

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

**10.63.01 Requirements for All Licensed *and Certified* Programs**

**10.63.01.01 Scope.**

This chapter sets forth the definitions for this subtitle and the requirement that a program be licensed *or certified* to provide community behavioral health treatment, care, or rehabilitation services.

**Repeal 10.63.01.02 Definitions**

***NEW COMAR 10.63.01.02 Definitions.***

*A. In this subtitle, the following terms have the meanings indicated.*

*B. Terms Defined.*

- (1) “Accreditation” means the approval granted by an approved accreditation organization*
- (2) “Accreditation-based license” means a license issued in accordance with COMAR 10.63.02.*
- (3) “Active monthly census” means the count of unique individuals who have received services from a program in a given calendar month.*

- (4) *"Active treatment" means psychiatric services which involve the implementation of a professionally developed and supervised individual treatment plan.*
- (5) *"Addictive disorder" means a chronic disorder of the brain's reward-activation system as defined in Health-General Article, §7.5-101, Annotated Code of Maryland.*
- (6) *"Administration" means the Behavioral Health Administration.*
- (7) *Administrative Services Organization.*
- (a) *"Administrative services organization (ASO)" means an organization with which the Department contracts to assist in the management of behavioral health services.*
- (b) *"Administrative services organization" does not mean an organization that directly provides health care services to waiver-eligible individuals.*
- (8) *"Agency" means provider.*
- (9) *"Agency-sponsored employment" means an employment arrangement in which a recipient of supported employment services is employed by a facility, entity, subsidiary, affiliate, or contract site that is owned, operated, or managed by the supported employment program or by its parent or umbrella organization in which the recipient receives services.*
- (10) *"Agreement to cooperate" means a written agreement, on a form designated by the Department, between the program and a core service agency, local addictions authority, or local behavioral health authority that provides for coordination and cooperation in carrying out behavioral health activities in a given jurisdiction.*
- (11) *"American Society of Addiction Medicine (ASAM) Criteria" means the instrument designed by ASAM selected for use by the Department to determine placement guidelines for admission, continued stay, transfer, and discharge of individuals with:*
- (a) *A substance-related disorder;*

*(b) An addictive disorder; or*

*(c) Co-occurring disorders.*

*(12) “Applicant” means the owner or other legally authorized individual submitting an application for licensure under this chapter.*

*(13) “Approved accreditation organization” means an entity approved by the Secretary or the Secretary’s designee, under Health-General Article, §19-2302, Annotated Code of Maryland.*

*(14) “Assessment” means the process of determining the behavioral health needs of an individual seeking behavioral health services.*

*(15) “Attestation” means a sworn statement on the form approved by the Department that affirms under penalty of perjury the applicant’s compliance with certain, specified requirements of this chapter.*

*(16) “Behavioral health program” means:*

*(a) A substance-related disorders program;*

*(b) A mental health disorders program;*

*(c) An addictive disorders program; or*

*(d) A program that consists of a combination of §B(15)(a)—(c) of this regulation.*

*(17) “Behavioral health professional” means:*

*(a) A licensed mental health professional; or*

*(b) An individual licensed or certified to treat substance use disorders.*

*(18) “Board” means the executive authority and policy-making group that oversees the operation of a behavioral health program.*

*(19) “Campus setting” means the physical area:*

*(a) Adjacent to the provider's main buildings with other areas and structures that are not*

*contiguous to the main buildings but are located within 250 yards of the main buildings;*

*(b) Located on two floors in a single building; or*

*(c) Specifically approved by the Department.*

*(20) “Care coordination” means the act or practice of organizing participant care-related activities among all the providers and parties concerned with a participant’s care in an effort to achieve safer and more effective care.*

*(21) “Case management” means the services designed to assist an individual in gaining access to needed financial, educational, social, medical, behavioral health, and other services.*

*(22) “Certificate of compliance” means a certificate that is issued by the Maryland Certification of Recovery Residences (MCOOR) or its successor organizations approved by the Department, under Health-General Article 19-2502, Annotated Code of Maryland, to develop and administer a certification process for recovery residences.*

*(23) “Certification” means, unless otherwise specifically stated, the authorization issued by the former Maryland Alcohol and Drug Abuse Administration permitting substance-related disorder treatment programs to operate in Maryland.*

*(24) “Certified recovery residence” means a recovery residence that holds a current, valid certificate of compliance.*

*(25) “Clinical Director” means the individual responsible for providing clinical oversight and direction to a program.*

*(26) “Clinical Addictions Supervisor” means the individual responsible for providing clinical supervision to addiction treatment staff in accordance with COMAR 10.63.02.*

*(27) “Community-based” means the setting of a program that is not located in a hospital, as defined in Health-General Article, §19-301, Annotated Code of Maryland.*

*(28) “Competitive integrated employment” means work that is performed on a full-time or part-time basis for which an individual is:*

