Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at https://rules.wyo.gov

Revised August 2023

1. General Information

a. Agency/Board Name*
Wyoming Department of Health

b. Agency/Board Address	c. City	d. Zip Code
122 W 25th Street, Herschler Building 2 West, Suite B	Cheyenne	82002

e. Name of Agency Liaison	f. Agency Liaison Telephone Number
Jessie Schaeffer	307-777-2860

g. Agency Liaison Email Address
jessie.schaeffer@wyo.gov

h. Date of Public Notice	i. Comment Period End Date
06/28/2024	08/16/2024

j. Public Comment URL or Email Address:
jessie.schaeffer@wyo.gov

k. Program
Mental Health and Substance Use Disorder Services

Amended Program Name (*if applicable*):

* ☐ *By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.*

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular non-emergency rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these non-emergency regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

☐ **No.** ■ **Yes.** If the rules are new, please provide the Legislative Chapter Number and Year Enacted:	Chapter:	Year:
	79 § 3(d)	2021

3. Rule Type and Information

For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.

a. Provide the Chapter Number, Title and Proposed Action for Each Chapter. *Please use the "Additional Rule Information" form to identify additional rule chapters.*

Chapter Number:	Chapter Name:			
1	General Provisions	☐ New	■ Amended	☐ Repealed
	Amended Chapter Name (*if applicable*):			
2	Behavioral Health Service Provider Certification	☐ New	■ Amended	☐ Repealed
	Amended Chapter Name (*if applicable*):			
3	Application for Funds and Selection of Providers	☐ New	■ Amended	☐ Repealed
	Amended Chapter Name (*if applicable*):			
5	Community Mental Health or Substance Use Disorder Treatment Centers: Professional Standards for Personnel and Service Quality	☐ New	■ Amended	☐ Repealed
	Amended Chapter Name (*if applicable*): Behavioral Health Centers: Professional Standards for Personnel and Service Quality			
6	Court Supervised Treatment	☐ New	☐ Amended	■ Repealed
	Amended Chapter Name (*if applicable*):			
7	Behavioral Health Center Benefit Plan Eligibility	■ New	☐ Amended	☐ Repealed
	Amended Chapter Name (*if applicable*):			

Wyoming

Additional Rule Information

Revised June 2020

Include this page only if needed.

1. General Information

a. Agency/Board Name*	Wyoming Department of Health
b. Agency/Board Address	122 W 25th Street, Herschler Building 2 West, Suite B
c. City	Cheyenne
d. Zip Code	82002
e. Name of Agency Liaison	Jessie Schaeffer
f. Agency Liaison Telephone Number	307-777-2860
g. Agency Liaison Email Address	jessie.schaeffer@wyo.gov
h. Program	Mental Health and Substance Use Disorder Services
Amended Program Name (*if applicable*):	

2. Rule Type and Information, Cont.

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.

Chapter Number	Chapter Name	New	Amended	Repealed
8	Administrative Hearings	☒	☐	☐
	Amended Chapter Name (*if applicable*):			
		☐	☐	☐
	Amended Chapter Name (*if applicable*):			
		☐	☐	☐
	Amended Chapter Name (*if applicable*):			
		☐	☐	☐
	Amended Chapter Name (*if applicable*):			
		☐	☐	☐
	Amended Chapter Name (*if applicable*):			
		☐	☐	☐
	Amended Chapter Name (*if applicable*):			
		☐	☐	☐
	Amended Chapter Name (*if applicable*):			
		☐	☐	☐
	Amended Chapter Name (*if applicable*):			
		☐	☐	☐
	Amended Chapter Name (*if applicable*):			

4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. ■ **No.** ☐ **Yes. Please complete the boxes below.**

Date:	Time:	City:	Location:

b. What is the manner in which interested persons may present their views on the rulemaking action?

■ By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

☐ At the following URL: _____

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

■ To the Agency at the physical and/or email address listed in Section 1 above.

☐ At the following URL: _____

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

5. Federal Law Requirements

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements. ■ **No.** ☐ **Yes. Please complete the boxes below.**

Applicable Federal Law or Regulation Citation:

Indicate one (1):

☐ The proposed rules meet, but do not exceed, minimum federal requirements.

☐ The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

☐ To the Agency at the physical and/or email address listed in Section 1 above.

☐ At the following URL: _____

6. State Statutory Requirements

a. Indicate one (1):

■ The proposed rule change *MEETS* minimum substantive statutory requirements.

☐ The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. ■ The Agency has completed a takings assessment as required by W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

■ By contacting the Agency at the physical and/or email address listed in Section 1 above.

☐ At the following URL: _____

7. Additional APA Provisions

a. Complete all that apply in regards to uniform rules:

☐ These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

■ The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

Chapters 1-5 and 7-8

(Provide chapter numbers)

☐ These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

(Provide chapter numbers)

b. Checklist

■ The Statement of Principal Reasons is attached to this Notice and, in compliance with Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

☐ If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

8. Authorization

a. I certify that the foregoing information is correct.

Printed Name of Authorized Individual	Eric McVicker
Title of Authorized Individual	Chief Financial Officer
Date of Authorization	05/01/2024

Rules and Regulations for the Wyoming Department of Health, Behavioral Health Division, Mental Health and Substance Abuse Services Section

Intent to Adopt Amended Rules

Statement of Reasons

The Wyoming Department of Health proposes to amend its rules governing behavioral health services pursuant to its authority granted by 2021 Wyoming Session Laws chapter 79, section 3(d).

Chapter 1, amended, includes general provisions and definitions. Chapter 2, amended, applies to behavioral health service provider certification. Chapter 3, amended, applies to application procedures for selecting and funding behavioral health services. Chapter 5, amended, applies to behavioral health center service and personnel quality standards. Chapter 6, repealed, applied to court supervised treatment programs, pursuant to 2023 Senate Enrolled Act No. 3 Treatment courts-transfer to judicial branch. Chapter 7, new, applies to behavioral health center benefit plan eligibility for individuals seeking services. Chapter 8, new, applies to administrative hearing procedure.

These rule amendments, chapter repeal, and additional chapters are intended to improve the overall clarity and consistency of the rules, as well as reflect changes to the behavioral health system in Wyoming according to Behavioral Health Redesign efforts. The proposed amendments and new chapters are meant to update terms and better align with day-to-day operations within the Department's Mental Health and Substance Abuse Services section and behavioral health centers across the state. The Department is required to integrate the new mission of the Behavioral Health Redesign into all aspects of behavioral health center oversight and funding. The amended rules reflect recent legislative changes from the 2024 Legislative session, 2024 Senate Enrolled Act No. 19 Behavioral health redesign amendments-2 and 2024 Senate Enrolled Act No. 27 Behavioral health redesign-vulnerable adults.

As required by Wyoming Statute § 16-3-103(a)(i)(G), these proposed changes meet minimum substantive state statutory requirements.

Chapter 1

General Provisions

Section 1. Authority.

The Wyoming Department of Health (Department) promulgates these Rules under 2012 Wyoming Session Laws 93-94 (ch. 26, § 48b, n.7), Wyoming Session Laws chapter 79, section (3)(d), and Wyoming Statutes 9-2-102, -106, -2701; and 35-1-620(b).

Section 2. Purpose and Applicability.

(a) This Chapter establishes the Department's authority to promulgate these Rules related to mental health and substance use disorder services, the definitions of terms used in these Rules, the standards incorporated by reference in these Rules, and other general provisions.

(b) This Chapter applies to all chapters promulgated under these Rules.

Section 3. Definitions.

(a) The following definitions apply to these Rules, unless otherwise specified:

(i) "Administrator" means the Senior Administrator of the Wyoming Department of Health, Behavioral Health Division, as well as the Senior Administrator's designees.

(ii) "Adverse action" means:

(A) For an individual seeking services or a client, an adverse action is a termination, reduction, or denial of services or eligibility.

(B) For a provider, an adverse action is the denial or revocation of certification, or the denial or termination of a contract with the Department.

(iii) "BHC-Full Benefit Plan" means the Behavioral Health Center (BHC) Full benefit plan, which covers a comprehensive set of mental health and substance use disorder treatment services at behavioral health centers. The BHC-Full benefit plan is a non-Medicaid benefit plan, it does not cover pharmacy or medical benefits and is limited to individuals who meet eligibility criteria. The provider network is limited to providers with active contracts with the Wyoming Department of Health, Behavioral Health Division for related behavioral health services.

(iv) "BHC-Screen Benefit Plan" means the Behavioral Health Center (BHC) Screen benefit plan, which is a non-Medicaid benefit plan and does not cover pharmacy or medical benefits and is used to determine whether an individual qualifies for the BHC-Full benefit plan. The provider network is limited to providers with active contracts with the

Wyoming Department of Health, Behavioral Health Division for related behavioral health services.

(v) "Behavioral health services" means mental health or substance use disorder treatment services and supports provided to persons with mental illness or substance use disorders.

(vi) "Bio-psychosocial and spiritual needs" means the biological, psychological, social, and spiritual needs of a client, which play a significant role in a behavioral health disorder and contribute to the client's functioning.

(vii) "Certification" means a process to formally recognize that a provider has met the requirements of these Rules to provide substance use disorder treatment services to court ordered individuals or behavioral health services purchased by the Department.

(viii) "Co-occurring" means the coexistence of both a mental illness and a substance use disorder.

(ix) "Corrective action" means a necessary change in provider policy or practice that is a result of a complaint, an investigation process, site visit findings, or noncompliance with a contract provision, a resolution plan, or these Rules.

(x) "Department" means the Wyoming Department of Health, Behavioral Health Division.

(xi) "Emergency services" means direct contact with a person in a mental health crisis as an intervention to prevent escalation of the crisis and to triage the person into needed services.

(xii) "Engagement services" means face-to-face staff contact, which may include delivery through telehealth, with an individual who is waiting to be admitted into treatment for the purpose of maintaining the individual's motivation and to help prepare them for treatment.

(xiii) "Evidence-based practice" means a behavioral health intervention that:

(A) Shows statistically significant effectiveness through empirical research in treating specific problems and populations;

(B) Is consistent with relevant clinical expertise; and

(C) Considers client preferences and values.

(xiv) "Executive director" means the individual responsible for the overall management of a provider. The term encompasses other titles including, but not limited to, chief executive officer, sole proprietor, president, or program administrator.

(xv) "Governing board" means the board of directors of a private nonprofit corporation, a community board as defined in W.S. § 35-1-613(a)(i), or a public agency as defined in W.S. § 35-1-613(a)(vi).

(xvi) "Intensive outpatient program" or "IOP" means structured substance use disorder and mental health treatment programming consisting primarily of counseling and education. IOP is more intensive than outpatient counseling, less intensive than residential care and can function as a step-down from residential care.

(xvii) "Intervention services" means skilled treatment services indicated by client need, which include, individual and group counseling, family counseling, educational groups, skills training, occupational and recreational therapy, medication assisted treatment, and psychotherapy.

(xviii) "Medication assisted treatment" or "MAT" means the use of medications, excluding those used for detoxification, which are used in combination with counseling and behavioral therapies to support recovery and provide a whole-person approach to the treatment of substance use disorders. Medications utilized in MAT approved by the Food and Drug Administration (FDA) and the Substance Abuse and Mental Health Services Administration (SAMHSA).

(xix) "Multi-county consortium" means a formal agreement between two or more providers in different counties to share funding, administrative support, clinical staff, or other resources to ensure a continuum of service availability and increase cost effectiveness.

(xx) "National accreditation" means accreditation issued by The Joint Commission (TJC), the Commission on Accreditation of Rehabilitation Facilities (CARF), or National Integrated Accreditation for Healthcare Organizations (NIAHO).

(xxi) "Ombudsman program" means a program which advocates for the rights of individuals by investigating and resolving problems and grievances, providing information, and working with institutions, organizations, and agencies to increase the effective provision of services to the people they serve.

(xxii) "Promising practice" means an administrative or clinical practice that has some scientific research or data showing positive outcomes but does not have enough evidence to support generalizable conclusions.

(xxiii) "Provider" means a provider of behavioral health services funded by the Department or a provider of substance use disorder services to persons referred or ordered to receive services by a court.

(xxiv) "Qualified clinical staff" means persons who are licensed or certified in Wyoming to practice:

(A) As a mental health or addictions professional under the Wyoming Mental Health Professions Licensing Act, W.S. § 33-38-101 to -113;

(B) Psychology under W.S. § 33-27-113 to -123;

(C) Medicine under the Medical Practice Act, W.S. § 33-26-101 to -703; or

(D) As an Advanced Practice Registered Nurse under the Wyoming Nurse Practice Act, W.S. § 33-21-119 to -157 or the Advanced Practice Registered Nurse Compact, W.S. § 33-21-301 to -302.

(xxv) "Recovery supports" means non-clinical provider-sponsored activities and services which advance a sense of hope, complement and support treatment, increase and sustain treatment engagement, improve outcomes, and enhance recovery. Generally, recovery supports are developed and conducted by persons who are in recovery. Recovery supports do not include 12-Step meetings.

(xxvi) "Residential treatment services" means services provided in a free-standing or hospital-based facility, which provides room and board, and which operates twenty-four (24) hours per day, seven (7) days per week. A residential treatment facility provides evaluation, a planned regimen of treatment services including the staff-monitored administration of prescribed medication, and other supports as indicated by the client's treatment plan.

(xxvii) "Resolution plan" means a written plan to implement corrective actions identified by the Department to achieve measurable improvements in efficiency, effectiveness, performance, accountability, outcomes, or other indicators.

(xxviii)"SAMHSA" means the Substance Abuse and Mental Health Services Administration within the United States Department of Health and Human Services.

(xxix) "Service area" means a single county, multiple counties, or a region, designated by the Department to serve as the geographic area in which contracted services are to be provided.

(xxx) "Variance" means a permanent change to a required standard in Chapter 2 or 5. A variance may be requested at any time.

(xxxi) "Waiver" means a temporary change to a required standard in Chapter 2 or 5. A waiver may be requested at any time.

Section 4. Incorporations by Reference.

(a) For any code, standard, rule, or regulation incorporated by reference in these Rules:

(i) The Department has determined that incorporation of the full text in these Rules would be cumbersome or inefficient given the length or nature of the Rules;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section; and

(iii) The incorporated code, standard, rule, or regulation is maintained at https://health.wyo.gov/behavioralhealth/mhsa/ and is available for public inspection and copying at cost at the same location.

