

## **Title 20. Public Health and Welfare**

### **Chapter XIV. Division of Developmental Disabilities Services, Department of Human Services**

#### **Subchapter A. Generally**

#### **Part 536. Rules for Adult Developmental Day Treatment**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"LAST UPDATED: August 1, 2022"

"101. Authority.

(a) These standards are promulgated under the authority of Ark. Code Ann. § 20-48-101 to - 105, Ark. Code Ann. § 20-48-201 to -212, Ark. Code Ann. § 20-48-701 to -705, Ark. Code Ann. § 20-48-812, Ark. Code Ann. § 25-10-102, and Ark. Code Ann. § 25-15-217.

(b)(1) The Division of Provider Services and Quality Assurance (DPSQA) shall perform all regulatory functions regarding the licensure and monitoring of Adult Developmental Day Treatment programs, on behalf of the Division of Developmental Disabilities Services (DDS).

(2) The Division of Developmental Disabilities Services (DDS) shall determine whether and to what an extent a county is underserved."

#### **Subpart 1. General**

##### **20 CAR § 536-101. Purpose.**

The purpose of this part is to:

(1) Serve as the minimum standards for adult developmental day treatment programs and facilities; and

(2) Ensure that all clients receive all adult developmental day treatment

services recommended by a physician for the maximum reduction of physical or mental disability and restoration of the client to the best functional level.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-102. Definitions.**

As used in this part:

(1) "ADDT" means an adult developmental day treatment program, which is a day treatment program prescribed by a physician that provides adult developmental day treatment services to adults with intellectual or developmental disabilities;

(2) "ADDT license" means a nontransferable license issued by the Division of Provider Services and Quality Assurance to an ADDT for a specific location that meets the standards in this part;

(3) "Adult developmental day treatment services" means services that are available under the Adult Developmental Day Treatment Program for Medicaid clients as defined in Section II of the Adult Developmental Day Treatment Medicaid Manual;

(4) "Adverse regulatory action" means a denial of an ADDT license and any enforcement action taken by the Division of Provider Services and Quality Assurance, pursuant to 20 CAR §§ 536-803 – 536-807;

(5) "Applicant" means an applicant for an ADDT license;

(6)(A) "Change in ownership" means one (1) or more transactions within a twelve-month period that result in a change in greater than fifty percent (50%) of the financial interests, governing body, operational control, or other operational or ownership interests of the ADDT.

(B) "Change in ownership" does not include a change of less than fifty percent (50%) in the membership of the ADDT's:

- (i) Board of directors;
- (ii) Board of trustees; or
- (iii) Other governing body;

(7) "Directed in-service training plan" means a plan of action that:

(A) Provides training to assist an ADDT in complying with this part and correcting deficiencies;

(B) Includes the topics covered in the training and materials used in the training;

(C) Specifies the length of the training;

(D) Specifies the employees required to attend the training; and

(E) Is approved by the Division of Provider Services and Quality Assurance;

(8)(A) "Employee" means an employee, owner, independent contractor, driver, attendant, or other agent of an ADDT and includes without limitation:

(i) Full-time employees;

(ii) Part-time employees;

(iii) Transportation contractors; and

(iv) Any other person who acts on behalf of an ADDT or has an ownership, financial, or voting interest in the ADDT.

(B) "Employee" does not mean an independent contractor if:

(i) The independent contractor does not assist in the day-to-day operations of the ADDT; and

(ii) The independent contractor has no client contact;

(9) "Irreconcilable conflict" means a conflict between two (2) standards where an ADDT cannot comply with both standards at the same time;

(10) "ITP" means a client's individual treatment plan, which is a written, individualized service plan for an ADDT client to improve the client's condition;

(11)(A) "Marketing" means the accurate and honest advertisement of an ADDT that does not also constitute solicitation.

(B) "Marketing" includes without limitation:

(i) Advertising using traditional media;

(ii) Distributing brochures or other informational materials regarding the services offered by the ADDT;

(iii) Conducting tours of the ADDT to interested clients and their

families;

(iv) Mentioning services offered by the ADDT in which the client or their family might have an interest; and

(v) Hosting informational gatherings during which the services offered by the ADDT are described;

(12) "Medication error" means the:

(A) Loss of medication;

(B) Unavailability of medication;

(C) Falsification of medication logs;

(D) Theft of medication;

(E) Missed doses of medication;

(F) Incorrect medications administered;

(G) Incorrect doses of medication;

(H) Incorrect time of administration;

(I) Incorrect method of administration; and

(J) Discovery of an unlocked medication container that is always supposed to be locked;

(13) "Plan of correction" means a plan of action that:

(A) Provides the steps an ADDT must take to correct noncompliance with this part;

(B) Sets a timeframe for each specific action provided in the plan; and

(C) Is approved by the Division of Provider Services and Quality

Assurance;

(14) "Residence" means the county where a client is listed as residing in the Arkansas Medicaid Management Information System;

(15) "Serious injury" means any injury to a client that:

(A) May cause death;

(B) May result in substantial permanent impairment;

(C) Requires hospitalization; or

(D) Requires the attention of:

- (i) An emergency medical technician;
- (ii) A paramedic; or
- (iii) An emergency room;

(16)(A) "Solicitation" means the initiation of contact with a client or their family by an ADDT when the client is currently receiving services from another provider and the ADDT is attempting to convince the client or their family to switch to or otherwise use the services of the ADDT that initiated the contact.

(B) "Solicitation" includes without limitation the following acts to induce a client or their family by:

- (i) Contacting a client or the family of a client that is currently receiving services from another provider;
- (ii) Offering cash or gift incentives to a client or their family;
- (iii) Offering free goods or services not available to other similarly situated clients or their families;
- (iv) Making negative comments to a client or their family regarding the quality of services performed by another service provider;
- (v) Promising to provide services in excess of those necessary;
- (vi) Giving a client or their family the false impression, directly or indirectly, that the ADDT is the only service provider that can perform the services desired by the client or their family; or
- (vii) Engaging in any activity that the Division of Provider Services and Quality Assurance reasonably determines to be "solicitation"; and

(17) "Underserved county" means a county that is underserved regarding adult developmental day treatment services in accordance with Arkansas Code § 20-48-105.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

## **Subpart 2. Licensing**

### **20 CAR § 536-201. License required.**

(a) An ADDT must have an ADDT license that is issued by the Division of Provider Services and Quality Assurance, pursuant to this part, for the address at which the ADDT will provide services.

(b) An ADDT must comply with all requirements of this part.

(c)(1) An ADDT license is specific to a single address.

(2) A separate ADDT license is required for each address even if the same person or entity has an ADDT at other addresses.

(3) An address may only have one (1) ADDT license attributed to it at any one (1) time.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-202. Licensure application.**

(a)(1) To apply for an ADDT license, an applicant must submit a complete application to the Division of Provider Services and Quality Assurance.

(2) A complete application includes:

(A) Documentation demonstrating the applicant's entire ownership, including without limitation all the applicant's financial, governing body, and business interests;

(B) Documentation of the applicant's management, including without limitation the management structure and members of the management team;

(C) Documentation of the applicant's current contractors and the contractors that the applicant intends to use as part of operating the ADDT;

(D) Documentation of all required state and national criminal background checks for employees and operators;

(E) Documentation of all required Child Maltreatment Central Registry checks and Adult and Long-term Care Facility Resident Maltreatment Central Registry checks for employees and operators;

(F) Documentation demonstrating compliance with this part; and

(G) All other documentation or other information requested by the

division.

