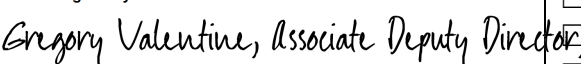


Division of Substance Abuse and Mental Health**POLICY AND PROCEDURE**

<u>POLICY TITLE:</u> PCWFD Pathway to Full Licensure or Certification	<u>POLICY #:</u> DSAMH 020
<u>PREPARED BY:</u> DSAMH Policy Committee	<u>DATE ISSUED:</u> 10/12/20
<u>RELATING POLICIES:</u> DSAMH Quality Assurance Audit Policy: Timeline, Staffing, and Bureau Responsibilities	<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>	<u>DATES REVISED:</u>
<u>APPROVED BY:</u> Greg Valentine, Associate Deputy Director, Bureau of Policy, Compliance, and Workforce Development DocuSigned by:  3E745DFA4F3F411... 10/13/2020	<u>NOTES:</u> (Check all that apply) <input checked="" type="checkbox"/> DSAMH Internal Policy <input type="checkbox"/> DSAMH Operated Program <input type="checkbox"/> DSAMH State Providers <input checked="" type="checkbox"/> Delaware Psychiatric Center <input type="checkbox"/> Targeted Use Policy (Defined in scope) 12:55 PM EDT

- I. PURPOSE:** DSAMH, per 6001 Substance Abuse Facility Licensing Standards, may issue an organization a provisional or temporary license for a program. These licenses are time limited. This policy delineates how PCWFD 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 6001 Substance Abuse Facility Licensing Standards. This policy is to clarify how PCWFD assesses different programs:
- A. Providers may have a license, certification or both.
 - B. The same procedures apply to licenses and certifications.
 - C. Programs have different requirements that may apply to audits:
 1. 6001 Substance Abuse Facility Licensing Standards,
 2. Delaware Adult Behavioral Health DHSS Service Certification and Reimbursement Manual,
 3. DSAMH published standards,
 4. DSAMH contractual requirements,
 5. And in certain situations, requirements from other regulating bodies (example, DHCQ for group homes).
 - D. Each program has audit expectations defined prior to the audit to ensure maximum transparency.
 - E. Audit tools require updating regular changing requirements by federal, state, DMMA, or DSAMH expectations. PCWFD will provide providers 60 days' notice before implementing new Audit process when possible.

- F. Programs cannot maintain a license or certification requirements as detailed in requirements that apply to their program or if they jeopardize the health and safety, and well-being of clients.
- G. DSAMH monitors and supports any program that is on provisional or temporary license/certification status.
- H. Programs that cannot meet the required standards within required time frames may be subject to loss of license, certification, or contract with DSAMH.
- I. Contract loss is not within the authority of PCWFD. PCWFD notifies DSAMH Contractual Unit and the Bureau of Community Behavioral Health if a program is at risk of being unable to successfully reach full compliance.
- J. This policy is provided as Program Licensure and Certification status can be fluid and complicated. PCWFD must ensure programs do not remain in a status of provisional licensure beyond state code requirements or as defined in this policy.

II. POLICY STATEMENT: DSAMH is committed to ensuring Delawareans have access to licensed and/or certified programs that meet or exceed required standards. DSAMH meets this goal by working closely with any provider interested in opening a new program and with close support of any provider that has not achieved full licensure and/or certification.

III. DEFINITIONS:

- A. "License/Certification" means in this policy that organization may be applying for or possess a license, certification, or both. Organizations required standards of care are determined by the program type and applicability to:
 - 1. Delaware 6001 Substance Abuse Facility Licensing Standards 4.0,
 - 2. Delaware Adult Behavioral Health DHSS Service Certification and Reimbursement Manual,
 - 3. DSAMH Defined Standards,
 - 4. DSAMH Contractual obligations if applicable,
 - 5. Audit process must not exceed standards of care or DSAMH authority dependent on agency status relative to above requirements.
- A. "Provisional" as defined by Delaware state code means that the Division authorizes a program to provide services for up to one hundred and eighty (180) days when the applicant is not in compliance with these regulations or is applying for licensure for the first time. (Internally PCWFD uses the term "New Provisional" for making a distinction between a program that is within the initial 180-day program start up period versus a program that is on provisional status due to non-compliance).
- B. "New Provisional" means that the Division authorizes a program to provide services for up to one hundred and eighty (180) days when the applicant is applying for licensure/certification for the first time. (There is no previous deficit or Corrective Action Plan associated with a "New Provisional").
- C. "Non-compliance" status is a term used for a program that is not in compliance with the regulations, certification standards, or applicable contractual requirements.
- D. "Non-Active" status is a status provider may request when due to unforeseen circumstances they have a temporary cessation of clients receiving direct services and must postpone preparing

