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## Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

### *Subtitle 63 COMMUNITY-BASED BEHAVIORAL HEALTH PROGRAMS AND SERVICES*

#### *10.63.01 Requirements for All Licensed Programs*

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

##### *.01 Scope.*

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

##### *.02 Definitions.*

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

*B. Terms Defined.*

*(1) "Accreditation" means the approval granted by an approved accreditation organization of a provider, or the process of obtaining the approval.*

*(2) "Accreditation-based license" means a license that, in accordance with COMAR 10.63.02, may be issued or received only if the provider is accredited by an approved accreditation organization.*

*(3) "Administration" means the Behavioral Health Administration within the Department of Health and Mental Hygiene.*

*(4) "Administrative services organization (ASO)" means the entity under contract with the Department to provide administrative services for the public behavioral health system.*

*(5) "Agreement to cooperate" means a written agreement 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.*

*(6) "American Society of Addiction Medicine (ASAM) Criteria" means an instrument designed to indicate placement guidelines for admission, continued stay, and discharge of individuals with a substance-related disorder.*

*(7) "Approval" means the authorization issued on behalf of the former Maryland Mental Hygiene Administration to mental health providers to receive State funding for their services.*

*(8) "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.*

*(9) "Assessment" means the process of ascertaining the treatment needs of an individual seeking behavioral health services.*

*(10) "Behavioral health program" means:*

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

*(b) A mental health disorders program;*

*(c) An addictive disorder program; or*

*(d) A program that consists of a combination of disorder programs listed above.*

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

*(12) "Case resolution conference" means an informal proceeding that may take place before an evidentiary hearing to determine if there are grounds for settlement of a contested case.*

*(13) "Certification" means, unless otherwise specifically stated, the approval issued by the former Maryland Alcohol and Drug Abuse Administration authorizing substance use disorder treatment programs to operate in Maryland.*

*(14) "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.*

*(15) "Completed application" means 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.*

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- (16) "Consultant" means a professional who:
- (a) Is not a salaried employee of the program;
  - (b) Provides advice in the professional's area of expertise; and
  - (c) Is a contractor if paid, and a volunteer if not paid.
- (17) "Core service agency (CSA)" means the designated county or multicounty authority that is responsible for planning, managing, and monitoring publicly funded mental health services.
- (18) 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.
- (19) "Critical incident" means any of the following:
- (a) Death of a program participant;
  - (b) Life threatening injury to a program participant;
  - (c) Non-consensual sexual activity, as prohibited in COMAR 10.01.18;
  - (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 participants;
  - (f) Diversion of medication from the stock of a program providing opioid treatment services; or
  - (g) Any injury related to an opioid medication dispensed by a program providing opioid treatment services.
- (20) "Deficiency" means a failure to meet an accreditation standard, or a relevant federal, State, or local ordinance, law, regulation, or building code, as applicable.
- (21) "Deemed status" means the procedure, pursuant to COMAR 10.21.16.10 or COMAR 10.47.04.05E under which programs with accreditation from an approved accreditation organization are permitted to operate in Maryland.
- (22) "Department" means the Department of Health and Mental Hygiene.
- (23) "Designated approval 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.
- (24) "Directed plan of correction" means the program's plan of correction, as defined in this subtitle that is mandated by the Department.
- (25) "Discharge" means the release of a participant from a program.
- (26) "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) A prescription medication; or
  - (c) A chemical substance when used for unintended and harmful purposes.
- (27) "Exempt provider" means a provider that, under Health-General Article, §§8-403 and 10-901(c), Annotated Code of Maryland, is not required to be licensed by the Secretary to provide services in Maryland.
- (28) "Family" means an individual's immediate relatives or significant others.
- (29) "Family provided support services" means a set of non-clinical activities provided by family members of individuals with mental health or substance-related and addictive disorders to support individuals with the disorders or their families.
- (30) Group Home.
- (a) "Group home" means a residential program as defined in Health-General Article, §10-514, Annotated Code of Maryland.
  - (b) "Group home" does not include:
    - (i) A foster home that is the domicile of the foster parent;
    - (ii) A facility that is owned or leased to the State or any public agency;
    - (iii) A facility that is regulated by the Department of Juvenile Services or the Developmental Disabilities Administration; or
    - (iv) Organized wholly or partially to make a profit.
- (31) "Guardian" has the meaning stated in Estates and Trusts Article, §13-101, Annotated Code of Maryland.
- (32) "Jurisdiction" means Baltimore City or one of the 23 counties in Maryland.
- (33) "License" means the approval issued by the Secretary or designee that permits a behavioral health provider to operate in Maryland.

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(34) "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.

(35) "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.

(36) "Maintenance" means medically supervised continuation of the administration of methadone or other drugs approved by the Administration.

(37) "Medical director" means a physician who oversees the medical practice of a program.

(38) "Multidisciplinary" means a mix of representatives from at least three different mental health professions licensed in accordance with the Health Occupations Article, one of whom shall be:

(a) A psychiatrist;

(b) An advanced practice registered nurse-psychiatric mental health; or

(c) A certified registered nurse practitioner-psychiatric mental health.

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

(40) "Patient" means an individual receiving care and treatment in a community behavioral health program.

(41) "Peer support services" means a set of non-clinical activities provided by individuals in recovery from mental health or substance-related and addictive disorders who use their personal, lived experiences and training to support other individuals with mental health or substance-related and addictive disorders.

(42) "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.

(43) "Plan of correction" means the program's proposed response to findings of deficiency identified by the Department's designated approval unit or the Department.

(44) "Program" means an organization that provides or seeks a license to provide community-based behavioral health services.

(45) "Program director" means the individual who has over-all responsibility for the day-to-day activities of the program, including staff, records, policies, and procedures.

(46) "Provider" means a program that is approved, certified or licensed to provide community-based behavioral health services.

(47) "Psychiatrist" means a physician who:

(a) Is licensed by the Maryland Board of Physicians; and

(b) Is 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.

(48) "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 does not include clinical treatment services.

(49) "Referral" means a contact made by an individual, or on behalf of an individual, for behavioral health or other services.

(50) "Residence" means a housing unit leased or owned by a licensed residential rehabilitation program.

(51) "Resident" means an individual who resides in a community-based residential behavioral health program.

(52) "Secretary" means the Secretary of the Department of Health and Mental Hygiene or the Secretary's designee.

(53) "Treatment" means professionally rendered therapeutic interventions provided to an individual to address behavioral health disorders.

(54) "Variance" means an alternate method of meeting the intent of a regulation under this subtitle as approved by the Administration.

(55) "Waiver" means the exemption from compliance with a regulation under this subtitle.

(56) "Withdrawal management" means direct or indirect services for an individual manifesting the symptoms that occur on cessation or reduction of use of a substance or medication, by:

(a) Monitoring the amount of alcohol and other toxic agents in the body of the individual;

(b) Managing withdrawal symptoms; and

(c) Motivating an individual to participate in the appropriate substance-related disorder programs.

(57) "Working day" means any day except Saturday, Sunday, or other day on which State offices are closed.