(b) To apply to change the ownership of an existing ADDT, the ADDT must submit a complete application described in subdivision (a)(2) of this section.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-203. Licensure process.**

(a) The Division of Provider Services and Quality Assurance may approve an application for an ADDT license and issue an ADDT license if:

(1) The applicant submits a complete application under 20 CAR § 536-202(a);

(2) The Division of Provider Services and Quality Assurance determines that the applicant has successfully passed all required criminal background and maltreatment checks;

(3) The Division of Provider Services and Quality Assurance determines that the applicant satisfies this part; and

(4) The Division of Provider Services and Quality Assurance determines that one (1) of the following conditions are met:

(A) The Division of Developmental Disabilities Services has determined that the county in which the new ADDT would be located is an underserved county;

(B) The applicant has one (1) or more ADDT licensed locations in the same county in which the new ADDT would be located; or

(C) The applicant has one (1) or more ADDT licensed locations in a county contiguous to the county in which the new ADDT would be located, and the existing location serves at least twenty (20) individuals who are eligible, enrolled, and participating in the existing location, but reside in the county in which the ADDT would be located.

(b) The Division of Provider Services and Quality Assurance may approve an application to change the ownership of an existing ADDT and change the ownership of an existing ADDT license if:

(1) The applicant submits a complete application under 20 CAR § 536-202;

(2) The Division of Provider Services and Quality Assurance determines that all employees and operators have successfully passed all required criminal background and maltreatment checks; and

(3) The Division of Provider Services and Quality Assurance determines that the applicant satisfies this part.

(c) The Division of Provider Services and Quality Assurance shall issue new ADDT licenses in accordance with the order of priority required by Arkansas Code § 20-48-105.

(d) ADDT licenses do not expire until terminated under this part.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-204. Notice of underserved status.**

The Division of Developmental Disabilities Services shall provide written notice of any underserved determination made under 20 CAR § 536-203(a)(4)(A) as required in Arkansas Code § 20-48-105.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**Subpart 3. Administration**

**20 CAR § 536-301. Organization and ownership.**

(a) The ADDT must be authorized and in good standing to do business under the laws of the State of Arkansas.

(b)(1) An ADDT must:

(A) Appoint a single manager as the point of contact for all Division of Developmental Disabilities Services and Division of Provider Services and Quality Assurance matters; and

(B) Provide the Division of Developmental Disabilities Services and Division of Provider Services and Quality Assurance with updated contact information for that

manager.

(2) This manager must have authority over the ADDT, all ADDT employees, and is responsible for ensuring that the Division of Developmental Disabilities Services and Division of Provider Services and Quality Assurance requests, concerns, inquiries, and enforcement actions are addressed and resolved to the satisfaction of the Division of Developmental Disabilities Services and Division of Provider Services and Quality Assurance.

(c)(1) An ADDT cannot transfer its ADDT license to any person or entity.

(2) An ADDT cannot change its ownership unless the Division of Provider Services and Quality Assurance approves the application of the new ownership pursuant to 20 CAR §§ 536-202 and 536-203.

(3) An ADDT cannot change its name or otherwise operate under a different name than the name listed on the ADDT license without prior written notice to the Division of Provider Services and Quality Assurance.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-302. Employees and staffing requirements.**

(a)(1) An ADDT must appropriately supervise all clients based on each client's needs.

(2) An ADDT must have enough employees onsite to supervise clients at the ADDT location.

(b)(1) An ADDT must comply with all requirements applicable to employees under this part, including without limitation:

- (A) Drug screens;
- (B) Criminal background checks; and
- (C) Adult and child maltreatment checks.

(2) An ADDT must verify an employee meets all requirements under this part:

(A) Upon the request of the Division of Provider Services and Quality Assurance; or

(B) Whenever the ADDT receives information after hiring, if the information would create a reasonable belief that an employee no longer meets all requirements under this part.

(c) An ADDT must conduct criminal background checks for all employees as required pursuant to Arkansas Code § 20-38-101 et seq.

(d) An ADDT must conduct a Child Maltreatment Central Registry check on each employee prior to hiring and at least every two (2) years thereafter.

(e) An ADDT must conduct an Adult and Long-term Care Facility Resident Maltreatment Central Registry check on each employee prior to hiring and at least every two (2) years thereafter.

(f) An ADDT must conduct a drug screen that tests for the use of illegal drugs on each employee prior to hiring.

(g) An ADDT must conduct an Arkansas Sex Offender Registry search on each employee prior to hiring and at least every two (2) years thereafter.

(h) Employees must be at least eighteen (18) years of age.

(i) An ADDT must maintain at least a one to ten (1:10) staff-to-client ratio at all times. (j)(1) An ADDT must document all scheduled and actual employee staffing.

(2) The documentation required for employee staffing includes without limitation employee:

(A) Names;

(B) Job title or credential;

(C) Job duties; and

(D) Typical working days and hours.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

### **20 CAR § 536-303. Employee training.**

(a) All employees involved in any way with services provided to clients, or who have routine contact with clients, must receive the following training before having contact with clients and must do so no later than thirty (30) days after beginning their

employment:

- (1) Basic health and safety practices;
- (2) Infection control and infection control procedures;
- (3) Identification and mitigation of unsafe environmental factors;
- (4) Emergency and evacuation procedures required in 20 CAR § 536-308;
- (5) Identification and prevention of adult and child maltreatment;
- (6) Mandated reporter requirements; and
- (7) Reporting incidents and accidents as required in this part.

(b) Employees required to receive training prescribed in subsection (a) of this section must receive annual retraining on those topics at least once every twelve (12) months.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-304. Employee records.**

- (a) An ADDT must maintain a personnel file for each employee that includes:
- (1) A detailed job description;
  - (2) All required criminal background checks;
  - (3) All required Child Maltreatment Central Registry checks;
  - (4) All required Adult and Long-term Care Facility Resident Maltreatment Central Registry checks;
  - (5) All conducted drug screen results;
  - (6) A signed statement that the employee will comply with the ADDT's drug screen and drug use policies;
  - (7) A copy of a current state or federal identification;
  - (8) A copy of a valid state-issued driver's license, if driving is required in the job description, and documentation of completion of any required driver safety courses;
  - (9) Documentation demonstrating that the employee received all training required in 20 CAR § 536-303;
  - (10) Documentation demonstrating that the employee obtained and

maintained in good standing all professional licensures, certifications, or credentials required for the service that the employee is performing; and

(11) Documentation demonstrating that the employee meets all continuing education, in-service, or other training requirements applicable under this part, and any professional licensures, certifications, or credentials held by that employee.

(b) An ADDT must ensure that each personnel record is kept confidential and available only to:

(1) Employees who need to know the information contained in the personnel record;

(2) Persons or entities who need to know the information contained in the personnel record;

(3) The Division of Provider Services and Quality Assurance and any governmental entity with jurisdiction or other authority to access the personnel record;

(4) The employee; or

(5) Any other individual authorized in writing by the employee.

(c) An ADDT must keep personnel records in a file cabinet or room that is always locked.

(d)(1) An ADDT may use electronic records in addition to or in place of physical records to comply with this part.

(2) An ADDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct a personnel record in the event of a breakdown in the ADDT's electronic records system.

(e) An ADDT must retain all employee records for five (5) years from the date an employee is no longer an employee of the ADDT or, if longer, the final conclusion of all reviews, appeals, investigations, administrative actions, or judicial actions related to that employee that are pending at the end of the five-year period.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

## **20 CAR § 536-305. Client service records.**

(a)(1) An ADDT must maintain a separate, updated, and complete service record for each client documenting the services provided to the client and all other documentation required under this part.

