

Behavioral Health Entity Oversight Transformation: Transition Updates, Authority Changes and Next Steps

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Learning Objectives

Attendees will have a comprehensive understanding of the development, and current state, of the BHE license.

Attendees will be able to differentiate between current CDPHE authority of the BHE license and the plan for future BHA authority of the BHE license type.

Attendees will have a clear picture of how their BHE licensed facility can anticipate change of authority from CDPHE to the BHA.

Overview: Who We Are and What We Do

Health Facilities and Emergency Medical Services Division (HFEMSD):

HFEMSD serves to protect the health, safety and welfare of all health care system users and ensure access to quality health care for all Coloradans. HFEMSD includes the following topic areas: Health facility oversight, EMS and emergency medical responders, EMS and trauma funding, EMS and trauma data, and Health facilities.

The Behavioral Health and Community Services Section: serves to regulate a variety of community-based services, which include services for individuals with intellectual and developmental disabilities, as well as community-based behavioral health services.

BHE Background & Context

- [House Bill 19-1237](#), known as the Behavioral Health Entity (BHE) Licensing bill
- Pre-dates Behavioral Health Task Force (BHTF) and BHA efforts
- Charged CDPHE with creating a single, flexible licensing category for community-based BH to allow for a continuum of care within a single CDPHE licensing chapter

BHE Background & Context cont'd

- Guiding Principles & Intent:
 - Streamlined & consolidated the regulatory structure of behavioral health facilities licensed by CDPHE
 - Intended to resolve duplication & regulatory conflicts between CDPHE & BHA, especially when providing one individual receiving services both SUD & MH services
 - Increased parity in the oversight between physical health and behavioral health
- Created the Behavioral Health Entity Implementation & Advisory Committee (BHE-IAC)

How is the BHE license different from previous CDPHE licenses?

Previously, CDPHE issued licenses to behavioral health entities in the following ways:

CMHCs and CMHcs:

- Licensed under Chapter 2, General Provisions and Chapter 24, Medication Administration Regulations
- Surveys typically did not occur, due to no service-specific rules having been promulgated.

Acute Treatment Units:

- Licensed under Chapter 2, General Provisions and Chapter 6, Acute Treatment Units, and Chapter 24
- Held to health and safety standards

Crisis Stabilization Units:

- Licensed under Chapter 2, General Provisions, Chapter 9, Community Clinics and Community Clinics and Emergency Centers, and Chapter 24
- The assigned licensing chapter existed for other emergency center facilities and was not specific to behavioral health crisis stabilization services.

How is the BHE license different from previous CDPHE licenses?

Presently, those previous facility types now exist under the following licensing structure:

- Licensed under Chapter 2, General Provisions
- Licensed under Chapter 3, Behavioral Health Entities
- Have the option for various endorsements as Behavioral Health Entities:
 - Outpatient Services
 - Walk-in Services
 - 24-Hour/Overnight Acute Treatment Services
 - 24-Hour/Overnight Crisis Stabilization Services
- Adherence to Chapter 24, Medication Administration Regulations

CDPHE

- Pertains to facilities that are considered CMHCs, CMHcs, ATUs and CSUs only.
- Licenses for health and safety
 - Has staff requirements-qualifications
 - Has record content requirements
 - Has requirements regarding ethical considerations and conflicts of interest
 - Includes environmental requirements for 24-Hour/Overnight services
 - Includes food storage, supply, and preparation requirements
 - Includes requirements for laundry services
 - Includes building and safety standards
 - FGI (Facilities Guidelines Institute) Standards
 - Certificate of Compliance
 - Includes requirements for square footage in bedrooms
 - Includes requirements for access to restrooms

