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

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

SUBJECT: **UPDATES TO REGULATIONS 105 CMR 164.000 – LICENSURE OF SUBSTANCE USE DISORDER TREATMENT PROGRAMS – EQUITABLE ACCESS TO INDIVIDUALIZED TREATMENT**

DATE: **NOVEMBER 11, 2022**

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 regarding equitable access to individualized treatment, as required by 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 new 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

The Department has revised sections of 105 CMR 164.000 with the purpose of ensuring equitable access to substance use disorder (SUD) treatment that is based on individualized care needs. Revisions made in the following areas are intended to support providers in accommodating and serving individuals in a non-discriminatory manner.

Access to MAT: Requiring licensed or approved providers to provide all FDA-approved medications for addiction treatment (MAT) directly or by contract with a qualified vendor.

- Requirements under 105 CMR 164.074, 164.574 and 164.612 mandate that providers ensure access directly or through a written agreement to medications for the treatment of addiction, including all FDA-approved medications for opioid use disorder

- All forms of MAT must be directly available to patients/residents in settings such as 24 hour Diversionary and outpatient withdrawal management, Opioid Treatment Programs (OTP), and Office Based Opioid Treatment (OBOT). If the service setting model does not allow for direct access to all forms of MAT, providers must enter into agreements with appropriate providers that offer this treatment. Agreements must include a mechanism for referrals that directly connect patients/residents to the medication service.

Examples of this requirement include:

1. Direct access: A 24-Hour Withdrawal Management program has access to all forms of MAT, which allows the provider to match the patient with the appropriate medication based on diagnosis, treatment history, and individualized needs.

2. Access through an agreement: An OBOT program offering buprenorphine enters into an agreement with an OTP offering methadone to serve an individual for whom methadone is a more appropriate treatment. A direct referral from the sending OBOT shall ensure that the patient has been accepted for treatment by the receiving OTP.

Direct Connect: Requiring providers to directly connect patients with another care provider or other services, such as certified sober housing or group therapy, prior to discharge.

- Requirements under 105 CMR 164.076 and 164.576 mandate that providers directly connect the patient or resident to an appropriate provider to ensure a continuum of care for the patient or resident, including arrangements for further substance use disorder treatment and post-discharge counseling and other supportive services.

- Direct connection to continued SUD services or other services includes educating the individual about available treatment options, providing all necessary assistance for initiating a referral, and securing a "warm handoff" connection to the accepting provider.

- When an individual does not meet a provider's eligibility requirements or the provider's services are inappropriate for the individual's needs, the provider must collaborate with care managers, case managers, health plans, and any others necessary to obtain an appropriate placement for the patient. See: 105 CMR 164.070(E); 105 CMR 164.570(D).

Examples of this requirement include:

1. A patient inducted with methadone during inpatient treatment for withdrawal management wishes to continue maintenance treatment in a community setting. This patient must be directly connected with an OTP provider. As part of the discharge planning process, the referring provider must verify that OTP services are in place, and that the patient has been accepted into the program.

2. A resident transitioning out of a residential program seeks to secure a placement in a sober living program. The current provider must educate this resident about their options, such as a sober living home, and provide assistance with the referral process. The resident's discharge from the residential setting should include detailed plans for the transition to the sober living home and ensure that discharge doesn't create an unsafe situation for the individual. If a resident chooses to

live in an uncertified sober living home, the residential program must document efforts made to refer the resident to a certified sober home.

<u>Lower Barriers for Admission</u>: Prohibiting providers from automatically denying treatment based upon the primary substance used by the patient, a mental health diagnosis, or any prescription medications required by the patient.

- Requirements under 105 CMR 164.070 and 164.570 mandate that providers establish written admission eligibility criteria and procedures. These criteria and procedures must not impose any restrictions that act as a barrier to treatment access, such as discrimination against patients and residents with public health insurance.

- Providers are prohibited from creating eligibility criteria that establish a category of automatic exclusion that is defined by a history of criminal conviction, type of primary substance used, mental health diagnosis, or prescribed medication including FDA-approved medications for the treatment of addiction.

- Providers are further prohibited from establishing admission criteria that create a barrier to access, such as requirements for a certain number of medication refills, prohibition of any prescribed medication, or the lack of an official identification documentation.

Examples of this requirement include:

1. An individual seeking admission to a residential setting cannot be required to have three months' worth of their prescribed medication prior to admission. Providers will work with individuals as needed to assist with the process of refilling medication after or during the admission process. Individuals may need to be connected with new practitioners to continue any medication treatment. The provider must directly connect that individual to any needed services while receiving treatment in the residential setting.

2. An individual presenting for admission does not possess a state-issued identification card. The provider must work with the individual to ensure access to treatment while also assisting the individual to secure official identification.

<u>Resources</u>

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