(2) Each client service record must be uniformly organized and readily available for review by the Division of Provider Services and Quality Assurance at the ADDT's location.

(3) A client's service record must include a summary document at the front that includes:

(A) The client's:

(i) Full name;

(ii) Address and county of residence;

(iii) Telephone number and, if available, email address;

(iv) Date of birth;

(v) Primary language;

(vi) Diagnoses;

(vii) Medications, dosage, and frequency, if applicable;

(viii) Known allergies;

(ix) Entry date into the ADDT;

(x) Exit date from the ADDT;

(xi) Medicaid number; and

(xii) Commercial or private health insurance information or managed care organization information, if applicable;

(B) Name, address, phone number, email address, and relationship of the client's custodian or legal guardian; and

(C) Name, address, and phone number of the client's primary care physician.

(b) A client's service record must include at least the following information and documentation:

(1) The client's:

(A) ITP;

- (B) Behavioral management plan;
- (C) Daily activity logs; and
- (D) Medication management plan and medication logs;

(2) Copies of any assessments or evaluations completed on the client; and

(3) Copies of any orders that place the client in the custody of another person or entity.

(c) An ADDT must ensure that each client service record is kept confidential and available only to:

(1) Employees who need to know the information contained in the client's service record;

(2) Persons or entities who need to know the information contained in the client service record in order to provide services to the client;

(3) The division and any governmental entity with jurisdiction or other authority to access the client's service record;

(4) The client's legal guardian or custodian; and

(5) Any other individual authorized in writing by the legal guardian or custodian.

(d) An ADDT must keep client service records in a file cabinet or room that is always locked.

(e)(1) An ADDT may use electronic records in addition to or in place of physical records to comply with this section.

(2) An ADDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct a client's service record in the event of a breakdown in the ADDT's electronic records system.

(f) An ADDT must retain all client service records for five (5) years from the date the client last exits from the ADDT or, if longer, the final conclusion of all reviews, appeals, investigations, administrative actions, or judicial actions related to the client that are pending at the end of the five-year period.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-306. Marketing and solicitation.**

- (a) An ADDT can market its services.
- (b) An ADDT cannot solicit a client or their family.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-307. Third-party service agreements.**

(a) An ADDT may contract in writing with third-party vendors to provide services or otherwise satisfy requirements under this part.

(b) An ADDT must ensure that all third-party vendors comply with this part and all other applicable:

- (1) Laws;
- (2) Rules; and
- (3) Regulations.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-308. Emergency plans and drills.**

(a)(1) An ADDT must have a written emergency plan.

(2) The written emergency plan must provide the procedures to follow in the event of emergencies to safeguard the health and safety of clients and ensure continuity of services to the extent possible.

(3) A written emergency plan must address all foreseeable emergencies including without limitation:

- (A) Fires;
- (B) Floods;
- (C) Tornados;
- (D) Utility disruptions;
- (E) Bomb threats;

- (F) Active shooters;
- (G) Outbreaks of infectious disease; and
- (H) Public health emergencies.

(4) An ADDT must evaluate all written emergency plans at least annually and update as needed.

(b) The written emergency plan must include at least:

- (1) Designated relocation sites and evacuation routes;
- (2) Procedures for notifying legal guardians and custodians of relocation;
- (3) Procedures for ensuring each client's safe return to the ADDT or their residence;
- (4) Procedures to address the special needs of each client;
- (5) Procedures to address interruptions in the delivery of ADDT services;
- (6) Procedures for reassigning employee duties in an emergency; and
- (7) Procedures for annual training of employees regarding the emergency plan.

(c)(1) An ADDT must conduct emergency fire drills and tornado drills at least once a month, each and on separate days, and at different times of day.

(2) An ADDT must document all emergency drills completed and include at least:

- (A) The date of the emergency drill;
- (B) The type of emergency drill;
- (C) The time of day the emergency drill was conducted;
- (D) The number of clients participating in the emergency drill;
- (E) The length of time taken to complete the emergency drill; and
- (F) Notes regarding any aspects of the emergency procedure or drill that need improvement based on the performance of the emergency drill.

(d) An ADDT must have an emergency alarm system in place that will alert all employees and clients when there is an emergency.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-309. Infection control.**

(a)(1) An ADDT must follow all applicable guidance and directives from the Department of Health related to infection control including without limitation guidance and directives on:

- (A) Preventing the spread of infectious diseases;
- (B) Hand hygiene;
- (C) Handling potentially infectious material;
- (D) Use of personal protective equipment;
- (E) Tuberculosis;
- (F) Blood-borne pathogens; and
- (G) Coronaviruses.

(2) An ADDT must provide personal protective equipment for all employees and clients as may be required in the circumstances.

(3) Employees and clients must wash their hands with soap before eating, after toileting, and as otherwise appropriate to prevent the spread of infectious diseases.

(b)(1) An ADDT cannot allow a client, employee, or any other person who has an infectious disease to enter an ADDT facility.

(2) A client who becomes ill while at an ADDT must be separated from other clients to the extent possible.

(3) The ADDT must notify a client's legal guardian or custodian if the client becomes ill while at an ADDT facility.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-310. Compliance with state and federal laws, rules, and other standards.**

(a) An ADDT must comply with all applicable state and federal laws and rules including without limitation:

- (1) The Americans with Disabilities Act of 1990 (ADA);
- (2) The Civil Rights Act of 1964;
- (3) The Health Insurance Portability and Accounting Act of 1996 (HIPAA);
- (4) The Privacy Act of 1974; and
- (5) All applicable laws and rules governing the protection of medical, social, personal, financial, and electronically stored records.

(b) An ADDT facility must comply with all:

- (1) Building codes and local ordinances;
- (2) Fire and safety inspections and requirements of the State Fire Marshal or local authorities;

- (3) Department of Health requirements including without limitation requirements regarding water, plumbing, and sewage;

- (4) Department of Labor and Licensing requirements including without limitation requirements regarding water heaters and boilers; and

- (5) Other federal, state, or local requirements applicable to the HCBS community service location, property, and structures.

(c) An ADDT provider must maintain documentation of compliance with applicable state, local, and federal:

- (1) Laws;

- (2) Rules;

- (3) Codes; and

- (4) Standards.

(d) A violation of any applicable state, local, or federal laws, rules, codes, or standards constitutes a violation of this part.

(e)(1) In the event of a conflict between this part and other applicable state, local, or federal laws, rules, or standards, the stricter requirement shall apply.

(2) In the event of an irreconcilable conflict between this part and other applicable state, local, or federal laws, rules, or standards, this part shall govern to the extent not governed by federal laws or rules or state law.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**Codification Notes.** “HCBS” means home and community based services.

The Americans with Disabilities Act of 1990 was enacted as Pub. L. No. 101-336.

The Civil Rights Act of 1964 was enacted as Pub. L. No. 88-352.

The Health Insurance Portability and Accounting Act of 1996 (HIPAA) was enacted as Pub. L. No. 104-191.

The Privacy Act of 1974 was enacted as Pub. L. No. 93-579.