## **.03 License Required.**

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

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

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## **.04 Exempt Providers.**

A. In accordance with Health-General Article, §§8-403 and 10-901, 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) Organizations that hold meetings or provide support services but do not provide any type of treatment;

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

(9) 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

(10) 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 under this subtitle in order to provide the following services:

(1) DUI education programs as described in COMAR 10.63.05.05; and

(2) Substance-related disorder residential services described in COMAR 10.63.05.04.

## **.05 Requirements for Licensed Community-Based Behavioral Health Program.**

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 may inspect and copy records, including, but not limited to:

(a) Financial records;

(b) Treatment records; and

(c) Service records.

C. Criminal Background Investigation.

(1) To be licensed in accordance with this chapter, a program 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) 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) 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) 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 abuse or neglect of a vulnerable adult.

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

(6) A program shall:

(a) Document the programs':

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- (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.

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. §3604; and

(6) The federal Fair Housing Act, 42 U.S.C. §3604.

E. *Agreement to Cooperate.*

(1) Before applying for licensure, a program shall enter into an agreement to cooperate 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, including but not limited to facilitating:

(a) A complaint investigation; and

(b) The transition of services if the program closes.

(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. *Opioid Treatment Services - Non-Discrimination.* A program may not exclude or discriminate against an individual on the basis of the individual receiving opioid treatment services.

G. *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.

## **10.63.02 Programs Required to Be Accredited in Order to be Licensed to Provide Community-Based Behavioral Health Services**

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

### **.01 Scope.**

This chapter identifies those programs that are required to be accredited in order to receive a license to provide community-based behavioral health services.

### **.02 Covered Programs and Services.**

A. The following programs shall require an accreditation-based license under this chapter:

- (1) Group Homes for Adults with Mental Illness programs;
- (2) Integrated Behavioral Health programs;
- (3) Intensive Outpatient Treatment Level 2.1 programs;
- (4) Mobile Treatment Services (MTS) programs;
- (5) Outpatient Mental Health Center (OMHC) programs;
- (6) Outpatient Treatment Level 1 programs;
- (7) Partial Hospitalization Treatment Level 2.5 programs;
- (8) Psychiatric Day Treatment Program (PDTP) programs;
- (9) Psychiatric Rehabilitation Program for Adults (PRP-A) programs;
- (10) Psychiatric Rehabilitation Program for Minors (PRP-M) programs;
- (11) Residential Crisis Services (RCS) programs;
- (12) Residential: Low Intensity Level 3.1 programs;
- (13) Residential: Medium Intensity Level 3.3 programs;
- (14) Residential: High Intensity Level 3.5 programs;
- (15) Residential: Intensive Level 3.7 programs;
- (16) Residential Rehabilitation Program (RRP) programs;
- (17) Respite Care Services (RPCS) programs; and
- (18) Supported Employment Program (SEP) programs.

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*B. Of the licensed community-based behavioral health services programs listed in §A of this regulation, the following may provide the services identified in §C of this regulation, so long as the program's license specifically authorizes the service:*

- (1) Integrated Behavioral Health programs;*
- (2) Intensive Outpatient Treatment Level 2.1 programs;*
- (3) Outpatient Treatment Level 1 programs;*
- (4) Partial Hospitalization Treatment Level 2.5 programs;*
- (5) Residential: Low Intensity Level 3.1 programs;*
- (6) Residential: Medium intensity Level 3.3 programs;*
- (7) Residential: High intensity Level 3.5 programs; and*
- (8) Residential: Intensive Level 3.7 programs.*

*C. Programs listed in §B of this regulation and licensed to provide community-based behavioral health services may provide the following services so long as the program's license specifically authorizes the service:*

- (1) Withdrawal Management Service; and*
- (2) Opioid Treatment Service.*

## **.03 Requirements for a Program with an Accreditation-Based License.**

*A. In addition to complying with the requirements for licensed community-based behavioral health programs specified in COMAR 10.63.01.05, a program with an accreditation-based license to provide community-based behavioral health services in Maryland shall comply with this regulation.*

*B. A program with an accreditation-based license shall comply with the requirements and meet the standards of the accreditation organization by which it is accredited.*

*C. The Department or its designee may enforce any requirement or standard of the accreditation organization by which a program is accredited.*

*D. In addition to the post-licensing inspections provided for in COMAR 10.63.01.05B, a program with an accreditation-based license shall be subject to inspection by the Department or its designees in cases in which significant concerns have been raised regarding operation of the program or the organization that accredited the program, in order to:*

- (1) Determine compliance with a requirement under its accreditation;*
- (2) Follow-up on any problem identified by the accreditation organization that accredited the program; or*
- (3) Validate the findings of the accreditation organization that accredited the program.*

## **.04 Halfway House and Group Home Sites.**

*A licensed halfway house and group home shall ensure that its sites comply with Health-General Article, §§8-406 and 10-518, Annotated Code of Maryland, as follows:*

*A. A small halfway house or private group home is considered conclusively a single-family dwelling for purposes of zoning, and may be located in all residential zones;*

*B. A large halfway house or private group home is considered conclusively a multi-family dwelling for purposes of zoning and may be located in zones of similar density; and*

*C. A halfway house or a private group home may not be made subject to any special exception, conditional use permit, or procedure that differs from that required for a single-family dwelling or a multi-family dwelling of similar density in the same zone.*

## **10.63.03 Descriptions and Criteria for Programs and Services Required to have an Accreditation-Based License**

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

### **.01 Scope.**

*This chapter sets forth the descriptions of and the criteria for the community behavioral health programs that are permitted to operate in Maryland, so long as they have valid and current accreditation-based licenses under this subtitle.*

### **.02 Integrated Behavioral Health Program.**

*A. To be licensed under this subtitle, an integrated behavioral health program shall:*

*(1) Meet the requirements for an:*

- (a) Outpatient mental health center, as outlined in Regulation .05 of this chapter; and*
- (b) Outpatient treatment level 1 program, as outlined in Regulation .06 of this chapter; and*

*(2) Have the capacity to provide, as appropriate:*

- (a) Mental health evaluation and treatment services to individuals with mental health diagnoses;*
- (b) Substance-related disorder evaluation and treatment services to individuals with a substance-related disorder; and*

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(c) *Integrated mental health and substance-related disorder evaluation and treatment services to individuals with both a substance use disorder and a mental health diagnosis.*

B. *An integrated behavioral health program may provide the following services if the program's license specifically authorizes the services:*

- (1) *A withdrawal management service as described in Regulation .18 of this chapter; and*
- (2) *An opioid treatment service as described in Regulation .19 of this chapter.*

## **.03 Intensive Outpatient Treatment Level 2.1 Program.**

A. *To be licensed under this subtitle, an intensive outpatient treatment level 2.1 program shall provide structured outpatient substance-related disorder treatment based on a comprehensive assessment, for:*

- (1) *Individuals who meet the ASAM Criteria for level 2.1; and*
- (2) *Adults, from 9 to 20 hours weekly, and individuals younger than 18 years old -for 6 to 20 hours weekly.*

B. *An intensive outpatient treatment level 2.1 program may provide the following services if the program's license specifically authorizes the services:*

- (1) *A withdrawal management service as described in Regulation .18 of this chapter; and*
- (2) *An opioid treatment service as described in Regulation .19 of this chapter.*

