

**DEPARTMENT OF HUMAN SERVICES
DIVISION OF MENTAL HEALTH AND ADDICTION SERVICES**

ADMINISTRATIVE BULLETIN 6:02

EFFECTIVE DATE: January 30, 2017

POLICY: Pilot Program for Conditional Licensure of Substance Use Disorder Treatment Programs Operating in Mid-State Correctional Facility and Edna Mahan Correctional Facility

I. PURPOSE

This policy establishes and delineates the parameters for a Pilot Program, through the Division of Mental Health and Addiction Services (“Division”), for the conditional licensure of substance use disorder (“SUD”) treatment programs operating within the Department of Corrections (“DOC”) Mid-State Correctional Facility (“MSCF”) and Edna Mahan Correctional Facility (“EMCF”).

In accordance with N.J.A.C. 10:161A-2.7 and N.J.A.C. 10:161B-2.7, the Division has determined that a Pilot Program¹ is necessary to allow for the conditional licensure of SUD treatment programs operating within MSCF and EMCF. The following reasons support the Division’s creation of this Pilot Program:

1. it is in the best interest of the inmates served by DOC to receive SUD treatment during their incarceration in order to encourage and improve their rehabilitation and community re-integration;
2. it enriches the quality of the SUD treatment programming available to DOC inmates during their incarceration; and
3. it recognizes the provision of SUD treatment in a unique criminogenic rehabilitation environment and correctional structure.

Moreover, licensed and evidence-based SUD treatment programs for inmates in state correctional facilities are necessary because of the high prevalence of substance use disorders in a prison inmate population.² The National Center on Addiction and Substance Abuse has found that “[a]most two-thirds (64.5 percent) of the inmate population in the U.S. (1.5 million) meet medical criteria for an alcohol or other drug use disorder” and that “[p]rison and jail inmates are seven times likelier than are individuals in the general population to have a [SUD].”³ As designed, this Pilot Program will offer licensure of four levels of care --- outpatient, intensive outpatient, short-term residential and long-term

¹ The establishment of a pilot program that provides for the licensure of SUD treatment programs for inmates in DOC’s MSCF and EMCF is supported by and consistent with N.J.S.A. 26:2G-5(c) and N.J.S.A. 30:4-82.2.c.

² There is also a higher likelihood of re-incarceration of inmates with substance use issues. The National Center on Addiction and Substance Abuse at Columbia University (known as CASA), *Behind Bars II: Substance Abuse and America’s Prison Population*, February 2010, at p. 5. The CASA notes that “[o]ver half (52.2 percent) of substance-involved inmates have one or more previous incarcerations compared with 31.2 percent of inmates who are not substance-involved.” *Ibid.*

³ *Behind Bars II: Substance Abuse and America’s Prison Population*, supra, at p.3. The CASA also noted that of the 2.3 million adults in U.S. prisons and jails, 1.9 million are “substance involved.” *Id.* at p. 1. In a 2004 study by the U.S. Department of Justice, seventy percent of state prison inmates in the United States used drugs on a regular basis prior to their incarceration. National Institute on Drug Abuse, *Drug Addiction Treatment in the Criminal Justice System*, April 2014 (internal citation omitted).

residential --- which will provide for placement of inmates into the most appropriate clinical level of care that suits their individual needs, and also allow for a greater number of inmates to address their SUD issues by receiving SUD treatment during their incarceration.⁴

Additionally, a Pilot Program is essential because it provides the Division an opportunity to evaluate the integrity of SUD treatment programming within MSCF and EMCF. This evaluative component will assist the Division in providing technical assistance to the DOC, as appropriate, regarding their vendor's SUD treatment program performance, as well as to inform the development of regulations for the licensure of SUD treatment programs in DOC correctional facilities, including MSCF and EMCF.

Accordingly, this Administrative Bulletin sets out the minimum rules and standards that SUD treatment programs operating within MSCF and EMCF must adhere to in order to obtain a conditional license from the Department of Human Services ("DHS"). Further, the amendments and waivers of those minimum rules and standards incorporated in this Administrative Bulletin represent the "substantial compliance" necessary for the licensure of "drug treatment programs" operating in a State correctional facility pursuant to N.J.S.A. 26:2B-40.

II. AUTHORITY

N.J.S.A. 26:2B-7 et seq., in particular N.J.S.A. 26:2B-13, -14 and -40; N.J.S.A. 26:2BB-5 through 6; N.J.S.A. 26:2G-1 et seq., in particular N.J.S.A. 26:2G-5(c), 21, 23 and 25; N.J.S.A. 30:1-12 and 4-82.2.c; N.J.A.C. 10:161A-1.1 et seq., in particular N.J.A.C. 10:161A-2.7; N.J.A.C. 10:161B-1.1 et seq., in particular N.J.A.C. 10:161B-2.7; and Reorganization Plan 002-2004.

III. SCOPE

This Pilot Program applies only to the DOC-contracted vendor that provides substance use disorders treatment services to DOC inmates age eighteen and over within DOC's MSCF and/or EMCF. The Pilot Program is limited to application and conditional licensure for the following four levels of care: outpatient, intensive outpatient, short-term residential and long-term residential.⁵

Any conditional license issued by the DHS shall only be issued to the DOC-contracted vendor providing SUD treatment services to DOC inmates within DOC's MSCF and/or EMCF. Under this Pilot Program, the DHS neither licenses nor regulates any DOC facilities, such as MSCF or EMCF; DOC facilities remain under the jurisdiction, control and maintenance of the DOC.

Because licensure is conditional and pursuant to a Pilot Program, the DOC-contracted vendor must be fully funded by the DOC and may not seek any funding from the Division or DHS for SUD treatment program(s) operating in MSCF and/or EMCF.

In addition to the SUD treatment program standards set out in this Administrative Bulletin, the DOC-contracted vendor must adhere to any and all applicable contractual and regulatory standards established

⁴ As part of the screening and assessment process for inmates, SAMHSA recommends placement "in the treatment program that is best suited to their needs" and further indicates that "[m]ore offenders can receive appropriate treatment if a range of substance abuse treatment options is provided in criminal justice settings, . . ." See Center for Substance Abuse Treatment, *Substance Abuse Treatment for Adults in the Criminal Justice System*, Treatment Improvement Protocol Series 44, HHS Publication No. (SMA) 13-4056, Rockville, MD: SAMHSA, 2005 at p. xviii.

