

Behavioral Health FAQs for COMAR 10.63.01-06, Community-Based Behavioral Health Programs and Services

These are the FAQs for COMAR 10.63 which became effective **July 1, 2016**. For most providers that were previously regulated under COMAR 10.21 and 10.47, this shift will require programs to become accredited by one of the approved, national accrediting organizations. This document is organized to follow the sections of the new regulations:

- **10.63.01 Requirements for All Licensed Providers**
- **10.63.02 Programs Required to be Accredited in Order to be Licensed to Provide Community-Based Behavioral Health Services**
- **10.63.03 Descriptions and Criteria for Programs and Services Required to have an Accreditation-Based License**
- **10.63.04 Additional Requirements for Accreditation-Based Licenses for Specific Residential Community-Based Behavioral Health Services**
- **10.63.05 Descriptions and Criteria for Programs Requiring a Non-Accreditation-Based License**
- **10.63.06 Application and Licensure Process**

Effective Dates (see also COMAR 10.63.06.21, Deadlines and Effective Dates of this Chapter)

- All accreditation-based programs must have accreditation from a Department of Health and Mental Hygiene (DHMH) approved accreditation organization and must submit an application for licensure by no later than **January 1, 2018**.
- Programs were allowed to begin submitting applications for licensure as of **October 1, 2016**. The application is posted on the Office of Health Care Quality's (OHCQ) website and may be found at <http://dhmh.maryland.gov/ohcq/Pages/Behavioral-Health-5.aspx>.
- Licenses will be issued by the Office of Health Care Quality (OHCQ) beginning **January/February 2017**.
- The current plan is for the existing Mental Hygiene Administration (MHA) and Alcohol and Drug Abuse Administration (ADAA) community program regulations to be repealed by **April 1, 2018**.
- All programs will be required to have a license under the new BHA 10.63 regulations by no later than **April 1, 2018**.

How Can I Find Information on Regulations and Accreditation

- Provider Alerts are the main vehicle for transmitting information to Maryland behavioral health providers. Every provider is encouraged to sign up for Provider Alerts through Beacon Health Options, the Administrative Services Organization (ASO) for Maryland's Public Behavioral Health System (PBHS). To sign up, an e-mail request may be sent to marylandproviderrelations@beaconhealthoptions.com.

- Information on Maryland's accreditation and regulations changes may be found at://bha.dhmmh.maryland.gov/Pages/Accreditation-Information.aspx.
- Questions related to accreditation and regulations should be directed to bha.regulations@maryland.gov. **Individual BHA program staff should not be contacted with questions.**

Frequently Asked Questions

General Questions

Q: What much will it cost to become accredited?

A: Please visit BHA's Accreditation Webpage for a list of Accreditation Organizations, listed under the Crosswalk Reference Grids. Providers will need to contact each accrediting organization for cost estimates, as these are set independently by each organization and may vary depending on type of services and number of locations.

Q: What programs types will require licensure under COMAR 10.63?

A: Please refer to 10.63.02 and 10.63.05 for lists of programs required to be licensed.

Q: What is the difference between licensure and accreditation based licensure?

A: Most programs will need to be accredited in order to be licensed (see COMAR 10.63.02). There are a few program types that must be licensed but do not require accreditation (See COMAR 10.63.05).

Q: Can existing behavioral health programs apply for re-approval under COMAR 10.21 or re-certification under COMAR 10.47?

A: During this transition year, programs should consult with OHQC regarding continued approval under 10.21 or 10.47.

Q: What accreditation organizations are currently approved by DHMH?

A: The following organizations are the current DHMH approved accreditation organizations:

- The Accreditation Commission for Health Care (ACHC)
- The Commission on Accreditation of Rehabilitation Facilities (CARF)
- The Council on Accreditation (COA)
- The Joint Commission (TJC)

Q: How can organizations identify under which program type they need accreditation based on their current programs?

A: Please refer to the crosswalks posted for each accrediting organization. Crosswalks may be found at //bha.dhmmh.maryland.gov/Pages/Accreditation-Information.aspx.