## **.04 Mobile Treatment Services Program.**

*In order to be licensed under this subtitle, a mobile treatment services program shall:*

A. *Provide intensive, assertive outpatient mental health treatment and support services by a multidisciplinary team to an individual who is homeless or is otherwise unable or unwilling to access traditional outpatient treatment services as follows:*

- (1) *Flexibly in a community setting considered appropriate to the individual; and*
- (2) *On an on-call basis, 24 hours per day, 7 days a week;*

B. *Be designed to enable the individual to remain in the community, thus reducing admissions to emergency rooms, inpatient facilities, or detention facilities; and*

C. *Provide discharge services, including developing a transition plan and arranging to initiate authorized services before the planned discharge, in collaboration with the individual, the treatment team, family members, and significant others who are designated by the individual, the CSA, LBHA, ASO and the designated transition service providers.*

## **.05 Outpatient Mental Health Center.**

*In order to be licensed under this subtitle, an outpatient mental health center shall:*

A. *Provide regularly-scheduled outpatient mental health treatment services in a community-based setting;*

B. *Provide, at a minimum, individual, group, and family therapy and medication management;*

C. *Employ a medical director, who:*

- (1) *Is a psychiatrist;*
- (2) *Has over-all responsibility for clinical services; and*
- (3) *Is on-site at least 20 hours per week; and*

D. *Employ multidisciplinary clinical treatment staff who is authorized to provide the services under Health Occupations Article.*

## **.06 Outpatient Treatment Level 1 Program.**

A. *In order to be licensed under this subtitle, an outpatient treatment level 1 program shall provide outpatient substance-related disorder treatment based on a comprehensive assessment:*

(1) *For individuals who:*

(a) *Meet the ASAM Criteria for level 1;*

(b) *Have a physical and emotional status that allows the individual to function in the individual's usual environment; and*

(2) *For adults, require services for fewer than 9 hours weekly, or, for individuals younger than 18 years old, require services for fewer than 6 hours weekly.*

B. *An outpatient treatment level 1 program may provide the following services if the program's license specifically authorizes the services:*

- (1) *A withdrawal management service as described in Regulation .18 of this chapter; and*
- (2) *An opioid treatment service as described in Regulation .19 of this chapter.*

## **.07 Partial Hospitalization Treatment Level 2.5 Program.**

A. *A partial hospitalization treatment level 2.5 program shall provide structured outpatient substance-related disorder treatment based on a comprehensive assessment for:*

- (1) *Individuals who meet the ASAM Criteria for level 2.5; and*
- (2) *From 20 to 35 hours weekly.*

B. *A partial-hospitalization treatment-level 2.5 program may provide the following services if the program's license specifically authorizes the services:*

- (1) *A withdrawal management service as described in Regulation .18 of this chapter; and*
- (2) *An opioid treatment service as described in Regulation .19 of this chapter.*

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## **.08 Psychiatric Day Treatment Program (PDTP).**

*In order to be licensed under this subtitle, a psychiatric day treatment program (PDTP) shall:*

- A. Provide short-term, intensive, day or evening mental health treatment and support services for individuals who do not require 24-hour care;*
- B. Focus on the amelioration of an individual's acute psychiatric symptoms; and*
- C. Be medically supervised and staffed by a multidisciplinary treatment team that includes, at a minimum:
  - (1) A psychiatrist; and*
  - (2) A registered nurse.**

## **.09 Psychiatric Rehabilitation Program for Adults (PRP-A).**

*In order to be licensed under this subtitle, a psychiatric rehabilitation program for adults (PRP-A) shall:*

- A. Provide community-based comprehensive rehabilitation and recovery services and supports, including, but not limited to:
  - (1) Community living skills;*
  - (2) Activities of daily living; and*
  - (3) Family and peer support;**
- B. Promote successful community integration and use of community resources;*
- C. Be under the direction of a rehabilitation specialist who is:
  - (1) A licensed mental health professional;*
  - (2) Certified by the Commission on Rehabilitation Counselor Certification; or*
  - (3) Certified by the Psychiatric Rehabilitation Association; and**
- D. Employ the rehabilitation specialist in §C of this regulation:
  - (1) At least 20 hours per week when the program serves less than 30 individuals; or*
  - (2) 40 hours per week when the program serves 30 individuals or more.**

## **.10 Psychiatric Rehabilitation Program for Minors (PRP-M).**

*A. In order to be licensed under this subtitle, a psychiatric rehabilitation program for minors (PRP-M) shall provide community-based comprehensive rehabilitation services and supports designed to:*

- (1) Promote resiliency; and*
- (2) Facilitate the development or restoration of appropriate skills in an individual younger than 18 years old including but not limited to:
  - (a) Self-care skills;*
  - (b) Social, peer, family, and teacher interactions; and*
  - (c) Semi-independent living skills; and**
- (3) Promote successful integration into the community and the use of community resources.*
- B. The program shall be under the direction of a rehabilitation specialist who has a minimum of 2 years direct care experience working with youth with a serious emotional disorder and who is:
  - (1) A licensed mental health professional; or*
  - (2) Certified by the Psychiatric Rehabilitation Association and has obtained the Psychiatric Rehabilitation Association Children's Psychiatric Rehabilitation Certificate.**
- C. The PRP-M shall employ the rehabilitation specialist in §B of this regulation for:
  - (1) At least 20 hours per week when the program serves less than 30 individuals; or*
  - (2) At least 40 hours per week when the program serves 30 individuals or more.**

## **.11 Residential-Low Intensity Level 3.1 Program.**

*A. In order to be licensed under this subtitle, a residential-low intensity level 3.1 program shall provide clinically-managed, low intensity, substance-related disorder treatment in large and small halfway houses, as defined in Health-General Article, §8-101, Annotated Code of Maryland, to individuals who:*

- (1) Meet the ASAM Criteria for level 3.1; and*
- (2) Are capable of self-care but are not ready to return to family or independent living.*
- B. Services shall be:
  - (1) Provided for a minimum of 5 hours per week, and*
  - (2) Directed toward:
    - (a) Preventing relapse;*
    - (b) Applying recovery skills; and*
    - (c) Reintegrating into the community.***
- C. A residential-low intensity level 3.1 program may provide the following services if the program's license specifically authorizes the services:
  - (1) A withdrawal management service as described in Regulation .18 of this chapter; and*
  - (2) An opioid treatment service as described in Regulation .19 of this chapter.**

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## **.12 Residential-Medium Intensity Level 3.3 Program.**

A. In order to be licensed under this subtitle, a residential-medium intensity level 3.3 program shall provide clinically-managed, medium intensity, substance-related disorder treatment based on a comprehensive assessment:

(1) In a structured environment in combination with medium-intensity treatment and ancillary services to support and promote recovery;

(2) From 20 to 35 hours weekly; and

(3) To individuals who:

(a) Meet the ASAM Criteria for level 3.3;

(b) Are chronic alcohol- or other drug-dependent;

(c) Do not need skilled nursing care;

(d) May have a history of multiple admissions to substance related disorder programs described in this chapter;

(e) May have physical or mental disabilities resulting from a prolonged substance-related disorder; and  
(f) Have been identified as requiring a controlled environment and supportive therapy for an indefinite period of time.

