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**TO:** STATE LICENSED ENTITIES, STATE AGENCIES OPERATING SUD PROGRAMS AND STAKEHOLDERS

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

**SUBJECT:** UPDATES TO REGULATIONS 105 CMR 164.500 – LICENSURE OF SUBSTANCE USE DISORDER TREATMENT PROGRAMS

**DATE:** NOVEMBER 11, 2022

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The Department of Public Health is amending its regulation 105 CMR 164.000, *Licensure of Substance Use Disorder Treatment Programs*.

This memo summarizes the updates to 105 CMR 164.500, which outline the requirements for (1) substance use disorder (SUD) treatment programs that are licensed by a Commonwealth agency or (2) SUD treatment programs operated by an agency of the Commonwealth, including SUD programs accepting civil commitments pursuant to G.L. c. §35. These requirements were located within the previous version of the regulation under 164.012. The previous 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.

This is further outlined in the guidance related to Regulation Service Reorganization here <https://www.mass.gov/service-details/information-for-licensed-substance-use-disorder-treatment-programs>

*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>

The Bureau of Substance Addiction Services (BSAS) has issued additional memos and guidance related to other provisions of the regulation. 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>

## **Requirements for State Licensed Entities and State Operated Programs**

Entities that are licensed by or programs operated by a Commonwealth agency are subject to a subset of regulatory requirements for the provision of SUD treatment. The amendments streamline the process for applicable programs that will receive approval or licensure to operate a SUD treatment program under 105 CMR 164.500. The requirements under 164.500 minimize some of the administrative requirements within *Part One*, for example:

**Suitability:** While private entities seeking licensure or approval must undergo a suitability review, which requires submission of detailed information regarding ownership interests and financial solvency, applicants under these provisions undergo a streamlined process for determining suitability. This streamlined determination of suitability has been revised to include these factors:

- Ability to provide services to residents of the Commonwealth with public health insurance on a non-discriminatory basis
- Demonstration of need for services

\*Please note that state agencies, such as the Department of Mental Health (DMH) and Department of Corrections (DOC), who operate a SUD treatment program are not subject to evaluation of suitability.

In addition to the standards contained within 105 CMR 160.500, each state entity or state operated program providing SUD treatment must also comply with the requirements of the applicable service setting provided, pursuant to 105 CMR 164.100-164.400: *Part Two*, for example:

A Clinic holding licensure from DPH - Health Care Facility Licensure and Certification (HCQ) providing Outpatient SUD counseling services is required to comply the provisions under 164.500 as well as the applicable provisions of 164.200 Outpatient Services.

Also, within this section there are changes to requirements for the provision of services. Changes to staffing requirements and minimum treatment service requirements are outlined below:

**Staffing Pattern:** Licensed or approved providers that directly provide services must employ an adequate number of qualified personnel to fulfill the service objectives and needs of each patient. Revisions to 164.548: *Staffing Pattern* now require programs to employ a full time Program Director as defined under 164.005 to oversee the day-to-day operations of SUD services, as well as a multidisciplinary team that includes professionals sufficient to meet the needs of each patient or resident served with recognized expertise in a variety of areas of substance use disorder treatment.

**Minimum Treatment Service Requirements:** Revisions to 164.578: *Minimum Treatment Service Requirements* include the requirement to provide directly or through appropriate agreements, the following treatment services:

- Medications for treatment of addiction, including all FDA-approved medications for addiction treatment
- Overdose prevention education as part of evidence-based practices
- SUD therapies
- Counseling and education as clinically indicated which conform to accepted standards of care, uses evidence-based practices, and monitors progress and outcomes

- HIV education and counseling
- Tuberculosis (TB) screening, education, and treatment
- Tobacco education and counseling
- Case management
- Mental health services
- Health services, including primary care, oral health, and family planning services
- Services for individuals with compulsive behaviors such as compulsive gambling
- Relapse prevention and recovery maintenance counseling and education
- Planning for patient's or resident's completion of treatment
- Family support services

\*State operated programs contracting with a vendor agency for the provision of SUD services are required to apply for a certificate of approval to offer the services, and the contracted vendor agency must be licensed by the Department or apply for licensure to provide SUD treatment.

### **Resources**

[Practical Guidance: Integrating Medication in Behavioral Treatment](#)

[Practice Guidance: Ensuring Effective Treatment for Persons with Co-Occurring Disorders](#)

[Practice Guidance: Making Treatment Culturally Competent](#)

[Practice Guidance: Responding to Relapse](#)