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PROPOSED REGULATION PUBLICATION FORMS

Title 10

MARYLAND DEPARTMENT OF HEALTH

Subtitle 63 COMMUNITY-BASED BEHAVIORAL HEALTH PROGRAMS AND SERVICES

Authority: Health-General Article, §§7.5-204, 8-402, 8-404, [and] 10-901, and 10-1401—1405
Annotated Code of Maryland

10.63.05

Chapter 05 Descriptions and Criteria for Programs Requiring a Non-Accreditation-Based License *or Certificate*

Authority: Health-General Article, §§7.5-204, 8-402, 8-404, and 10-901, Annotated Code of Maryland

.01 Scope.

This chapter sets forth the descriptions of, and the criteria for, community behavioral health programs that are permitted to operate in Maryland so long as they have valid and current non-accreditation-based licenses *or certificate of compliance* under this subtitle. The program shall also meet the requirements of COMAR 10.63.01, 10.63.05—10.63.06.

.02 Requirements for Non-Accreditation Based Licenses.

To operate in Maryland, the programs described in this chapter shall have a valid and current non-accreditation-based license *or certificate* to provide community-based behavioral health services.

.03 Covered Programs.

This chapter applies to the following programs:

A. Substance-Related Disorder Assessment and Referral Program;

- B. DUI Education Program; ~~and~~
- C. Early Intervention Level 0.5 programs; *and*
- D. Recovery Residence program*

.04 Substance-Related Disorder Assessment and Referral Program.

To be licensed under this subtitle, a substance-related disorder assessment and referral program shall:

- A. Be operated by a State or local government entity;
- B. Provide a comprehensive assessment of an individual's current status and relevant history in the following areas:
 - (1) Alcohol, tobacco, and other drug use (ATOD);
 - (2) Employment or financial support;
 - (3) Gambling behavior;
 - (4) ATOD and gambling treatment history;
 - 5) Mental health;
 - (6) Legal involvement;
 - (7) Family and social systems;
 - (8) Educational involvement; and
 - (9) Somatic health, including a review of medication;
- C. Diagnose behavioral health disorders;
- D. Determine type and intensity of services needed for behavioral health disorders;
- E. Refer to behavioral health services programs and other services as determined by assessment with appropriate follow-up; and
- F. Have clinical staff authorized under the Health Occupations Article to provide the service.

10.63.05.05 (June 7, 2024)

.05 DUI Education Program.

To be licensed under this subtitle, a DUI education program shall:

- A. Provide services to individuals convicted under Transportation Article, §21-902, Annotated Code of Maryland, and ordered under Criminal Procedure Article, §6-219, to attend an education program;

B. Provide a comprehensive assessment, unless the participant has received an assessment by a licensed or certified clinician, or licensed program within the preceding 45 days, of a participant's current status and relevant history in the following areas:

- (1) Alcohol, tobacco, and other drug use (ATOD);
- (2) Employment or financial support;
- (3) Gambling behavior;
- (4) ATOD and gambling treatment history;
- (5) Mental health;
- (6) Legal involvement;
- (7) Family and social systems;
- (8) Educational involvement; and
- (9) Somatic health, including a review of medications;

C. If the assessment determines that referral to a treatment program or other indicated service is necessary, make the referral and notify the court of the results of the assessment;

D. Require participants to successfully complete, at a minimum, six weekly, two-hour sessions for a total of 12 hours[;], *as documented by attendance records signed by participant;*

E. Have instructors who, at a minimum, are certified as a Certified Supervised Counselor—Alcohol and Drug, as defined by Health Occupations Article, Title 17, Annotated Code of Maryland;

F. ~~Teach the Administration's curriculum or an equivalent curriculum approved by the Department, which covers:] Teach a curriculum, that shall be submitted to, and~~ approved by the Department, which covers:

- (1) Scope of the drinking-driver problem;

- (2) Drinking driver patterns and characteristics;
- (3) The pharmacology of drugs and alcohol;
- (4) The process of addiction to drugs and alcohol;
- (5) The relationship of substance use to criminal, health, family, and other social problems; and
- (6) Treatment resources; [and]

G. Report to the court or probation agent, as specified by the court order[.];

H. The Administration will place the criteria by which online DUI Education programs are evaluated for licensure eligibility on its website;

I. Online programs may be approved as DUI Education programs if they meet the following requirements:

(1) The program shall:

(a) Meet all the conditions outlined in COMAR 10.63 for the operation of a DUI Education program.