*(a) Compensated at or above minimum wage and comparable to the customary rate paid by the employer to employees without disabilities performing similar duties and with similar training and experience;*

*(b) Receiving the same level of benefits provided to other employees without disabilities in similar positions;*

*(c) At a location where the employee interacts with other individuals without disabilities; and*

*(d) Presented opportunities for advancement similar to other employees without disabilities in similar positions.*

*(29) “Completed application” means an application for licensure that:*

*(a) All questions on the application form are answered;*

*(b) All necessary documents are included; and*

*(c) The application form has been signed by the applicant.*

*(30) “Consultant” means a professional who:*

*(a) Is not a salaried employee of the program;*

*(b) Provides advice in the professional’s area of expertise;*

*(c) Is a contractor if paid; or*

*(d) Is a volunteer if not paid.*

*(28) “Continuum of care” means a regional or local planning body coordinating housing and services funding for families and individuals experiencing homelessness within its geographically defined service area.*

*(31) “Core service agency (CSA)” means the designated county or multicounty authority that is*

*responsible for planning, managing, and monitoring publicly funded mental health services.*

*(32) Correctional Facility.*

*(a) “Correctional facility” means an institution overseen by the State or one of the 24 subdivisions where individuals are incarcerated.*

*(b) “Correctional facility” includes a:*

*(i) Jail;*

*(ii) Detention center;*

*(iii) Prison; or*

*(iv) Correctional halfway house.*

*(33) “Credentialing entity” means a nonprofit organization or State agency that develops and administers professional certification programs according to nationally recognized certification standards.*

*(34) “Critical incident” means any of the following:*

*(a) Death of a program participant;*

*(b) Life-threatening injury to a program participant, or injury resulting from interpersonal violence;*

*(c) Non-consensual sexual activity;*

*(d) Any sexual activity between a staff member and a program participant;*

*(e) Unexpected evacuation of a building under circumstances that threaten the life, health or safety of program participants;*

*(f) Diversion of medication from the stock of a program providing opioid treatment services;*

*(g) Any injury related to an opioid medication dispensed by a program providing opioid treatment services;*

- (h) Any non-fatal overdose;*
- (i) Any theft or unexplained loss of medications by a program that administers, dispenses, monitors, or stores medication;*
- (j) Any medication error by a program that administers, dispenses, monitors, or stores medication that requires medical intervention;*
- (k) The disappearance or elopement from a residential program that is licensed or approved by the Department as a residence of a child, vulnerable adult, or adult with a behavioral health or somatic condition that, if left unattended or untreated, would be life-threatening;*
- (l) Suspected or alleged abuse, neglect, or exploitation of a program participant;*
- (m) A disease or condition listed in the List of Reportable Diseases or Conditions, as set forth in COMAR 10.06.01.03;*
- (n) A violation of an order of conditional release from a State psychiatric facility by a resident of a residential program that is licensed or approved by the Department;*
- (o) Any suicide attempt by a program participant;*
- (p) Any credible threat by a program participant assessed to represent a serious risk to staff, other program participants, targeted individuals, or the general public; or*
- (q) Any other serious incident not classifiable under §B(32)(a)—(q) of this regulation.*
- (35) “Culturally and linguistically appropriate services” means effective, equitable, understandable, and respectful quality care, services, and support.*
- (36) "Cultural and linguistic competency" means cultural and linguistic abilities as defined in Health-General Article, §20-1301, Annotated Code of Maryland.*
- (37) “Deficiency” means a failure to meet an accreditation **or certification** standard, or a relevant federal, State, or local ordinance, law, regulation, or building code, as applicable.*

(38) *“Demonstration project” means an experimental project that, if deemed successful, will be considered for future adoption.*

(39) *“Department” means the Maryland Department of Health.*

(40) *“Designated credentialing entity” means the credentialing entity approved by the Department to:*

*(a) Establish recovery residence and other program certification requirements;*

*(b) Establish processes to administer the application, certification, and recertification process;*

*(c) Establish processes to monitor and inspect a recovery residence and other certified programs;*

*(d) Conduct an on-site inspection of a recovery residence and other certified programs:*

*(i) Before issuing a certificate of compliance; and*

*(ii) At least once during each certification renewal period; and*

*(e) Issue a certificate of compliance on approval of the application process and the inspection of the recovery residence and other certified programs.*

(41) *“Designated licensing unit” means the office within the Department that is designated by the Secretary to:*

*(a) Evaluate applications for licenses to provide behavioral health and other health-related services in Maryland;*

*(b) Issue licenses to provide the services;*

*(c) Investigate allegations of deficient services; and*

*(d) Impose sanctions for deficiencies in service.*

(42) *“Designee” means any entity designated to act on behalf of the Department.*

(43) *“Directed plan of correction” means the program’s plan of correction, as defined in this subtitle that is mandated by the Department.*

