NJATOD

NJ Association for the Treatment of Opioid Dependence

NJATOD MEMBER ORGANIZATIONS

AMERICAN HABITARE & COUNSELING
ARS OF RIO GRANDE
ARS OF SOMERS POINT
BURLINGTON COUNSELING (NBCCC)
CAMDEN TREATMENT ASSOCIATES
CROSSROADS TREATMENT CENTER – TOMS RIVER
EAST ORANGE SATP
HABIT OPCO – CENTRAL JERSEY CTC
INTEGRITY HOUSE
INTERCOUNTY COUNCIL ON D&A
JOHN BROOKS RECOVERY
JSAS HEALTHCARE, INC.
KHALEIDOSCOPE H.P.C. INC.
MORRIS COUNTY AFTERCARE
NEW BRUNSWICK COUNSELING CENTER
NEW HORIZON TREATMENT SERVICES
NORTH EAST LIFE SKILLS
ORGANIZATION FOR RECOVERY
PATERSON COUNSELING CENTER
PINNACLE TREATMENT CENTERS
SOMERSET TREATMENT SERVICES
SOUTH JERSEY DRUG TREATMENT
SPECTRUM HEALTHCARE
SUNRISE CLINICAL SERVICES
THE LENNARD CLINICS
TRENTON TREATMENT CENTER
URBAN TREATMENT ASSOCIATES

September 29, 2025

Governor Phil Murphy
Office of the Governor
P.O. Box 001, Trenton, NJ 08625
Via e-submission: https://www.nj.gov/governor/contact/all/

Stefanie Mozgai
Deputy Commissioner, Health Systems, NJ Department of Health
NJ Department of Health
P.O. Box 360
Trenton, NJ 08625-0360
Via e-mail: stefaniej.mozgai@doh.nj.gov

Justin Rodriguez
Assistant Commissioner
Certificate of Need & Licensing, NJ Department of Health
Division of Certificate of Need & Licensing
P.O. Box 358
Trenton, NJ 08625-0358
Via e-mail: justin.rodriguez@doh.nj.gov

Subject: Petition for Clarification of Counseling Documentation Expectations Under 42 CFR §8.12(f)(1) and §8.12(f)(5)(i)

Dear Governor Murphy, Deputy Commissioner Mozgai, Assistant Commissioner Justin Rodriguez and CN&L Leadership,

We, the undersigned New Jersey Opioid Treatment Programs (OTPs), members of the New Jersey Association for the Treatment of Opioid Dependence (NJATOD), and community advocates/supporters, respectfully petition the NJ Department of Health, Certificate of Need & Licensing (CN&L) to clarify its interpretation and enforcement expectations regarding counseling documentation under 42 CFR §8.12(f)(1) and §8.12(f)(5)(i).

NJATOD
NJ Association for the Treatment of Opioid Dependence

Executive Summary

Recent NJDOH CN&L biennial inspections have conveyed an expectation that OTPs obtain a stand-alone written acknowledgment from new and existing patients that counseling is not required.

We are concerned these directives over-interpret federal standards and depart from New Jersey's recovery-oriented practice. While patients must be informed of their rights and the flexibility introduced by recent rule changes, framing at admission that "counseling is not required," and requiring a separate blanket acknowledgment, risks undermining therapeutic engagement, confusing clinical expectations, and diminishing the value of whole-person care.

Our position: Align with the integrated model of medication with counseling and psychosocial supports. Ensure patients are informed of options and may decline services without jeopardizing access to MOUD—without imposing a new, stand-alone acknowledgment form.

Important to note that OTPs have historically demonstrated compliance through:

1. Individualized treatment plans developed collaboratively with the patient;
2. Progress notes documenting recommendations, patient preferences, and refusals; and
3. Rights advisements at admission and at least annually (informed consent/refusal, expression of choice, withdrawal of consent, and participation in service-team composition).

These practices are explicit CARF (a federally recognized, SAMHSA-approved OTP accrediting body under 42 CFR Part 8) requirements for accredited programs and align with federal intent.

National context: NJATOD has raised this issue with our national association, AATOD. Based on comparative input to date, New Jersey appears to be the only state applying this interpretation requiring a separate written acknowledgement—underscoring the need for timely clarification.