(b) Each code, standard, rule, and regulation incorporated by reference in these Rules is further identified as follows. The Department incorporates by reference:

(i) *Rules, Office of Administrative Hearings, General Agency, Board or Commission Rules,* Ch. 2 (2017), which the Department refers to as the "OAH Contested Case Rules" under Chapter 2 of these Rules and may be found at: http://rules.wyo.gov;

(ii) American Society of Addiction Medicine (ASAM), *The ASAM Criteria: Treatment for Addictive, Substance-Related, and Co-Occurring Conditions* (David Mee-Lee ed., 4th ed. 2023), which the Department refers to as the "ASAM Criteria" under Chapter 2 of these Rules and may be found at https://www.asam.org/asam-criteria/about-the-asam-criteria;

(iii) Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment, *Technical Assistance Publication (TAP) Series 21-A: Competencies for Substance Abuse Treatment Clinical Supervisors* (2013), which the Department refers to as the "SAMHSA TAP 21-A" under Chapter 2 of these Rules and may be found at https://www.samhsa.gov/resource/ebp/tap-21-competencies-substance-abuse-treatment-clinical-supervisors;

(iv) Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment, *Principles of Community-Based Behavioral Health Services for Criminal Justice Involved Individuals* (2013), which may be found at https://www.samhsa.gov/resource/ebp/principles-community-based-behavioral-health-services-criminal-justice-involved; and

(v) Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment, *Treatment Improvement Protocol (TIP) Series 47: Clinical Issues in Intensive Outpatient Treatment* (2013), which the Department refers to as "SAMSHA TIP 47" under Chapter 2 of these Rules and may be found at https://store.samhsa.gov/product/tip-47-substance-abuse-clinical-issues-intensive-outpatient-treatment/sma13-4182.

Chapter 1

General Provisions

Section 1. Authority.

The Wyoming Department of Health (Department) promulgates these Rules under 2012 Wyoming Session Laws 93-94 (ch. 26, § 48b, n.7), Wyoming Session Laws chapter 79, section (3)(d), and Wyoming Statutes ~~7-13-1605, -1613;~~ 9-2-102, -106, -2701; and 35-1-620(b).

Section 2. Purpose and Applicability.

(a) This Chapter establishes the Department's authority to promulgate these Rules related to mental health and substance use disorder services, the definitions of terms used in these Rules, the standards incorporated by reference in these Rules, and other general provisions.

(b) This Chapter applies to all chapters promulgated under these Rules.

Section 3. Definitions.

~~(a) The terms used in these Rules possess their standard meaning in healthcare, unless otherwise defined by the Department.~~

~~(b)~~(a) The following definitions apply to these Rules:

(i) "Administrator" means the Senior Administrator of the Wyoming Department of Health, Behavioral Health Division, as well as the Senior Administrator's designees.

(ii) "Adverse action" means:

(A) For an individual seeking services or a client, an adverse action is a termination, reduction, or denial of services or eligibility.

(B) For a provider, an adverse action is the denial or revocation of certification, or the denial or termination of a contract with the Department.

(iii) "BHC-Full Benefit Plan" means the Behavioral Health Center (BHC) Full benefit plan, which covers a comprehensive set of mental health and substance use disorder treatment services at behavioral health centers. The BHC-Full benefit plan is a non-Medicaid benefit plan, it does not cover pharmacy or medical benefits and is limited to individuals who meet eligibility criteria. The provider network is limited to providers with active contracts with the Wyoming Department of Health, Behavioral Health Division for related behavioral health services.

(iv) "BHC-Screen Benefit Plan" means the Behavioral Health Center (BHC) Screen benefit plan, which is a non-Medicaid benefit plan and does not cover pharmacy or medical benefits and is used to determine whether an individual qualifies for the BHC-Full benefit plan. The provider network is limited to providers with active contracts with the Wyoming Department of Health, Behavioral Health Division for related behavioral health services.

~~(ii)~~(v) "Behavioral health services" means mental health or substance use disorder treatment services and supports provided to persons with mental illness and/or substance use disorders.

~~(iii)~~(vi)"Bio-psychosocial and spiritual needs" means the biological, psychological, social, and spiritual needs of a client, which play a significant role in a behavioral health disorder and contribute to the client's functioning.

~~(iv)~~(vii) "Certification" means a process to formally recognize that a provider has met the requirements of these Rules to provide substance use disorder treatment services to court ordered individuals or behavioral health services purchased by the Department.

(viii) "Co-occurring" means the coexistence of both a mental illness and a substance use disorder.

~~(v) "Community mental health or substance use disorder treatment center" means a provider that:~~

~~(C) Is licensed to conduct business in the State of Wyoming;~~

~~(D) Is governed by a citizen board;~~

~~(E) Has a local identity;~~

~~(F) Participates as a member of the community;~~

~~(G) Is responsive to community needs;~~

~~(H) Provides affordable, accessible, and effective services that address individual needs and that are available to all persons who need services, regardless of the ability to pay for services; and~~

~~(I) Provides a comprehensive range of services for persons with behavioral health disorders including specialized services for the priority populations.~~

~~(ii) "Core behavioral health services" means mental health outpatient services, substance use disorder outpatient services, community housing services, residential treatment services, crisis stabilization services, withdrawal management services, and other relevant services as determined by the Department.~~

~~(vii)~~(ix) "Corrective action" means a necessary change in provider policy or practice that is a result of a complaint, an investigation process, site visit findings, or noncompliance with a contract provision, a resolution plan, or these Rules.

~~(viii) "Court Supervised Treatment panel" or "CST program panel" means the panel authorized under the Court Supervised Treatment Programs Act, W.S. 7-13-1605(d).~~

~~(ix) "Court Supervised Treatment program" or "CST program" means the program authorized under the Court Supervised Treatment Programs Act, W.S. 7-13-1601 to 1616.~~

~~(x) "Court Supervised Treatment provider" or "CST treatment provider" means the provider of substance use disorder treatment services for a CST program.~~

~~(xi) "Court Supervised Treatment program team" or "CST program team" means the CST team authorized under W.S. 7-13-1609(a).~~

~~(xii)~~(x) "Department" means the Wyoming Department of Health, Behavioral Health Division.

~~(xiii) "Driving under the influence/minor in possession services" or "DUI/MIP services" means assessment and education services for persons arrested for driving under the influence or minor in possession of illegal substances.~~

~~(xiv)~~(xi) "Emergency services" means direct contact with a person in a mental health crisis as an intervention to prevent escalation of the crisis and to triage the person into needed services.

~~(xv)~~(xii) "Engagement services" means face-to-face staff contact, which may include delivery through telehealth, with an individual who is waiting to be admitted into treatment for the purpose of maintaining the individual's motivation and to help prepare them for treatment.

~~(xvi)~~(xiii) "Evidence-based practice" means a behavioral health intervention that:

(A) Shows statistically significant effectiveness through empirical research in treating specific problems and populations;

(B) Is consistent with relevant clinical expertise; and

(C) Considers client preferences and values.

~~(xvii)~~(xiv) "Executive director" means the individual responsible for the overall management of a provider. The term encompasses other titles including, but not limited to, chief executive officer, sole proprietor, president, or program administrator.

~~(xviii)~~(xv) "Governing board" means the board of directors of a private nonprofit corporation, a community board as defined in W.S. § 35-1-613(a)(i), or a public agency as defined in W.S. § 35-1-613(a)(vi).

~~(xix)~~(xvi) "Intensive outpatient program" or "IOP" means structured substance use disorder and mental health treatment programming consisting primarily of counseling and education. IOP is more intensive than outpatient counseling, less intensive than residential care and can function as a step-down from residential care.

~~(xx)~~(xvii) "Intervention services" means skilled treatment services indicated by client need, which include, individual and group counseling, family counseling, educational groups, skills training, occupational and recreational therapy, medication assisted treatment, and psychotherapy.

~~(xxi)~~(xviii) "Medication assisted treatment" or "MAT" means the use of medications, excluding those used for detoxification, which are used in combination with counseling and behavioral therapies to support recovery and provide a whole-person approach to the treatment of substance use disorders. Medications utilized in MAT ~~include buprenorphine (Suboxone® and Subutex®), acamprosate, naltrexone, disulfiram, and others~~ approved by the Food and Drug Administration (FDA) and the Substance Abuse and Mental Health Services Administration (SAMHSA).

~~(xxii)~~(xix) "Multi-county consortium" means a formal agreement between two or more providers in different counties to share funding, administrative support, clinical staff, or other resources to ensure a continuum of service availability and increase cost effectiveness.

~~(xxiii)~~(xx) "National accreditation" means accreditation issued by The Joint Commission (TJC), the Commission on Accreditation of Rehabilitation Facilities (CARF), or National Integrated Accreditation for Healthcare Organizations (NIAHO).

~~(xxiv)~~(xxi) "Ombudsman program" means a program which advocates for the rights of individuals by investigating and resolving problems and grievances, providing information, and working with institutions, organizations, and agencies to increase the effective provision of services to the people they serve.

~~(xxv) "Peer specialist" means a person who is or has been a recipient of services for serious mental illness or substance use disorder treatment, who is credentialed by the Department or a national accrediting organization, and employed by a provider. The term encompasses other titles including recovery coach, recovery specialist, job coach, peer wellness coach, peer mentor, and peer advocate.~~

~~(xxvi)~~(xxii) "Promising practice" means an administrative or clinical practice that has some scientific research or data showing positive outcomes but does not have enough evidence to support generalizable conclusions.

~~(xxvii)~~(xxiii) "Provider" means a provider of behavioral health services funded by the Department or a provider of substance use disorder services to persons referred or ordered to receive services by a court.

~~(xxviii)~~(xxiv) "Qualified clinical staff" means persons who are licensed or certified in Wyoming to practice:

(A) As a mental health or addictions professional under the Wyoming Mental Health Professions Licensing Act, W.S. § 33-38-101 to -113;

(B) Psychology under W.S. § 33-27-113 to -123;

(C) Medicine under the Medical Practice Act, W.S. § 33-26-101 to -703; or

(D) As an Advanced Practice Registered Nurse under the Wyoming Nurse Practice Act, W.S. § 33-21-119 to -157 or the Advanced Practice Registered Nurse Compact, W.S. § 33-21-301 to -302.

~~(xxix) "Quality of care review" means review by the client's treatment team of clinical documentation for the purpose of reviewing the client's progress in treatment and the services provided to ensure the most appropriate level of care is provided, to coordinate needed services outside the provider, and for internal quality assurance.~~

~~(xxx)~~(xxv) "Recovery supports" means non-clinical provider-sponsored activities and services which advance a sense of hope, complement and support treatment, increase and sustain treatment engagement, improve outcomes, and enhance recovery. Generally, recovery supports are developed and conducted by persons who are in recovery. Recovery supports do not include 12-Step meetings.

~~(xxxi)~~(xxvii) "Residential treatment services" means services provided in a free-standing or hospital-based facility, which provides room and board, and which operates twenty-four (24) hours per day, seven (7) days per week. A residential treatment facility provides evaluation, a planned regimen of treatment services including the staff-monitored administration of prescribed medication, and other supports as indicated by the client's treatment plan.

~~(xxxii)~~(xxvii) "Resolution plan" means a written plan to implement corrective actions identified by the Department to achieve measurable improvements in efficiency, effectiveness, performance, accountability, outcomes, or other indicators.

~~(xxxiv)~~(xxviii)"SAMHSA" means the Substance Abuse and Mental Health Services Administration within the United States Department of Health and Human Services.

~~(xxxiv)~~(xxix) "Service area" means a single county, multiple counties, or a region, designated by the Department to serve as the geographic area in which contracted services are to be provided.

~~(xxxv) "These Rules" means all chapters promulgated under *Rules, Wyoming Department of Health, Mental Health & Substance Abuse Services.*~~

(xxx) "Variance" means a permanent change to a required standard in Chapter 2 or 5. A variance may be requested at any time.

~~(xxx) "Withdrawal management" means an organized service delivered by appropriately trained staff and which includes supervision, observation, and support for clients who are intoxicated or experiencing withdrawal.~~

(xxxi) "Waiver" means a temporary change to a required standard in Chapter 2 or 5. A waiver may be requested at any time.

Section 4. Incorporations by Reference.

(a) For any code, standard, rule, or regulation incorporated by reference in these Rules:

(i) The Department has determined that incorporation of the full text in these Rules would be cumbersome or inefficient given the length or nature of the Rules;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section; and

(iii) The incorporated code, standard, rule, or regulation is maintained at https://health.wyo.gov/behavioralhealth/mhsa/ and is available for public inspection and copying at cost at the same location.

(b) Each code, standard, rule, and regulation incorporated by reference in these Rules is further identified as follows. The Department incorporates by reference:

(i) *Rules, Office of Administrative Hearings, General Agency, Board or Commission Rules,* Ch. 2 (2017), which the Department refers to as the "OAH Contested Case Rules" under Chapter 2 of these Rules and may be found at: http://rules.wyo.gov;

(ii) American Society of Addiction Medicine (ASAM), *The ASAM Criteria: Treatment for Addictive, Substance-Related, and Co-Occurring Conditions* (David Mee-Lee ed., ~~3d ed. 2013~~ 4th ed. 2023), which the Department refers to as the "ASAM Criteria" under Chapter 2 of these Rules and may be found at ~~http://www.asam.org/publications/the-asam-criteria/text~~ https://www.asam.org/asam-criteria/about-the-asam-criteria;

(iii) Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment, *Technical Assistance Publication (TAP) Series 21-A: Competencies for Substance Abuse Treatment Clinical Supervisors* (2013), which the Department refers to as the "SAMHSA TAP 21-A" under Chapter 2 of these Rules and may be found at ~~http://store.samhsa.gov/product/TAP-21-A-Competencies-for-Substance-Abuse-Treatment-Clinical-Supervisors/SMA13-4243;~~ https://www.samhsa.gov/resource/ebp/tap-21-competencies-substance-abuse-treatment-clinical-supervisors;

(iv) Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment, ~~*Treatment Improvement Protocol (TIP) Series 44: Substance Abuse Treatment for Adults in the Criminal Justice System*~~ *Principles of Community-Based Behavioral Health Services for Adults in the Criminal Justice System* (2013), which ~~the Department refers to as "SAMSHA TIP 44" under Chapter 2 of these Rules and~~ may be found at ~~http://store.samhsa.gov/product/TIP-44-Substance-Abuse-Treatment-for-Adults-in-the-Criminal-Justice-System/SMA13-4056;~~ https://www.samhsa.gov/resource/ebp/principles-community-based-behavioral-health-services-criminal-justice-involved; and

~~(v)~~ Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment, *Treatment Improvement Protocol (TIP) Series 47: Clinical Issues in Intensive Outpatient Treatment* (2013), which the Department refers to as "SAMSHA TIP 47" under Chapter 2 of these Rules and may be found at ~~https://store.samhsa.gov/product/TIP-47-Substance-Abuse-Clinical-Issues-in-Intensive-OutpatientTreatment/SMA13-4182.~~ https://store.samhsa.gov/product/tip-47-substance-abuse-clinical-issues-intensive-outpatient-treatment/sma13-4182.

Chapter 2

Behavioral Health Service Provider Certification

Section 1. Purpose and Applicability.

(a) This Chapter establishes the certification criteria and process for behavioral health service providers.

(b) This Chapter applies to all behavioral health service providers.

Section 2. Certification Eligibility.

(a) Pursuant to Wyoming Statute 9-2-2701(c), the Department may not allocate to a provider state funds for substance use disorder treatment unless the provider is certified by the Department under these Rules.

(b) In order to be certified, the following types of providers must be nationally accredited, as follows:

(i) If a provider seeks to receive funds from the Department pursuant to the Community Human Services Act and Chapter 3 of these Rules, the provider must be nationally accredited for each behavioral health service to be funded by the Department.

(ii) If a substance use disorder residential treatment services provider provides services to court-ordered clients the provider must be nationally accredited for substance use disorder residential treatment services.