(44) *“Discharge” means the release of a participant from a program.*

(45) *“Drug” means a:*



*(a) Controlled dangerous substance that is regulated under the Maryland Controlled Dangerous Substances Act, Criminal Law Article, §§5-101—5-1101, Annotated Code of Maryland;*

*(b) Prescription medication; or*

*(c) Chemical substance when used for unintended and harmful purposes.*

*(46) “Evidence-based practice (EBP)” means replicable interventions proven by scientific research to reliably produce a set of standardized interventions, when implemented in accordance with established fidelity standards, in achieving defined, measurable outcomes for the targeted population for which the practice is intended.*

*(47) “Evidence-based practice provider” means a self-contained team within a program licensed under this subtitle that has been designated by the Administration as an evidence-based practice provider, at the team level, and which team has been determined by the Administration or its designee to have met the established EBP fidelity standards.*

*(48) “Exempt provider” means a provider that, under Health-General Article, §7.5-401, Annotated Code of Maryland, is not required to be licensed by the Secretary to provide services in Maryland.*

*(49) “Family provided support services” means a set of non-clinical activities provided by family members as defined in Health-General Article, §7.5-101, Annotated Code of Maryland.*

*(50) “Fidelity standards” means standardized, objective criteria approved by the Department by which adherence to the defining principles and practices of a specific evidence-based practice is assessed and evaluated.*

*(51 Good standing” means the status assigned to a recovery residence applicant that:*

*(a) Has remained current in the submission of all documents and payment of all fees, as required by law, to the Maryland Department of Assessments and Taxation;*

*(b) Is in compliance with all:*

*(i) Federal, State, and local laws, ordinances, regulations, codes, and orders; and*

*(ii) Department and Administration policies; and*

*(c) Is not subject to any form of sanctions, suspensions or disciplinary actions from the Department and Administration, and, if applicable:*

*(i) Has fully and satisfactorily remediated any identified deficiencies with respect to the NARR 2018 quality standards or their successor; or*

*(ii) Has demonstrated a good faith effort to remediate the identified deficiencies with respect to the NARR 2018 quality standards or their successor and is operating in accordance with a plan of correction approved by the designated credentialing entity or the Administration.*

*(52) "Grandfathering certification" means a one-time only certificate of compliance that:*

*(a) Is issued to a recovery residence certificate applicant that has fully satisfied the conditions for membership in the Maryland State Association of Recovery Residences (MSARR) organization; and*

*(b) Expires 1 year from its date of issuance.*

*(53) "Group home" means a residential program as defined in Health-General Article, §10-514, Annotated Code of Maryland.*

*(54) "Group practice" means a group of two or more health care practitioners legally organized as a partnership, professional corporation, limited liability company, foundation, not-for-profit corporation, faculty practice plan, or similar association as defined in Health Occupations*

*Article, §1-301, Annotated Code of Maryland.*

*(55) “Group Psychiatric Rehabilitation Services (PRP)” means services offered simultaneously to more than 1 individual and excludes services offered to less than 4 individuals within the context of a licensed residential rehabilitation or licensed permanent supported living residence.*

*(56) “Guardian” has the meaning stated in Estates and Trusts Article, §13-101, Annotated Code of Maryland.*

*(57) “Halfway house” means a clinically managed, low-intensity residential treatment service for individuals with substance-related disorders who are capable of self-care but are not ready to return to independent living and meets the requirements of small or large halfway houses in Health-General Article, §8-406, Annotated Code of Maryland.*

*(57) “Health professional” means an individual who is:*

*(a) Licensed under Health Occupations Article, Annotated Code of Maryland; and*

*(b) Providing mental health or substance-related disorder services according to the requirements of the appropriate professional board.*

*(58) Independent Practice Level.*

*(a) “Independent practice level” means a mental health professional licensed under the Health Occupations Article and who is providing mental health services according to the requirements of the appropriate professional board to diagnose and treat mental health disorders, and to operate independent of formal supervision.*

*(b) “Independent practice level” does not include:*

*(i) Licensed graduate professional counselor (LGPC);*

*(ii) Licensed graduate marriage and family therapist(LGMFT);*

*(iii) Licensed graduate art therapist (LGPAT);*

*(iv) Licensed graduate alcohol and drug counselor (LGADC);*

*(v) Licensed master social worker (LMSW);*

*(vi) Licensed certified social worker (LCSW); or*

*(vii) Registered psychology associate.*

*(59) “Informed choice” means the decision of the individual after having considered the full range of available options based on adequate, accurate, and objective information and knowledge.*

*(60) “Initial certification” means a certificate of compliance issued to an applicant for a new recovery residence certificate, pursuant to Regulation .06C of this chapter.*