B. A residential-medium intensity level 3.3 program may provide the following services if the program's license specifically authorizes the services:

(1) A withdrawal management service as described in Regulation .18 of this chapter; and

(2) An opioid treatment service as described in Regulation .19 of this chapter.

## **.13 Residential-High Intensity Level 3.5 Program.**

A. In order to be licensed under this subtitle, a residential-high intensity level 3.5 program shall provide clinically-managed, high-intensity, substance-related disorder treatment services based on a comprehensive assessment:

(1) In a highly-structured environment, in combination with moderate- to high-intensity treatment and ancillary services to support and promote recovery;

(2) For a minimum of 36 hours of therapeutic activities a week;

(3) That are characterized by reliance on the treatment community as a therapeutic agent; and

(4) To individuals who meet the ASAM Criteria for level 3.5.

B. A residential-high intensity level 3.5 program may provide the following services if the program's license specifically authorizes the services:

(1) A withdrawal management service as described in Regulation .18 of this chapter; and

(2) An opioid treatment service as described in Regulation .19 of this chapter.

## **.14 Residential-Intensive Level 3.7 Program.**

A. In order to be licensed under this subtitle, a residential-intensive level 3.7 program shall provide medically-monitored, intensive substance-related disorder treatment based on a comprehensive assessment:

(1) To individuals who meet the ASAM Criteria for level 3.7;

(2) For a minimum of 36 hours of therapeutic activities a week;

(3) On a planned regimen of 24-hour evaluation, care, and treatment in a residential setting;

(4) In an Intermediate Care Facility Type C/D; and

(5) While meeting the requirements for withdrawal management services as outlined in Regulation .18 of this chapter.

B. A residential-intensive intensity level 3.7 program may provide the following services if the program's license specifically authorizes the services:

(1) A withdrawal management service as described in Regulation .18 of this chapter; and

(2) An opioid treatment service as described in Regulation .19 of this chapter.

## **.15 Respite Care Services Program (RPCS).**

In order to be licensed under this subtitle, a respite care services (RPCS) program:

A. Shall provide short-term, in home or overnight temporary services to support an individual to remain in the individual's home:

(1) Through enhanced support or a temporary alternate living arrangement; or

(2) By temporarily freeing the caregiver from the responsibility of caring for the individual; and

B. For individuals younger than 21 years old, may offer overnight respite in an appropriately licensed program or therapeutic foster care home.

## **.16 Supported Employment Program (SEP).**

In order to be licensed under this subtitle, a supported employment program (SEP) shall:

A. Provide services designed to assist an individual to choose, obtain, and maintain competitive employment; and

B. Assist an individual to obtain competitive employment in an integrated work environment that provides:

(1) Compensation of at least minimum wage;

(2) An individualized approach that establishes an hours-per-week employment goal to maximize an individual's vocational potential; and

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(3) Additional supports, as needed, delivered where appropriate.

## **.17 Substance-Related Disorder Treatment Program in Correctional Facilities.**

A substance-related disorder treatment program located in a State or local correctional facility requires a license under this chapter in order to operate.

## **.18 Withdrawal Management Service.**

A withdrawal management service is one that:

A. May be provided at one or more of the following ASAM levels:

- (1) Level 1-WM, ambulatory withdrawal management without extended on-site monitoring;
- (2) Level 2-WM, ambulatory withdrawal management with extended on-site monitoring;
- (3) Level 3.2-WM, clinically-managed residential withdrawal management; or
- (4) Level 3.7-WM, medically-monitored residential withdrawal management;

B. Monitors the decreasing amount of psychoactive substances in the body;

C. Manages the withdrawal symptoms;

D. Motivates the individual to participate in appropriate treatment programs for alcohol or other drug dependence; and

E. Provides additional referrals as necessary.

## **.19 Opioid Treatment Service.**

An opioid treatment service is one that:

A. Complies with the requirements of 42 CFR §8;

B. Is under the direction of a medical director who is a physician and:

(1) Has at least 3 years of documented experience providing services to persons with substance-related disorders and opioid use disorders, including at least 1 year of experience in the treatment of opioid use disorder with opioid maintenance therapy and is board-certified in addiction medicine or addiction psychiatry; or

(2) Is certified in added qualifications in addiction psychiatry by the American Board of Psychiatry and Neurology, Inc.;

C. Uses pharmacological interventions, including dispensing of full and partial opiate agonist treatment medications as part of treatment, support, and recovery services to an individual with an opioid addiction;

D. Provides clinical services to each patient at a frequency based on the patient's clinical stability level, not to exceed an overall program average of 50:1 patient-to-counselor ratio;

E. Arranges for any opioid maintenance medication dispensed to a patient to be transported to the following service sites:

(1) Residential programs at Levels 3.3, 3.5, and 3.7, as described in Regulations 12—14 of this chapter;

(2) Withdrawal management services at ASAM levels 3.2-WM and 3.7-WM as described in Regulation .18 of this chapter; or

(3) Residential programs at levels 3.1, when the patient, because of a developmental or physical disability, or lack of access to transportation, cannot obtain or transport the patient's take-home opioid maintenance medication;

F. In accordance with 21 CFR 1300, et seq., arranges transportation of opioid maintenance medication from the program sites identified in E of this regulation or confirms the disposal of such medication when a patient leaves residential levels of care;

G. Conducts random drug testing on each patient at least monthly, according to the provisions of COMAR 10.10.03.02;

H. Conducts random drug testing, at a minimum, for the following substances:

- (1) Benzodiazepines;
- (2) Marijuana;
- (3) Cocaine;
- (4) Opiates;
- (5) Alcohol;
- (6) Methadone or buprenorphine, whichever is appropriate; and
- (7) Oxycodone;

I. Develops a taper schedule at least 21 days long with daily dosage reductions less than 5 percent of the original total dose, regardless of the patient's ability to pay;

J. Administratively tapers or transfers a patient only if the:

(a) Patient's behavior on program premises is abusive, violent, or illegal;

(b) Patient fails to pay fees and has been informed in writing and counseled as to responsibility and possible sanctions, including taper;

(c) Patient misses 3 consecutive medication days, and the program physician, after reevaluation, has determined that administrative taper is warranted; or

(d) Clinical staff documents therapeutic reasons for taper, which may include continued use of illicit drugs or an unwillingness to follow appropriate clinical interventions;

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K. Requires that a patient show evidence of the availability of locked storage before a patient may take home any dose of medication; and

L. Provides clinical services addressing any substance-use disorders to each patient.

## **10.63.04 Additional Requirements for Accreditation-Based Licenses for Specific Residential Community-Based Behavioral Health Services**

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

### **.01 Scope.**

This chapter sets forth descriptions of, criteria for, and licensing requirements for, three specific programs that provide residential community-based behavioral health services. These programs shall comply with COMAR 10.63.01—.02, 10.63.04, and 10.63.06. Residential Rehabilitation Programs shall also comply with COMAR 10.63.03.09.

### **.02 Covered Programs.**

This chapter applies to the following programs:

- A. Group Homes for Adults with Mental Illness;
- B. Residential Crisis Services (RCS) program; and
- C. Residential Rehabilitation Program (RRP).

