

**Title 20. Public Health and Welfare**  
**Chapter XVII. Generally, Department of Human Services**  
**Subchapter A. Generally**  
**Part 706. Behavioral Health Agency Certification Manual**  
**Subpart 1. Generally**

**20 CAR § 706-101. Purpose.**

(a) To assure that outpatient behavioral health services care and services provided by certified behavioral health agencies comply with applicable laws, which require, among other things, that all care reimbursed by the Arkansas medical assistance program (Medicaid) must be provided efficiently, economically, only when medically necessary, and of a quality that meets professionally recognized standards of health care.

(b) The requirements and obligations imposed by this section and 20 CAR §§ 706-102 – 706-401 are substantive, not procedural.

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

**20 CAR § 706-102. Scope.**

(a) Current behavioral health agency certification under this part is a condition of Medicaid provider enrollment.

(b)(1) Department of Human Services behavioral health agency certification must be obtained for each site before application for Medicaid provider enrollment.

(2) An applicant may submit one (1) application for multiple sites, but the department will review each site separately and take separate certification action for each site.

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

**20 CAR § 706-103. Definitions.**

As used in this part:

(1)(A) "Accreditation" means full accreditation (preliminary, expedited, probationary, pending, conditional, deferred, or provisional accreditations will not be accepted) as an outpatient behavioral healthcare provider issued by at least one (1) of the following:

(i) Commission on Accreditation for Rehabilitative Facilities Behavioral Health Standards Manual;

(ii) The Joint Commission Comprehensive Accreditation Manual for Behavioral Health Care; or

(iii) Council on Accreditation Outpatient Mental Health Services Manual.

(B) Accreditation timing for specific programs is defined in the applicable Department of Human Services certification manual for that program;

(2)(A) "Adverse license action" means any action by a licensing authority that is related to client care, any act or omission warranting exclusion under Department of Human Services' Participant Exclusion rule, 25 CAR pt. 30, or 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) "Applicant" means an outpatient behavioral healthcare agency that is seeking Department of Human Services' certification 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 behavioral health agency furnishes, or has agreed or undertaken to furnish, outpatient behavioral health services;

(6)(A) "Client information system" means a comprehensive, integrated system of clinical, administrative, and financial records that provides information necessary and useful to deliver client services.

(B) Information may be maintained electronically, in hard copy, or both;

(7) "Compliance" means conformance with:

(A) Applicable state and federal laws, rules, and regulations including, without limitation:

(i) Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq., and implementing regulations;

(ii) 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;

(iii) All state laws and rules applicable to Medicaid generally and to outpatient behavioral health services specifically;

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

(v) The Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 et seq., and implementing regulations; and

(vi) The Health Insurance Portability and Accountability Act, as amended, 29 U.S.C. § 1182, and implementing regulations; and

(B) Accreditation standards and requirements;

(8) "Contemporaneous" means by the end of the performing provider's first work period following the provision of care or services to be documented, or as provided in the Medicaid Outpatient Behavioral Health Services Manual, whichever is longer;

(9) "Coordinated management plan" means a plan that the provider develops and carries out to ensure compliance and quality improvement;

(10) "Corrective action plan (CAP)" means a document that describes both short-term remedial steps to achieve compliance and permanent practices and procedures to sustain compliance;

(11) "Covered healthcare practitioner" means any practitioner providing outpatient behavioral health services that is allowable to be reimbursed pursuant to the Medicaid Outpatient Behavioral Health Services Manual;

(12) "Cultural competency" means the ability to communicate and interact effectively with people of different cultures, including people with disabilities and atypical lifestyles;

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

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

(15) "Emergency behavioral health agency services" means nonscheduled behavioral health agency services delivered under circumstances where a prudent layperson with an average knowledge of behavioral health care would reasonably believe that behavioral health agency services are immediately necessary to prevent death or serious impairment of health;

(16)(A) "Fifty-mile radius" means fifty (50) miles from a certified site by driving distance.

(B) Driving distance is calculated by a method of utilizing a standardized mapping application;

(17) "Medical director" means a physician that oversees the planning and delivery of all behavioral health agency services delivered by the provider;

(18)(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;

(19)(A) "Mobile care" means a face-to-face intervention with the client at a place other than a certified site operated by the provider.

(B) Mobile care must be:

(i) Either clinically indicated in an emergent situation or necessary for the client to have access to care in accordance with the care plan;

(ii) Delivered in a clinically appropriate setting; and

(iii) Delivered where Medicaid billing is permitted if delivered to a Medicaid eligible client.

(C) Mobile care may include medically necessary behavioral health care provided in a school that is within a fifty-mile radius of a certified site operated by the

provider;

(20)(A) "Multidisciplinary team" means a group of professionals from different disciplines that provide comprehensive care through individual expertise and in consultation with one another to accomplish the client's clinical goals.

(B) Multidisciplinary teams:

(i) Promote coordination between agencies;

(ii) Provide a checks and balances mechanism to ensure that the interests and rights of all concerned parties are addressed; and

(iii) Identify service gaps and breakdowns in coordination or communication between agencies or individuals;

(21) "NPDB" means the Department of Health and Human Services, Health Resources and Services Administration National Provider Data Bank;

(22) "Performing provider" means the individual who personally delivers a care or service directly to a client;

(23)(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;

(24) "Provider" means an entity that is certified by the Department of Human Services and enrolled by the Division of Medical Services as a behavioral health agency;

(25) "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 controlled by client care plans and provided under the direct supervision of a mental health professional;

(26)(A) "Quality assurance (QA) meeting" means a meeting held at least quarterly for systematic monitoring and evaluation of clinic services and compliance.