Q: What is the process to license programs with Deemed Status?

A: Programs currently approved through the deemed status process will apply for licensure under 10.63, rather than renewing their deemed status under COMAR 10.21.16. Under 10.63, the Deemed Status process is no longer necessary.

Q: Does an existing provider need to be accredited after October 1, 2016 to add a service line?

A: These requests are being reviewed on a case-by-case basis. For case by case review, e-mail Stacey Diehl, OHCQ, at stacey.diehl@maryland.gov with a copy to Carol Fenderson at carolm.fenderson@maryland.gov.

Q: Does an existing provider need to be accredited after October 1, 2016 to add a new location or can their existing certification or approval be amended?

A: New locations of programs with existing certifications or approvals can be added through OHCQ.

Q: Is there only a need for one application to be submitted by a provider who will be providing both mental health and substance use disorder services, or would they be required to submit multiple ones based on what services they will be providing?

A: Only one application per site/location will be required.

Q: Are the regulations for 10.63 now active for agencies who are already accredited? Should we begin to follow those regulations?

A: If you are a provider currently certified under COMAR 10.47 or approved under COMAR 10.21, you must continue to follow those regulations until you apply for, and receive a license under COMAR 10.63. If you are currently accredited, you may submit your application to become licensed under COMAR 10.63 at this time. Once you receive the license for COMAR 10.63, you will follow those regulations. All programs must be licensed under COMAR 10.63 by April 1, 2018, even if their license does not expire until after that date.

Questions pertaining to 10.63.01, Requirements for All Licensed Providers

10.63.01.02 Definitions

Q: Does B11 require a board?

A: While the regulations define a board as an oversight/policy making group, there are no requirements in the regulations for a program to have a board. The provider should identify any board requirements under whatever accrediting organization they are working with and determine if their current "advisory" structure meets those requirements, if any.

10.63.01.04 Exempt Providers

Q: What programs are exempt from licensure?

A: An exempt provider means a provider that, under Health-General Article, [§§8-403 and 10-901(c)] § 7.5-401, Annotated Code of Maryland, is not required to be licensed by the Secretary of DHMH to provide services in Maryland. These are specifically listed in 10.63.01.04, Exempt Providers.

10.63.01.05 Requirements for Licensed Community-Based Behavioral Health Programs

Q: Does regulation .05 have any specific staff training requirements?

A: In order to comply with regulations, staff training will be required, although there is not a specific list of training topics in the regulations. However, each of the accrediting organizations will have specific staff training requirements.

10.63.01.05 C Criminal Background Investigations

Q: If someone has had a criminal background check done recently, does the provider need to do another one? What is the timeframe for accepting previously conducted checks?

A: A provider may accept a prior criminal background investigation if it has been performed within the last six months. The provider should verify that the investigation is authentic before relying upon it. It is recommended that follow-up criminal background investigations be conducted on staff at a minimum of every three years. It is BHA's intent amend COMAR 10.63 to clarify this during the next round of amendments.

10.63.01.05 E Agreement to Cooperate

Q: If a jurisdiction has both a CSA and an LAA, which agency should sign the agreement?

A: If program provides both SUD and mental health services and they are located in a jurisdiction that has both a CSA and an LAA, they must have both agencies sign an agreement. If the program only provides mental health services, then the CSA signs the agreement and if the program only provides SUD services, the LAA signs the agreement.

Q: If a program has locations in more than one jurisdiction, which CSA/LAA/LBHA signs the agreement?

A: A program in multiple jurisdictions must obtain a signed agreement from the CSA/LAA/LBHA in each jurisdiction in which they are located.

10.63.01.05 G Critical Incident Reports

Q: Can you provide specific instructions on when a critical incident should be reported.

A: BHA is working to develop a Critical Incident Form and guidance on what constitutes a critical incident.

