



# Department of Health

ANDREW M. CUOMO  
Governor

HOWARD A. ZUCKER, M.D., J.D.  
Commissioner

SALLY DRESLIN, M.S., R.N.  
Executive Deputy Commissioner

February 13, 2019

Dear Practitioner/Facility/Institution:

This letter is to advise you of an important addition to the Public Health Law affecting many patients who have been prescribed, or may be prescribed, opioids for pain that has lasted more than three months or past the time of normal tissue healing.

Effective April 1, 2018, legislation signed by Governor Cuomo with the 2018-2019 State Fiscal Year Budget amends Public Health Law §3331 by adding subparagraph (8), as follows:

8. No opioids shall be prescribed to a patient initiating or being maintained on opioid treatment for pain which has lasted more than three months or past the time of normal tissue healing, unless the medical record contains a written treatment plan that follows generally accepted national professional or governmental guidelines. The requirements of this paragraph shall not apply in the case of patients who are being treated for cancer that is not in remission, who are in hospice or other end-of-life care, or whose pain is being treated as part of palliative care practices.

In short, a written treatment plan in the patient's medical record is required if a practitioner prescribes opioids for pain that has lasted for more than three months or past the time of normal tissue healing. There are exceptions for patients being treated for:

- cancer that is not in remission
- hospice or other end-of-life care and
- palliative care.

The treatment plan must follow generally accepted national professional or governmental guidelines, and shall include (but is not limited to) the documentation and discussion of the following clinical criteria within the medical record:

- ✓ goals for pain management and functional improvement based on diagnosis, and a discussion on how opioid therapy would be **tapered to lower dosages or tapered and discontinued** if benefits do not outweigh risks;
- ✓ a review with the patient of the risks of and alternatives to opioid treatment; and
- ✓ an evaluation of risk factors for opioid-related harms.

Such documentation and discussion of the above clinical criteria shall be done, at a minimum, on an annual basis.

For an example of a generally accepted national governmental guideline for prescribing opioids for chronic pain from the Centers for Disease Control and Prevention (CDC), visit <https://www.cdc.gov/media/modules/dpk/2016/dpk-pod/rr6501e1er-ebook.pdf>. Thank you for your attention and anticipated compliance with this important new aspect of the Public Health Law.

Very truly yours,

Joshua S. Vinciguerra  
Director  
Bureau of Narcotic Enforcement  
New York State Department of Health