(B) See also Medicaid Outpatient Behavioral Health Services Manual, § 212.000;

(27) "Reviewer" means a person employed or engaged by:

(A) The Department of Human Services or a division or office thereof; or

(B) An entity that contracts with the Department of Human Services or a division or office thereof;

(28)(A) "Site" means a distinct place of business dedicated to the delivery of outpatient behavioral health services within a fifty-mile radius.

(B) Each site must be a bona fide behavioral health agency, meaning a behavioral health outpatient clinic providing all the services specified in this part and the Medicaid Outpatient Behavioral Health Services Manual.

(C) This includes sites the Department of Human Services may certify when adjunct to or collocated with nonbehavioral healthcare services or facilities such as:

(i) A school;

(ii) A day care facility;

(iii) A long-term care facility; or

(iv) The office or clinic of a physician or psychologist;

(29) "Site relocation" means closing an existing site and opening a new site no more than a fifty-mile radius from the original site;

(30) "Site transfer" means moving existing staff, program, and clients from one physical location to a second location that is no more than a fifty-mile radius from the original site;

(31) "Supervise" means to direct, inspect, observe, and evaluate performance; and

(32) "Supervision documentation" means:

(A) Written records of the time, date, and subject or subjects; and  
(B) Duration of supervisory contact maintained in the provider's official records.

**Authority.** Arkansas Code §§ 20-76-201, 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 § 706-104. Compliance timeline.**

(a)(1) Entities currently certified as rehabilitative services for persons with mental illness (RSPMI) providers will be grandfathered in as certified behavioral health agencies.

(2) Current RSPMI agency recertification procedures are based upon national accreditation timelines.

(3) Behavioral health agency recertification will also be based upon national accreditation timelines.

(b) All entities in operation as of the effective date of this part must comply with this part within forty-five (45) calendar days in order to maintain certification.

(c)(1) The Department of Human Services may authorize temporary compliance exceptions for new accreditation standards that require independent site surveys and specific service subset accreditations.

(2) Such compliance exceptions expire at the end of the provider's accreditation cycle and may not be renewed or reauthorized.

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

**20 CAR § 706-105. Application for department behavioral health agency certification.**

(a)(1) New behavioral health agency applicants must complete:

(A) Department of Human Services Behavioral Health Agency Certification Form 100;

(B) Department of Human Services Behavioral Health Agency Form 200;  
and

(C) Department of Human Services Behavioral Health Agency Form 210.

(2) Department of Human Services Behavioral Health Agency Certification Form 100, Department of Human Services Behavioral Health Agency Form 200, and Department of Human Services Behavioral Health Agency Form 210 can be found at the following website: [Provider Services & Quality Assurance - Arkansas Department of Human Services.](#)

(b) Applicants must submit the completed application forms and all required attachments for each proposed site to:

Department of Human Services  
Division of Provider Services and Quality Assurance  
ATTN: Licensure and Certification  
P.O. Box 1437 S-530  
Little Rock, AR 72203

(c) Each applicant must be an outpatient behavioral healthcare agency:

(1) Whose primary purpose is the delivery of a continuum of outpatient behavioral health services in a free-standing independent clinic; and

(2) That is independent of any Department of Human Services certified behavioral health agency.

(d) Behavioral health agency certification is not transferable or assignable.

(e) The privileges of a behavioral health agency certification are limited to the certified site.

(f) Providers may file Medicaid claims only for outpatient behavioral health services delivered by a performing provider engaged by the provider.

(g) Applications must be made in the name used to identify the business entity to

the Secretary of State and for tax purposes.

(h)(1)(A) Applicants must:

(i) Maintain and document accreditation; and

(ii) Prominently display certification of accreditation issued by the accrediting organization in a public area at each site.

(B) Accreditation must recognize and include all the applicant's behavioral health agency programs, services, and sites.

(2)(A) Initial accreditation must include an on-site survey for each service site for which provider certification is requested.

(B) Accreditation documentation submitted to the department must list all sites recognized and approved by the accrediting organization as the applicant's service sites.

(3) Accreditation documentation must include the applicant's governance standards for operation and sufficiently define and describe all services or types of care (customer service units or service standards) the applicant intends to provide including, without limitation:

(A) Crisis intervention/stabilization;

(B) In-home family counseling;

(C) Outpatient treatment;

(D) Day treatment;

(E) Therapeutic foster care;

(F) Intensive outpatient; or

(G) Medication management/pharmacotherapy.

(4) Any outpatient behavioral health program associated with a hospital must have a free-standing behavioral health outpatient program national accreditation.

(5) The applicant must attach the entity's family involvement policy to each application.

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

## **20 CAR § 706-106. Application review process.**

### **(a) Timeline.**

(1)(A) The Department of Human Services will review behavioral health agency application forms and materials within ninety (90) calendar days after the department receives a complete application package.

(B) The department will return incomplete applications to senders without review.

(2) For approved applications, a site survey will be scheduled within forty-five (45) calendar days of the approval date.

(3)(A) The department will mail a survey report to the applicant within twenty-five (25) calendar days of the site visit.

(B) Providers having deficiencies on survey reports must submit an approvable corrective action plan to the department within thirty-five (35) calendar days after the date of a survey report.

(4) The department will accept or reject each corrective action plan in writing within twenty (20) calendar days after receipt.

(5)(A) Within thirty (30) calendar days after the department approves a corrective action plan, the applicant must document implementation of the plan and correction of the deficiencies listed in the survey report.

(B) Applicants who are unable, despite the exercise of reasonable diligence, to correct deficiencies within the time permitted may obtain up to ten (10) additional days based on a showing of good cause.

(6) The department will furnish site-specific certificates via postal or electronic mail within ten (10) calendar days of issuing a site certification.

