

Behavioral Health FAQs for COMAR 10.63.01-06, Community-Based Behavioral Health Programs and Services

These are the FAQs for COMAR 10.63 which became effective **July 1, 2016**. For most providers that were previously regulated under COMAR 10.21 and 10.47, this shift will require programs to become accredited by one of the four approved, national accrediting organizations. This document is organized to follow the sections of the new regulations:

- **10.63.01 Requirements for All Licensed Providers**
- **10.63.02 Programs Required to be Accredited in Order to be Licensed to Provide Community-Based Behavioral Health Services**
- **10.63.03 Descriptions and Criteria for Programs and Services Required to have an Accreditation-Based License**
- **10.63.04 Additional Requirements for Accreditation-Based Licenses for Specific Residential Community-Based Behavioral Health Services**
- **10.63.05 Descriptions and Criteria for Programs Requiring a Non-Accreditation-Based License**
- **10.63.06 Application and Licensure Process**

Effective Dates (see also COMAR 10.63.06.21, Deadlines and Effective Dates of this Chapter)

- All accreditation-based programs must:
 - 1) have accreditation from a Maryland Department of Health (MDH) approved accreditation organization; and
 - 2) submit an application for licensure by no later than **January 1, 2018**.
- Programs were allowed to begin submitting applications for licensure as of **October 1, 2016**. The application is posted on BHA's website and may be found at <https://bha.health.maryland.gov/Pages/Accreditation-Information.aspx>.
- Licenses will be issued by BHA.
- All programs will be required to have a license under COMAR 10.63 regulations by no later than **April 1, 2018**.

How Can I Find Information on Regulations and Accreditation

- Provider Alerts are the main vehicle for transmitting information to Maryland behavioral health providers. Every provider is encouraged to sign up for Provider Alerts through Beacon Health Options, the Administrative Services Organization (ASO) for Maryland's Public Behavioral Health System (PBHS). To sign up, an e-mail request may be sent to marylandproviderrelations@beaconhealthoptions.com.

- Information on Maryland's accreditation and regulations changes may be found at://bha.dhmh.maryland.gov/Pages/Accreditation-Information.aspx.
- In order to ensure consistent and accurate answers, all questions related to accreditation and regulations should be directed to bha.regulations@maryland.gov. **Individual BHA program staff should not be contacted with questions.**

Frequently Asked Questions

General Questions

Q: What programs types will require licensure under COMAR 10.63?

A: Please refer to:

- COMAR 10.63.01.04 for entities that are exempt from licensure under COMAR10.63.
- COMAR10.63.02 for programs and services required to be **both** accredited **and** licensed.
- COMAR 10.63.05 for the list of programs which do not require accreditation but do require a license.

Please also refer to the COMAR 10.63 Decision Tree to determine the need for licensure and accreditation.

Q: Can existing behavioral health programs apply for re-approval under COMAR 10.21 or re-certification under COMAR 10.47?

A: Until a program is licensed under COMAR 10.63, it must maintain existing approval under COMAR 10.21 or certification under COMAR 10.47. During this transition year, programs should consult with BHA regarding continued approval/certification under 10.21 or 10.47.

Q: What accreditation organizations are currently approved by MDH?

A: Please visit BHA's Accreditation Webpage for a list of approved Accreditation Organizations.

Q: How can organizations identify under which program type they need accreditation based on their current programs?

A: BHA has prepared crosswalks for each of the approved accrediting organizations. The crosswalks clearly identify the accreditation program standards that correspond to each of the program types and services listed in COMAR 10.63. Please note that there are not corresponding accreditation standards in all cases, so be sure to choose an accrediting organization whose standards meet the State licensure requirements. The crosswalks may be found at <https://bha.health.maryland.gov/Pages/Accreditation-Information.aspx>.

Q: What much will it cost to become accredited?

A: Providers will need to contact each accrediting organization for cost estimates, as these are set independently by each organization and may vary depending on type and complexity of services, as well as the number of locations.

Q: What is the process to license programs with Deemed Status?

A: Programs currently approved through the deemed status process will apply for licensure under COMAR 10.63, rather than renewing their deemed status under COMAR 10.21.16. COMAR 10.63 accreditation and licensure replaces the concept of deemed status.

Q: Does an existing provider need to be accredited to add a service line?

A: These requests are being reviewed on a case-by-case basis. For case by case review, e-mail Stacey Diehl, BHA, at stacey.diehl@maryland.gov.

Q: Does an existing provider need to be accredited to add a new location or can their existing certification or approval be amended?

A: New locations of programs with existing certifications or approvals can be added through BHA. Please e-mail these requests to Stacey Diehl at stacey.diehl@maryland.gov.

Questions pertaining to 10.63.01, Requirements for All Licensed Providers

10.63.01.02 Definitions

Q: Does COMAR 10.63.01.02.B(11) require a board?

A: While the regulations define a board as an oversight/policy making group, there are no requirements in the regulations for a program to have a board.

10.63.01.04 Exempt Providers

Q: What programs are exempt from licensure?

A: An exempt provider means a provider that, under Health-General Article, [§§8-403 and 10-901(c)] § 7.5-401, Annotated Code of Maryland, is not required to be licensed by the Secretary of DHMH to provide services in Maryland. These are specifically listed in COMAR 10.63.01.04, Exempt Providers.

