

Title 20. Public Health and Welfare

Chapter X. Office of Long-Term Care, Division of Provider Services and Quality Assurance, Department of Human Services

Subchapter A. Generally

Part 416. Therapeutic Communities Certification Manual

Subpart 1. General Provisions

20 CAR § 416-101. Purpose.

(a) This part sets forth the standards and criteria used in the certification of therapeutic communities by the Division of Behavioral Health Services of the Department of Human Services.

(b) The rules regarding the certification processes including, but not necessarily limited to, applications, requirements for, levels of, and administrative sanctions are found in this part.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-102. Definitions.

The following words or terms, when used in this part, shall have the defined meaning, unless the context clearly indicates otherwise:

(1) "Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a resident by a staff responsible for the resident's health, safety, or welfare, including but not limited to:

- (A) Nonaccidental physical injury or mental anguish;
- (B) Sexual abuse;
- (C) Sexual exploitation;
- (D) The use of mechanical restraints without proper authority;
- (E) The intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or
- (F) Deprivation of food, clothing, shelter, or health care by a staff

responsible for providing these services to a resident;

(2)(A) "Adverse license action" means any:

(i) Action by a licensing authority that is related to client care;

(ii) Act or omission warranting exclusion under Participant Exclusion, 25 CAR pt. 30; or

(iii) Act or omission that imposes any restriction on the licensee's practice privileges.

(B) The action is deemed to exist when the licensing entity imposes the adverse action except as provided in Arkansas Code § 25-15-211(c);

(3) "Behavioral health agency" means an entity that is certified by the Department of Human Services as meeting the requirements to be certified as a behavioral health agency;

(4) "Certification" means a written designation issued by the Department of Human Services declaring that the provider has demonstrated compliance as declared within and defined by this part;

(5) "Client" means any person for whom a therapeutic community furnishes, or has agreed or undertaken to furnish, services;

(6) "Co-occurring disorder" means any combination of mental health and substance use disorder symptoms or diagnoses in a client;

(7) "Co-occurring disorder capability" means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to individuals with co-occurring disorders;

(8) "Compliance" means conformance with applicable state and federal laws, rules, and regulations including, without limitation:

(A) Titles XIX and XXI of the Social Security Act and implementing regulations;

(B) Other federal laws and regulations governing the delivery of health care funded in whole or in part by federal funds, for example, 42 U.S.C. § 1320c-5;

(C) All state laws and rules applicable to Medicaid generally and to therapeutic community services specifically;

(D) Title VI of the Civil Rights Act of 1964 as amended, and implementing regulations;

(E) The Americans with Disabilities Act, as amended, and implementing regulations; and

(F) The Health Insurance Portability and Accountability Act (HIPAA), as amended, and implementing regulations;

(9)(A) "Critical incident" means an occurrence or set of events inconsistent with the routine:

- (i) Operation of the facility; or
- (ii) Care of a client.

(B) "Critical incident" specifically includes but is not necessarily limited to the following:

- (i) Adverse drug events;
- (ii) Self-destructive behavior;
- (iii) Deaths and injuries to clients, staff, and visitors;
- (iv) Medication errors;
- (v) Clients that are absent without leave (AWOL);
- (vi) Neglect or abuse of a client;
- (vii) Fire;
- (viii) Unauthorized disclosure of information;
- (ix) Damage to or theft of property belonging to a client or the

facility;

- (x) Other unexpected occurrences; or
- (xi) Events potentially subject to litigation.

(C) A critical incident may involve multiple individuals or results;

(10) "Deficiency" means an item or area of noncompliance;

(11) "DHS" means the Department of Human Services;

(12)(A) "Mental health professional" or "MHP" means a person who possesses an Arkansas license to provide clinical behavioral health care.

(B) The license must be in good standing and not subject to any adverse

license action;

(13) "Minor" means any person under eighteen (18) years of age;

(14)(A) "Performance improvement" or "PI" means an approach to the continuous study and improvement of the processes of providing healthcare services to meet the needs of clients and others.

(B) Synonyms and near synonyms include:

(i) "Continuous performance improvement";

(ii) "Continuous improvement";

(iii) "Organization-wide performance improvement"; and

(iv) "Total quality management";

(15)(A) "Persons with special needs" means any persons with a condition which is considered a disability or impairment under the Americans with Disabilities Act of 1990 including, but not limited to:

(i) The deaf/hearing impaired;

(ii) The visually impaired;

(iii) The physically disabled;

(iv) The developmentally disabled;

(v) Persons with a disabling illness; and

(vi) Persons with mental illness and/or substance abuse disorders.

(B) See "Americans with Disabilities Handbook" published by the United States Equal Employment Opportunity Commission and the United States Department of Justice;

(16)(A) "Professionally recognized standard of care" means that degree of skill and learning commonly applied under all the circumstances in the community by the average prudent reputable member of the profession.

(B) Conformity with Substance Abuse and Mental Health Services Administration evidence-based practice models is evidence of compliance with professionally recognized standards of care;

(17) "Progress notes" means:

(A) A chronological description of services provided to a client;

- (B) The client's progress or lack of progress; and
- (C) Documentation of the client's response related to the intervention

plan;

(18) "Provider" means an entity that is:

(A) Certified by the Department of Human Services as a therapeutic community; and

(B) Enrolled by the Division of Medical Services as a behavioral health agency;

(19) "Qualified behavioral health provider" means a person who:

(A) Does not possess an Arkansas license to provide clinical behavioral health care;

(B) Works under the direct supervision of a mental health professional;

(C) Has successfully completed prescribed and documented courses of initial and annual training sufficient to perform all tasks assigned by a mental health professional; and

(D) Acknowledges in writing that all qualified behavioral health provider services are:

(i) Controlled by client care plans; and

(ii) Provided under the direct supervision of a mental health professional;

(20)(A) "Restraint" refers to manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of the individual's body.