(b) **Survey components.** An outline of site survey components is available on the department website: [Provider Services & Quality Assurance - Arkansas Department of Human Services](#) and is located in appendix # 7.

### **(c)(1) Determinations:**

(A) Application approved;

(B) Application returned for additional information; or

(C) Application denied.

(2) The department will state the reasons for denial in a written response to the applicant.

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

**20 CAR § 706-107. Department access to applicants/providers.**

(a) The Department of Human Services may contact applicants and providers at any time.

(b) The department may make unannounced visits to applicants/providers.

(c) Applicants/providers shall provide the department prompt direct access to applicant/provider documents and to applicant/provider staff and contractors, including, without limitation:

- (1) Clinicians;
- (2) Paraprofessionals;
- (3) Physicians; and
- (4) Administrative and support staff.

(d) The department reserves the right to ask any questions or request any additional information related to:

- (1) Certification;
- (2) Accreditation; or
- (3) Both.

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

**20 CAR § 706-108. Additional certification requirements.**

(a) Care and services must:

(1)(A) Comply with all state and federal laws, rules, and regulations applicable to the furnishing of health care funded in whole or in part by federal funds, to all state laws and policies applicable to the Arkansas Medicaid Program generally, and to

outpatient behavioral health services specifically, and to all applicable Department of Human Services policies including, without limitation, the department's Participant Exclusion rule, 25 CAR pt. 30.

(B) The Participant Exclusion rule, 25 CAR pt. 30, is available online at [Provider Services & Quality Assurance - Arkansas Department of Human Services](#);

(2) Conform to professionally recognized behavioral health rehabilitative treatment models; and

(3)(A) Be established by contemporaneous documentation that is accurate and demonstrates compliance.

(B) Documentation will be deemed to be contemporaneous if recorded by the end of the performing provider's first work period following the provision of the care or services to be documented, or as provided in the Medicaid Outpatient Behavioral Health Services Manual, § 252.110, whichever is longer.

(b) Applicants and behavioral health agencies must:

(1) Be a legal entity in good standing;

(2) Maintain all required business licenses;

(3) Adopt a mission statement to establish goals and guide activities; and

(4) Maintain a current organizational chart that identifies administrative and clinical chains of command.

(c) Applicants/providers must establish and comply with operating policy that at a minimum implements credible practices and standards for:

(1) Compliance;

(2) Cultural competence; and

(3) Provision of services, including referral services, for clients that are indigent, have no source of third-party payment, or both, including:

(A) Procedures to follow when a client is rejected for lack of a third-party payment source or when a client is discharged for nonpayment of care; and

(B)(i) Coordinated referral plans for clients that the provider lacks the capacity to provide medically necessary outpatient behavioral health services.

(ii) Coordinated referral plans must:

- (a) Identify in the client record the medically necessary outpatient behavioral health services that the provider cannot or will not furnish;
- (b) State the reason or reasons in the client record that the provider cannot or will not furnish the care; and
- (c) Provide quality control processes that assure compliance with care, discharge, and transition plans.

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

## **Subpart 2. Staffing Requirements for Certification**

### **20 CAR § 706-201. Staffing.**

At a minimum, behavioral health agency staffing shall be sufficient to establish and implement services for each behavioral health agency client, and must include the following:

(1)(A) Chief executive officer/executive director (or functional equivalent) (full-time position or full-time equivalent positions).

(B) The person or persons identified to carry out CEO/ED functions:

(i) Is/are ultimately responsible for applicant/provider organization, staffing, policies and practices, and behavioral health agency service delivery; and

(ii) Must:

(a) Possess a master's degree in behavioral health care, management, or a related field and experience; and

(b) Meet any additional qualifications required by the provider's governing body.

(C) Other job-related education, experience, or both, may be substituted for all or part of these requirements upon approval of the provider's governing body;

(2)(A) Clinical director (or functional equivalent) (full-time position or full-time equivalent positions).

(B) The person or persons identified to carry out clinical director functions

must:

- (i) Report directly to the CEO/ED;
- (ii) Be the Department of Human Services contact for clinical and practice-related issues;
- (iii) Be accountable for all clinical services (professional and paraprofessional);
- (iv) Be responsible for behavioral health agency care and service quality and compliance;
- (v) Assure that all services are provided within each practitioner's scope of practice under Arkansas law and under such supervision as required by law for practitioners not licensed to practice independently;
- (vi) Assure and document in the provider's official records the direct supervision of MHPs, either personally or through a documented chain of supervision;
- (vii)(a) Assure that licensed mental health professionals directly supervise qualified behavioral health providers.
  - (b) Direct supervision ratios must not exceed one (1) licensed mental health professional to ten (10) qualified behavioral health providers; and
- (viii) Possess independent behavioral health licensure in Arkansas as:
  - (a) A licensed psychologist;
  - (b) A licensed certified social worker;
  - (c) A licensed psychological examiner-independent;
  - (d) A licensed professional counselor;
  - (e) A licensed marriage and family therapist; or
  - (f) An advanced practice nurse or clinical nurse specialist with a:
    - (1) Specialty in psychiatry or mental health; and
    - (2) Minimum of two (2) years clinical experience post master's degree;
- (3)(A) Mental health professionals (independently licensed clinicians, nonindependently licensed clinicians).
- (B) MHPs may:

- (i) Provide direct behavioral health care;
- (ii) Delegate and oversee work assignments of qualified behavioral health providers;
- (iii) Delegate and oversee work assignments of certified peer specialists, certified youth support specialists, and certified family support partners;
- (iv) Ensure compliance and conformity to the provider's policies and procedures;
- (v) Provide direct supervision of qualified behavioral health providers;
- (vi) Provide direct supervision of certified peer specialists, certified youth support specialists, and certified family support partners;
- (vii) Provide case consultation and in-service training;
- (viii) Observe and evaluate performance of qualified behavioral health providers; and
- (ix) Observe and evaluate performance of certified peer specialists, certified youth support specialists, and certified family support partners.