#### **Subpart 4. Facility Requirements**

##### **20 CAR § 536-401. General requirements.**

An ADDT facility must:

- (1) Have a minimum of forty square feet (40 ft<sup>2</sup>) of program training area per client;
- (2) Be heated, air-conditioned, well-lighted, well-ventilated, and well-maintained at a comfortable temperature;
- (3) Be safe, clean, maintained, in good repair, and sanitary, including without limitation as to the facility's:
  - (A) Exterior;
  - (B) Surrounding property; and
  - (C) Interior floors and ceilings;
- (4) Be free of offensive odors and potentially hazardous objects including without limitation explosives and broken equipment;
- (5) Have drinking water available to clients and employees;
- (6) Have an emergency alarm system throughout the facility to alert

employees and clients when there is an emergency;

(7) Have at least one (1) toilet and one (1) sink for every fifteen (15) clients with:

(A) Running hot and cold water;

(B) Toilet tissue;

(C) Liquid soap; and

(D) Paper towels or air dryers;

(8) Have bathrooms that provide for individual privacy and are appropriate for all clients with regard to size and accessibility;

(9) Have at least one (1) operable telephone onsite that is available at all hours and reachable with a phone number for outside callers;

(10) Have working smoke and carbon monoxide detectors in all areas used by clients or employees;

(11) Have a first-aid kit that includes at least the following:

(A) Adhesive band-aids of various sizes;

(B) Sterile gauze squares;

(C) Adhesive tape;

(D) Roll of gauze bandages;

(E) Antiseptic;

(F) Thermometer;

(G) Scissors;

(H) Disposable gloves; and

(I) Tweezers;

(12) Have enough fire extinguishers in quantity and location to satisfy all applicable laws and rules, but no fewer than two (2) fire extinguishers;

(13) Have hallways and corridors at least six feet (6') in width;

(14) Have screens for all windows and doors used for ventilation;

(15) Have screens or guards attached to the floor or wall to protect:

(A) Floor furnaces;

(B) Heaters;

- (C) Hot radiators;
  - (D) Exposed water heaters;
  - (E) Air conditioners; and
  - (F) Electric fans;
- (16) Have no lead-based paint;
- (17) Have lighted "exit" signs at all exit locations;
- (18) Have written instructions and diagrams noting emergency evacuation routes and shelters to be used in case of fire, severe weather, or other emergency, posted at least every twenty-five feet (25'):
- (A) In all stairwells;
  - (B) In and by all elevators; and
  - (C) In each room used by clients;
- (19) Have a copy of Title VI and VII of the Civil Rights Act of 1964 and all required legal notices prominently posted as required;
- (20) Have an emergency power system to provide lighting and power to essential electrical devices throughout the ADDT, including without limitation power to:
- (A) Exit lighting and fire detection;
  - (B) Fire alarm; and
  - (C) Fire extinguishing systems;
- (21) Have chemicals, toxic substances, and flammable substances stored in locked storage cabinets or closets;
- (22) Have the ADDT's telephone number, hours of operation, and hours of access, if applicable, posted at all public entrances;
- (23) Prohibit the possession of firearms or other weapons except by authorized law enforcement personnel; and
- (24) Prohibit:
- (A) Smoking;
  - (B) Use of tobacco products; and
  - (C) The consumption of:
    - (i) Prescription medication without a prescription; and

(ii) Alcohol.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**Codification Notes.** The Civil Rights Act of 1964 was enacted as Pub. L. No. 88-352.

## **Subpart 5. Enrollments and Exits**

### **20 CAR § 536-501. Enrollments.**

(a) An ADDT may enroll and provide services to a client who is eligible to receive ADDT services.

(b) An ADDT must document the enrollment of all clients to the ADDT.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

### **20 CAR § 536-502. Exits.**

(a) An ADDT may exit a client from its program if the person becomes ineligible for ADDT services, chooses to enroll with another ADDT, or for any other lawful reason.

(b) An ADDT must document the exit of all clients from its program.

(c) An ADDT must provide reasonable assistance to all clients who are exiting its program, including without limitation to:

(1) Assisting the client in transferring to another ADDT or other service provider; and

(2) Providing copies of the client's records to:

(A) The client;

(B) The client's legal custodian or guardian; and

(C) The ADDT or other service provider to which the client transfers after exiting the program.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

## **Subpart 6. Program and Services**

### **20 CAR § 536-601. Arrivals and departures.**

(a) An ADDT must ensure that clients safely arrive to and depart from an ADDT facility.

(b)(1) An ADDT must document the arrival and departure of each client to and from an ADDT facility.

(2) Documentation of arrivals to and departures from an ADDT must include without limitation the:

(A) Client's:

(i) Name;

(ii) Date of birth; and

(iii) Date and time of arrival and departure;

(B) Name of the person or entity that provided transportation; and

(C) Method of transportation.

(c) A manager or designee of an ADDT must:

(1) Review the client arrival and departure documentation each day and compare it with the ADDT's attendance record; and

(2) Sign and date the client arrival and departure documentation verifying that all clients for the day safely arrived to and departed from the ADDT facility.

(d) An ADDT must maintain client arrival and departure documentation for one (1) year from the date of transportation.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

### **20 CAR § 536-602. Medications.**

(a)(1) An ADDT must develop a medication management plan for all clients with prescribed medication that may be administered at the ADDT.

(2) A medication management plan must include without limitation:

- (A) The name of each medication;
- (B) The name of the prescribing physician or other healthcare professional if the medication is by prescription;
- (C) A description of each medication prescribed and any symptom or symptoms to be addressed by each medication;
- (D) How each medication will be administered, including without limitation:
  - (i) Times of administration;
  - (ii) Doses;
  - (iii) Delivery; and
  - (iv) Persons who may lawfully administer each medication;
- (E) How each medication will be charted;
- (F) A list of the potential side effects caused by each medication; and
- (G) The consent to the administration of each medication by the client or, if the client lacks capacity, by the client's legal guardian or custodian.

(b)(1) An ADDT must maintain a medication log detailing the administration of all medication to a client, including without limitation prescribed medication and over-the-counter medication.

(2) Each medication log must be uniformly organized and document the following for each administration of a medication:

- (A) The name and dosage of medication administered;
- (B) The symptom that the medication was used to address;
- (C) The method by which the medication was administered;
- (D) The date and time the medication was administered;
- (E) The name of the employee who administered the medication or assisted in the administration of the medication;
- (F) Any adverse reaction or other side effect from the medication;
- (G) Any transfer of medication from its original container into individual dosage containers by the client's legal guardian or custodian;
- (H) Any error in administering the medication and the name of the

supervisor to whom the error was reported; and

(I) The prescription and the name of the prescribing physician or other healthcare professional if the medication was not previously listed in the medication management plan.

(3) Medication errors must be:

(A) Immediately reported to a supervisor;

(B) Documented in the medication log; and

(C) Reported as required under all applicable laws and rules including without limitation the laws and rules governing controlled substances.

(c) All medications stored for a client by an ADDT must be:

(1) Kept in the original medication container unless the client's custodian or legal guardian transfers the medication into individual dosage containers;

(2) Labeled with the client's name;

(3) Stored in an area, medication cart, or container that is always locked; and

(4) Returned to a client's custodian or legal guardian, destroyed, or otherwise disposed of in accordance with applicable laws and rules if the medication is no longer to be administered to a client.

(d) An ADDT must store all medications requiring cold storage in a separate refrigerator that is used only for the purpose of storing medications.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-603. Behavior management plans.**

(a)(1) An ADDT may implement a written behavior management plan for a client if a client exhibits challenging behaviors on a chronic basis.

(2) A behavior management plan:

(A) Must involve the fewest and shortest interventions possible; and

(B) Cannot punish or use interventions that are physically or emotionally painful, frightening, or that put the client at medical risk.

(b)(1) An ADDT must reevaluate behavior management plans at least quarterly.

(2) An ADDT must refer the client to an appropriately licensed professional for reevaluation if the behavior management plan is not achieving the desired results.

(3)(A) An ADDT must regularly collect and review data regarding the use and effectiveness of all behavior management plans, including the use and effectiveness of restraints and other interventions.