(c) In order to be certified, the following types of providers must either be nationally accredited or satisfy the relevant certification standards under Section 8 of this Chapter, as follows:

(i) If a substance use disorder outpatient treatment provider seeks to provide services to court-ordered clients, and does not receive funds from the Department pursuant to the Community Human Services Act and Chapter 3 of these Rules, the provider must either:

(A) Be nationally accredited for each substance use disorder service provided to court-ordered clients; or

(B) Meet the certification standards, as relevant, under Section 8 of this Chapter.

(ii) If a substance use disorder treatment provider receives funds from the Department of Corrections, the provider must either:

(A) Be nationally accredited for each substance use disorder service provided to court-ordered clients and in a manner approved by the Department of Corrections; or

(B) Meet the certification standards, as relevant, under Section 8 of this Chapter.

Section 3. Certification Application.

(a) In order to be certified by the Department, a provider shall submit a complete certification application in the form established by the Department through the Department's public website.

(b) A certification application must provide documentation or other evidence that the provider is nationally accredited pursuant to Section 2 of this Chapter or satisfies the applicable certification requirements established under Section 8 of this Chapter. The certification requirements under Section 8 of this Chapter are deemed satisfied if the provider is nationally accredited pursuant to Section 2 of this Chapter.

Section 4. Certification.

(a) Upon receipt of a complete certification application, the Department shall review the application for compliance with these Rules.

(i) The Department's review may include an on-site inspection and independent verification of national accreditation with the accrediting body, if applicable.

(ii) The Department shall approve or deny a completed application within thirty (30) calendar days after receiving the application.

(b) If the Department finds the provider satisfies the eligibility criteria and certification standards of these Rules, the Department shall certify the provider for a period of up to three (3) years and shall notify the provider of the term of the certification.

(i) A certification begins upon receipt of the certification notification and expires on the due date listed on the notice of certification.

(ii) If a certified provider is nationally accredited pursuant to Section 2 of this Chapter, the provider shall adhere to national accreditation standards throughout the term of certification. A nationally accredited provider shall submit to the Department, within thirty calendar (30) days of submission to the national accrediting body, all survey reports, and reports of major unusual incidents or sentinel events, or any other reports required by the national accrediting body as requested by the Department. The provider's submission to the Department must include documentation that the reports were accepted by the accrediting body.

(iii) If a certified provider is not nationally accredited pursuant to Section 2 of this Chapter, the provider shall maintain compliance with applicable certification standards according to Section 8 of this Chapter throughout the term of certification.

Section 5. Renewal of Certification.

(a) A renewal certification grants the same rights and imposes the same duties as an initial certification under Section 4(b) of this Chapter.

(b) In order to renew certification, a certified provider shall submit to the Department a complete renewal application in the form established by the Department through the Department's public website.

(i) A renewal application must:

(A) Be submitted to the Department no less than thirty (30) calendar days prior to the expiration date of a provider's certification; and

(B) Provide documentation or other evidence that the provider continues to satisfy the certification standards established under Section 8 of this Chapter or continues to maintain national accreditation.

(c) Upon receipt of a complete application to renew certification, the Department shall review the application for compliance with these Rules.

(i) The Department's review may include an on-site inspection and independent verification of national accreditation with the accrediting body, if applicable.

(ii) The Department shall approve or deny an application within thirty (30) calendar days after receiving the application.

Section 6. Denial and Revocation of Certification.

(a) The Department may deny a certification application, including an application to renew certification, or revoke a certification on the following grounds:

(i) Failure to submit a complete application in the form and manner established by the Department;

(ii) Failure to comply with Section 8 of this Chapter if a provider is not nationally accredited;

(iii) Failure to maintain national accreditation if national accreditation is required under Section 2(b) of this Chapter;

(iv) Failure to provide services in accordance with the applicable standard of care for the profession involved;

(v) Existence of a condition creating serious detriment to the health, safety, or welfare of clients;

(vi) Failure to complete a resolution plan or failure to submit a resolution plan within required timelines under Chapter 4 of these Rules; or

(vii) Prior revocation of a certification by the Department within three (3) years previous to the date the renewal application is submitted.

(b) If the Department denies a certification application or revokes a certification, the Department shall notify the provider in writing of the action. The notice must:

(i) State the grounds for the action; and

(ii) Inform the provider of its right to an administrative hearing proceeding pursuant to the Wyoming Administrative Procedure Act, located at W.S. § 16-3-101 to -115, and these Rules.

(c) Prior to revoking a certification, the Department may offer a provider an opportunity to correct each deficiency that would serve as grounds for the prospective revocation, based on the following conditions:

(i) The Department's offer to correct must be in writing and state each deficiency that would serve as grounds for the prospective revocation of the provider's certification.

(ii) The provider shall submit a resolution plan to the Department within ten (10) business days from the provider's receipt of the Department's written offer to correct. A resolution plan must be in writing and provide:

(A) Who will be charged with the responsibility to correct each deficiency stated in the Department's offer;

(B) What will be done to correct each deficiency;

(C) How the resolution plan will be incorporated into the provider's quality management program;

(D) Who will be charged with monitoring to ensure each deficiency does not occur or develop again; and

(E) The deadline by when the provider expects to correct each deficiency, which may not exceed sixty (60) calendar days after the Department's offer was issued.

(iii) The Department may reject a resolution plan if the plan fails to satisfy the criteria enumerated under subsection (c)(ii) of this Section.

(iv) The Department's offer to correct is deemed to be rescinded if:

(A) The Department rejects the provider's resolution plan; or

(B) The provider fails to timely submit a resolution plan.

(v) If the Department's offer to correct is rescinded, the provider is not entitled to challenge the rescission through an administrative hearing proceeding pursuant to the Wyoming Administrative Procedure Act.

(vi) If the Department accepts the provider's resolution plan and the provider fails to correct each deficiency by the established deadline, the provider's failure to correct may serve as independent grounds for revocation under this section.

(d) The Department may not offer a provider an opportunity to correct unless the Department finds that each deficiency:

(i) Does not include the existence of a condition creating serious detriment to the health, safety, or welfare of clients; and

(ii) Can reasonably be corrected within sixty (60) calendar days of the Department's offer.

Section 7. Changes in Ownership or Termination of Operations.

(a) A certification is non-transferable.

(b) If there is a change or transfer in ownership of a certified provider:

(i) The provider's certification expires on the effective date of the change or transfer in ownership; and

(ii) The new owner(s) shall submit a new certification application to the Department in order to become a certified provider.

(c) If a certified provider intends to terminate operations or cease services the provider shall immediately notify the Department. The notification must:

(i) Include the anticipated effective date of the termination or cessation; and

(ii) Be provided to the Department seven (7) business days before the actual effective date of the termination or cessation.

(d) A provider's certification expires on the effective date of the provider's termination or cessation.

Section 8. Certification Standards.

(a) To be certified or to renew certification, a provider of substance use disorder services, who is not nationally accredited pursuant to Section 2 of this Chapter, shall meet the following standards as applicable:

(i) Organizational and administrative standards according to Section 9 of this Chapter;

(ii) Clinical staff and supervision standards according to Section 10 of this Chapter;

(iii) Client case records according to Section 11 of this Chapter;

(iv) General substance use disorder service standards according to Section 12 of this Chapter;

(v) Intensive Outpatient Program (IOP) service standards according to Section 13 of this Chapter; and

(vi) Impaired driving education service standards according to Section 14 of this Chapter.

Section 9. Organizational and Administrative Standards.

(a) If a provider is neither a county hospital nor a governmental entity, the provider shall have documentation:

(i) Filed with the Secretary of State evidencing the authority to conduct business within the State of Wyoming; or

(ii) Filed with the city or county of business evidencing authority to conduct business within the jurisdiction.

(b) A provider shall adopt, implement, and enforce written policies and procedures that address:

(i) Compliance with state and federal law and other legal restrictions affecting confidentiality of alcohol, drug abuse, and health records in all aspects of assessment, treatment, and coordination of services;

(ii) Client grievance procedure which must include review of grievances by the provider's executive director and, if the provider receives funds from the Department according to Section 2(b) of this Chapter, review by the governing board;

(iii) Clinical oversight;

(iv) Client rights pursuant to W.S. § 35-1-625(b), including consent to treatment;

(v) Continuing education of staff and cross-training;

(vi) Fiscal management in accordance with Generally Accepted Accounting Principles;

(vii) A fee schedule or written financial policy which includes a payment plan that considers the client's ability to pay, financial resources and number of dependents for clients unable to pay the established fee;

(viii) Maintenance and contents of client case records in accordance with Section 11 of this Chapter;

(ix) Placement of clients in the appropriate level of care based on American Society of Addiction Medicine (ASAM) criteria;

(x) Quality of care reviews by the client's treatment team of clinical documentation for the purpose of reviewing the client's progress in treatment and the services provided to ensure the most appropriate level of care is provided, to coordinate needed services outside the provider, and for internal quality assurance;

(xi) Relevant insurance maintenance; and

(xii) The treatment process and clinical protocols, including the type of infractions or conditions that must occur for a client's treatment to be terminated from a provider.

Section 10. Clinical Staff and Supervision.

(a) Clinical services must be provided by qualified clinical staff capable of:

(i) Monitoring substance use disorders and stabilized mental health illnesses;

(ii) Recognizing any instability of clients with co-occurring mental health diagnoses;

(iii) Obtaining and interpreting information regarding the client's bio-psychosocial and spiritual needs; and

(iv) Demonstrating competency in working with substance use disorder clients.

(b) A qualified clinical supervisor, as defined in W.S. § 33-38-102(a)(xiii), shall provide clinical oversight.

(i) At a minimum, clinical oversight must consist of one (1) contact per month between a clinical supervisor and treatment staff or peer consultation if the provider is one person.

(ii) A clinical supervisor shall provide oversight and performance evaluation of clinical staff in core competencies based on evidence-based supervision standards of the field and may include those identified in the SAMHSA TAP 21-A.

(iii) Clinical oversight must be part of the provider's staff development plan.

(iv) Clinical oversight or peer consultation must include, at a minimum, documentation of regular meetings showing that consultation took place. This documentation may be completed by either party.

Section 11. Client Case Records.

(a) A provider shall maintain a client case record for each client admitted for services.

(b) A provider shall maintain all client case records in accordance with professional standards of practice, including storage of records in a secure and designated area.

(c) Client case records must include the following documentation and reflect the following applicable services utilizing ASAM criteria, according to the unique needs of each individual client:

(i) Consent to receive treatment signed by the client or legal guardian;

(ii) A statement signed by the client or legal guardian affirming that confidentiality was explained to them and that they understand what information is protected and under what circumstances information can or cannot be released;

(iii) A form signed by the client or legal guardian acknowledging receipt and affirming that they understand the procedures for filing a complaint;

(iv) A form signed within the last year by the client or legal guardian acknowledging receipt and affirming that they understand client rights;

(v) A form signed by the client or legal guardian acknowledging receipt, understanding, and acceptance of provider policies and procedures governing the treatment process;

(vi) Clinical assessments, based on the following criteria:

(A) A provider serving adults shall utilize an evidence-based assessment tool which includes comprehensive information regarding the client's bio-psychosocial and spiritual needs;

(B) A provider serving adolescents shall utilize a bio-psychosocial assessment tool which, at a minimum, includes the following domains: medical, criminal, substance use, family, psychiatric, developmental and academic history; intellectual capacity; physical and sexual abuse history; spiritual needs; peer, environmental, and cultural history; and, assessment of suicidal and homicidal ideation;

(C) A provider shall utilize the ASAM criteria including the dimensional criteria for each domain in the assessment process;

(D) A provider shall adequately assess the client's need for case management services according to subsection (ix) of this section; and

(E) When a client is transferred from another provider which completed the assessment, a receiving provider shall complete a transfer note showing that the assessment information was reviewed. Further, a provider shall determine if the client's needs are congruent with this assessment, make needed adjustments to treatment recommendations, and note the adjustment in the client file;

(vii) Diagnosis and diagnostic summary utilizing diagnostic tools which are standard for the field and which are acknowledged by the Department and payer sources;

(viii) Treatment plans, which must:

(A) Be completed when treatment is initiated and updated at a minimum of every ninety (90) calendar days;

(B) Be developed utilizing the assessment information, including the diagnosis and ASAM criteria;

(C) Integrate mental health needs if included as part of the assessment and diagnosis, if identified as part of the assessment process, or at any point during the course of treatment; and

(D) Include:

(I) Evidence the client or guardian participated in the development of the treatment plan, signed the treatment plan, and received a copy of the treatment plan;

(II) Outcome driven goals and measurable objectives;

(III) Changes in the client's symptoms and behaviors that are expected during the course of treatment in the current level of service, expressed in measurable and understandable terms;

(IV) The desired improved functioning level of the client utilizing the assessment; and

(V) Documentation of appropriate actions taken following specific program infractions, which do not require immediate termination, with appropriate timeframes for clients to address infractions prior to terminating the client;

(ix) A case management plan, based on the following criteria;

(A) A provider shall provide case management services directly or through written formal agreement among multiple agencies or providers;

(B) Upon determination from the client's primary qualified clinical staff that the case management services would benefit the client, case management services must include collaboration with other available agencies, providers, and services to meet individual client needs based on ongoing assessments when applicable; and

(C) Special emphasis must be placed on coordinating with other entities including, but not limited to, education institutions, vocational rehabilitation, recovery supports, and workforce development services to enhance the client's skill base, chances for gainful employment, housing, community resource supports, and other options for independent functioning;

(x) Progress notes, which must:

(A) Document the symptoms and condition of the client, response to treatment, and progress or lack of progress toward specific treatment goals;

(B) Be detailed enough to allow a qualified clinical staff to follow the course of treatment;

(C) Be completed as they occur for individual, IOP, and group therapy sessions. The dates of services shall be documented as part of each individual or group therapy session progress note; and

(D) Be signed by the staff providing services to the client. If the staff is not a qualified clinical staff the progress notes shall also be signed by a qualified clinical supervisor;

(xi) Releases of client confidential information completed in full and signed by the client or legal guardian and the provider;

(xii) Referrals;

(xiii) Quality of care reviews by the client's treatment team of clinical documentation for the purpose of reviewing the client's progress in treatment and the services provided to ensure the most appropriate level of care is provided, to coordinate needed services outside the provider, and for internal quality assurance;

(xiv) Correspondence relevant to the client's treatment, including all letters and dated notations of telephone conversations conducted by provider staff;

(xv) Documentation of any prescribed medication, to include:

(A) The client was fully apprised about the medication;

(B) The assessment for the medication;

(C) Each prescribed medication;

(D) Medication monitoring; and

(E) If the client is receiving Medication Assisted Treatment (MAT) through a different MAT practitioner, documentation of collaboration and attempts to collaborate with the MAT practitioner;

(xvi) Evidence the client was given information regarding communicable diseases, referred for screening, and provided linkages to appropriate counseling; and

(xvii) Documentation of continued stay, transition, and discharge planning, including the ASAM level of care recommendation. Discharge summaries must contain a summary of pertinent case record information and any plan for continuing care, referral, or admission to another level of care.

Section 12. General Substance Use Disorder Service Standards.