⁵ As such, the DOC-contracted SUD program vendor shall not provide, nor is DHS licensure available for, the following levels of care: halfway house, extended care, detoxification (hospital and non-hospital), partial care or opioid treatment services.

by the DOC including, but not limited to, the core program standards described in Appendix A of the DOC's Bid Solicitation/Request for Proposal for "T-1464- Substance Abuse Services, DOC".

IV. DURATION OF TIME

This Pilot Program is temporary and will terminate upon:

1. adoption of regulations by the Division/DHS governing the licensure of SUD treatment programming in DOC correctional facilities;
2. upon forty-five days notice by the Division/DHS to the DOC; or
3. upon forty-five days notice by the DOC to the Division/DHS.

Although the Pilot Program will terminate upon the adoption of applicable regulations by the Division/DHS, the conditional license issued during the Pilot Program will remain in effect pending the SUD treatment program vendor's application and receipt of a license under the adopted regulations. However, should the Pilot Program terminate based upon forty-five day notice by either the Division/DHS or DOC, any conditional license issued during the Pilot Program will become void.

V. BACKGROUND

The MSCF and EMCF are state correctional facilities operated by the DOC, which house state-sentenced inmates who are within the custody and control of the DOC. The DOC has centralized SUD treatment programming for male inmates at MSCF and for female inmates at EMCF. This SUD treatment programming is administered by a DOC contracted vendor.⁶ The DOC-contracted SUD treatment program vendor will employ a Statewide Director of SUD Treatment Program, who is responsible for the administration and oversight of SUD treatment programming at MSCF and EMCF. In addition, the DOC-contracted SUD treatment program vendor will employ one Director of SUD Treatment Program at MSCF and one Director of SUD Treatment Program at EMCF, each of whom shall report to the Statewide Director.

The DOC has incorporated SUD screening into the initial processing requirements for new inmates entering the DOC system. During an inmate's processing at Central Reception and Assignment Facility or EMCF, the DOC determines the inmate's level of custody (e.g. maximum, medium or minimum) and administers an evidence-based screening tool to identify inmates who may be in need of SUD treatment. If an inmate screens positive for potential need of SUD treatment and is classified as medium-level custody, then the inmate is referred to the DOC SUD treatment program vendor for a full SUD assessment. The SUD treatment program vendor must conduct the assessment within five days of the inmate's screening referral; the assessment shall be conducted either at the applicable intake facility or through the use of mobile staff. Following the full SUD assessment, if the inmate is clinically determined to be in need of SUD treatment, the inmate is assigned by DOC to either MSCF or EMCF in order to participate in SUD treatment programming. Once assigned to MSCF or EMCF, the inmate is further assigned into the appropriate level of care (O/P, IOP, STR, LTR) by the SUD treatment program vendor.⁷

⁶ On or about August 5, 2016, the Department of the Treasury, Division of Purchase and Property, on behalf of the DOC, issued a Bid Solicitation/Request for Proposal for "T-1464- Substance Abuse Services, DOC", seeking a vendor to operate a SUD treatment program at MSCF and EMCF.

⁷ For those inmates who are assessed by the vendor based upon a Classification referral at Intake, but do not meet clinical standards for placement in either outpatient or residential treatment programming, the vendor will re-assess the inmate on a periodic basis to determine current need for treatment. Additionally, if an inmate, who is clinically appropriate for admission to either outpatient or residential treatment, is excluded from admission to the SUD treatment program because

VI. DEFINITIONS

- A. The Definitions found at N.J.A.C. 10:161A-1.3 and N.J.A.C. 10:161B-1.3 apply, unless otherwise noted.
- B. Generally, any references in the regulations within:
1. N.J.A.C. 10:161A-1.1 et seq. to “residential substance use disorders treatment facility” or “facility” should be replaced with “residential substance use disorders treatment program” or “program”; and
 2. N.J.A.C. 10:161B-1.1 et seq. to “outpatient substance abuse treatment facility” or “facility” should be replaced with “outpatient substance use disorders treatment program” or “program.”
- C. The following definitions at N.J.A.C. 10:161A-1.3 and N.J.A.C. 10:161B-1.3 are amended for the limited purpose of this Pilot Program as follows.

“Counseling” means the utilization of special skills and evidence-based practices to assist individuals, families, significant others and/or groups to identify and change patterns of behavior relating to SUD that are maladaptive, destructive and/or injurious to health through the provision of individual, group and/or family therapy by licensed or certified professionals or approved counselors-intern. Counseling does not include didactic education, lectures and/or self-help support groups, such as Alcoholics Anonymous, Narcotics Anonymous or similar twelve-step programs/facilities.

- D. The following definitions are added for the limited purpose of this Pilot Program.

“ABAM” means the American Board of Addiction Medicine.

“Client” means a DOC inmate who is receiving SUD treatment services through a DHS-licensed and DOC-contracted SUD treatment program vendor located within the MSCF or EMCF. This client has been determined eligible to participate in SUD programming based on their custody level and SUD assessment and diagnosis.

“Department of Corrections” or “DOC” means the New Jersey Department of Corrections.

“Division of Mental Health and Addiction Services,” “Division” or “DMHAS” means the New Jersey Division of Mental Health and Addiction Services within the New Jersey Department of Human Services.

VII. GENERAL REQUIREMENTS

A. Admission

1. For admission to the SUD treatment program, the inmate must meet DSM-5 and ASAM criteria for the identified level of care placement.

of security classification and/or behavior, the vendor will re-assess the inmate on a periodic basis to determine current need for treatment and any prior barriers to admission will be re-evaluated by DOC.

