

TITLE 10

MARYLAND DEPARTMENT OF HEALTH

Subtitle 63 COMMUNITY-BASED BEHAVIORAL HEALTH PROGRAMS AND SERVICES

10.63.01 [Requirements for All Licensed Programs] *General Compliance and Reporting Requirements*

Authority: Health-General Article, §§7.5-204(a)(2)[, 8-402, 8-404,] and [10-901] 7.5-402, Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "Accreditation organization" means a private entity that conducts inspections and surveys of health care facilities or health care staff agencies based on nationally recognized and developed standards that is approved by the Secretary in accordance with Health General Article, §19-2302, Annotated Code of Maryland.

(2) "Accreditation" means the approval granted to a program by an accreditation organization.

(3) "Accreditation-based license" means a license which requires that the organization be accredited by an approved accreditation organization.

(4) "Administration" means the Behavioral Health Administration within the Department that provides oversight to organizations that are licensed in accordance with this subtitle.

(5) "Agreement to cooperate" means a written agreement between an organization operating a program and the appropriate local authority that provides for coordination and cooperation in carrying out behavioral health activities in a given jurisdiction.

(6) "Applicant" means the legally authorized individual or entity submitting an application for licensure.

(7) "Behavioral health services" means prevention, screening, early intervention, treatment, recovery, support, wraparound, and rehabilitation services for individuals with substance-related disorders, addictive disorders, mental disorders, or a combination of these disorders.

(8) "Business Day" means any day except Saturday, Sunday, or a State holiday.

(9) "Community-based" means a setting of a behavioral health services program that is not located in a hospital, as defined in Health-General Article, §19-301, Annotated Code of Maryland.

(10) Corporate Officers.

(a) "Corporate officers" means the managing employees or other individuals responsible for the conduct of the affairs of the organization inclusive of the organization's controlling board.

(b) "Corporate officers" includes but is not limited to the organization's:

(i) Chief Executive Officer;

(ii) Chief Financial Officer;

(iii) Chief Medical Officer;

(iv) Chief Information Officer;

(v) Corporate Compliance Officer;

(vi) Board members; and

(vii) Other senior officers of the organization.

(11) "Corrective Action" means specific actions undertaken by an organization to address a violation of any local, state, or federal law or regulation.

(12) "Critical Incident" means an event that impacts the health, safety, or welfare of a program participant or staff.

(13) "Department" means the Maryland Department of Health.

(14) Dietary Services.

(a) "Dietary services" means the services provided by a community based behavioral health program which offers comprehensive food preparation as a service to program participants.

(b) "Dietary services" does not include communal food preparation by program participants or food preparation done as a rehabilitative activity.

(15) "Discontinuation Plan" means an organization's written plan which is provided to the Administration when the organization intends to discontinue program or licensed service operations.

(16) Experimental Project.

(a) "Experimental project" means a project, irrespective of funding, that if deemed successful, may be considered and adopted as a permanent policy or program.

(b) "Experimental project" includes:

(i) Demonstration projects; or

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- (ii) Pilot projects.
- (17) "Family Support Services " has the meaning stated in Health-General Article, §7.5-101, Annotated Code of Maryland.
- (18) "Group Practice" has the meaning stated in Health Occupations Article, §1-301, Annotated Code of Maryland.
- (19) "Guardian" has the meaning stated in Estates and Trusts Article, §13-101, Annotated Code of Maryland.
- (20) "Jurisdiction" means Baltimore City or one of the 23 counties in the State.
- (21) "License" means an authorization issued by the Secretary permitting an organization to operate a behavioral health program at a specific site in the State.
- (22) "Licensed mental health professional" means a practitioner authorized under Health Occupations Article, Annotated Code of Maryland, who has specialty in the diagnosis and treatment of mental health, addictive, substance-related, or co-occurring disorders.
- (23) Local Authority.
- (a) "Local authority" means the designated county or multicounty authority responsible for planning, managing, and monitoring publicly funded mental health, substance-related, or addictive disorder services.
- (b) "Local authority" includes the:
- (i) Core service agency as defined in Health General Article, §7.5-101(g), Annotated Code of Maryland;
- (ii) Local addictions authority as defined in Health General Article, §7.5-101(j), Annotated Code of Maryland; and
- (iii) Local behavioral health authority as defined in Health General Article, §7.5-101(k), Annotated Code of Maryland.
- (24) "Medically necessary" means a service or benefit that is:
- (a) Directly related to diagnostic, preventive, curative, palliative, rehabilitative, or ameliorative treatment of an illness, injury, disability, or health condition;
- (b) Consistent with current accepted standards of good medical practice;
- (c) The most cost efficient service that can be provided without sacrificing effectiveness or access to care; and
- (d) Not primarily for the convenience of the participant, family, provider, or organization.
- (25) "Organization" means an association, partnership, corporation, unincorporated group, or any other legal entity licensed to operate a program to provide community-based behavioral health services.
- (26) "Participant" means an individual receiving behavioral health services in a community-based program.
- (27) "Peer support services" has the meaning stated in Health-General Article, §7.5-101, Annotated Code of Maryland.
- (28) "Plain language" means language which is easily understandable by program participants and takes into account the various levels of education and understanding of the population.
- (29) Plan of Care.
- (a) Means a medically necessary care plan which is responsive to an individual's goals, values, and preferences while considering the individual's needs respective to their behavioral health condition
- (b) "Plan of care" includes but is not limited to:
- (i) An individualized treatment plan; and
- (ii) An individualized rehabilitation plan.
- (30) "Program" means a named set of services operated by an organization inclusive of:
- (a) A substance-related disorders program as defined in Health General Article, §7.5-101(q), Annotated Code of Maryland;
- (b) A mental health program as defined in Health General Article, §7.5-101(m), Annotated Code of Maryland;
- (c) An addictive disorders program; and
- (d) A combination of (a)—(c).
- (31) "Public Behavioral Health System" means the system that provides medically necessary behavioral health services for Medical Assistance participants and certain other uninsured individuals.
- (32) "Recovery residence" means a program certified under this subtitle to provide alcohol- and illicit drug-free housing to individuals with substance-related disorders, addictive disorders, or co-occurring mental health and substance-related disorders or addictive disorders.
- (33) "Residential" means the setting of a community-based program in which program participants both reside and receive behavioral health services.
- (34) "Secretary" means the Secretary of the Maryland Department of Health or their designee.
- (35) "Site" means the location where the organization operates the program as detailed on the program's license.
- (36) "Telehealth" means the synchronous delivery of medically necessary services to a participant at an originating site by a distant site provider; through the use of technology-assisted communication in accordance with COMAR 10.09.49.

.02 Programs Requiring License.

A. Except as provided in §C of this regulation, an organization shall have a valid and current license issued by the Secretary in accordance with COMAR 10.63.06 to operate a program which provides community-based behavioral health services in the State.

B. A license issued in accordance with COMAR 10.63.06 may not be transferred.

C. In accordance with Health-General Article, §7.5-401, Annotated Code of Maryland, the following do not fall within any of the program descriptions set forth in this subtitle which require a license in accordance with COMAR 10.63.06:

- (1) A health professional in either a solo or group practice, who is:

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- (a) Licensed under the Health Occupations Article, Annotated Code of Maryland; and
- (b) Providing behavioral health services in accordance with the requirements of the appropriate professional board;
- (2) Alcoholics Anonymous, Narcotics Anonymous, peer support services, family support services, or other similar organizations, if the organization holds meetings or provides support services but does not provide any type of treatment;
- (3) Employees' assistance programs of a business or State entity;
- (4) Outpatient behavioral health treatment and rehabilitation services accredited by an approved accreditation organization provided in regulated space of a hospital, as defined in Health-General Article, §19-301, Annotated Code of Maryland;
- (5) Federally qualified health center providing primary health services in accordance with 42 USC §254b; and
- (6) Private therapeutic group homes authorized under:
 - (a) Health-General Article, §§10-920—23, Annotated Code of Maryland;
 - (b) COMAR 10.21.07; or
 - (c) COMAR 14.31.05—.07.
- D. Recovery Residences.
 - (1) Recovery residences are exempt from the licensure requirements set forth in §A of this regulation.
 - (2) Recovery residences are required to be certified by the Maryland Certification of Recovery Residences in accordance with the program description set forth in this subtitle.
- E. The Administration may exempt an organization from the requirements of this subtitle if the program:
 - (1) Is an experimental project or does not fall within any of the program descriptions set forth in this subtitle; and
 - (2) At the satisfaction of the Administration, is proved to be subject to contractual provisions, conditions of grant award, or other requirements that are comparable to the requirements of this subtitle.

.03 Compliance with State and Federal Law and Regulation.