(a) A provider shall deliver therapies and intervention services in an amount, frequency, and intensity appropriate to the client's individualized treatment plan.

(i) A provider shall utilize family therapy when indicated by client needs and, with the consent of the client, shall involve family members, guardians, or significant other(s) in the assessment, treatment, and continuing care of the client.

(ii) If a provider delivers group therapy, the group must be composed of two (2) or more unrelated clients for the purpose of implementing each client's treatment plan. A

provider shall deliver group therapy consistent with evidence-based practice. 12-Step meetings are not considered group therapy.

(iii) For clients with co-occurring mental health concerns, a provider shall address the issues of psychotropic medication, mental health treatment, and the client's relationship to substance use disorders. A provider shall employ intervention strategies, as needed. Co-occurring treatment must include therapies to actively address, monitor, and manage psychotropic medication, mental health treatment, and the interaction with substance use related disorders.

(b) A provider of outpatient substance use disorder treatment to adults referred or ordered to receive services by the court shall follow evidence-based practice guidelines, including those contained in the SAMHSA guide called "Principles of Community-Based Behavioral Health Services for Criminal Justice Involved Individuals."

(c) The qualified clinical staff responsible for treatment shall review the client's ASAM level of care a minimum of every ninety (90) days, or whenever the client's condition changes significantly.

Section 13. Intensive Outpatient Program (IOP) Service Standards.

(a) IOP services must:

(i) Consist of nine (9) to nineteen (19) hours per week of structured programming for adults consisting primarily of counseling, psychoeducation, psychotherapy to address addiction and co-occurring mental health conditions, and six (6) hours per week of structured clinical treatment programming for adolescents, except while the client is being transitioned into a lower level of care;

(ii) Vary in intensity and duration based on ASAM Criteria and the SAMHSA TIP 47;

(iii) Begin services within two (2) weeks of the initial clinical assessment. If the provider is unable to begin services within the two (2) week time frame, the provider shall complete a referral and warm hand-off; and

(iv) Address the client's needs for psychiatric and medical services through consultation and referral.

Section 14. Impaired Driving Education Service Standards.

(a) A provider of impaired driving education services shall:

(i) Provide a minimum of eight (8) hours of services, which may be delivered through telehealth, utilizing an evidence-based curricula that is appropriate to age and developmental levels;

(ii) Ensure services are provided by qualified clinical staff or trained health educators supervised by qualified clinical staff;

(iii) Maintain records documenting client attendance and curricula completion or failure to attend or complete;

(iv) Provide adult and adolescent services separately; and

(v) Assess each client according to Section 11(c)(vi) of this Chapter, subject to the following conditions:

(A) If an assessment was conducted by another certified provider within the three (3) months prior to receiving impaired driving services, the provider is not required to conduct another assessment, however, the provider shall obtain a copy of the report and recommendations resulting from the prior assessment.

(B) If the assessment results indicate a need for additional services, the provider shall complete a referral and warm hand-off, if the provider is unable to deliver needed services.

(C) An assessment must include documentation of a review of the blood alcohol level at the time of arrest and the driving record of the client.

(b) A provider shall require clients, as a condition of completion of the curricula, to develop a written personal action plan based on evidence-based practices setting forth actions the client will take in the future to avoid violations. The provider shall maintain a copy of the written plan as part of the client file.

(c) Upon completion of the curricula, the provider shall provide a certificate of completion to the client. It is the client's responsibility to notify the court of completion.

(d) A report shall be made by the provider to the court, supervising or probation agent, or Wyoming Department of Transportation, Driver Services Program within ten (10) business days of the end of the services, if the client fails to follow the court order or follow or does not complete the curricula.

(e) An authorization to release medical records, including substance use disorder treatment records to the court and the Wyoming Department of Transportation, Driver Services Program, must comply with state and federal law.

Section 15. Waivers.

(a) A behavioral health service provider may be granted a waiver from the Department of any standard imposed under Sections 9 to 14 of this Chapter if the Administrator determines that requiring immediate compliance with a particular standard would create an

undue hardship on a provider and that temporary noncompliance would not impair the quality of the services being provided.

(b) A request for a waiver must be made in writing and may be made to the Administrator at any time the provider deems a standard represents an undue hardship.

(c) Prior to or as a condition of granting a waiver, the Administrator may:

(i) Set a time limit on the effective duration of the waiver; and

(ii) Require the provider to submit a written plan to the Administrator setting forth proposed methods of achieving compliance with the standard within the time frame of the waiver.

(d) The Administrator reserves absolute discretion in considering and granting a request for a waiver.

(i) The Administrator shall communicate to the provider in writing the Administrator's decision on a waiver request and if denied, the grounds for denial.

(ii) If the Administrator grants a waiver request, the requesting provider shall keep a copy of the Administrator's decision as part of the provider's records.

(iii) If the Administrator denies a waiver request, the Administrator's denial is final and not subject to administrative review.

Section 16. Variances.

(a) A behavioral health service provider may request a variance from the Department of any standard imposed under Sections 9 to 14 of this Chapter.

(i) A request for variance must be made in writing and, if the provider receives funds from the Department under Section 2(b) of this Chapter, signed by the chair of the governing board.

(ii) A request for variance must establish how the variance will maintain or enhance the quality of a provider's operations and client services.

(b) The Administrator reserves absolute discretion in considering and granting a request for a variance.

(i) The Administrator shall communicate to the provider in writing the Administrator's decision on a variance request and if denied, the grounds for denial.

(ii) If the Administrator grants a variance request, the requesting provider shall keep a copy of the Administrator's decision as part of the provider's records.

(iii) If the Administrator denies a variance request, the Administrator's denial is final and not subject to administrative review.

Chapter 2

Behavioral Health Service Provider Certification

Section 1. Purpose and Applicability.

(a) This Chapter establishes the certification criteria and process for behavioral health service providers.

(b) This Chapter applies to all behavioral health service providers.

Section 2. Certification Eligibility.

(a) Pursuant to Wyoming Statute 9-2-2701(c), the Department may not allocate to a provider state funds for substance use disorder treatment unless the provider is certified by the Department under these Rules.

(b) In order to be certified, the following types of providers must be nationally accredited, as follows:

(i) If a provider seeks to receive funds from the Department pursuant to the Community Human Services Act and Chapter 3 of these Rules, the provider must be nationally accredited for each ~~core~~ behavioral health service to be funded by the Department.

~~(ii) If a provider seeks to receive funds from the Department pursuant to the Court Supervised Treatment Act and Chapter 6 of these Rules, the provider must be nationally accredited for each core behavioral health service to be funded by the Department.~~

(iii~~i~~) If a substance use disorder residential treatment services provider provides services to court-ordered clients the provider must be nationally accredited for substance use disorder residential treatment services.

(c) In order to be certified, the following types of providers must either be nationally accredited or satisfy the relevant certification standards under Section 8 of this Chapter, as follows:

(i) If a substance use disorder outpatient treatment provider seeks to provide services to court-ordered clients, and does not receive funds from the Department pursuant to the Community Human Services Act and Chapter 3 of these Rules ~~or the Court Supervised Treatment Act and Chapter 6 of these Rules~~, the provider must either:

(A) Be nationally accredited for each substance use disorder service provided to court-ordered clients; or

(B) Meet the certification standards, as relevant, under Section 8 of this Chapter.

(ii) If a substance use disorder treatment provider receives funds from the Department of Corrections, the provider must either:

(A) Be nationally accredited for each substance use disorder service provided to court-ordered clients and in a manner approved by the Department of Corrections; or

(B) Meet the certification standards, as relevant, under Section 8 of this Chapter.

Section 3. Certification Application.

(a) In order to be certified by the Department, a provider shall submit a complete certification application in the form established by the Department through the Department's public website~~: https://health.wyo.gov/behavioralhealth/mhsa/certification/~~.

(b) A certification application must provide documentation or other evidence that the provider is nationally accredited pursuant to Section 2 of this Chapter or satisfies the applicable certification requirements established under Section 8 of this Chapter. The certification requirements under Section 8 of this Chapter are deemed satisfied if the provider is nationally accredited pursuant to Section 2 of this Chapter.

Section 4. Certification.

(a) Upon receipt of a complete certification application, the Department shall review the application for compliance with these Rules.

(i) The Department's review may include an on-site inspection and independent verification of national accreditation with the accrediting body, if applicable.

(ii) The Department shall approve or deny a completed application within ~~sixty (60)~~ thirty (30) calendar days after receiving the application.

(b) If the Department finds the provider satisfies the eligibility criteria and certification standards of these Rules, the Department shall certify the provider for a period of up to three (3) years and shall notify the provider of the term of the certification.

(i) A certification begins upon receipt of the certification notification and expires ~~as established by the~~ on the due date listed on the notice of certification.

(ii) If a certified provider is nationally accredited pursuant to Section 2 of this Chapter, the provider shall adhere to national accreditation standards throughout the term of certification. A nationally accredited provider shall submit to the Department, within thirty calendar (30) days of submission to the national accrediting body, all survey reports, ~~continuous quality improvement reports, annual conformance reports, reports of major unusual incidents~~ and reports of major unusual incidents or sentinel events, or any other reports required by the national accrediting body as requested by the Department. The provider's submission to the Department must include documentation that the reports were accepted by the accrediting body.

(iii) If a certified provider is not nationally accredited pursuant to Section 2 of this Chapter, the provider shall maintain compliance with applicable certification standards according to Section 8 of this Chapter throughout the term of certification.

Section 5. Renewal of Certification.

(a) A ~~renewed~~ renewal certification grants the same rights and imposes the same duties as an initial certification under Section 4(b) of this Chapter.

(b) In order to renew certification, a certified provider shall submit to the Department a complete renewal application in the form established by the Department through the Department's public website~~: https://health.wyo.gov/behavioralhealth/mhsa/certification/~~.

(i) A renewal application must:

(A) Be submitted to the Department no less than ~~sixty (60)~~ thirty (30) calendar days prior to the expiration date of a provider's certification; and

(B) Provide documentation or other evidence that the provider continues to satisfy the certification standards established under Section 8 of this Chapter or continues to maintain national accreditation.

(c) Upon receipt of a complete application to renew certification, the Department shall review the application for compliance with these Rules.

(i) The Department's review may include an on-site inspection and independent verification of national accreditation with the accrediting body, if applicable.

(ii) The Department shall approve or deny an application within ~~sixty (60)~~ thirty (30) calendar days after receiving the application.

Section 6. Denial and Revocation of Certification.

(a) The Department may deny a certification application, including an application to renew certification, or revoke a certification on the following grounds:

(i) Failure to submit a complete application in the form and manner established by the Department;

(ii) ~~When not nationally accredited, failure~~ Failure to comply with Section 8 of this Chapter if a provider is not nationally accredited;

(iii) Failure to maintain national accreditation if national accreditation is required under Section 2(b) of this Chapter;

(iv) Failure to provide services in accordance with the applicable standard of care for the profession involved;

(v) Existence of a condition creating serious detriment to the health, safety, or welfare of clients;

(vi) Failure to complete a resolution plan or failure to submit a resolution plan within required timelines under Chapter 4 of these Rules; or

(vii) Prior revocation of a certification by the Department within three (3) years previous to the date the renewal application is submitted.

(b) If the Department denies a certification application or revokes a certification, the Department shall notify the provider in writing of the action. The notice must:

(i) State the grounds for the action; and

(ii) Inform the provider of its right to ~~a contested case~~ an administrative hearing proceeding pursuant to the Wyoming Administrative Procedure Act, located at W.S. § 16-3-101 to -115, and these Rules.

(c) Prior to revoking a certification, the Department may offer a provider an opportunity to correct each deficiency that would serve as grounds for the prospective revocation, based on the following conditions:

~~(i) The Department may not offer a provider an opportunity to correct unless the Department finds that each deficiency:~~

~~(A) Does not include the existence of a condition creating serious detriment to the health, safety, or welfare of clients; and~~

~~(B) Can reasonably be corrected within sixty (60) calendar days of the Department's offer.~~

(~~ii~~) The Department's offer to correct must be in writing and state each deficiency that would serve as grounds for the prospective revocation of the provider's certification.

(~~iii~~) The provider shall submit ~~an acceptable~~ resolution plan to the Department within ten (10) business days from the provider's receipt of the Department's written offer to correct. A resolution plan must be in writing and provide:

(A) Who will be charged with the responsibility to correct each deficiency stated in the Department's offer;

(B) What will be done to correct each deficiency;

(C) How the resolution plan will be incorporated into the provider's quality management program;

(D) Who will be charged with monitoring to ensure each deficiency does not occur or develop again; and

(E) The deadline by when the provider expects to correct each deficiency, which may not exceed sixty (60) calendar days after the Department's offer was issued.

(~~iv~~iii) The Department may reject a resolution plan if the plan fails to satisfy the criteria enumerated under subsection (c)(iii) of this Section.

(iv) The Department's offer to correct is deemed to be rescinded if:

(A) The Department rejects the provider's resolution plan; or

(B) The provider fails to timely submit a resolution plan.

(v~~i~~) If the Department's offer to correct is rescinded, the provider is not entitled to challenge the rescission through ~~a contested case~~ an administrative hearing proceeding pursuant to the Wyoming Administrative Procedure Act.

(vii) If the Department accepts the provider's ~~corrective action~~ resolution plan and the provider fails to correct each deficiency by the established deadline, the provider's failure to correct may serve as independent grounds for revocation under this section.

(d) ~~(i)~~ The Department may not offer a provider an opportunity to correct unless the Department finds that each deficiency:

(i) ~~(A)~~ Does not include the existence of a condition creating serious detriment to the health, safety, or welfare of clients; and

(ii) ~~(B)~~ Can reasonably be corrected within sixty (60) calendar days of the Department's offer.

Section 7. Changes in Ownership or Termination of Operations.

(a) A certification is non-transferable.

(b) If there is a change or transfer in ownership of a certified provider:

(i) The provider's certification expires on the effective date of the change or transfer in ownership; and

(ii) The new owner(s) shall submit a new certification application to the Department in order to become a certified provider.

(c) If a certified provider intends to terminate operations or cease services the provider shall immediately notify the Department. The notification must:

(i) Include the anticipated effective date of the termination or cessation; and

(ii) Be provided to the Department seven (7) business days before the actual effective date of the termination or cessation.

(d) A provider's certification expires on the effective date of the provider's termination or cessation.

Section 8. Certification Standards.

(a) To be certified or to renew certification, a provider of substance use disorder services, who is not nationally accredited pursuant to Section 2 of this Chapter, shall meet the following standards as applicable:

(i) Organizational and administrative standards according to Section 9 of this Chapter;

(ii) Clinical staff and supervision standards according to Section 10 of this Chapter;

(iii) ~~Clinical~~ Client case records according to Section 11 of this Chapter;

(iv) General substance use disorder service standards according to Section 12 of this Chapter;

(v) ~~IOP~~ Intensive Outpatient Program (IOP) service standards according to Section 13 of this Chapter; and

(vi) ~~DUI/MIP~~ Impaired driving education service standards according to Section 14 of this Chapter.

Section 9. Organizational and Administrative Standards.