- a. If an inmate meets DSM-5 and ASAM criteria for placement in a short-term residential level of care, then the inmate will be admitted to the SUD treatment program vendor's short-term residential program.
 - b. If an inmate meets DSM-5 and ASAM criteria for placement in a long-term residential level of care, then the inmate will be admitted to the SUD treatment program vendor's long-term residential program.
 - c. If an inmate meets DSM-5 and ASAM criteria for placement in an outpatient level of care, then the inmate will be admitted to the SUD treatment program vendor's outpatient program.
 - d. If an inmate meets DSM-5 and ASAM criteria for placement in an intensive outpatient level of care, then the inmate will be admitted to the SUD treatment program vendor's intensive outpatient program.
- B. The DOC will provide designated SUD treatment programming space in MSCF and EMCF for utilization by the SUD treatment program vendor. This space shall include, but not be limited to, the following: (1) designated space for group and individual counseling sessions, didactic education sessions, structured activities and recreational activities; and (2) offices for program staff.
- C. Any references to medical director, physician or director of nursing shall only apply if the SUD treatment program is required to employ and maintain that staffing under the regulations for the particular level of care that is being licensed by the DHS. Such titles shall not be interpreted to include positions held by DOC staff or DOC-contracted staff including, but not limited to, staff employed by any DOC medical services vendor.

VIII. STANDARDS FOR LICENSURE

Under the Pilot Program, SUD treatment program(s) operating within the DOC's MSCF and EMCF must meet the Division's standards for the licensure of residential and outpatient SUD treatment programs in accordance with N.J.A.C. 10:161A-1.1 et seq. and N.J.A.C. 10:161B-1.1 et seq. respectively.⁸ This section provides specific detail as to which standards shall fully apply, which standards have been amended in order to reflect the unique characteristics of a SUD treatment program operating within a correctional facility, and which standards shall be waived in their entirety.⁹

A. Applicable Standards – Residential SUD Treatment Program

Listed below are those subchapters in N.J.A.C. 10:161A that apply in their entirety.

1. N.J.A.C. 10:161A, Subchapter 4, Governing Authority.
2. N.J.A.C. 10:161A, Subchapter 5, Administration.
3. N.J.A.C. 10:161A, Subchapter 13, Recreational Services.
4. N.J.A.C. 10:161A, Subchapter 17, Client Rights.

⁸ For convenience, in order to cross-reference between this A.B. and the Division's existing standards for the licensure of outpatient and residential SUD treatment programs, N.J.A.C. 10:161A and N.J.A.C. 10:161B are available on the DHS website at <http://www.state.nj.us/humanservices/providers/rulefees/regs/>.

⁹ In Section VIII of this Bulletin, where applicable, any additions to existing regulatory language are indicated with underlining and any deletions from existing regulatory language are indicated through the use of [brackets].

5. N.J.A.C. 10:161A, Subchapter 23, Volunteer Services.

6. N.J.A.C. 10:161A, Subchapter 27, Confidentiality.

B. Amended Standards – Residential SUD Treatment Program

Below are listed those subchapters in N.J.A.C. 10:161A that apply along with any necessary amendments and partial waivers.

1. N.J.A.C. 10:161A, Subchapter 1, Definitions and Qualifications, applies along with the amendments described below.

a. -1.1, Scope and Applicability, is amended as follows:

-1.1(a) and (b) are replaced by the Scope set forth at Section III of this A.B., except for the retention of the following provision at -1.1(a): “The rules in this chapter constitute the basis for the licensure and inspection of residential substance use disorders treatment [facilities] programs by the New Jersey Department of Human Services, Division of Mental Health and Addiction Services (DMHAS).”

b. -1.2, Purpose, applies and also includes Section I, Purpose, of this A.B.

c. -1.3, Definitions; any amendments are addressed at Section III, Definitions, of this A.B.

d. -1.7, Qualifications and responsibilities of the administrator of the facility, is amended as described below.

(i) The “Statewide Director of SUD Treatment Program” required to be employed under the DOC RFP shall be the equivalent of the “administrator of the facility” required at -1.7. Any and all references to the “administrator” in the regulations shall be applicable and interchangeable with the “Statewide Director.”

(ii) -1.7(a) is amended as follows:

“Each [facility] program shall hire [an administrator] a Statewide Director who has, at a minimum, a Master’s degree, [and] two years of full-time, or full-time equivalent, administrative or supervisory experience in a licensed substance use disorders treatment [facility] program and at least one year experience working with a criminal justice population.”

(iii) -1.7(b) is amended as follows:

“Individuals who do not meet the qualifications in (a) above must have a Bachelor’s degree, [and] five years of full-time, or full-time equivalent, administrative or supervisory experience in a licensed substance use disorders treatment [facility] program and at least one year experience working with a criminal justice population.”

(iv) -1.7(c)8 is amended as follows:

“Establishing and maintaining liaison relationships and communication with [facility]DOC staff, other contracted staff, service providers, support service providers, community resources and clients;”

(v) -1.7(c)10 is deleted in entirety and replaced with the following language: “Ensuring that there are policies and procedures in place so that only those DOC inmates screened, assessed and identified as having a SUD are admitted to the SUD treatment program for treatment, if necessary.”

(vi) -1.7(c)11 is amended as follows: “Implementing and monitoring the quality of all services provided [at the facility] by the program, including the review of program

- outcomes available through NJSAMS;”
- (vii) -1.7(c)12 is deleted in entirety and replaced with the following language: “Ensuring that designated SUD program space is maintained in a safe and sanitary condition to ensure client and staff safety.”
 - (viii) The following standards are waived: -1.7(c)13, 15 and 17.
 - (ix) The following responsibility is added to -1.7(c):
“20. Providing clinical supervision to the SUD Treatment Program Directors in accordance with clinical supervision requirements of any and all applicable state agencies and boards.”
- e. -1.8, Qualifications and responsibilities of the director of substance abuse counseling services, is amended as described below.
- (i) The “Director of SUD Treatment Program” required to be employed under the DOC RFP shall be the equivalent of the “Director of Substance Abuse Counseling Services” required at -1.8. Any and all references to the “Director of Substance Abuse Counseling Services” in the regulations shall be applicable and interchangeable with the “Director of SUD Treatment Program.”
 - (ii) -1.8(a) is amended as follows:
“Every [facility] program shall ensure that there is at least one individual qualified to function as the [director of substance abuse counseling services] Director of SUD Treatment Program and that the clinical supervision requirements in this chapter are met. The [director of substance abuse counseling services] Director of SUD Treatment Program shall have at least one year of experience working with a criminal justice population and meet at least one of the following qualifications:”
- f. -1.9, Qualifications and responsibilities of the substance abuse counseling staff, is amended as described below.
- (i) -1.9(d)4 is amended as follows: “Obtaining previous records that are relevant to treatment including, but not limited to, any treatment documentation and results from any SUD screening or assessments conducted by the DOC, records from DOC and sentencing documentation [the current treatment episode].”
 - (ii) -1.9(d)10 is amended to include the following: “i. Coordination of substance use disorder treatment with any other treatment being provided to the client at MSCF or EMCF.”
 - (iii) -1.9(d)11 is amended as follows: “Participating as a member of [a] any DOC facility-wide multidisciplinary team and in any DOC disciplinary, progress or other meetings conducted for assigned clients.”