(B) Mechanical restraints shall not be used;

(21)(A)(i) "Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a client, or risk thereof.

(ii) Serious injury specifically includes loss of limb or function.

(iii) The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a

client.

(iv) These events signal the need for immediate investigation and response.

(B) "Sentinel event" includes, but is not limited to:

(i) Suicide;

(ii) Homicide;

(iii) Criminal activity;

(iv) Assault and other forms of violence, including domestic violence or sexual assault; and

(v) Adverse drug events resulting in serious injury or death; and

(22) "Trauma-informed" means the recognition and responsiveness to the presence of the effects of past and current traumatic experiences in the lives of all clients.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

Codification Notes. Title XIX of the Social Security Act is codified at 42 U.S.C. § 1396 et seq.

The Americans with Disabilities Act is codified at 42 U.S.C. § 12101 et seq.

The Health Insurance Portability and Accountability Act of 1996 was enacted as Pub. L. No. 104-191.

20 CAR § 416-103. Meaning of verbs in rules.

The attention of the facility is drawn to the distinction between the use of the words "shall", "should", and "may" in this part:

(1) "Shall" is the term used to indicate a mandatory statement, the only

acceptable method under the present standards;

(2) "Should" is the term used to reflect the most preferable procedure, yet allowing for the use of effective alternatives; and

(3) "May" is the term used to reflect an acceptable method that is recognized but not necessarily preferred.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-104. Applicability.

The standards and criteria for services as subsequently set forth in this part are applicable to therapeutic communities as stated in each section.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

Subpart 2. Therapeutic Communities

20 CAR § 416-201. Required services.

(a)(1) Therapeutic communities are highly structured residential environments or continuums of care in which the primary goals are the:

(A) Treatment of behavioral health needs; and

(B) Fostering of personal growth leading to personal accountability.

(2) Services address the broad range of needs identified by the person served.

(3) Therapeutic communities employ community-imposed consequences and earned privileges as part of the recovery and growth process.

(4) In addition to daily seminars, group counseling, and individual activities, the persons served are assigned responsibilities within the therapeutic community setting.

(5) Participants and staff members act as facilitators, emphasizing personal responsibility for one's own life and self-improvement.

(6) The service emphasizes the integration of an individual within his or her

community, and progress is measured within the context of that community's expectation.

(b)(1) Depending on the needs of the client and eligibility determination of the client, there are two (2) levels of therapeutic community:

(A) Level 1; and

(B) Level 2.

(2) Level 1 therapeutic communities are reimbursed at two hundred fifty dollars (\$250) per diem while Level 2 therapeutic communities are reimbursed at one hundred seventy-five dollars (\$175) per diem.

(c)(1) In order to be certified by the Department of Human Services as a therapeutic community, the site must be certified by the department as a behavioral health agency site.

(2) A therapeutic community shall not be certified without being certified as a behavioral health agency.

(d)(1) Each therapeutic community program shall be certified.

(2) All locations where clients reside will be inspected and approved as an allowable location for clients to live while receiving services within the therapeutic community.

(3) If clients are living in a residential setting in the same location that they are receiving treatment (Level 1 therapeutic communities), the site shall not have more than sixteen (16) beds.

(e) Level 1 therapeutic communities shall:

(1) Have twenty-four (24) hours a day monitoring; and

(2) Be a secure facility.

(f)(1) Level 2 therapeutic communities must ensure:

(A) Daily contact with clients; and

(B) The ability for residents to be seen by appropriate caregivers when necessary twenty-four (24) hours a day.

(2) Appropriate supervision must be documented and maintained at Level 2 therapeutic communities.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-202. Minimum service requirements.

(a) At a minimum, therapeutic communities shall provide the following amount, duration, and scope of services for any client eligible and approved for therapeutic communities.

(b)(1) Therapeutic community services shall be provided in the least restrictive setting possible.

(2) Services should be provided within or as close to the community in which they reside as possible.

(c)(1) A physician shall be available at all times for clients in the therapeutic community, either on-duty or on call.

(2) If the physician is on call, he or she shall respond by telephone or in person to the licensed staff on duty at the therapeutic community within twenty (20) minutes.

(d)(1) Therapeutic community services shall:

(A) Have written policy and procedures for both levels of therapeutic communities; and

(B) Maintain policy and procedures for all services provided.

(2) This information shall be provided to all clients who enter care at a therapeutic community.

(e)(1) Qualified staff, acting within their scope of license, if applicable, shall ensure that they are knowledgeable about:

(A) Applicable laws;

(B) Department of Human Services rules; and

(C) Facility policy and procedures.

(2) All staff at therapeutic communities must be trained and certified as a staff member of the therapeutic community provider.

(3) This certification must be documented within the employee's employment

record.

(f) The therapeutic community shall have written policy and procedures addressing restraints, and these shall be in compliance with 20 CAR § 416-402.

(g) All clients in a therapeutic community shall have an individualized plan of care that indicates the appropriate medically necessary services for the client, including those listed within the Counseling and Crisis Services Provider Manual, 20 CAR pt. 614.

(h)(1) All services provided to a client shall be documented in a daily progress note.

(2) Each daily progress note shall consist of a log and narrative section.

(3) The log shall record each planned service delivered to the client, indicating the:

(A) Service name;

(B) Time service began;

(C) Time services ended; and

(D) Name and signature of the staff members providing the service.