Regulatory Context

42 CFR §8.12(f)(1) states: General. OTPs shall provide adequate medical, counseling, vocational, educational, and other screening, assessment, and treatment services to meet patient needs, with the combination and frequency of services tailored to each individual patient based on an individualized assessment and the patient's care plan that was created after shared decision making between the patient and the clinical team. These services must be available at the primary facility, except where the program sponsor has entered into a documented agreement with a private or public agency, organization, practitioner, or institution to provide these services to

patients enrolled in the OTP. The program sponsor, in any event, must be able to document that these services are fully and reasonably available to patients.

42 CFR §8.12(f)(5)(i) states: OTPs must provide adequate substance use disorder counseling and psychoeducation to each patient as clinically necessary and mutually agreed-upon, including harm reduction education and recovery-oriented counseling. This counseling shall be provided by a program counselor, qualified by education, training, or experience to assess the psychological and sociological background of patients, and engage with patients, to contribute to the appropriate care plan for the patient and to monitor and update patient progress. Patient refusal of counseling shall not preclude them from receiving MOUD.

Neither provision requires a separate, universal acknowledgement form stating that counseling is not required. The federal framework emphasizes availability, offer, informed choice, and documentation within the clinical record.

Concerns with a Stand-Alone Acknowledgement Requirement

- **Extra-regulatory:** Elevates non-regulatory guidance to de facto rulemaking.
- **Clinical risk:** A blanket "counseling is not required" form can chill engagement and undermine therapeutic alliance.
- **Duplicative burden:** Replicates content already captured in individualized plans and progress notes without improving quality.
- **Audit inconsistency:** Creates variability and retroactive citation risk for programs following established, compliant practice.
- **Less patient-centered:** A universal form is less tailored than narrative documentation based on assessment and preference.
- **Out-of-step nationally:** As flagged to AATOD, New Jersey's approach appears unique and creates avoidable confusion.

Requests

We respectfully ask NJ DOH CN&L to:

1. Issue written clarification that §§8.12(f)(1) and 8.12(f)(5)(i) do not require a stand-alone written acknowledgement form.

2. Affirm that compliance may be demonstrated through individualized treatment plans, progress notes (including refusals), and rights advisements at admission and annually, consistent with federal expectations.
3. If CN&L offers a model statement or template, clarify that it is optional, not mandatory.
4. Pause enforcement actions predicated solely on the absence of a stand-alone acknowledgement where records already demonstrate offers, availability, and patient-informed choices.
5. Convene a short-term workgroup (CN&L, NJATOD representatives, OTP licensed programs, and patient representatives) to align audit tools and publish auditor guidance ensuring uniform application.

Optional Model Language (for programs that choose to use it)

Organizations may consider adding to their patient rights documentation: "Counseling and psychoeducation must be provided as clinically necessary and mutually agreed-upon. Refusal of counseling shall not preclude MOUD treatment."

We share CN&L's commitment to high-quality, patient-centered care that integrates medications and psychosocial support. We seek a clear, evidence-based path that honors federal intent, accreditation standards, and long-standing NJ practice without imposing extra-regulatory paperwork that may hinder engagement and that aligns with national practice.

Respectfully,

New Jersey Association for the Treatment of Opioid Dependence (NJATOD)

Cc: Renee C. Burawski, Assistant Commissioner, Division of Mental Health & Addiction Services, NJ Department of Human Services

Adam Bucon, State Opioid Treatment Authority (SOTA), Division of Mental Health & Addiction Services, NJ Department of Human Services

Stephanie Streletz, Executive Director, Division of Certificate of Need & Licensing – Behavioral Health, NJ Department of Health

Latrisha Johnson, Program Manager, Division of Certificate of Need & Licensing – Behavioral Health, NJ Department of Health

NJATOD
NJ Association for the Treatment of Opioid Dependence

In addition to NJATOD's position, **[X] New Jersey clinicians, program leaders, patients, family members, and allies** have signed the attached public petition urging CN&L to clarify that 42 CFR §8.12(f)(1) and §8.12(f)(5)(i) **do not require a separate, stand-alone counseling acknowledgment form**. Their names appear in **Attachment A -** Petition Signatories (Change.org) below.

Attachment A — Public Petition Signatories (Change.org)

Signers supporting clarification that a stand-alone counseling refusal/acknowledgment form is not required under 42 CFR §8.12(f)(1) and §8.12(f)(5)(i).