*(61) In-person.*

*(a) “In-person” means physical face-to-face presence.*

*(b) “In-person” does not include presence by telehealth or audio.*

*(62) “Instrumental activities of daily living” means activities related to living independently as provided in Estates and Trusts Article, §13-601, Annotated Code of Maryland.*

*(63) “Intern” means an individual who is:*

*(a) Pursuing a degree at an accredited college or university toward state licensure as a behavioral health professional;*

*(b) Delivering services or performing work as part of a formal supervised fieldwork placement through an accredited college or university;*

*(c) Complying with professional licensing laws, including supervision requirements; and*

*(d) Appropriately screened and oriented to the program’s policies and procedures.*

*(64) “In Vivo” means naturally occurring everyday situations in the individual’s life at home or*

*in the community that present an in-the-moment opportunity for the individual to acquire or practice skills, as contrasted with artificial settings in which skills are taught, practiced, or discussed through role plays, simulated experiences, or passive group activities.*

*(65) “Jurisdiction” means Baltimore City or one of the 23 counties in Maryland.*

*(66) “Key staff” means the staff in a position of executive or managerial responsibility whose performance affects the viability of the business.*

*(67) “Level I recovery residence” means a peer-run recovery residence that:*

*(a) Provides a shared living environment;*

*(b) Does not employ staff; and*

*(c) Offers self-help and house meetings as recovery supports.*

*(68) “Level II recovery residence” means a staff-monitored recovery residence that:*

*(a) Has a house manager to provide oversight of the residence;*

*(b) Provides a structured, shared living environment; and*

*(c) Offers self-help, house meetings, peer run groups, and referral to community resources as recovery supports.*

*(69) “Level III recovery residence” means a staff-supervised recovery residence that:*

*(a) Has an organizational hierarchy that provides administrative oversight of the residence, staff, and operations;*

*(b) Provides a highly structured environment for residential support and stability;*

*(c) Employs a facility manager and at least one case manager; and*

*(d) Offers a life skills development curriculum and recovery supports on-site.*

*(70) “Level IV recovery residence” means a recovery residence operated by a provider that is certified or licensed by the Department to deliver behavioral health services and that:*

*(a) Has an organizational hierarchy that provides administrative and clinical oversight of the residence, staff, operations, and services;*

*(b) Provides a highly structured and supervised environment for clinical stability and residential support;*

*(c) Employs licensed or certified staff who are located on-site at the residence; and*

*(d) Offers clinical treatment and recovery support services on-site at the residence or in conjunction with the certified or licensed provider operating the residence.*

*(71) “License” means the authorization issued by the Secretary or designee that permits a behavioral health provider to operate in Maryland.*

*(72) “Licensed mental health professional” means a:*

*(a) Psychiatrist;*

*(b) Licensed psychologist;*

*(c) Psychiatric nurse practitioner (CRNP-PMH);*

*(d) Clinical nurse specialist in psychiatric and mental health nursing (APRN-PMH);*

*(e) Licensed certified social worker-clinical (LCSW-C);*

*(f) Licensed clinical alcohol and drug counselor (LCADC);*

*(g) Licensed clinical marriage and family therapist (LCMFT);*

*(h) Licensed clinical professional art therapist (LCPAT);*

*(i) Licensed clinical professional counselor (LCPC); or*

*(j) Properly supervised:*

*(i) Licensed master social worker (LMSW);*

*(ii) Licensed graduate alcohol and drug counselor (LGADC);*

*(iii) Licensed graduate marriage and family therapist (LGMFT);*

*(iv) Licensed graduate professional art therapist (LGPAT);*

*(v) Licensed graduate professional counselor (LGPC);*

*(vi) Licensed certified social worker (LCSW); or*

*(vii) Registered psychology associate.*

*(73) “Local addictions authority (LAA)” means the designated county or multicounty authority that is responsible for planning, managing, and monitoring publicly funded substance-related and addictive disorder services.*

*(74) “Local behavioral health authority (LBHA)” means the designated county or multicounty authority that is responsible for planning, managing, and monitoring publicly funded mental health, substance-related, and addictive disorder services.*

*(75) “Maintenance” means medically supervised continuation of the administration of methadone, buprenorphine, naltrexone, or other drugs approved by the Administration.*

*(76) “Maryland State Association of Recovery Residences (MSARR)” means the Statewide membership organization that, before the effective date of this regulation, collected annual membership dues and fees, performed annual and ad hoc housing inspections, and granted membership to recovery residences that met certain quality standards.*

*(77) “Medical director” means a:*

*(a) Physician who oversees the medical practice of a program;*

*(b) Psychiatrist or psychiatric nurse practitioner who oversees an outpatient mental health center; or*

*(c) Psychiatrist who oversees a Behavioral Health Crisis Stabilization Center.*

*(66) “Medication administration” means the giving or application of a pharmacological or therapeutic agent by an individual licensed to administer medication under Health Occupations Article, §8-6A-02, Annotated Code of Maryland.*