2. N.J.A.C. 10:161A, Subchapter 2, Licensure Procedures and Enforcement, applies along with the partial waiver and amendment described below:

DHS will waive the initial licensing fee; however, the vendor will be responsible for any renewal or other fees according to the DHS fee schedule, which will be charged at the beginning of the second year of licensure for any renewal or other fees.

3. N.J.A.C. 10:161A, Subchapter 3, General Requirements, applies along with the amendments described below.

- a. -3.5(f) is waived in its entirety.

4. N.J.A.C. 10:161A, Subchapter 6, Client Care Policies and Services, applies along with the amendments described below.

- a. -6.1(a)1.ii is waived in entirety.

- b. -6.2(a)14 is amended as follows:

14. Criteria for discharge, involuntary discharge, transfer and re-admission of clients from the [facility] program;

- c. -6.2(c) is waived in entirety.

- d. -6.3(a) is amended as follows:

(a) Prior to [or at] the time of admission to the [facility]program, [the facility staff] the client shall have a full and comprehensive assessment by appropriately credentialed staff of the program and [the facility] program staff shall conduct a preadmission interview with all clients [and, in the case of an adolescent, his or her family, guardian or legally authorized representative]. A summary of the interview shall be documented

- e. -6.3(f) is amended as follows:

(f) Upon admission, the [facility] program shall [ensure] verify that each client has received a physical examination and obtain a copy of any medical report[.].

The remainder of (f), including 1 – 3, is waived.

- f. -6.4(b)2 is waived in its entirety.

- g. -6.4 is amended to add the following requirement:

(d) The SUD treatment program shall coordinate any involuntary discharge of a client from the SUD treatment program with the DOC.

5. N.J.A.C. 10:161A, Subchapter 7, Medical Services, applies as described below.

- a. In lieu of the standards set out at N.J.A.C. 10:161A-7.1 et seq., the following standards shall apply:

(a) Medical services shall be provided in accordance with any and all policies and procedures required by the DOC.¹⁰

(b) The SUD treatment program shall implement a procedure for the reporting by SUD treatment program staff to appropriate DOC staff and/or DOC-contracted medical vendor staff of any client medical or physical symptoms.

6. N.J.A.C. 10:161A, Subchapter 8, Nursing Services, applies as described below.

- a. In lieu of the standards set out at N.J.A.C. 10:161A-8.1 et seq., the following standards shall apply:

(a) Nursing services shall be provided in accordance with any and all policies and procedures required by the DOC.

(b) The SUD treatment program shall implement a procedure for the reporting by SUD treatment program staff to appropriate DOC staff and/or DOC-contracted medical vendor staff of any client medical symptoms or issues.

7. N.J.A.C. 10:161A, Subchapter 9, Client Assessments and Treatment Plan, applies along with the amendments described below.

- a. -9.1(a) is amended as follows:

[A] The residential substance use disorder treatment [facility] program shall provide within [72 hours of admission] five days of an inmate's screening referral by DOC staff, a comprehensive biopsychosocial assessment [of all clients] using a SAMHSA approved, evidence-based, validated assessment tool for a criminal justice population, such as the Addiction Severity Index or [a similar standardized validated assessment instrument] the TCU:Correctional Residential Treatment-Initial Assessment, that assesses medical status, employment and support, tobacco, drug and alcohol use, legal status, family status/social status, psychiatric status, including diagnosis, as well as behavioral risk factors for HIV and Hepatitis. In order to ensure that the [client] inmate is placed in the appropriate treatment [facility] program, the [client] inmate must be assessed for level of care determination based upon the ASAM PPC[-2R] and DSM diagnosis.

- b. -9.1(a)3 is waived in its entirety.

- c. -9.1(a)4 is waived.

- d. -9.1(b)2 is waived.

- e. -9.2(a)1 is amended as follows:

The [facility] program shall initiate development of a measurable client treatment plan upon the client's admission, and shall enter the client's treatment plan into the client record [within 72

¹⁰ The DOC is responsible for the provision of medical services to inmates at MSCF and EMCF.

hours] at least three days, but not to exceed fifteen days, following the client's admission.

f. At -9.2(a), the following paragraph is added:

3. The treatment plan shall address, at a minimum, the following life domains: substance use disorder, legal issues, educational skills, physical health and recreational skills. In addition, the treatment plan shall incorporate other DOC programming related to other areas of concern, including, but not limited to, any criminogenic programming.

g. At -9.2(b), the following paragraph is added:

1. Program social work staff shall consult with DOC social work staff to coordinate treatment planning and ensure continuity of care.

h. -9.2(d) is amended as follows:

(d) The multidisciplinary team shall review the client treatment plan and client treatment progress at least every [30] sixty days, with such review and revisions, if any, documented in the client's clinical record.

8. N.J.A.C. 10:161A, Subchapter 10, Substance Abuse Counseling and Supportive Services, applies along with the amendments described below.

a. -10.1(b)6 is amended as follows:

6. Group counseling sessions, which shall not apply to educational or family counseling sessions, shall [be as follows:] not exceed an average of twelve clients and shall not exceed fourteen clients in any one session.

b. -10.1(b)6i-iii are waived in their entirety.

c. -10.1(c) is amended as follows:

(c) The [facility] program shall provide each client education with respect to the client's drug, alcohol and tobacco use, risk of exposure to AIDS and Hepatitis, other health consequences of substance abuse and dependence, relapse prevention, family issues related to substance use, needs of clients with co-occurring disorders and gender-specific issues such as domestic violence, parenting and sexual abuse, . . . :

d. -10.1(f) is amended as follows:

(f) Each [facility] program shall design programs to ensure that clients spend at least seven hours each day in structured activities to include individual and/or group counseling, psychoeducation, life skills training, vocational training/activity, education, recreation, criminogenic programming and self help meetings.

e. -10.1 is amended to add the following provisions:

(g) The program shall increase the frequency of individual counseling sessions based upon a client's clinical need.