(b) Conduct an initial meeting with the client, in-person, face to face in which photographic identification and signed authorization for service is obtained;

(c) Require participant response;

(d) Have the ability to test the participant's knowledge and ensure participation;

(e) Be fully secure, meeting, at minimum HIPAA Security and CFR 42 Part 2 requirements;

(f) Verify participant identity and response;

(g) Offer the opportunity for participants to ask questions which will be answered by qualified program instructors;

(h) Have a mechanism to verify participation and monitor participant progress;

(i) Have program staff present at the licensed address during the stated hours of business or

hours of operation;

(j) Have an office located in Maryland, staffed during regular business hours, at which compliance materials may be reviewed, and at which participants may, if necessary, meet with the program staff.

.06 Early Intervention Level 0.5 Program.

To be licensed under this subtitle, an early intervention level 0.5 program shall:

A. Provide services to individuals:

- (1) Who meet the ASAM Criteria for level .05;
- (2) For whom a diagnosable substance-related disorder is not documented; and
- (3) Who are, for a known reason, at risk for developing a substance-related disorder;

B. Provide a comprehensive assessment, unless the participant has received an assessment by a licensed or certified clinician or licensed program within the preceding 45 days, of the participant's current status and relevant history in the following areas:

- (1) ATOD use;
- (2) Employment or financial support;
- (3) Gambling behavior;
- (4) ATOD and gambling treatment history;
- (5) Mental health;
- (6) Legal involvement;
- (7) Family and social systems;
- (8) Educational involvement; and
- (9) Somatic health, including a review of medications;

C. If the assessment determines that referral to a treatment program or other service is necessary,

make a referral to a treatment program or other service as indicated; and

D. Provide alcohol and drug education services.

.07 Recovery Residence Program. (new)

A. To be certified under this subtitle, a recovery residence program:

(1) Shall be certified by the credentialing entity designated by the Department if the residence:

(a) Receives State funds from the Department;

(b) Receives federal funds from the Department;

(c) Operates any programs licensed by the Behavioral Health Administration;

(d) Operates any certified Recovery Residences;

(e) Purports by any of the following to operate as a certified recovery residence:

(i) Advertisement by any individual, partnership, corporation, or other entity as being a certified recovery residence;

(ii) Representation by any individual, partnership, corporation, or other entity as being a certified recovery residence; or

(iii) Any implication to the public to be a certified recovery residence.

(2) Have a separate certificate for each residence that is subject to certification pursuant to §A1 of this regulation.

(3) Previously certified may, at the discretion of the Administration, continue to receive State or federal funds from the Department following discontinuation of the recovery residence's certified status if the:

(a) Residence submits a written plan to the Administration as required by Regulation .11A of this chapter;

(b) Residence submits a specific request to the Administration for an individual to continue to receive funding; and

(c) Administration approves the request for that individual.

B. Application Process for Certification of Recovery Residences.

1. An applicant for a specified certificate of compliance for a recovery residence shall submit an application to the credentialing entity designated by the Department that:

(a) Is on the written or electronic form approved by the Administration;

(b) Contains full, complete, and accurate information;

(c) Is specific to each residence that is subject to certification pursuant to Regulation .03A of this chapter;

(d) Includes, as applicable, the following written documentation or verification:

(i) That the residence is or will be owned or leased by the applicant;

(ii) Of written permission from the property owner of record, if other than the applicant, to operate a recovery residence on the owner's property;

(iii) Of fire, liability, and hazard insurance coverage on the building in which the residence is located;

