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**TO: BSAS LICENSEES, PROVIDERS, AND STAKEHOLDERS**

**FROM: DEIRDRE CALVERT, DIRECTOR, BUREAU OF SUBSTANCE ADDICTION SERVICES**

**SUBJECT: UPDATES TO REGULATIONS RELATED TO SERVICE REORGANIZATION AND REQUIREMENTS 105 CMR 164.000 – LICENSURE OF SUBSTANCE USE DISORDER TREATMENT PROGRAMS**

**DATE: NOVEMBER 11, 2022**

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This document is intended to issue guidance to all providers licensed/approved by the Massachusetts Department of Public Health's (DPH) Bureau of Substance Addiction Services (BSAS) regarding compliance with new requirements for service reorganization in BSAS' regulation for *Licensure of Substance Use Disorder Treatment Programs*, 105 CMR 164.000.

BSAS recognizes that each situation has its unique facts and circumstances and encourages stakeholders with specific questions to contact your Regional License Inspector: <https://www.mass.gov/service-details/information-for-licensed-substance-use-disorder-treatment-programs>

BSAS encourages all providers to review the updated regulation in its entirety, which may be found at the following link: <https://www.mass.gov/regulations/105-CMR-16400-licensure-of-substance-abuse-treatment-programs>

### **Overview**

The amendments to the Regulation are intended to streamline requirements through the reorganization of the service sections, add requirements to improve patient care and allow greater flexibility within the service setting for the provision of substance use disorder (SUD) treatment. The index of regulatory citations contained in 164.012 in Part One of the regulation, requiring the reader to crosswalk the cite to the applicable service setting has been stricken.

Instead, each service setting now has its own section within Part Two or the newly created Part Three with clearly identified requirements.

## Changes to Regulatory Structure

The Regulation is divided into three parts:

- **Part One:** Streamlining of Part One allowed for certain sections to be combined to reduce duplicative language. Sections 164.000 to 164.087 describe the administrative licensing procedures and requirements that apply to all programs seeking licensure under the service settings in Part Two. Also included in Part One are core components related to the facility environment, service delivery, record keeping, and reporting requirements.
- **Part Two:** Reorganization of Part Two of the regulation establishes service setting-specific requirements, by grouping standards by setting of care: 24-Hour Diversionary (Inpatient), Outpatient, Opioid Treatment Program (OTP), and Residential. Sections 164.099 to 164.454 **apply to all programs seeking licensure** and describe specific service provision and staffing requirements that apply to each service setting. Service Settings (formerly known as levels of care) are identified as:
  - Special Projects (new service setting)
  - Inpatient services 24-Hour Diversionary Withdrawal Management Services and Clinical Stabilization Services
  - Opioid Treatment Program
  - Residential Rehabilitation Services
  - Outpatient Services inclusive of Office Based Opioid Treatment (these requirements were previously found under 164.012(I))
- **Part Three:** A new Part Three was created to provide a streamlined approval process for entities already licensed by the Commonwealth or programs run by Commonwealth and those programs found in a Penal Facilities. Sections 164.500 to .587 and 164.600 to .626 respectively, **apply to all programs seeking licensure/approval:**
  - 164.500 through 164.587 relates to programs already licensed by any agency of the Commonwealth (e.g., DPH’s Bureau of Health Care Safety and Quality (BHCSQ), and/or any program actually operated by any agency of the Commonwealth (e.g., the Department of Mental Health (DMH))
  - 164.600 through 164.626 relates to Penal Institutions, including the Department of Correction (DOC) and House of Correction (HOC) Facilities

## Service Reorganization

As stated above, the changes to the Regulation include not only structural reorganization, but also service reorganization. Existing levels of care will be referred to in Part Two as “service settings.” This updated terminology is meant to acknowledge that SUD services are individualized and identify patient/resident-centered care, rather than sequential or level-based care.

Service reorganization will also enable programs to provide multiple services within a service setting under a single license/approval if programs can demonstrate compliance with service provision and staffing requirements. Program licenses and certificates of approval will identify the service setting and all authorized services. This fluidity of being able to provide multiple services under one program license/approval promotes individualized treatment for patients. Some examples include:

- A program may seek to provide Outpatient Withdrawal Management and Day Treatment under a single Outpatient Services program license or certificate of approval.
- A program may seek to provide 24-Hour Diversionary Withdrawal Management – ASAM Level 3.7 and Clinical Stabilization Services – ASAM Level 3.5 and certain OTP services (as long as state and federal OTP requirements are met) under a single 24-Hour Diversionary Services program license or certificate of approval.

### **Proposed Terminology Changes**

The following proposed regulatory terminology has been updated to reflect evidence-based practice terminology and is intended to minimize the stigma associated with SUD and underscore the fact that addiction is a medical disease. BSAS encourages approved and licensed providers to update this language within their policies, procedures, records, and materials to reflect these changes.

- Substance Abuse has been changed to Substance Use Disorder
- Client has been changed to Patient. A person residing in a residential service will be referred to as a Resident.
- Detoxification has been changed to Withdrawal Management.
- Level of Care has been changed to Service Setting.
- Acute Services has been changed to 24-hour Diversionary Service.
- Medically Managed has been changed to Intensive 24-hour Diversionary Withdrawal Management Services ASAM Level 4.
- Medically Monitored has been changed to 24-hour Diversionary Withdrawal Management Services-ASAM Level 3.7.
- Clinically Managed has been changed to Clinical Stabilization Services-ASAM Level 3.5.
- Outpatient Detoxification has been changed to Outpatient Withdrawal Treatment.
- Acupuncture Substance Abuse Detoxification has been changed to Acupuncture Withdrawal Management.
- Opioid Detoxification has been changed to Medically Supervised Withdrawal.
- First Offender Driver Alcohol Education has been changed to First Offender Driver Alcohol or Controlled Substance Education
- Operating Under the Influence Second and Multiple Offender Aftercare Treatment has been changed to Second Offender Alcohol or Controlled Substance Aftercare Treatment