**(C) MHP supervision.**

(i) Communication between an MHP and the MHP's supervisor must include each of the following at least every twelve (12) months:

*(a)* Assessment and referral skills, including the accuracy of assessments;

*(b)* Appropriateness of treatment or service interventions in relation to the client needs;

*(c)* Treatment/intervention effectiveness as reflected by the client meeting individual goals;

*(d)* Issues of ethics, legal aspects of clinical practice, and professional standards;

*(e)* The provision of feedback that enhances the skills of direct service personnel;

*(f)* Clinical documentation issues identified through ongoing compliance review;

*(g)* Cultural competency issues; and

*(h)* All areas noted as deficient or needing improvement.

(ii) Documented client-specific face-to-face and other necessary communication regarding client care must occur between each MHP's supervisor and the MHP periodically (no less than every ninety (90) calendar days) in accordance with a schedule maintained in the provider's official records;

(4)(A) Qualified behavioral health providers (including certified peer support specialists, certified youth support specialists, and certified family support partners):

(i) Are MHP service extenders;

(ii) Supervision must conform to the requirements for MHP supervision (see subdivision (3)(C) of this section) except that all requirements must be met every six (6) months, and one (1) or more licensed healthcare professional or professionals acting within the scope of his or her practice must have a face-to-face contact with each qualified behavioral health provider for the purpose of clinical supervision at least every fourteen (14) days, must have at least twelve (12) such face-to-face contacts every ninety (90) days, and such additional face-to-face contacts as are necessary in response to a client's unscheduled care needs, response or lack of response to treatment, or change of condition; and

(iii) Must establish that qualified behavioral health provider supervision occurred via individualized written certifications created by a licensed mental health professional and filed in the provider's official records on a weekly basis, certifying:

*(a)* That the licensed mental health professional periodically (in accordance with a schedule tailored to the client's condition and care needs and previously recorded in the provider's official records) communicated individualized client-specific instructions to the mental health paraprofessional describing the manner and methods for the delivery of paraprofessional services;

*(b)* That the licensed mental health professional periodically (in accordance with a schedule tailored to the client's condition and care needs and previously recorded in the provider's official records, but no less than every thirty (30)

days) personally observed the mental health paraprofessional delivering services to a client and that the observations were of sufficient duration to declare whether paraprofessional services complied with the licensed mental health professional's instructions; and

(c) The date, time, and duration of each supervisory communication with and observation of a qualified behavioral health provider.

(B)(i) The behavioral health agency is responsible for ensuring qualified behavioral health providers that are not certified as a certified peer support specialist, certified youth support specialist, or certified family support partner successfully complete training in behavioral health services provision from a licensed medical person experienced in the area of behavioral health, a certified behavioral agency, or a facility licensed by the State Board of Education before providing care to Medicaid beneficiaries.

(ii) The qualified behavioral health provider must receive orientation to the behavioral health agency.

(iii) The qualified behavioral health provider training course offered for those individuals not certified as a certified peer support specialist, certified youth support specialist, or certified family support partner must total a minimum of forty (40) classroom hours and must be successfully completed within a maximum time of the first two (2) months of employment by the behavioral health agency.

(iv)(a) The training curriculum must contain information specific to the population being served, i.e., child and adolescent, adult, dually diagnosed, etc.

(b) The curriculum must include, but is not limited to:

(1) Communication skills;

(2) Knowledge of behavioral health illnesses;

(3) How to be an appropriate role model;

(4) Behavior management;

(5) Handling emergencies;

(6)(A) Recordkeeping.

(B) Observing beneficiary, reporting or recording

observations, time, or employment records;

- (7) Knowledge of clinical limitations;
- (8) Knowledge of appropriate relationships with beneficiary;
- (9) Group interaction;
- (10) Identification of real issues;
- (11) Listening techniques;
- (12) Confidentiality;
- (13) Knowledge of medications and side effects;
- (14) Daily living skills;
- (15) Hospitalization procedures single-point-of-entry;
- (16) Knowledge of the Supplemental Security Income

application process;

- (17) Knowledge of day treatment models proper placement

levels;

- (18) Awareness of options;
- (19) Cultural competency;
- (20) Ethical issues in practice; and
- (21) Childhood development, if serving the child and

adolescent population.

(v) A written examination of the qualified behavioral health providers that are not certified as certified peer support specialists, certified youth support specialists, or certified family support partners knowledge of the forty-hour classroom training curriculum must be successfully completed.

(vi) Evaluation of the qualified behavioral health provider's ability to perform daily living skills for mental health services must be successfully completed by means of a skills test.

(vii)(a) The qualified behavioral health provider who successfully completes the training must be awarded a certificate.

(b) This certificate must state the person is qualified to work in an agency under professional supervision as a qualified behavioral health provider.

(viii)(a) In-service training sessions are required at a minimum of once per twelve-month period after the successful completion of the initial forty-hour classroom training for qualified behavioral health specialists not certified as a certified peer support specialist, certified youth support specialist, or certified family support partner.

(b) The in-service training must total a minimum of eight (8) hours each twelve-month period beginning with the date of certification as a qualified behavioral health provider and each twelve-month period thereafter.

(c) The in-service training may be conducted, in part, in the field.

