

DETERMINING NEED TO LICENSE UNDER COMAR 10.63

- a. Evaluate EACH program element operated, in order to determine its accreditation and licensing status. It is possible to have some programs that are exempt, and others that do require licensing. This decision tree is limited to one program at a time, and must be run for all programs.
- b. In this document the term “clinical services” refers not only to mental health and substance abuse treatment, but also to psychiatric rehabilitation, residential rehabilitation, residential crisis, and other supportive services.
- c. Stopping points are highlighted in RED for exempt, and GREEN for license required and are followed by the COMAR reference justifying the decision.
- d. The guide below is meant as an aid, and will not necessarily cover ALL situations. In the event of gaps or contradictions, COMAR 10.63 governs. Questions should be addressed to bha.regulations@maryland.gov.

STEPS TO DETERMINE IF LICENSING IS NEEDED FOR A PARTICULAR PROGRAM:

(Please note that it is important to follow the steps in this document – reading individual boxes will cause errors).

1. Does this program have a specific written Maryland Department of Health (MDH) exemption from 10.63 such as: a pilot project; a federal or State demonstration project; demonstrable equivalence to 10.63 of contractual provisions; conditions of grant award; or other requirements?

- a. **Yes** – Program likely exempt from 10.63 licensure (10.63.01.04 C) 
- b. **No** – Go to Q2.

2. Does the program provide any of the following: DUI education programs as described in COMAR 10.63.05.05; Substance-related disorder programs at any of ASAM levels 3.1, 3.3, 3.5 or 3.7?

- a. **Yes** - State Licensure is always required for these. **Now go to Q11**
- b. **No** - Go to Q3

3. Is the program one of the following: Alcoholics Anonymous; Narcotics Anonymous; Peer Support Services; Family-provided support services; or an employees’ assistance program of a business entity?

- a. **Yes** – Program likely exempt from 10.63 licensure (10.63.01.04 A.(2)-(7)) 
- b. **No** - Go to Q4

4. Is the program a therapeutic group home authorized under Maryland Statute, COMAR 10.21.07, and COMAR 14.31.05--14.31.07?

- a. **Yes** – Program likely exempt from 10.63 licensure (10.63.01.04 A.(9)) 
- b. **No** – Go to Q5

5. Is this program providing Outpatient Behavioral Health treatment and rehabilitation services *in regulated space* of a hospital?

- a. **Yes** – Go to Q6
- b. **No** – Go to Q7

6. Is the hospital accredited by an approved accreditation organization under the accrediting organization's *behavioral health* standards, and, if applicable, appropriate DEA and statutory standards covering Opioid Treatment and Withdrawal Management?

- a. **Yes** – Program likely exempt from 10.63 licensure (10.63.01.04 A. (8)) 
- b. **No** – Go to Q7

7. Are ALL staff members who are providing services health professionals, in solo or group practice, and properly licensed under the Health Occupations Article?

- a. **Yes** – Go to Q8
- b. **No** – Go to Q9

8. Are ALL of the clinical services in this program performed by the above-mentioned licensed health professionals *operating only within their board-authorized scope of practice, and if applicable, appropriate DEA and statutory standards covering Opioid Treatment and Withdrawal Management?*

- a. **Yes** – Go to Q10
- b. **No** – Go to Q9

9. Is the program performing Withdrawal Management or Opioid Treatment Services?

- a. **Yes** – Required to have both accreditation and licensing for these services, which **MUST be linked to an accredited and licensed program type. (Only certain programs are eligible – see COMAR 10.63.03), UNLESS working in HSCRC rate-regulated space of a hospital or are a licensed practitioner operating within scope of license/DEA approval.** 
- b. **No** - Go to Q10

10. Are any of the services provided by this program performed by:

- Unlicensed Personnel;
- Staff who are required to work within a program or under supervision (eg: CSC-AD, CAC-AD);
- Personnel whose licensed scope of practice does *not* include all the services offered; or
- Staff who are working under grant award conditions requiring program licensure.

a. **Yes** – Likely to have to be licensed under 10.63. **Now go on to Q11**

b. **No** Program likely exempt from 10.63 licensure (10.63.01.04 A. (1)(a)) 

11. The next step is to determine whether or not the program needs to be both accredited and licensed, or whether the requirement is license only. Is the program one of the following?

- Substance-Related Disorder Assessment and Referral Program;
- DUI Education Program; or
- Early Intervention Level 0.5 program.

a. **Yes** - Only need State licensure for this particular program, not accreditation 

b. **No** - Required to obtain accreditation for this particular program as well as licensure from MDH. 