OKLAHOMA DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

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TITLE 450

CHAPTER 1

Administration

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Unofficial Copy

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SUBCHAPTER 1. GENERAL INFORMATION

450:1-1-1. Purpose

(a) These rules are promulgated pursuant to the requirements of the Administrative Procedures Act, 75 O.S. § 250, et seq. The purpose of these rules is to effectively implement and enforce the provisions of Title 43A of the Oklahoma Statutes. These rules supplement existing state and federal laws, and being duly promulgated, have the force and effect of law.

(b) These rules govern formal proceedings of the Department. Informal proceedings may be held as announced by the Department or as agreed with any person.

450:1-1-1.1. Definitions

The following words or terms, as defined below, when used in Chapters 1, 15, 16, 17, 18, 21, 22, 23, 24, 27, 30, 50, 53, 55, 60, 65 and 70, shall have the following meaning, unless the context clearly indicates otherwise and will prevail in the event there is a conflict with definitions included elsewhere in Chapters 1, 15, 16, 17, 18, 21, 22, 23, 24, 27, 30, 50, 53, 55, 60, 65 and 70:

"Administrative Hearing Officer" means an individual who is an attorney licensed to practice law in the State of Oklahoma and is appointed by the Commissioner of ODMHSAS to preside over and issue a proposed order in individual proceedings.

"AOA" means American Osteopathic Association.

"Behavioral Health Aide (BHA)" means individuals must have completed sixty (60) hours or equivalent of college credit or may substitute one year of relevant employment and/or responsibility in the care of children with complex emotional needs for up to two years of college experience, and:

(A) must have successfully completed the specialized training and education curriculum provided by the ODMHSAS; and

(B) must be supervised by a bachelor's level individual with a minimum of two years case management experience or care coordination experience; and

(C) treatment plans must be overseen and approved by a LBHP or Licensure Candidate; and

(D) must function under the general direction of a LBHP, Licensure Candidate and/or systems of care team, with a LBHP or Licensure Candidate available at all times to provide back up, support, and/or consultation.

"Board" means the Oklahoma State Board of Mental Health and Substance Abuse Services.

"CARF" means Commission on Accreditation of Rehabilitation Facilities (CARF).

"Certification" means a status which is granted to a person or an entity by the Oklahoma State Board of Mental Health and Substance Abuse Services or the ODMHSAS, and indicates the provider is in compliance with minimum standards as incorporated in OAC 450 to provide a particular service. In accordance with the Administrative Procedures Act, 75 O.S. § 250.3(8), certification is defined as a "license."

"Certified Alcohol and Drug Counselor (CADC)" means Oklahoma certification as an Alcohol and Drug Counselor.

"Certified Behavioral Health Case Manager" or "CM" means any person who is certified by the ODMHSAS as a Behavioral Health Case Manager pursuant to Oklahoma Administrative Code, Title 450, Chapter 50.

"Certified facility" means any facility which has received a certification status by the Oklahoma State Board of Mental Health and Substance Abuse Services or the ODMHSAS.

"Certification report" means a summary of findings documented by ODMHSAS related to an applicant's compliance with certification standards.

"COA" means the Council on Accreditation of Services for Families and Children, Inc.

"Contractor" or **"contractors"** means any person or entity under contract with ODMHSAS for the provision of goods, products or services.

"Employment Consultant (EC)" means an individual who (i) has a high school diploma or equivalent; and (ii) successful completion of Job Coach training.

"Entities" or **"entity"** means sole proprietorships, partnerships and corporations.

"Facilities" or **"facility"** means entities as described in 43A O.S. § 1-103(7), community mental health centers, residential mental health facilities, community-based structured crisis centers, certified services for the alcohol and drug dependent, programs of assertive community treatment, eating disorder treatment, gambling addiction treatment, and narcotic treatment programs.

"Family Support and Training Provider (FSP)" means

(A) have a high school diploma or equivalent;

(B) be 21 years of age and have successful experience as a family member of a child or youth with serious emotional disturbance, or a minimum of 2 years experience working with children with serious emotional disturbance or be equivalently qualified by education in the human services field or a combination of work experience and education with one year of education substituting for one year of experience (preference is given to parents or care givers of child with SED);

(C) successful completion of Family Support Training according to a curriculum approved by the ODMHSAS;

(D) pass OSBI background check;

(E) treatment plans must be overseen and approved by a LBHP or Licensure Candidate; and

(F) must function under the general direction of a LBHP, Licensure Candidate or systems of care team, with a LBHP or Licensure Candidate available at all times to provide back up, support, and/or consultation.

"Individual proceeding" means the formal process employed by an agency having jurisdiction by law to resolve issues of law or fact between parties and which results in the exercise of discretion of a judicial nature.

"Institutional Review Board" or **"IRB"** means the ODMHSAS board established in accordance with 45 C.F.R. Part 46 for the purposes expressed in this Chapter.

"Intensive Case Manager (ICM)" means an individual who is designated as an ICM and carries a caseload size of not more than twenty-five (25) individuals. They are a

LBHP, Licensure Candidate, CADC, or certified as a Behavioral Health Case Manager II, and have:

(A) a minimum of two (2) years Behavioral Health Case Management experience,

(B) crisis diversion experience, and

(C) successfully completed ODMHSAS ICM training.

"IRB approval" means the determination of the IRB that the research has been reviewed and may be conducted within the constraints set forth by the IRB and by other agency and Federal requirements.

"Levels of performance" or **"level of performance"** means units of service by types of service.

"Licensed Alcohol and Drug Counselor" or **"LADC"** means any person who is licensed through the State of Oklahoma pursuant to the provisions of the Licensed Alcohol and Drug Counselors Act.

"Licensed Behavioral Health Professional" or **"LBHP"** means:

(A) allopathic or osteopathic physicians with a current license and board certification in psychiatry or board eligible in the state in which services are provided, or a current resident in psychiatry;

(B) practitioners with a license to practice in the state in which services are provided issued by one of the following licensing boards:

(i) Psychology;

(ii) Social Work (clinical specialty only);

(iii) Professional Counselor;

(iv) Marriage and Family Therapist;

(v) Behavioral Practitioner; or

(vi) Alcohol and Drug Counselor;

(C) advanced practice nurse (certified in a psychiatric mental health specialty), licensed as a registered nurse with a current certification of recognition from the board of nursing in the state in which services are provided; or

(D) a physician assistant who is licensed in good standing in the state and has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or therapy functions.

"Licensed dietitian" means a person licensed by the Oklahoma Board of Medical Licensure and Supervision as a dietitian.

"Licensed mental health professional" or **"LMHP"** as defined in Title 43A §1-103(11).

"Licensed physician" means an individual with an M.D. or D.O. degree who is licensed in the state of Oklahoma to practice medicine.

"Licensed practical nurse" means an individual who is a graduate of an approved school of nursing and is licensed in the State of Oklahoma to provide practical nursing services.

"Licensure candidate" means practitioners actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed by one of the following licensing boards:

(A) Psychology;

(B) Social Work (clinical specialty only);

(C) Professional Counselor;
(D) Marriage and Family Therapist;
(E) Behavioral Practitioner; or
(F) Alcohol and Drug Counselor.

"Minimal risk" means that the probability and magnitude of harm or discomfort anticipated in the research are not greater, in and of themselves, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examination or tests.

"ODMHSAS" or **"Department"** means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"Paraprofessional" means a person who does not have an academic degree related to the scope of treatment or support services being provided but performs prescribed functions under the general supervision of that discipline.

"Peer Recovery Support Specialist" or "**PRSS**" means an individual certified by ODMHSAS as a Peer Recovery Support Specialist pursuant to requirements found in OAC 450:53.

"Probationary certification" means a certification status granted for a period less than three (3) years.

"Psychiatrist" means a licensed physician who specialized in the assessment and treatment of individuals having psychiatric disorders and who is fully licensed to practice medicine in the state in which he or she practices and is certified in psychiatry by the American Board of Psychiatry and Neurology, or has equivalent training or experience.

"Registered nurse" means an individual who is a graduate of an approved school of nursing and is licensed in the state of Oklahoma to practice as a registered nurse.

"Rehabilitative services" means face-to-face individual or group services provided by qualified staff to develop skills necessary to perform activities of daily living and successful integration into community life.

"Reimbursement rates" means the rates at which all contractors are reimbursed (paid) for services they provide under their ODMHSAS contract.

"Research" means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. Activities which meet this definition constitute research for purposes of this Chapter, whether or not they are conducted or supported under a program that is considered research for other purposes. For example, some demonstration and service programs may include research activities.

"Respondent" means the person(s) or entity(ies) named in a petition for an individual proceeding against whom relief is sought**.**

"Service area" means a geographic area established by the Department of Mental Health and Substance Abuse Services for support of mental health [43A O.S. § 3-302(1)].

"Service Provider" means a person who is allowed to provide substance abuse services within the regulation and scope of their certification level or license.

"Site Review Protocol" means an ODMHSAS document developed as a work document in the certification site visit(s) that is based primarily upon the rules (standards/criteria) being reviewed. The Site Review Protocol is used in preparing the Certification Report, which is provided to the facility as well as to the Board for its consideration and action related to certification.

"Support Services Provider (SSP)" means an individual age eighteen (18) or older with a high school diploma or equivalent.

"TJC" means The Joint Commission formerly referred to as the Joint Commission on Accreditation of Healthcare Organizations or JCAHO.

"Volunteer" means any person who is not on the program's payroll, but provides services and fulfills a defined role within the program and includes interns and practicum students.

450:1-1-2. Applicability

This, and all subsequent chapters are applicable, unless otherwise specifically noted in a chapter, subchapter, part or section of Oklahoma Administrative Code Title 450, to the Oklahoma Department of Mental Health and Substance Abuse Services, the State Board of Mental Health and Substance Abuse Services, and:

(1) all employees and institutions and facilities of ODMHSAS (43A O.S. §§ 3-101 and 3-107); and

(2) all facilities (43A O.S.§§ 1-103(7), 3-306.1, 3-315, 3-317, 3-319, 3-320, 3-222, 3-323A and 3-415) under contract with ODMHSAS; and

(3) all facilities subject to certification by ODMHSAS (43A O.S. §§ 3-306.1, 3-315, 3-317, 3-319, 3-320, 3-222, 3-415, 3-601); and

(4) institutions, organizations and individuals subject to certification by ODMHSAS to provide alcohol and drug substance abuse courses (43A O.S. §§ 3-451 through 3-453); and

(5) agencies and individuals subject to certification by ODMHSAS to provide alcohol and drug assessment and evaluation programs related to driver's license revocation [47 O.S. §§ 11-902(G) and 6-212.2; 43A O.S. § 3-460];

(6) individuals subject to certification to be a behavioral health case manager pursuant to 43A O.S. § 3-318; and

(7) Individuals subject to certification to be recovery support specialist to 43A O.S. § 3-326.

450:1-1-3. Compliance with laws and rules

(a) Any statute of the United States or of the State of Oklahoma now existing, or duly enacted in the future, shall supersede any conflicting provision of the rules of this and all subsequent chapters to the extent of such conflict, but shall not affect the remaining provisions therein.

(b) All persons and organizations affected by the rules of this and all subsequent chapters and related laws shall be knowledgeable of the conduct pertinent in operating in accordance with all such rules and laws.

(c)New or amended rules promulgated through permanent rulemaking will be enforced as of November 1 of the year in which they become effective.

450:1-1-4. Organization

(a) The Board is the entity vested with authority to make rules for the implementation of the Department's statutorily mandated and permissible functions under 43A O.S. §§ 1-101, et seq.

(b) The Board shall appoint the Commissioner, who is the chief executive officer of the Department with duties, privileges and responsibilities set forth in 43A O.S. § 2-202.1. The Commissioner shall maintain such staff as authorized by law and assign said staff to carry out the duties and responsibilities required to fulfill the statutory requirements of 43A O.S. §§1-101 et seq., and the rules and directives of the Board.

(c) The Department shall be organized and divided into such areas and departments as the Board and the Commissioner deem desirable for efficiency. Copies of organizational charts are available upon request from the Human Resources Management Division.

450:1-1-5. Objectives

The objectives of the ODMHSAS are as follows:

(1) The provision of quality mental health and substance abuse services within the resources available, to those persons, and their families, receiving services from the facilities either operated by, certified by or under contract with ODMHSAS.

(2) The services by mental health and substance abuse providers are rendered in an environment of safety, dignity and with respect to the rights of those persons and their families.

(3) Adherence to and compliance with applicable state and federal statutes, including but not limited to Title 43A of the Oklahoma Statutes and the Public Health Services Act (42 U.S.C.) by all facilities operated by, under contract with, or certified by ODMHSAS.

450:1-1-6. Public records

(a) **Official records.** Official records of the Board and the Department include information, rules, forms, the record in individual proceedings, records submitted to the Department, and other public records in accordance with the Oklahoma Open Records Act 51 O.S. §§ 24A.1, et seq.

(b) **Copies.** Copies of official records of the Board or Department, not privileged or protected from publication by law, shall be available to the public.

450:1-1-7. Requests for agency public information

Any person making a request pursuant to 450:1-1-6 shall comply with the following:

(1) The request must be in writing and may be mailed to Oklahoma Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, Oklahoma 73152-3277, or sent via facsimile to (405) 522-3650, or made in person during regular office hours between 8:00 a.m. and 5:00 p.m.

(2) The request must describe the record(s) requested, be signed by the party making the request, and have the party's mailing address and telephone number.

(3) Whenever possible, requests shall be made to the division or area of the Department that maintains the records. Requests by attorneys in formal litigation must go through the Legal Division. Requests for personnel records that are not

confidential must go through the Human Resources Management Division. Requests for records regarding facilities or programs certified by the Board must be directed to the Provider Certification Division. Requests for records regarding persons or entities contracting with the Department must be directed to the Contracts Division. Requests from the media for records must go through the Communications Division. Requests for records regarding Board meetings must go through the Office of the Commissioner. If the division or area that maintains the records is unknown to the party making the request, the request should be directed to the Legal Division.

(4) The requesting party shall pay a fee for copies. Said fee shall be twenty-five cents (25¢) per page, twelve dollars ($12.00) per 3½-inch diskette, and $1.00 per page for certified documents. For commercial requests or those that would cause excessive disruption of office function, such as documents that are archived, either internally or with the Oklahoma Archives and Records Commission, a search fee will be charged based upon the hourly rate of the individual(s) searching for, and locating, the requested records.

(5) Mental health and substance abuse treatment records are confidential and not subject to release by statutes and federal regulations including, but not limited to, 43A O.S. §§ 1-109, 3-313, 3-422 and 3-423; 63 O.S. § 1-1502; and 42 CFR, Part 2.

(6) Certain ODMHSAS employee personnel records are confidential and not subject to the Oklahoma Open Records Act, including employee evaluations, payroll deductions, applications submitted by persons not hired by ODMHSAS; internal personnel investigations including examination and selection material, employees' home addresses, telephone numbers, and social security numbers, medical and employee assistance records, and other personnel records where disclosure would constitute a clear invasion of privacy. Personnel records information that are subject to release are the application of a person who becomes an employee of the Department, gross receipt of public funds, dates of employment, title or position and any final disciplinary action resulting in loss of pay, suspension, demotion or termination.

(7) Any other document protected, as confidential, by any Oklahoma or federal law, or Oklahoma or federal administrative rule, or by order of a court of competent jurisdiction, is not subject to the Oklahoma Open Records Act.

450:1-1-8. Forms

In order to maintain efficiency and uniformity in the administration of duties, ODMHSAS will devise and maintain forms for use by any party. The forms may be revised periodically to insure uniformity, efficiency, and expediency. The prescribed forms must be used by all affected parties unless another form is approved by ODMHSAS prior to its submission, or other provisions are stated in subsequent chapters. Each division or departmental area shall make available to the public all rules and other written statements of policy adopted or used in the discharge of its functions, all forms, applications and instructions for use by the public, including those required to apply for a certification. Additionally, forms may be acquired by request under 450:1-1-7.

450:1-1-9. Procedures to secure a declaratory ruling as to the applicability of any rule or order of ODMHSAS

(a) Any person subject to the rules contained in rules of ODMHSAS (Oklahoma Administrative Code Title 450) may petition for a declaratory ruling as to the applicability of a specific rule and its effect on petitioner. In petitioning ODMHSAS for a declaratory ruling, the following procedures must be followed:

(1) The petition must be in writing and submitted to the Rules Liaison of ODMHSAS in person at 1200 N.E. 13th Street, Oklahoma City or by mail to P.O. Box 53277, Oklahoma City, OK 73152;

(2) The petition shall state with specificity the rule in question;

(3) The petition shall state clearly and with specificity the bases for the action and the action or relief sought;

(4) The petition shall pose the specific question(s) to be answered by ODMHSAS; and

(5) The petitioner or petitioner's authorized representative shall print his or her name address and telephone number on the petition and sign it.

(b) The petition will be stamped upon receipt by ODMHSAS to show the date of submission. The petition shall be referred to the appropriate staff persons to make a recommendation to the Commissioner, who shall issue a ruling within 30 days.

(c) The petitioner shall be notified of the declaratory ruling in writing by the U.S. Postal Service's Certified Mail with Return Receipt Requested.

(d) The ruling shall become final unless, within 10 days, the petitioner files with the Rules Liaison a written request for a hearing before the Board. If the petitioner requests such a hearing, the matter shall be placed on the agenda of the next scheduled Board meeting if it is filed ten (10) calendar days or more prior to the meeting. If the request is filed less than ten (10) days prior to the next scheduled Board meeting, it will be placed on the agenda of the following meeting.

(e) At the hearing of the matter by the Board, the petitioner and Department staff shall be permitted to present oral argument to the Board, the length of which shall be limited by the chair of the Board. At the conclusion of the presentation of the matter, the Board shall render a decision on the petition and a written decision shall follow within 10 days.

(f) A declaratory ruling or refusal to issue such ruling, shall be subject to judicial review in the manner provided for review of decisions in individual proceedings in the Oklahoma Administrative Procedures Act (75 O.S. § 307).

450:1-1-10. Procedures to petition the ODMHSAS to request the promulgation, amendment or repeal of a rule

Any person affected either by a rule adopted and promulgated by ODMHSAS, or the lack of a rule and regulation may petition ODMHSAS to promulgate, adopt, amend or repeal the rule pursuant to 75 O.S. § 305 and in accordance with this section.

(1) The petition must be in writing and submitted to the Rules Liaison of ODMHSAS in person at 1200 N.E. 13th Street, Oklahoma City or by mail to P.O. Box 53277, Oklahoma City, OK 73152 setting forth:

(A) The proposed amendment, promulgation, or repeal of a specific rule

(B) The reason for the petition to repeal, promulgate, or amend a rule; and

(C) The effect that the repeal, amendment or promulgation of the rule would have

on the petitioner.

(2) The petitioner must print his or her name, address and telephone number on the petition and it must be signed by the petitioner.

(3) The Department shall timely respond to such petition, either by initiating rulemaking proceedings or by denying the petition.

(4) The petitioner will be notified by regular mail if rulemaking proceedings are initiated.

(5) A petition for rulemaking will be deemed denied if the Department has not initiated rulemaking proceedings within thirty (30) calendar days after the petition is submitted.

450:1-1-11. Procedures to request suspension of rules for performance improvement study

(a) Any person or entity subject to the rules contained in rules of ODMHSAS (Oklahoma Administrative Code Title 450) may petition for a suspension of a particular rule or rules as applied for by the petitioner if necessary for the petitioner to undergo performance improvement studies to determine the validity of the rule or rules and such study is being funded by either a state or federal authority.

(b) In petitioning ODMHSAS for a declaratory ruling, the following procedures must be followed:

(1) The petition must be in writing and submitted to the Rules Liaison of ODMHSAS in person at 1200 N.E. 13TH Street, Oklahoma City or by mail to P.O. Box 53277, Oklahoma City, OK 73152;

(2) The petition shall state with specificity the rule or rules in question;

(3) The petition shall state clearly and with specificity the bases for the suspension, the funding source of the study, and the time period the suspension will be needed; and

(4) The petitioner or petitioner's authorized representative shall print his or her name address and telephone number on the petition and sign it.

(c) The petition will be stamped upon receipt by ODMHSAS to show the date of submission. The petition shall be referred to the appropriate staff persons to make a recommendation to the Commissioner, who shall issue a ruling within 30 days.

(d) The petitioner shall be notified whether the suspension is granted in writing by the U.S. Mails, certified mail, return receipt requested.

SUBCHAPTER 3. CONTRACTS FOR MENTAL HEALTH, SUBSTANCE ABUSE, AND RESIDENTIAL CARE SERVICES

PART 1. ELIGIBILITY TO CONTRACT

450:1-3-1. Purpose

The purpose of this Part is to delineate the criteria for eligibility for entities to contract with the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) for the provision of mental health, substance abuse, eating disorder, gambling addiction, narcotic treatment, and residential care services to the public as permitted or required under Title 43A of the Oklahoma Statutes.

450:1-3-2. Definitions [REVOKED]

450:1-3-3. Applicability

This part is applicable to all entities presently under contract with ODMHSAS to provide mental health, substance abuse, eating disorder, gambling addiction, narcotic treatment, and residential care services; and to all entities which may either be, or desire to be, considered for such contracts.

450:1-3-4. Criteria for eligibility to contract

The criteria for eligibility to contract with the ODMHSAS are as follows:

(1) The entity shall exist in conformity with Oklahoma Statutes regulating said entity, and provide such proof. In addition, if said entity purports to be a not for profit corporation, the proof of exemption from federal taxes under the U.S. Internal Revenue Service Code shall be made.

(2) Revocation or non-renewal of an entity's certification by ODMHSAS shall result in contract termination for any service requiring such certification as of the date of ODMHSAS action.

450:1-3-5. Staff qualifications for contracted entities

(a) All staff who provide clinical or supportive services for an agency contracting with ODMHSAS shall have documented qualifications, licensing or training specific to the clinical services they provide.

(b) The following service providers, as defined in 450:1-1-1.1, may provide behavioral health treatment and support services as agreed upon per contract between ODMHSAS and the contractor:

(1) Behavioral Health Aide (BHA);
(2) Behavioral Health Case Manager (CM);
(3) Certified Alcohol and Drug Counselor (CADC);
(4) Employment Consultant (EC);
(5) Family Support and Training Provider (FSP);
(6) Intensive Case Manager (ICM);
(7) Licensed Behavioral Health Professional (LBHP);
(8) Licensure Candidate;
(9) Licensed Mental Health Professional (LMHP);
(10) Licensed Physician;
(11) Licensed Practical Nurse;
(12) Paraprofessional;
(13) Psychiatrist;
(14) Peer Recovery Support Specialist (PRSS);
(15) Registered Nurse;
(16) Support Services Provider (SSP).

(c) Compliance with 450:1-3-5 shall be determined by a review of staff personnel files and other supporting documentation provided.

(d) Failure to comply with 450:1-3-5 will result in the initiation of procedures to deny, suspend and/or revoke certification.

PART 3. CONTRACTS AND CONTRACTING PROCESSES

450:1-3-14. Purpose

The purpose of this Part is to describe the contracts and contracting processes of ODMHSAS for the provision of mental health, substance abuse, eating disorder, gambling addiction, narcotic treatment, and residential care services to the public.

450:1-3-15. Applicability

This Part is applicable to all entities presently under contract to provide mental health services, substance abuse services, community-based structured crisis services, eating disorder services, gambling addiction services, narcotic treatment services, and residential care services, and to all entities which may either be, or desire to be, considered for such contracts.

450:1-3-16. Contract forms

Contracts are in a standardized form and format as determined by ODMHSAS which may be revised from year to year to meet changing state and federal statutes and regulations, and the requirement of ODMHSAS to fulfill its functions and responsibilities.

450:1-3-17. Contract execution ODMHSAS [REVOKED]

450:1-3-18. Contract type [REVOKED]

450:1-3-19. Competitive bidding

With regard to competitive bidding:

(1) Contracts which are not based upon fixed uniform rates shall be competitively bid unless said contract is exempt from competitive bidding.

(2) Contracts based upon fixed uniform rates, which have been previously approved by the Department of Central Services, set by the Board, on the recommendation of the Commissioner of ODMHSAS, are not subject to competitive bidding [74 O.S. § 85.7 (11)].

450:1-3-20. Contract, services performance

Contracts shall require performance of specific service(s) to be performed. Where the services cannot be broken down into units, specifically measurable and reviewable services shall be stated. Additionally, contracts may contain requirements of performance based upon measurable quality outcome indicators.

450:1-3-21. Contract renewal

(a) Contracts for community mental health services, substance abuse services, community-based structured crisis services, eating disorder services, gambling addiction services, narcotic treatment services, and residential care services are considered during the third (3rd) and fourth (4th) quarter of the ODMHSAS fiscal year,

for contracting in the following fiscal year.
(b) Consideration for renewal shall include a review of performance of the current contract including, but not limited to, measurable outcome indicators, target populations served, levels of performance of specific services, the existence of any patients' rights violations, and cost effectiveness of the delivery of services.
(c) If ODMHSAS determines the contractual relationship shall be renewed, it shall be in a new contract for the upcoming fiscal year and may or may not contain the same terms, conditions, form and format as the previous contract.

450:1-3-22. Contractor reimbursement rates

Reimbursements to contractors for mental health, substance abuse, eating disorder services, gambling addiction services, narcotic treatment services, and residential care services shall be considered and set in the manner described as follows:

(1) Contractors shall annually, or as otherwise prescribed, submit to ODMHSAS a uniform cost report in the form and format determined by ODMHSAS, and within time-frames established by ODMHSAS.

(2) ODMHSAS staff shall review and analyze these cost reports, requesting where deemed necessary the submission of supporting clarifying information within fifteen (15) days of said request.

(3) ODMHSAS staff may recommend to the Board fixed uniform rates for services, taking into consideration variables such as average costs, appropriate inflationary factors, capitation methods, performance outcome measures, staff credentials and available funding.

(4) Prior to submitting to the Board the proposed rates or changes to existing rates, the following shall occur:

(A) The ODMHSAS shall provide written notice of an open hearing on the proposed fixed rates to each applicable contractor of record.

(B) The ODMHSAS shall conduct, and make a summary of, the scheduled open hearing.

(5) Consideration of the proposed fixed rate by the Board shall not occur until the Director of Department of Central Services has been provided with, pursuant to 74 O.S. § 85.7:

(A) Thirty (30) days written notice of the Board Meeting to consider the uniform rates of reimbursement;

(B) A copy of the Board Meeting agenda item(s) concerning the proposed rate(s); and

(C) All supporting documentation and materials regarding the reimbursement rates being proposed.

(6) The Board shall, at the meeting referenced in (5)(A) and (B) of this section, separately consider each proposed fixed and uniform rate of reimbursement. These rates, if adopted, shall then take effect on a date determined by the Board when the rates are considered for adoption; and remain in effect until subsequent Board action.

(7) All revisions shall be examined, proposed, considered and adopted pursuant to this section.

(8) Where a fixed rate is already authorized by the Department of Central Services

according to the provisions of 74 O.S. § 85.7, ODMHSAS, through its Commissioner, may adopt and utilize said fixed rate without Board approval.

SUBCHAPTER 5. PROCEDURE IN INDIVIDUAL ADMINISTRATIVE PROCEEDINGS

450:1-5-1. Individual proceedings

(a) Article II of the Administrative Procedures Act ("APA"), 75 O.S. §§ 308a, et seq., governs individual proceedings by ODMHSAS or the Board for revocation and suspension of certification or for reprimand of certified facilities.

(b) Further, this chapter sets forth the procedural aspects of individual proceedings and hearings provided for in accordance with the Administrative Procedures Act.

450:1-5-2. Definitions [REVOKED]

450:1-5-3. Persons affected by individual actions

The Board directs that ODMHSAS may bring an individual proceeding against any person or entity certified by the Board or ODMHSAS for violation of Title 43A of the Oklahoma Statutes or the rules of the ODMHSAS as set forth in Title 450 of the Oklahoma Administrative Code.

450:1-5-4. Types of sanctions

The following administrative sanctions may be taken against a respondent:

(1) Revocation of certification
(2) Reduction in certification
(3) Suspension of certification
(4) Reprimand

450:1-5-5. Petition and notice in individual proceedings

(a) **Petition and Notice.** In the event the Commissioner determines action should be taken, an individual proceeding may be initiated by filing a petition and notice with the Hearing Clerk for ODMHSAS, who shall be designated by the Commissioner, and by serving the petition on all respondents. The petition and notice shall include a statement of the legal authority and jurisdiction under which the action is taken, reference to the statutes and rules involved, a short and plain statement of the matters asserted and the relief requested. The petition may allege facts by attaching and incorporating a document by reference. The petition and notice shall commence and become effective fifteen (15) calendar days after receipt of said notice by the respondent, unless the respondent timely files a written request for a hearing with ODMHSAS.

(b) **Request for hearing.** A request for hearing will be timely filed if said request is in writing and received by the Hearing Clerk of ODMHSAS within ten (10) calendar days of the date the party received the petition and notice. If a timely written request for a hearing is not filed by the respondent, the allegations in the petition, shall be deemed confessed by the respondent and the action will become final as set forth herein. If the written request for hearing is timely filed, such hearing shall be scheduled before an Administrative Hearing Officer at least fifteen (15) days from the date said request is

filed, and the parties shall be notified of the date, time and place of the hearing. If an emergency exists, a hearing may be conducted without the filing of a petition and without waiting fifteen (15) days.

450:1-5-5.1. Service of petition and notice

(a) **Service.** The petition and notice shall be served on the respondent(s) personally or by certified mail, return receipt requested to the address of the respondent(s) on file with the Department.

(b) **Proof of service.** Proof of service shall be filed with the hearing clerk.

(c) **Substitute service.** If the Department is unable to obtain service on a respondent, the petition and notice shall be mailed by regular mail to the last known address of the respondent, and the Department shall file an affirmation service was attempted.

(d) **Service of other papers and documents.** Service of all other papers and documents connected with an individual proceeding shall be served on the parties or their counsel by delivering a copy or via regular mail or facsimile.

450:1-5-5.2. Emergency actions

When the Commissioner or Hearing Officer finds that the public health, safety or welfare requires action be taken immediately and when such a finding is incorporated in an order, emergency action or summary suspension of a certification may be ordered pending the filing of a petition or the outcome of an individual proceeding.

450:1-5-5.3. Procedures in individual proceedings generally

The order of procedure in all individual proceedings shall generally be governed by the APA, Oklahoma Pleading Code and the Oklahoma Discovery Code. Any matter of practice or procedure not specified will be guided by the practice and procedure followed by the district courts of this state.

450:1-5-5.4. Prehearing conference

A pre-hearing conference may be ordered and scheduled by the Hearing Officer on his own motion or upon the request of any party. The Hearing Officer may authorize the conference to occur by teleconference. The subjects and objectives of the pre-hearing conference shall be similar to those for pretrial proceedings in district courts.

450:1-5-6. Continuances

(a) **Continuance by ODMHSAS.** The Hearing Officer may continue or adjourn the proceedings at any time for a specified time, with notice or motion.

(b) **Continuance by motion of parties.** Except for good cause shown, or by agreement of all parties, no continuance will be granted upon motion of a party unless written request therefore is filed and served on all parties of record and filed with the Hearing Clerk at least seven (7) days prior to the date set for hearing. A stipulation for continuance among all parties of record ordinarily will be approved, unless the Hearing Officer determines that the public interest requires otherwise.

450:1-5-7. Discovery

(a) **Purpose.** Discovery is designed to enable a party to obtain relevant information needed for presentation of the party's case. This section is intended to provide a simple method of discovery.
(b) **Explanation.** Discovery is a process apart from the hearing whereby a party may obtain information from another person which has not otherwise been provided. This information is obtained for the purpose of assisting the parties in developing, preparing and presenting their cases.
(c) **Methods.** Discovery shall be conducted generally in accordance with Section 315 of the APA and as set forth in the Oklahoma Discovery Code. Additionally, the Hearing Officer may enter specific orders directing the conduct of discovery.

450:1-5-8. Protective orders
(a) The Hearing Officer at the hearing or at anytime upon application of a party, with or without notice, may make such orders relating to discovery as may be necessary or appropriate for the protection of the parties, and to prevent hardship to and excessive burden upon a party. Such orders may, among other subjects, limit the scope of depositions, prohibit questions or subjects of inquiry, require or excuse answers to questions on deposition, limit or excuse, in whole or in part, production of documents or answers to interrogatories, and shorten or extend the time within which any act shall be performed. Disclosure of consumer identification shall only be ordered pursuant to state and federal law.
(b) The Hearing Officer may make appropriate orders, including dismissal of a proceeding or denial of relief, as may be warranted for failure or refusal to comply with an order issued pursuant to this rule.

450:1-5-9. Subpoenas
(a) **Issuance and service.** Subpoenas for the attendance of witnesses, the furnishing of information and the production of evidence shall be issued by the Hearing Clerk upon request by a party. As an officer of the court, an attorney authorized to practice law in Oklahoma may also issue and sign subpoenas. Filing a formal request for the issuance of subpoenas shall not be required. Subpoenas shall be served and a return made in the same manner as provided in the Oklahoma Pleading Code, 12 O.S. § 2004.1.
(b) **Failure to obey.** Either party may seek an appropriate judicial proceeding to compel compliance by persons who fail to obey a subpoena, who refuse to be sworn or make an affirmation at a hearing or who refuse to answer a proper question during a hearing. The hearing shall proceed despite any such refusal but the Hearing Officer may, in his or her discretion, continue the proceedings as necessary to secure a court ruling.
(c) **Motions to quash.** Any person to whom a subpoena is directed, may file a motion to quash or limit the subpoena with the Hearing Clerk, setting forth the reasons why the subpoena should not be complied with or why it should be limited in scope and the Hearing Officer will rule on the motion.

450:1-5-10. Conduct and record of hearing

(a) **Open to public.** Every hearing before ODMHSAS shall be conducted by the designated Hearing Officer. All hearings shall be open to the public unless a protective order is entered for protection of consumer confidentiality; however, upon motion of a party to the proceeding, the Hearing Officer may exclude from the hearing room any witness not at that time under examination. A party to the proceeding and that party's attorney may not be excluded.

(b) **Record.** All testimony shall be taken on the record unless otherwise designated by the Hearing Officer. An electronic recording of the hearing proceedings shall be made. The recording will not be transcribed as a matter of course. The electronic recording of ODMHSAS shall be the official record. Copies of the recordings shall be provided to a party on written request. The cost of transcription, if done, shall be borne by the party having the recording transcribed.

(c) **Court reporter.** A party may have the proceeding transcribed by a court reporter at the expense of the party. Each party requesting copies shall make arrangements for such with the reporter, and pay the costs.

(d) **Maintenance of the record.** The record of a proceeding and the file containing the notices and the pleadings will be maintained by the Hearing Clerk in a location designated by the Hearing Clerk. All pleadings, motions, orders and other papers submitted for filing in an individual proceeding shall be stamped with the date filed by the Hearing Clerk upon receipt.

(e) **Designation on appeal.** On an appeal to district court, the parties may designate and counter-designate portions of the record to save costs, following the procedures in the APA.

450:1-5-11. Hearing officers

(a) **Exercise of authority.** The Commissioner shall appoint at least one individual who is a licensed attorney to act as the Administrative Hearing Officer in individual proceedings filed before the Department of Mental Health and Substance Abuse Services.

(b) The Administrative Hearing Officer shall conduct fair and impartial hearings and take all necessary action to avoid delay in the disposition of all proceedings. He or she shall have all powers necessary to that end unless otherwise limited by law including, but not limited to, the authority to:

(1) Administer oaths and affirmations;

(2) Rule upon objections and offers of proof and receive relevant evidence;

(3) Rule upon the institution of discovery procedures as appropriate;

(4) Convene a hearing as appropriate, regulate the course of the hearing, examine any witness in order to clarify issues; maintain decorum and exclude from the hearing any disruptive persons;

(5) Exclude from the hearing any witness whose later testimony might be colored by testimony of other witnesses or any person whose presence might have a chilling effect on testifying witness;

(6) Rule on all motions, witness and exhibit lists and proposed findings;

(7) Require the filing of memoranda of law and the presentation of oral argument with respect to any question of law;

(8) Order the production of evidence and the appearance of witnesses whose

testimony would be relevant, material and non-repetitious;

(9) Make inquiries of the parties or witnesses for the purpose of clarification or fact findings to insure a fair and impartial decision;

(10) Render decisions pursuant to the particular action taken;

(11) May require, or allow, the filing of briefs by the parties, and may designate the order and time for filing briefs and reply briefs;

(12) Close the record when all interested parties have had the opportunity to be heard and to present evidence; and

(13) Issue findings and orders.

(c) **Disqualification of hearing officer.**

(1) The Administrative Hearing Officer shall withdraw from any individual proceeding in which he cannot accord a fair and impartial hearing or consideration, stating on the record the reasons therefore, and shall immediately notify all parties of the withdrawal.

(2) Any party may file a motion requesting the Administrative Hearing Officer withdraw on the basis of personal bias or other disqualification and specifically setting forth the reasons for the request. This motion shall be filed as soon as the party has reason to believe there is a basis for the disqualification. The Administrative Hearing Officer shall rule on said motion.

450:1-5-12. Sanctions for non-compliance with hearing and discovery procedures

The Hearing Officer may impose sanctions upon the parties as necessary to serve the ends of justice.

450:1-5-13. Order of hearing

(a) **Appearances and default.** At the hearing, every party shall announce an appearance. An individual may appear on their own behalf or be represented by an attorney. A corporation must be represented by counsel. Any respondent who fails to appear as directed, after service of the petition and notice of hearing as provided by these rules, may be determined to have waived the right to appear and present a defense to the allegations contained in the petition, and the Hearing Officer may default the party and issue an order sustaining the allegations.

(b) **Preliminary matters.** The following shall be taken up prior to receiving evidence:

(1) The ODMHSAS and other parties may offer preliminary exhibits, including pleadings necessary to present the issues to be heard.

(2) Ruling shall be made on any pending motions, including requests for delivery of documents.

(3) Stipulations of fact and stipulated exhibits shall be received.

(4) Parties shall make opening statements where appropriate.

(5) Any other preliminary matters appropriate for dispositions prior to offers of evidence.

(c) **Rules of evidence.** The rules of evidence shall be those specified by the APA.

(d) **Presentation of the case.** At the hearing, each party may make a brief opening statement, present witnesses and exhibits, cross-examine adverse witnesses, and make closing arguments.

450:1-5-14. Order

(a) **Issuance and services of order.** Not more than twenty (20) calendar days after conclusion of the hearing, the Hearing Officer shall issue a proposed order with findings of fact and conclusions of law. If ODMHSAS proves its allegations in the petition and notice by clear and convincing evidence, the Hearing Officer shall issue an order sustaining the allegations. If ODMHSAS does not meet its burden, the Hearing Officer shall issue an order in favor of the respondent(s). The Hearing Clerk shall file and serve the proposed order on ODMHSAS and respondent(s) by certified mail, return receipt requested.

(b) **Appeal.** A party may appeal a Hearing Officer's Order to the ODMHSAS Board.

(1) Request for hearing. The Hearing Officer's order shall become final unless a party files and serves a written request for hearing by the ODMHSAS Board with the Hearing Clerk within fifteen (15) calendar days of the filing of the order.

(2) Briefs and exceptions. In the event a hearing by the Board is requested, all parties will be given the opportunity to file briefs and exceptions to the Hearing Officer's Order.

(3) Hearing. When a request for hearing is filed, the matter will be set on the agenda for the next Board meeting, unless the request is filed fifteen (15) calendar days or less prior to the next scheduled Board meeting, in which case it will be set for the agenda of the following meeting. The party requesting the hearing shall file any brief it wishes the Board to consider along with the request for hearing. The other party will then have ten (10) days to file its response. At the Board meeting, the parties shall be permitted to present oral argument. The length of oral argument shall be determined by the chair of the Board. Upon conclusion of oral argument by the parties, the Board may convene in executive session to deliberate the matter.

(4) Issuance of decision. The Board shall issue its decision within thirty (30) calendar days after the hearing before the Board.

(5) Appeal. A party may appeal the Board's decision as provided in the APA.

450:1-5-15. Hearing before the Board and Final Order [REVOKED]

450:1-5-16. Settlement

Unless precluded by law, individual proceedings may be resolved by agreed settlement or consent order, with the concurrence of the Commissioner, or the Chief Operating Officer or the Hearing Officer.

450:1-5-17. Costs of administrative sanction proceedings where sanction results

The cost of certification review, the record, and administrative sanction proceedings shall be advanced by ODMHSAS. Where a certification review results in an administrative sanction, the cost of the certification review, the record, and administrative sanction proceedings shall be surcharged against the sanctioned party. Costs of administrative sanction proceedings shall include costs of prosecution of the sanction imposed. Reapplication for consideration of certification will not be considered unless and until the sanctioned party pays such costs to ODMHSAS.

SUBCHAPTER 7. CHARGES AND ELIGIBILITY FOR ODMHSAS SERVICES

450:1-7-1. Purpose

The purpose of this Subchapter is to set forth the rules of the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) with regard to the charges for services within ODMHSAS operated facilities.

450:1-7-2. Applicability

This Subchapter is applicable to all ODMHSAS operated facilities and to entities contracting with ODMHSAS under OAC 450:1 Subchapter 3.

450:1-7-3. Definitions [REVOKED]

450:1-7-4. Charges, ODMHSAS operated facilities [REVOKED]

450:1-7-4.1. Charges, ODMHSAS operated facilities

At least annually ODMHSAS shall review all charges for services provided at its facilities, and, if warranted, shall propose a change in the rate of charges for any services(s), based upon the cost of providing said services, or changes in the method/form of reimbursement under the U.S. Social Security Act Titles for Medicare and Medicaid.

450:1-7-5. Reimbursement rates, contractors [REVOKED]

450:1-7-6. Liability of Consumer for care and treatment--Eligibility for Waiver of Liability

(a) A consumer at a facility within the Department is responsible for payment and liable for his care and treatment unless he or she has received a waiver of the indebtedness from the Department.

(b) A consumer at a facility within the Department shall be granted a waiver from payment for services if the following criteria are met:

(1) The individual must be in need of behavioral health services. An individual shall be considered to be in need of behavioral health services if treatment is needed to stabilize, reduce or eliminate the symptoms of, or prevent worsening of any of the following conditions for which a facility within the Department offers treatment needed based on the diagnosis and level of care:

(A) A diagnosable behavioral health condition as defined by the current DSM, excluding a sole diagnosis of developmental disorders or dementia disorders;

(B) A presenting problem(s) that indicates a behavioral health illness or condition;

(C) A level of functioning that indicates the need for behavioral health treatment based on a standard assessment instrument; or

(D) A behavioral health crisis.

(2) The individual must be uninsured. An individual shall be considered uninsured if one of the following applies:

(A) The individual is not covered by private or public insurance and receives no insurance benefits for behavioral health services;

(B) The individual has used all available benefits or coverage allowed for

behavioral health services;

(C) The individual has limited benefits for behavioral health services, but the service(s) needed by the individual are not covered by the individual's insurance or plan; or

(D) Except for housing and vocational services, persons receiving behavioral health services through a health maintenance organization are considered to be fully covered for behavioral health services and are not eligible for a waiver of liability.

(3) The individual is indigent. An individual shall be considered indigent if he or she is at or below 200% of the Federal Poverty Guidelines based solely on the individual's applicable income. The indigence requirement does not apply to persons receiving emergency services or to persons seventeen (17) years of age or younger.

(A) "Income" is total annual cash receipts before taxes from all sources, and includes money wages and salaries before any deductions, net receipts from self-employment, regular payments from social security, railroad retirement, unemployment compensation, strike benefits from union funds, workers' compensation, veterans' payments, public assistance (including Temporary Assistance for Needy Families and Supplemental Security Income), training stipends; alimony, child support, military family allotments or other regular support from an absent family member or someone not living in the household, private pensions, government employee pensions, regular insurance or annuity payments, college or university scholarships, grants, fellowships and assistantships, dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings.

(B) "Income" does not include non-cash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, the value of food and fuel produced and consumed on farms, the imputed value of rent from owner-occupied non-farm or farm housing, and federal non-cash benefit programs such as Medicare, Medicaid, food stamps, school lunches, loans and housing assistance.

(C) Adjustments to "income" are allowed for the following:

(i) Child care allowance for dependent children under the age of fourteen (14). The amount of $200 for each child under the age of two (2), and $175 for each child under the age of fourteen (14) can be deducted from "income" to calculate total adjusted "income". If the family has children, there is no verification requirement.

(ii) Working adult allowance for working adults in the household. The amount of $240 for each working adult can be deducted from "income" to calculate total adjusted "income". "Working adult" is defined as a person age eighteen (18) or older with earned income (adult children in the household are not eligible to be counted for this deduction). There is no verification requirement for this deduction.

(c) Before any waiver of liability is granted, a report or questionnaire must be prepared which indicates the demographic information including the consumer's name, address if any, telephone number if any, and social security number, the consumer's

income, number of dependents and third-party insurance or payer information. Income must be verified by the facility obtaining one of the following:

(1) The consumer's Internal Revenue Service Form W-2 from the previous year;

(2) The consumer's federal or state income tax return from the previous year;

(3) Two recent, consecutive paycheck stub(s) showing the pay date, hours worked, types of pay and gross rate of pay;

(4) A Medicaid card; or

(5) Any government document that verifies income.

If the facility is unable to verify the consumer's income by an independent source, the consumer or a family member of the consumer must sign an income verification statement before a waiver of liability may be granted.

(d) The executive director of the facility within the Department or his or her designee shall make a determination of whether the consumer meets the criteria for waiver of liability and sign a statement, which must be placed in the consumer's record at the facility, of the reasons for the waiver.

SUBCHAPTER 9. CERTIFICATION AND DESIGNATION OF FACILITY SERVICES

450:1-9-1. Applicability of certification

This subchapter applies to all entities and individuals which are subject to certification by the Board, or the Commissioner or designee.

450:1-9-2. Definitions [REVOKED]

450:1-9-3. Purpose of certification

The purpose of ODMHSAS certification is to assess each facility's responsibility to the consumer, and delivery of acceptable services to the consumer. Responsibility to the consumer is demonstrated through the provision of suitable facilities, trained staff and needed services which are accessible, safe and confidential. In addition to the above, is demonstrated by the willingness and ability of the facility's governing authority and staff to provide the planning, budgeting and management of resources necessary to the continued existence and effectiveness of the facility/services.

450:1-9-4. Reviewing authority

(a) The Board may certify community mental health centers, community residential mental health facilities, community-based structured crisis centers, eating disorder treatment programs, alcohol and drug treatment programs, outpatient mental health treatment programs (mental illness treatment programs), comprehensive addiction treatment centers, programs of assertive community treatment, gambling addiction treatment programs, and narcotic treatment programs as cited in Section 450:1-9-1, and directs that such shall be carried out as stated in this subchapter.

(b) The Board, or the Commissioner, or designee may also certify qualified individuals to perform within the scope of specific functions to provide treatment or support services related to behavioral health services. Certification of individuals shall be carried out as stated in OAC 450: 1 and in accordance with applicable requirements specified in other

chapters of OAC 450.

(c) The Commissioner of ODMHSAS may grant or extend a Permit for Temporary Operations to respond to unplanned changes that create an emergency need for service provision in the public behavioral health delivery system for services operated by or funded by ODMHSAS.

(1) Provider Certification shall conduct a site review at the designated facility which must meet the minimal compliance requirements as cited in 450:1-9-7.

(2) The application procedure for completion of the certification process shall be accomplished in accordance with 450:1-9-6 and 450:1-9-7.

(3) The Permit for Temporary Operations emergency certification status granted to the facility by the Commissioner as described above must be presented at the next ODMHSAS Board meeting for Board review and confirmation. In the event the Board does not confirm the Temporary Certification status granted by the Commissioner, the Permit for Temporary Operations expire no later than thirty (30) days from the Board's action as stipulated in a written notice provided to the organization for which the Permit was denied.

450:1-9-5. Qualifications for certifications of facilities and programs and individuals

(a) Qualifications for certification are as follows:

(1) Compliance with applicable Standards and Criteria as authorized within the authority of Title 43A of the Oklahoma Statutes including but not limited to those formally codified in the Title 450 regulating the area for which certification is sought Codified Standards and Criteria include but are not limited to:

(A) Chapter 16, Standards and Criteria for Community Residential Mental Health Facilities;

(B) Chapter 17, Standards and Criteria for Community Mental Health Centers;

(C) Chapter 18, Standards and Criteria for Substance Related and Addictive Disorder Treatment Services;

(D) Chapter 21, Certification of Alcohol and Drug Substance Abuse Courses (ADSAC), Organizations and Facilitators;

(E) Chapter 22, Certification of Alcohol and Drug Assessment and Evaluations Related to Driver's License Revocation;

(F) Chapter 23, Standards and Criteria for Community Based Structured Crisis Centers;

(G) Chapter 24, Standards and Criteria for Comprehensive Community Addiction Recovery Centers;

(H) Chapter 27, Standards and Criteria for Mental Illness Service Programs;

(I) Chapter 50, Standards and Criteria for Certified Behavioral Health Case Managers;

(J) Chapter 53, Standards and Criteria for Certified Peer Recovery Support Specialists;

(K) Chapter 55, Standards and Criteria for Programs of Assertive Community Treatment;

(L) Chapter 60, Standards and Criteria for Certified Eating Disorder Treatment Programs;

(M) Chapter 65, Standards and Criteria for Gambling Treatment Programs; and

(N) Chapter 70, Standards and Criteria for Opioid Substitution Treatment Programs.

(2) ODMHSAS will designate specific standards in the Chapters listed above, that are applicable to facilities and programs, as Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards and the requirements that must be present to determine minimal compliance with each type of standard

(A) Core Organization Standards will address requirements necessary to assure the public and consumers of services that essential organizational functions are substantially in place at the facility and the facility is prepared to initiate services for which certification is being requested. These can be verified prior to the initiation of services for which the organization is requesting certification.

(B) Core Operational Standards will address other essential conditions and processes that must be in place to assure basic safety and protection of consumer rights. Some of these can also be verified prior to the initiation of service. Others must be verified when an organization begins providing services.

(C) Quality Clinical Standards will address actual services provided, qualifications of staff, clinical documentation, and processes designed to assure consistency in quality and efficacy of services. These can only be verified after a reasonable time during which services have been provided.

(3) For each Chapter listed above ODMHSAS will designate certain core organizational, core operational and clinical standards that will be considered critical to the protection of the health, safety and welfare of the clients. Failure to meet these will result in immediate suspension and/or revocation.

(4) An applicant for certification must also comply with all other applicable statutory licensing provisions, including but not limited to individual professional licensure, other licenses, or permits required of organizational entities.

(b) A certified Community Mental Health Center that provides alcohol and drug treatment services in the course of its outpatient or inpatient services, but has no designated or specialized alcohol and drug abuse treatment program component, shall not be subject to additional certification under the Certified Services for Alcohol- and Drug-Dependent Standards and Criteria in OAC 450, Chapter 18.

(c) A certified Community Mental Health Center providing alcohol and drug abuse treatment services as a designated or specialized program component shall be subject to certification under the Certified Services for Alcohol- and Drug-Dependent Standards and Criteria in OAC 450, Chapter 18 or Comprehensive Community Addiction Recovery Centers Standards and Criteria in OAC 450, Chapter 24.

450:1-9-5.1. Types and duration of certification status for facilities and programs

(a) The ODMHSAS may grant the following types of certification for the durations specified below.

(1) **Permit for Temporary Operations.** Permits for temporary operations may be granted upon ODMHSAS's verification that the organization has complied with all Core Organizational Standards and Core Operational Standards applicable to the related type of services for which certification is sought. In addition, for facilities that have provided services for 30 days or longer applicable to this type of certification

ODMHSAS may review compliance with applicable Quality Clinical Standards. The Permit will expire at the end of six (6) months or if a subsequent certification is achieved by the organization and subsequently granted by ODMHSAS prior to the expiration of the Permit. ODMHSAS may extend a Permit for no more than 60 days in the event of extenuating circumstances as determined by ODMHSAS.

(2) **Probationary Certification.** Probationary Certification may be awarded for a one (1) year period by ODMHSAS in accordance with applicable chapters as stipulated in 450:1-9-5 and when ODMHSAS verifies that all conditions in 450:1-9-5.1(a)(3) exist but the program initiated operations prior to the awarding of a Permit for Temporary Operations for the services for which certification is statutorily required. Organizations awarded Probationary Certification must apply for and be awarded Probationary Certification for two additional one (1) year terms, prior to being considered for other categories of ODMHSAS Certification.

(3) **Certification.** ODMHSAS may award Certification for a one (1) year or two (2) year period beyond the period approved for a Permit for Temporary Operations or as a renewal of a previously awarded Certification in accordance with applicable chapters as stipulated in 450:1-9-5 and when ODMHSAS determines that the organization has met minimal compliance with each type of standard (i.e. Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards). To qualify for Certification, programs must meet the following:

(A) Demonstrate compliance with all Core Organizational Standards and with all Core Operational Standards as verified by ODMHSAS and within timeframes stipulated by ODMHSAS; and,

(B) For a two (2) year certification, demonstrate compliance with at least 75% of all Quality Clinical Standards on the initial site review, and file an acceptable plan of correction and demonstrate compliance with 100% of Quality Clinical Standards, as verified by ODMHSAS in accordance 450:1-9-7.1 and 450:1-9-7.3.

(C) Programs with fewer than five (5) active cases for which clinical records could be reviewed must meet the requirements in (B) above, but can be considered for no more than a one (1) year certification.

(D) Community Residential Mental Health Programs can be considered for no more than a one (1) year certification.

(E) Programs awarded a Probationary Certification are not eligible for Certification under the conditions described in 450:1-9-5.1(3) until all conditions of 450:1-9-5.1(2) have been satisfied.

(4) **Certification with Distinction.** Certification with Distinction may be awarded for up to three (3) years by ODMHSAS in accordance with applicable chapters as stipulated in 450:1-9-5 for programs seeking renewal of previously awarded certification when ODMHSAS verifies all of the following minimal conditions are satisfied.

(A) Programs must have provided services with an approved ODMHSAS Certification as described in 450:1-9-5.1(3) for one (1) year or longer in addition to the time services were provided under an approved Permit for Temporary Operations or a Probationary Certification.

(B) Programs must demonstrate compliance with all Core Organizational Standards and with all Core Operational Standards as verified by ODMHSAS; and,

(C) Programs must also demonstrate compliance with at least 90% of all Quality Clinical Standards on the initial renewal site visit and review as verified by ODMHSAS. Compliance may be determined during initial site reviews or during additional site reviews following the implementation of a plan of correction as required ODMHSAS, in accordance 450:1-9-7.1 and 450:1-9-7.3.

(D) Programs for which ODMHSAS determines compliance with all standards as required in (a), (b), and (c) may be considered for Certification with Distinction for a three (3) year period.

(E) ODMHSAS may refund certification renewal application fees for organizations that demonstrate 100% compliance with all standards (i.e. Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards) during the initial renewal site visit and review.

(F) Community Residential Mental Health Programs can be considered for no more than a one (1) year Certification with Distinction.

(G) Programs awarded a Probationary Certification are not eligible for Certification under the conditions described in 450:1-9-5.1(4) until all conditions of 450:1-9-5.1(2) have been satisfied.

(5) **Certification with Special Distinction.** Certification with Special Distinction may be awarded for up to three (3) years by ODMHSAS in accordance with applicable chapters as stipulated in 450:1-9-5 for programs seeking renewal of previously awarded certification when ODMHSAS verifies all of the following minimal conditions are satisfied.

(A) The program must meet all conditions for Certification with Distinction as outlined in 1-9-5.1(a)(4); and,

(B) The program has attained national accreditation (COA, CARF, or TJC) for the services to which ODMHSAS Certification applies.

(C) Certification with Special Distinction will be reduced by ODMHSAS to Certification with Distinction by ODMHSAS if during the certification period for which the Special Distinction was approved, the program fails to maintain national accreditation status.

(D) ODMHSAS may refund certification renewal application fees for organizations that demonstrate 100% compliance with all standards (i.e. Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards) during the initial renewal site visit and review.

(E) Community Residential Mental Health Programs can be considered for no more than a one (1) year Certification with Distinction.

(F) Programs awarded a Probationary Certification are not eligible for Certification under the conditions described in 450:1-9-5.1(a)(4) until all conditions of 450:1-9-5.1(a)(2) have been satisfied.

(b) Permits for Temporary Operations granted to applicants for initial certification of a facility, location, or level of service shall be for a period of six (6) months and shall become effective immediately upon approval by the ODMHSAS Board, the Commissioner or designee.

(c)Certification, other than Permits for Temporary Operations, granted to an applicant shall become effective the first day of the month following the date of the action by the Board, provided however, the Board may waive this requirement and make the Certification effective immediately.

450:1-9-5.2. Types and Duration of certification of individuals

(a) Certification for Behavioral Health Case Managers will be in accordance with requirements and procedures stipulated in 450:50 Certification of Behavioral Health Case Managers.

(b) Certification for organizations and individuals providing alcohol and drug abuse course instruction will be in accordance with requirements and procedures stipulated 450:21 Certification of Alcohol and Drug Substance Abuse Courses (ADSAC), Organizations and Facilitators.

(c) Certification related to alcohol and drug assessment and evaluation related to driver's licenses revocation will be in accordance with requirements and procedures stipulated in 450:22, Certification of Alcohol and Drug Assessment and Evaluations Related to Driver's License Revocation.

(d) Certification for Recovery Support Specialists will be as done in accordance with requirements and procedures stipulated in 450:53 Certification of Recovery Support Specialists.

450:1-9-5.3. Additional conditions related to certification

(a) Certification granted by ODMHSAS is not transferable. A change of the ownership of a facility automatically terminates any certification status, requiring application for certification by the new ownership.

(1) If the certified facility is owned by a corporation the following applies:

(A) If the corporation is not-for-profit, a change in membership of the Board of Directors of more than fifty percent (50%) of the Directors in three (3) or less calendar months, unless such change was caused by the normal expiration of terms in accordance with the bylaws of the Board of Directors, shall require the facility to be recertified.

(B) If the corporation is other than not-for-profit, a change in the ownership of more than forty per cent (40%) of the stock in the corporation from the owners at the beginning of the period of certification shall require the facility to be recertified.

(2) It is the responsibility of the facility to notify the ODMHSAS of the occurrence of either of the conditions requiring recertification and to request the application materials for recertification.

(b) Organizations granted certification, including Permits for Temporary Operation, shall only publically refer to ODMHSAS Certification in relationship to the specific services, locations, and dates applicable to each currently granted ODMHSAS Certification. This includes all published materials, electronic media, and information posted within a facility. Failure to adhere to this restriction can be cause for action related to Certification in accordance with 1-5-4.

(c) ODMHSAS shall conduct at least one unannounced additional certification site visit during each one (1) year term of a program granted Probationary Certification and each program granted 1-Year Certification.

(1) A site visit report will be supplied to the program or facility within five (5) days of the site visit unless precluded by extenuating circumstances.

(2) If deficiencies are noted, the program or facility must file a Plan of Correction addressing all deficiencies within ten (10) days of receipt of the report.

(3) Deficiencies verified during the unannounced site visit that indicate danger to the health, safety and/or welfare of the clients will result in immediate suspension and/or revocation.

(d) Certification may be suspended or revoked with the basis for such action being delineated in Section 450:1-9-9 of this Subchapter.

450:1-9-6. Procedures for application for certification

(a) Applications for certification as a community mental health center, community residential mental health facility, community-based structured crisis center, comprehensive community addiction recovery centers, mental illness service programs, eating disorder treatment program, alcohol and drug treatment program, program of assertive community treatment, gambling addiction treatment program, and narcotic treatment program must be made to ODMHSAS in writing on a form and in a manner prescribed by the Commissioner of ODMHSAS and include the following:

(1) A fully completed ODMHSAS application for certification form signed by authorized officials;

(2) The necessary written documentation or supporting evidence required on the application for certification form; and

(3) The required certification fee in the form of a check or money order, payable to the Oklahoma Department of Mental Health and Substance Abuse Services.

(4) The following fees are required:

(A) Application fee for all Treatment Programs is $300 per certification period.

(B) Application fee for Community Residential Mental Health Programs is $100 per certification period.

(5) The application for certification form, required written documentation and fee must be submitted to Oklahoma Department of Mental Health and Substance Abuse Services, Provider Certification Division, P.O. Box 53277, Oklahoma City, Oklahoma 73152-3277.

(6) The application may require a listing of all services provided by the applicant, as well as specifics about the applicant including but not limited to governing authority, administrative, fiscal, proof of status as a business entity recognized by the State of Oklahoma, Secretary of State, all locations or sites where applicant will provide services and types of services to be provided.

(7) The application must include a listing of key personnel responsible for business and clinical operations of the facility. At a minimum, the application will require a listing of the following, along with current contact information:

(A) Agency director;

(B) Business director or financial officer;

(C) Clinical director, currently licensed in the clinical area(s) for which certification is sought.

(i) If both substance use disorder treatment and mental health treatment services will be provided by the entity, the Clinical Director must have evidence of dual license or additional training in the area for which they are not currently licensed.

(ii) The facility must also provide evidence that the Clinical Director will be employed to serve as Clinical Director a minimum of ten (10) hours per week.

(8) ODMHSAS may refund certification fees based on exemplary performance during the Certification process for which the application has been submitted and based on guidelines established by ODMHSAS.

(b) Applications for certification or credentials as individual must be made to ODMHSAS in writing on a form and in a manner prescribed by the Commissioner of ODMHSAS and, as applicable, in accordance with specific requirements stipulated in the following chapters of 450:21, 450:22, 450:50, and for Recovery Support Specialist, in accordance with application instructions stipulated by ODMHSAS.

(c) Failure to provide required materials within a timely manner or to the extent required will result in a denial of the application.

450:1-9-6.1. Expanding certification of facilities and programs to additional geographical areas; Adding new programs or levels of care

(a) A facility or program, after being certified, may request to add a service location within the geographic area in which the facility currently provides certified services.

(b) For purposes of 1-9-6.1, the facility's or program's geographic area is limited to the county in which the currently certified program's or facility's main office is located or an immediately contiguous county. Except for a Certified Community Mental Health Center, the geographic area will be defined as the service area established by ODMHSAS in accordance with 43A O.2 § 3-302 (1).

(c) Approval may be granted by the Commissioner upon submission of the required documentation to the Provider Certification Division provided the organization is not certified under a Permit for Temporary Operations.

(1) The facility must notify ODMHSAS in writing of the plan to expand service locations on a form and in a manner prescribed by the Commissioner of ODMHSAS.

(2) The required written documentation or supporting evidence includes, but is not limited to:

(A) fire & safety inspection;

(B) facility policies and procedures;

(C) zoning compliance; and

(D) evidence of compliance with Title 43A O.S. §3-417.1, if applicable.

(d) At the time of the next review of the facility's main office certification, any location which extended service provision to a different geographic area will require a separate certification application and may be reviewed on a schedule separate and apart from the certification schedule of the main office.

(e) If after being certified, a facility desires to offer a new type of service or new level of care, for which certification is required, the facility must submit an application for

certification, the required documentation and fee to the ODMHSAS Provider Certification Division, P.O. Box 53277, Oklahoma City, Oklahoma 73152-3277.

450:1-9-7. Procedures for completion of the Permit for Temporary Operations certification process

(a) Completion of the certification process for a Permit for Temporary Operations will be done in cooperation between the applicant and ODMHSAS staff, and consists of the following:

(1) Each organization pursuing ODMHSAS certification shall initially apply for a Permit for Temporary Operations.

(2) Upon receipt of an application ODMHSAS will provide all applicants for a Permit for Temporary Operations a document listing the Core Organizational Standards, Core Operational Standards and Quality Clinical Standards required for a Permit for Temporary Operations. For facilities or programs that have provided clinical services for 30 days or longer, at the time of the initial application, ODMHSAS may also review applicable Quality Clinical Standards.

(3) The application shall be reviewed for completeness by ODMHSAS staff. If the application is deemed complete, a site review of the facility or program will be scheduled and completed. Failure to provide required materials within a timely manner or to the extent required will result in a denial of the application.

(4) Any deficiencies of applicable Core Organizational Standards and Core Operational Standards, and Quality Clinical Standards cited as a result of the site visit or subsequent review(s) of documents requested by ODMHSAS will be identified and a report will provided to the facility by ODMHSAS within five (5) working days of the site visit unless precluded by extenuating circumstances.

(5) The facility will have ten (10) working days from receipt of the deficiency report to correct deficiencies related to Core Organizational and Core Operational Standards and provide to ODMHSAS proof of compliance. ODMHSAS may conduct an additional site visit(s) to verify proof of compliance.

(6) If any pending deficiencies in Core Organizational Standards and Core Operational Standards are identified following this ten (10) day correction period, the program will have five (5) additional working days from receipt of any subsequent report to correct and verify compliance with any pending deficiencies.

(7) The following additional procedures will apply to programs or facilities reviewed for Quality Clinical Standards pursuant to an application for Permit for Temporary Operation as referenced in 1-9-7 (2) above.

(A) The facility will also have ten (10) working days from receipt of the report to submit a plan for correction related to cited deficiencies in Quality Clinical Standards. The plan of correction will indicate the earliest date by which ODMHSAS should schedule an additional site visit or documentation review to determine compliance with Quality Clinical Standards for which deficiencies were cited but not more than twenty (20) working days from receipt of report as referenced in (5) above.

(B) Any deficiencies of applicable standards identified during the additional site visit or review referenced in (A) above will be identified by ODMHSAS and included in a report provided to the facility by ODMHSAS within three (3)

working days of the site visit or review unless precluded by extenuating circumstances. Facilities for which ODMHSAS cannot determine compliance with all pending Clinical Standards during the follow up site visit or review referenced in (A) above may request ODMHSAS to complete one additional site visit or review prior to the finalization of a certification report. Facilities desiring this additional review must do so in writing to the Director of Provider Certification within three (3) working days of receipt of the follow up report referenced in (A) above and indicate the earliest date by which ODMHSAS should schedule the final review but not more than fifteen (15) working days from receipt of report as referenced in (A) above.

(8) Facilities for which ODMHSAS can verify compliance with all applicable Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards, within the timeframes specified in (3) through (7) above may be considered for Permit for Temporary Operation in accordance with guidelines established in 450:1-9-5.1.

(9) Anytime, during the process outlined above, ODMHSAS may request one or more written plan(s) of correction in a form and within a timeframe designated by ODMHSAS.

(10) Failure of any applicant for a Permit for Temporary Operation to clear deficiencies of all applicable Standards within timeframes stipulated in (3) through (7), shall result in a notice of denial of the application for a Permit for Temporary Operations

(b) Additional certification procedures related to a Permit for Temporary Operations.

(1) Re-application for a Permit can be accepted no sooner than six months after issuance of a notification of denial.

(2) If an applicant fails a second time to satisfy requirements for a Permit for Temporary Operations as stipulated in 450:1-9-7(a)(8), ODMHSAS can accept an additional re-application no sooner than twelve (12) months from time of the issue of the second notification of denial.

(3) Organizations granted a Permit for Temporary Operations must achieve a subsequent level of ODMHSAS certification prior to the expiration of a Permit for Temporary Operations. Failure to do so will result in a cancellation by ODMHSAS of the Permit for Temporary Operations. ODMHSAS will provide notice of the cancellation and stipulate to the organization that it is must discontinue services subject to any statutory provisions that mandate the applicable ODMHSAS Certification. Re-application for a Permit for Temporary Operations, following a cancellation by ODMHSAS or by the organization to which a Permit was issued, may occur after six months and in accordance with the requirements of 450:1-9-7 and 450:1-9-12.

450:1-9-7.1. Procedures for completion of additional certification processes subsequent to a Permit for Temporary Operations

(a) The following procedures apply for organizations awarded Permit for Temporary Operation pursuant to 450:1-9-7 that elect to progress to an additional certification by ODMHSAS. The process outline below will be done in cooperation between the applicant and ODMHSAS staff, and consists of the following:

(1) Ninety (90) days prior to the expiration of a Permit for Temporary Operations, ODMHSAS will notify the permitted facility that a supplemental certification application form must be completed so the organization can be reviewed for a new certification level. Along with a request for a supplemental certification application, ODMHSAS will provide a document listing Quality Clinical Standards applicable to the new certification level. The document will also indicate the Core Organization Standards and Core Operational Standards for which continued compliance must be verified.
(2) Each organization desiring to be considered for certification subsequent to being awarded a Permit for Temporary Operations will complete a supplemental certification application form at least sixty (60) days prior to the expiration of the Permit for Temporary Operations.
(3) In the event an organization, after being awarded a Permit for Temporary Operations, fails to supply the supplemental certification application in accordance with (1) and (2) above or elects to not pursue further ODMHSAS certification, the Permit for Temporary Operations will be allowed to expire.
(4) No additional fee, beyond that required for a Permit for Temporary Operation will be required along with the supplemental certification application.
(5) The application shall be reviewed for completeness by ODMHSAS staff. If the application is deemed complete, a site review of the facility or program will be scheduled and completed.
(6) Any deficiencies of applicable standards identified as a result of the subsequent certification site visit or documentation reviews requested by ODMHSAS will be identified and a report will provided to the facility by ODMHSAS within five (5) working days of the site visit unless precluded by extenuating circumstances.
(7) The facility will have ten (10) working days from receipt of the report to correct deficiencies of all Core Organizational Standards and Core Operational Standards and provide ODMHSAS proof of compliance with these standards. ODMHSAS may require an additional site visit(s) to determine of compliance with Core Organizational Standards and Core Operational Standards. The facility will have no more than twenty (20) working days from the certification site visit referenced in (6) above to achieve complete compliance with all Core Organizational Standards and Core Operational Standards.
(8) The facility will also have ten (10) working days from receipt of the report to submit a plan for correction related to deficiencies in Quality Clinical Standards. The plan of correction will indicate the earliest date by which ODMHSAS should schedule a site visit or documentation review to determine compliance with Quality Clinical Standards for which deficiencies were cited but not more than twenty (20) working days from receipt of report as referenced in (6) above. The site visit or review may or may not be conducted in conjunction with a review to verify compliance with pending Core Organizational Standards, and Core Operational Standards.
(9) Any deficiencies of applicable standards identified during the site visit or review referenced in (8) above will be identified by ODMHSAS and included in a report provided to the facility by ODMHSAS within three (3) working days of the site visit or review unless precluded by extenuating circumstances. Facilities for which ODMHSAS cannot determine compliance with all pending Clinical Standards during

the follow up site visit or review referenced in (8) above may request ODMHSAS to complete one additional site visit or review prior to the finalization of a report. Facilities desiring this additional review must do so in writing to the Director of Provider Certification within three (3) working days of receipt of the follow up report referenced in (9) above and indicate the earliest date by which ODMHSAS should schedule the final review but not more than fifteen (15) working days from receipt of report as referenced in (9) above.

(10) Facilities for which ODMHSAS can verify compliance with all applicable Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards, within the timeframes specified in 450:1-9-7.1 may be considered for a certification status in accordance with guidelines established in 450:1-9-5.1.

(11) Anytime, during the process outlined above, ODMHSAS may request one or more written plan(s) of correction in a form and within a timeframe designated by ODMHSAS.

(12) If the applicant fails to submit a plan of correction within a required time frame or fails to submit a timely or adequate revised plan of correction, denial of the application for subsequent certification shall be sent to the applicant by the Commissioner or designee and the current Permit for Temporary Operations be allowed to expire. Likewise, if the applicant fails to request an additional site visit or documentation review in accordance with timeframes stipulated in (9) above denial of the application for subsequent certification shall be sent to the applicant by the Commissioner or designee and the current Permit for Temporary Operations be allowed to expire

450:1-9-7.2. Procedures for renewal of certification

(a) The following procedures apply to organizations previously awarded certification pursuant to 450:1-9-7.1 and organizations that have maintained Certification or Certification with Commendation awarded by ODMHSAS prior to November 1, 2010. The process outline below can result in an entity being awarded Certification, Certification with Distinction, or Certification with Special Distinction. The process will be done in cooperation between the applicant and ODMHSAS staff, and consists of the following:

(1) Ninety (90) days prior to the expiration of a current Certification, except a Permit for Temporary Operations, ODMHSAS will provide the certified facility with a notice of certification expiration and advise the facility that a renewal certification application form must be completed so the organization can be reviewed for consideration for a renewal of certification. Along with the notice of certification expiration, ODMHSAS will provide a document listing Core Organization Standards, Core Operational Standards, and Quality Clinical Standards potentially applicable to the renewed certification.

(2) Each organization desiring to renew Certification must submit a completed certification application form, fees and other required materials in accordance with 450:1-9-6 and at least sixty (60) days prior to the expiration of the current Certification.

(3) In the event an organization, after being notified of the Certification expiration in accordance with (1) and (2) above fails to submit the renewal certification

application, fees, or other materials as referenced in (2) above, the current Certification will be allowed to expire.
(4) The application shall be reviewed for completeness by ODMHSAS staff. If the application is deemed complete, a site review of the facility or program will be scheduled and completed.
(5) Any deficiencies of applicable standards identified as a result of the renewal site visit or subsequent review(s) of documents requested by ODMHSAS will be identified and a report will provided to the facility by ODMHSAS within five (5) working days of the initial renewal site visit unless precluded by extenuating circumstances.
(6) The facility will have ten (10) working days from receipt of the report to correct deficiencies of all Core Organizational Standards and Core Operational Standards and provide to ODMHSAS proof of compliance with these standards. ODMHSAS may require an additional site visit to verify proof of compliance of Core Organizational Standards and Core Operational Standards. If deficiencies continue, the facility will have no more than twenty (20) working days from the initial renewal site visit to achieve complete compliance with all Core Organizational Standards and Core Operational Standards.
(7) The facility will also have ten (10) working days from receipt of the report to submit a plan for correction related to cited deficiencies in Quality Clinical Standards. The plan of correction will indicate the earliest date by which ODMHSAS should schedule an additional site visit or documentation review to determine compliance with Quality Clinical Standards for which deficiencies were cited but not more than twenty (20) working days from receipt of report as referenced in (5) above. The site visit may or may not be conducted in conjunction with a site visit to verify compliance with pending Core Organizational Standards, and Core Operational Standards.
(8) Any deficiencies of applicable standards identified during the additional site visit or review referenced in (7) above will be identified by ODMHSAS and included in a report provided to the facility by ODMHSAS within three (3) working days of the site visit or review unless precluded by extenuating circumstances. Facilities for which ODMHSAS cannot determine compliance with all pending Clinical Standards during the follow up site visit or review referenced in (8) above may request ODMHSAS to complete one additional site visit or review prior to the finalization of a report. Facilities desiring this additional review must do so in writing to the Director of Provider Certification within three (3) working days of receipt of the follow up report referenced in (8) above and indicate the earliest date by which ODMHSAS should schedule the final review but not more than fifteen (15) working days from receipt of report as referenced in (8) above.
(9) Facilities for which ODMHSAS can verify compliance with all applicable Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards, within the timeframes specified in 450:1-9-7.3 may be considered for renewal of Certification in accordance with guidelines established in 450:1-9-5.1.
(10) Anytime, during the process outlined above, ODMHSAS may request one or more written plan(s) of correction in a form and within a timeframe designated by ODMHSAS.
(11) If the applicant fails to submit a plan of correction within the required time frame,

fails to submit a timely and adequate revised plan of correction, or fails to provide evidence of correction for all cited deficiencies, a recommendation to initiate revocation proceedings must be made to the Commissioner or designee. If the Commissioner or designee approves the initiation of revocation proceedings, the provisions of Subchapter 5 will be followed.

450:1-9-7.3. Additional certification procedures

(a) The following conditions will apply to site visits and other related certification reviews conducted by ODMHSAS.

(1) Initial, renewal or follow-up site reviews, based on the current certification status of the applicant, will be scheduled and conducted by designated representatives of the ODMHSAS at each location or site of the applicant.

(2) ODMHSAS may require materials be submitted to Provider Certification, in a form determined by ODMHSAS, prior to on-site visits to verify compliance with one or more applicable Core Organizational Standards, Core Operational Standards, and/or Quality Clinical Standards.

(3) One or more site review(s) may be conducted to determine compliance with prior deficiencies as well as with standards not applicable during the prior certification visit(s).

(4) A minimum number of consumer records, as determined by ODMHSAS, shall be made available for review to determine compliance with applicable Quality Clinical Standards. For organizations, unable to provide the required minimum of records, the current certification status, including a Permit for Temporary Operations, will be allowed to expire. ODMHSAS may require review of additional consumer records to assure a representative sample of records is evaluated to determine compliance with Quality Clinical Standards.

(5) A Site Review Protocol shall be completed during each certification review. Protocols shall contain the current ODMHSAS Standards and Criteria applicable to the facility.

(A) A facility must be prepared to provide evidence of compliance with each applicable standard.

(B) In the event the reviewer(s) identifies some aspect of facility operation that adversely affects consumer safety or health, the reviewer(s) shall notify the facility director and appropriate ODMHSAS staff. An immediate suspension of certification may be made by the Commissioner of ODMHSAS.

(b) **Accreditation status.** The ODMHSAS may accept accreditation granted by The Joint Commission (TJC), the Commission on Accreditation of Rehabilitation Facilities (CARF), the Council on Accreditation of Services for Families and Children, Inc. (COA), or the American Osteopathic Association (AOA) as compliance with certain specific ODMHSAS standards. For such to be considered, the facility shall make application and submit evidence to the ODMHSAS of current accreditation status. This evidence shall include documentation of the program or programs included in the most recent accreditation survey, including survey reports of all visits by the accrediting organization, any reports of subsequent actions initiated by the accrediting organization, any plans of correction, and the dates for which the accreditation has been granted.

(c)**Deficiencies.** A deficiency shall be cited for each rule not met by the facility.

(d) **Report to applicant and plan of correction.**

(1) During the course of the certification process, and prior to determination of certification status, ODMHSAS staff shall report the results of the certification review to the facility. The facility shall receive written notice of the deficiencies in a Certification Report in accordance with 450:1-9-7, 450:1-9-7.1, and 450:1-9-7.3.

(2) The facility may be required to submit a written plan of correction as determined by 450:1-9-7, 450:1-9-7.1, and 450:1-9-7.3. Approval of the plan of correction by Provider Certification may be required before a final report of findings can be presented to ODMHSAS or the Board.

(3) If a request for a revised plan of correction is necessary, the facility must submit an acceptable plan of correction within the required time frame to continue the certification process. Failure to submit a timely and adequate revised plan of correction shall result in either a notice of denial of the application, expiration of certification, or revocation of the certification status, as applicable.

(e) **Notification of consideration and possible action for certification.**

(1) After consideration of materials requested by ODMHSAS pursuant to certification procedures, and completion of the necessary review(s), ODMHSAS staff shall prepare a report that summarizes findings related to compliance with applicable certification standards.

(2) Reports regarding applications for Permit for Temporary Operations will be forwarded to the ODMHSAS Board, the Commissioner, or designee.

(3) Reports for all other Certification applications will be forwarded to the ODMHSAS Board for consideration or in accordance with procedures outlined in 450:21, 450:22, or 450:50.

(4) Prior to the ODMHSAS staff's presentation of its report related to the applicant's certification to the Board or the Commissioner or designee the ODMHSAS staff shall notify the applicant of:

(A) the findings included in the report, and

(B) the date and time of the Board meeting at which the facility's application, and the certification will be considered.

(5) Achievement of certain scores is a prerequisite for consideration of a specific certification status but may not be the sole determinant. Individual deficiencies that meet the criteria in 450:1-9-9 may be grounds for suspending or revoking certification or denying applications for certification.

(6) Consideration of certification may be deferred while additional information regarding a facility's compliance status is reviewed.

(7) The minimum conditions for compliance that must be verified by ODMHSAS for consideration of a certification status shall be stipulated in 450:1-9-5.1.

(f) **Recommendations for revocation of certification.** In the event ODMHSAS can not verify compliance with applicable certification standards in accordance with 450:1-9-5.1, except for Permits for Temporary Operations, ODMHSAS shall forward recommendation for revocation of certification to the Commissioner or designee. If the Commissioner or designee approves a recommendation to revoke certification, an individual proceeding shall be initiated pursuant to Subchapter 5. Applicants unable to demonstrate compliance with standards required for Permit for Temporary Operation

are not subject to the provisions for revocation and are simply denied the Permit as stipulated in 450:1-9-7.

450:1-9-7.4. Actions on Non-Certified Providers

If at the initial site review it is found the facility is providing services prior to the granting of an ODMHSAS certification status, applicable for those services being provided and in violation of statutory requirements, including prior to the granting of a Permit for Temporary Operations, the following actions will be taken:

(1) The review will be continued and will include a review of all applicable Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards.

(2) The facility must comply with the requirements cited in 450:1-9-5. to continue the certification process. An organization providing services statutorily subject to ODMHSAS Certification prior to the issuance of a Permit for Temporary Operations cannot be considered for a Permit for Temporary Operations specific to those services. Such organizations are eligible only for a consideration of a Probationary Certification.

(3) The applicant must comply within twenty (20) working days of the initial certification visit, with all applicable Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards for a report for consideration of Probationary Certification to be made to the Board. Failure to achieve the required compliance level for Probationary Certification shall result in a denial for Certification and an Order issued to cease the provision of services, if applicable.

(4) If the applicant achieves the required compliance level within the required time frame, a Probationary Certification may be considered for no more than one (1) year.

(5) Continued certification after the Probationary Certification period of one year will require the submission of a new application for each of the next two (2) years. The requirements in 450:1-9-5.1(a)(3) shall apply. If the applicant achieves the required compliance level within the required time frame, a Probationary Certification can be considered for no more than one (1) year for each of the next two years.

450:1-9-8. Duration of certification status [REVOKED]

450:1-9-8.1. Site reviews

ODMHSAS may conduct a site review or visit or an investigation, which may or may not be unannounced. Reasons for such review include but are not limited to:

(1) verification of continued compliance with Standards and Criteria and related regulations;

(2) determination of correction of cited deficiencies;

(3) receipt of a complaint;

(4) change in ownership, management or location;

(5) substantial change in either the service provided or new service(s) initiated;

(6) substantial turnover in staff at the executive or professional level;

(7) change in statutorily required licensure status; and

(8) change in external accreditation status.

450:1-9-9. Bases for a decision to issue administrative sanction of suspension, or revocation

(a) A determination that the certification status shall be reduced, suspended, or revoked or that a reprimand be issued, may be made upon the following bases:

(1) failure to comply with certification standards;

(2) failure to comply with appropriate statutory licensing provisions;

(3) violation of consumer rights or consumer confidentiality;

(4) endangerment of the safety, health, and/or the physical or mental well-being of a consumer served by the program;

(5) failure to comply with accreditation, inspection, safety, or building code regulations required by local, state, or federal authorities and laws;

(6) defrauding a consumer, potential consumer, or third party payer;

(7) inappropriate conduct by program staff or its governing authority;

(8) utilization of treatment techniques which endanger the safety, health, and mental health or physical well-being of program consumers; or

(9) refusal of access to a facility or any program components by ODMHSAS personnel when conducting announced or unannounced site visits pursuant to this Chapter; or

(10) any other just cause.

(b) Determinations to initiate suspensions, reductions and revocations or to issue reprimands are made by the Commissioner or designee of ODMHSAS.

(c) The facility's certification status continues unless the facility fails to timely file a written request for a hearing as cited in OAC450:1-5-5 or an order sustaining the allegations made by ODMHSAS is issued by the appointed Hearing Officer.

450:1-9-9.1. Appeal of an issued administrative sanction

(a) Any determination of the ODMHSAS regarding the suspension or revocation of a certification may be appealed by the aggrieved party to the ODMHSAS Board.

(b) **Appeal.** The proposed order shall become final unless a party files and serves a written request for an appeal to the Board with the Hearing Clerk within fifteen (15) calendar days of the filing of the proposed order.

(c) **Briefs and exceptions.** In the event an appeal to the Board is requested, all parties will be given the opportunity to file briefs and exceptions to the proposed order.

(d) **Hearing.** When a request for an appeal is filed, the matter will be set on the agenda of the next Board meeting, unless the request is filed fifteen (15) calendar days or less prior to the next scheduled Board meeting, in which case it will be set on the agenda of the following meeting. At the Board meeting, the parties shall be permitted to present their briefs and oral argument; the length of oral argument shall be determined by the chair of the Board. Upon conclusion of oral argument by the parties, the Board may convene in executive session to deliberate the matter.

(e) **Issuance and service of order.** Within thirty (30) calendar days after the appeal hearing before the Board, the Board shall issue an Order stating the findings of fact made and the conclusions of law reached, and specifying the action to be taken. The Hearing Clerk shall file the Order and serve it on the parties; the respondent(s) shall be served by certified mail, return receipt requested.

(f) **Appeal.** A party may appeal an Order as provided in the APA.

450:1-9-9.2. Voluntary relinquishment of certification

A facility that is the subject of an investigation into, or a pending proceeding involving an administrative sanction pursuant to 450:1-9-9 may voluntarily relinquish its ODMHSAS certification in lieu of a certification suspension or revocation.

450:1-9-10. Contingency for non-action by the Board

In the event the Board of Mental Health and Substance Abuse Services does not meet during the month a facility's certification is due for consideration, or is unable for any reason to consider the certification in a timely manner, any current certification status shall be automatically extended until the next meeting of the Board, unless to do so would endanger the health, welfare and safety of consumers, and there would be a danger of imminent harm.

450:1-9-11. Hearings and appeals [REVOKED]

450:1-9-12. Reapplication following denial, suspension ~~or~~, revocation or voluntary relinquishment of certification

(a) Reapplication for consideration of certification for any program for which certification has been suspended, revoked or voluntarily relinquished will not be accepted or considered unless at least six (6) months has passed since issuance of an Order of suspension or revocation.

(b) The cost of certification review, the record, and administrative sanction proceedings shall be advanced by ODMHSAS. Where a certification review results in an administrative sanction, the cost of the certification review, the record, and administrative sanction proceedings shall be surcharged against the sanctioned facility. Costs of administrative sanction proceedings shall include costs of prosecution of the sanction imposed. Reapplication for consideration of certification will not be considered unless and until the sanctioned facility pays such costs to ODMHSAS.

450:1-9-13. Designated emergency examination sites

(a) ODMHSAS shall maintain a list of facilities designated by the Commissioner as appropriate to conduct emergency examinations to determine if emergency detention is warranted. All hospitals licensed by the Oklahoma State Department of Health who have a designated emergency department and who have an LMHP on staff, under contract, or on call, shall automatically be designated as an emergency examination site.

(b) The following types of facilities may be placed on the list of designated emergency examination facilities:

(1) Hospitals licensed by the Oklahoma State Department of Health;

(2) Community Mental Health Centers certified by the Board pursuant to Chapter 17 of Title 450 of the Oklahoma Administrative Code;

(3) Community-based Structured Crisis Centers certified by the Board pursuant to Chapter 23 of Title 450 of the Oklahoma Administrative Code;

(4) Facilities operated by ODMHSAS; or

(5) Hospitals accredited by JCAHO, CARF or AOA.

(c) A facility may request the Commissioner to designate the facility as an emergency

examination facility to be placed on the list. The facility shall make a request in writing to the Provider Certification Division of ODMHSAS and verify it has the ability to conduct emergency examinations as defined in 43A O.S. § 5-206(4) and has one or more licensed mental health professionals as defined in 43A O.S. § 1-103(11) capable of performing the functions set forth in 43A O.S. §§ 5-207 and 5-208.
(d) The facility shall receive a letter from the Commissioner notifying the facility whether its request to be placed on the list of designated emergency examination facilities has been granted.

450:1-9-14. Designated emergency detention sites
(a) ODMHSAS shall maintain a list of facilities designated by the Commissioner as appropriate for emergency detention. All hospitals licensed by the Oklahoma State Department of Health who have an LMHP on staff, under contract, or on call and have designated beds for the treatment of mental health or substance abuse disorders, shall automatically be designated as an emergency detention site.
(b) The following types of facilities may be placed on the list of designated emergency detention facilities:
(1) Hospitals licensed by the Oklahoma State Department of Health;
(2) Community Mental Health Centers certified by the Board pursuant to Chapter 17 of Title 450 of the Oklahoma Administrative Code;
(3) Community-based Structured Crisis Centers certified by the Board pursuant to Chapter 23 of Title 450 of the Oklahoma Administrative Code; and
(4) Facilities operated by ODMHSAS; or
(5) Hospitals accredited by JCAHO, CARF or AOA.
(c) A facility may request the Commissioner to designate the facility as an emergency detention facility to be placed on the list. The facility shall make a request in writing to the Provider Certification Division of ODMHSAS and verify it has the ability to detain a person in emergency detention as defined in 43A O.S. § 5-206(5) and comply with 43A O.S. §§ 5-208 and 5-209.
(d) The facility shall receive a letter from the Commissioner notifying the facility whether its request to be placed on the list of designated emergency detention facilities has been granted.

SUBCHAPTER 11. RESEARCH

450:1-11-1. Purpose
The purpose of this subchapter is to insure conformity with the requirements of the U. S. Department of Health and Human Services, Public Health Service, Office of Research Integrity in the event the ODMHSAS is the recipient of Public Health Service research grants, fellowships, or cooperative agreements; or is involved with such research grants, fellowships, or cooperative agreements on either a pass-through or oversight responsibility basis [42 CFR Part 50, Subpart A, and 42 CFR § 50.103(c)].

450:1-11-2. Applicability

The ODMHSAS, all subrecipients and all ODMHSAS contractors and their subcontractors involved with U.S. Public Health Services research grants, fellowships, or cooperative agreements are bound by this subchapter.

450:1-11-3. Policy, scientific misconduct allegations

(a) For any research grants, fellowships or cooperative agreements by the (U.S.) Public Health Service for which the ODMHSAS is either the direct recipient, or involved as a financial pass-through agent, or has any oversight responsibility, the "Model Policy and Procedures for Responding to Allegations of Scientific Misconduct" published by the (U.S.) Public Health Service, Office of Research integrity, April 1995 (or any revisions/successor document thereto) shall be utilized by ODMHSAS for responding to allegations of scientific misconduct.

(b) This subchapter shall be distributed to all ODMHSAS operated facilities; and all entities contracting with, or certified by ODMHSAS providing Mental Health, or Substance Abuse, or both.

(c) This subchapter and a copy of the "Model Policy and Procedures for Responding to Allegations of Scientific Misconduct" shall be distributed to all ODMHSAS staff involved with, and any person or business entity with which ODMHSAS is involved with, in (U.S.) Public Health Service research grants, fellowships, and/or cooperative agreements.

(d) Pursuant to the "Model Policy and Procedures for Responding to Allegations of Scientific Misconduct", the Research Integrity Officer for ODMHSAS shall be the Chief of the Decision Support Services, ODMHSAS Central Office. All allegations of scientific misconduct shall be made to the Research Integrity Officer.

450:1-11-4. Adherence to ethical principles

All of the ODMHSAS's human subject activities, and all human subject activities of the ODMHSAS IRB designated under the ODMHSAS Federal Wide Assurance, regardless of funding source, shall be guided by the ethical principles in The Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research of the National Commission of the Protection of Human Subjects of Biomedical and Behavioral Research.

450:1-11-5. Compliance with 45 C.F.R. Part 46

Federally-supported human subject research for which the ODMHSAS IRB provides review and oversight shall comply with 45 C.F.R. Part 46. All human subject research supported by the Department of Health and Human Services (HHS) shall comply with all Subparts of HHS regulations at Title 45 Code of Federal Regulations Part 46 (45 C.F.R. Part 46). All federally-supported human subject research shall also comply with any additional human subject regulations and policies of the supporting federal or state department or agency. All federally-supported human subject research shall comply with any human subject regulations and policies of any relevant regulatory federal or state department or agency.

450:1-11-6. Authority of IRB

Except for research exempted or waived under 45 C.F.R. §46.101 (b) & (i), all

human subject research for which the ODMHSAS IRB is responsible shall be reviewed, prospectively approved, and subject to continuing oversight by the ODMHSAS IRB. The ODMHSAS IRB shall have authority to approve, require modifications in, or disapprove the covered human subject research for which it is responsible.

450:1-11-7. Informed consent

Except where specifically waived or altered by the ODMHSAS IRB under 45 C.F.R. § 46.101(i), 46.116 (c) & (d), or 46.117 (c) of all research for which the ODMHSAS IRB is responsible requires written informed consent, in nonexculpatory language understandable to the subject (or subject's legally authorized representative), including the following basic elements per 45 C.F.R. § 46.116 (a) & (b):

(1) Identification as research; purposes, duration, and procedures; procedures which are experimental;

(2) Reasonable foreseeable risks or discomforts;

(3) Reasonable expected benefits to the subject or others;

(4) Alternative procedures or treatments, if any, that might be advantageous to the subject;

(5) Extent of confidentiality to be maintained;

(6) Whether compensation or medical treatment are available if injury occurs (if more than minimal risk);

(7) Whom to contact for answers to questions about the research, subjects' rights, and research-related injury;

(8) Participation is voluntary; refusal to participate, or discontinuation of participation, shall involve no penalty or loss of benefits to which subject is entitled; and

(9) When appropriate, additional elements per 45 C.F.R. § 45.116.

450:1-11-8. IRB Membership

(a) The ODMHSAS IRB shall have at least five members, with varying backgrounds to promote complete and adequate review of research activities commonly conducted at facilities or programs operated or funded by ODMHSAS. The IRB shall be sufficiently qualified through the experience and expertise of its members, and the diversity of the members, including consideration of race, gender, and community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific research activities, the IRB shall be able to ascertain the acceptability of proposed research in terms of agency commitments and regulations, applicable law, and standards of professional conduct and practice. The IRB shall therefore include persons knowledgeable in these areas. If the IRB reviews research that involves a vulnerable category of subjects, such as children, prisoners, pregnant women, or handicapped or mentally disabled persons, consideration shall be given to the inclusion of one or more individuals who are knowledgeable about and experienced in working with these subjects.

(b) The Commissioner or designee shall appoint IRB members and the IRB chairperson.

(c) Every nondiscriminatory effort shall be made to ensure that the ODMHSAS IRB does not consist entirely of men or entirely of women, including the agency's

consideration of qualified persons of both sexes, so long as no selection is made to the IRB on the basis of gender. No IRB may consist entirely of members of one profession.

(d) The ODMHSAS IRB shall include at least one member whose primary concerns are in scientific areas and at least one member whose primary concerns are in nonscientific areas.

(e) The ODMHSAS IRB shall include at least one member who is not otherwise affiliated with the ODMHSAS and who is not part of the immediate family of a person who is affiliated with ODMHSAS.

(f) ODMHSAS IRB Members will not participate in the IRB's initial or continuing review of any project in which the member has a conflicting interest, except to provide information requested by the IRB.

(g) The IRB may invite individuals with competence in special areas to assist in the review of issues, which require expertise beyond or in addition to that available on the IRB. These individuals may not vote with the IRB.