(B) The collection and review of data regarding the use and effectiveness of behavior management plans must include at least the:

- (i) Date and time any intervention is used;
- (ii) Duration of each intervention;
- (iii) Employee or employees involved in each intervention; and
- (iv) Events or circumstances that triggered the need for the

intervention.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-604. General nutrition and food service requirements.**

(a)(1) An ADDT must ensure that a noon meal is available to each client who:

(A) Receives at least four (4) hours of adult developmental day treatment services in a day; and

(B) Is unable to provide his or her own meal on that date of service.

(2) When a component of a client's ITP is the client providing his or her own meal, the ADDT may request the client furnish the meal.

(3) If a client who is responsible for providing his or her own meal fails to do so, the ADDT must furnish a meal for that client if he or she receives more than four (4) hours of adult developmental day treatment services that day.

(4) An ADDT may not charge a client for any meal provided by the ADDT, regardless of whether a component of the client's ITP is the client providing their own meal.

(b)(1) Each ADDT must ensure that any meals, snacks, or other food services provided to clients by the ADDT conform to United States Department of Agriculture

guidelines including without limitation:

- (A) Portion size;
- (B) Department of Health requirements; and
- (C) Other applicable laws and rules.

(2) All food brought in from outside sources must be:

(A) From food service providers approved by the Department of Health and transported per Department of Health requirements;

(B) In individual, commercially prepackaged containers; or

(C) Individual meals or snacks brought from home by a client or a client's family.

(3)(A) A violation of United States Department of Agriculture guidelines, Department of Health requirements, or other applicable laws or rules related to nutrition and food service constitutes a violation of this part.

(B) In the event of a conflict between this part and the requirements of United States Department of Agriculture guidelines, Department of Health requirements, or other applicable laws or rules related to nutrition and food service, the stricter requirement shall apply.

(C) In the event of an irreconcilable conflict between this part and the requirements of United States Department of Agriculture guidelines, Department of Health requirements, or other applicable laws or rules related to nutrition and food service, this part shall govern to the extent not governed by federal or state laws or rules.

(c) An ADDT must ensure:

(1) Food provided to clients meets the specialized diet requirements of each client arising from medical conditions or other individualized needs including without limitation:

- (A) Allergies;
- (B) Diabetes; and
- (C) Hypertension;

(2) Food prepared onsite is prepared, cooked, served, and stored in a manner

that protects against contamination and spoilage;

(3) Perishable food items are not consumed after their expiration date;

(4) All food service surfaces are clean and in sanitary condition;

(5) All food is served on individual plates, bowls, or other dishes that can be sanitized or discarded;

(6) All food scraps are placed in garbage cans with airtight lids and bag liners that are emptied as necessary and no less than once per day;

(7) Food is stored separately from:

(A) Medications;

(B) Medical items; and

(C) Hazardous items;

(8) Refrigerators used for food storage are maintained at a temperature of forty-one degrees Fahrenheit (41° F) or below; and

(9) Freezers used for food storage are maintained at a temperature of zero degrees Fahrenheit (0° F) or below.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-605. Transportation.**

(a) An ADDT may elect to provide transportation services to its clients.

(b)(1) The requirements of this section apply to all transportation provided to a client for any reason by any person or entity on behalf of the ADDT, regardless of whether the transportation is a billed service.

(2) Notwithstanding the foregoing, if the transportation provided to a client is funded by another Medicaid program, then the transportation requirements applicable to the funding Medicaid program, and not this part, shall apply.

(c) An ADDT electing to provide transportation services to clients must maintain an updated list of all vehicles used to transport clients that includes the following information for each vehicle:

(1) Manufacturer:

- (A) Name;
- (B) Make;
- (C) Model; and
- (D) Model year;

(2) Vehicle identification number; and

(3) Type of vehicle, for example, sedan, eight-passenger van, fifteen-passenger van, or wheelchair van.

(d) Any vehicle used by an ADDT to transport clients must be available for inspection upon request.

(e) Reports or other documentation required to be maintained under this section must be made available for inspection upon request.

(f)(1) An ADDT may use electronic records in addition to or in place of physical records to comply with this section.

(2) An ADDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct its transportation records in the event of a breakdown in the ADDT's electronic records system.

(g)(1) An ADDT electing to provide transportation services to clients must provide the level of attendant care on each vehicle that is necessary to ensure client safety.

(2)(A) An inspection report must be completed for each trip in which a vehicle is used by an ADDT to transport clients.

(B)(i) Each inspection report must include a pre-trip and post-trip inspection that includes at a minimum the:

(a) Vehicle used to transport;

(b) Date of the trip;

(c) A pre-trip check box that is marked to demonstrate that a visual inspection of the exterior of the vehicle was completed prior to the start of the trip;

(d) A pre-trip check box that is marked to demonstrate that a visual inspection of the interior of the vehicle was completed prior to the start of the trip;

(e) A pre-trip check box that is marked to demonstrate that a visual inspection of the tires was completed prior to the start of the trip;

(f) A pre-trip check box that is marked to demonstrate that a visual inspection of the windshield was completed prior to the start of the trip;

(g) A post-trip check box that is marked to demonstrate that a visual inspection of the exterior of the vehicle was completed after final unloading;

(h) A post-trip check box that is marked to demonstrate that a visual inspection of the interior of the vehicle was completed after final unloading;

(i) A post-trip check box that is marked to demonstrate that a visual inspection of the tires was completed after final unloading;

(j) A post-trip check box that is marked to demonstrate that a visual inspection of the windshield was completed after final unloading; and

(k) A section for listing and describing any defect or deficiency discovered or reported during the:

(1) Trip;

(2) Pre-trip inspection; or

(3) Post-trip inspection.

(ii) Each inspection report must include the:

(a) Signature of the employee that performed the pre-trip inspection;

(b) Signature of the employee that performed the post-trip inspection;

(c) Time the pre-trip inspection was completed; and

(d) Time the post-trip inspection was completed.

(C) An ADDT must maintain all inspection reports for five (5) years from the date of transportation.

(h)(1) A separate transportation log must be maintained for each trip in which a vehicle is used by an ADDT to transport a client and it must include:

(A) Each transported client's:

(i) Name;

- (ii) Age;
- (iii) Date of birth;
- (iv) Medicaid ID number;
- (v) Exact address of pickup and drop-off; and
- (vi) Exact time of pickup and drop-off;
- (B) The driver of the vehicle;
- (C) Each attendant or any other persons transported; and
- (D) Odometer reading on the vehicle at the:
  - (i) Pickup of the first client on the trip; and
  - (ii) Drop-off of last client on the trip.

(2) The transportation log shall be used to check clients on and off the vehicle at pickup and drop-off.

(3) The driver or attendant who conducts the walk-through required by subsections (i) and (j) of this section must sign the transportation log once it is confirmed that all clients exited the vehicle.

(4) An ADDT must maintain all transportation logs for five (5) years from the date of transportation.

(i)(1) Any vehicle with a maximum capacity of seven (7) or fewer passengers and one (1) driver that is used by an ADDT to transport clients must have the driver or an attendant walk through the vehicle and conduct a visual inspection of each seat on the vehicle upon arrival at the final unloading destination.

(2) The driver or attendant who conducts the walk-through inspection upon arrival must sign the transportation log required to be maintained under subsection (h) of this section.

(j) Any vehicle with a maximum capacity of more than seven (7) passengers and one (1) driver that is used by an ADDT to transport clients must have the driver or an attendant complete a walk-through inspection of each seat on the vehicle in one (1) of the following ways upon arrival at the final unloading destination:

(1)(A) The driver or an attendant must:

- (i) Unload all clients from the vehicle;

(ii) Walk or otherwise move through the interior of the vehicle to ensure that no client remains on board; and

(iii) Deactivate the vehicle's safety alarm device.

