

PROVIDER ALERT
Critical Incident Report Requirement
July 20, 2023

Target Audience: All COMAR 10.63 Licensed Providers

The Maryland Department of Health Behavioral Health Administration (BHA) has developed a new standard Critical Incident Form and process. **This is mandated for use by all COMAR 10.63 licensed providers as required by COMAR 10.63.01.05C.**

The new Critical Incident Form is required for providers to send to BHA in reporting all critical incidents. The form is a HIPAA compliant secure form and may be found using the URL below. The form will also be posted on the BHA Website.

<https://www.cognitofrms.com/MDH3/BHACOMAR1063CriticalIncidentReportForm>

Critical Incident forms must be submitted in all of the following circumstances as described in COMAR 10.63.01.02.

- (a) Death of a program participant;
- (b) Life threatening injury to a program participant.
- (c) Non-consensual sexual activity, as prohibited in COMAR 10.01.18;
- (d) Any sexual activity between a staff member and a program participant; (For those programs covered by Md. Code Health General § 10-705 or COMAR 10.01.18, [additional reporting requirements apply](#)).
- (e) Unexpected evacuation of a building under circumstances that threaten the life, health or safety of participants;
- (f) Diversion of medication from the stock of a program providing opioid treatment services; or
- (g) Any injury related to an opioid medication dispensed by a program providing opioid treatment services.

Critical Incident Forms must also be completed in other situations in which there was significant risk to individuals, potential for criminal behavior, or potential for media coverage. Examples of this include:

- Overdose whether or not it results in death or injury.
- Unexplained absence of any individual with a potential life-threatening condition.
- Theft or unexplained loss of medications by a program that administers, dispenses, monitors, or stores medication
- Medication errors that reach a participant by a program that administers, dispenses, monitors, or stores medication.
- Disappearance or elopement of a resident from a residential program.
- Suspected or alleged abuse, neglect, or exploitation of a program participant
- Violation of an order of conditional release from a state psychiatric facility by a resident of a residential program, licensed or approved by the Department
- Any suicidal attempt by a program participant
- Any credible threat by a program participant assessed to represent a serious risk to staff, other program participants, targeted individuals, or the general public
- Any act of violence perpetrated or alleged to have been perpetrated by a program participant on program premises or in the course of a program service or activity.
- Any event involving a program participant that has attracted or is likely to attract negative media attention;
- Any other serious incident not otherwise classifiable under (a) through (r) above.

Critical Incident Investigation Process

Critical Incidents reported to the BHA Licensing and Compliance group will be forwarded to the relevant Local Behavioral Health Authority, Core Service Agency or Local Addiction Authority (all referred to hereafter as LBHA) for investigation, and may be investigated directly by BHA or other MDH authorities.

Providers are mandated under COMAR 10.63 to cooperate with any investigation of an incident, and to provide accurate information concerning the incident and any subsequent preventive efforts. Providers may be required to complete a corrective action plan to prevent further issues.

Providers who fail to file a critical incident form, or who do not cooperate with investigation and corrective action measures may be subject to disciplinary action, including civil penalties, up to potential suspension or license termination.

Thank you,

Optum Maryland Team