(h) The commingling of clients in SUD treatment programming shall be in accordance with the requirements described below.

1. All clients admitted to the SUD treatment program will reside together, irrespective of assigned level of care (e.g. OP, IOP, STR or LTR). However, such clients shall not be commingled with the general population in the DOC facility.

2. Clients in OP and IOP levels of care may be commingled for purposes of SUD treatment programming. However, such clients may not be commingled with clients in STR and LTR levels of care for purposes of SUD treatment programming.

3. Clients in STR and LTR levels of care may be commingled for purposes of SUD treatment programming. However, such clients may not be commingled with clients in OP and IOP levels of care for purposes of SUD treatment programming.

4. Clients across all four levels of care (e.g. OP, IOP, STR or LTR) may only be commingled for didactic education sessions and structured activities.

9. N.J.A.C. 10:161A, Subchapter 14, Pharmaceutical Services, applies as amended below.

a. -14.1(a) is amended as follows:

Residential substance use disorders treatment [facilities shall make pharmaceutical services available to clients 24 hours a day, seven days a week, directly or] programs shall ensure for the referral and coordination of pharmaceutical services for clients through written affiliation agreements.

b. -14.1(a)1 shall apply in its entirety.

c. All other remaining standards in Subchapter 14 are waived.

10. N.J.A.C. 10:161A, Subchapter 16, Emergency Services and Procedures, applies along with the amendments described below.

a. -16.2(a) through (e) are waived and replaced with the following provision:

(a) The Program shall: (1) arrange for and participate in any drills conducted by the DOC facility in which they are located; and (2) provide and maintain documentation of any drills.

11. N.J.A.C. 10:161A, Subchapter 18, Continuum of Care Planning Services, applies along with the amendments described below.

a. The paragraph at -18.2(a)6 regarding adolescent clients is waived and replaced with the following:

6. Coordination and handling of treatment and referrals to ensure continuity of care for clients who are:

i. discharged/released to a DOC facility's general population;

ii. discharged/released into the community, including to own/family housing, release with parole supervision or to a halfway house facility; or

iii. returned to the program from a DOC facility's general population in order to resume or obtain additional (e.g. relapse/recovery) substance use disorder treatment programming.

12. N.J.A.C. 10:161A, Subchapter 19, Clinical Records, applies along with the amendments described below.

a. At – 19.1(a)1, the following paragraph is added:

i. The program shall maintain all clinical records separate and distinct from any DOC records and/or DOC medical/healthcare vendor records.

b. -19.3(a)12 is waived.

13. N.J.A.C. 10:161A, Subchapter 20, Infection Prevention and Control, is amended as follows:

a. In lieu of the standards set out at -20.1 et seq., the program shall be in compliance with any and all DOC policies and procedures related to infection prevention and control.

14. N.J.A.C. 10:161A, Subchapter 21, Housekeeping, Sanitation and Safety, applies along with the amendments described below.

a. The standards at -21.1(a) and (c) shall apply in their entirety.

b. The standard at -21.1(b) is replaced with the following:

(b) The SUD treatment program shall coordinate the provision of housekeeping and environmental services with the appropriate DOC facility personnel including, but not limited to, the reporting of any unsanitary or unsafe conditions within the SUD treatment program's designated program space.

c. The standards at -21.2 through -21.6 are waived.

15. N.J.A.C. 10:161A, Subchapter 22, Quality Assurance Program, applies along with the amendments described below.

a. At -22.1(a), language is amended as follows:

(a) The [residential substance use disorders treatment facility]Statewide Director of the SUD Treatment Program shall establish and implement an integrated comprehensive quality assurance program for client care, review the program at least annually and revise the program as necessary.

b. At -22.2(a), language is amended as follows:

(a) The [facility's] program's quality assurance program shall provide for an ongoing process, including documentation, that monitors and evaluates client care services, staffing, [infection prevention and control, housekeeping, sanitation, safety, maintenance of physical plant and equipment,] client care statistics, discharge planning services, volunteer services and shall include,

16. N.J.A.C. 10:161A, Subchapter 25, Physical Environment, applies along with the amendments described below.

- a. The standards at -25.1(a) and (b) are waived and replaced with the following standards:

10:161A-25.1 Program Space

(a)The SUD treatment program shall arrange and coordinate with the DOC for the provision of designated SUD treatment programming space within the DOC facility.

(b)The SUD treatment program shall arrange and coordinate individual counseling sessions in a setting that ensures client confidentiality and privacy.

- b. The standards at -25.1(c) and (d) are waived.
- c. The standards at -25.2 through -25.10 are waived.

C. Waived Standards – Residential SUD Treatment Program

In order to accommodate the unique correctional environment in which the SUD treatment program is operating, and in recognition that MSCF and EMCF are under the jurisdiction of the DOC, it is necessary to waive certain licensing standards. Those standards that are being waived are listed below. However, if the subject area relating to the waived standards must be addressed in an alternate fashion for purposes of licensure, then such details are also provided.

1. The following standards are waived:

- a. N.J.A.C. 10:161A-1.10, Qualifications of dietitians and food service supervisors, and N.J.A.C. 10:161A, Subchapter 15, Dietary Services.
 - (i) However, if the SUD treatment program provides dietary services separate from those provided by the DOC facility, then the standards at N.J.A.C. 10:161A-1.10 and N.J.A.C. 10:161A, Subchapter 15, shall apply in full.
- b. N.J.A.C. 10:161A, Subchapter 11, Educational Services.
- c. N.J.A.C. 10:161A, Subchapter 12, Laboratory and Radiological Services.
- d. N.J.A.C. 10:161A, Subchapter 24, Physical Plant and Functional Requirements.
- e. N.J.A.C. 10:161A, Subchapter 26, Existing Facilities.
- f. Appendix A, Tuberculosis Surveillance Procedures.
- g. Appendix B, Administrative Bulletin, Buprenorphine Guidelines.
- h. Appendix C, Administrative Bulletin, Vivitrol Injectable Guidelines.