(B) This option can only be used if all clients are able to unload from the vehicle in less than one (1) minute;

(2)(A)(i) An attendant supervises the clients while unloading.

(ii) The driver remains on the vehicle during unloading to walk through the interior of the vehicle to ensure that no clients remain on board.

(iii)(a) The driver deactivates the safety alarm device upon reaching the back of the vehicle.

(b) The individual who deactivates the safety alarm device must remain near the safety alarm device deactivation switch until all clients have unloaded to ensure that no client is left on board.

(B) This option will require at least two (2) individuals, one (1) to supervise the clients exiting the vehicle and one (1) to remain near the safety alarm device deactivation switch; or

(3)(A) The driver or an attendant deactivates the safety alarm device and unloads all clients immediately upon arrival.

(B)(i) Immediately after unloading, the driver will start the vehicle and move it to a different location for final parking, which must reactivate the safety alarm device.

(ii) Once parked, the driver:

(a) Walks or otherwise moves through the interior of the vehicle to ensure that no clients remain on board; and

(b) Deactivates the safety alarm device.

(k) An ADDT providing transportation services to a client must maintain the client's emergency contact information within the vehicle during transport.

(l) Each driver of a vehicle transporting clients on behalf of an ADDT must meet each of the following requirements:

(1) Meet the higher of the following age requirements:

- (A) Twenty-one (21) years of age; or
- (B) The minimum age required by the applicable vehicle insurance;
- (2) Hold a current valid driver's license;
- (3) If required by state law for the transporting vehicle, hold a commercial driver's license;

(4) Obtain and maintain in good standing the following credentials:

- (A) CPR certification from the:
  - (i) American Heart Association;
  - (ii) Medic First Aid; or
  - (iii) American Red Cross; and
- (B) First-aid certification from the:
  - (i) American Heart Association;
  - (ii) Medic First Aid; or
  - (iii) American Red Cross; and

(5) Have successfully completed training courses on the following:

- (A) Defensive driving; and
- (B) If applicable:
  - (i) Lift operation; and
  - (ii) Wheelchair securement.

(m) The following individuals are prohibited from driving a vehicle transporting ADDT clients:

(1) Any individual who has had a suspended or revoked driver's license for a moving violation within the last five (5) years;

(2) Any individual who has been convicted of an alcohol, drug, or substance abuse offense within the last five (5) years; and

(3) Any individual who has received at least two (2) of any combination of the following citations within the prior twelve (12) months:

- (A) Citations for moving vehicle violations; and
- (B) Citations for accidents where the individual was found to be at fault.

(n) In addition to those requirements in 20 CAR § 536-304, an ADDT must

maintain the following documentation for each employee who drives a vehicle transporting clients:

(1) A copy of an employee's driving record for the previous three (3) years from the Division of Arkansas State Police or Arkansas Wireless Information Network that is updated annually;

(2) Documentation of all reported complaints involving the employee;

(3) Documentation of all accidents or moving violations involving the employee, for example, copies of tickets or police reports; and

(4) Documentation evidencing the completion of all required training and credentials.

(o) Each attendant on a vehicle transporting clients on behalf of an ADDT must meet each of the following requirements:

(1) Be at least eighteen (18) years of age;

(2) Have successfully completed training courses on the following:

(A) Defensive driving; and

(B) If applicable:

(i) Lift operation; and

(ii) Wheelchair securement; and

(3) Obtain and maintain in good standing the following credentials:

(A) CPR certification from the:

(i) American Heart Association;

(ii) Medic First Aid; or

(iii) American Red Cross; and

(B) First-aid certification from the:

(i) American Heart Association;

(ii) Medic First Aid; or

(iii) American Red Cross.

(p) Each driver and attendant in a vehicle used by an ADDT to provide transportation services to a client must:

(1) Wear or have visible an easily readable identification demonstrating they

are employees of the ADDT;

(2) Carry a valid driver's license or, if they are a nondriving attendant, other government-issued identification;

(3) Abide by all infection control directives or guidance issued by the Department of Health;

(4) When picking up a client:

(A) Identify and announce their presence at the entrance of the pickup location if the client is not waiting curbside upon arrival;

(B) Provide a client assistance, as necessary, from the pickup location to the vehicle;

(C) If necessary, assist a client in the process of:

(i) Seating;

(ii) Fastening his or her seatbelt; and

(iii) Otherwise safely securing the client prior to departure;

(D) Assist any client in a wheelchair or who is mobility-limited with entering and exiting a vehicle;

(E) Ensure that clients in wheelchairs are properly secured in their wheelchair;

(F) Ensure all wheelchairs are properly secured in the vehicle prior to departure; and

(G) Ensure all folding wheelchairs and other mobility aides being transported are safely and securely stowed away on the vehicle prior to departure; and

(5) When arriving at the client's drop-off location:

(A) Provide a client assistance, as necessary, in:

(i) Exiting the vehicle; or

(ii) Traveling from the vehicle to the entry of the client's drop-off location; and

(B) Ensure the client is safely transitioned at the drop-off location in accordance with the client's needs.

(q)(1) Any vehicle used to transport a client must meet the safety and mechanical

operating and maintenance standards for the make and model of vehicle.

(2) Each vehicle used to transport a client must have:

(A) Up-to-date registration with the Office of Motor Vehicle; and

(B) All other licenses, permits, and certificates required by state and federal law.

(r)(1) Commercial insurance coverage must be maintained on any vehicle used to transport a client.

(2) Commercial insurance must have the following minimum coverage amounts:

(A) One million dollars (\$1,000,000) combined single limit liability coverage;

(B) One hundred thousand dollars (\$100,000) for uninsured motorist;

(C) One hundred thousand dollars (\$100,000) for under-insured motorist;

and

(D) Five thousand dollars (\$5,000) personal injury protection for each passenger based on the number of passengers the vehicle is manufactured to transport.

(3) Each commercial insurance policy must name the Department of Human Services as an additional insured and loss payee under the policy.

(4) All commercial insurance coverage must be with companies licensed and approved to do business with the State of Arkansas.

(5) An ADDT must maintain documentation evidencing that the required commercial insurance is in place for each vehicle used to transport a client.

(s) Each vehicle used to transport a client must have the following safety equipment on board:

(1) Fire extinguisher;

(2) First-aid kit;

(3) Reflective triangles;

(4) Flashlight; and

(5) Reflective safety vest.

(t) Each vehicle used to transport a client must be maintained in a sanitary and safe condition, which includes without limitation:

(1) A heating and air conditioning system in good working condition;

(2) Each client must have their own seating space with a functioning seat belt or other appropriate safety restraint in accordance with federal and state law and manufacturer's guidelines;

(3) Vehicle interiors must be free of:

(A) Dirt;

(B) Oil;

(C) Grease;

(D) Litter;

(E) Torn upholstery;

(F) Torn ceiling coverings;

(G) Damaged seats;

(H) Protruding sharp edges;

(I) Hazardous debris; and

(J) Unsecured items;

(4)(A) Vehicles with an entry step-up of greater than twelve inches (12") must include a retractable step or step stool to aid in client boarding.

(B) A step stool must have four (4) legs with anti-skid tips on each leg;

(5) Vehicle exteriors must be clean and free of:

(A) Broken:

(i) Windshields;

(ii) Mirrors; and

(iii) Windows; and

(B) Excessive:

(i) Grime;

(ii) Dirt;

(iii) Dents; and

(iv) Damage;

(6)(A) The floor of each vehicle must be covered with commercial anti-skid ribbed flooring or carpeting.

