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Massachusetts Department of Public Health

PROPOSED REGULATORY AMENDMENTS TO 105 CMR 164.000 LICENSURE OF SUBSTANCE USE DISORDER TREATMENT PROGRAMS

Public Health Council
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Summary of Regulation

105 CMR 164.000, LICENSURE OF SUBSTANCE USE DISORDER TREATMENT PROGRAMS:

This regulation sets forth standards for the Licensing and/or Approval of substance use disorder treatment programs operating:

- As standalone facilities, or
- Within other DPH or DMH licensed settings (such as a hospital or clinic), or
- Within penal facilities

Summary of Revisions

Updates are designed to:

- Increase access, reduce barriers and ensure individualized treatment
- Implement chapter 208 of the acts of 2018 (the CARE Act)
- Advance behavioral health integration
- Streamline, reorganize, and modernize the regulation

Definitions

Goal of the changes throughout is to reflect industry standard language in-line with evidence based practices.

- Current term “**client**” has been changed to “**patient**”
- Current term “**detoxification**” and has been changed to “**withdrawal management**”
- BSAS licensure and approval types “**levels of care**” changed to “**services**”
- Current term “**inpatient**” related to Acute Treatment Services and Clinical Stabilization Services has been changed to “**24-hour diversionary**”

Staffing

Proposed revisions enhance patient care by building clinical capacity within programs with a focus on clinical staff recruitment, retention and workforce development.

- Senior Clinician – as updated, senior clinicians must be independently licensed
- Standardize licensure requirement for social workers and mental health counselors throughout the regulation
- Ensure clinical supervision conducted by appropriately licensed staff for both licensed and unlicensed direct care staff

OBOTs

- Currently, Office-Based Opioid Treatment providers (OBOT) are only subject to a subset of the regulation's administrative and procedural requirements.
- Proposed changes apply all minimum service requirements to OBOTs.
- This update will ensure providers all meet the same baseline licensure standards.

Provision of Services

Increase Access

- Ensure patients have access to all FDA-approved medications for the treatment of addiction across all services to be provided directly or by contract.
- Ensure patients have increase access to treatment by allowing providers to initiate treatment based on a brief assessment.

Reduce Barriers

- Allow more timely access to treatment by permitting providers to accept record of an prior patient examination, within clinician's discretion.
- Ensure patients are directly connected with another treatment provider,
- Ensuring that patients are not denied treatment based upon the primary substance used by the patient, a mental health diagnosis, or any prescription medications required by the patient .
- Ensure patients receive equal access to treatment regardless of any medications currently used.

Individualized Treatment

- Ensure a patient discharge cannot create an immediate safety risk for the patient
- Require mental health services including screening and crisis intervention for patients with co-occurring disorders, and health services including primary care and oral health care

Streamlined and Reorganized Licensure Provisions

The regulation has been reorganized for ease of use and to reduce duplicative licensure processes for providers.

- Currently, providers go through separate licensure processes for each type of care provided, and receive separate licenses for each.
- As changed, providers will receive one license that designates each service they provided.

Goal is to increase access to treatment by reducing duplicative administrative processes and allowing providers to focus instead on patient care.

Opioid Treatment Programs

Current regulations require Opioid Treatment Programs to operate 7 days a week including all holidays and impose more stringent take home restrictions

Updates to align with federal regulations will:

- Allow OTPs to close one day per week, as well as on state and federal holidays, provided patients are given take-home dosing for all days closed regardless of time in treatment
- Allow patients access to take-home dosing immediately
- Allow patients access to a higher number of take-home doses over time

DMH and BHCSQ facilities

Proposed updates eliminate duplicative licensure requirements for programs in a DMH- or BHCSQ-licensed facility. These updates will:

- Clarify for providers that only separate, identifiable substance use disorder treatment programs within DMH- or BHCSQ-licensed facilities require BSAS licensure or approval; and
- Create a streamlined pathway for DMH- and BHCSQ-licensed providers to add a separate, identifiable substance use disorder service

Behavioral Health Integration

In an effort to support patient needs specific to co-occurring substance use disorders and mental health conditions, the regulation now:

- Assesses providers' ability to address health needs of patients and residents with co-occurring mental health conditions; and
- Emphasize staff training requirements around mental health; and
- Requires providers to assess patients for any co-occurring mental health conditions, and provide for screening, intervention, and pharmacotherapy services; and
- Includes an additional residential service type, Co-occurring Enhanced.

CARE Act Implementation

Chapter 208 of the Acts of 2018 (the CARE Act) included several provisions related to BSAS licensure and enforcement. As updated, the regulation:

- Includes statutory authority for the Department to fine a facility that doesn't correct a cited deficiency up to \$1000 per day, per deficiency.
- Requires providers to accept patients with public health insurance and report the facility's payer mix to the Department on a quarterly basis
- Provides structure for approving substance use disorder treatment programs in penal facilities.

CARE Act Implementation cont.

The updated regulation also requires providers to demonstrate the following:

- Necessity for the substance use disorder treatment program
- Geographic access to the continuum of care
- Access to a balanced continuum of care in terms of proportion of each service type
- Program size is conducive to the health and safety of the client population being served
- Health disparities are addressed through access to services for underserved populations and persons with co-occurring mental illness and substance use disorder and the demonstrated ability and history to meet the needs of such populations

Moving Forward

Following this initial presentation, DPH will hold a public hearing and comment period.

DPH Staff will review public comments and request approval of the proposed revisions at a subsequent meeting of the Public Health Council.



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Thank you for the opportunity to present this information today.

For more information regarding prescription format and security, please find the relevant statutory language and the full current regulation here:

Current regulations: <https://www.mass.gov/regulations/105-CMR-16400-licensure-of-substance-abuse-treatment-programs>

Massachusetts

Law: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter111E>

Proposed amendment: <https://www.mass.gov/service-details/proposed-regulations-and-amendments-department-of-public-health>