*(78) "Medication monitoring" means:*

*(a) Providing in-person assistance to an individual to achieve compliance with treatment with all prescribed psychiatric or somatic medications;*

*(b) Review an individual's existing medication regimen with the prescribing authority;*

*(c) Supporting the individual's self-administration of prescribed medication;*

*(d) Reading the medication label to ensure that each container of medication is clearly labeled with the individual's name, the contents, directions for use, and expiration date;*

*(e) Monitoring compliance with instructions appearing on the medication label;*

*(f) Ensuring that each individual has secure, appropriate, and accessible space in which to store medications;*

*(g) Observing and documenting any apparent reactions to medication and, either verbally or in writing, and, in a timely fashion, communicating to the prescribing authority any problems that possibly may be related to the medication; and*

*(h) Reinforcing, with the individual, education on the role and effects of medication in symptom management.*

*(79) “Medications for Opioid Use Disorder (MOUD)” means the use of medications, in*



*combination with counseling and behavioral therapies as defined in Health General Article, §21-2A-01, Annotated Code of Maryland.*

*(80) “Multidisciplinary” means a mix of representatives from at least three different mental health professions licensed in accordance with the Health Occupations Article.*

*(81) “National Alliance for Recovery Residences (NARR)” means the nonprofit recovery community organization that establishes and promulgates national quality standards for recovery residences.*

*(82) “Non-accreditation-based license” means a license that may be issued or received without the provider being accredited by an approved accreditation organization.*

*(83) “On-site” means a licensed program physical location, exclusive of a licensed group home, which is used in the context of on-site psychiatric rehabilitation program services or an outpatient mental health center.*

*(84) “Organization” means a legal entity under which programs and services operate.*

*(85) “Participant” means an individual receiving care, treatment, or services in a community behavioral health program.*

*(86) “Peer support services” means a set of non-clinical activities provided by individuals in recovery from mental health, substance-related, or addictive disorders as defined in Health-General Article, §7.5-101, Annotated Code of Maryland.*

*(87) “Person-centered care planning” means a well-defined, multidimensional approach that provides a conceptual and operational framework within which participants partner with providers to direct their own care through developing a plan rooted in the participant’s strengths, resources, and values, while taking into consideration barriers related to the participant’s behavioral health condition that impede the attainment of the participant’s life goals, all the*

*while meeting the requirements of medical necessity.*

*(88) “Physician” means an individual who is licensed and legally authorized to practice medicine:*

*(a) Under Health Occupations Article, §14-101, Annotated Code of Maryland; or*

*(b) In the state where the service is given.*

*(89) “Pilot project” means an experimental project that, if deemed successful, will be adopted as a permanent policy or program.*

*(90) “Plan of correction” means a program improvement plan, corrective action plan or other plan containing a program’s proposed response to findings of deficiency identified by the ~~Department’s designated licensing unit administration~~ or the Department.*

*(91) “Pre-placement” means:*

*(a) Comprehensive, person-centered, work-based assessment of the individual’s employment interests, preferences, skills, resources, and needs;*

*(b) Referral and application to the Division of Rehabilitation Services (DORS);*

*(c) Public benefits, entitlements, and work incentives education; and*

*(d) Discussion of informed choice particularly the risks and benefits of disclosing their disability.*

*(92) “Program” means the site and service combination which is recognized through licensure to offer an organized system of activities performed for the benefit of persons served.*

*(93) “Program director” means the individual who has overall responsibility for implementing the program’s day-to-day activities, including staff, records, policies, and procedures.*

*(94) “Provider” means:*

*(a) An individual, association, partnership, corporation, unincorporated group, or any other person authorized, licensed, or certified to provide services for program recipients; and*

*(b) The Department identifies as a program provider by the issuance of a license.*

*(95) “Provisional certification” means a certificate of compliance effective for a specific length of time not to exceed 6 months, issued to an applicant for a recovery residence certificate.*

*(96) “Psychiatrist” means a physician who is:*

*(a) Licensed by the Maryland Board of Physicians; and*

*(b) Either:*

*(i) Certified in psychiatry by the American Board of Psychiatry and Neurology; or*

*(ii) Has completed the minimum educational and training requirements to be qualified to take the Board of Psychiatry and Neurology examination for certification in psychiatry regardless of whether the examination eligibility window has expired.*

*(97) “Public Behavioral Health System (PBHS)” means the system that provides medically necessary behavioral health services, including mental health and substance use disorder services, for Medical Assistance participants and certain other uninsured individuals.*

*(98) “Recovery residence” means a service that provides alcohol-free and illicit drug-free housing to individuals with substance-related disorders or addictive disorders or co-occurring mental health and substance-related disorders or addictive disorders, and that may only include clinical treatment services when specifically licensed to provide such services.*

*(99) “Recovery supports” means the synergistic constellation of resources, activities, and relationships that:*