2. With respect to Subchapters 11, 12, 24 and 26, which are waived, the SUD treatment program must adhere to and be in compliance with any and all DOC contractual and regulatory standards related to

these areas of operation and services. Should the SUD treatment program be in noncompliance with any DOC contractual or regulatory standards related to these areas of operation and services, the DHS may initiate licensure action, including suspension or revocation of the conditional license, based on any such noncompliance in accordance with the procedures set out in N.J.A.C. 10:161A, Subchapter 2, Licensure Procedures and Enforcement.

3. Any standards that apply to juveniles are waived and inapplicable because the SUD treatment programs at MSCF and EMCF are for adults age eighteen and over only.
4. Any standards within N.J.A.C. 10:161A related to the provision of extended care, halfway house or detoxification services are inapplicable and waived because this pilot program is limited to the licensure of short-term residential and long-term residential services under N.J.A.C. 10:161A. Accordingly, the SUD treatment program shall not provide extended care, halfway house or detoxification services.

D. Applicable Standards – Outpatient SUD Treatment Program

Listed below are those subchapters in N.J.A.C. 10:161B that apply in their entirety.

1. N.J.A.C. 10:161B, Subchapter 3, General Requirements.
2. N.J.A.C. 10:161B, Subchapter 4, Governing Authority.
3. N.J.A.C. 10:161B, Subchapter 5, Administration.
4. N.J.A.C. 10:161B, Subchapter 16, Client Rights.
5. N.J.A.C. 10:161B, Subchapter 22, Volunteer Services.

E. Amended Standards – Outpatient SUD Treatment Program

Below are listed those subchapters in N.J.A.C. 10:161B that apply, along with any necessary amendments and partial waivers.

1. N.J.A.C. 10:161B, Subchapter 1, Definitions and Qualifications, applies along with the amendments described below.
 - a. 1.1, Scope and Applicability, is amended as follows:

-1.1(a) and (b) are replaced by the Scope set forth at Section III of this A.B., except for the retention of the following amended provision at -1.1(a): “The rules in this chapter constitute the basis for the licensure and inspection of outpatient substance use treatment [facilities] programs by the New Jersey [Division of Addiction Services (DAS)] Department of Human Services, Division of Mental Health and Addiction Services (DMHAS).”
 - b. -1.2, Purpose, applies and also includes Section I, Purpose, of this A.B.
 - c. -1.3, Definitions; any amendments are addressed at Section III, Definitions, of this A.B.

- d. -1.7, Qualifications and responsibilities of the administrator of the facility, is amended as described below.
- (i) The “Statewide Director of SUD Treatment Program” required to be employed under the DOC RFP shall be the equivalent of the “administrator of the facility” required at -1.7. Any and all references to the “administrator” in the regulations shall be applicable and interchangeable with the “Statewide Director.”
 - (ii) -1.7(a) is amended as follows:
“The [facility] program shall hire [an administrator] a Statewide Director who has, at a minimum, a Master’s degree, [and] two years of full-time, or full-time equivalent, administrative or supervisory experience in a substance use treatment [facility] program and at least one year experience working with a criminal justice population.”
 - (iii) -1.7(b) is amended as follows:
“Individuals who do not meet the qualifications in (a) above, shall have a Bachelor’s degree, [and] five years of full-time, or full-time equivalent, administrative or supervisory experience in a substance use treatment [facility] program and at least one year experience working with a criminal justice population.”
 - (iv) -1.7(c)8 is amended as follows:
“Establishing and maintaining liaison relationships and communication with [facility] DOC staff, other contracted staff, service providers, support service providers, community resources, and clients;”
 - (v) -1.7(c)10 is deleted in entirety and replaced with the following language: “Ensuring that there are policies and procedures in place so that only those DOC inmates screened, assessed and identified as having a SUD are admitted to the SUD treatment program for treatment, if necessary;”
 - (vi) -1.7(c)11 is amended as follows: “Implementing and monitoring the quality of all services provided [at the facility] by the program, including the review of program outcomes available through NJSAMS;”
 - (vii) -1.7(c)12 is deleted in entirety and replaced with the following language: “Ensuring that designated SUD program space is maintained in a safe and sanitary condition to ensure client and staff safety;”
 - (viii) The following standards are waived: -1.7(c)13, 15 and 17.
 - (ix) The following responsibilities are added to -1.7(c):
19. Developing and implementing client safety policies and procedures that include, but are not limited to, forbidding staff to engage in client coercion, sexual harassment and sexual relationships with clients; and
20. Providing clinical supervision to the SUD Treatment Program Directors in accordance with clinical supervision requirements of any and all applicable state agencies and boards.

e. -1.8, Qualifications and responsibilities of the director of substance use counseling services, is amended as described below.

(i) The “Director of SUD Treatment Program” required to be employed under the DOC RFP shall be the equivalent of the “Director of Substance Use Counseling Services” required at -1.8. Any and all references to the “Director of Substance Use Counseling Services” in the regulations shall be applicable and interchangeable with the “Director of SUD Treatment Program.”

(ii) -1.8(a) is amended as follows:

(a) Every program shall employ at least one individual who has at least one year of experience working with a criminal justice population and meets at least the minimum following qualifications as the [director of substance abuse counseling services] Director of SUD Treatment Program:

(iii) -1.8(d)12 is amended as follows:

12. Ensuring that clinical staff, including counselor-interns, are supervised by the appropriately credentialed staff.

f. -1.9, Qualifications and responsibilities of the substance use counseling staff, is amended as described below.

(i) -1.9(d)4 is amended as follows:

Obtaining previous records that are relevant to treatment including, but not limited to, any treatment documentation and results from any SUD screening or assessments conducted by the DOC, records from DOC and sentencing documentation [the current treatment episode].

(ii) -1.9(d)10 is amended to include the following:

i. Coordination of substance use disorder treatment with any other treatment being provided to the client at MSCF or EMCF.