#	Name	City	State	Postal Code	Signed On
1	Maiysha Ware	Piscataway	NJ	08854	9/18/2025
2	Margaret Rizzo	Neptune	NJ	07753	9/18/2025
3	Anne Bolden	Ocean Township	NJ	07712	9/18/2025
4	Chalynda Maynard	Morris Plains	NJ	07950	9/18/2025
5	Robert Alexander	Chatham	NJ	07928	9/19/2025
6	Debbie Hagler	East Orange	NJ	07017	9/19/2025
7	Carolyn Illge	Passaic	NJ	07055	9/19/2025
8	MARY REIMER	Bridgeton	NJ	08302	9/19/2025
9	Kathy Birch	Asbury Park	NJ	07712	9/19/2025

NJATOD
NJ Association for the Treatment of Opioid Dependence

#	Name	City	State	Postal Code	Signed On
10	Ajibola Alli	Newark	NJ	07114	9/19/2025
11	Robert Budsock	Newark	NJ	07102	9/19/2025
12	Mascuch Christina	Newark	NJ	07104	9/19/2025
13	Jamie Hentschel	Middletown	NJ	07748	9/19/2025
14	Jennifer Keen	Little Egg Harbor	NJ	08087	9/19/2025
15	Diane Villari	Asbury Park	NJ	07712	9/19/2025
16	Dottie Polite	Neptune	NJ	07753	9/19/2025
17	Kristin Gutman	Asbury Park	NJ	07712	9/19/2025
18	Melissa Giovanello	Brick Township	NJ	08724	9/19/2025
19	Jennifer Alley	Sacramento	CA	95831	9/19/2025
20	Tanya Laughinghouse	Newark	NJ	07114	9/19/2025
21	Joel Pomales	Eatontown	NJ	07724	9/19/2025
22	Donna Petrowsky	Waretown	NJ	08758	9/19/2025
23	Al Senella	Tarzana	CA	91356	9/19/2025
24	Dina Aurichio	Branchburg	NJ	08876	9/19/2025

NJATOD
NJ Association for the Treatment of Opioid Dependence

#	Name	City	State	Postal Code	Signed On
25	Takimah Rein	Piscataway	NJ	08854	9/19/2025
26	Jerod Martin	Piscataway	NJ	08854	9/19/2025
27	Betty Adedeji	North Plainfield	NJ	07060	9/20/2025
28	David Ashley	Jersey City	NJ	07305	9/20/2025
29	Anthony Jenkins	Pemberton Township	NJ	08015	9/20/2025
30	David Martinak	Morristown	NJ	07960	9/20/2025
31	Roshonda London	Rahway	NJ	07065	9/20/2025
32	Rosa Dixon	Westampton Township	NJ	08060	9/20/2025
33	Anita Khawaja	Newark	NJ	07114	9/21/2025
34	Suzanne Popper	Belmar	NJ	07719	9/21/2025
35	Lauralee Davis	Bridgewater	NJ	08807	9/21/2025
36	Ken Musgrove	Hopatcong	NJ	07843	9/21/2025
37	Sam K	Metuchen	NJ	08840	9/22/2025
38	Jayne Sowinski RN DON	Asbury Park	NJ	07712	9/22/2025
39	Amanda Kovacs	Flemington	NJ	08822	9/22/2025

NJATOD
NJ Association for the Treatment of Opioid Dependence

#	Name	City	State	Postal Code	Signed On
40	Patricia Nisler	Asbury Park	NJ	07712	9/22/2025
41	Jadielle Wright	Kenilworth	NJ	07033	9/22/2025
42	Debra Wentz	Mercerville	NJ	08619	9/22/2025
43	Sandra Lutomski	E Brunswick	NJ	08816	9/23/2025
44	Kathy Bowen-Fisher	Bridgeton	NJ	08302	9/23/2025
45	Cynthia Holtzman	Hillsborough	NJ	08844	9/23/2025
46	Lisa McConnell	Sewell	NJ	08080	9/23/2025
47	Kysha Underwood	Camden	NJ	08104	9/24/2025
48	Idsamar Diaz	Camden	NJ	08102	9/24/2025
49	Tracy Wrocklage	Asbury Park	NJ	07712	9/25/2025
50	Kimya Wilkins	Dover	NJ	07801	9/25/2025
51	Isa Rivera	Camden	NJ	08104	9/26/2025
52	Christie Hanvey	South Plainfield	NJ	07080	9/26/2025
53	Gloria Seel	Egg Harbor	NJ	08234	9/26/2025

Petition Overview: 53 Signers, 350 Petition views, 82 Petition shares, 5 Promoters