### **.03 Group Homes for Adults with Mental Illness.**

In order to be licensed under this subtitle, a group home for adults with mental illness shall:

- A. Meet the definition in Health-General Article, §10-514 (b), (d), and (e), Annotated Code of Maryland;
- B. Not provide services for persons with a primary diagnosis of developmental disability, as defined in Health-General Article, §7-101;
- C. Provide a home-like, supportive residential environment:
  - (1) In a small group home, which provides services for more than 3, but not more than 8 individuals with a mental health disorder; or
  - (2) In a large group home for more than 9, but not more than 16 individuals with a mental health disorder; and
- D. Meet the site requirements set out in Regulation .07 of this chapter verified through an annual site inspection conducted by the CSA or LBHA.

### **.04 Residential Crisis Services (RCS).**

In order to be licensed under this subtitle, a residential crisis services program:

- A. Shall provide short-term mental health treatment and support services in a structured environment for individuals who require 24-hour supervision due to a psychiatric crisis;
- B. Shall be designed to:
  - (1) Prevent psychiatric inpatient admission;
  - (2) Shorten the length of inpatient stay;
  - (3) Effectively use general hospital emergency departments; and
  - (4) Provide an alternative to psychiatric inpatient admission;
- C. Shall have staff who are on-site 24 hours per day, 7 days per week, whenever an individual is on-site receiving services;
- D. For adults, shall meet the site requirements set out in Regulation .07 of this chapter verified through an annual site inspection conducted by the CSA or LBHA; and
- E. For individuals younger than 21 years old, may offer services in an appropriately licensed therapeutic program, as appropriate.

### **.05 Residential Rehabilitation Program (RRP).**

In order to be licensed under this subtitle, a residential rehabilitation program (RRP) shall:

- A. Serve individuals with a mental disorder;
- B. Be operated by a licensed PRP-A;
- C. Lease or own the RRP sites;
- D. Be approved by BHA for RRP funding;
- E. Provide a home-like, supportive residential environment;
- F. Provide services for no more than 3 individuals per RRP site, unless also licensed as a group home as provided in Regulation .03 of this chapter;
- G. Promote the individual's ability to engage and participate in appropriate community activities;
- H. Enable the individual to develop the daily living skills needed for independent functioning;
- I. Have:
  - (1) On-site staffing, as needed to meet the needs of the individuals served; and
  - (2) Staff that are available on call, 24 hours per day, 7 days per week;

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*J. Meet the site requirements as set out in Regulation .07 of this chapter, verified through an annual site inspection conducted by the CSA or LBHA, as appropriate;*

*K. Have a written policy regarding the development of and process for implementation of a managed intervention plan (MIP) for an individual receiving residential services who may be at risk of an unplanned discharge, which:*

*(1) Is developed in collaboration with the individual, treatment team members, and CSA or LBHA, as appropriate; and*

*(2) Includes a description of additional individualized services and supports that may be needed, and identification of temporary residential alternatives, if any; and*

*L. If an MIP is executed, develop a transition plan that:*

*(1) Is created in collaboration with the individual, treatment team members, CSA or LBHA, as appropriate, and ASO; and*

*(2) Includes the elements outlined in §K(2) of this regulation.*

## **.06 Application Requirements for a Residence to be Operated by a Program.**

*A program seeking a license under this subtitle for a residential site shall submit to the CSA or LBHA a completed application that:*

*A. Is on the form required by the Administration with all required documents attached; and*

*B. Includes documentation that the residence:*

*(1) Is owned or leased by the applicant; or*

*(2) Will be owned or leased by the applicant; and*

*(3) Is located in a building that will have continuous fire, liability, and hazard insurance coverage.*

## **.07 Residential Site Requirements.**

*A program licensed to provide community-based behavioral health residential services under this chapter shall ensure that:*

*A. All areas of a residence, including storage areas:*

*(1) Are safe;*

*(2) Clean; and*

*(3) Free of hazards and clutter;*

*B. A residence has:*

*(1) No housing code or zoning violations;*

*(2) Working smoke alarms or smoke detectors that meet local fire codes for residential dwellings;*

*(3) Hot and cold running water;*

*(4) Adequate light, heat, and ventilation; and*

*(5) Sufficient, appropriate, and functional furnishings, equipment, supplies, and utensils comparable to those found in the residences of nondisabled individuals;*

*C. Each resident:*

*(1) Has the resources to purchase or has access to food;*

*(2) Has the resources to acquire an adequate supply of soap, towels, and toilet tissue;*

*(3) Who self-administers medication, has access to a secure storage area for the resident's medications;*

*(4) Has access to a secure storage area for funds and valuables;*

*(5) Has access to transportation;*

*(6) Has access to a telephone in the residence; and*

*(7) To the extent possible, may use personal possessions and preferences in furnishing and decorating the resident's space.*

*D. The following emergency procedures are followed:*

*(1) Posted near the telephone are telephone numbers for the:*

*(a) Fire department, police, ambulance, and poison control center; and*

*(b) Program's on-call staff; and*

*(2) An emergency evacuation procedure that is explained to and practiced by residents within 10 days after entering residence and, at a minimum, every 3 months after that;*

*E. Each bedroom has:*

*(1) A minimum of 70 square feet for a single bedroom and a minimum of 120 square feet for a double bedroom;*

*(2) An interior door, except for an efficiency apartment;*

*(3) Closet space in or convenient to each bedroom for each individual using the bedroom;*

*(4) Coverings for each window, for privacy;*

*(5) A bed with a clean mattress and pillow for each resident using the bedroom;*

*(6) At least two sets of bed linens per resident; and*

*(7) Not more than two residents using the bedroom;*

*F. Each toilet and bathing area has:*

*(1) A minimum of one full bathroom for every four residents; and*

*(2) At least one toilet, one basin, and one tub or shower connected to hot and cold water;*

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- (3) Easy access and conveniently located, not more than one floor level from living, dining, and sleeping rooms;  
and  
(4) Privacy for the individual using it; and  
G. The program has a written relocation plan for each site that:  
(1) Specifies where residents may live temporarily if the CSA or LBHA determines that conditions in the approved residence pose an imminent risk to the health, safety, or welfare of a resident;  
(2) Is approved by the CSA or LBHA, as appropriate; and  
(3) Is updated annually.

## **10.63.05 Descriptions and Criteria for Programs Requiring a Non-Accreditation-Based License**

Authority: Health-General Article, §§7.5-204, 8-402, 8-404, 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 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 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.

### **.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.

### **.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

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- (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, 2-hour sessions for a total of 12 hours;
- 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:
  - (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.

## **.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 Requirements for Programs Requiring Non-Accreditation-Based Licenses.**

- 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

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(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 sec.; and
- (2) Fair Housing Act, 42 U.S.C. §3604.

## **10.63.06 Application and Licensure Process**

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

### **.01 Scope.**

This chapter sets forth the processes governing application for accreditation-based and non-accreditation-based licenses to provide community-based behavioral health services, issuance and parameters of the license, and sanctioning of licensees.