- A. An organization licensed in accordance with COMAR 10.63.06 to operate a program to provide community-based behavioral health services in the State shall comply with all applicable requirements of this subtitle.
- B. An organization licensed in accordance with COMAR 10.63.06 to operate a program shall comply with all applicable federal and State laws and regulations, including, but not limited to:
 - (1) The Health Insurance Portability and Accountability Act, 42 U.S.C. §§1320d—1320d-9, and implementing regulations at 45 C.F.R. Part 160 and 164;
 - (2) Federal regulations on confidentiality of substance use disorder patient records, 42 CFR Part 2;
 - (3) State confidentiality statutes, including:
 - (a) Health-General Article, §§4-301—4-310, Annotated Code of Maryland;
 - (b) General Provisions Article, §§4-101—4-601 Annotated Code of Maryland; and
 - (c) Current applicable State confidentiality regulations;
 - (4) The Americans With Disabilities Act, 42 U.S.C. §§12101—12213;
 - (5) The federal Fair Housing Act, 42 U.S.C. §3604;
 - (6) The Eliminating Kickbacks in Recovery Act, 18 U.S.C. §220; and
 - (7) Labor and Employment Article, Title 3, Annotated Code of Maryland.
- C. Organizations Advertising or Offering Housing for Program Participants. Any organization advertising or offering housing for **nonresidential** program participants shall comply with Real Property Code, Title 8, Annotated Code of Maryland, and any local requirements, regardless of whether housing is provided directly by the organization or program or through a referral to another organization.

.04 Compliance with Accreditation Standards.

- An organization operating a program to provide community-based behavioral health services with an accreditation-based license shall:
 - A. Comply with all requirements and standards of the accreditation organization by which it is accredited;
 - B. Provide behavioral health services only to populations for which it is accredited; and
 - C. Notify the Administration in writing within 5 business days of any change in accreditation status.

.05 Corporate Compliance Requirements.

- A. An organization shall document and implement a corporate compliance plan covering each program it operates.
- B. An organization's compliance plan shall:
 - (1) Meet the standards established by the applicable accreditation organization for its operated program or services; or
 - (2) For organizations without an applicable accreditation organization compliance standard, meet the standards outlined in §C of this regulation.
- C. Corporate Compliance Standards. A corporate compliance plan shall include the:
 - (1) Implementation of policies and procedures covering compliance in key areas of the organization's provision of behavioral health care services, including, at a minimum:
 - (a) Billing;
 - (b) Coding;
 - (c) Confidentiality;
 - (d) Documentation;

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- (e) Ethical behavior;
- (f) Preventing illegal service and referral incentives; and
- (g) Contingency planning in case of a loss of key staff or capacity to serve program participants;
- (2) Appointment of a corporate compliance officer;
- (3) Implementation of a no-fault reporting system for compliance issues that ensures that whistleblowers are not subject to punitive actions;
- (4) Documentation of a policy statement indicating a prohibition of conflicts of interest between the organization and program participants;
- (5) Implementation of a strategy for risk assessment, auditing, and monitoring which includes:
 - (a) A documented annual review of risk areas in the organization;
 - (b) Succession and contingency plans for the organization; and
 - (c) An audit program with at least four audits a year that is focused on proper documentation, billing, and coding practices in high risk areas;
- (6) A process for documentation of the organization's responses to critical incidents in accordance with Regulation .06 of this chapter and the development of any necessary corrective actions;
- (7) Investigation of any violations of State or federal law or regulation, or organizational policy; and
- (8) Organization's procedure in the event of any violation of State or federal law or regulation, or organizational policy including the:
 - (a) Implementation of any necessary corrective action; and
 - (b) Submission of any required reports to the Administration or other applicable State, local, or federal authority.

.06 Reporting Requirements.