(iv) Of the type of legal business entity that has been established by the applicant with the Maryland Department of Assessment and Taxation;

(v) Of completion of a safety self-inspection and assessment on the form approved by the Administration; and

(vi) For a renewal certificate of compliance, of completion by staff members and the owner or operator of trainings mandated by the Administration;

(vii) Includes written documentation if available or an attestation of compliance with relevant federal, State, or local statutes, ordinances, laws, regulations, codes, and orders, including but not limited to:

(aa) Health and safety;

(bb) Building and occupancy;

(cc) Fire codes, if required for occupancy; and

(dd) Zoning requirements; and

(e) Includes a copy of all applicable program materials, including the following:

(i) A manual containing, at a minimum, policies and procedures as specified by the Administration and consistent with the NARR 2018 quality standards or their successor;

(ii) An up-to-date organizational chart;

(iii) A written mission statement that is congruent with the NARR 2018 quality standards or their successor;

(iv) A written vision statement that is congruent with the NARR 2018 quality standards or their successor;

(v) A detailed and specific description of the level of services and recovery supports provided;

(vi) Marketing and promotional materials;

(vii) Detailed job descriptions or scopes of work for each staff member;

(viii) A sample weekly staff and program schedule;

(ix) A resident orientation handbook containing elements as specified by the Department and consistent with the NARR 2018 quality standards or their successor;

(x) A sample resident service agreement for the payment and collection of fees, charges, or rents associated with the recovery residence that, at a minimum, specifies:

(aa) Terms of occupancy;

(bb) Financial obligations, including any fees, charges, or rents that may accrue to the resident and the process, time frame, and requirements for the collection of such obligations;

(cc) Financial deposits that may be collected, if any, and the time frame, process, and requirements for the return of such deposits;

(dd) Any circumstances under which the resident may be entitled to a refund of any amount for financial obligations collected by the recovery residence, if applicable; and

(ee) Any prohibitions consistent with Regulation .08K;

(xi) An emergency preparedness plan that, at a minimum, includes:

(aa) Emergency contact numbers;

(bb) An evacuation plan and map;

(cc) An emergency relocation plan that specifies where residents may live temporarily; and

(dd) A continuity of operations plan; and

(xii) If applicable, any forms, documents, and guides used to facilitate each resident's self-directed development of an individualized recovery plan; and

(xiii) Any other information considered necessary and requested by the Administration.

10.63.05.07 (new 10.63.05.08) Requirements for Programs Requiring Non-Accreditation-Based Licenses or Certificates.

A. The provisions of this regulation apply to a program with a community-based behavioral health license that does not require accreditation.

B. Participant Rights.

(1) A program shall:

(a) Treat each participant with consideration, respect, and full recognition of the participant's human dignity and individuality;

(b) Provide care and services that are adequate, appropriate, and in compliance with relevant State, local, and federal laws and regulations;

(c) Prohibit physical or mental abuse by the program staff;

- (d) Provide an atmosphere free from discrimination;
- (e) Prohibit use of any physical restraints;
- (f) Ensure privacy and confidentiality; and
- (g) Permit the participant to refuse to participate in any research.

(2) A program shall post in a conspicuous area and provide to each participant a statement of participants' rights.

C. Grievance Procedures. A program shall:

(1) Provide the participant on admission with a description of the program's grievance policy and procedures, which shall include the:

(a) Participant's right to grieve program decisions, including but not limited to:

(i) Discharge; and

(ii) Change in status or services;

(b) Steps of the grievance process; and

(c) Levels to which the grievance may be taken;

(2) Take no retaliation against a participant who presents a grievance; and

(3) Inform each participant if revisions are made to the grievance policy and the nature and extent of the revisions.

D. Nondiscrimination. A program may not discriminate in the provision of services on the basis of race, creed, color, age, gender, sexual orientation, gender identity, national origin, marital status, disabilities, and any other classification prohibited under State or federal law, including:

(1) Americans with Disabilities Act, 42 U.S.C §12101 et seq.; and

(2) Fair Housing Act, 42 U.S.C. §3604

