central and Eastern WA and/or rural areas, bring treatment to new populations who previously have not had access to MOUD/methadone.

   Requires: Resources and funding, and legislative directives.

Bill Requirement(s)

This recommendation establishes new community-based care access points (1.3.b), expands regional capacity for treatment via Opioid Treatment Programs (1.3.c), and removes geographic barriers to accessing OTPs (1.3.d).

Background & Supporting Data

Washington State is experiencing a fentanyl-driven overdose crisis. Current trends shown on the Washington State Department of Health (DOH) Opioid Overdose website suggest the total number of overdoses will be the highest recorded. Fortunately, there are effective medications for the treatment of OUD.

While two of the three Food and Drug Administration (FDA)-approved medications can be prescribed in a primary care office, OTP behavioral health agencies are the only outpatient treatment setting where federal law permits the use of all FDA-approved medications for the treatment of OUD: methadone-, buprenorphine-, and naltrexone-containing products.

Methadone is described as a "full agonist", meaning it completely binds to and fully activates opioid receptors in the body. It is the most potent FDA-approved medication allowed for the treatment of OUD. It can only be dispensed for the treatment of OUD in an outpatient OTP or "methadone clinic".

Buprenorphine, which can be prescribed outside of OTPs, also occupies the opioid receptor, but it is not as potent as methadone. This is an important distinction to highlight. Buprenorphine was developed to treat OUD, when heroin and prescription opioids were the primary substances being used by people with OUD. Because fentanyl is a much more potent opioid than heroin or oxycodone, many people using fentanyl require methadone medication to treat their OUD, increasing the need for services provided in OTPs.

As of September 1, 2022, there are 32 OTPs in Washington State, each serving between 200 to more than 1,000 patients. There is no federal rule limiting the number of individuals an OTP can serve, but state law in RCW 71.24.590(2) does allow counties to set patient census limits (i.e., maximum capacity for a program).

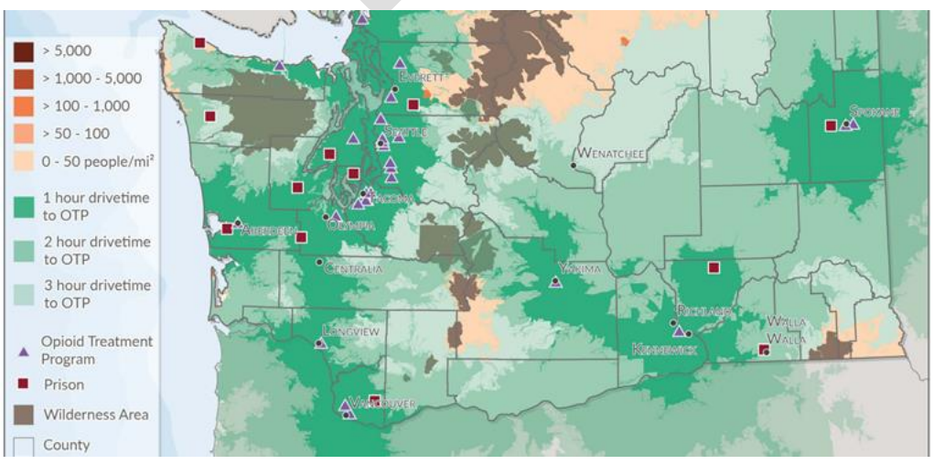
5 of the 32 OTPs are owned and operated by Washington State Tribes (i.e., Lummi, Muckleshoot, Stillaguamish, Swinomish, Jamestown S'Klallam).

OTPs in Washington State collectively serve more than 14,000 people with a primary OUD diagnosis. Using information from the HCA Opioid Use Disorder Treatment for Medicaid Population dashboard, 15% of people with Medicaid being treated for OUD are receiving care in OTPs.

Access to methadone is not equal across the state. Few programs exist in central and eastern Washington.

Below is a map created for HCA by the Pew Charitable Trust representing areas of Washington State with significant gaps in the treatment continuum for patients looking or methadone medication access in Opioid Treatment Programs.

As you can see, most of Central, Eastern and/or rural Washington is 2, 3, or 3+ hours drive time away from an OTP and thus methadone medication for the treatment of OUD.



Given the increased potency of fentanyl, the need to use methadone as the most potent opioid replacement therapy is expected to increase. As OTPs are the only agencies allowed by federal law to treat people

experiencing OUD with methadone, this report has become more relevant. The need to provide standardized, high-quality care in OTPs that meets federal and state requirements has never been more important.

Concerns & Considerations

There was zero dissension of any kind from any of the SURSAC Treatment subcommittee members, when these recommendations were offered in the SURSAC Treatment Subcommittees on August 23, 2022, and September 6, 2022.