A. Critical Incident Reporting.

- (1) An organization operating a community-based behavioral health program shall report the following critical incidents to the Administration:
- (a) Any death of a program participant *in a residential program;*
 - (b) *Any unexpected or unusual death of a program participant in any other program;*
 - (c) Injuries to program participants that are:
 - (i) Life-threatening; or
 - (ii) The result of interpersonal violence;
 - (d) The following sexual activity, *if it occurs while the program participant is admitted to the program:*
 - (i) *Consensual sexual activity between a current program participant and an individual associated with the Organization, including staff, volunteers, and consultants.*
 - (ii) *Non-Consensual sexual activity between a current or former program participant and an individual associated with the organization, including staff, volunteers, and consultants.*
 - (d) Any unexpected evacuation of a program site under circumstances that threaten the life, health, or safety of program participants;
 - (e) Any fatal or non-fatal overdose of a program participant;
 - (f) Suspected or alleged abuse, neglect, or exploitation of a program participant;
 - (g) A disease or condition listed in the List of Reportable Diseases or Conditions, as set forth in COMAR 10.06.01.03 in addition to the reporting requirements of COMAR 10.06.01.04 for any program participant or organization staff;
 - (h) Any suicide attempt by either:
 - (i) A current program participant; or
 - (ii) A former program participant within 30 days following discharge;
 - (i) Any credible threat by a program participant determined by the organization to represent a risk to the life, health, or safety of staff, other program participants, targeted individuals, or the general public;
 - (j) A program participant's violation of an order of conditional release from a State psychiatric hospital;
 - (k) From a program that administers, dispenses, monitors or stores medication:
 - (i) Any theft of medication;
 - (ii) Any unexplained loss of medications; and
 - (iii) Any medication error that requires medical intervention;
 - (l) Any disappearance or elopement of one of the following program participants from a residential program site:
 - (i) A child;
 - (ii) A vulnerable adult;
 - (iii) An older adult; or
 - (iv) An adult with a behavioral health or somatic condition that if left unattended or untreated would be life threatening; and
 - (m) Any other serious incident as determined by the Administration that threatens the life, health, or safety of program participants.
- (2) An organization shall report all critical incidents to the Administration, or its designee, on the form provided by the Administration within 3 business days of the organization's knowledge of the critical incident.

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(3) An organization's failure to report a critical incident in accordance with §A(1)—(2) of this regulation may result in a civil money penalty in accordance with COMAR 10.63.08.

B. Organization Financial Status Reporting.

(1) An organization shall notify the Administration of changes in the financial condition of the organization that may affect its ability to operate a program to provide behavioral health services including, at minimum:

- (a) Filing of bankruptcy;
- (b) Any wage claim against the organization;
- (c) Notification of failure to pay State or federal taxes;
- (d) Any foreclosure action against the organization filed in Circuit Court;
- (e) Any of the following District Court actions filed against the organization:
 - (i) Failure to pay rent; or
 - (ii) Breach of lease;
- (f) Any utility shut-off notice due to non-payment;
- (g) Any legal actions brought against the organization or the organization's owner seeking to recover greater than \$15,000; and
- (h) Any other action which may affect the organization's ability to operate a program.

(2) An organization shall report all changes in the financial condition to the Administration, or its designee, on the form provided by the Administration within 3 business days of the organization's knowledge of the change in the financial condition.

(3) An organization's failure to report a change in the financial condition in accordance with §B(1)—(2) of this regulation may result in a civil money penalty in accordance with COMAR 10.63.08.

C. Program Outcomes Reporting.

- (1) The organization shall provide data elements to the Administration at the frequency required by the Administration if:
 - (a) The program's provided behavioral health services are funded by the federal Substance Abuse and Mental Health Services Administration and related federal funding sources; and
 - (b) The organization bills the public behavioral health system for either:
 - (i) Specialty mental health services in accordance with COMAR 10.09.59; or
 - (ii) Community-based substance use disorder services in accordance with COMAR 10.09.80.
- (2) The data elements provided to the Administration shall be in accordance with federal requirements set forth in:
 - (a) 42 U.S.C. §300x-9;
 - (b) 42 U.S.C. §300x-35;
 - (c) 42 U.S.C. §300x-52(a); and
 - (d) 42 U.S.C. §300x-53(a).

D. An organization shall report vacancies in accordance with COMAR 10.63.02.03.

.07 Site Requirements.

A. Licensed Program Site Location Requirements.

- (1) An organization's licensed program site shall be located in the State.
- (2) An organization may not have a licensed program site:
 - (a) In a manner inconsistent with federal, State, or local law, ordinance, or regulation inclusive of zoning requirements;
 - (b) If providing outpatient behavioral health services on the same site as a residential dwelling; or
 - (c) If providing residential behavioral health services on the same site as any other licensed healthcare service.
- (3) Accessibility.
 - (a) A program shall be accessible to program participants and others involved in their care during its approved operating hours.
 - (b) Accessibility includes but is not limited to:
 - (i) Compliance with the federal Americans with Disabilities Act, 42 U.S.C. §§12101—12213;
 - (ii) The provision of translation services as necessary to meet the needs of program participants; and
 - (iii) The provision of deaf and hard of hearing services necessary to meet the needs of program participants.

(4) Dietary Services.