(a) If a provider is neither a county hospital nor a governmental entity, the provider shall have documentation:

(i) Filed with the Secretary of State evidencing the authority to conduct business within the State of Wyoming; or

(ii) Filed with the city or county of business evidencing authority to conduct business within the jurisdiction.

(b) A provider shall adopt, implement, and enforce written policies and procedures that address:

(i) Compliance with state and federal law and other legal restrictions affecting confidentiality of alcohol, drug abuse, and health records in all aspects of assessment, treatment, and coordination of services;

(ii) Client grievance procedure which must include review of grievances by the provider's executive director and, if the provider receives funds from the Department according to Section 2(b) of this Chapter, review by the governing board;

(iii) Clinical oversight;

(iv) Client rights pursuant to W. S. § 35-1-625(b), including consent to treatment;

(v) Continuing education of staff and cross-training;

(vi) Fiscal management in accordance with Generally Accepted Accounting Principles;

(vii) A fee schedule or written financial policy which includes a payment plan that considers the client's ~~income~~ ability to pay, financial resources and number of dependents for clients unable to pay the established fee;

(viii) Maintenance and contents of client case records in accordance with Section 11 of this Chapter;

(ix) Placement of clients in the appropriate level of care based on American Society of Addiction Medicine (ASAM) criteria;

(x) Quality of care reviews by the client's treatment team of clinical documentation for the purpose of reviewing the client's progress in treatment and the services provided to ensure the most appropriate level of care is provided, to coordinate needed services outside the provider, and for internal quality assurance;

(xi) Relevant insurance maintenance; and

(xii) The treatment process and clinical protocols, including the type of infractions or conditions that must occur for a client's treatment to be terminated from a provider.

Section 10. Clinical Staff and Supervision.

(a) Clinical services must be provided by qualified clinical staff capable of:

(i) Monitoring substance use disorders and stabilized mental health illnesses;

(ii) Recognizing any instability of clients with co-occurring mental health diagnoses;

(iii) Obtaining and interpreting information regarding the client's bio-psychosocial and spiritual needs; and

(iv) Demonstrating competency in working with substance use disorder clients.

(b) A qualified clinical supervisor, as defined in W.S. § 33-38-102(a)(xiii), shall provide clinical oversight.

(i) At a minimum, clinical oversight must consist of one (1) contact per month between a clinical supervisor and treatment staff or peer consultation if the provider is one person.

(ii) A clinical supervisor shall provide oversight and performance evaluation of clinical staff in core competencies based on evidence-based supervision standards of the field and may include those identified in the SAMHSA TAP 21-A.

(iii) Clinical oversight must be part of the provider's staff development plan.

(iv) Clinical oversight or peer consultation must include, at a minimum, documentation of regular meetings showing that consultation took place. This documentation may be completed by either party.

Section 11. Client Case Records.

(a) A provider shall maintain a client case record for each client admitted for services.

(b) A provider shall maintain all client case records in accordance with professional standards of practice, including storage of records in a secure and designated area.

(c) Client case records must include the following documentation and reflect the following applicable services utilizing ASAM criteria, according to the unique needs of each individual client:

(i) Consent to receive treatment signed by the client or legal guardian;

(ii) A statement signed by the client or legal guardian affirming that confidentiality was explained to them and that they understand what information is protected and under what circumstances information can or cannot be released;

(iii) A form signed by the client or legal guardian acknowledging receipt and affirming that they understand the procedures for filing a complaint;

(iv) A form signed within the last year by the client or legal guardian acknowledging receipt and affirming that they understand client rights;

(v) A form signed by the client or legal guardian acknowledging receipt, understanding, and acceptance of provider policies and procedures governing the treatment process;

(vi) Clinical assessments, based on the following criteria:

(A) A provider serving adults shall utilize an evidence-based assessment tool which includes comprehensive information regarding the client's bio-psychosocial and spiritual needs;

(B) A provider serving adolescents shall utilize a bio-psychosocial assessment tool which, at a minimum, includes the following domains: medical, criminal, substance use, family, psychiatric, developmental and academic history; intellectual capacity; physical and sexual abuse history; spiritual needs; peer, environmental, and cultural history; and, assessment of suicidal and homicidal ideation;

(C) A provider shall utilize the ASAM criteria including the dimensional criteria for each domain in the assessment process;

(D) A provider shall adequately assess the client's need for case management services according to subsection (ix) of this section; and

(E) When a client is transferred from another provider which completed the assessment, a receiving provider shall complete a transfer note showing that the assessment information was reviewed. Further, a provider shall determine if the client's needs are congruent with this assessment, make needed adjustments to treatment recommendations, and note the adjustment in the client file;

(vii) Diagnosis and diagnostic summary utilizing diagnostic tools which are standard for the field and which are acknowledged by the Department and payer sources;

(viii) Treatment plans, which must:

(A) Be completed when treatment is initiated and updated at a minimum of every ninety (90) calendar days;

(B) Be developed utilizing the assessment information, including the diagnosis and ASAM criteria;

(C) Integrate mental health needs if included as part of the assessment and diagnosis, if identified as part of the assessment process, or at any point during the course of treatment; and

(D) Include:

(I) Evidence the client or guardian participated in the development of the treatment plan, signed the treatment plan, and received a copy of the treatment plan;

(II) Outcome driven goals and measurable objectives;

(III) Changes in the client's symptoms and behaviors that are expected during the course of treatment in the current level of service, expressed in measurable and understandable terms;

(IV) The desired improved functioning level of the client utilizing the assessment; and

(V) Documentation of appropriate ~~consequences~~ actions taken following specific program infractions, which ~~that~~ do not require immediate termination, with appropriate timeframes for clients to address infractions prior to terminating the client;

(ix) A case management plan, based on the following criteria;

(A) A provider shall provide case management services directly or through written formal ~~memorandum of~~ agreement among multiple agencies or providers;

(B) ~~Case~~ Upon determination from the client's primary qualified clinical staff that the case management services would benefit the client, case management services must include collaboration with other available agencies, providers, and services to meet individual client needs based on ongoing assessments when applicable; and

(C) Special emphasis must be placed on coordinating with other ~~providers~~ entities including, but not limited to, education institutions, vocational rehabilitation, recovery supports, and workforce development services to enhance the client's skill base,

chances for gainful employment, housing, community resource supports, and other options for independent functioning;

(x) Progress notes, which must:

(A) Document the symptoms and condition of the client, response to treatment, and progress or lack of progress toward ~~specified~~ specific treatment goals;

(B) Be detailed enough to allow a qualified ~~person~~ clinical staff to follow the course of treatment;

(C) Be completed as they occur for individual, IOP, and group therapy sessions. The dates of services shall be documented as part of each individual or group therapy session progress note; and

(D) Be signed by the staff providing services to the client. If the staff is not a qualified clinical staff the progress notes shall also be signed by a qualified clinical ~~staff~~ supervisor;

(xi) Releases of client confidential information completed in full and signed by the client or legal guardian and the provider;

(xii) Referrals;

(xiii) Quality of care reviews by the client's treatment team of clinical documentation for the purpose of reviewing the client's progress in treatment and the services provided to ensure the most appropriate level of care is provided, to coordinate needed services outside the provider, and for internal quality assurance;

(xiv) Correspondence relevant to the client's treatment, including all letters and dated notations of telephone conversations conducted by provider staff;

(xv) Documentation of any prescribed medication, to include:

(A) The client was fully apprised about the medication;

(B) The assessment for the medication;

(C) Each prescribed medication;

(D) Medication monitoring; and

(E) If the client is receiving Medication Assisted Treatment (MAT) ~~from another provider~~ through a different MAT practitioner, documentation of collaboration and attempts to collaborate with the ~~qualified provider of~~ MAT practitioner;

(xvi) Evidence the client was given information regarding communicable diseases, referred for screening, and provided linkages to appropriate counseling; and

(xvii) Documentation of continued stay, transition, and discharge planning, including the ASAM level of care recommendation. Discharge summaries must contain a summary of pertinent case record information and any plan for continuing care, referral, or admission to another level of care.

Section 12. General Substance Use Disorder Service Standards.

(a) A provider shall ~~provide~~ deliver therapies and intervention services in an amount, frequency, and intensity appropriate to the client's individualized treatment plan.

(i) A provider shall utilize family therapy when indicated by client needs and, with the consent of the client, shall involve family members, guardians, or significant other(s) in the assessment, treatment, and continuing care of the client.

(ii) If a provider ~~provides~~ delivers group therapy, the group must be composed of two (2) or more unrelated clients for the purpose of implementing each person's treatment plan. A provider shall ~~provide~~ deliver group therapy consistent with evidence-based practice. 12-Step meetings are not considered group therapy.

(iii) For clients with co-occurring mental health concerns, a provider shall address the issues of psychotropic medication, ~~and~~ mental health treatment, and ~~their~~ the client's relationship to substance use disorders. A provider shall employ intervention strategies, as needed. Co-occurring treatment must include therapies to actively address, monitor, and manage psychotropic medication, mental health treatment, and the interaction with substance use related disorders.

(b) A provider of outpatient substance use disorder treatment to adults referred or ordered to receive services by the court shall follow ~~best~~ evidence-based practice guidelines, including those contained in the SAMHSA ~~TIP 44~~ guide called "Principles of Community-Based Behavioral Health Services for Criminal Justice Involved Individuals."~~.~~

(c) The qualified clinical staff ~~person~~ responsible for treatment shall review the client's ASAM level of care a minimum of every ninety (90) days, or whenever the client's condition changes significantly.

Section 13. Intensive Outpatient Treatment (IOP) Service Standards.

(a) IOP services must:

(i) Consist of nine (9) to nineteen (19) hours per week of structured ~~clinical treatment~~ programming for adults consisting primarily of counseling, psychoeducation, psychotherapy to address addiction and co-occurring mental health conditions, and six (6) hours

per week of structured clinical treatment programming for adolescents, except while the client is being transitioned into a lower level of care;

~~(ii) Be provided three (3) times a week with no more than three (3) days between clinical services, excluding holidays;~~

(~~ii~~iii) Vary in intensity and duration based on ASAM Criteria and the SAMHSA TIP 47;

(~~iv~~ iii) ~~Be available~~ Begin services within two (2) weeks of the initial clinical assessment ~~unless the provider has no capacity to provide the service or the client is not able to begin the program~~. If the provider ~~has no capacity to provide the service~~ is unable to begin services within two (2) weeks, ~~engagement services or referral to another provider with the capacity shall be provided~~ the provider shall complete a referral and warm hand-off; and

(iv) Address the client's needs for psychiatric and medical services through consultation and referral ~~arrangements~~.

~~(b) The clinical staff person responsible for treatment shall reassess the client's level of care using ASAM criteria a minimum of one (1) time per month, or whenever the client's condition changes significantly.~~

Section 14. ~~DUI/MIP~~ Impaired Driving Education Service Standards.

(a) A provider of ~~DUI/MIP~~ impaired driving education services shall:

(i) Provide a minimum of eight (8) hours of ~~client face-to-face~~ services, which may be delivered through telehealth, utilizing ~~evidence-based~~ evidence-based curricula that is appropriate to age and developmental levels;

(ii) Ensure services are provided by qualified clinical staff or trained health educators supervised by qualified clinical staff;

(iii) Maintain records documenting client attendance and curricula completion or failure to attend or complete;

(iv) Provide adult and adolescent services separately; and

(v) Assess each client according to Section 11(c)(vi) of this Chapter, subject to the following conditions:

(A) If an assessment was conducted by another certified provider within the three (3) months prior to receiving ~~DUI/MIP~~ impaired driving education services, the provider is not required to conduct another assessment, however, the provider shall obtain a copy of the report and recommendations resulting from the prior assessment.

(B) If the assessment results indicate a need for additional services, the provider shall ~~make the appropriate referrals.~~ complete a referral and warm hand-off, if the provider is unable to deliver needed services.

(C) An assessment must include documentation of a review of the blood alcohol level at the time of arrest and the driving record of the client.

(b) A provider shall require clients, as a condition of completion of the curricula, to develop a written personal action plan based on ~~nationally accepted~~ evidence-based practices setting forth actions the client will take in the future to avoid violations. The provider shall maintain a copy of the written plan as part of the client file.

(c) Upon completion of the curricula, the provider shall provide a certificate of completion to the client. It is the client's responsibility to notify the court of completion.

(d) ~~A provider shall report the failure of a client to follow the court order or to meet the requirements of the~~ A report shall be made by the provider to the court, supervising or probation agent, or Wyoming Department of Transportation, Driver Services Program~~, to successfully complete the curricula, to the court and any supervising or probation agent or the Department of Transportation~~ within ten (10) business days of the end of the services, if the client fails to follow the court order or does not complete the curricula.

(e) An authorization to release medical records, including substance use disorder treatment records to the court and the Wyoming Department of Transportation, Driver Services Program, must comply with state and federal law.

Section 15. Waivers.

(a) A behavioral health service provider may be granted a waiver from the Department of any standard imposed under Sections 9 to 14 of this Chapter if the Administrator determines that requiring immediate compliance with a particular standard would create an undue hardship on a provider and that temporary noncompliance would not impair the quality of the services being provided.

(b) A request for a waiver must be made in writing and may be made to the Administrator at any time the provider deems a standard represents an undue hardship.

(c) Prior to or as a condition of granting a waiver, the Administrator may:

(i) Set a time limit on the effective duration of the waiver; and

(ii) Require the provider to submit a written plan to the Administrator setting forth proposed methods of achieving compliance with the standard within the time frame of the waiver.

(d) The Administrator reserves absolute discretion in considering and granting a request for a waiver.

(i) The Administrator shall communicate to the provider in writing the Administrator's decision on a waiver request and if denied, the grounds for denial.

(ii) If the Administrator grants a waiver request, the requesting provider shall keep a copy of the Administrator's decision as part of the provider's records.

(iii) If the Administrator denies a waiver request, the Administrator's denial is final and not subject to administrative review.

Section 16. Variances.

(a) A behavioral health service provider may request a variance from the Department of any standard imposed under Sections 9 to 14 of this Chapter.

~~(i) "Variance" means a permanent change to a required standard. A variance may be requested at any time.~~

(~~i~~ii) A request for variance must be made in writing and, if the provider receives funds from the Department under Section 2(b) of this Chapter, signed by the chair of the governing board.

(~~ii~~iii) A request for variance must establish how the variance will maintain or enhance the quality of a provider's operations and client services.

(b) The Administrator reserves absolute discretion in considering and granting a request for a variance.

(i) The Administrator shall communicate to the provider in writing the Administrator's decision on a variance request and if denied, the grounds for denial.

(ii) If the Administrator grants a variance request, the requesting provider shall keep a copy of the Administrator's decision as part of the provider's records.

(iii) If the Administrator denies a variance request, the Administrator's denial is final and not subject to administrative review.

Chapter 3

Application for Funds and Selection of Providers

Section 1. Purpose and Applicability.

(a) This Chapter establishes the process and criteria to apply for and receive funding from the Department under the Community Human Services Act, Wyoming Statutes 35-1-611 to -627.

(b) This Chapter applies to all providers seeking Department funding under the Community Human Services Act.

Section 2. Eligibility for Funding.