program for meeting full compliance with required standards. Status must be requested in writing including reason, proposed time frame, and a conference with DSAMH PCWFD to evaluate plan.

- E. "Temporary License/Certification" means that the DSAMH authorizes a temporary license/certification for up to ninety (90) days when additional time is required by the Division to inspect or investigate the program, additional time is required by the applicant to undertake remedial measures or complete a corrective action plan, when the program's failure to meet the requirements of Chapters 22 and 51 of Title 16 Delaware Code and these regulations do not jeopardize the health, safety, and well-being.

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

V. **PROCEDURES/RESPONSIBILITIES:**

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

1. Organizations may obtain New Provisional License/Certification by submitting a complete application with all required documentation.
2. Provider Enrollment will provide any Organization applying with technical assistance and support.
3. Details provided dependent on program type.
4. Once the completed application is submitted and determined by the Division to be satisfactory, the Division shall grant the new provider an initial Provisional License/Certification.
 - a. Provider Enrollment supports organization with technical assistance throughout initial provisional licensure period (180 days) with technical assistance as requested. The following opportunities are available to providers during this period:
 - i. Technical assistance from Provider Enrollment on preparation for successful audit. Site-visit if requested. Connection to DSAMH subject matter experts from other Bureaus as needed or the Office of the Medical Director.
 - b. Relevant training material or trainings that we may have available through our Workforce Development team.
 - c. Programs will be audited by PCWFD Audit team within this 180-day period. The Audit team will notify providers with a Survey Summary report that includes result of audit:
 - i. Programs that establish full compliance Title 16, shall be issued a Full License at the completion of the audit.
 - ii. Programs in full compliance may be required to submit a Corrective Action Plan within ten business days if requested by DSAMH. License is contingent on successful provision of CAP, implementation, and sustained practice of CAP requirements. This would move provider to an annual audit process or bi-annual process if they met criteria for deemed status and their application for Deemed status is accepted by DSAMH.
 - iii. Programs that are unsuccessful in establishing a compliant program may be issued a Provisional License. PCWFD will determined by the

scope of the CAP and seriousness of the program deficiencies. Program can be offered an extension for a 90-day provisional license/certification or of shorter duration.

- iv. Programs provided a Provisional License must provide DSAMH with a Corrective Action Plan within ten business days for approval by DSAMH. License is contingent on successful provision of CAP, implementation, and sustained practice of CAP requirements.
- v. Revoking or suspending provider license. Any consideration of this action would require PCWFD meeting with Associate Director, PCWFD. Associate Director, PCWFD would determine next steps and involvement of DSAMH executive management.

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

1. Providers in this section have moved from a full-license/certification to a provisional license/certification or exceeded the 180-day New Provisional license/certification time period and were issued an extension for 90-Provisional License/Certification. They have received a Program Survey Report and have submitted and had a Corrective Action Plan approved.
2. Any organization receiving a provisional license/certification due to non-compliance is expected to meet full requirements by the end of this licensing/certification period.
3. Organizations provided with a Provisional License will submit and receive approval from DSAMH for a Corrective Action Plan that will identify area(s) of non-compliance and program plans to achieve compliance.
4. Any Corrective Action Plan (CAP) submitted by a provider with a Provisional Designation will be approved by PCWFD.
5. PCWFD will provide critical CAPS to other bureaus: (example: CBH), or the Associate Deputy or designee when needed.
 - a. Non-compliant Programs in jeopardy of failure
 - b. CAPS with Level I citations
6. If at any point the organization decides not to pursue required corrections, the organization and DSAMH will collaborate to ensure program license is returned and any clients receiving services are connected to an alternative provider.
 - a. Program must notify DSAMH in writing no less than 60 days prior to voluntary program closure.
 - b. Program must notify clients in writing no less than 30 days of program closure.
 - c. PCWFD will provide immediate notification and involvement of the Bureau of Community Behavioral Health of any planned voluntary program closure.
 - d. Program must return licenses or certifications, notify DXE is applicable, and DTRN.
 - e. Provider Enrollment can provide guide to required steps for program closure.
7. Provisional Licensure/Certificate Programs that are not successful at achieving full compliance by the date of expiration or date of audit (whichever comes first) will be provided a conference with PCWFD to determine program status:
 - a. Voluntarily surrender license/certification.
 - b. Voluntary request license be placed on non-active 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. It is an opportunity to “stop the clock” as long as the program does not have active clients. This can happen in the early stages of program start up due to unforeseen delays.