- (a) For community based behavioral health programs which offer dietary services, meals may be provided directly by the facility or the facility may contract with a food management company, a caterer, or another facility.
- (b) If meals are provided by the program, the program shall follow the requirements set forth in:
 - (i) Health-General Article, §7-402(e), Annotated Code of Maryland; and
 - (ii) Any program specific limitations in the chapter of this subtitle defining the covered service being rendered.
- (c) A community based behavioral health program which provides dietary services shall have a written plan describing the provision and delivery of dietary services.
- (5) Regardless of the amount of services provided by telehealth, the organization shall have sufficient space on its licensed program site to:
 - (a) Provide confidential behavioral health services during operating hours; and
 - (b) Provide the behavioral health services which it is licensed to provide, including group services.
- (6) If an organization utilizes a shared space for a program providing community-based behavioral health services, the organization shall maintain confidentiality in accordance with the requirements of Regulation .03 of this chapter.

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B. Post-Licensing Inspections.

- (1) The Administration or its designee may make announced or unannounced visits to inspect an organization at:
 - (a) A licensed program site;*
 - (b) An administrative office; or*
 - (c) Any other location deemed necessary for the health, safety, or welfare of program participants.**
- (2) The Administration, or its designee, has the authority to inspect, scan, and copy business records of the organization or program, including but not limited to:
 - (a) Financial records;*
 - (b) Treatment records;*
 - (c) Service records;*
 - (d) Staffing records; and*
 - (e) Policies and procedures.**
- (3) The Administration, or its designee, may inspect an organization operating a program providing behavioral health services to:
 - (a) Determine compliance with any accreditation standards;*
 - (b) Follow-up on any issue identified by the organization's accreditation organization;*
 - (c) Validate the findings of the organization's accreditation organization;*
 - (d) Investigate any critical incidents; or*
 - (e) Determine compliance with any State or federal law or regulation.**

.08 Documentation Requirements.

A. Medical Records. An organization shall maintain documentation of all behavioral health services provided to program participants, to include, at minimum, the following:

- (1) The date of service with service start and end times;*
- (2) The program participant's primary behavioral health complaint or the reason for the visit;*
- (3) A brief description of the service provided, including progress notes and any referrals for additional services;*
- (4) The place of service;*
- (5) Whether the service is by telehealth, and, if so, the location of both the licensed mental health professional and the program participant;*
- (6) A statement indicating that the program participant received copies of:
 - (a) The organization's grievance policy; and*
 - (b) Any necessary billing documents; and**
- (7) A signature block which may be handwritten or electronic which includes the following for the licensed mental health professional:
 - (a) Printed name;*
 - (b) Title;*
 - (c) Signature; and*
 - (d) Date.**

B. Confidentiality. An organization shall maintain program medical records and confidential information:

- (1) According to the requirements of Regulation .03 of this chapter; and*
- (2) At the licensed program site in a location that is:
 - (a) Exclusively controlled by the organization; and*
 - (b) Locked.**

C. Timekeeping. An organization shall maintain timekeeping records in accordance with COMAR 09.32.01.06 for required staff enumerated in COMAR 10.63.02 or in any of the program descriptions set forth in this subtitle and contractors, including physicians and nurse practitioners.

.09 Telehealth Service Requirements.

A. Scope. This regulation applies to community-based behavioral health services delivered via synchronous telehealth which are eligible for reimbursement by the Public Behavioral Health System.

B. Covered Services. In accordance with COMAR 10.09.49.03, community-based behavioral health services delivered via telehealth shall be:

- (1) Medically necessary;*
- (2) Held with the program participant or, for family sessions or other services which are permitted to be held without the program participant in attendance, with the family or guardian of the participant;*
- (3) Provided to the same extent and standard of care as services provided in person;*
- (4) Within a licensed behavioral health professional's scope of practice; and*
- (5) Permitted to be provided via telehealth as set forth in the chapter of this subtitle defining the covered service being rendered.*

C. The organization shall ensure that all licensed mental health professionals obtain the program participant's consent to services via telehealth, unless there is an emergency that prevents obtaining consent, which shall be documented in the program participant's medical record.

D. Medical Record Documentation. The organization shall ensure medical records for services rendered via telehealth:

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(1) Maintain documentation in the same manner as during an in-person visit, using either electronic or paper medical records;

(2) Are retained according to the provisions of Health-General Article, §4-403, Annotated Code of Maryland; and

(3) Include program participant consent documentation as required in §C of this regulation.

E. Technical Requirements. An organization operating a program providing community-based behavioral health services shall meet all technical requirements described in COMAR 10.09.49.05.

F. Confidentiality. An organization operating a program providing community-based behavioral health services shall meet all requirements described in:

(1) COMAR 10.09.49.06; and

(2) Regulation .03 of this chapter.