(a) A provider is eligible to apply to the Department for funding to provide behavioral health services within an identified service area if the provider:

(i) Meets the definition of a behavioral health center under W.S. 35-1-613(a)(xvi); and

(ii) Is certified according to Chapter 2 of these Rules.

Section 3. Request for Application to Provide Services.

(a) The Department shall provide notice that it is seeking applications to provide funded services on the Department's public website. The notice must include:

(i) The eligibility requirements for funding as specified in Section 2 of this Chapter;

(ii) The date applications must be received at the Department;

(iii) Where to submit applications;

(iv) Where to locate a copy of these Rules online;

(v) A list of comprehensive range of services, as determined by the Department;

(vi) The application packet; and

(vii) Scoring criteria.

Section 4. Evaluation and Scoring of Applications.

(a) Eligible providers may apply for funding.

(b) The Department shall give preference to current providers who are in compliance with contract requirements pursuant to W.S. 35-1-620(b)(vi) and shall begin contract negotiations.

(c) If two (2) or more applicants propose to provide the same services in the same service area and each applicant meets the criteria in Section 2 of this Chapter, they may be considered a competing applicant.

(d) If the conditions to grant preference under subsection (b) of this Section are not satisfied, the Department will score the competing applications according to the scoring criteria. When evaluating and scoring an application, the Department may consider information not included in the application but otherwise possessed by the Department.

(i) The Department will begin contract negotiations with the highest scoring applicant.

(ii) If the competing applicants' scoring results in a tie, the Administrator shall review and evaluate the competing applications. The Department will begin contract negotiations with the Administrator's highest scoring applicant.

(e) The Administrator may not award any application that:

(i) Does not meet the criteria according to Section 2 of this Chapter; or

(ii) Proposes to serve only a portion of an existing service area and if funding the application would jeopardize the continued services in the remainder of the service area.

(f) If the Administrator finds an applicant ineligible or does not award an applicant, the Administrator shall document the reasoning and shall notify the provider in writing of the denial.

(g) The Department may solicit additional applications to provide services in the service area. If the Department solicits additional applications, an applicant whose application was previously not awarded may resubmit an application to the Department.

Section 5. Application for Funding that is not Available Statewide or Regionally.

(a) If funding is available for projects or services which cannot be purchased on a statewide basis, the Department shall:

(i) Define the purpose of the funding;

(ii) Develop an application and funding process; and

(iii) Notification of available funds must be posted on the Department's public website. The Department shall include how funding decisions will be made in the application for the funding.

Chapter 3

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Section 1. Purpose and Applicability.

(a) This Chapter establishes the process and criteria to apply for and receive funding from the Department under the Community Human Services Act, Wyoming Statutes 35-1-611 to -627.

(b) This Chapter applies to all providers seeking Department funding under the Community Human Services Act.

Section 2. Eligibility for Funding.

(a) A provider is eligible to apply to the Department for funding to provide ~~statewide or regional~~ behavioral health services within an identified service area if the provider:

~~(i) Qualifies as one of the following:~~

~~(A) A public provider that is a hospital or governmental entity or is registered with the Secretary of State evidencing the authority to conduct business within the State of Wyoming;~~

~~(B) A private provider if the provider satisfies the requirements of W.S. 35-1-624; or~~

~~(C) A provider that provides services other than behavioral health services if the provider:~~

~~(I) Provides behavioral health services as a separate unit or segment within the provider's overall organizational structure; and~~

~~(II)~~ (i) Meets the definition of a ~~community mental~~ behavioral health ~~or substance use disorder~~ center under ~~Chapter 1 of these Rules;~~ W.S. 35-1-613(a)(xvi); and

~~(ii) Has a governing board whose members represent the provider's proposed service area and is subject to the following:~~

~~(A) The governing board shall set the provider's policy, vision, and mission, have fiduciary oversight, and meet on a regular basis; and~~

~~(B) The provider shall provide governing board meeting minutes to the Department upon request;~~

~~(iii)~~ (ii) Is certified according to Chapter 2 of these Rules~~; and~~.

~~(iv) Has the ability to provide the full range of required services to include twenty-four (24) hour emergency services seven (7) days a week.~~

Section 3. ~~Letter of Intent~~ Request for Application to Provide Services.

(a) ~~A minimum of five (5) months prior to the beginning of a funding cycle, the~~ The Department shall provide notice that it is seeking ~~letters of intent~~ applications to provide funded services on the Department's public website ~~at https://health.wyo.gov/behavioralhealth/mhsa~~. The notice must include:

(i) The eligibility requirements for funding as specified in Section 2 of this Chapter;

(ii) The date ~~letters of intent~~ applications must be received at the Department;

(iii) Where to submit ~~letters of intent~~ applications; ~~and~~

(iv) Where to locate a copy of these Rules online~~.~~;

(v) A list of comprehensive range of services, as determined by the Department;

(vi) The application packet; and

(vii) Scoring criteria.

~~(b) A letter of intent submitted to the Department must include:~~

~~(i) The service area for which the provider is seeking funding and the services to be provided;~~

~~(ii) Signatures of the chair of the governing board and the executive director of the provider; and~~

~~(iii) If the provider did not receive funding within the last funding cycle, documentation substantiating the provider meets the eligibility requirements specified in Section 2.~~

~~(c) Upon receipt of a letter of intent, the Administrator shall determine if the provider meets the eligibility requirements listed in Section 2.~~

~~(i) If the Administrator determines that the provider does not meet the eligibility requirements, the Administrator shall notify the provider in writing that it is not eligible to apply for funding. The written notice must specify the grounds for the Administrator's determination.~~

~~(ii) If the Administrator determines that the provider does meet the eligibility requirements:~~

~~(A) The Administrator shall notify the provider in writing that is eligible to apply for funding. The written notice must include the Administrator's determination whether the provider will be competing for funding and, if so, provide the status of competition within the service area; and~~

~~(B) The Administrator shall send to the provider the application packet and the scoring criteria the Department will use in its evaluation and scoring process according to Section 4 of this Chapter.~~

Section 4. Evaluation and Scoring of Applications.

(a) Eligible providers may apply for funding. ~~The Department shall evaluate and score an application from an eligible provider received by the due date specified in the application packet.~~

(b) The Department shall give preference to current providers who are in compliance with contract requirements pursuant to W.S. 35-1-620(b)(vi) and shall begin contract negotiations. ~~evaluate and score an application based on the following criteria, whether:~~

~~(i) The applicant has the ability to provide a range of comprehensive and integrated behavioral health services that support quality care to the priority populations;~~

~~(ii) The applicant's staffing patterns and number of staff are adequate to provide the continuum of services required and the specific services for which funding is requested;~~

~~(iii) If currently funded by the Department, the applicant's performance is in compliance with current Department contract requirements;~~

~~(iv) The applicant has a strategic planning process;~~

~~(v) The applicant participates in the development and implementation of a community disaster plan;~~

~~(vi) The applicant utilizes electronic health care technologies that support the Department's contract reporting requirements;~~

~~(vii) The applicant utilizes clinical and business practices that address quality and cost-effective care;~~

~~(viii) The applicant utilizes recovery supports; and~~

~~(ix) The applicant involves people served in the planning and implementation of services.~~

(c) If two (2) or more applicants propose to provide the same services in the same service area and each applicant meets the criteria in Section 2 of this Chapter, they may be considered a competing applicant.

(d) If the conditions to grant preference under subsection (b) of this Section are not satisfied, the Department will score the competing applications according to the scoring criteria.

~~(c)~~ When evaluating and scoring an application, the Department may consider information not included in the application but otherwise possessed by the Department.

(i) The Department will begin contract negotiations with the highest scoring applicant.

(ii) If the competing applicants' scoring results in a tie, the Administrator shall review and evaluate the competing applications. The Department will begin contract negotiations with the Administrator's highest scoring applicant.

(~~d~~e) The Administrator may ~~deny~~ not award any application that:

(i) Does not meet the criteria according to Section ~~4(b)~~ 2 of this Chapter; or

(ii) Proposes to serve only a portion of an existing service area and if funding the application would jeopardize the continued services in the remainder of the service area.

(~~e~~f) If the Administrator ~~denies the application~~ finds an applicant ineligible or does not award an applicant, the Administrator shall document the ~~reasons for denial~~ reasoning and shall notify the provider in writing of the denial.

(~~f~~g) The Department may solicit additional applications to provide services in the service area. If the Department solicits additional applications, an applicant whose application was ~~earlier denied~~ previously not awarded may resubmit an application to the Department.

~~**Section 5. Competing Applications.**~~

~~(a) If two (2) or more applicants are competing to provide services in the same service area and each application meets the criteria in Section 4(b) of this Chapter, the competing applications shall be handled pursuant to the conditions of this Section.~~

~~(b) If a competing applicant is a current provider of Department-funded services, proposes to serve the same service area with the same services as those currently funded, and has submitted approved deliverables according to the contract with the Department, the Department shall give preference to and begin contract negotiations with the applicant.~~

~~(c) If the conditions to grant preference under subsection (b) of this Section are not satisfied, the following conditions apply:~~

~~(i) The Department shall evaluate each application against the following criteria, whether:~~

~~(A) The applicant proposes to serve multiple counties or participate in a multi-county consortium;~~

~~(B) The applicant proposes to provide both mental health and substance use treatment services using an integrated model;~~

~~(C) The applicant has integrated behavioral health services with primary health services or proposes to integrate services;~~

~~(D) The applicant maximizes all applicable funding sources; and~~

~~(E) The applicant has demonstrated history in providing specialized services to priority populations.~~

~~(ii) If the Department finds only one (1) of the competing applicants to satisfy the criteria under subsection (c)(i) of this Section, the Department shall give preference to and begin contract negotiations with the applicant.~~

~~(iii) If the Department finds more than one (1) or not one (1) of the competing applicants to satisfy the criteria under subsection (c)(i) of this Section, the Administrator shall request the board of county commissioners from the county under competition to appoint a review committee, subject to the following conditions:~~

~~(A) The review committee shall consist of no fewer than three (3) individuals who reside within the service area under competition.~~

~~(B) In the event of a multi-county service area, the Administrator shall request each board of county commissioners to appoint to the review committee one (1) person from each county. If an even number of persons results from these appointments, the Administrator shall choose an additional committee member from the region.~~

~~(iv) If the board of county commissioners is unwilling or unable to participate or does not respond within fifteen (15) business days to the request for a review committee under subsection (c)(iii) of this Section, the Administrator shall appoint a review committee, subject to the following conditions:~~

~~(A) The review committee must consist of no fewer than three (3) and no more than five (5) persons. The review committee must be comprised of an odd number of committee members.~~

~~(B) The review committee must include:~~

(I) One (1) representative from a state agency other than the Department, who is a resident of the county or counties under competition;

(II) One (1) representative of the Behavioral Health Advisory Council, who is also a person in recovery; and

(III) One (1) representative of a funded provider outside of the region affected by the competing application.

(C) If a representative enumerated under subsection (c)(iv)(B) of this Section is unwilling or unable to participate on the review committee, the Administrator may appoint in the representative's stead any other person within the Administrator's discretion.

(D) A member of the review committee shall have no vested or competitive interest in the competing applicants or the services proposed.

(v) If a review committee is appointed under subsection (c)(iii) or (iv) of this Section, the Department shall provide written notice to the competing applicants of the establishment and purpose of the review committee.

Section 6. Review Committee.

(a) The review committee shall conduct a public hearing to consider the competing applications within thirty (30) calendar days of the selection of the review committee and at a location within the service area, determined by the Department.

(b) Prior to the public hearing, the review committee shall:

(i) Elect a chair to conduct the public hearing;

(ii) Establish an order of procedure for the public hearing that provides:

(A) Each competing applicant the opportunity to present argument, either in person, by phone, or by other electronic means; and

(B) The public in attendance an opportunity to comment; and

(iii) Review the information provided by the Department, including:

(A) The competing applications;

(B) The scores awarded to each application by the Department;

(C) The extent to which the criteria in Section 4(b) of this Chapter are met;

~~(D) The extent to which the additional criteria in Section 5(c)(i) of this Chapter apply; and~~

~~(E) Other relevant information, as determined by the Department; and~~

~~(c) The review committee shall provide notice of the public hearing, according to the following provisions:~~

~~(i) The Department shall assist the review committee in providing written notice of the public hearing to the competing applicants and to the public in the service area;~~

~~(ii) The notice must be published as a legal notice in at least one (1) newspaper of general circulation in each county, if applicable, affected by the competing applications a minimum of ten (10) calendar days prior to the review committee's public hearing; and~~

~~(iii) The notice must include:~~

~~(A) The date, time, location, and nature of the public hearing;~~

~~(B) The legal authority and jurisdiction under which the hearing is to be held;~~

~~(C) The sections of the statutes and rules involved;~~

~~(D) A statement of the nature of the competing applications being reviewed; and~~

~~(E) The procedure for participation by the public including the procedure to be used to submit written comments, which must be submitted to the Department prior to the date of the public hearing.~~

Section ~~7~~ 5. Application for Funding that is not Available Statewide or Regionally.

(a) If funding is available for projects or services which cannot be purchased on a ~~regional or~~ statewide basis, the Department shall:

(i) Define the purpose of the funding;

(ii) Develop an application and funding process; and

(iii) ~~Notify current contractors and interested parties of the available funds and how funding decisions will be made.~~ ~~Such n~~Notification of available funds must be posted on the Department's public website ~~and included~~. The Department shall include how funding decisions will be made in the application for the funding.

Chapter 5

Behavioral Health Centers:
Professional Standards for Personnel and Service Quality

Section 1. Purpose and Applicability.

(a) This Chapter:

(i) Establishes professional standards for personnel providing behavioral health services purchased in whole or in part by the Department in a behavioral health center; and

(ii) Prescribes standards for the quality of behavioral health services provided by behavioral health centers purchased in whole or in part by the Department.

(b) This Chapter applies to all behavioral health centers whose services are purchased by the Department, in whole or in part, under the Community Human Services Act, Wyoming Statutes § 35-1-611 to -627.

Section 2. Personnel Standards.

(a) A behavioral health center shall employ an executive director on a full-time basis.

(b) A behavioral health center shall ensure that:

(i) Only qualified clinical staff provide the clinical services purchased in whole or in part by the Department; and

(ii) All qualified clinical staff receive training necessary for billing services to Wyoming Medicaid and all other health insurers.

Section 3. Service Quality.

(a) A behavioral health center shall:

(i) Be certified according to Chapter 2 of these Rules;

(ii) Utilize evidence-based practices and promising practices;

(iii) Guarantee each client's right to an individualized plan of appropriate services which provides for treatment in the least restrictive environment that may reasonably be expected to benefit the client;

(iv) Develop processes to manage wait lists or practice same day access;

(v) Develop practices which result in high quality services as demonstrated in positive, cost effective client outcomes that are determined by the Department in collaboration with providers;

(vi) Provide integrated mental health or substance use disorder treatment services that are coordinated with primary care as applicable;

(vii) Gather and use client feedback to improve the quality of care; and

(viii) Not deny eligibility to clients or individuals seeking services based on the behavioral health center's inability to deliver services.

Section 4. Behavioral Health Center Allowable Payment.

(a) The Department shall establish payment policies for Department-funded services in accordance with W.S. § 35-1-620(b)(iii).

