

**OKLAHOMA DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES**

It is very important that you provide your comments regarding the proposed rule change by the comment due date. Comments are directed to the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) administrative rules liaison, Gretchen Geis, at [GGeis@odmhsas.org](mailto:GGeis@odmhsas.org).

**ODMHSAS COMMENT DUE DATE: February 19, 2014**

The proposed policy is a PERMANENT Rule. This proposal is scheduled to be presented for public comment during a public hearing on February 21, 2014 and to the ODMHSAS Board of Directors for adoption on March 28, 2014.

**Reference #: 27-2014**

**SUMMARY:**

Proposed revisions to Chapter 27 include changes to terminology based on recent updates to the Diagnostic and Statistical Manual of Mental Disorders (DSM) as well as update terminology and requirements related to the provision of case management services to comply with rule revisions made to other chapters during the 2013 legislative session. Revisions also identify certification standards that are so critical to the operation of the entity that failure to meet the identified standards would be grounds for immediate suspension, denial or revocation of certification.

**LEGAL AUTHORITY**

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 3-323A.

**RULE IMPACT STATEMENT**

**STATE OF OKLAHOMA  
OKLAHOMA DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES**

**A. Brief description of the purpose of the rule:**

Proposed revisions to Chapter 27 include changes to terminology based on recent updates to the Diagnostic and Statistical Manual of Mental Disorders (DSM) as well as update terminology and requirements related to the provision of case management services to comply with rule revisions made to other chapters during the 2013 legislative session. Revisions also identify certification standards that are so critical to the operation of the entity that failure to meet the identified standards would be grounds for immediate suspension, denial or revocation of certification.

**B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the cost of the proposed rule, and any information on cost impacts received by the agency from any private or public entities:**

Organizations or individuals certified by, under contract with, or subject to certification by ODMHSAS, and the consumers and employees of each.

**C. A description of the classes of persons who will benefit from the proposed rule:**

Organizations or individuals certified by, under contract with, or subject to certification by ODMHSAS, and the consumers and employees of each.

**D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, and a separate justification for each fee change:**

ODMHSAS does not anticipate an economic impact on any affected classes of persons or political subdivisions that meet minimum certification standards as currently required by this Chapter.

**E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenue if it can be projected by the agency:**

ODMHSAS has determined implementation of these rules will benefit those affected parties by clarifying and enhancing certification and contracting processes.

**F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:**

ODMHSAS does not anticipate these rules will have an economic impact upon any political subdivision, or require their cooperation to implement or enforce the proposed rule revision.

**G. A determination of whether implementation of the proposed rule will have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:**

ODMHSAS has determined these rule revisions will not have an adverse economic impact on small businesses that meet the minimum certification standards as currently required by this Chapter.

**H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rule:**

Throughout the year ODMHSAS staff evaluate internal processes and amend those processes and rules according to identified needs. ODMHSAS considers these revisions the least burdensome and intrusive method in streamlining these processes and accomplishing statutory compliance.

**I. A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk.**

ODMHSAS anticipates these rule revisions will enhance the ability to provide behavioral health treatment by clarifying certification requirements and contracting expectations and ensuring an efficient response to specific treatment issues.

**J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented.**

The proposed amendments are anticipated to refine the certification and/or contracting processes for behavioral health and to establish a means for the Department to quickly respond to consumer treatment issues via certification and/or contracting processes.

**K. The date the rule impact statement was prepared and if modified, the date modified:**

January 7, 2014

**RULE TEXT**

**TITLE 450. OKLAHOMA DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES  
CHAPTER 27. STANDARDS AND CRITERIA FOR MENTAL ILLNESS SERVICE PROGRAMS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**450:27-1-2. Definitions**

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

**"Abuse"** means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a consumer by a staff responsible for the consumer's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a staff responsible for providing these services to a consumer.

**"Case management services"** means planned referral, linkage, monitoring and support, and advocacy provided in partnership with a consumer to assist that consumer with self sufficiency and community tenure and take place in the individual's home, in the community, or in the facility, in accordance with a service plan developed with and approved by the consumer and qualified staff.

**"Clinical privileging"** means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment, and other credentials.

**"Community-based Structured Crisis Center" or "CBSCC"** means a program of non-hospital emergency services for mental health and substance abuse crisis stabilization as authorized by 43A O.S. §3-317, including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance abuse services. This service is limited to CMHC's and Comprehensive Community Addiction Recovery Centers (CCARCs) who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department of Mental Health and Substance Abuse Services.