(4) The summary shall include the:

(A) Activities performed; and

(B) Client's progress or lack of progress of achieving the treatment goal or goals established in the individualized plan of care.

(5) The narrative shall also indicate the:

(A) Reason or reasons for the client not participating in any planned service;

(B) Efforts to engage the client in services; and

(C) Any alternative service provided when the client does not participate in a planned service.

(6)(A) The narrative progress note shall be signed by the mental health professional (independently licensed practitioner, nonindependently licensed practitioner, advanced practice nurse, or physician) who is primarily responsible for the client's treatment on that day.

(B) This mental health professional (independently licensed practitioner, nonindependently licensed practitioner, advanced practice nurse, or physician) must

have been physically present at the therapeutic community site on the day of the services being documented.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-203. Level 1 therapeutic communities — Service requirements.

(a)(1) Level 1 therapeutic communities are the highest level of care in a therapeutic community.

(2) Eligibility for this service will be determined by an independent assessment and an authorization for service at this level of care.

(b) A Level 1 therapeutic community shall have no less than the following staff-to-client ratios to ensure safety of clients receiving services:

(1) One (1) staff member for every four (4) clients during daytime (8:00 a.m. – 5:00 p.m.); and

(2) One (1) staff member for every eight (8) clients during evening and overnight (5:00 p.m. to 8:00 a.m.).

(c)(1) Each client served in a Level 1 therapeutic community shall have an individualized plan of care.

(2) This plan shall specify the minimum service requirements listed below, which shall include a minimum of forty-two (42) hours of planned counseling level or rehabilitative level services per week that are specified within the Counseling and Crisis Services Provider Manual, 20 CAR pt. 614.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-204. Level 1 therapeutic communities — Physician services.

(a)(1) Physician services include any service allowed to be performed by a physician within the .

(2)(A) Physician services include pharmacologic management to provide prescriptions for medications.

(B) This service can also be provided by an advanced practice nurse (adult psychiatric mental health clinical nurse specialist, child psychiatric mental health clinical nurse specialist, adult psychiatric mental health advanced practice nurse, family psychiatric mental health advanced practice nurse) as allowable within the Counseling and Crisis Services Provider Manual, 20 CAR pt. 614.

(b) There shall be no less than two (2) physician service encounters per month provided to each client.

(c)(1) Documentation in the client's medical record requires services to be put in the daily service log for all clients.

(2) All medications for the client must be identified within the client's medical record.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-205. Level 1 therapeutic communities — Professional services.

(a) Professional services include any service allowed to be performed by a mental health professional (independently licensed or nonindependently licensed clinician) within the Counseling and Crisis Services Provider Manual, 20 CAR pt. 614.

(b)(1) There shall be no less than ten (10) hours per week of professional services provided to each client.

(2) The therapeutic community must ensure that ten (10) hours of professional services are provided during ninety percent (90%) of all weeks during each quarter of treatment of the client.

(3)(A) Of the ten (10) hours required per week, three (3) hours shall be delivered on an individual basis (for example, individual behavioral health counseling).

(B) Services provided to a group of individuals at the same time do not count towards the three (3) hours of individual services required.

(4) Of the ten (10) hours required per week, seven (7) hours may be delivered to multiple clients in a group.

(c)(1) Documentation in the client's medical record requires services to be put in the daily service log for all clients.

(2) Services shall include activities to address client's treatment goal or goals established in the individualized plan of care.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-206. Level 1 therapeutic communities — Qualified behavioral health provider services.

(a) Qualified behavioral health provider services include any service allowed to be performed by a qualified behavioral health provider, certified peer support specialist, certified youth support specialist, and certified family support partner within the Counseling and Crisis Services Provider Manual, 20 CAR pt. 614.

(b)(1) Of the forty-two (42) total hours of services required per week per client, ten (10) hours of qualified behavioral health provider services shall be delivered on an individual basis (for example, behavioral assistance).

(2) Services provided to a group of clients at the same time do not count towards the ten (10) hours of individual qualified behavioral health provider services required.

(c)(1) Documentation in the client's medical record requires services to be put in the daily service log for all clients.

(2) Services shall include activities to address client's treatment goal or goals established in the individualized plan of care.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-207. Level 1 therapeutic communities — Supportive activities.

(a) Supportive activities may be provided to clients in a therapeutic community based upon the individual client's needs.

(b)(1) Documentation in the client's medical record requires services to be put in the daily service log for all clients.

(2) Services shall include activities to address client's treatment goal or goals established in the individualized plan of care.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-208. Level 2 therapeutic communities — Service requirements.

(a)(1) Level 2 therapeutic communities are a lower level of care of a therapeutic community.

(2) Eligibility for this service will be determined by an independent assessment and an authorization for service at this level of care.

(b) A Level 2 therapeutic community client shall have no less than the following staff-to-client ratios to ensure safety of clients receiving services:

(1) One (1) staff member for every eight (8) clients during daytime (8:00 a.m. – 5:00 p.m.); and

(2)(A) Appropriate staff supervision shall be documented in policies and procedures of the therapeutic community for clients during evening and overnight (5:00 p.m. to 8:00 a.m.).

(B) Level 2 therapeutic communities must have the ability for residents to be seen by appropriate caregivers when necessary twenty-four (24) hours a day.

(C) Appropriate supervision must be documented and maintained at Level 2 therapeutic communities.

(c)(1) Each client served in a Level 2 therapeutic community shall have an individualized plan of care.