(b) Any payment which exceeds the behavioral health center allowable payment for the service may be recovered by the Department.

(c) A behavioral health center may not request an administrative hearing regarding a recovery of payment which exceeds the behavioral health center allowable payment.

(d) Except as otherwise specified by the Department, the behavioral health center allowable payment shall not exceed the Department's established fee schedule in effect on the date services were provided. The fee schedule is available upon request from the Department.

Section 5. Payment of Claims.

(a) A behavioral health center may not seek payment from the Department for services delivered to a client until payment from third parties is sought and exhausted.

(b) A behavioral health center may not request, receive or attempt to collect any payment from the client or the client's family for services covered by the BHC-Full or BHC-Screen benefit plans. The behavioral health center shall accept the allowable payment as payment in full for the services.

(c) A behavioral health center that provides services not covered by the BHC-Full or BHC-Screen benefit plans to a client may seek payment from the client if the behavioral health center informed the client in writing of the client's potential liability before providing the service, and the client agreed in writing to pay for such services before they were furnished.

(d) All health insurers, including all self-insured plans, group health plans as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, service benefit plans, managed care organizations, pharmacy benefit managers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item

or service, shall agree, as a condition of doing business in the state of Wyoming, to provide, with respect to the individuals who are eligible for behavioral health services purchased by the Department pursuant to W.S. § 35-1-620 et. seq., information to determine the period during which the individual or the individuals' spouses or dependents may be or may have been covered by a health insurer and the nature of the coverage provided, including the name and address of the insurer and identifying number of the plan, in a manner prescribed by the Department.

Section 6. Waivers.

(a) A behavioral health center may be granted a waiver from the Department of any standard imposed under Section 2 of this Chapter if the Administrator determines that requiring immediate compliance with a particular standard would create undue hardship and that temporary noncompliance would not impair the quality of services being provided.

(b) A request for a waiver must be made in writing and may be made to the Administrator at any time the behavioral health center deems a standard represents an undue hardship.

(c) Prior to or as a condition of granting a waiver, the Administrator may:

(i) Set a time limit on the effective duration of the waiver; and

(ii) Require the behavioral health center to submit a written plan to the Administrator setting forth proposed methods of achieving compliance with the standard within the time frame of the waiver.

(d) The Administrator reserves absolute discretion in considering and granting a request for a waiver.

(i) The Administrator shall communicate to the provider in writing the Administrator's decision on a waiver request and if denied, the grounds for denial.

(ii) If the Administrator grants a waiver request, the requesting behavioral health center shall keep a copy of the Administrator's decision as part of the behavioral health center's records.

(iii) If the Administrator denies a waiver request, the Administrator's denial is final and not subject to administrative review.

Section 7. Variances.

(a) A behavioral health center may request a variance from the Department of any standard imposed under Section 2 of this Chapter.

(i) A request for variance must be made in writing and signed by the chair of the governing board.

(ii) A request for variance must establish how the variance will maintain or enhance the quality of a center's operations and client services.

(b) The Administrator reserves absolute discretion in considering and granting a request for variance.

(i) The Administrator shall communicate to the provider, their decision in writing on a variance request and if denied, grounds for denial.

(ii) If the Administrator grants a variance request, the requesting provider shall keep a copy of the Administrator's decision as part of the provider's records.

(iii) If the Administrator denies a variance request, the Administrator's denial is final and not subject to administrative review.

Chapter 5

~~Community Mental Health or Substance Use Disorder Treatment~~ Behavioral Health Centers: Professional Standards for Personnel and Service Quality

Section 1. Purpose and Applicability.

(a) This Chapter:

(i) Establishes professional standards for personnel providing behavioral health services purchased in whole or in part by the Department in a ~~community mental health or substance use disorder treatment~~ behavioral health center; and

(ii) Prescribes standards for the quality of behavioral health services provided by ~~community mental health or substance use disorder treatment~~ behavioral health centers purchased in whole or in part by the Department.

(b) This Chapter applies to all ~~community mental health or substance use disorder treatment~~ behavioral health centers whose services are purchased by the Department, in whole or in part, under the Community Human Services Act, Wyoming Statutes § 35-1-611 to -627.

Section 2. Personnel Standards.

(a) A ~~community mental health or substance use disorder treatment~~ behavioral health center shall employ an executive director on a full-time basis.

~~(i) An individual may not serve as an executive director unless the individual:~~

~~(A) Is qualified clinical staff and has a minimum of two (2) years of relevant experience in behavioral health services management or administration; or~~

~~(B) Has an advanced degree in a health related or business field and a minimum of two (2) years of relevant experience in behavioral health services management or administration.~~

~~(ii) Regardless of the criteria imposed under subsection (a)(i) of this Section, an executive director employed prior to the effective date of these Rules is eligible to continue in the executive director role at his or her current place of employment on the date these Rules become effective.~~

(b) A ~~community mental health or substance use disorder treatment~~ behavioral health center shall ensure that:

(i) Only qualified clinical staff provide the clinical services purchased in whole or in part by the Department; and

(ii) All qualified clinical staff receive training necessary for billing services to Medicaid and all other health insurers.

~~(c) A community mental health or substance use disorder treatment center shall:~~

~~(i) Designate a peer specialist credentialed by the Department; and~~

~~(ii) Ensure the designated peer specialist receives the training required to bill peer specialist services to Wyoming Medicaid.~~

Section 3. Service Quality.

(a) A ~~community mental health or substance use disorder treatment~~ behavioral health center shall:

(i) Be certified according to Chapter 2 of these Rules;

(ii) Utilize evidence-based practices and promising practices;

(iii) Guarantee each client's right to an individualized plan of appropriate services which provides for treatment in the least restrictive environment that may reasonably be expected to benefit the client;

(iv) Develop processes to manage wait lists or practice same day access;

(v) Develop practices which result in high quality services as demonstrated in positive, cost effective client outcomes that are determined by the Department in collaboration with providers;

(vi) Provide integrated mental health or substance use disorder treatment services that are coordinated with primary care as applicable; ~~and~~

(vii) Gather and use client feedback to improve the quality of care.; and

(viii) Not deny eligibility to clients or individuals seeking services based on the behavioral health center's inability to deliver services.

Section 4. Behavioral Health Center Allowable Payment.

(a) The Department shall establish payment policies for Department-funded services in accordance with W.S. § 35-1-620(b)(iii).

(b) Any payment which exceeds the behavioral health center allowable payment for the service may be recovered by the Department.

(c) A behavioral health center may not request an administrative hearing regarding a recovery of payment which exceeds the behavioral health center allowable payment.

(d) Except as otherwise specified by the Department, the behavioral health center allowable payment shall not exceed the Department's established fee schedule in effect on the date services were provided. The fee schedule is available upon request from the Department.

Section 5. Payment of Claims.

(a) A behavioral health center may not seek payment from the Department for services delivered to a client until payment from third parties is sought and exhausted.

(b) A behavioral health center may not request, receive or attempt to collect any payment from the client or the client's family for services covered by the BHC-Full or BHC-Screen benefit plans. The behavioral health center shall accept the allowable payment as payment in full for the services.

(c) A behavioral health center that provides services not covered by the BHC-Full or BHC-Screen benefit plans to a client may seek payment from the client if the behavioral health center informed the client in writing of the client's potential liability before providing the service, and the client agreed in writing to pay for such services before they were furnished.

(d) All health insurers, including all self-insured plans, group health plans as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, service benefit plans, managed care organizations, pharmacy benefit managers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service, shall agree, as a condition of doing business in the state of Wyoming, to provide, with respect to the individuals who are eligible for behavioral health services purchased by the Department pursuant to W.S. § 35-1-620 et. seq., information to determine the period during which the individual or the individuals' spouses or dependents may be or may have been covered by a health insurer and the nature of the coverage provided, including the name and address of the insurer and identifying number of the plan, in a manner prescribed by the Department.

Section 6. Waivers.

(a) A behavioral health center may be granted a waiver from the Department of any standard imposed under Section 2 of this Chapter if the Administrator determines that requiring immediate compliance with a particular standard would create undue hardship and that temporary noncompliance would not impair the quality of services being provided.

(b) A request for a waiver must be made in writing and may be made to the Administrator at any time the behavioral health center deems a standard represents an undue hardship.

(c) Prior to or as a condition of granting a waiver, the Administrator may:

(i) Set a time limit on the effective duration of the waiver; and

(ii) Require the behavioral health center to submit a written plan to the Administrator setting forth proposed methods of achieving compliance with the standard within the time frame of the waiver.

(d) The Administrator reserves absolute discretion in considering and granting a request for a waiver.

(i) The Administrator shall communicate to the provider in writing the Administrator's decision on a waiver request and if denied, the grounds for denial.

(ii) If the Administrator grants a waiver request, the requesting behavioral health center shall keep a copy of the Administrator's decision as part of the behavioral health center's records.

(iii) If the Administrator denies a waiver request, the Administrator's denial is final and not subject to administrative review.

Section 47. Variances.

(a) A community mental health or substance use disorder treatment center may request a variance from the Department of any standard imposed under Section 2 of this Chapter.

(i) A variance is a permanent change to a required standard and may be requested at any time.

(ii) A request for variance must be made in writing and signed by the chair of the governing board.

(iii) A request for variance must establish how the variance will maintain or enhance the quality of a center's operations and client services.

(b) The Administrator reserves absolute discretion in considering and granting a request for variance.

(i) The Administrator shall communicate to the provider, their decision in writing on a variance request and if denied, grounds for denial.

(ii) If the Administrator grants a variance request, the requesting provider shall keep a copy of the Administrator's decision as part of the provider's records.

(iii) If the Administrator denies a variance request, the Administrator's denial is final and not subject to administrative review.

Chapter 6

Court Supervised Treatment Programs

[This Chapter is repealed.]

Chapter 6

Court Supervised Treatment Programs

[This Chapter is repealed.]

~~**Section 1. Purpose and Applicability.**~~

~~(a) This Chapter establishes the standards and procedures for court supervised treatment (CST) programs pursuant to Wyoming Statute 7-13-1605(c).~~

~~(b) This Chapter applies to all CST programs subject to the Court Supervised Treatment Programs Act, W.S. 7-13-1601 to -1616.~~

~~**Section 2. Eligibility for Funding.**~~

~~(a) An applicant is eligible to apply for funding from the Department to provide a CST program if:~~

~~(i) The applicant is:~~

~~(A) A governing body of a city, town, or county;~~

~~(B) A tribal government of either the Northern Arapaho or Eastern Shoshone tribes of the Wind River Indian Reservation; or~~

~~(C) A nonprofit organization recognized under 26 U.S.C. § 501(c)(3);~~

~~(ii) The applicant has created a program team pursuant to W.S. 7-13-1609(a);~~

~~(iii) The applicant serves as the contracting agent for all its program contracts pursuant to W.S. 7-13-1606(b);~~

~~(iv) The applicant has designated a program coordinator pursuant to W.S. 7-13-1609(c);~~

~~(v) The applicant possesses the capacity and capability to utilize electronic health care technologies consistent with the Department's reporting requirements, including those established under W. S. 7-13-1613; and~~

~~(vi) The applicant:~~

~~(A) Is nationally-accredited and certified as a substance use disorder treatment provider according to Chapter 2 of these Rules; or~~

(B) Has an agreement with a substance use disorder treatment provider which is nationally-accredited and certified according to Chapter 2 of these Rules.

Section 3. Applications for Funds.

(a) Prior to the beginning of a funding cycle, the Department shall publish public notice of the availability of funds and the eligibility requirements, as specified in Section 2 of this Chapter, to receive CST funding.

(b) The Department shall distribute the notice to currently-funded CST programs and shall post it on the Department's public website at: https://health.wyo.gov/behavioralhealth/mhsa/cst/.

(c) The Department shall distribute applications for funding to currently funded CST programs and any other entity which has expressed to an interest in applying for funding.

(d) An application for funding submitted to the Department must include, at a minimum:

(i) Identification of participating judges and a plan for participation of judges;

(ii) Identification of each CST program team member;

(iii) Identification of the CST treatment provider(s) and the specific treatment services to be provided including the location where treatment services will be provided;

(iv) Evidence of state certification and national accreditation of the CST treatment provider;

(v) Evidence of the completion of the training and continuing education requirements listed under Section 8 of this Chapter;

(vi) The process by which fees or contributions to the program shall be made by program participants; and

(vii) Demonstration of local contributions to the program, including the source and nature of the local contributions.

(A) Local contributions must meet or exceed twenty-five percent (25%) of the amount requested from the Department. The local contribution may include cash match or in-kind contribution.

(B) Financial contributions by CST participants, and state and federal funds received from any source must not be used to meet local contribution requirements.

(e) The Administrator shall review each timely-submitted application to determine funding eligibility according to Section 2 of this Chapter.

(i) If the Administrator determines that the provider does not meet the eligibility requirements, the Administrator shall notify the entity in writing that it is not eligible to apply for funding. The written notice must specify the grounds for the Administrator's determination.

(ii) If the Administrator determines the eligibility requirements are met, the Administrator shall notify the entity in writing that it is eligible to apply for funding.

Section 4. Funding Formula.

(a) The funding formula shall be based on the number of participants expected to be served and shall equal $9,354.66 per adult participant and $14,716.84 per juvenile participant.

(i) The Department may modify the adult participant and juvenile participant rates specified in the funding formula by plus or minus $500 without amending these Rules.

(ii) A modification to the funding formula pursuant to this subsection may not be effective until the beginning of the fiscal year following the change.

(iii) The Department shall notify currently-funded CST programs of changes to the funding formula at least thirty (30) calendar days prior to the release of applications for funding.

(b) The Department shall develop funding recommendations by applying the funding formula to each eligible application and adjust funding, considering the following:

(i) The amount of funding available;

(ii) The number of participants served during the past year(s);

(iii) The quality of services provided;

(iv) Any corrective action needed to improve quality or performance; and

(v) Staffing patterns.

(c) The Department may use data provided by the applicant in applying the funding formula and calculating funding recommendations. Each CST program shall have access to the data and other information used by the Department in determining its funding recommendation for the program.

(d) The Department shall, within thirty (30) calendar days after the due date for submitting applications, forward its funding recommendations and all applications to the CST Program Panel.

Section 5. CST Program Panel

(a) The CST Program Panel shall select a chair, a vice chair, and a secretary and develop bylaws.

(b) Department staff shall maintain CST Program Panel records, including minutes of all panel meetings.

(c) The CST Program Panel shall consider each eligible application and the Department's funding recommendations.

(d) To approve an application for funding, the CST Program Panel must find the CST program:

(i) Is in compliance with W.S. 7-13-1601 to -1615 and these Rules; and

(ii) Can reasonably be expected to meet the goals listed under W.S. 7-13-1603(b).

(e) The CST Program Panel shall render its funding decisions, conditions of funding, and schedule for disbursement within thirty (30) calendar days of receiving the applications and recommendations from the Department.

(i) The CST Program Panel shall notify the Department and each applicant in writing of its funding decision. The decision of the Panel is final and not subject to administrative review.

(ii) The Department shall disburse funding in a manner consistent with the Panel's decision.

Section 6. Treatment and Support Services.