BHA-Mental Health Oversight

- BHA designates, or provides program approval, for CMHCs, CMHcs, ATUs, CSUs
- BHA's oversight is primarily focused on treatment standards and quality assurance of services offered
- BHA has the ability to contract (help fund) for services provided in CMHCs, CMHcs, ATUs and CSUs
 - This is done through direct contracts between BHA and providers
 - This is also done through funds BHA allocates to Regional Accountability Entities (RAEs) who then contract with MH providers
- BHA has both rules and contract requirements for service delivery with CMHCs, CMHcs, ATUs, and CSUs
- BHA regulates service-specific programs in CMHCs, to include:
 - Child Youth Mental Health Treatment Act
 - Forensic Community-Based Services
 - Pre-Admission Screening and Resident Review (PASRR)
 - 27-65 Procedures



BHA-Substance Use Disorder Oversight

- BHA licenses, or provides program approval, for Substance Use Disorder (SUD) services
- BHA's oversight is primarily focused on treatment standards and quality assurance of services offered
- SUD licenses are based on ASAM levels
- SUD licenses are service-specific:
 - Gender-Responsive Women's SUD Services, Criminal Justice SUD Services, Adolescent SUD Services, DUI Services
- BHA has the ability to fund SUD services
 - This is done through direct contracts between BHA and providers
 - This is also done through funds BHA allocates to the Managed Service Organizations (MSOs) who then contract with SUD providers

BHE Application and Licensure Processes

Letter of Intent

Online application in Colorado Health Facilities Interactive (COHFI)

Facilities Guidelines Institute Review Process

Division of Fire Prevention and Control-Issuance of a Certificate of Compliance

Fitness Review

Initial Surveyor Assigned

Survey completed

BHE website

<https://sites.google.com/state.co.us/cdphebehavioralhealthentity/home>

- Guiding Principles and Intent
- Implementation
- Applicable PHO
- Transition Process, Phase 1 and Phase 2
- Timeline
- How to apply
- BHE TA meetings
- FGI information
- Memos
- What is a Survey?



Behavioral Health Entity Implementation and Advisory Committee

Established to create the BHE licensure type, engage stakeholder in promulgation of BHE rules, and advise CDPHE on rule making and oversight decisions.

Temporarily paused during the legislative session

Recently resumed to support the BHE transition process

<https://cdphe.colorado.gov/behavioral-health-entity-implementation-and-advisory-committee>

Transitioning the BHE License from CDPHE to the BHA Overview of Statutory Deadlines



House Bill 22-1278

Behavioral Health Administration

- Creates the Behavioral Health Administration (BHA)
- **Part 5 moves the authority and responsibility for licensing and oversight of BHEs from CDPHE to the BHA**
- Has specific deadlines for the licensing transition (in chronological order on the following slides)



No Later than April 30, 2023

The BHA shall promulgate rules that:

- Provide minimum standards for the operation of BHEs within the state (Section 27-50-502(1), C.R.S.)
- Establish a schedule of fees sufficient to meet the direct and indirect costs of the BHE licensing function (Section 27-50-504(1)(a), C.R.S.)

July 1, 2023 to June 30, 2024

- BHEs seeking initial licensure shall apply to the BHA (Section 27-50-501(1)(b), C.R.S.)
- BHEs licensed by CDPHE shall apply for a license from the BHA prior to the expiration of the CDPHE license (Section 27-50-501(1)(c), C.R.S.)
 - CDPHE’s standards/rules apply to the BHE until it is licensed by the BHA, or July 1, 2024, whichever is earlier. (Section 27-50-501(1)(c), C.R.S. addresses “until it is licensed,” Section 25-27.6-112, C.R.S., is the repeal of CDPHE’s licensure authority effective July 1, 2024.)
 - The BHA shall take action on an application for licensure within 30 days after the date that the BHA receives all of the necessary information and documentation required for licensure (including a CoC from DFPC.)



On and after July 1, 2024

It is unlawful to conduct or maintain a BHE without a license from the BHA. (Section 27.50-501(1)(a), C.R.S.)

- CDPHE authority for licensing BHEs is repealed effective July 1, 2024. This means that CDPHE licenses will no longer be valid as of July 1, 2024, regardless of whether a BHA license has been issued.

BHE Transition Considerations

Transitioning initial applicants and renewals, application access

Complaints

Occurrences

FGI Review Process

DFPC CoC process



Thank you!

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