(iii) -1.9(d)11 is amended as follows:

Participating as a member of [a] any DOC facility-wide multidisciplinary team and in any DOC disciplinary, progress or other meetings conducted for assigned clients.

2. N.J.A.C. 10:161B, Subchapter 2, Licensure Procedures and Enforcement, applies along with the partial waiver and amendment described below regarding fees:

DHS will waive the initial licensing fee; however, the vendor will be responsible for any renewal or other fees according to the DHS fee schedule, which will be charged at the beginning of the second year of licensure for any renewal or other fees.

3. N.J.A.C. 10:161B, Subchapter 6, Client Care Policies and Services, is amended as described below

- a. -6.1(a)1.ii is waived in entirety.

- b. -6.2(a)14 is amended as follows:

14. Criteria for discharge, involuntary discharge, transfer and re-admission of clients from the [facility] program;

- c. -6.2(c) is waived in entirety.

- d. -6.3(a) is amended as follows:

(a)Prior to [or at] the time of admission to the program, [the facility] the client shall have a full and comprehensive assessment by appropriately credentialed staff of the program and [the facility] program staff shall conduct a preadmissions interview with all clients [and, in the case of juveniles, his or her family, guardian or legally authorized representative]. A summary of the interview shall be documented

- e. -6.3(e) is amended as follows:

(e)Upon admission to an outpatient substance use disorder treatment [facility] program, the [following shall apply] program shall verify that each client has received a physical examination and obtain a copy of any medical report.

The remainder of -6.3(e) is waived, including 1 - 5.

- f. The following language in -6.4(b) is waived: “The actual discharge from the facility shall not be initiated until the appeal process is complete.”

- g. -6.4 is amended to add the following requirement:

(d) The SUD treatment program shall coordinate any involuntary discharge of a client from the SUD treatment program with the DOC.

4. N.J.A.C. 10:161B, Subchapter 7, Medical Services, applies as described below.

- a. In lieu of the standards set out at N.J.A.C. 10:161A-7.1 et seq., the following standards shall

apply:

(a)Medical services shall be provided in accordance with any and all policies and procedures required by the DOC.¹¹

(b)The SUD treatment program shall implement a procedure for the reporting by SUD treatment program staff to appropriate DOC staff and/or DOC-contracted medical vendor staff of any client medical or physical symptoms.

5. N.J.A.C. 10:161B, Subchapter 8, Nursing Services, applies as described below.

a. In lieu of the standards set out at N.J.A.C. 10:161A-8.1 et seq., the following standards shall apply:

(a)Nursing services shall be provided in accordance with any and all policies and procedures required by the DOC.

(b)The SUD treatment program shall implement a procedure for the reporting by SUD treatment program staff to appropriate DOC staff and/or DOC-contracted medical vendor staff of any client medical symptoms or issues.

6. N.J.A.C. 10:161B, Subchapter 9, Client Assessment and Treatment Planning

a. -9.1(a) is amended as follows:

(a) An outpatient substance use treatment [facility] program shall complete, within [three visits of admission] five days of an inmate's screening referral by DOC staff, a drug screen, and a comprehensive biopsychosocial assessment [of all clients] using [an assessment instrument] a SAMHSA approved, evidence-based, validated assessment tool for a criminal justice population, such as the Addiction Severity Index or the TCU:Correctional Residential Treatment-Initial Assessment, which assesses medical status, vocational/employment and support, alcohol, tobacco and other drug use, legal status, family/social status, psychiatric status, as well as behavioral risk factors for HIV and Hepatitis. [The client shall be placed in a treatment facility, the modality and underlying philosophy of which is consistent with the client's preferences and values and which is also consistent with the client's needs based on criteria defined in the ASAM Patient Placement Criteria 2-R (see N.J.A.C. 10:161B-1.3).] In order to ensure that the inmate is placed in the appropriate treatment program, the inmate must be assessed for level of care determination based upon the ASAM PPC and DSM diagnosis.

b. -9.1(a)2 is waived in its entirety.

c. -9.2(a)1 is amended as follows:

The program shall initiate the development of the client's treatment plan upon the client's admission, and shall enter the client's treatment plan in the client record at least [after] three [visits] days following admission, not to exceed [30] fifteen days.

¹¹ The DOC is responsible for the provision of medical services to inmates at MSCF and EMCF.

d. -9.1(b)2 and 3 are waived in their entirety.

e. At -9.2(a), the following paragraph is added:

3. The treatment plan shall address, at a minimum, the following life domains: substance use disorder, legal issues, educational skills, physical health and recreational skills. In addition, the treatment plan shall incorporate other DOC programming related to other areas of concern, including, but not limited to, any criminogenic programming.

f. At -9.2(b), the following paragraph is added:

1. Program social work staff shall consult with DOC social work staff to coordinate treatment planning and ensure continuity of care.

g. -9.2(d) is amended as follows:

(d) The multidisciplinary team shall review the treatment plan and the client's progress at least every [90] sixty days, with such review, and revisions, if any, documented in the client's clinical record [in the first year with subsequent treatment plan reviews consistent with program policy].

7. N.J.A.C. 10:161B, Subchapter 10, Substance Abuse Counseling and Supportive Services, applies along with the amendments described below.

a. -10.1 is amended to add the following provision:

(h) The commingling of clients in SUD treatment programming shall be in accordance with the following requirements.

1. All clients admitted to the SUD treatment program will reside together, irrespective of assigned level of care (e.g. OP, IOP, STR or LTR). However, such clients shall not be commingled with the general population in the DOC facility.

2. Clients in OP and IOP levels of care may be commingled for purposes of SUD treatment programming. However, such clients may not be commingled with clients in STR and LTR levels of care for purposes of SUD treatment programming.

3. Clients in STR and LTR levels of care may be commingled for purposes of SUD treatment programming. However, such clients may not be commingled with clients in OP and IOP levels of care for purposes of SUD treatment programming.

4. Clients across all four levels of care (e.g. OP, IOP, STR or LTR) may only be commingled for didactic education sessions and structured activities.

8. N.J.A.C. 10:161B, Subchapter 14, Pharmaceutical Services, applies as amended below.

a. -14.1(a) is replaced with the following:

(a) Outpatient substance use disorders treatment programs shall ensure for the referral and coordination of pharmaceutical services for clients through written affiliation agreements.