G. Limitations. An organization operating a program providing community-based behavioral health services is subject to the following limitations on the provision of a service delivered via telehealth:

(1) A service delivered via telehealth is subject to the same program restrictions, preauthorizations, limitations, and coverage requirements that exist for services delivered in person.

(2) A service delivered via telehealth does not include:

(a) An electronic mail message between a licensed mental health professional and a program participant;

(b) A facsimile transmission between a licensed mental health professional and a program participant; or

(c) A telephone conversation, electronic mail message, or facsimile transmission

between a licensed mental health professional without direct interaction with the program participant.

(3) Program specific limitations as set forth in the chapter of this subtitle defining the covered service being rendered.

.10 Agreement with Local Authorities.

A. An organization that intends to operate a program to provide community-based behavioral health services in the State shall execute an agreement to cooperate with the applicable local authority in each jurisdiction in which they intend to provide behavioral health services prior to applying for a license for any program licensed under this subtitle.

B. The agreement to cooperate shall provide for coordination and cooperation between the organization and local authority in the jurisdiction that services are to be provided, including, but not limited to, facilitating:

(1) Any site visit, including but not limited to a complaint or critical incident investigation;

(2) The transition of services if:

(a) The organization closes any of its program sites; or

(b) An organization plans to close or discontinue a service;

(3) Program compliance audits; and

(4) The provision of any additional documentation requested by the Administration.

C. The agreement to cooperate may not include a provision that authorizes the local authority to prohibit an organization from offering services at any location.

D. The agreement to cooperate shall be included with the licensure application provided to the Administration in accordance with COMAR 10.63.06.03.

.11 Rights of Program Participants.

A. An organization may not discriminate in the provision of community-based behavioral health services on the basis of race, creed, color, age, gender, sexual orientation, gender identity, national origin, marital status, disabilities, or any other classification prohibited under State or federal law in accordance with the requirements of Regulation .03 of this chapter.

B. An organization shall protect and promote the exercise of the program participant rights enumerated in §D of this regulation in all aspects of its program operations.

C. Notification of Program Participant Rights. The organization shall inform the program participant, in a language that the participant understands, of:

(1) The rights and responsibilities listed in §D of this regulation; and

(2) The Suicide and Crisis Hotline.

D. Program Participant Rights.

(1) An organization shall provide care for program participants in a manner and in an environment that maintains or enhances each participant's dignity and respect.

(2) A program participant receiving community-based behavioral health services from an organization licensed in accordance with COMAR 10.63.06 has the right to:

(a) Be treated with consideration, respect, and full recognition of the program participant's human dignity and individuality;

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

(c) Receive treatment in accordance with their individualized plan of care or rehabilitation plan;

(d) If applicable, receive treatment in accordance with the preferences of their advance directive for mental health services in accordance with Health-General, §10-708, Annotated Code of Maryland;

(e) Consent to or refuse treatment after the possible consequences of refusing treatment are fully explained;

(f) Be free from mistreatment, neglect, and verbal, mental, emotional, sexual, and physical abuse;

(g) Contact at any time;

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- (i) Personal legal counsel;
- (ii) The State protection and advocacy agency;
- (iii) The applicable local authority;
- (iv) The Administration; and
- (v) The Department.

(h) Make suggestions, complaints, or present grievances on behalf of the program participant or others, to the organization, the State protection and advocacy agency, the applicable local authority, the Administration, the Department, or other individuals without threat or fear of retaliation;

(i) Receive a prompt response, through the organization's established complaint or grievance policy, to any complaints, suggestions, or grievances the program participant may have;

(j) Except when prohibited for the health and safety of the program participant or others, keep any identification, insurance information, and public benefits documentation in their possession;

(k) Designate their own representative payee for Social Security;

(l) Authorize advocates, family, or friends to participate in care coordination or the treatment planning and discharge planning process;

(m) Contact emergency services for emergency assistance or transportation to a hospital at any time; and

(n) Not be compelled to perform work for the organization and, if the program participant chooses to perform work for the organization, is monetarily compensated by the organization for any work performed.

E. Addressing Alleged Violations of Participant Rights. An organization licensed to operate a program to provide community-based behavioral health services in accordance with COMAR 10.63.06 shall:

(1) Initiate an investigation within 3 business days into any alleged violations of program participant rights involving anyone furnishing services on behalf of the organization;

(2) Document any actions taken to prevent further violations while the alleged violation is investigated;

(3) Investigate and document all alleged violations in accordance with the organization's written policies as outlined in §F of this regulation;

(4) Take any corrective action required by the local authority or the Administration; and

(5) Report any critical incidents in accordance with Regulation .06 of this chapter.