(B) Any ribbed flooring must not interfere with wheelchair movement;

(7)(A) Any vehicle with a maximum capacity of seven (7) or more passengers and one (1) driver that is used by an ADDT to transport clients must have a safety alarm device.

(B) The safety alarm device must:

(i) Always be in working order and properly maintained;

(ii) Be installed so that the driver is required to walk to the very back of the vehicle to reach the switch that deactivates the alarm;

(iii) Be installed in accordance with the device manufacturer's recommendations; and

(iv) Sound the alarm for at least one (1) minute after the activation of the safety alarm device;

(8)(A) Any vehicle used by an ADDT to transport clients must have a camera system installed.

(B) The camera system must:

(i) Be in working order at all times that a vehicle is used to transport clients;

(ii) Be properly maintained;

(iii) Have at least seven hundred twenty pixels (720p) resolution camera or cameras;

(iv) Maintain daily footage for a minimum of forty-five (45) days;

(v) Include GPS tracking; and

(vi) Have camera or cameras positioned so that all passenger activity on each vehicle is recorded; and

(9) Each vehicle used to transport a client must prominently display:

(A) Provider name; and

(B) Provider contact information.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**Codification Notes.** "CPR" means cardiopulmonary resuscitation.

"GPS" means Global Positioning System.

## **Subpart 7. Incident and Accident Reporting**

### **20 CAR § 536-701. Incidents to be reported.**

(a) An ADDT must report all alleged, suspected, observed, or reported occurrences of any of the following events while a client is in the care or under the supervision of an ADDT:

- (1) Death of a client;
- (2) Serious injury to a client;
- (3) Adult or child maltreatment of a client;
- (4) Any event where an employee threatens or strikes a client;
- (5) Unauthorized use on a client of restrictive intervention, including seclusion or physical, chemical, or mechanical restraint;
- (6) Any situation when the whereabouts of a client are unknown for more than two (2) hours;
- (7) Any unanticipated situation when services to the client are interrupted for more than two (2) hours;
- (8) Events involving a risk of death, serious physical or psychological injury, or serious illness to a client;
- (9) Medication errors made by an employee that cause or have the potential to cause death, serious injury, or serious illness to a client;
- (10) Any act or omission that jeopardizes the health, safety, or quality of life of a client;
- (11) Motor vehicle accidents involving a client;
- (12) A positive case of a client or a staff member for any infectious disease

that is the subject of a public health emergency declared by the:

- (A) Governor;
  - (B) Department of Health;
  - (C) President of the United States; or
  - (D) United States Department of Health and Human Services; and
- (13) Any event that requires notification of the:
- (A) Police;
  - (B) Fire department; or
  - (C) Coroner.

(b) Any ADDT may report any other occurrences impacting the health, safety, or quality of life of a client.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

### **20 CAR § 536-702. Reporting requirements.**

(a) An ADDT must:

(1) Submit all reports of the following events within one (1) hour of the event:

- (A) Death of a client;
- (B) Serious injury to a client; or
- (C) Any incident that an ADDT should reasonably know might be of interest to the public or the media; and

(2) Submit reports of all other incidents within forty-eight (48) hours of the event.

(b) An ADDT must submit reports of all incidents to the Division of Provider Services and Quality Assurance as provided through the division's website:

<https://humanservices.arkansas.gov/about-dhs/dpsqa/>.

(c) Reporting under these standards does not relieve an ADDT of complying with any other applicable reporting or disclosure requirements under state or federal laws, rules, or regulations.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-703. Notification to guardians and legal custodians.**

(a) An ADDT must notify the guardian or legal custodian of a client of any reportable incident involving a client, as well as any injury or accident involving a client even if the injury or accident is not otherwise required to be reported in this part.

(b) An ADDT should maintain documentation evidencing notification required in subsection (a) of this section.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**Subpart 8. Enforcement**

**20 CAR § 536-801. Monitoring.**

(a)(1) The Division of Provider Services and Quality Assurance shall monitor an ADDT to ensure compliance with this part.

(2)(A) An ADDT must cooperate and comply with all monitoring, enforcement, and any other regulatory or law enforcement activities performed or requested by the Division of Provider Services and Quality Assurance or law enforcement.

(B) Cooperation required under this part includes without limitation cooperation and compliance with respect to investigations, surveys, site visits, reviews, and other regulatory actions taken by the Division of Provider Services and Quality Assurance or any third party contracted by the Department of Human Services to monitor, enforce, or take other regulatory action on behalf of:

- (i) The department;
- (ii) The Division of Provider Services and Quality Assurance; or
- (iii) The Division of Developmental Disabilities Services.

(b) Monitoring includes without limitation:

(1) Onsite surveys and other visits, including without limitation complaint surveys and initial site visits;

- (2) Onsite or remote file reviews;
- (3) Written requests for documentation and records required under this part;
- (4) Written requests for information; and
- (5) Investigations related to complaints received.

(c) The department may contract with a third party to monitor, enforce, or take other regulatory action on behalf of the:

- (1) Department;
- (2) Division of Provider Services and Quality Assurance; or
- (3) Division of Developmental Disabilities Services.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-802. Written notice of enforcement action.**

(a) The Division of Provider Services and Quality Assurance shall provide written notice to the ADDT of all enforcement actions taken against the ADDT.

(b) The division shall provide written notice to the ADDT by mailing the imposition of the enforcement action to the manager appointed by the ADDT pursuant to 20 CAR § 536-301.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-803. Remedies.**

(a)(1) The Division of Provider Services and Quality Assurance shall not impose any remedies imposed by an enforcement action unless:

(A) The ADDT is given notice and an opportunity to be heard pursuant to 20 CAR § 536-802 and 20 CAR § 536-1001 et seq.; or

(B) The Division of Provider Services and Quality Assurance determines that public health, safety, or welfare imperatively requires emergency action.

(2) If the Division of Provider Services and Quality Assurance imposes a remedy as an emergency action before the ADDT has notice and an opportunity to be

heard, pursuant to subdivision (a)(1) of this section, the Division of Provider Services and Quality Assurance shall:

(A) Provide immediate notice to the ADDT of the enforcement action; and

(B) Provide the ADDT with an opportunity to be heard pursuant to 20 CAR § 536-1001 et seq.

(b) The Division of Provider Services and Quality Assurance may impose on an ADDT any of the following enforcement actions for the ADDT's failure to comply with this part:

(1) Plan of correction;

(2) Directed in-service training plan;

(3) Moratorium on new admissions;

(4) Transfer of clients;

(5) Monetary penalties;

(6) Suspension of ADDT license;

(7) Revocation of ADDT license; and

(8) Any remedy authorized by law or rule including without limitation Arkansas Code § 25-15-217.

(c) The Division of Provider Services and Quality Assurance shall determine the imposition and severity of these enforcement remedies on a case-by-case basis using the following factors:

(1) Frequency of noncompliance;

(2) Number of noncompliance issues;

(3) Impact of noncompliance on a client's:

(A) Health;

(B) Safety; or

(C) Well-being;

(4) Responsiveness in correcting noncompliance;

(5) Repeated noncompliance in the same or similar areas;

(6) Noncompliance with previously or currently imposed enforcement remedies;

- (7) Noncompliance involving intentional fraud or dishonesty; and
- (8) Noncompliance involving violation of any law, rule, or other legal

requirement.

(d)(1) The Division of Provider Services and Quality Assurance shall report any noncompliance, action, or inaction by the ADDT to appropriate agencies for investigation and further action.