(2) This plan shall specify the minimum service requirements listed below, which shall include a minimum of forty-two (42) hours of planned counseling level or

rehabilitative level services per week that are specified within the Counseling and Crisis Services Provider Manual, 20 CAR pt. 614.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-209. Level 2 therapeutic communities — Physician services.

(a)(1) Physician services include any service allowed to be performed by a physician within the Counseling and Crisis Services Provider Manual, 20 CAR pt. 614.

(2) Physician services include pharmacologic management to provide prescriptions for medications.

(3) This service can also be provided by an advanced practice nurse (adult psychiatric mental health clinical nurse specialist, child psychiatric mental health clinical nurse specialist, adult psychiatric mental health advanced practice nurse, family psychiatric mental health advanced practice nurse) as allowable within the Counseling and Crisis Services Provider Manual.

(b) There shall be no less than one (1) physician service encounter per month provided to each client.

(c)(1) Documentation in the client's medical record requires services to be put in the daily service log for all clients.

(2) All medications for the client must be identified within the client's medical record.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-210. Level 2 therapeutic communities — Professional services.

(a) Professional services include any service allowed to be performed by a mental health professional (independently licensed or nonindependently licensed clinician) within the Counseling and Crisis Services Provider Manual, 20 CAR pt. 614.

(b)(1) There shall be no less than six (6) hours per week of professional services provided to each client.

(2)(A) Of the six (6) hours required per week, one (1) hour shall be delivered on an individual basis (for example, individual behavioral health counseling).

(B) Services provided to a group of individuals at the same time do not count towards the one (1) hour of individual services required.

(3) Of the six (6) hours required per week, five (5) hours may be delivered to multiple clients in a group.

(c)(1) Documentation in the client's medical record requires services to be put in the daily service log for all clients.

(2) Services shall include activities to address client's treatment goal or goals established in the individualized plan of care.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-211. Level 2 therapeutic communities — Qualified behavioral health provider services.

(a) Qualified behavioral health provider services include any service allowed to be performed by a qualified behavioral health provider, certified peer support specialist, certified youth support specialist, and certified family support partner within the Counseling and Crisis Services Provider Manual, 20 CAR pt. 614.

(b)(1) Of the forty-two (42) total hours of services required per week per client, eight (8) hours of qualified behavioral health provider services shall be delivered on an individual basis (for example, behavioral assistance).

(2) Services provided to a group of clients at the same time do not count towards the eight (8) hours of individual qualified behavioral health provider services required.

(c)(1) Documentation in the client's medical record requires services to be put in the daily service log for all clients.

(2) Services shall include activities to address client's treatment goal or goals

established in the individualized plan of care.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-212. Level 2 therapeutic communities — Supportive activities.

(a) Supportive activities may be provided to clients in a therapeutic community based upon the individual client's needs.

(b)(1) Documentation in the client's medical record requires services to be put in the daily service log for all clients.

(2) Services shall include activities to address client's treatment goal or goals established in the individualized plan of care.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

Subpart 3. Therapeutic Community Medical Records Requirements

20 CAR § 416-301. Medical recordkeeping system.

(a) Each therapeutic community shall maintain an organized medical recordkeeping system to collect and document information appropriate to the treatment processes.

(b) This system shall be organized, easily retrievable, with usable medical records stored under confidential conditions and with planned retention and disposition.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-302. Basic requirements.

The therapeutic community's policies and procedures shall:

- (1) Define the content of the client's medical record;
- (2) Define storage, retention, and destruction requirements for client medical records;

- (3) Require client medical records be confidentially maintained in locked equipment under secure measures;
- (4) Require legible entries in client medical records:
 - (A) Signed with first name or initial, last name, and credentials; and
 - (B) Dated by the person making the entry;
- (5) Require the client's name be typed or written on each sheet of paper or page in the client record;
- (6) Require a signed consent for treatment before the client is admitted; and
- (7) Require a signed consent for follow-up before any contact after discharge is made.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-303. Record access for clinical staff.

- (a) The therapeutic community shall ensure client records are readily accessible to the therapeutic community staff directly caring for the client.
- (b) Such access shall be limited to the minimum necessary to carry out the staff member's job functions or the purpose for the use of the records.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-304. Clinical record content — Intake and assessment.

- (a)(1) The therapeutic community shall assess each individual to determine appropriateness of admission.
 - (2) Initial assessments by an MHP are to be completed on all clients.
- (b) Client intake information shall contain, but not be limited to the following identification data:
 - (1) Client name;
 - (2) Name and identifying information of the legal guardian or guardians;
 - (3) Home address;

- (4) Telephone number;
 - (5) Referral source;
 - (6) Reason for referral;
 - (7) Significant other to be notified in case of emergency;
 - (8) Intake data core content;
 - (9) Presenting problem and disposition;
 - (10) A record of pertinent information regarding adverse reactions to drugs, drug allergies, or sensitivities shall be:
 - (A) Obtained during intake; and
 - (B) Kept in a highly visible location in or on the record; and
 - (11) Screening for co-occurring disorders, trauma, medical, and legal issues.
- (c)(1) Client assessment information for clients admitted to therapeutic communities shall be completed within twelve (12) hours of admission.
- (2) Integrated mental health and substance abuse psychosocial evaluation that minimally addresses:
 - (A) The client's strengths and abilities to be considered during community reentry; and
 - (B) Economic, vocational, educational, social, family, and spiritual issues as indicated.
 - (3) Interpretive summary of relevant assessment findings that results in the development of an intervention plan addressing mental health, substance use disorder, and other related issues contributing to admission to a therapeutic community.
 - (4) An integrated intervention plan that minimally addresses the client's:
 - (A) Presenting crisis situation that incorporates the identified problem or problems;
 - (B) Strengths and abilities;
 - (C) Needs and preferences; and
 - (D) Goals and objectives.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-305. Health, mental health, substance abuse, and drug history.