F. Program Participant Rights Policy. An organization operating a community-based behavioral health program shall have a written policy to investigate and document all alleged violations of participant rights that, at minimum, outlines:

(1) The timeline of the investigation;

(2) The procedure for private interviews with any witnesses;

(3) Any necessary safeguards to ensure that the alleged perpetrator is not involved in conducting the investigation;

(4) The procedure for the review of the program participant's file and other relevant records;

(5) Action taken based on the organization's written policies; and

(6) The procedure for the completion and submission of documentation relevant to the investigative process to the local authority or the Administration.

.12 Organization Grievance Policy

A. Grievance Policy. An organization operating a community-based behavioral health program shall have a grievance policy.

(1) An organization shall provide program participants with a copy of the grievance policy at the time of admission.

(2) An organization's grievance policy shall include at a minimum:

(a) The right of program participants to grieve program decisions including, but not limited to, decisions concerning:

(i) Treatment;

(ii) Violations of program participant rights;

(iii) Discharge; and

(iv) Change in status or services;

(b) Instructions on how to file a grievance as described in §B of this regulation; and

(c) Procedures for the following:

(i) Review of the initial decision on the grievance by supervisory staff;

(ii) An opportunity to appeal the outcome of the initial decision to senior management; and

(iii) Explicit provisions that allow the program participant at any time to contact the appropriate local authority, the Administration, and if applicable, the accreditation organization.

B. An organization operating a program providing community-based behavioral health services shall provide program participants instructions on how to file a grievance which shall:

(1) Be in plain language;

(2) Be in a language that the program participant understands;

(3) Accommodate individuals who are unable to read print or communicate in writing;

(4) Outline the steps of the grievance process as described in §A(2)(c) of this regulation; and

(5) Contain current contact information for the appropriate local authority, the Administration, and if applicable, the accreditation organization.

C. An organization operating a program providing community-based behavioral health services may not retaliate against a program participant who presents a grievance.

FOR DISCUSSION ONLY — NOT FOR PROMULGATION

D. An organization operating a program providing community-based behavioral health services shall inform each program participant in writing when revisions are made to the grievance policy and communicate to program participants the nature and extent of the changes.

.13 Discontinuation of Program Operations

A. Planned Discontinuation of Program Operations.

(1) An organization operating a program providing community-based behavioral health services shall notify the following no less than 60 business days prior to the intended discontinuation date:

- (a) The Administration;*
- (b) The appropriate local authority; and*
- (c) If applicable, the State Opioid Treatment Authority.*

(2) The notice provided shall include the organization's written plan for:

- (a) Discontinuation of operations, including relevant dates;*
- (b) Informing program participants or guardians of the planned discontinuation of services;*
- (c) Informing program participants or guardians of other behavioral health service options;*
- (d) Transitioning program participants to other behavioral health services;*
- (e) Storing and protecting all records after the discontinuation of operations for a period of at least 7 years; and*
- (f) Notifying employees, contractors, and consultants of its discontinuation of operations.*

(3) Within 20 business days from receipt of the organization's notification of intention to discontinue program or licensed service operations, the Administration shall:

- (a) Notify the organization in writing whether the organization's written discontinuation plan is acceptable; and*
- (b) Either:*

(i) Approve final closure; or

(ii) If the organization's plan is unacceptable, meet with the organization and the appropriate local authority to make a plan that protects the health, safety, and welfare of program participants.

(4) Until the Administration approves final closure, the organization shall:

- (a) Provide services as appropriate;*
- (b) Make best efforts to refer program participants to alternative services to ensure continuation of care; and*
- (c) Document its efforts to refer program participants to alternative services.*

(5) Upon approval by the Administration of the organization's discontinuation plan, the organization shall implement the discontinuation plan.

(6) At all times during the discontinuation process, the organization shall cooperate with the Administration and the appropriate local authority.