### **.02 License Application Process for All Community-Based Behavioral Health Programs.**

A. An applicant for a license, whether accreditation or non-accreditation-based, to provide community-based behavioral health services shall:

- (1) Use the application form required by the Department;
- (2) Include the following information with the application:
  - (a) Verification that the program complies with the program descriptions and criteria set out in this subtitle;
  - (b) Attestation of compliance with relevant federal, State, or local ordinances, laws, regulations, and orders governing the program;
  - (c) Disclosure of the following:

(i) Any revocation of a license, certificate, or approval issued within the previous 10 years from any in-State or out-of-State provider previously or currently associated with the applicant, including deficiency reports and compliance records;

(ii) Whether the applicant, or a program, corporation, or provider previously or currently associated with the applicant, has surrendered or defaulted on its license, certificate, or approval for reasons related to disciplinary action, within the previous 10 years;

(iii) The identity of any individual who has served as a corporate officer for the provider who has had a license, certificate or approval revoked, or has surrendered or defaulted on an approval license, certificate or approval, for reasons related to disciplinary action, within the previous 10 years; and

(iv) Any criminal conviction of the applicant, or the owner, program director, or other staff of the applicant;

- (3) Include the following documents with the application:

(a) A copy of the agreement to cooperate between the program and the CSA, LAA, or LBHA, as appropriate;

(b) Copies of all applicable permits required by local jurisdictions, including fire, safety, and health, for each proposed site, if the program will provide services at a site whose primary function is the delivery of behavioral health services; and

(c) All documentation supporting or demonstrating the information disclosed under §A(2)(c) of this regulation;

- (4) Include any other information considered necessary and requested by the Department; and

- (5) Submit the completed application to the Department's designated approval unit, identifying:

(a) The services that the applicant would provide if licensed; and

(b) The physical sites where the services would be provided;

B. If the application submitted under §A of this regulation is incomplete or missing any of the documentation required by this regulation, the application shall be returned to the program to provide the missing information, and processing of the application shall stop until the information is provided.

### **.03 Additional Application Requirements for Licenses Requiring Accreditation.**

A. In addition to the application requirements for all community-based behavioral health services licenses, the provisions of this regulation apply to all applicants for licenses to provide community-based behavioral health services, if the license is required by this subtitle to be accreditation-based.

B. A program applying for an accreditation-based license to provide community-based behavioral health services shall submit with the program's application:

(1) The program's most recent behavioral health accreditation survey report;

(2) Any corrective action plans required by the behavioral health accreditation organization survey report of the program; and

(3) The final letter or certificate issuing accreditation for the program.

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*C. Before determining whether a program requiring an accreditation-based license to provide community-based behavioral health services is eligible for licensure, the Department's designated approval unit may conduct an on-site review in cases in which significant concerns have been raised regarding the operations of the program or the organization that accredited the program.*

## **.04 Additional Application Requirements for Licenses Not Requiring Accreditation.**

*A. In addition to the application requirements for all community-based behavioral health services licenses, the provisions of this regulation apply to all applicants for licenses to provide community-based behavioral health services, if the license is permitted by this subtitle to be non-accreditation-based.*

*B. A program applying for a non-accreditation-based license to provide community-based behavioral health services shall pass an inspection by the Department, or its designee, of all of the program's sites before issuance of the license;*

*C. The on-site inspection conducted under §B of this regulation shall include:*

- (1) A tour of the physical plant for safety and quality and compliance with regulations and codes;*
- (2) Interviews with the staff to verify training and competencies; and*
- (3) A review of emergency and disaster preparedness systems.*

*D. During the on-site inspection, the Department shall ascertain whether the physical plant:*

- (1) Provides sufficient space for required services;*
- (2) Is appropriately furnished, well lit, adequately ventilated, and easily accessible;*
- (3) Is maintained in good repair, safe, clean and free of insects and rodents and hazards;*
- (4) Provides secure storage for participant records;*
- (5) Provides for the safe and sanitary disposal of trash; and*
- (6) Provides marked fire exits and the posting of evacuation routes.*

## **.05 Issuance and Duration of Accreditation-Based and Non-Accreditation-Based Licenses.**

*A. If the Department's designated approval unit determines that a program is eligible for a license to provide community-based behavioral health services, whether accreditation-based or non-accreditation-based, the Department's designated approval unit shall issue a license to the program that specifies the:*

*(1) Programs that the applicant is licensed to provide, including the addresses of all sites where the services will be provided;*

- (2) Duration of the licensure period;*
- (3) Name of the accreditation organization, if applicable; and*
- (4) Date of issue.*

*B. The duration of the license:*

- (1) For an accreditation-based license, shall equal the accreditation period plus 3 months; and*
- (2) For a non-accreditation-based license, may not exceed 3 years.*

*C. The Department's designated approval unit shall notify the following when a license has been issued for a program:*

*(1) The Administration;*

*(2) The CSA, LAA, or LBHA, as appropriate, of the jurisdiction in which the program is providing or will provide services;*

*(3) The Medical Assistance Program; and*

*(4) The ASO for DHMH.*

*D. The program director shall ensure that the license:*

- (1) For non-residential programs, is posted in clear view during the regular hours of operation; or*
- (2) For residential programs, is available for review during regular hours of operation.*

*E. In order to be approved, an application for renewal of a license and supporting documentation shall be received by the Department or its designee at least 60 days before the expiration of the program's current license.*

*F. If the program fails to submit the application and supporting documentation within the timeframe established in §E of this regulation, the program's license shall be suspended from the license expiration date until the issuance of a new license for the program.*

*G. If the Department's designated approval unit suspends the program's license in accordance with §F of this regulation, the program director shall immediately take the actions described in Regulation .11D of this chapter.*

## **.06 Denial of License to Provide Community-Based Behavioral Health Services.**

*A. The Department may deny a license to provide community-based behavioral health services to:*

*(1) An applicant, if the Department's designated approval unit determines that the application does not meet the licensure requirements;*

*(2) An applicant that has had a license or approval revoked by the Department or other licensing agency, or has surrendered or defaulted on its license or other approval for reasons related to disciplinary action, within the previous 10 years;*

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(3) An applicant that has an officer who has served as an officer for a provider that has had a license revoked, or has surrendered or defaulted on its license or other approval for reasons related to disciplinary action, within the previous 10 years; or

(4) Any program that discontinues operations without complying with Regulation .10 of this chapter.

B. If the Department's designated approval unit denies licensure to an applicant under this chapter, the Department's designated approval unit shall give written notice of the proposed denial to the program.

C. The notice of the proposed denial of an application for a license shall include:

(1) The facts that warrant the proposed denial of licensure; and

(2) Notice that the program has a right to a hearing in accordance with Regulation .19 of this chapter.

## **.07 License Modification.**

A. A program may not change its program sites by adding, closing, or moving locations without prior approval from the Department's designated approval unit.

B. To request a change in its program sites by adding, closing, or moving locations, a licensed program shall submit to the Department's designated approval unit:

(1) An application modification on the form required by the Department;

(2) Evidence that the program has notified the appropriate accreditation organization of the proposed program modification, if the program has an accreditation-based license;

(3) Evidence that the program has notified the appropriate CSA, LAA, or LBHA of the proposed program modification;

(4) Evidence that the program has notified the program participants of any proposed change in program site; and

(5) Copies of all applicable permits required by local jurisdictions, including fire, safety, and health, for each proposed site, if the program will provide services at a site whose primary function is the delivery of behavioral health services.

