

PROVIDER ALERT
Critical Incident Report Requirement
August 9, 2023

Target Audience: All COMAR 10.63 Licensed Providers

This alert was updated on 8/17/23

This alert replaces [this alert](#) on the same topic published on July 20, 2023, which is hereby rescinded.

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, and for all contracted providers required to follow 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 participant¹;
- (b) Life threatening injury to a program participant²;
- (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](#)).

¹ Deaths occurring by violence; suicide; casualty; overdose; suddenly, if the deceased was in apparent good health; or in any suspicious or unusual manner; must be reported. Natural deaths at the conclusion of a known illness do not need to be reported.

² Including any overdose not resulting in death

(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.

(h) Programs are required by 10.06.01.03 to [report infectious diseases](#) to the local health department. BHA expects providers to also report any of these incidents through the critical incident reporting form.

(i) Accreditation Organizations require providers to report sentinel events directly to them. These reports must also be made to BHA. A sentinel event is defined as “an unexpected event in which individuals suffer serious physical harm or are placed at risk thereof.”

Specifically, any provider who experiences the unexplained disappearance or elopement of an individual with a potentially life-threatening health condition or high level of risk is expected to report that disappearance.

Additional examples of incidents on which reporting to BHA is strongly encouraged include, but are not limited to:

- 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
- Suspected or alleged abuse, neglect, or exploitation of a program participant by, or with the knowledge of, program staff.
- 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 that is 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 or staff member that has attracted or is likely to attract significant negative media attention;

Providers are reminded that accreditation organizations require providers to maintain comprehensive internal incident reporting, tracking and review systems that go beyond the incidents listed above, and to keep a log of critical incidents.

Providers are expected to review incident patterns on an annual basis.

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 designees.

Providers are mandated under COMAR 10.63 to cooperate with any investigation, 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 required by 10.63.01.05, or who do not cooperate with an investigation may be subject to disciplinary action, including civil money penalties, up to and including potential suspension or license termination.

Critical incident reporting is not a substitute for contacting appropriate law enforcement or emergency services in the event of an emergency.

The content of the Critical Incident Form is shown on the draft linked [here](#). Please do not use this version to submit incidents. Incidents should be submitted using the link referenced above.

Thank you,

Optum Maryland Team