(a)(1) A health and drug history shall be completed for each client at the time of admission into a therapeutic community (as soon as practical).

(2) The medical history shall include obtainable information regarding the:

- (A) Name of the medication;
- (B) Strength and dosage of the current medication;
- (C) Length of time the patient was on the medication, if known;
- (D) Benefit or benefits of medication;
- (E) Side effects;
- (F) Prescribing medical professional, if known; and
- (G) Relevant drug history of family members.

(b) A mental health history, including symptoms and safety screening, shall be completed for each client at the time of admission into a therapeutic community (as soon as practical).

(c) A substance abuse history, including checklist for use, abuse, and dependence for common substances, including nicotine and caffeine, and screening for withdrawal risk and IV use shall be completed for each client at the time of admission.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

Codification Notes. "IV" means intravenous.

20 CAR § 416-306. Progress notes.

(a) The therapeutic community shall have a policy and procedure mandating the chronological documentation of progress notes for clients admitted to therapeutic communities.

(b)(1) All services provided to a client shall be documented in a daily service log to indicate when particular services were provided to clients.

(2)(A) This daily log shall also include a daily summary indicating the goals and objectives within the plan of care that were addressed during treatment during the day.

(B) This summary shall include the:

(i) Activities performed; and

(ii) Client's progress or lack of progress of achieving the treatment goal or goals established in the individualized plan of care.

(3) This daily service log shall be reviewed and signed by a mental health professional (independently licensed practitioner, nonindependently licensed practitioner).

(4) This daily service log must be:

(A) Easily accessible to any auditors; and

(B) Updated and signed daily by appropriate staff.

(c) Progress notes shall be documented according to the following time frames: therapeutic community staff shall document progress notes daily.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-307. Medication record.

(a) The therapeutic community shall maintain a medication record on all clients who receive medications or prescriptions in order to provide a concise and accurate record of the medications the client is receiving or has been prescribed.

(b) The client medical record shall contain a medication record with information on all medications ordered or prescribed by physician staff which shall include, but not be limited to:

(1) The record of medication administered, dispensed, or prescribed shall include all of the following:

(A) Name of medication;

(B) Dosage;

(C) Frequency of administration or prescribed change;

(D) Route of administration; and

(E) Staff member who administered or dispensed each dose, or prescribing physician; and

(2) A record of pertinent information regarding adverse reactions to drugs, drug allergies, or sensitivities shall be:

(A) Updated when required by virtue of new information; and

(B) Kept in a highly visible location in or on the record.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-308. Referral and linkage procedures.

(a) Referral and linkage procedures shall be in place so staff can adequately advocate on behalf of the person served as early as possible during the stabilization treatment process to transition to lesser restrictive or alternative treatment settings, as indicated.

(b) Discharge planning shall:

(1) Occur at admission; and

(2) Be continuously updated during treatment plan reviews and updates.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-309. Aftercare and discharge summary.

(a)(1) An aftercare plan shall be entered into each client's medical record upon discharge from the therapeutic community.

(2) A copy of the plan shall be given to the client, the client's legal guardian, or both the client and legal guardian as applicable, as well as to any facility designated to provide follow-up with a valid written authorization by the client, the client's legal guardian, or both the client and legal guardian as applicable.

(b) An aftercare plan shall include a summary of progress made toward meeting the goals and objectives of the intervention plan, as well as an overview of psychosocial considerations at discharge, and recommendations for continued follow-up after release

from the therapeutic community.

(c) The aftercare plan shall minimally include:

- (1) Presenting problem at intake;
- (2) Any co-occurring disorders or issues and recommended interventions for each;
- (3) Physical status and ongoing physical problems;
- (4) Medications prescribed at discharge;
- (5) Medication and lab summary, when applicable;
- (6) Names of family and significant other contacts;
- (7) Any other considerations pertinent to the client's successful functioning in the community;
- (8) The client's, the client's legal guardian, or as indicated both the client's and legal guardian's comments on participation in his or her crisis resolution efforts; and
- (9) The credentials of the staff members treating the client and their dated signatures.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-310. Other records content.

(a) The client record shall contain copies of all consultation reports concerning the client.

(b) When psychometric or psychological testing is done, the client record shall contain:

- (1) A copy of a written report describing the test results; and
- (2) Implications and recommendations for treatment.

(c) The client medical record shall contain any additional information relating to the client that has been secured from sources outside the therapeutic community.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-311. Confidentiality of mental health and drug or alcohol abuse treatment information.

(a) Confidentiality policy, procedures, and practices must comply with federal and state law, guidelines, and standards.

(b) Laws, rules, and regulations on the confidentiality of medical records (Patient Medical Records Privacy Act, Arkansas Code § 16-46-401 et seq., and Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.) and the procedures for informed consent for release of information from the record must be followed.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

Subpart 4. Client Rights

20 CAR § 416-401. Department investigations.

The Department of Human Services in any investigation or program monitoring regarding client rights shall have access to:

- (1) Clients;
- (2) Therapeutic community records; and
- (3) Therapeutic community staff.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-402. Mechanical restraints.

Mechanical restraints shall not be used on any client.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

Subpart 5. Organizational Management

20 CAR § 416-501. Organizational description.

(a) The therapeutic community shall have a written organizational description, which is reviewed annually by both the therapeutic community and the Department of Human Services, which minimally includes the:

- (1) Overall target population, specifically including those individuals with co-occurring disorders, for whom services will be provided;
- (2) Overall mission statement; and
- (3) Annual facility goals and objectives, including the goal of continued progress for the facility in providing person-centered, culturally competent, trauma-informed, and co-occurring capable services.