**"Community mental health center" or "CMHC"** means a facility offering a comprehensive array of community-based mental health services, including but not limited to, inpatient treatment, outpatient treatment, partial hospitalization, emergency care, consultation and education; and, certain services at the option of the center, including, but not limited to, prescreening, rehabilitation services, pre-care and aftercare, training programs, and research and evaluation.

**"Consumer"** means an individual, adult, adolescent, or child, who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

**"Consumer advocacy"** includes all activities on behalf of the consumer to assist with or facilitate resolution of problems in the acquisition of resources or services needed by the consumer.

**"Co-occurring disorder" (COD)** means any combination of mental health symptoms and substance abuse symptoms or diagnoses that affect a consumer and are typically determined by the current Diagnostic and Statistical Manual of Mental Disorders.

**"Co-occurring disorder capability"** means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to consumers with co-occurring disorders.

**"Co-occurring disorder enhanced"** means that the program (or subunit of the program) provides a specialized service designed for individuals with co-occurring disorders, usually with a higher level of available service capacity or intensity for the co-occurring substance use disorder than would be the case in a comparable co-occurring disorder capable program.

**"Crisis Diversion"** means an unanticipated, unscheduled situation requiring supportive assistance, face-to-face or telephone, to resolve immediate problems before they become overwhelming and severely impair the individual's ability to function or maintain in the community.

**"Crisis Intervention"** means actions taken, and services provided to address emergency psychological, physiological, and safety aspects of alcohol, drug-related, and mental health crises.

**"Crisis stabilization"** means emergency, psychiatric, and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment, and, if needed, referral to an ODMHSAS certified facility having nursing and medical support available.

**"Critical incident" or "Incident"** means an occurrence or set of events inconsistent with the routine operation of a facility, service setting, or otherwise routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; residential consumers that are missing or considered in to have eloped; neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. An incident may involve multiple individuals or results.

**"Cultural competency"** means the ability to recognize, respect, and address the unique needs, worth, thoughts, communications, actions, customs, beliefs and values that reflect an individual's racial, ethnic, religious, sexual orientation, and/or social group.

**"DSM"** means the most current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

**"Emergency detention"** means the detention of a person who appears to be a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination, either in person or via telemedicine, and a determination that emergency detention is warranted as defined in Title 43A O.S. Section 5-206.

**"Emergency examination"** means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted by a licensed mental health professional to determine if emergency detention of the person is warranted.

**"Evidence based practice"** means programs or practices that are supported by research methodology and have produced consistently positive patterns of results when replicated within the intent of the published guidance.

**"Face-To-Face"** for the purposes of the delivery of behavioral health care, means a face-to-face physical contact and in-person encounter between the health care provider and the consumer, including the initial visit. The use of telemedicine shall be considered a face-to-face encounter.

**"Facilities or Facility"** means entities as described in Title 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.

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

**"Linkage"** refers to the communication and coordination with other service providers to assure timely appropriate referrals between the CMHC and other providers.

**"Medication error"** means an error in prescribing, dispensing or administration of medication, regardless if the error reached the consumer, e.g., omission of prescribed drugs, giving drugs not prescribed, prescribing inappropriate drugs, prescribing or administering incorrect dosages, incorrectly filling or labeling prescriptions, incorrectly transcribing medication orders.

**"ODMHSAS"** 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.

**"Performance Improvement" or "PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous quality improvement, continuous improvement, organization-wide quality improvement and total quality management.

**"Program of Assertive Community Treatment" or "PACT"** is a clinical program that provides continuous treatment, rehabilitation, and support services to persons with mental illness in settings that are natural to the consumer.

**"Progress notes"** mean a chronological written description of services provided to a consumer, resident, client, or patient that documents, utilizing acceptable documentation practices, the consumer's response related to the intervention plan or services provided.

**"Psychological-Social evaluations"** are in-person interviews conducted by professionally trained personnel designed to elicit historical and current information regarding the behavior and experiences of an individual, and are designed to provide sufficient information for problem formulation and intervention.

**"Psychotherapy" or "Therapy"** means a goal directed process using generally accepted clinical approaches provided face-to-face by a qualified service provider with consumers in individual, group or family settings to promote positive emotional or behavioral change.

**"Recovery Support Specialist" or "RSS"** means an individual who has completed the ODMHSAS RSS training and has passed the ODMHSAS RSS exam.

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

**"Resident"** means a person residing in a community living program certified by ODMHSAS.

**"Residential treatment"** means a structured, 24-hour supervised treatment program for individuals who are mentally ill with a minimum of twenty-one (21) hours of therapeutic services provided per week with the emphasis on stabilization and rehabilitation for transfer to a less restrictive environment. Stay in the program is time limited.