*(a) Fosters an individual’s engagement in the recovery process;*

*(b) Reduces the risk of relapse; and*

*(c) Facilitates the development of a sustainable recovery lifestyle and support network.*

*(100) “Referral” means a contact made by an individual, or on behalf of an individual, for behavioral health, **recovery support services**, or other services.*

*(101) “Regulated space” means the designated area in a hospital setting that is subject to reimbursement through the Health Services Cost Review Commission (HSCRC) and not through the Public Behavioral Health System (PBHS).*

*(102) “Remuneration” means the total compensation received by an employee from an employer, including, but not limited to:*

*(a) Bonuses;*

*(b) Commission payments;*

*(c) Reduced rent; or*

*(d) Stipends for referrals.*

*(103) “Renewal certification” means a certificate of compliance issued to an applicant for an existing certified recovery residence.*

*(104) “Required management staff” means mandated supervisory or management staff.*

*(105) “Required staff” means staff required to provide behavioral health services.*

*(106) “Resident” means an individual who resides in a community-based residential behavioral health program.*

*(107) “Residential rehabilitation residence” means a housing unit approved by the Local Behavioral Health Authority and leased or owned by a licensed residential rehabilitation program or licensed mental health residential crisis program.*

*(108) “Residential treatment” means professionally directed evaluation, observation, medical monitoring, and addiction treatment in a single facility or campus setting in which the individual*

*resides.*

*(109) “Secretary” means the Secretary of the Maryland Department of Health or the Secretary’s designee.*

*(110) “Service” means any type of healthcare listed on licenses issued under this regulation.*

*(111) “Site” means a single physical location that is a single street address or a campus setting, used by an organization to provide behavioral health treatment or rehabilitation services.*

*(112) “Social determinants of care” means the social, economic, and environmental factors identified in Health-General Article, §13-3801, Annotated Code of Maryland.*

*(113) “Social skills” means socially acceptable learned behaviors that enable a person to interact with others in ways that elicit positive responses and assist in avoiding negative responses.*

*(114) “Staff member” means any individual who is employed by a recovery residence or a covered program, whether contractually or permanently, and any individual who volunteers with, is a contractor for, or consultant to, works as an intern for, serves in a peer role for, or otherwise is engaged by the recovery residence or any program, partnership, corporation, or entity associated with the recovery residence to provide administrative, programmatic, or support services for or in the interest of the recovery residence.*

*(115) “Substance-related disorders” means disorders related to the taking of alcohol, tobacco, or another addictive drug, as defined in Health-General Article, §8-101, Annotated Code of Maryland.*

*(116) “Substance use disorder” means a disorder marked by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues to use alcohol, tobacco, or other drugs despite significant related problems, as defined by ASAM.*

(117) *“Tenancy sustaining services” means any combination of supports and interventions provided to an individual in a permanent supportive housing program to assist the participant in maintaining a successful permanent supportive housing tenancy.*

(118) *“Treatment” means professionally rendered therapeutic interventions provided to an individual to address behavioral health disorders.*

(119) *“Variance” means an alternate method of meeting the intent of a regulation under this subtitle as approved by the Administration.*

(120) *“Warm hand-off” means ongoing communication between the referring provider, receiving provider, and participant to ensure that the participant has engaged in the services or accessed the resources to which an individual has been referred prior to the referring provider discharging the participant or ceasing communication with the individual and the receiving provider.*

(121) *“Withdrawal management” means direct or indirect services for an individual manifesting the symptoms that occur on cessation or reduction of the use of a substance or medication as defined in Health-General Article, §8-101, Annotated Code of Maryland.*

(122) *“Working day” means any day except Saturday, Sunday, or a State holiday.*

#### **10.63.01.03 (June 6, 2024)**

##### **.03 License or Certificate Required.**

A. Except as provided in Regulation .04 of this chapter, an individual or entity shall have a valid and current license *or certificate* issued by the Department under this subtitle in order to provide community-based behavioral health services in Maryland.

B. A license *or certificate* issued under this subtitle may not be transferred.

#### **10.63.01.04 (June 6, 2024)**

##### **.04 Exempt Providers.**

A. In accordance with Health-General Article, §7.5-401, Annotated Code of Maryland, the

following providers are exempt from the requirements of, and are not required to be licensed under, this subtitle:

(1) Except as provided in §B of this regulation:

(a) A health professional, in either a solo practice or group practice, who is licensed under the Health Occupations Article; and

(b) Is providing services in accordance with the requirements of the appropriate professional board;

(2) Alcoholics Anonymous;

(3) Narcotics Anonymous;

(4) Recovery residences;

(5) Peer support services;

(6) Family-provided support services;

(7) An employees' assistance program of a business entity;

(8) Outpatient behavioral health treatment and rehabilitation services provided in regulated space of a hospital, as defined in Health-General Article, §19-301, Annotated Code of Maryland, if the hospital is accredited by an approved accreditation organization under the accreditation organization's behavioral health standards; and