(b) The therapeutic community's governing body shall:

- (1) Approve the mission statement and annual goals and objectives; and
- (2) Document their approval.

(c) The therapeutic community shall make the organizational description, mission statement, and annual goals and objectives available to staff.

(d) The therapeutic community shall make the organizational description, mission statement, and annual goals and objectives available to the general public upon request.

(e) Each therapeutic community shall have a written plan for professional services which shall have in writing the following:

- (1) Services description and philosophy;
- (2) The identification of the professional staff organization to provide these services;
- (3) Written admission and exclusionary criteria to identify the type of clients for whom the services are primarily intended;
- (4) Written goals and objectives; and
- (5) Delineation of processes to ensure accessible, integrated, and co-occurring capable services and a plan for how each program component will address the needs of individuals with co-occurring disorders.

(f)(1) There shall be a written statement of the procedures/plans for attaining the

organization's goals and objectives.

(2) These procedures/plans should:

(A) Define specific tasks, including actions regarding the organization's co-occurring capability;

(B) Set target dates; and

(C) Designate staff responsible for carrying out the procedures or plans.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-502. Information analysis and planning.

(a) The therapeutic community shall have a defined plan for conducting an organizational needs assessment that specifies the methods and data to be collected, which shall include but not be limited to information from:

(1) Clients;

(2) Governing authority;

(3) Staff;

(4) Stakeholders;

(5) Outcomes management processes; and

(6) Quality record review.

(b) The therapeutic community shall have a defined system to collect data and information on a quarterly basis to manage the organization.

(c) Information collected shall be analyzed to improve client services and organizational performance.

(d) The therapeutic community shall prepare an end-of-year management report, which shall include but not be limited to:

(1) An analysis of the needs assessment process; and

(2) Performance improvement program findings.

(e) The management report shall be communicated and made available to, among others:

(1) The governing authority;

- (2) Therapeutic community staff; and
- (3) The Department of Human Services, if and when requested.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-503. Performance improvement program.

(a) The therapeutic community shall have an ongoing performance improvement program designed to objectively and systematically monitor, evaluate, and improve the quality of client care.

(b) The performance improvement program shall also address the fiscal management of the organization.

(c) There shall be an annual written plan for performance improvement activities. The plan shall include, but not be limited to:

(1) Outcomes management processes specific to each program component minimally measuring:

- (A) Efficiency;
- (B) Effectiveness; and
- (C) Client satisfaction;

(2) A quarterly record review to minimally assess:

- (A) Quality of services delivered;
- (B) Appropriateness of services;
- (C) Patterns of service utilization;
- (D) Clients, relevant to their:

(i) Orientation to the therapeutic community and services being provided; and

(ii) Active involvement in making informed choices regarding the services they receive;

(E) The client assessment information thoroughness, timeliness, and completeness;

(F) Treatment goals and objectives are based on:

- (i) Assessment findings; and
 - (ii) Client input;
- (G) Services provided were related to the goals and objectives;
- (H) Services are documented as prescribed by policy; and
- (I) The treatment plan is reviewed and updated as prescribed by policy;
- (3) Clinical privileging;
- (4) Fiscal management and planning, which shall include:
 - (A) An annual budget that is:
 - (i) Approved by the governing authority; and
 - (ii) Reviewed at least annually;
 - (B) The organization's capacity to generate needed revenue to produce desired client and other outcomes; and
 - (C) Monitoring client records to ensure documented dates of services provided coincide with billed service encounters; and
- (5) Review of:
 - (A) Critical incident reports; and
 - (B) Client grievances or complaints.
- (d) The therapeutic community shall:
 - (1) Monitor the implementation of the performance improvement plan on an ongoing basis; and
 - (2) Make adjustments as needed.
- (e) Performance improvement findings shall be communicated and made available to, among others:
 - (1) The governing authority;
 - (2) Therapeutic community staff; and
 - (3) The Department of Human Services, if and when requested.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-504. Incident reporting.

(a) The therapeutic community shall have written policies and procedures requiring documentation and reporting of critical incidents.

(b) The documentation for critical incidents shall contain, minimally:

(1) The facility name and name and signature of the person or persons reporting the incident;

(2) The name of the client or clients, staff person or persons, or others involved in the incident;

(3) The time, place, and date the incident occurred;

(4) The time and date the incident was reported and name of the person within the facility to whom it was reported;

(5) A description of the incident;

(6)(A) The severity of each injury, if applicable.

(B) Severity shall be indicated as follows:

(i) No off-site medical care required or first-aid care administered onsite;

(ii) Medical care by a physician or nurse or follow-up attention required; or

(iii) Hospitalization or immediate off-site medical attention was required; and

(7) Resolution or action taken, date action taken, and signature of the therapeutic community director.

(c)(1) The therapeutic community shall report those critical incidents to the Department of Human Services that include.

(2) Critical incidents involving allegations constituting a sentinel event or resident abuse shall be reported to the department immediately via telephone or fax, but not less than twenty-four (24) hours of the incident.

(3) If reported by telephone, the report shall be followed with a written report within twenty-four (24) hours.

(d) The therapeutic community shall document and monitor internally, with a quality assurance and improvement process that will be made available for review

and/or audit by an appropriate agency, the following: critical incidents requiring medical care by a physician or nurse or follow-up attention and incidents requiring hospitalization or immediate off-site medical attention.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

Subpart 6. Personnel

20 CAR § 416-601. Personnel policies and procedures.

(a) The therapeutic community shall have written personnel policies and procedures approved by the governing authority.