(d) Documentation of in-service hours will be maintained in the employee's personnel record and will be available for inspection by regulatory agencies;

(5) Corporate compliance officer:

(A) Manages policy, practice standards, and compliance, except compliance that is the responsibility of the medical records librarian;

(B) Reports directly to the CEO/ED (except in circumstances where the compliance officer is required to report directly to a director, the board of directors, or an accrediting or oversight agency);

(C) Has no direct responsibility for billings or collections; and

(D) Is the department and Medicaid contact for department certification, Medicaid enrollment, and compliance;

(6)(A) Medical director.

(B) The medical director:

(i) Oversees behavioral health agency care planning, coordination, and delivery, and specifically:

(a) Diagnoses, treats, and prescribes for behavioral illness;

(b) Is responsible and accountable for all client care, care planning, care coordination, and medication storage;

(c) Assures that physician care is available twenty-four (24) hours a day, seven (7) days a week;

(d) May delegate client care to other physicians, subject to

documented oversight and approval; and

(e) Assures that a physician participates in treatment planning and reviews;

(ii)(a) If not a psychiatrist, a psychiatrist certified by one (1) of the specialties of the American Board of Medical Specialties must serve as a consultant to the medical director and to other staff, both medical and nonmedical.

(b) If the provider serves clients under the age of twenty-one (21), the medical director shall have access to a board certified child psychiatrist, for example, through the Psychiatric Research Institute Child/Adolescent Telephone Consultation Service;

(iii) Medical director services may be acquired by contract;

(iv) If not a psychiatrist, then he or she shall contact a consulting psychiatrist within twenty-four (24) hours in the following situations:

(a) When antipsychotic or stimulant medications are used in dosages higher than recommended in guidelines published by the Division of Medical Services;

(b) When two (2) or more medications from the same pharmacological class are used; and

(c) When there is significant clinical deterioration or crisis with enhanced risk of danger to self or others;

(v) The consulting psychiatrist or psychiatrists shall participate in quarterly quality assurance meetings;

(7)(A) Privacy officer.

(B) The privacy officer develops and implements policies to assure compliance with privacy laws, regulations, and rules.

(C) Applicants/providers may assign privacy responsibilities to the corporate compliance officer, grievance officer, or medical records librarian, but not the CEO/ED;

(8)(A) Quality control manager.

(B) The quality control manager chairs the quality assurance committee

and develops and implements quality control and quality improvement activities.

(C) Applicants/providers may assign quality control manager responsibilities to the corporate compliance office or medical records manager, but not the CEO/ED;

(9) The grievance officer:

(A) Develops and implements the applicant's/provider's employee and client grievance procedures;

(B)(i) Effectively communicates grievance procedures to staff, contractors, prospective clients, and clients.

(ii) Communications to clients who are legally incapacitated shall include communication to the client's responsible party; and

(C) Shall not have any duties that may cause him or her to favor or disfavor any grievant;

(10) The medical records librarian:

(A) Must be qualified by education, training, and experience to understand and apply:

(i) Medical and behavioral health terminology and usages covering the full range of services offered by the provider;

(ii) Medical records forms and formats;

(iii) Medical records classification systems and references such as:

(a) The American Psychiatric Association's Diagnostic and Statistical Manual-IV-TR and subsequent editions;

(b) International Classification of Diseases;

(c) Diagnostic Related Groups;

(d) Physician's Desk Reference;

(e) Current Procedural Terminology; and

(f) Medical dictionaries, manuals, textbooks, and glossaries;

(iv) Legal and regulatory requirements of medical records to assure the record is acceptable as a legal document;

(v) Laws and regulations on the confidentiality of medical records

(Patient Medical Records Privacy Act, Arkansas Code § 16-46-401 et seq., and the 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; and

(vi) The interrelationship of record services with the rest of the facility's services; and

(B) Develops and:

(i) Implements the client information system;

(ii) Implements operating methods and procedures covering all medical records functions; and

(iii) Ensures that the medical record is complete, accurate, and compliant; and

(11) A licensed psychologist, licensed psychological examiner, or licensed psychological examiner-independent:

(A) Provides psychological evaluations;

(B)(i) Must have supervision agreements with a doctoral psychologist to provide appropriate supervision or services for any evaluations or procedures that are required under or are outside the psychological examiner's scope of independent practice.

(ii) Documentation of such agreements and of all required supervision and other practice arrangements must be included in the psychological examiner's personnel record; and

(C) Services may be acquired by contract.

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

### **20 CAR § 706-202. Multidisciplinary team or teams.**

(a)(1) Any client identified as Tier 2 by the independent assessment shall be assigned a multidisciplinary team that includes professionals and qualified behavioral health providers as necessary to ensure coordination of each client's outpatient behavioral health services.

(2) All Tier 2 clients require the development of a master treatment plan with ongoing reviews at least every one hundred eighty (180) calendar days.

(b)(1) For clients not eligible for Rehabilitative (Tier 2) Level or Intensive (Tier 3) Level services, the services offered in the Counseling Level (Tier 1) are a limited array of counseling services provided by a master's level clinician.

(2) Establishment of goals and a plan to reach those goals is part of good clinical practice and can be developed with the client during the Mental Health Diagnostic Assessment and Interpretation of Diagnosis.

(3) Clinicians should assess client's response to treatment at each session which should include a review of progress towards mutually agreed upon goals.

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

**20 CAR § 706-203. Quality assurance meetings.**

Each provider must hold a quarterly quality assurance meeting.

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

**20 CAR § 706-204. Healthcare professional notification/disqualification.**

**(a) Notice of covered healthcare practitioners.**

(1) Within twenty (20) days of the effective date of this part, applicants/providers must notify the Office of Medicaid Inspector General of the names of covered healthcare practitioners who are providing outpatient behavioral health services.

(2) On or before the tenth day of each month, providers must notify the office of the names of all covered healthcare practitioners who are providing outpatient behavioral health services and whose names were not previously disclosed.