- c. License/certification suspension or revocation by DSAMH.
 - d. Provisional licenses/certifications issued for a period to not exceed 270 days.
 - 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).
8. Provisional Licensure/Certificate Programs may not exceed the following total continuous days (excluding non-active status time period if approved by DSAMH):
 9. New Provisional Programs maximum duration without a full license:
 - a. 180 days for initial New Provisional License (no CAP involved).
 - b. 90 days for Provisional License/Certification extension at end of first 180 days. (Requires CAP)
 - c. Not to exceed 270 days total (excluding non-active status if approved).
 10. Existing Full-License/Certification program found in non-compliance and placed on Provisional License/Certification status:
 - a. Up to 180 days for first issuance. (Requires CAP)
 - b. One additional Provisional license issuance not to exceed 90 days. (Requires CAP)
 - c. Not to exceed 270 days in total.
 11. DSAMH at its discretion may issue a non-renewable 90-day Temporary license. (See Section C).
 12. At DSAMH’s discretion, in unforeseen circumstances, DSAMH may provide a waiver with the authorization of the DSAMH Director if circumstances for non-compliance were unprecedented (natural disaster) or DSAMH Division Director identifies the provider as necessary and vital in a given community area. This exceeds the authority of PCWFD.

C. Temporary License/Certification:

1. A temporary license is not renewable and shall expire automatically without notice or hearing. (See Definition D).
2. The Division’s decision to issue a temporary license certification instead of a full or provisional license is final and not subject to administrative appeals.
3. DSAMH uses the same standard for certifications.
4. PCWFD would utilize “Temporary” category when this when a program is in the process of actively closing but its license expires before closure date. These require a detailed transition plan that ensure all clients are placed with an alternative provider.
5. It may also be utilized in the event that DSAMH cannot complete its audit responsibilities or the provider has extenuating circumstances to perform remedial activities.
6. Temporary licenses are a last resort and must include approval of Associate Director, PCWFD.

D. All Licensed Providers:

- a. No program shall be provided any license or certification if programs fail to meet the requirements of Chapter 22 of Title 16 Delaware Code, specifically if the program “jeopardizes the health, safety, and well-being of clients.”

- b. All providers that have an active CAP may be required to update DSAMH PCWFD development monthly on implementation and maintenance of CAP during the licensure period. This includes all Level I citations. Audit team leads decide with supervisory approval which CAPs require on-going monthly monitoring. PCWFD will support organizations to succeed and avoid program closure when possible.
- c. PCWFD will appropriately coordinate support with Bureau of Community Behavioral Health and/or Office of the Medical Director regarding clinical practices.
- d. PCWFD will appropriately notify other Bureaus if provider needs support or Office of the Medical Director.
- e. Programs may reapply for licensure with standard application and plan for addressing deficits that led to the loss of the first license. There are specific procedures for reinstatement for revoked or suspended licenses. There is a 1-year moratorium before programs can reapply:
 - i. 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. Such a notification shall include the reasons why the license was revoked, suspended or denied. 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 Delaware 6001 Substance Abuse Facility Licensing Standards 4.0.

VI. **Policy Lifespan:** Policy will be reviewed annually from date of issuance. This policy does not replace any requirements in Delaware State Code. Policy may require revision periodically beyond annual review if state and federal regulations are updated.

VII. **References/Resources:** Not Applicable.