1. If a program admits a client who is pursuing medically assisted treatment, it shall support or, at a minimum, not interfere with, the client's medically assisted treatment.

b. All other remaining standards in Subchapter 14 are waived.

9. N.J.A.C. 10:161B, Subchapter 15, Emergency Services and Procedures, applies along with the amendments described below.
- a. -15.1(b) is waived;
 - b. -15.2(a) through (e) are waived and replaced with the following provision:
(a) The Program shall: (1) arrange for and participate in any drills conducted by the DOC facility in which they are located; and (2) provide and maintain documentation of any drills.
10. N.J.A.C. 10:161B, Subchapter 17, Discharge Planning Services, applies along with the following amendments:
- a. The paragraph at -17.2(a)6 regarding juvenile clients is waived and replaced with the following:
6. Coordination and handling of treatment and referrals to ensure continuity of care for clients who are:
 - i. discharged/released to a DOC facility's general population;
 - ii. discharged/released into the community, including to own/family housing, release with parole supervision or to a halfway house facility; or
 - iii. returned to the program from a DOC facility's general population in order to resume or obtain additional (e.g. relapse/recovery) substance use disorder treatment programming.
 - b. At -17.3(a), the following provisions are added:
3. The symptoms, effects and treatment of substance use;
4. Codependency and its effect on the treatment of substance use; and
5. Implementation of self-care rehabilitation measures following discharge.
11. N.J.A.C. 10:161B, Subchapter 18, Clinical Records, applies along with the amendments described below.
- a. At -18.1(a)1, the following paragraph is added:
i. The program shall maintain all clinical records separate and distinct from any DOC records and/or DOC medical/healthcare vendor records.
 - b. -18.3(a)13 is waived.
12. N.J.A.C. 10:161B, Subchapter 19, Infection Prevention and Control Services, is amended as follows:
- a. In lieu of the standards set out at -19.1 et seq., the program shall be in compliance with any and all DOC policies and procedures related to infection prevention and control.
13. N.J.A.C. 10:161B, Subchapter 20, Housekeeping, Sanitation and Safety, applies along with the amendments described below.
- a. The standards at -20.1(a) and (c) shall apply in their entirety.

b. The standard at -20.1(b) is replaced with the following:

(b) The SUD treatment program shall coordinate the provision of housekeeping and environmental services with the appropriate DOC facility personnel including, but not limited to, the reporting of any unsanitary or unsafe conditions within the SUD treatment program's designated program space.

c. The standards at -20.2 through 20.5 are waived.

14. N.J.A.C. 10:161B, Subchapter 21, Quality Assurance Program, applies along with the amendments described below.

a. At -21.1(a), language is amended as follows:

(a) The [outpatient substance use disorders treatment facility]Statewide Director of the SUD Treatment Program shall establish and implement an integrated comprehensive quality assurance program for client care; review the program at least annually; and revise as necessary.

b. At -21.2(a), language is amended as follows:

(a) The [facility's] program's quality assurance program shall provide for an ongoing process, including documentation, for monitoring and evaluating client care services, staffing, [infection prevention and control, housekeeping, sanitation, safety, maintenance of physical plant and equipment,] client care statistics, discharge planning services, volunteer services and shall include,

15. N.J.A.C. 10:161B, Subchapter 24, Physical Environment, applies along with the amendments described below..

a. The standard at -24.1 is replaced with the following:

10:161B-24.1 Program Space

(a)The SUD treatment program shall arrange and coordinate with the DOC for the provision of designated SUD treatment programming space within the DOC facility.

(b)The SUD treatment program shall arrange and coordinate individual counseling sessions in a setting that ensures client confidentiality and privacy.

b. The standards at -24.2 and -24.3 are waived.

16. N.J.A.C. 10:161B is amended to add the following Subchapter and content:

a. Subchapter 26. Confidentiality

All outpatient substance use disorder treatment programs shall comply with the confidentiality provisions set forth in HIPAA and the Federal Confidentiality of Alcohol and Drug Abuse Patient Records regulation at 42 CFR Part 2.

F. Waived Standards - Outpatient SUD Treatment Program

1. The following standards are waived:

b. N.J.A.C. 10:161B-1.10, Qualifications of dietitians.

i. However, if the SUD treatment program provides dietary services separate from those provided by the DOC facility, then this standard shall apply in full.

c. N.J.A.C. 10:161B, Subchapter 11, Opioid Treatment Services.

d. N.J.A.C. 10:161B, Subchapter 12, Detoxification Services.

e. N.J.A.C. 10:161B, Subchapter 13, Laboratory Services.

f. N.J.A.C. 10:161B, Subchapter 23, Physical Plant and Functional Requirements.

g. N.J.A.C. 10:161B, Subchapter 25, Existing Facilities.

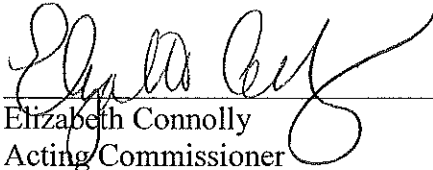
h. Appendix A, Tuberculosis Surveillance Procedures

i. Appendix B, Administrative Bulletin, Buprenorphine Guidelines

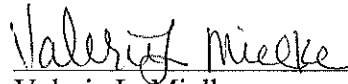
2. With respect to subchapters 13, 23 and 25, which are waived, the SUD treatment program must adhere to and be in compliance with any and all DOC contractual and regulatory standards related to these areas of operation and services. Should the SUD treatment program be in noncompliance with any DOC contractual or regulatory standards related to these areas of operation and services, the DHS may initiate licensure action, including suspension or revocation of the conditional license, based on any such noncompliance in accordance with the procedures set out in N.J.A.C. 10:161B, Subchapter 2, Licensure Procedures and Enforcement.

3. Any standards that apply to juveniles are waived and inapplicable because the SUD treatment program is limited to persons age eighteen and over.

4. Any standards related to the provision of partial care, opioid treatment and detoxification services are inapplicable and waived because this pilot program is limited to the licensure of outpatient and intensive outpatient services under N.J.A.C. 10:161B. Accordingly, the SUD treatment program shall not provide partial care, opioid treatment or detoxification services.



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