(b) Licensed healthcare professionals may not furnish outpatient behavioral health services during any time the professional's license is subject to adverse license action.

(c) Applicants/providers may not employ/engage a covered healthcare practitioner

after learning that the practitioner:

- (1) Is excluded from Medicare, Medicaid, or both;
- (2) Is debarred under Arkansas Code § 19-11-245;
- (3) Is excluded under Department of Human Services' Participant Exclusion rule, 25 CAR pt. 30; or
- (4)(A) Was subject to a final determination that the provider failed to comply with professionally recognized standards of care, conduct, or both.

(B) For purposes of this subsection, "final determination" means a final court or administrative adjudication, or the result of an alternative dispute resolution process such as arbitration or mediation.

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

#### **20 CAR § 706-205. Primary work location.**

Applicants/providers must maintain documentation identifying the primary work location of all mental health professionals and qualified behavioral health providers providing services on behalf of the behavioral health agency.

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

#### **20 CAR § 706-206. Disclosures.**

(a) Providers must maintain copies of disclosure forms signed by the client, or by the client's parent or guardian, before outpatient behavioral health services are delivered, except in emergencies.

(b) Such forms must, at a minimum:

- (1) Disclose that the services to be provided are outpatient behavioral health services;
- (2) Explain outpatient behavioral health services eligibility, SED, and SMI criteria;
- (3) Contain a brief description of the behavioral health agency services;

(4) Explain that all outpatient behavioral health services care must be medically necessary;

(5) Disclose that third-party (e.g., Medicaid or insurance) outpatient behavioral health service payments may be denied based on the third-party payer's policies or rules;

(6) Identify and define any services to be offered or provided in addition to those offered by the behavioral health agency, state whether there will be a charge for such services, and, if so, document payment arrangements;

(7) Notify that services may be discontinued by the client at any time;

(8) Offer to provide copies of behavioral health agency and outpatient behavioral health services rules;

(9) Provide and explain contact information for making complaints to the provider regarding care delivery, discrimination, or any other dissatisfaction with care provided by the behavioral health agency; and

(10) Provide and explain contact information for making complaints to state and federal agencies that enforce compliance under 20 CAR § 706-103(6).

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

**Codification Notes.** "SED" means serious emotional disturbance.

"SMI" means serious mental illness.

**20 CAR § 706-207. Required services.**

Outpatient behavioral health services maintained at each site must include:

(1) Psychiatric evaluation and medication management;

(2) Outpatient services, including individual and family therapy at a minimum;

and

(3) Crisis services.

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

**20 CAR § 706-208. Client needs.**

(a) Providers must tailor all outpatient behavioral health services care to individual client needs.

(b) If client records contain entries that are materially identical, the Department of Human Services and the Division of Medical Services will, by rebuttable presumption, that this requirement is not met.

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

**20 CAR § 706-209. Outpatient behavioral health services for individuals under age 18.**

Providers must establish and implement policies for family identification and engagement in treatment for persons under age eighteen (18), including strategies for identifying and overcoming barriers to family involvement.

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

**20 CAR § 706-210. Emergency response services.**

Applicants/providers must establish, implement, and maintain a site-specific emergency response plan, which must include:

- (1) A twenty-four-hour emergency telephone number;
- (2) The applicant/provider must:
  - (A) Provide the twenty-four-hour emergency telephone number to all clients;
  - (B) Post the twenty-four-hour emergency number on all public entries to each site;
  - (C) Include the twenty-four-hour emergency phone number on answering machine greetings; and

(D) Identify local law enforcement and medical facilities within a fifty-mile radius that may be emergency responders to client emergencies;

(3) Direct access to a mental health professional within fifteen (15) minutes of an emergency/crisis call and face-to-face crisis assessment within two (2) hours;

(4) Response strategies based upon:

(A) Time and place of occurrence;

(B) Individual's status (client/nonclient); and

(C) Contact source (family, law enforcement, healthcare provider, etc.);

(5) Requirements for a face-to-face response to requests for emergency intervention received from a hospital or law enforcement agency regarding a current client;

(6) That all face-to-face emergency responses shall be:

(A) Available twenty-four (24) hours a day, seven (7) days a week; and

(B) Made by a mental health professional within two (2) hours of request (unless a different timeframe is within clinical standards guidelines and mutually agreed upon by the requesting party and the MHP responding to the call);

(7)(A) Emergency services training requirements to ensure that emergency services are age-appropriate and comply with accreditation requirements.

(B) Providers shall maintain documentation of all emergency service training in each trainee's personnel file;

(8) Requirements for clinical review by the clinical supervisor or emergency services director within twenty-four (24) hours of each after-hours emergency intervention with such additional reporting as may be required by the provider's policy;

(9) Requirements for documentation of all crisis:

(A) Calls;

(B) Responses;

(C) Collaborations; and

(D) Outcomes; and

(10)(A) Requirements that emergency responses not vary based on the client's funding source.

(B) If a client is eligible for inpatient behavioral health care funded through the community mental health centers and the provider is not a community mental health center with access to these funds, the provider must:

(i) Determine whether the safest, least restrictive alternative is psychiatric hospitalization; and

(ii) Contact the appropriate community mental health center (CMHC) for consult and to request the CMHC to access local acute care funds for those over twenty-one (21).

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

#### **20 CAR § 706-211. Capacity.**

Each applicant/provider must establish and maintain procedures, competence, and capacity:

- (1) For assessment and individualized care planning and delivery;
- (2) For discharge planning integral to treatment;
- (3) For mobile care;
- (4) To assure that each mental health professional makes timely clinical disposition decisions;
- (5) To make timely referrals to other services;
- (6) To refer for inpatient services or less restrictive alternative; and
- (7) To identify clients who need direct access to clinical staff, and to promptly provide such access.

