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TO: **BUREAU OF SUBSTANCE ADDICTION SERVICES LICENSED AND APPROVED PROVIDERS**

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

SUBJECT: **TREATMENT STANDARDS FOR SERVING CIVILLY COMMITTED PATIENTS PURSUANT TO SECTION 35**

DATE: **NOVEMBER 6, 2025**

Any provider or program that serves civilly committed patients (“providers” or “programs”) must hold BSAS license or approval pursuant to 105 CMR 164.000. All BSAS **licensed or approved** providers serving patients under M.G.L. c. 123, § 35 are required to deliver a combination of withdrawal management and clinical stabilization services that are compliant with 105 CMR 164.100- 153, as well as meet minimum standards for staffing, individualized treatment and discharge planning/aftercare support.

All providers are required to adhere to the standards set forth within this document, including but not limited to providing access to Medications for Addiction Treatment for the purposes of withdrawal management, induction, and maintenance. Providers are required to uphold patient rights at all times and continuously assess the patient's appropriateness for treatment.

Pursuant to 105 CMR 164.040 and 164.540 any BSAS licensed/Approved providers shall have written policies and procedures consistent with and implemented in accordance with the requirements established in 105 CMR 164.000, DPH-BSAS administrative guidelines, accepted standards of care for substance use disorder treatment services and applicable laws.

Compliance with applicable Regulatory requirements and Standards are enforced in accordance with evaluation and inspections under 105 CMR 164.000.

PROCESS FOR REVIEWING CLINICAL APPROPRIATENESS OF SECTIONING

STANDARD:

Programs shall have developed admission criteria for civilly committed patients that reflect the program's capacity to manage or treat comorbid/coexisting conditions. Programs shall continuously assess the patient for necessity of commitment in alignment with M.G.L. c. 123 § 35 and program guidance.

Under M.G.L. c. 123 § 35, civil commitment for the treatment of substance use disorder may be for a period of up to 90 days. The actual length of stay is determined by the severity of the patients' substance use disorder and by the clinical need as assessed by Withdrawal Management Services and Clinical Stabilization Services facility staff, including Medical Director, Program Director, and Clinical Supervisor. A patient committed under section 35 may be discharged prior to the expiration of the commitment if the Program Director or Clinical Supervisor determines discharge will not result in a likelihood of serious harm (no longer meet commitment criteria). Criminal justice involvement shall not constitute a factor for determining clinical necessity for continued commitment, patients are to be evaluated on their clinical presentation only. The program shall have a process in place for determining the most appropriate care for the individual and follow any requirements for notification if a patient is discharged prior to the expiration of commitment.

Should an individual's health decompensate while admitted to a section 35 program, the program must coordinate referrals to providers for higher level of medical or psychiatric care. The program must have agreements in place to facilitate these referrals to a higher level of care. If an individual chooses to voluntarily continue in care, the program must coordinate referrals to providers for continued treatment.

Guideline indicators include:

- Upon admission, the program shall complete an initial assessment, that includes a review of all available clinical information for the patient to determine clinical appropriateness. If, after an initial assessment occurs, a program finds that admission is not clinically appropriate, the program is responsible for facilitating an appropriate referral, which may include admission to a voluntary treatment setting if the individual no longer meets the criteria for commitment, including presenting a serious risk of harm to themselves or others due to substance use.
- The program will reassess the clinical necessity of commitment and risk of serious harm for each client daily, to be reflected in the Individualized Treatment Plan and documented within the patient record.
- The program shall have clear policies and procedures for how these reviews are conducted, documented and a mechanism for quality assurance review.
- If at any time, the Medical Director, Program Director or Clinical Supervisor determines that a client is no longer at risk of a likelihood of serious harm due to their substance use, thus no longer meeting the criteria for involuntary commitment, the client shall be offered to continue treatment voluntarily. The program shall document the education provided to the patient about continuation of treatment options should they no longer meet the criteria for involuntary commitment.

- In the event that the client does not wish to continue treatment voluntarily, they shall be discharged in accordance with 105 CMR 164.075, 105 CMR 164.575, and the requirements of these standards. The Program Director or Clinical Supervisor shall:
 - Issue a written determination that the client's discharge will not result in a likelihood of serious harm;
 - Provide timely notification to the committing court;
 - Request consent from the patient to notify the petitioner of their discharge; and
 - If such consent is given, notify the petitioner of the client's discharge from the program.
- In the event that the client is determined to be at risk of a likelihood of serious harm for a reason other than their substance use, the Program Director or Clinical Supervisor shall assess the need for medical or psychiatric care.
- Programs shall consider several factors when determining the clinical necessity for continued commitment, including, but not limited to:
 - Patient needs no longer meet current level of care involuntarily (as determined by ASAM criteria and level of security of program);
 - Completed discharge plan, including meeting all aftercare requirements set forth in 105 CMR 164.076 and facilitated access to recovery support navigator services and peer recovery coach services; and
 - Risk factors identified in court clinic report have been addressed, including but not limited to, evaluation of overdose risk.

Evidence of the above indicators should be documented in the patient record or other location available for review upon request. Criminal justice involvement shall not constitute a factor for determining clinical necessity for continued commitment, patients are to be evaluated on their clinical presentation only.

MEDICAL AND PSYCHIATRIC SERVICES

STANDARD:

In addition to the physical exam requirements within 164.000, Programs shall ensure that patients are provided with comprehensive screening for medical and psychiatric screening by a qualified health care professional.

Guideline Indicator:

- On-site psychiatric services that provide comprehensive medical and psychological screening within 24 hours.
- Patients shall be provided with any necessary care as a result of the screening determination.
- The Program shall ensure the screening and any resulting care or referrals is documented in the patient record.

Evidence of the above indicators should be documented in the patient record or other location available for review upon request.