10.63.01.05 Requirements for Licensed Community-Based Behavioral Health Programs

Q: Does regulation COMAR10.63.01.05 have any specific staff training requirements?

A: In order to comply with regulations, staff training will be required, although there is not a specific list of training topics in the regulations. However, each of the accrediting organizations will have specific staff training requirements.

10.63.01.05C Criminal Background Investigation

Q: If someone has had a criminal background check done recently, does the provider need to do another one? What is the timeframe for accepting previously conducted checks?

A: A provider may accept a prior criminal background investigation if it has been performed within the last six months. The provider should verify that the investigation is authentic before relying upon it. It is recommended that follow-up criminal background investigations be conducted on staff at a minimum of every three years.

10.63.01.05 E Agreement to Cooperate

Q: If a jurisdiction has both a CSA and an LAA, which agency should sign the agreement?

A: If program provides both SUD and mental health services and they are located in a jurisdiction that has both a CSA and an LAA, they must have both agencies sign an agreement. If the program only provides mental health services, then the CSA signs the agreement and if the program only provides SUD services, the LAA signs the agreement.

Q: If a programs has locations in more than one jurisdiction, which CSA/LAA/LBHA signs the agreement?

A: A program in multiple jurisdictions must obtain a signed agreement from the CSA/LAA/LBHA in each jurisdiction in which they are located.

10.63.01.05G Critical Incident Reports

Q: Can you provide specific instructions on when a critical incident should be reported?

A: BHA is working to develop a Critical Incident Form and guidance on what constitutes a critical incident.

Questions pertaining to 10.63.02, Programs Required to be Accredited in Order to be Licensed to Provide Community-Based Behavioral Health Services

See COMAR 10.63.02.02 for the detailed list of programs and services requiring accreditation.

Q: Are Opioid Treatment Programs (OTP) expected to get accredited as an OTP and another program type such as Level 1 Outpatient Treatment?

A: Opioid Maintenance Therapy (OMT) and Withdrawal Management are now considered sets of specialized services that can occur in a variety of intensities of treatment. COMAR 10.63.02.02B indicates what types of programs can add this service. When programs providing OMT and /or Withdrawal Management apply for licensure under COMAR 10.63, they need to check off which program type, i.e. Level 1 Outpatient, Level 2.1 Intensive Outpatient, etc., in addition to checking OMT and /or Withdrawal Management.

Questions pertaining to 10.63.03, Descriptions and Criteria for Programs and Services Required to have an Accreditation-Based License

10.63.03.19 Opioid Treatment Service

Q: Does regulation COMAR 10.63.03.19B allow OTP medical directors to be grandfathered in?

A: OTP medical directors are required to be ABAM, ASAM, or board certified in the psychiatric subspecialty of addiction psychiatry. Grandfathering will not be done. If a program is having

difficulty filling a vacant OTP medical director position, a written variance MAY be granted if the program can provide information on steps taken to recruit. A copy of the variance application and instructions may be found at <https://bha.health.maryland.gov/Pages/Forms.aspx>, DHMH #4748.

Q: Please clarify regulation COMAR 10.63.03.19D. Does the 50:1 program ratio vary from the 50:1 patient/counselor ratio?

A: Yes, it varies from the current regulations. COMAR10.63.09.19D shifts to a program averaging concept instead of an individual counselor's ratio.

Questions pertaining to COMAR 10.63.04, Additional Requirements for Accreditation-Based Licenses for Specific Residential Community-Based Behavioral Health Services

COMAR 10.63.04.05 Residential Rehabilitation Program (RRP)

Q: Local hospitals are looking to bring up RRP beds. Is this something that they are legally allowed to do?

A: These requests are being reviewed on a case-by-case basis through the variance process. A variance MAY be approved subject to conditions, including but not limited to the following:

- Fewer than four people occupy each residence;
- The hospital enters into an agreement with the CSA/LAA for quality monitoring, complaint investigation, and residential site inspection;
- Alternative funding is identified; and
- If the program is not in a HSCRC space, the program is accredited; and the program meets all applicable requirements under COMAR 10.21.22 and COMAR 10.63.

Questions pertaining to 10.63.05, Descriptions and Criteria for Programs Requiring a Non-Accreditation-Based License

See COMAR 10.63.05 for the detailed list of programs and services that do not require accreditation, but do require licensing.

Questions pertaining to COMAR 10.63.06, Application and Licensure Process

Q: My current license/certification does not expire until June 2018. Do I still need to apply for a 10.63 license or can I wait until my current one expires?

A: All providers must apply for a license under COMAR 10.63 by no later than December 31, 2017 so that BHA has time to process applications by April 1, 2018. Existing COMAR 10.21 and COMAR 10.47 regulations will be repealed on April 1, 2018, therefore any provider granted a license under COMAR 10.21 or certification under COMAR 10.47 must have their new COMAR 10.63 license by that date.

COMAR 10.63.06.07, License Modification

Q: My program is already accredited. What do I need to do to add a new service line?

A: In order to add a new service line under a program that is already accredited and licensed under COMAR 10.63, you will need to contact the accrediting organization regarding their process for adding additional service types. The program will then need to contact Stacey Diehl, BHA, at Stacey.diehl@maryland.gov, concerning licensure and also notify the appropriate CSA/LAA/LBHA.