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

#### **20 CAR § 706-212. Quality improvement program.**

Each applicant/provider must establish, maintain, and document a quality improvement program, to include:

- (1) Evidence-based practices;

(2)(A) Use of agency-wide outcome measures to improve both client care and clinical practice that are approved by the agency's national accrediting organization.

(B) The following must be documented:

(i) Measured outcomes;

(ii) Sample report; and

(iii) Collection of outcomes, beginning at the initial mental health diagnosis service, which would be completed very close to the client's intake;

(3) Requirements for informing all clients and clients' responsible parties of the client's rights while accessing services; and

(4) Regular (at least quarterly) quality assurance meetings that include:

(A)(i) Clinical record reviews.

(ii) Medical record reviews of a minimum number of randomly selected charts.

(iii) The minimum number is the lesser of a statistically valid sample yielding ninety-five percent (95%) confidence with a five percent (5%) margin of error, or ten percent (10%) of all charts open at any time during the past three (3) months; and

(B) Program and services reviews that:

(i) Assess and document whether care and services meet client needs;

(ii) Identify unmet behavioral health needs; and

(iii) Establish and implement plans to address unmet needs.

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

### **Subpart 3. Office Requirements**

#### **20 CAR § 706-301. Home office.**

(a) Each provider must maintain and identify a home office in the State of Arkansas.

(b) The home office may be located at a site or may be solely an administrative office not requiring site certification.

(c) The home office is solely responsible for governance and administration of all of the provider's Arkansas sites.

(d) Home office governance and administration must be documented in a coordinated management plan.

(e) The home office shall establish policies for maintaining client records, including policies designating where the original records are stored.

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

**20 CAR § 706-302. Site requirements.**

(a) All sites must be located in the State of Arkansas.

(b) Accreditation documentation must specifically include each site.

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

**20 CAR § 706-303. Site relocation, opening, and closing.**

(a) **Note.** Temporary service disruptions caused by inclement weather or power outages are not closings.

(b) **Planned closings.**

(1) Upon deciding to close a site either temporarily or permanently, the provider immediately must provide written notice to:

- (A) Clients;
- (B) The Department of Human Services;
- (C) The Division of Medical Services;
- (D) The Medicaid fiscal agent; and
- (E) The accrediting organization.

(2) Notice of site closure must state the site closure date.

(3) If site closure is permanent, the site certification expires at 12:00 a.m. the

day following the closure date stated in the notice.

(4)(A) If site closing is temporary, and is for reasons unrelated to adverse governmental action, the department may suspend the site certification for up to one (1) year if the provider maintains possession and control of the site.

(B) If the site is not operating and in compliance within the time specified in the site certification suspension, the site certification expires at 12:00 a.m. the day after the site certification suspension ends.

**(c) Unplanned closings.**

(1) If a provider must involuntarily close a site due to, for example, fire, natural disaster, or adverse governmental action, the provider must immediately notify clients and families, the department, the division, the Medicaid fiscal agent, and the accrediting organization of the closure and the reason or reasons for the closure.

(2) Site certification expires in accordance with any pending regulatory action, or, if no regulatory action is pending, at 12:00 a.m. the day following permanent closure.

**(d) All closings.**

(1) Providers must assure and document continuity of care for all clients who receive outpatient behavioral health services at the site.

**(2) Notice of closure and continuing care options.**

(A) Providers must assure and document that clients and families receive actual notice of the closure, the closure date, and any information and instructions necessary for the client to obtain transition services.

(B) After documenting that actual notice to a specific client was impossible despite the exercise of due diligence, providers may satisfy the client notice requirement by mailing a notice containing the information described in subdivision (d)(2)(A) of this section, above, to the last known address provided by the client.

(C)(i) Before closing, providers must post a public notice at each site entry.

(ii) The public notice must include the name and contact information for all behavioral health agencies within a fifty-mile radius of the site.

(3)(A) An acceptable transition plan is described below:

**Transition Plan:**

- 1. Identify and list all certified sites within a 50 mile radius. Include telephone numbers and physical addresses on the list.**
- 2. Provide clients/families with the referral information and have them sign a transfer of records form/release of information to enable records to be transferred to the provider of their choice.**
- 3. Transfer records to the designated provider.**
- 4. Designate a records retrieval process as specified in Section I of the Arkansas Medicaid Outpatient Behavioral Health Services Provider Policy Manual § 142.300.**
- 5. Submit a reporting of transfer to DHS (Attn: Policy & Certification Office) including a list of client names and the disposition of each referral. See example below.**

<b>Name</b>	<b>Referred to:</b>	<b>Records Transfer Status:</b>	<b>RX Needs Met By:</b>
Johnny	OP Provider Name	To be delivered 4/30/20XX	Provided 1 month RX
Mary	Private Provider Name	Delivered 4/28/20XX	No Meds
Judy	Declined Referral	XX	

- 6. DHS may require additional information regarding documentation of client transfers to ensure that client needs are addressed and met.**

(B) Department of Human Services Behavioral Health Agency Form 220 shall be used when a site is to be closed.

(e) **New sites.** Use Department of Human Services Behavioral Health Agency Form 250 to apply for new sites, which would include a new Medicaid provider ID number for that site.

(f) **Site transfer.**

(1)(A) At least forty-five (45) calendar days before a proposed transfer of an accredited site, the provider must apply to the department to transfer site certification.

(B) The application must include documentation that:

(i) The provider notified the accrediting entity, and the accrediting entity has extended or will extend accreditation to the second site; or

(ii) The accrediting entity has established an accreditation timeframe.