Additional Feedback from SURSAC Treatment subcommittee members included:

- If work happens with DOH for OTP rulemaking- To please ensure DOH includes invited stakeholders from geographic regions areas of WA with lower population density, Eastern Washington, rural, tribal nations, etc. This way DOH can ensure decision making is done in a more equitable manner that is inclusive of important stakeholder partners who may be impacted by changes proposed to help their communities.
- Request that one of the SURSAC subcommittees should take up a future a recommendation to find a way to include syringe service programs as a facility setting type that would benefit from protection under RCW as a "essential public facility"
- Request that one of the SURSAC sub committees should take up in the future a recommendation MOUD in jails specific setting recommendation to support increased methadone access in jail settings.
- Request that one of the SURSAC subcommittees should take up in the future a recommendation to address more thoroughly and holistically whole person health needs (physical, mental health, SUD) of individuals in any setting of incarceration (Jails and Prison and JRA settings)

Collaboration with Existing Resources: *How can this recommendation collaborate with existing services / programs / resources?*

- ***Existing state services/programs:***
  - Opioid Treatment Programs are already a behavioral health agency setting type that exists, are clearly defined in state and federal law, and offer both medical and counseling services to patients making them fully in alignment with the state's goals of offering integrated care settings to Washingtonians.
  - Opioid Treatment Programs are existing and insurance reimbursable integrated behavioral health services under Medicaid, Medicare, and all other third-party insurance payers.
  - There are already 32 Opioid Treatment Programs in WA State as of 9/20/22.
  - Opioid treatment program guide (wa.gov)
- ***Interagency involvement:***
  - These recommendations involve changes that would require work from the WA State legislature, WA State Dept. of Health, WA State Health Care Authority, WA State Dept. of Commerce, and WA State DOC to implement. Partners are dependence on the respective recommendations.
- ***Community partners:***
  - Licensed behavioral health agencies that are Opioid Treatment Programs
  - Other entities that can refer to Opioid Treatment Programs, including primary care providers, hospitals, emergency departments, FQHCA, rural health clinics, behavioral health agencies, office based opioid treatment settings, syringe service programs, Hep C/HIV providers, settings that help drug user health locations, etc.
  - There are also currently 5 tribally owned and operated OTP in WA State, the most in the nation, serving both tribal member and non-tribal affiliated patients in their communities.
- ***Related grants or other potential funding sources:***
  - Many of the recommendations are regulatory in nature and do not require funding
  - The recommendations where is funding required could be funded through GSF, opioid settlement funds, and one specific recommendation could also potentially be assisted with use of SABG funds and SOR funds.

Approximate Financial Support & Staffing Needed:

For the OTP Capital construction Costs with Dept. of Commerce recommendation:
As per Opioid Treatment Program Providers:

- As per initial provider feedback: $600,000 up to $1.2 million per OTP to remodel an existing structure and turn into an OTP that could be leased to a provider
- As per initial provider feedback: $1.2 million up to $2.4 million to build from scratch an OTP that would be owned and operated by an OTP provider.
- Dept. of Commerce would need an TBD FTE to help implement
- Dept. of Commerce Financial staff would need to do modeling of whatever final amounts would be requested; variables will differ based on a large number of TBD factors.

For the increasing OTP medication unit proposal with WA Health Care Authority recommendation:

- WA Legislature provided HCA with funds in 2022 to bring up to 5 OTP mobile medication units in the State of WA. Funding to be spent out by Jan 1, 2022.
- Costs covered capital, start up and staffing costs in an ongoing manner. Implementation is in the works at the present time.
- WA HCA would need an TBD FTE to help implement
- HCA FSD staff would need to do modeling of whatever final amounts would be requested; variables will differ based on a large number of TBD factors.

Below is a summary by year of amounts budgeted for the 5 mobile OTP project. They are rounded to nearest 1000.

	General Fund - State	General Fund - Medicaid Federal	Grand Total	General Fund - State	General Fund - Medicaid Federal	Grand Total	General Fund - State	General Fund - Medicaid Federal	Grand Total
Item Title	SFY 2023			SFY 2024			SFY 2025		
Mobile Opioid Treatment Services Totals	**$2,825,000**	**$797,000**	**$3,622,000**	$2,336,000	$1,518,000	**$3,854,000**	$2,336,000	$1,518,000	**$3,854,000**
Admin	$71,000	$71,000	**$142,000**	$66,500	$66,500	**$133,000**	$66,500	$66,500	**$133,000**
Direct provider contracts	$1,135,000	$726,000	**$1,861,000**	$2,269,500	$1,451,500	**$3,721,000**	$2,269,500	$1,451,500	**$3,721,000**
BH-ASO			**$0**			**$0**			**$0**
Start UP	$1,619,000		**$1,619,000**			**$0**			**$0**
Amount to Include (Calculated)	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

SURSA Committee Feedback: