


POLICY AND PROCEDURE

<u>POLICY TITLE:</u> Policy and Compliance Pathway to Full Licensure or Certification	<u>POLICY #:</u> DSAMH020
<u>PREPARED BY:</u> DSAMH Policy Committee	<u>DATE ISSUED:</u> 10/12/2020
<u>RELATED POLICIES:</u> DSAMH019 Quality Assurance Audit Policy: Timeline, Staffing, and Bureau Responsibilities DSAMH044 Confidential Work Product	<u>REFERENCE:</u> Delaware 6001 Substance Abuse Facility Licensing Standards 4.0, Delaware State Code Title 16 Delaware Chapters 22 and 51, Delaware Adult Behavioral Health DHSS Service Certification and Reimbursement Manual, DSAMH Published Standards for Mental Health Providers
<u>DATES REVIEWED:</u> 12/07/2023 11/19/2024	<u>DATES REVISED:</u> 11/30/2022 12/06/2023 10/30/2024
<u>APPROVED BY:</u>  <u>DATE APPROVED:</u> 11/26/2024 1:44 PM PST	<u>NOTES:</u> (Check all that apply) <input type="checkbox"/> DSAMH Internal Policy <input type="checkbox"/> DSAMH Operated Program <input checked="" type="checkbox"/> DSAMH State Providers <input type="checkbox"/> Delaware Psychiatric Center <input checked="" type="checkbox"/> Targeted Use Policy (Defined in scope)

- I. **PURPOSE:** Per Title 16 6001 Substance Abuse Facility Licensing Standards, DSAMH may issue an organization a provisional or temporary license for a program. These licenses are time limited. This policy delineates how Policy and Compliance works with organizations that are seeking a new license or have a program operating without full licensure. DSAMH also issues Medicaid Certifications for Behavioral Health programs that may or may not have standards cited in Title 16 6001 Substance Abuse Facility Licensing Standards.
- II. **POLICY STATEMENT:** DSAMH is committed to ensuring Delawareans have access to licensed and/or certified programs that meet or exceed required standards. DSAMH works closely with any provider interested in opening a new program or who has a program that has not achieved full licensure and/or certification.
- III. **DEFINITIONS:**
“Certification” means programs that are certified under State law per Delaware Administrative Code Title 16, Chapter 22, and are certified by DSAMH in coordination with Medicaid authority. When a program is not required to be licensed under State law, the program must be certified by DSAMH in coordination with Medicaid authority. All Substance Use Disorder treatment programs must have both licensure and certification regardless of whether they bill DSAMH or Medicaid fee for service.

Mobile Crisis and Facility Based Crisis only require DSAMH Medicaid Certification verification. The program is responsible for enrolling in Delaware Medical Assistance Portal once it has the required licensure and pre-certifications through DSAMH Provider Enrollment and maintain renewals as necessary.

“Inactive” means the provider is not currently able to serve clients. A provider may request inactive status when they have a temporary cessation of clients receiving direct services due to unforeseen circumstances. The status must be requested in writing including reason, proposed time frame, and a conference with DSAMH Policy and Compliance to evaluate plan.

“License” means approval granted by the Division that authorizes a program to provide treatment of Behavioral Health disorders. Different types include full licensure, provisional licensure, and temporary licensure.

“New Provisional” means that DSAMH authorizes a program to provide services for up to one hundred and eighty (180) days when the provider is applying for licensure/certification for the first time.

“Noncompliance” means a program that is not meeting the requirements of the State and federal regulations, State standards, or applicable contractual requirements.

“Provisional” means that DSAMH authorizes a program to provide services for up to one hundred and eighty (180) days when the applicant is not in compliance with the regulations used to audit the program.

“Temporary License/Certification” means that DSAMH has authorized a temporary ninety (90) day extension to program licensure and/or certification when additional time is required by the Division to inspect or investigate the program. Temporary status may be authorized if additional time is required by the provider to undertake remedial measures, complete a corrective action plan, or if a program requires time to transfer clients to other providers prior to program closure.

IV. **SCOPE:** All organizations that hold a provisional or temporary license and/or certification issued by DSAMH.

V. **PROCEDURES/RESPONSIBILITIES:**

A. This policy is to clarify how Policy and Compliance assesses different DSAMH licensed and/or certified programs:

1. Providers may have a license, certification, or both.
2. The same procedures apply to licenses and certifications.
3. Programs that have different or multiple source requirements that may apply to audits:
 - a. Title 16 6001 Substance Abuse Facility Licensing Standards,
 - b. Delaware Adult Behavioral Health DHSS Service Certification and Reimbursement Manual,
 - c. DSAMH published standards,
 - d. DSAMH contractual requirements,
 - e. Requirements from other regulating bodies such as Division of Health Care Quality (DHCQ) for group homes, and
 - f. SAMHSA requirements for programs providing Medication for Opioid Use (MOUD)

services.

4. Programs cannot maintain a full license or certification if they jeopardize the health, safety, and well-being of clients.
5. DSAMH provides technical assistance to any program that is on provisional or temporary license/certification.
6. Programs that cannot meet the required standards within the designated time frames may be subject to loss of license, certification, or contract with DSAMH.
7. Contract loss is not within the authority of Policy and Compliance. Policy and Compliance notifies the DSAMH Bureau which holds the program's contract if a program is at risk of being unable to successfully reach full compliance.
8. Policy and Compliance must ensure programs do not remain in a status of provisional licensure beyond State code requirements or as defined in this policy. Per Title 16 6001 Substance Abuse Facility Licensing Standards, a provisional license or certification has a maximum lifespan of 270 days.

B. New Provisional License/Certification Pathway to Full Licensure/Certification:

1. Organizations may obtain New Provisional License/Certification by submitting a complete DSAMH application with all required documentation.
2. Provider Enrollment will provide any organization applying with technical assistance and support.
3. Once the completed application is submitted and determined to be satisfactory, DSAMH shall grant the provider a New Provisional License/Certification.
 - a. The following opportunities are available to providers during the new provisional period of 180 days:
 - i. Technical assistance from Provider Enrollment on preparation for successful audit.
 - ii. Site visit.
 - iii. Connection to DSAMH subject matter experts from other Bureaus.
 - iv. Access to relevant training material or trainings that DSAMH may have available through the Workforce Development team.
 - b. Programs will be audited by a Policy and Compliance audit team within this 180-day period. The audit team will notify providers of the status of program compliance within 10 business days with an audit report:
 - i. Programs may be required to submit a Corrective Action Plan (CAP) within ten (10) or thirty (30) business days if requested by DSAMH.
 - 1) SUD programs require the CAP to be submitted within ten (10) days.
 - 2) PROMISE Programs and Group Homes require the CAP to be submitted within (30) days.
 - ii. Programs that establish full compliance with Title 16 shall be issued a Full License/Certification at the completion of the audit.
 - iii. Programs that are unsuccessful in establishing a compliant program may be issued a Provisional License/Certification.
4. New Provisional Programs maximum duration without a full license after initial audit:
 - a. 180 days for Provisional License.
 - b. 90 days for Provisional License/Certification extension at end of first 180 days of the Provisional License.
 - c. The total time of provisional licensure is not to exceed 270 days total (excluding inactive status and start-date reset, if approved).
 - d. If a program does not achieve full compliance by the end of 270 days of the initial audit,

the program will be provided a temporary license up to 90 days to prepare for program closure.

5. If, during the initial 180 days of new provisional status, the provider is unable to onboard any clients due to barriers such as construction delays, Medicaid certification/approval, or other program-specific barriers, the program may request a onetime reset of the license and/or certification.
 - a. The following conditions have been met for a onetime reset:
 - i. The program communicates the barriers to DSAMH prior to the expiration of the program. Programs that are struggling with onboarding are strongly encouraged to communicate with DSAMH early in this process. DSAMH shall provide technical assistance and guidance with onboarding as needed and requested.
 - ii. No consumers have been provided clinical services under the license and/or certification and no billing has been sent out under the NPI number.
 - iii. The provider is in good standing with DSAMH regarding other contracted, licensed, or certified programs.
 - b. The provider shall send the DSAMH QA Administrator, in writing, a formal request to reset their license and/or certification. The letter must list the following:
 - i. barriers faced by the program,
 - ii. a statement that no consumers were provided clinical services and no services were billed under the DSAMH license or certification, and
 - iii. the steps the provider is taking to complete the onboarding process once the license and/or certification has been reset.
 - c. DSAMH will review the request and respond to the provider within ten (10) business days of receipt. Any licensure and/or certification with a new start date will have a lifespan of no more than 180 days. The extension cannot be renewed or extended. The provider shall send monthly updates to the QA Administrator regarding the progress of program enrollment.
 - d. If a provider chooses to pause their license, there is a maximum lifespan approved at the discretion of the DSAMH Director.
 - e. If, at the end of the revised new provisional lifespan, the provider still does not have an active caseload to complete a compliance audit as required by Delaware Code, the provider shall surrender the license and/or certification. The provider will be allowed to submit a new application without sanction or a waiting period once the provider indicates that they are ready to successfully onboard clients.
- C. Provisional License/Certification Pathway to Full Licensure/Certification:
1. Providers who are found in noncompliance will be placed in provisional status.
 2. Any organization receiving a provisional status is required to meet full compliance by the end of this licensing/certification period to retain their license and/or certification.
 3. Organizations provided with a Provisional License and/or Certification will submit a CAP that will identify areas of noncompliance and program plans to achieve compliance. This CAP must be approved by DSAMH.
 4. Policy and Compliance will provide critical CAPs to other Bureaus or the Associate Deputy of Policy and Compliance as needed.
 5. If at any point, the organization decides not to complete the required corrections, the organization and DSAMH will collaborate to ensure program license and/or certification is returned and any clients receiving services are connected to an alternative provider.
 - a. The program must notify DSAMH in writing no less than 60 days prior to voluntary

- program closure.
 - b. The program must notify clients of program closure in writing no less than 30 days prior to program closure.
 - c. Policy and Compliance will provide immediate notification and involvement of other Bureaus of any planned voluntary program closure as needed.
 - d. The program must return licenses or certifications and notify DTRN and Gainwell as applicable.
 - e. Provider Enrollment will supply a guide of required steps for program closure.
 - 6. Programs with a Provisional License and/or Certification that are not successful at achieving full compliance by the date of expiration will meet with Policy and Compliance to determine the program's next steps. Options may include one of the following:
 - a. Voluntarily surrender license and/or certification.
 - b. Voluntarily request license and/or certification to be placed on inactive status. This may benefit a program that has been unable to get started due to lack of clients or other operational challenges restricting the ability to demonstrate program meets required standards of care. A license and/or certification may only be in inactive status for a maximum of 180 days.
 - c. License and/or certification suspension or revocation by DSAMH.
 - d. The provisional license and/or certification may be granted an extension for an additional 90 days, however the entire provisional lifespan cannot exceed 270 days. At the end of 270 days the provisional license and/or certification shall follow the steps above in V.C.6.a-c, or be issued a onetime temporary license.
 - e. Unusual circumstances may lead to issuance of a final 90-day or shorter duration Temporary License that is non-renewable. (See Temporary License Section V.D.).
 - 7. Existing Full-License/Certification program found in noncompliance and placed on Provisional License/Certification status will follow the timeframes listed below:
 - a. Up to 180 days for first issuance. (Requires CAP)
 - b. One additional Provisional license issuance not to exceed 90 days. (Requires an updated CAP)
 - c. Not to exceed 270 days in total.
 - 8. At DSAMH's discretion, in unforeseen circumstances, DSAMH may provide a waiver with the authorization of the DSAMH Director if circumstances for noncompliance were unprecedented (natural disaster) or DSAMH Division Director identifies the provider as necessary and vital. This exceeds the authority of Policy and Compliance.
- D. Temporary License/Certification:
- 1. A temporary license and/or certification is not renewable and cannot be extended. A temporary license shall expire automatically at the designated date without extension or renewal.
 - 2. Policy and Compliance would utilize temporary status when a program is in the process of actively closing but its current license and/or certification expires before closure date. This requires a detailed transition plan developed with DSAMH to ensure that all clients are placed with an alternative provider.
 - 3. Temporary licenses require the approval of the Associate Deputy of Policy and Compliance.
 - 4. The maximum length of time for a Temporary License or Certification is 90 days.
- E. Program License/Certification cancelation by revoking, suspending, or denying a license/certification in accordance with regulations shall be communicated to the organization

in writing a minimum of thirty (30) days prior to the effective date of the revocation.

1. Such a notification shall include the reasons why the license was revoked, suspended, or denied.
2. Dependent on organization status, they may also require notice to the organization of its rights to request an administrative hearing, pursuant to subsection 4.6 of Title 16 Delaware 6001 Substance Abuse Facility Licensing Standards 4.0.

F. All Licensed Providers:

1. All providers that have an active CAP may be required to update DSAMH Policy and Compliance on CAP implementation. The audit team lead will decide, with supervisory approval, which CAPs require ongoing monitoring.
2. Policy and Compliance will appropriately notify other Bureaus if provider needs support or additional trainings regarding clinical practices.
3. Programs may reapply for licensure with a plan for addressing deficits that led to the loss of the first license. There is a 1-year moratorium before programs can reapply.

VI. **POLICY LIFESPAN:** This policy will be reviewed annually.

VII. **RESOURCES:** N/A