(2) The provider must notify clients and families, the department, the division, the Medicaid fiscal agent, and the accrediting organization at least thirty (30) calendar days before the transfer.

(3)(A) The department does not require an on-site survey, nor does the division require a new Medicaid provider number.

(B) Please use Department of Human Services Behavioral Health Agency Form 220 for a site move or transfers.

(g) **Site relocation.** The provider must follow the rules for closing the original site, and the rules for opening a new site.

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

#### **Subpart 4. Certifications and Appeals**

##### **20 CAR § 706-401. Provider recertification.**

(a)(1) The term of Department of Human Services' site certification is concurrent with the provider's national accreditation cycle, except that site certification extends six (6) months past the accreditation expiration month if there is no interruption in the accreditation.

(2) The six-month extension is to give the behavioral health agency time to receive a final report from the accrediting organization, which the provider must immediately forward to the department.

(b) Providers must furnish the department a copy of:

(1)(A) Correspondence related to the provider's request for reaccreditation.

(B) Providers shall send the department copies of correspondence from the accrediting agency within five (5) business days of receipt.

(C) Providers shall furnish the department copies of correspondence to the accrediting organization concurrently with sending originals to the accrediting organization; and

(2)(A) An application for provider and site recertification.

(B) The department must receive provider and site recertification applications at least fifteen (15) business days before the department behavioral health agency certification expiration date.

(C) The recertification form with required documentation is Department of Human Services Behavioral Health Agency Form 230 and is available at the Division of Provider Services and Quality Assurance.

(c) If the department has not recertified the provider and site or sites before the certification expiration date, certification is void beginning 12:00 a.m. the next day.

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

**20 CAR § 706-402. Maintaining department behavioral health agency certification.**

(a) Providers must:

(1) Maintain compliance;

(2) Assure that Department of Human Services certification information is current, and to that end must notify the department within thirty (30) calendar days of any change affecting the accuracy of the provider's certification records;

(3) Furnish the department all correspondence in any form (e.g., letter, facsimile, email) to and from the accrediting organization to the department within thirty (30) calendar days of the date the correspondence was sent or received except:

(A) As stated in 20 CAR § 706-303;

(B) Correspondence related to any change of accreditation status, which providers must send to the department within three (3) calendar days of the date the correspondence was sent or received; and

(C) Correspondence related to changes in service delivery, site location, or

organizational structure, which providers must send to the department within ten (10) calendar days of the date the correspondence was sent or received; and

(4) Display the behavioral health agency certificate for each site at a prominent public location within the site.

**(b) Annual reports.**

(1)(A) Providers must furnish annual reports to the department before July 1 of each year that the provider has been in operation for the preceding twelve (12) months.

(B) Community mental health centers and specialty clinics may meet this requirement by submitting the annual plan/basic services plan to the department.

(2)(A) The annual report shall be prepared by completing forms provided by the department.

(B) Please use Department of Human Services Behavioral Health Agency Form 240 for the behavioral health agency annual report.

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

**20 CAR § 706-403. Noncompliance.**

Failure to comply with this part may result in one (1) or more of the following:

(1) Submission and implementation of an acceptable corrective action plan as a condition of retaining behavioral health agency certification;

(2) Suspension of behavioral health agency certification for either a fixed period or until the provider meets all conditions specified in the suspension notice; or

(3) Termination of behavioral health agency certification.

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

**20 CAR § 706-404. Appeal process.**

(a)(1) If the Department of Human Services denies, suspends, or revokes any behavioral health agency certification (takes adverse action), the affected proposed

provider or providers may appeal the department adverse action.

(2) Notice of adverse action shall comply with Arkansas Code §§ 20-77-1701 – 20-77-1705, and Arkansas Code §§ 20-77-1708 – 20-77-1713.

(3) Appeals must be submitted in writing to the department.

(4) The provider has thirty (30) calendar days from the date of the notice of adverse action to appeal.

(5) An appeal request received within thirty-five (35) calendar days of the date of the notice will be deemed timely.

(6) The appeal must state with particularity the error or errors asserted to have been made by the department in denying certification, and cite the legal authority for each assertion of error.

(7) The provider may elect to continue Medicaid billing under the behavioral health agency program during the appeals process.

(8) If the appeal is denied, the provider must return all moneys received for behavioral health agency services provided during the appeals process.

(b) Within thirty (30) calendar days after receiving an appeal, the department shall:

(1) Designate a person who did not participate in reviewing the application or in the appealed-from adverse decision to hear the appeal;

(2) Set a date for the appeal hearing; and

(3)(A) Notify the appellant in writing of the date, time, and place of the hearing.

(B) The hearing shall be set within sixty (60) calendar days of the date the department receives the request for appeal, unless a party to the appeal requests and receives a continuance for good cause.

(c) The department shall tape record each hearing.

(d)(1) The hearing official shall issue the decision within forty-five (45) calendar days of the date that the hearing record is completed and closed.

(2) The hearing official shall issue the decision in a written document that contains:

(A) Findings of fact;

(B) Conclusions of law; and

(C) The decision.

(3) The findings, conclusions, and decision shall be mailed to the appellant except that if the appellant is represented by counsel, a copy of the findings, conclusions, and decision shall also be mailed to the appellant's counsel.

(4) The decision is the final agency determination under the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(e)(1) Delays caused by the appealing party shall not count against any deadline.

(2) Failure to issue a decision within the time required is not a decision on the merits and shall not alter the rights or status of any party to the appeal, except that any party may pursue legal process to compel the hearing official to render a decision.

(f) Except to the extent that they are inconsistent with this policy, the appeal procedures in the Medicaid Outpatient Behavioral Health Services Manual are incorporated by reference and shall control.

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