C. To request a change in its service array, a licensed program shall submit to the Department's designated approval unit:

(1) If applicable, evidence that the program has received accreditation for the proposed additional program type; and

(2) Evidence that the program has notified the appropriate CSA, LAA, or LBHA of the proposed program modification.

D. Before being approved for any modification described in this regulation, the following programs shall pass an inspection of the sites by the Department or its designee:

(1) Programs with a non-accreditation-based license; and

(2) Residential sites described in COMAR 10.63.04.

E. If the Department's designated approval unit approves the application modification submitted under §B or C of this regulation, the existing program license shall extend to the additional program and additional site, as applicable.

## **.08 Waivers and Variances.**

A. Waivers. The Administration may not grant waivers of:

(1) The requirements of any regulation adopted under this subtitle; or

(2) Any accreditation standard.

B. Variances.

(1) If a program is licensed under this chapter, the Administration may grant a variance for a regulation if the Administration:

(a) Receives a written request from a program on the form required by the Administration; and

(b) Finds that the intent of the regulation to which a variance is sought is met by the alternative proposed by the program.

(2) Any variance granted by the Administration shall:

(a) Remain in effect for as long as the program continues to comply with the conditions under which the variance is granted; or

(b) Be time-limited.

(3) The Administration may not grant a variance:

(a) That would endanger the health or safety of the individuals served; or

(b) For any accreditation standard.

(4) The Administration shall:

(a) Issue a written decision on the request for a variance, including the reason or reasons for granting or not granting the variance;

(b) Send the decision to the:

(i) Program director;

(ii) CSA, LAA, or LBHA, as appropriate; and

(iii) Department's designated approval unit; and

(c) Enter the decision in the records of the Administration.

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## **.09 Sale or Transfer of License to Provide Community-Based Behavioral Health Services.**

A. The license of a program to provide community-based behavioral health services shall be valid only for the program and address for which the license is issued.

B. If the sale or transfer of a program causes a change in ownership, the program:

- (1) May not sell, assign, or transfer its license; and
- (2) Shall apply for and receive a new license to operate in Maryland.

## **.10 Discontinuation of Program Operations.**

A. If a program licensed to provide community-based behavioral health services intends to discontinue operations, the program director shall, no less than 60 calendar days before the program intends to discontinue operations, submit to the Department's licensure unit, the Administration, and the CSA, LAA, or LBHA, as appropriate, its written plan for:

- (1) Cessation of operations, including relevant dates;
- (2) Informing participants in the program or their guardians of the planned discontinuation and of other behavioral health service options;
- (3) Transitioning participants in the program to other behavioral health services;
- (4) Storing and protecting all records; and
- (5) Notifying employees, contractors, consultants, and consumers of its cessation of operations.

B. Within 30 days after receipt of the program's request to discontinue operations, the Department's designated approval unit shall:

- (1) Notify the program in writing whether its plan is acceptable; and
- (2) If the plan is unacceptable, meet with the program and the CSA, LAA, or LBHA as appropriate, to make a plan that protects the health, safety, and welfare of the individuals served by the program and program staff.

C. The program may not discontinue operations until the Department's designated approval unit authorizes the discontinuation.

D. Once the Department has approved the discontinuation plan, the program shall implement the plan.

E. At all times during the discontinuation process, the program shall cooperate with the Administration, the Department's designated approval unit, and the CSA, LAA, or LBHA, as appropriate.

F. If a program that is discontinuing operation does not comply with §§A—E of this regulation, the Department may deny any future application for a license that the program, or principals of the program, may submit.

## **.11 Summary Suspension.**

A. Upon finding that a program licensed under this chapter has violated a regulation and that the public health, safety, or welfare imperatively requires emergency action, the Department may order the immediate suspension of the license of the program and the immediate cessation of the program's operation.

B. Following the summary suspension of the license of the program, and under State Government Article, §10-226(c)(2), Annotated Code of Maryland, the Department shall deliver a written notice to the program that includes:

- (1) The facts supporting the finding that the public health, safety, or welfare imperatively require the emergency action; and
- (2) Notice that the program may request a hearing under Regulation .19 of this chapter.

C. If the program requests a hearing on the summary suspension, the Department shall provide an administrative hearing after the suspension, in accordance with Regulation .20 of this chapter.

D. If the Department summarily suspends the license of a program, the program shall immediately:

- (1) Stop providing services to individuals; and
- (2) Develop and implement a written plan, approved by the Department, to:
  - (a) Notify individuals receiving services from the program, or the guardians of these individuals, of the suspension;
  - (b) Transition individuals receiving services from the program to an alternative program or make other arrangements to ensure continuity of services for the individuals;
  - (c) Store and protect all service and medical records, and transition the records to alternative program or to the individual; and
  - (d) Notify employees, contractors, consultants, and consumers of its cessation of operations.

## **.12 Notice of Deficiencies.**

A. If the Department determines that a program licensed under this chapter has violated any provision of this chapter, but does not summarily suspend the program, the Department's designated approval unit shall provide the program with a notice of deficiencies.

B. In the notice of deficiencies, the Department's designated approval unit shall list each failure to comply with a requirement, including identifying the requirement and the basis for the finding.

C. Plan of Correction.

- (1) The program shall submit a plan of correction to the Department's designated approval unit within 10 working days of receipt of the notice of deficiencies, stating how and when each failure to comply shall be corrected.

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(2) The Department's designated approval unit may require that the POC be submitted sooner than 10 working days when the nature of the noncompliance warrants a more immediate response, as determined by the Department's designated approval unit.

(3) The director of the Department's designated approval unit may grant an extension of not more than 30 days for the submission of the POC.

D. If the Department issues a notice of deficiencies to a program under this regulation, the program shall notify individuals receiving services from the program, or the guardians of these individuals, that the program has received a notice of deficiencies.

## **.13 License Revocation.**

A. If the Department's designated approval unit determines that a program licensed under this chapter has violated a requirement of this chapter, the Department may revoke the license.

B. If the Department's designated approval unit determines that the program has violated a requirement of a sanction imposed under Regulation .14 of this chapter, the Department may revoke the license.

C. If the Department revokes a program's license under this regulation, the program shall notify individuals receiving services from the program, or the guardians of these individuals, of the revocation.

## **.14 Intermediate Sanctions.**

A. If the Department determines that a program licensed under this chapter has violated a requirement of this subtitle, the Department's designated approval unit may take one or more of the following actions:

- (1) Prohibit the program from serving any additional individuals;
- (2) Require the program to reduce the number of individuals currently receiving services;
- (3) Prohibit the program from providing specific services or restricting the program to providing only specified services;
- (4) Require the program, and any of its staff, to receive mandatory training in identified areas;
- (5) Require the program to use the services of a consultant approved in advance by the Department;
- (6) Require the establishment of an escrow account;
- (7) Impose a civil money penalty, in accordance with this chapter.

B. If the Department imposes a sanction under this regulation, the program shall notify individuals receiving services from the program, or the guardians of these individuals, of the sanction.

## **.15 Directed Plan of Correction.**

A. If the Department determines that a program licensed under this chapter has violated any requirement of this chapter, the Department's designated approval unit may impose a directed plan of correction, in addition to any intermediate sanctions imposed in accordance with this chapter.