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

**"Screening"** means the process to determine whether the person seeking assistance needs further comprehensive assessment.

**"Sentinel event"** is a type of incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms of violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

**"Service plan" or "Treatment plan"** means the document used during the process by which a qualified service provider and the consumer together and jointly identify and rank problems, establish agreed-upon immediate short-term and long-term goals, and decide on the treatment process and resources to be utilized.

**"Socialization"** means all activities, which encourage interaction and the development of communication, interpersonal, social and recreational skills and can include consumer education.

**"Supportive services"** refers to assistance with the development of problem-solving and decision-making skills to maintain or achieve optimal functioning within the community and can include consumer education.

**"Trauma informed capability"** means the capacity for a facility and all its programs to recognize and respond accordingly to the presence of the effects of past and current traumatic experiences in the lives of its consumers.

**"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.

**"Wellness"** means the condition of good physical, mental and emotional health, especially when maintained by an appropriate diet, exercise, and other lifestyle modifications.

### **SUBCHAPTER 3. ORGANIZATION STRUCTURE AND ADMINISTRATIVE OPERATIONS**

#### **PART 1. SERVICES AND FACILITY ORGANIZATION**

##### **450:27-3-4. Technology**

(a) The agency shall have a written plan regarding the use of technology and systems to support and advance effective and efficient service and business practices. The plan shall include, but not be limited to:

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

(b) Compliance with this Section shall be determined by a review of the facility policies, performance improvement plans and technology and system plan.

#### **PART 3. HUMAN RESOURCES ORGANIZATION**

**450:27-3-24. Staff qualifications**

- (a) The facility shall maintain, for each staff who provides clinical services, documentation of qualifications or training specific to the clinical services they provide within the facility.
- (b) Documentation shall be organized within a clinical privileging framework that is based on policies and procedures approved by the governing authority.
- (c) Compliance with 450:27-5-24 shall be determined by a review of staff personnel files and other supporting documentation provided.
- (d) Failure to comply with 450:27-3-24 will result in the initiation of procedures to deny, suspend and/or revoke certification.

**SUBCHAPTER 7. CLINICAL SERVICES  
PART 3. ADDITIONAL OR OPTIONAL SERVICES**

**450:27-7-26. Pharmacy services**

- (a) If medication services are provided, the facility shall make available access to pharmacy services to meet consumers' psychiatric needs. Provision of services may be made through agreement with another program, through a pharmacy in the community, or through their own Oklahoma licensed pharmacy.
- (b) Compliance with 450:27-7-26 may be determined by a review of the following: clinical records; written agreements for pharmacy services; on-site observation of in-house pharmacy; and State of Oklahoma pharmacy license.
- (c) Failure to comply with 450:27-7-26 will result in the initiation of procedures to deny, suspend and/or revoke certification.

**450:27-7-27. Peer recovery support services**

- (a) If provided, the facility shall have written policies specific to peer recovery support services.
- (b) Peer recovery support services shall be provided in accordance with OAC 450:53 and other provisions stipulated in OAC 450 and state statute.
- (c) These services shall
  - (1) Be based on an individualized, recovery-focused service philosophy that allows individuals the opportunity to learn to manage their own recovery and advocacy process;
  - (2) Recognize the unique value of services being provided by persons with lived experience who are able to demonstrate their own hopefulness and recovery;
  - (3) Enhance the development of natural supports, coping skills, and other skills necessary to function as independently as possible in the community, including, but not limited to assisting re-entry into the community after a hospitalization or other institutional settings;
- (d) Behavioral health providers offering these services shall have provisions in place for direct supervision and other supports for staff providing this service.
- (e) Compliance with 450:27-7-27 shall be determined by a review of the following: documentation of linkage activities and agreements; clinical records; policy and procedures.

**450:27-7-28. Peer Recovery Support Specialists, staff credentials**

- (a) Peer Recovery Support Services shall be provided only by staff certified as a Peer Recovery Support Specialist (PRSS) in accordance with OAC 450:53.
- (b) The facility shall retain records to verify compliance with training and certification requirements of each provider of this service.
- (c) Compliance for 450:27-7-28 shall be determined by a review of the facility personnel records.

**450:27-7-33. Behavioral health rehabilitation services, staff credentials**

(a) Staff providing this service shall ~~have proof that they meet current ODMHSAS requirements as a Behavioral Health Rehabilitation Specialist (BHRS)~~ be a LBHP, CADC or certified by ODMHSAS as a Behavioral Health Case Manager (CM) II pursuant to OAC 450:50.

(b) Compliance with 450:27-7-33 will be determined by a review of facility personal files, individual staff records, and verification with organizations providing required training.