(b) All employees shall have access to personnel policies and procedures, as well as other rules and regulations governing the conditions of their employment.

(c) The therapeutic community shall develop, adopt, and maintain policies and procedures to:

- (1) Promote the objectives of the program; and
- (2) Provide for qualified personnel during all hours of operation to:
 - (A) Support the functions of the center; and
 - (B) Provide quality care.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-602. Job descriptions.

(a) The therapeutic community shall have written job descriptions for all positions setting forth minimum qualifications and duties of each position.

(b) All job descriptions shall include an expectation of core competencies in relation to individuals with co-occurring disorders.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-603. Staff qualifications.

(a) The therapeutic community shall document the qualifications and training of staff providing crisis stabilization services, which shall be in compliance with the therapeutic community's clinical privileging process.

(b) Failure to comply with this section will result in the initiation of procedures to deny, suspend, and/or revoke certification.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-604. Staff development.

(a) The therapeutic community shall have a written plan for the professional growth and development of all administrative, professional clinical, and support staff.

(b) This plan shall include but not be limited to:

(1) Orientation procedures;

(2) In-service training and education programs;

(3) Availability of professional reference materials; and

(4) Mechanisms for ensuring outside continuing educational opportunities for staff members.

(c) The results of performance improvement activities and accrediting and audit findings and recommendations shall be addressed by and documented in the staff development and clinical privileging processes.

(d) Staff competency development shall be:

(1) Aligned with the organization's goals related to co-occurring capability; and

(2) Incorporate a training plan, training activities, and supervision designed to improve co-occurring core competencies of all staff.

(e) Staff education and in-service training programs shall be evaluated by the therapeutic community at least annually.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-605. In-service.

(a) Trainings are required annually for all employees who provide clinical services within the therapeutic community program on the following topics:

- (1) Fire and safety;
- (2) Infection control and universal precautions;
- (3) Client's rights and the constraints of the Mental Health Client's Bill of Rights;
- (4) Confidentiality;
- (5) Arkansas Adult and Long-Term Care Facility Resident Maltreatment Act, Arkansas Code § 12-12-1701 et seq.;
- (6) Facility policy and procedures;
- (7) Cultural competence;
- (8) Co-occurring disorder competency and treatment principles; and
- (9) Trauma-informed and age and developmental specific trainings.

(b) All staff providing clinical services shall have a current certification in basic first aid and in cardiopulmonary resuscitation.

(c)(1) All clinical staff shall have training in nonphysical intervention techniques and philosophies addressing appropriate nonviolent interventions for potentially physical interpersonal conflicts, staff attitudes which promote dignity and enhanced self-esteem, keys to effective communication skills, verbal and nonverbal interaction, and nonviolent intervention within thirty (30) days of being hired, with annual updates thereafter.

(2) This training shall occur prior to direct patient contact.

(d)(1) The therapeutic community executive director shall designate which positions and employees, including temporary employees, will be required to successfully complete physical intervention training.

(2) The employee shall successfully complete this training within thirty (30) days of being hired, with annual updates thereafter.

(3) This training shall occur prior to direct patient contact.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

Subpart 7. Facility Environment

20 CAR § 416-701. Generally.

- (a) Therapeutic communities shall apply these standards to all sites operated.
- (b) The primary concern of the therapeutic community should always be the safety and well-being of the clients and staff.
- (c) Therapeutic communities shall be physically located in the State of Arkansas.
- (d) Therapeutic communities shall provide a safe and sanitary environment.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-702. Facility environment.

(a) The therapeutic community shall obtain an annual fire and safety inspection from the State Fire Marshal or local authorities which documents approval for continued occupancy.

(b)(1) Therapeutic community staff shall know the exact location, contents, and use of:

- (A) First-aid supply kits;
- (B) Firefighting equipment; and
- (C) Fire detection systems.

(2) All firefighting equipment shall be annually maintained in appropriately designated areas within the facility.

(c)(1) The therapeutic community shall post written plans and diagrams noting:

- (A) Emergency evacuation routes in case of fire; and
- (B) Shelter locations in case of severe weather.

(2) All exits must be clearly marked.

(d) Facility grounds shall be maintained in a manner that provides a safe environment for:

- (1) Clients;

(2) Personnel; and

(3) Visitors.

(e) The therapeutic community facility director or designee shall appoint a safety officer.

(f)(1) The therapeutic community shall have an emergency preparedness program designed to provide for the effective utilization of available resources so client care can be continued during a disaster.

(2) The therapeutic community shall evaluate the emergency preparedness program annually and update as needed.

(g) Policies for the use and control of personal electrical equipment shall be developed and implemented.

(h) The therapeutic community shall have an emergency power system to provide lighting throughout the facility.

(i)(1) The therapeutic community facility director shall ensure there is a written plan to respond to internal and external disasters.

(2) External disasters include, but are not limited to:

(A) Tornadoes;

(B) Explosions; and

(C) Chemical spills.

(j) All therapeutic communities shall be inspected annually by designated fire and safety officials of the municipality who exercise fire/safety jurisdiction in the facility's location which results in the facility being allowed to continue to operate.

(k) The therapeutic community shall have a written infection control program and staff shall be knowledgeable of:

(1) Centers for Disease Control Guidelines for Tuberculosis and of the Blood Borne Pathogens Standard; and

(2) Location of:

(A) Spill kits;

(B) Masks; and

(C) Other personal protective equipment.