Questions pertaining to 10.63.02, Programs Required to be Accredited in Order to be Licensed to Provide Community-Based Behavioral Health Services

Questions pertaining to 10.63.03, Descriptions and Criteria for Programs and Services Required to have an Accreditation-Based License

10.63.03.09 Psychiatric Rehabilitation Program for Adults (PRP-A)

Q: Does COMAR 10.63.03.09 require that the rehabilitation specialist be a licensed mental health professional and also be certified by either the Commission on Rehabilitation Counselor Certification or the Psychiatric Rehabilitation Association?

A: No. The Rehabilitation Specialist position must be either a licensed mental health professional, OR a Certified Rehabilitation Counselor certified by Commission on Rehabilitation Counselor Certification, OR a Bachelors prepared Certified Psychiatric Rehabilitation Practitioner certified by the Psychiatric Rehabilitation Association. Please note that this is not a change from what was required under COMAR 10.21.21.

10.63.03.10 Psychiatric Rehabilitation Program for Minors (PRP-M)

Q: Does COMAR 10.63.03.10 state the rehabilitation specialist does not have to be a licensed mental health professional if the rehabilitation specialist has certification from the Psychiatric Rehabilitation Association along with two years of experience?

A: COMAR 10.63.03.10 (PRP for Minors) requires that the program be under the direction of a licensed mental health professional or a person certified by the Psychiatric Rehabilitation Association and who has obtained the Psychiatric Rehab Association's Children's Psychiatric Rehabilitation certificate. This person must also be Bachelors prepared and have a minimum of two years direct care experience working with youth with a serious emotional disorder. Please note that this is not a change from what was required under 10.21.29.

10.63.03.19 B Opioid Treatment Service

Q: Does regulation B allow OTP medical directors to be grandfathered in?

A: OTP medical directors are required to be ABAM, ASAM, or board certified in the psychiatric subspecialty of addiction psychiatry. Grandfathering will not be done. If a program is having difficulty filling a vacant OTP medical director position, a written variance MAY be granted if the program can provide information on steps taken to recruit. A copy of the variance application and instructions may be found at <http://bha.dhmd.maryland.gov/Pages/Forms.aspx>, DHMH #4748.

Q: Please clarify regulation D. Does the 50:1 program ratio vary from the 50:1 patient/counselor ratio?

A: Yes it varies from the current regulations. 10.63.09.19 D shifts to a program averaging concept instead of an individual: counselor ratio.

Questions pertaining to 10.63.04, Additional Requirements for Accreditation-Based Licenses for Specific Residential Community-Based Behavioral Health Services

10.63.04.05 Residential Rehabilitation Program (RRP)

Q: Local hospitals are looking to bring up RRP beds. Is this something that they are legally allowed to do?

A: These requests are being reviewed on a case-by-case basis through the variance process. A variance MAY be approved subject to conditions, including but not limited to the following:

- (1) Fewer than four people occupy each residence.
- (2) The hospital enters into an agreement with the CSA/LAA for quality monitoring, complaint investigation, and residential site inspection;
- (3) Alternative funding is identified; and
- (4) If the program is not in a HSCRC space, the program is accredited; and the program meets all applicable requirements under 10.21.22 and COMAR 10.63.

Questions pertaining to 10.63.05, Descriptions and Criteria for Programs Requiring a Non-Accreditation-Based License

Questions pertaining to 10.63.06, Application and Licensure Process

Q: My current license/certification does not expire until June 2018. Do I still need to apply for a 10.63 license or can I wait until my current one expires?

A: All providers must apply for a license under 10.63 by no later than December 31, 2017 so that OHCQ has time to process applications by April 1, 2018 regardless of when current approval/certification expires.

10.63.06.07, License Modification

Q: My program is already accredited. What do I need to do to add a new service line?

A: For a program licensed under 10.63, the program will need to consult with the accrediting body to obtain the appropriate accreditation status prior to submitting an application modification to OHCQ.

If the program is already accredited but licensed under 10.21 or certified under 10.47, the program will need to contact the OHCQ, as they are reviewing these requests on a case-by-case basis. E-mail Stacey.diehl@maryland.gov with a copy to carolm.fenderson@maryland.gov.