B. Unplanned Discontinuation of Program Operations.

(1) An organization licensed in accordance with this subtitle that experiences an unexpected discontinuation or interruption of services for more than 1 day at any licensed program site, whether temporary or permanent, shall immediately, but no longer than 24 hours, inform:

- (a) Program participants or their guardians via:*
 - (i) Direct communication; and*
 - (ii) Visible signage at the licensed program site;*
- (b) The Administration;*
- (c) The appropriate local authority; and*
- (d) If applicable, the State Opioid Treatment Authority.*

(2) The organization, if requested by the Administration or the local authority, shall provide a proposed written emergency plan that includes:

- (a) A census of program participants affected by the discontinuation of services;*
- (b) Types of services affected;*
- (c) Expected or estimated duration of closure;*
- (d) How services will be provided in the interim, including any staffing changes;*
- (e) If applicable, the location where interim services will be provided;*
- (f) If applicable, a plan to transition program participants to an alternative program or make other arrangements to ensure continuity of services for the individuals;*
- (g) A plan for storing and protecting all records, ensuring program participant and auditor access upon request; and*
- (h) A plan for notification of employees, contractors, consultants, and consumers.*

(3) In the event of an unplanned discontinuation of program operations, the Administration or its designee may contact program participants to discuss the discontinuation of services and ensure the continuity of care.

(4) Within 7 business days after receipt of the organization's notification of discontinuation of program operations, the Administration shall:

- (a) Notify the organization in writing whether the organization's written discontinuation plan is acceptable; and*
- (b) Either:*
 - (i) Approve final discontinuation; or*

(ii) *If the organization's plan is unacceptable, meet with the organization and the appropriate local authority, to make a plan that protects the health, safety, and welfare of program participants.*

(5) *The organization may not discontinue program operations until the Administration approves the discontinuation plan.*

(6) *At all times during the discontinuation process, the organization shall cooperate with the Administration and the appropriate local authority.*

C. Non-Compliance with Discontinuation Requirements.

(1) *In the event of a planned discontinuation of services, if an organization fails to comply with §A of this regulation, the Secretary may deny any future application for a license submitted by the organization, its corporate officers, or required staff of the organization.*

(2) *In the event of an unplanned discontinuation of services, if an organization fails to comply with §B of this regulation, the Secretary may deny any future application for a license submitted by the organization, its corporate officers, or required staff of the organization.*

10.63.02 [Programs Required to be Accredited in Order to be Licensed to Provide Community-Based Behavioral Health Services] General Staffing Requirements

Authority: Health-General Article, §§7.5-204(a)(2)], 8-402, 8-404, 10-901,] and [10-1402] 7.5-402, Annotated Code of Maryland

.01 Definitions

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

B. Terms Defined.

(1) *"Accreditation organization" means a private entity that conducts inspections and surveys of health care facilities or health care staff agencies based on nationally recognized and developed standards that is approved by the Secretary in accordance with Health General Article, §19-2302, Annotated Code of Maryland.*

(2) *"Administration" means the Behavioral Health Administration within the Department that provides oversight to organizations that are licensed in accordance with this subtitle.*

(3) *Allied Health Staff.*

(a) *"Allied health staff" means an individual not licensed in accordance with Health Occupations Title, Annotated Code of Maryland that is utilized by an organization to provide support services or direct care services in the operation of a community-based behavioral health program.*

(b) *"Allied health staff" includes, but is not limited to:*

- (i) *Rehabilitation workers;*
- (ii) *Direct service staff;*
- (iii) *Non-certified peer recovery specialists;*
- (iv) *Community health workers;*
- (v) *Health educators;*
- (vi) *Counselor aides; and*
- (vii) *Group living workers.*

(4) *"Applicant" means the legally authorized individual or entity submitting an application for licensure.*

(5) *"Behavioral health services" means prevention, screening, early intervention, treatment, recovery, support, wraparound, and rehabilitation services for individuals with substance-related disorders, addictive disorders, mental disorders, or a combination of these disorders.*

(6) *"Business Day" means any day except Saturday, Sunday, or a State holiday.*

(7) *"Community-based" means a setting of a behavioral health services program that is not located in a hospital, as defined in Health-General Article, §19-301, Annotated Code of Maryland.*

(8) *Corporate Officers.*

(a) *"Corporate officers" means the managing employees or other individuals responsible for the conduct of the affairs of the organization inclusive of the organization's controlling board.*

(b) *"Corporate officers" includes but is not limited to the organization's:*

- (i) *Chief Executive Officer;*
- (ii) *Chief Financial Officer;*
- (iii) *Chief Medical Officer;*
- (iv) *Chief Information Officer;*
- (v) *Corporate Compliance Officer;*
- (vi) *Board members; and*
- (vii) *Other senior officers of the organization.*

(9) *"Criminal Justice Information System" has the meaning stated in Criminal Procedure Article, §10-201, Annotated Code of Maryland.*

(10) *"Critical Incident" means an event that impacts the health, safety, or welfare of a program participant or staff.*

(11) *"Department" means the Maryland Department of Health.*

(12) *"License" means an authorization issued by the Secretary permitting an organization to operate a behavioral health program at a specific site in the State.*