(l) The therapeutic community shall have a written hazardous communication program and staff shall be knowledgeable of chemicals in the workplace, location of material safety data sheets, personal protective equipment, and toxic or flammable substances shall be stored in approved locked storage cabinets.

(m) The therapeutic community's telephone number or numbers and actual hours of operation shall be posted at all public entrances.

(n) Signs must be posted at all public entrances informing staff, clients, and visitors as to the following requirements:

(1) No alcohol or illicit drugs are allowed in the therapeutic community facility;

(2) No firearms or other dangerous weapons are allowed in the therapeutic community facility with the exception of law enforcement while in the performance of their duties; and

(3) The use of tobacco is not allowed in the therapeutic community facility.

(o) A copy of compliance with Title VI and Title VII of the Civil Rights Act of 1964 shall be prominently displayed within the therapeutic community facility.

(p) Therapeutic communities shall provide:

(1) Separate bedroom areas for males and females;

(2) Sufficient clean linens for clients; and

(3) Adequate barriers to divide clients.

(q)(1) Plumbing in therapeutic communities shall be in working condition to avoid any health threat.

(2) All toilets, sinks, and showers shall be clean and in working order.

(r)(1) There shall be at least one (1) toilet, one (1) sink, and one (1) shower or tub per every eight (8) therapeutic community beds.

(2) This means that a therapeutic community shall have no less than:

(A) One (1) toilet;

(B) One (1) sink; and

(C) One (1) shower or tub.

(s) A secure locked storage shall be provided for client valuables when requested.

(t) Separate storage areas are provided and designated for:

- (1) Food, kitchen, and eating utensils;
- (2) Clean linens;
- (3) Soiled linens and soiled cleaning equipment; and
- (4) Cleaning supplies and equipment.

(u)(1) When handling soiled linen or other potentially infectious material, universal precautions are to be followed and addressed in the therapeutic community policies and procedures.

(2) Hazardous and regulated waste shall be disposed of in accordance with federal requirements.

(v) Poisons, toxic materials, and other potentially dangerous items shall be stored in a secured location.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

Codification Notes. Title VI of the Civil Rights Act of 1964 is codified at 42 U.S.C. § 2000d et seq.

20 CAR § 416-703. Medication clinic — Medication monitoring.

(a) Medication administration, storage, and control and client reactions shall be continuously monitored.

(b) Therapeutic communities shall:

- (1) Ensure proper storage and control of medications;
- (2) Ensure immediate response if incorrect or overdoses occur; and
- (3) Have appropriate emergency supplies available, if needed.

(c) Written procedures for medication administration or monitoring shall be:

- (1) Available and accessible in all medication storage areas; and
- (2) Available to all staff authorized to administer medications.

(d)(1) All medications shall be kept in locked, nonclient accessible areas.

(2) Factors that shall be considered in medication storage are:

- (A) Light;

- (B) Moisture;
- (C) Sanitation;
- (D) Temperature;
- (E) Ventilation; and
- (F) The segregation and safe storage of:
 - (i) Poisons;
 - (ii) External medications; and
 - (iii) Internal medications.

(e) Telephone numbers of the state poison centers shall be immediately available in all locations where medications are:

- (1) Prescribed;
- (2) Administered; or
- (3) Stored.

(f) A therapeutic community physician shall supervise the preparation and stock of an emergency kit which shall be readily available but accessible only to therapeutic community staff.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-704. Medication — Error rates.

The therapeutic community shall have an ongoing performance improvement program that specifically, objectively, and systematically monitors medication administration or dispensing or medication orders and prescriptions to evaluate and improve the quality of client care.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-705. Technology.

(a) The therapeutic community shall have a written plan regarding the use of technology and systems to support and advance effective and efficient service and

business practices.

(b) The plan shall include, but not be limited to:

- (1) Hardware and software;
- (2) Security;
- (3) Confidentiality;
- (4) Backup policies;
- (5) Assistive technology;
- (6) Disaster recovery preparedness; and
- (7) Virus protection.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

20 CAR § 416-706. Food and nutrition.

(a) If the therapeutic community prepares meals onsite, the therapeutic community shall have a current food establishment health inspection as required by the Department of Health.

(b) When meals are provided by a food service, a written contract shall be maintained and shall require the food service to have a current food establishment health inspection as required by the department.

(c) Therapeutic communities shall provide at least three (3) meals daily, with no more than fourteen (14) hours between any two (2) meals.

(d) All food shall be stored, prepared, and served in a safe, healthy manner.

(e) Perishable items shall not be used once they exceed their sell by date.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.

Subpart 8. Governing Authority

20 CAR § 416-801. Documents of authority.

(a) There shall be a duly constituted authority and governance structure for

ensuring legal responsibility and for requiring accountability for performance and operation of the therapeutic community.

(b) The governing authority shall have written documentation of its source of authority, which shall be available to the public upon request.

(c) The governing body's bylaws, rules, or regulations shall identify the chief executive officer who is responsible for the overall day-to-day operation of the therapeutic community, including the:

(1) Control, utilization, and conservation of its physical and financial assets;
and

(2) Recruitment and direction of the staff.

(d) The source of authority document shall state:

(1) The eligibility criteria for governing body membership;

(2) The number and types of membership;

(3) The method of selecting members;

(4) The number of members necessary for a quorum;

(5) Attendance requirements for governing body membership;

(6) The duration of appointment or election for governing body members and officers; and

(7) The powers and duties of the governing body and its officers and committees or the authority and responsibilities of any person legally designated to function as the governing body.

(e) There shall be an organizational chart setting forth the structure of the organization.

Authority. Arkansas Code §§ 20-76-201, 20-77-107, 25-10-129.