(2) The Division of Provider Services and Quality Assurance shall refer noncompliance involving Medicaid billing requirements to the Division of Medical Services and the Medicaid Fraud Control Unit of the office of the Attorney General.

(e) These enforcement remedies are not mutually exclusive and the Division of Provider Services and Quality Assurance may apply multiple remedies simultaneously if there is a failure to comply with this part.

(f) The failure to comply with an enforcement remedy imposed by the Division of Provider Services and Quality Assurance constitutes a separate violation of this part.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-804. Moratorium.**

(a) The Division of Provider Services and Quality Assurance may prohibit an ADDT from accepting new clients.

(b) An ADDT prohibited from accepting new admissions may continue to provide services to existing clients.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-805. Transfer of clients.**

(a) The Division of Provider Services and Quality Assurance may require an ADDT to transfer a client to another ADDT if the division finds that the ADDT cannot adequately provide services to the client.

(b) If directed by the division, an ADDT must continue providing services until the

client is transferred to their new service provider of choice.

(c) A transfer of a client may be permanent or for a specific term depending on the circumstances.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-806. Monetary penalties.**

(a) The Division of Provider Services and Quality Assurance may impose on an ADDT a civil monetary penalty not to exceed five hundred dollars (\$500) for each violation of this part.

(b)(1) The division may file suit to collect a civil monetary penalty assessed pursuant to this part if the ADDT does not pay the civil monetary penalty within sixty (60) days from the date the division provides written notice to the ADDT of the imposition of the civil monetary penalty.

(2) The division may file suit in Pulaski County Circuit Court or the circuit court of any county in which the ADDT is located.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-807. Suspension and revocation of ADDT license.**

(a)(1) The Division of Provider Services and Quality Assurance may temporarily suspend an ADDT license if the ADDT fails to comply with this part.

(2) If an ADDT's license is suspended, the ADDT must immediately stop providing ADDT services until the division reinstates its license.

(b)(1) The division may permanently revoke an ADDT license if the ADDT fails to comply with this part.

(2) If an ADDT's license is revoked, the ADDT must immediately stop providing ADDT services and comply with the permanent closure requirements in 20 CAR § 536-901(a).

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

## **Subpart 9. Closure**

### **20 CAR § 536-901. Closure.**

(a)(1) An ADDT license ends if an ADDT permanently closes, whether voluntarily or involuntarily, and is effective on the date of the permanent closure as determined by the Division of Provider Services and Quality Assurance.

(2) An ADDT that intends to permanently close, or does permanently close without warning, whether voluntarily or involuntarily, must immediately:

(A) Provide the custodian or legal guardian of each client with written notice of the closure;

(B) Provide the custodian or legal guardian of each client with written referrals to at least three (3) other appropriate service providers;

(C) Assist each client and their custodian or legal guardian in transferring services and copies of client records to any new service providers;

(D) Assist each client and their custodian or legal guardian in transitioning to new service providers; and

(E) Arrange for the storage of client service records to satisfy the requirements of 20 CAR § 536-305.

(b)(1) An ADDT that intends to voluntarily close temporarily due to natural disaster, pandemic, completion of needed repairs or renovations, or for similar circumstances may request to temporarily close its facility while maintaining its ADDT license for up to one (1) year from the date of the request.

(2) An ADDT must comply with the requirements in subdivision (a)(2) of this section for notice, referrals, assistance, and storage of client records if the division grants an ADDT's request for a temporary closure.

(3)(A) The division may grant a temporary closure if the ADDT demonstrates that it is reasonably likely that it will be able to reopen after the temporary closure.

(B) The division shall end an ADDT's temporary closure and direct that the

ADDT permanently close if the ADDT fails to demonstrate that it is reasonably likely that it will be able to reopen after the temporary closure.

(4)(A) The division may end an ADDT's temporary closure if the ADDT demonstrates that it is in full compliance with this part.

(B) The division shall end an ADDT's temporary closure and direct that the ADDT permanently close if the ADDT fails to become fully compliant with this part within one (1) year from the date of the request.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

## **Subpart 10. Appeals**

### **20 CAR § 536-1001. Reconsideration of adverse regulatory actions.**

(a)(1) An ADDT may ask for reconsideration of any adverse regulatory action taken by the Division of Provider Services and Quality Assurance by submitting a written request for reconsideration to:

Division of Provider Services and Quality Assurance  
Office of the Director  
Requests for Reconsideration of Adverse Regulatory Actions  
P.O. Box 1437, Slot 427  
Little Rock, Arkansas 72203

(2) The written request for reconsideration of an adverse regulatory action taken by the Division of Provider Services and Quality Assurance must be submitted by the ADDT and received by the Division of Provider Services and Quality Assurance within thirty (30) calendar days of the date the ADDT received written notice of the adverse regulatory action.

(3) The written request for reconsideration of an adverse regulatory action taken by the Division of Provider Services and Quality Assurance must include without

limitation:

(A) The specific adverse regulatory action taken;

(B) The date of the adverse regulatory action;

(C) The name of the ADDT against whom the adverse regulatory action was taken;

(D) The address and contact information for the ADDT against whom the adverse regulatory action was taken; and

(E) The legal and factual basis for reconsideration of the adverse regulatory action.

(b)(1) The Division of Provider Services and Quality Assurance shall review each timely received written request for reconsideration and determine whether to affirm or reverse the adverse regulatory action taken based on this part.

(2) The Division of Provider Services and Quality Assurance may request, at its discretion, additional information as needed to review the adverse regulatory action and determine whether the adverse regulatory action taken should be affirmed or reversed based on this part.

(c)(1) The Division of Provider Services and Quality Assurance shall issue in writing its determination on reconsideration within thirty (30) days of receiving the written request for reconsideration or within thirty (30) days of receiving all information requested by the Division of Provider Services and Quality Assurance under subdivision (b)(2) of this section, whichever is later.

(2) The Division of Provider Services and Quality Assurance shall issue its determination to the ADDT using the address and contact information provided in the request for reconsideration.

(d)(1) An applicant may ask for reconsideration of a determination by the Division of Developmental Disabilities Services that a county is not underserved by submitting a written request for reconsideration pursuant to Appeals, 20 CAR pt. 544.

(2) If a determination that a county is not underserved is reversed on reconsideration by the Division of Developmental Disabilities Services or on appeal by an agency or court with jurisdiction:

(A) The applicant shall notify the Division of Provider Services and Quality Assurance of the reversal and submit a written request for reconsideration to the Division of Provider Services and Quality Assurance as provided in this section for any adverse regulatory action taken by the Division of Provider Services and Quality Assurance based on the initial determination; and

(B) The Division of Provider Services and Quality Assurance shall review the written request for reconsideration as provided in this section.

(e) The Division of Provider Services and Quality Assurance may also decide to reconsider any adverse regulatory action on its own accord any time it determines, in its discretion, that an adverse regulatory action is not consistent with this part.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.

**20 CAR § 536-1002. Appeal of regulatory actions.**

(a)(1) An ADDT may administratively appeal any adverse regulatory action to the Office of Appeals and Hearings except for provider appeals related to the payment for Medicaid claims and services governed by the Medicaid Fairness Act, Arkansas Code § 20-77-1701 – 20-77-1718, which shall be governed by the Medicaid Fairness Act.

(2) The office shall conduct administrative appeals of adverse regulatory actions pursuant to Appeals and Hearings Procedures, 25 CAR pt. 34, and other applicable laws and rules.

(b) An ADDT may appeal any adverse regulatory action or other adverse agency action to circuit court as allowed by the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

**Authority.** Arkansas Code §§ 20-48-205, 20-48-208, 20-48-209.