- B. The directed plan of correction may include any one or more of the following:
- (1) Mandating staffing patterns, specifying the number of personnel, personnel qualifications, or both;
  - (2) Imposing a temporary site monitor, whereby the Department maintains an on-going physical presence for the purpose of providing assistance and evaluating the extent of the program's progress in correcting violations;
  - (3) Requiring the program to submit periodic reports of the program's progress in correcting violations.

C. If the Department issues a directed plan of correction to a program under this regulation, the program shall notify individuals receiving services from the program, or the guardians of these individuals, that the program has received a directed plan of correction.

## **.16 Settlement Agreement.**

A. The Department may enter into a settlement agreement with a program licensed under this chapter that has violated a requirement of this chapter, establishing specific conditions for continued operation, including time limits for compliance.

B. A settlement agreement is a public document and may be disseminated under the State Government Article, §§10-611—10-630, Annotated Code of Maryland.

C. A copy of the settlement agreement shall be distributed to individuals served by the program or posted in a public location at the program's physical site.

## **.17 Initiation of Receivership.**

The Secretary or designee may take action to initiate receivership of a program licensed under this chapter, pursuant to Health-General Article, §§19-333—19-339, Annotated Code of Maryland.

## **.18 Civil Money Penalties.**

A. Notwithstanding any penalty that may be imposed under the Civil False Claims Act, pursuant to Health-General Article, §2-611, Annotated Code of Maryland or other statute, the Department may impose a civil monetary penalty on a person for:

- (1) Operating a community-based behavioral health services program without a license, if one is required by law or regulation;
- (2) Any material and egregious violation of any provision of this subtitle; or

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(3) Both.

B. In determining whether a civil monetary penalty is to be imposed, the Department shall consider the following, among any other relevant factors:

- (1) The nature, number, and seriousness of the deficiencies;
- (2) The extent to which the deficiency or deficiencies are part of an ongoing pattern;
- (3) The degree of risk to the health, life, or safety of the individuals receiving services from the program;
- (4) The efforts made by the program, and the ability of the program, to correct the deficiency or deficiencies; and
- (5) The program's prior history of compliance or non-compliance.

C. In determining the amount of any civil money penalty to be imposed, the Department shall consider the factors listed in §B of this regulation, among any other relevant factors.

## **.19 Program's Right to a Hearing on Proposed Sanctions.**

A. A program licensed under this chapter that is aggrieved by the proposal of the Department's designated approval unit to take any of the following actions may appeal the Department's decision by filing a request for an administrative hearing in accordance with Regulation .20 of this chapter:

- (1) The denial of an application for a license or for renewal of a license;
- (2) The summary suspension of a license, under Regulation .11 of this chapter;
- (3) The denial of a request for modification of a license, under Regulation .07 of this chapter;
- (4) The denial of a request to discontinue a program, under Regulation .10 of this chapter;
- (5) A revocation of a license, under Regulation .13 of this chapter;
- (6) The imposition of a sanction under Regulation .14, .16, or .18 of this chapter.

B. If the program submits a request for a hearing on a proposed summary suspension, the hearing shall take place in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

## **.20 Hearing Procedures.**

A. If the Department's designated approval unit proposes to take an action listed in Regulation .19, the Department shall deliver a written notice of the proposed action to the program director, in accordance with the provisions of COMAR 10.01.03.05.

B. Within 10 working days after receipt of the notice of the proposed action, the program may submit to the Department, at the address identified in the notice, a written request for a hearing, with copies to the:

- (1) Administration;
- (2) CSA, LAA, or LBHA, as appropriate; and
- (3) Director of the Department's designated approval unit.

C. If the program does not submit to the Department a hearing request that is postmarked within 10 working days after the date on the notice:

- (1) The program's right to a hearing is waived; and
- (2) The Department's designated approval unit may implement the proposed action.

D. The Department may offer the program the opportunity, when possible, for an informal case resolution conference, in which to attempt to resolve all or some of the deficiencies listed in the notice.

E. The hearing shall comply with the provisions of COMAR 10.01.03.06.

## **.21 Deadlines and Effective Dates of this Chapter.**

A. Accreditation-based Licenses. The following shall apply for programs that are required by law and this chapter to be accredited to be licensed:

- (1) A program may not operate on or after April 1, 2018 without a license;
- (2) To be licensed on or before April 1, 2018, a program shall submit a completed and accurate application to the Department's designated approval unit before January 1, 2018;
- (3) An accreditation-based license may be issued on or after, and not before, January 1, 2017;
- (4) The Department's designated approval unit shall begin accepting applications for accreditation-based licenses on October 1, 2016;
- (5) As of October 1, 2016, applications for an accreditation-based license shall include evidence that the program is accredited by an approved accreditation organization;
- (6) The Department's designated approval unit may not accept an application for initial certification or approval under COMAR Title 10, Subtitles 21 or 47 after September 30, 2016;
- (7) A program with a certification or approval under COMAR Title 10, Subtitles 21 or 47:
  - (a) May apply for renewal of the certification or approval before January 1, 2018;
  - (b) If eligible for renewal, shall receive a certification or approval, valid until April 1, 2018; and
  - (c) May not operate under the certification or approval after March 31, 2018.
- (8) A program that is certified or approved based on deemed status in accordance with COMAR 10.21.16.10 or COMAR 10.47.04.05 shall receive a license, which shall be effective during the current accreditation period; and
- (9) If the Department's designated approval unit cannot issue a license by April 1, 2018 for a program that submits a completed, accurate application for a license before January 1, 2018, the Department's designated approval

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*unit shall extend the expiration date of the existing approval or certification to complete the license application process.*

*B. Non-Accreditation-Based Licenses. The following shall apply for programs that are not required by law and this chapter to be accredited to be licensed:*

*(1) A program may not operate on or after April 1, 2018 without a license;*

*(2) A program that is certified or approved under COMAR Title 10, Subtitles 21 or 47, may operate under those subtitles until the expiration of the term of its current certification or approval, but not after March 31, 2018;*

*(3) The Department's designated approval unit may not accept an application for initial certification or approval under COMAR Title 10, Subtitles 21 or 47, after September 30, 2016;*

*(4) A program with a current certification or approval under COMAR Title 10, Subtitles 21 or 47:*

*(a) May apply for renewal of the certification or approval under COMAR Title 10, Subtitles 21 or 47, before January 1, 2018; and*

*(b) May not operate after March 31, 2018 without a license.*

*(5) To be licensed on or before April 1, 2018, a program shall submit a completed and accurate application to the Department's designated approval unit before January 1, 2018;*

*(6) A license may be issued on or after, and not before, January 1, 2017; and*

*(7) If the Department's designated approval unit cannot issue a license by April 1, 2018 for a program that submits a completed accurate application for licensure before January 1, 2018, the Department's designated approval unit shall extend that expiration date of the existing approval or certification to complete the license application process.*

*C. Applicability Dates of Regulations.*

*Current chapters of regulations under COMAR 10.21 and 10.47 shall remain in effect concurrently with the regulations in this chapter until April 1, 2018.*

**VAN T. MITCHELL**

**Secretary of Health and Mental Hygiene**