(9) A therapeutic group home authorized under:

(a) Health-General Article, §§10-920 — 10-923, Annotated Code of Maryland;

(b) COMAR 10.21.07; and

(c) COMAR 14.31.05 — 14.31.07;

B. Notwithstanding the provisions of §A of this regulation, a provider shall have a valid and current license or **certificate of compliance** under this subtitle in order to provide the following

services:

- (1) DUI education programs as described in COMAR 10.63.05.05; and
- (2) Residential substance-related disorder programs as described in COMAR 10.63.03.11—.14  
*10.63.04.06—.09.*

C. The Department may exempt a program from the requirements of this subtitle:

- (1) If the program:
  - (a) Is a pilot project;
  - (b) Is a federal or State demonstration project; or
  - (c) Does not fall within any of the program descriptions set out in:
    - (i) COMAR 10.63.03;
    - (ii) COMAR 10.63.04; or
    - (iii) COMAR 10.63.05; and
- (2) If the program demonstrates to the satisfaction of the Department that it is subject to:
  - (a) Contractual provisions;
  - (b) Conditions of grant award; or
  - (c) Other requirements that are comparable to the regulations in this subtitle.

**10.63.01.05 (June 6, 2024)**

**.05 Requirements for Licensed Community-Based Behavioral Health Programs.**

A. A program licensed under this subtitle to provide community-based behavioral health services in Maryland shall comply with the requirements listed in this regulation.

B. Post-Licensing Inspections.

- (1) The Department or its designees may make announced or unannounced visits to inspect a program [to investigate a complaint].
- (2) The Department or its designees has the authority to inspect, scan, and copy business records,



including, but not limited to:

- (a) Financial records;
- (b) Treatment records; [and]
- (c) Service records[.];
- (d) *Program records; and*
- (e) *Staffing records.*

### C. Criminal Background Investigation.

(1) To be licensed in accordance with this chapter, [a program] *an organization or its programs* shall have and follow a written policy that complies with §C(2) of this regulation regarding the criminal history of the program's employees, contractors, and volunteers.

(2) *The organization shall obtain a criminal background check on each employee, contractor, or volunteer every 3 years.*

(3) *The organization may accept a criminal background check performed within 6 months prior to hire if the provider verifies and documents its authenticity.*

(4) *An organization's background check shall include, at a minimum:*

- (a) *Federal and state criminal history;*
- (b) *Maryland Department of Health, OIG exclusion list;*
- (c) *Office of Inspector General U.S. Department of Health & Human Services Exclusions database; and*
- (d) *Maryland, Washington D.C, and Pennsylvania Sex offender registries.*

[(2)] (5) At a minimum, the program's policy shall require that, when deciding whether the criminal history of an individual applying for employment, whether paid or volunteer, and a contractor disqualifies the individual from the employment, the program consider:

- (a) The age at which the individual committed the crime;
- (b) The circumstances surrounding the crime;
- (c) Any punishment imposed for the crime, including any subsequent court actions regarding that punishment;
- (d) The length of time that has passed since the crime;
- (e) Subsequent work history;
- (f) Employment and character references; and
- (g) Other evidence that demonstrates whether the employee, contractor, or volunteer poses a threat to the health or safety of a program participant, program staff, or a member of the public.

[(3)] (6) The program may not hire an individual as an employee, contractor, or volunteer if the program does not receive and consider the criminal history record information required under this regulation.

[(4)] (7) *An individual may not be hired as an employee, contractor, or volunteer:*

- (a) For a program serving participants younger than 18 years old, if the individual has been convicted at any time of child abuse or child sexual abuse; or
- (b) For a program serving participants 18 years old or older, if the individual has been convicted at any time of:
  - (i) [abuse] *Abuse* or neglect of a vulnerable adult; or
  - (ii) *Sexual abuse as defined by any State or federal law.*

[(5)] (8) The criminal background investigation policy may be stricter than that required by this regulation, as appropriate, to protect program participants.

[(6)] (9) *A program shall:*

- (a) Document the programs':

- (i) Review of criminal history records of potential employees, contractors, and volunteers;
  - (ii) Decision regarding the impact of the criminal history on the employability of each applicant for employment and on each employee, contractor, and volunteer; and
  - (iii) Implementation of the policy required by §C(1) of this regulation; and
- (b) Maintain the documentation required by this regulation for 3 years after the individual either is not hired or leaves employment with the program.