(a) A CST program shall:

(i) Integrate treatment services with justice system case processing;

(ii) Collaborate with other CST programs to promote public safety and protect participants' due process rights;

(iii) Identify and promptly place eligible participants into the CST program;

(iv) Provide directly, or through subcontracts or referral relationships, a continuum of care for each participant that is individualized and based on the needs of the participant, to include at a minimum:

(A) Substance use disorder treatment;

(B) Support services;

(C) Continuing care; and

(D) Integrated treatment for mental health and substance use disorders for participants with co-occurring diagnoses.

(v) Allow access to the program by persons receiving MAT and shall facilitate MAT services where available and appropriate for a participant;

(vi) Monitor abstinence and the appropriate use of medications through frequent, random, and observed alcohol and other drug testing;

(vii) Coordinate a strategy which governs program responses to participants' compliance;

(viii) Ensure ongoing judicial interaction with each participant; and

(ix) Monitor and evaluate program goals and gauge effectiveness.

(b) A CST program that subcontracts for substance use disorder treatment services shall require the subcontractor to comply with Chapter 2 of these Rules and applicable provisions of this Chapter.

Section 7. CST Program Policies and Procedures.

(a) A CST program shall adopt, implement, and enforce policies and procedures that:

(i) Enforce the conditions of participation listed under W.S. 7-13-1607;

(ii) Enforce incentives and sanctions imposed under W.S. 7-13-1608;

(iii) Detail how the program shall facilitate access to MAT services where accessible and appropriate;

(iv) Ensure the training and continuing education requirements provided under Section 8 of this Chapter are satisfied;

(v) Ensure all participants contribute financially to the cost of their CST program; and

(vi) Guide processes for contracting substance use disorder treatment services or integrated co-occurring substance use disorder and mental health treatment services to treatment providers.

Section 8. Training and Continuing Education.

(a) A CST program shall ensure team members, staff, and treatment providers receive continuing interdisciplinary education that promotes evidence based treatment court planning, implementation, and operations.

(b) A CST program team member shall complete:

(i) A minimum of twenty (20) hours of drug-court-specific training or Department-approved CST training during the first year of participation in a CST program.

(A) A minimum of ten (10) hours must be formal training; and

(B) The remainder of these twenty (20) hours may be informal training, including shadowing or peer-sponsored training.

(ii) A minimum of six (6) additional hours of drug-court-specific or Department-approved training each subsequent fiscal year. Training which qualifies to meet this requirement must include drug court courses and seminars which may be provided by:

(A) The United States Department of Justice;

(B) The National Association of Drug Court Professionals and its divisions;

(C) The National Drug Court Resource Center;

(D) Treatment Courts Online;

(E) A state drug court association recognized by the Department; or

(F) The Department.

(c) A CST treatment provider who is not a member of the program team but who provides substance use disorder treatment or support services either as part of a CST program or under subcontract with a CST program shall complete:

(i) Ten (10) hours of drug-court-specific training or Department-approved training prior to providing CST services; and

(ii) Six (6) hours of drug court specific or Department-approved training annually.

(d) If a CST program team member or treatment provider completes more training than annually required, the Department may approve the excess hours to be carried over for up to

~~one (1) year. This provision applies to all hours of training in excess of those required in subsections (b) and (c) of this Section.~~

~~Section 9. Department Monitoring.~~

~~(a) At least every two (2) years, the Department shall conduct an on-site review of each funded CST program to determine compliance with these Rules.~~

~~(b) The Department shall issue a written report to the CST program within forty-five (45) business days of the review. The report must include the Department's findings and the corrective actions required, if any.~~

~~(c) A CST program shall submit to the Department a resolution plan within thirty (30) business days of receipt of the written report for each corrective action required.~~

~~(i) A resolution plan must provide the following information:~~

~~(A) Who will be charged with the responsibility to correct each deficiency;~~

~~(B) What will be done to correct each deficiency;~~

~~(C) How the corrective actions will be incorporated into the CST program's quality management program;~~

~~(D) Who will be charged with monitoring to ensure each deficiency does not occur again; and~~

~~(E) The deadline by when the CST program expects to correct all deficiencies.~~

~~(ii) The Department shall notify the CST program in writing of the approval or disapproval of the provider's resolution plan within thirty (30) business days after receipt of a plan.~~

~~(iii) If the Department disapproves of a resolution plan, the Department shall provide the CST program written notification of the reasons for the disapproval. The CST program shall submit a revised plan within ten (10) business days of receipt of the written disapproval from the Department.~~

(d) ~~The Department shall complete appropriate follow up monitoring to assure that the actions identified in the CST program's resolution plan have been completed within the specified time frame. The Department shall verify completion of a resolution plan in writing.~~

Chapter 7

Behavioral Health Center Benefit Plan Eligibility

Section 1. Purpose and Applicability.

(a) This Chapter has been adopted to establish the criteria for Behavioral Health Center (BHC) benefit plans eligibility and renewal processes.

(b) This Chapter applies to individuals seeking treatment services through a BHC benefit plan.

(c) The Department may issue manuals, bulletins, or policies to interpret this Chapter. Such manuals, bulletins, or policies shall be consistent with and reflect the rules contained in this Chapter. The provisions contained in manuals, bulletins, or policies shall be subordinate to this Chapter.

Section 2. Behavioral Health Center Benefit Plan Eligibility.

(a) An individual may present at a BHC seeking treatment services or be referred by sources set forth in W.S. 35-1-611 through W.S. 35-1-627 to be screened for BHC benefit plan eligibility.

(b) The BHC shall assess the individual to determine BHC benefit plan eligibility and will bill the Department for screening. If an individual does not qualify for the BHC-Full benefit plan, the individual may receive treatment services with insurance or self-pay. BHCs may not seek other payment sources for BHC-Screen benefit plan assessments.

(c) An individual is eligible for the following BHC benefit plans when:

(i) BHC-Screen Benefit Plan. Individuals who are not eligible for statutorily defined priority populations at W.S. 35-1-620(b)(ix).

(ii) BHC-Full Benefit Plan.

(A) Household income is less than or equal to two hundred percent (200%) of the federal poverty level; or

(B) The individual meets criteria for one or more of the statutorily defined priority populations at W.S. 35-1-620(b)(ix).

(d) The individual shall be notified in writing of the reasons for the approval, denial, reduction, or closure; the specific regulation supporting the action; the effective date of action; and an explanation of the right to request a hearing.

(e) Responsibilities for Individuals Seeking Services.

(i) Individuals seeking services shall participate in the eligibility process by providing all information and documentation requested by the BHC, including, but not limited to, intake documentation, clinical assessment, income, and financial resources.

(ii) Individuals seeking services who fail or refuse to participate or provide the information requested by the BHC shall not be considered for eligibility.

(iii) Individuals seeking services may be required by BHCs to provide Wyoming Medicaid financial eligibility determination.

(f) Eligibility Period and Redeterminations.

(i) BHC Benefit Plan eligibility begins the first day of the month in which the individual is eligible. Eligibility shall be reviewed by the Department for continued eligibility every twelve (12) months.

(ii) The Department shall send a written BHC benefit plan renewal notice sixty (60) calendar days before the expiration of eligibility.

(g) Clients shall be allowed to receive retroactive benefits not to exceed ninety (90) calendar days prior to the intake documentation if the individual received benefit covered services at any time during that period and would have been eligible had they applied, unless restricted by other federal or state laws and regulations.

Chapter 7

Behavioral Health Center Benefit Plan Eligibility

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(b) This Chapter applies to individuals seeking treatment services through a BHC benefit plan.

(c) The Department may issue manuals, bulletins, or policies to interpret this Chapter. Such manuals, bulletins, or policies shall be consistent with and reflect the rules contained in this Chapter. The provisions contained in manuals, bulletins, or policies shall be subordinate to this Chapter.

Section 2. Behavioral Health Center Benefit Plan Eligibility.

(a) An individual may present at a BHC seeking treatment services or be referred by sources set forth in W.S. 35-1-611 through W.S. 35-1-627 to be screened for BHC benefit plan eligibility.

(b) The BHC shall assess the individual to determine BHC benefit plan eligibility and will bill the Department for screening. If an individual does not qualify for the BHC-Full benefit plan, the individual may receive treatment services with insurance or self-pay. BHCs may not seek other payment sources for BHC-Screen benefit plan assessments.

(c) An individual is eligible for the following BHC benefit plans when:

(i) BHC-Screen Benefit Plan. Individuals who are not eligible for statutorily defined priority populations at W.S. 35-1-620(b)(ix).

(ii) BHC-Full Benefit Plan.

(A) Household income is less than or equal to two hundred percent (200%) of the federal poverty level; or

(B) The individual meets criteria for one or more of the statutorily defined priority populations at W.S. 35-1-620(b)(ix).

(d) The individual shall be notified in writing of the reasons for the approval, denial, reduction, or closure; the specific regulation supporting the action; the effective date of action; and an explanation of the right to request a hearing.

(e) Responsibilities for Individuals Seeking Services.

(i) Individuals seeking services shall participate in the eligibility process by providing all information and documentation requested by the BHC, including, but not limited to, intake documentation, clinical assessment, income, and financial resources.

(ii) Individuals seeking services who fail or refuse to participate or provide the information requested by the BHC shall not be considered for eligibility.

(iii) Individuals seeking services may be required by BHCs to provide Wyoming Medicaid financial eligibility determination.

(f) Eligibility Period and Redeterminations.

(i) BHC Benefit Plan eligibility begins the first day of the month in which the individual is eligible. Eligibility shall be reviewed by the Department for continued eligibility every twelve (12) months.

(ii) The Department shall send a written BHC benefit plan renewal notice sixty (60) calendar days before the expiration of eligibility.

(g) Clients shall be allowed to receive retroactive benefits not to exceed ninety (90) calendar days prior to the intake documentation if the individual received benefit covered services at any time during that period and would have been eligible had they applied, unless restricted by other federal or state laws and regulations.

Chapter 8

Administrative Hearings

Section 1. Purpose and Applicability.

(a) This chapter governs the administrative hearing procedures of the Department with respect to behavioral health services.

(b) The Department may issue manuals, bulletins, or policies to interpret this Chapter. Such manuals, bulletins, or policies shall be consistent with and reflect the rules contained in this Chapter. The provisions contained in manuals, bulletins, or policies shall be subordinate to this Chapter.

Section 2. Notice of Right to a Hearing.

(a) Individuals seeking services and clients. The Department shall provide notice at the time of any adverse action. The notice shall include:

(i) The individual's right to request a hearing;

(ii) The method for requesting a hearing;

(iii) The individual's right to be represented by an attorney licensed to practice law in the State of Wyoming;

(iv) The intended action;

(v) The effective date of the intended action;

(vi) The reasons for the intended action;

(vii) The specific regulations that support that action.

(b) Providers. The Department shall notify a provider of the right to a hearing. The notice shall include:

(i) The right to request a hearing;

(ii) The method for requesting a hearing;

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Section 3. Request for an Administrative Hearing.

(a) A client or individual seeking services may request an administrative hearing. The request must be made in writing within ten (10) calendar days after the date of the determination letter. The request must be submitted via certified mail to the Wyoming Department of Health, Behavioral Health Division, Mental Health and Substance Use Disorder Services Section.

(b) A provider has the right to a hearing regarding an adverse action. The request must be made in writing ten (10) calendar days after the date of the determination letter. The request must be submitted via certified mail to the Wyoming Department of Health, Behavioral Health Division, Mental Health and Substance Use Disorder Services Section.

(c) Upon receipt of a request for an administrative hearing, the Department may pursue an informal conference within five (5) business days.

(d) Upon receipt of a request for an administrative hearing, the Department shall transmit the administrative hearing request to the Office of Administrative Hearings. The hearing shall be conducted in accordance with *Rules, Office of Administrative Hearings, General Agency, Board of Commission Rules*, Chapter 2, Section 6 (2017), incorporated herein by reference.

Section 4. Maintaining Services Pending Appeal. The Department may not terminate or reduce services until the final decision is rendered after the hearing.

Section 5. Timing of Hearing. A hearing shall be held within forty (40) calendar days from the date of the request for hearing unless otherwise provided by law.

Section 6. Decisions.

(a) The hearing officer shall make proposed findings of fact and conclusions of law within thirty (30) calendar days of the close of the hearing and forward them to the Director of the Department for the final decision. This time may be extended if the parties or other interested persons are to submit briefs; but may not be extended by more than ten (10) business days, unless the parties stipulate, in writing or on the record at the hearing, to a later date.

(i) Within ten (10) business days of the close of the hearing, or such additional time as the hearing officer may allow, each party shall be allowed to file with the hearing officer any proposed findings of fact and conclusions of law, together with a supporting brief. Such proposals and briefs shall be served on all parties.

(ii) Within ten (10) business days after the issuance of the hearing officer's proposed findings of fact and conclusions of law, any of the parties may submit exceptions. Such exceptions shall be filed with the Director of the Department and served on all parties.

(b) Within ten (10) business days after the period for submitting exceptions, the Director of the Department shall make and enter into the record the final decision. The final decision shall be served on all parties to the proceedings.

Section 7. Appeals. Appeals from a final decision of the Department shall be in accordance with W.S. §§ 16-3-114 through 16-2-115, and Rule 12 of the Wyoming Rules of Appellate Procedure.

Section 8. Transcripts and Record.

(a) When a contested case is set for hearing, the Office of Administrative Hearings shall assign a docket number to the case and enter the case with its number and date of filing on a docket. The Department shall maintain a separate file for each docketed case in which all pleadings, transcriptions, correspondence, papers, and exhibits for that case shall be maintained. All items shall have noted thereon the assigned docket number and the date of filing.

(b) All contested case hearing proceedings shall be recorded, electronically, through the use of a qualified court reporter, or any other appropriate means determined by the Department or the hearing officer. Transcriptions of oral proceedings or written transcripts of a witness's testimony may be obtained by the contestant from the Department upon payment of cost.

(i) In a nonpublic investigatory proceeding, requests for copies or transcripts may be limited to testimony of the requesting party.

(ii) Where a contestant can demonstrate indigence and cannot effectively perfect the appeal without a transcript, the Department may waive the payment of the fee.

(c) A stipulation resolving the matter shall not be part of the record unless otherwise agreed by the parties.

Section 9. Incorporation by Reference.

(a) For any code, standard, rule, or regulation incorporated by reference in these Rules:

(i) The Department has determined that incorporation of the full text in these Rules would be cumbersome or inefficient given the length or nature of these Rules;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this Section; and

(iii) The incorporated code, standard, rule, or regulation may be found at https://health.wyo.gov/behavioralhealth/mhsa and is maintained and made available by the Department for public inspection and copying at cost at the same location.

(b) The Department incorporates the following codes, standards, rules, and regulations into these Rules by reference. These incorporated references are identified as:

(i) Referenced above is *Rules, Office of Administrative Hearings, General Agency, Board of Commission Rules*, Chapter 2 (2017), also known as the Uniform Rules for Contested Case Practice and Procedure adopted by the Office of Administrative Hearings, effective July 20, 2017, and found at: https://health.wyo.gov/behavioralhealth/mhsa/about-us/rules-and-regulations/.

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