*(10) The organization shall require staff to report all pending criminal charges except minor traffic charges or dispositions.*

D. Applicable Laws. A program licensed in accordance with this chapter shall comply with all applicable federal and State laws and regulations, including, the following:

- (1) The Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and regulations implementing the statute, as amended;
- (2) Federal Regulations on Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2, as amended;
- (3) State confidentiality statutes, including:
  - (a) Health-General Article, §4-301, et seq., Annotated Code of Maryland, as amended; and
  - (b) General Provisions Article, §4-101, et seq., as amended;
- (4) Current applicable State confidentiality regulations;
- (5) The Americans With Disabilities Act, 42 U.S.C. §12101, et seq.; [and]
- (6) The federal Fair Housing Act, 42 U.S.C. §3604; *and*
- (7) *Labor and Employment Article, Title 3, Annotated Code of Maryland.*

*E. Supervision. A program licensed in accordance with this chapter shall provide supervision by the appropriate staff as required by the Health Occupations Article.*

[E.] *F. Agreement to Cooperate.*

(1) Before applying for licensure, [a program] *an organization* shall enter into an agreement to cooperate *for each program site*, with the CSA, LAA, or LBHA that operates in the relevant county or Baltimore City.

(2) The agreement to cooperate shall provide for coordination and cooperation between the parties in carrying out behavioral health activities in the jurisdiction *that services are provided*, including, but not limited to facilitating:

(a) A complaint investigation; and

(b) The transition of services if:

(i) The program closes *any of its sites*; [or]

(ii) A program [discontinues] plans to close or discontinue a service.

(c) *Program compliance audits.*

(3) The agreement to cooperate may not include a provision that authorizes the CSA, LAA, or LBHA to prohibit a program from offering services at any location.

[F.] *G. [Opioid Treatment Services] Medications for Opioid Use Disorder*

*(MOUD)—Non-Discrimination.*

(1) A program may not exclude or discriminate against an individual on the basis of the individual [receiving opioid treatment services] *participating in MOUD.*

(2) *Programs licensed under COMAR 10.63.04.07—.10 shall accept delivery of MOUD medications prescribed or dispensed to MOUD recipients.*

[G.] *H. Critical Incident Reports.* A licensed program shall report all critical incidents to the Department, or its designee, within 5 calendar days following the program receiving knowledge of the incident, on the form required by the Department.

*I. Required Management Staff Vacancies. If a required management staff position becomes vacant, the organization shall:*

*(1) Notify BHA's Licensing Unit, CSA, LAA, or LBHA within 30 calendar days of the vacancy of required management staff;*

*(2) Submit a variance application within 30 days of the vacancy.*

*(3) Implement a good faith effort to fill the position;*

*(4) Notify BHA's licensing unit of the name and credentials of the individual that the organization hires to fill the vacancy;*

*J. Financial Status.*

*(1) An organization shall notify the Department of changes in the financial condition of the organization or the organization's owner that may affect the delivery of care and services;*

*(2) Changes include:*

*(a) Filing of bankruptcy; and*

*(b) Any wage claim filed against the organization;*

*(c) Notification of failure to pay taxes;*

*(d) Foreclosure action filed in the Circuit Court;*

*(e) Failure to pay rent or breach of lease action filed in District Court;*

*(f) Utility shut-off notice; and*

*(g) Any legal actions brought against the organization or the organization's owner seeking to recover over \$15,000.*

*K. Medical Records. The program shall maintain medical records according to the requirements of:*

*(1) Maryland Confidentiality of Medical Records Act, Health-General Article, Title 4, Subtitle 3,*

*Annotated Code of Maryland; and*

*(2) Relevant federal statutes and regulations, including the Health Insurance Portability and Accountability Act, 42 U.S.C. §1320D et seq., and implementing regulations at 45 CFR Parts 160 and 164.*

*L. Timekeeping. The program shall maintain timekeeping records for required staff, and contractors, including physicians and nurse practitioners.*

*M. Interns. A program may use interns to provide services to individuals as defined in COMAR 10.63.01.02.*

*N. Staff Training and Competency Development Plan.*

*(1) The program shall develop and implement a training and competency development plan for each staff member.*

*(2) The training and competency development plan shall identify core competencies and performance standards for each staff.*

*(3) The program shall ensure that staff training records include:*

*(a) Competency assessments;*

*(b) Proficiency testing results;*

*(c) Documentation of all training;*

*(d) Documentation of training that occurred at a previous job, if applicable; and*

*(e) Training required by the program.*

*O. Non-Residential Programs. A non-residential program may not have a licensed site on the same site as a dwelling house or in an area zoned for residential use.*

*P. Accreditation Organization Contact Information.*

*(1) The program's accreditation organization contact information shall be posted:*

*(a) In a visible public space at all program sites; and*

*(b) On the program's website.*

*(2) The posted contact information shall include information on how to submit complaints and shall provide such information to participants in writing.*

*Q. Culturally and Linguistically Appropriate Services. Programs shall provide culturally and linguistically appropriate services to all participants.*

*R. Reporting of Outcomes and Social Determinants of Care Data. The program shall provide the State with data on outcomes and social determinants of care in the format and frequency required by the Department.*