

Rules for the Division of Developmental Disabilities
Adult Developmental Day Treatment



LAST UPDATED: January 1, 2021

Subchapter 1. General.

101. Authority.

- (a) These standards are promulgated under the authority of Ark. Code Ann. § 20-48-101 to -105, Ark. Code Ann. § 20-48-201 to -212, Ark. Code Ann. § 20-48-701 to -705, Ark. Code Ann. § 20-48-812, Ark. Code Ann. § 25-10-102, and Ark. Code Ann. § 25-15-217.
- (b) (1) The Division of Provider Services and Quality Assurance (DPSQA) shall perform all regulatory functions regarding the licensure and monitoring of Adult Developmental Day Treatment programs on behalf of the Division of Developmental Disabilities Services (DDS).
- (2) The Division of Developmental Disabilities Services (DDS) shall determine whether and to what an extent a county is underserved.

102. Purpose.

The purpose of these standards is to:

- (a) Serve as the minimum standards for adult developmental day treatment programs and facilities; and
- (b) Ensure that all beneficiaries receive all adult developmental day treatment services recommended by a physician for the maximum reduction of physical or mental disability and restoration of the beneficiary to the best functional level.

103. Definitions.

- (a) “ADDT” means an adult developmental day treatment program, which is a day treatment program prescribed by a physician that provides adult developmental day treatment services to adults with intellectual or developmental disabilities.
- (b) “ADDT license” means a non-transferable license issued by DPSQA to an ADDT for a specific location that meets these standards.
- (c) “Adult developmental day treatment services” means services that are available under the Adult Developmental Day Treatment program for Medicaid beneficiaries as defined in Section II of the Adult Developmental Day Treatment Medicaid Manual.
- (d) “Adverse regulatory action” means a denial of an ADDT license and any enforcement action taken by DPSQA pursuant to Section 803 to 807.

- (e) “Applicant” means an applicant for an ADDT license.
- (f) (1) “Change in ownership” means one (1) or more transactions within a twelve (12) month period that result in a change in greater than fifty percent (50%) of the financial interests, governing body, operational control, or other operational or ownership interests of the ADDT.
- (2) “Change in ownership” does not include a change of less than fifty percent (50%) in the membership of the ADDT’s board of directors, board of trustees, or other governing body.
- (g) “Directed in-service training plan” means a plan of action that:
 - (1) Provides training to assist an ADDT in complying with these standards and correcting deficiencies;
 - (2) Includes the topics covered in the training and materials used in the training;
 - (3) Specifies the length of the training;
 - (4) Specifies the employees required to attend the training; and
 - (5) Is approved by DPSQA.
- (h) (1) “Employee” means an employee, owner, independent contractor, or other agent of an ADDT and includes without limitation full-time employees, part-time employees, transportation contractors, and any other person who acts on behalf of an ADDT or has an ownership, financial, or voting interest in the ADDT.
- (2) “Employee” does not mean an independent contractor if:
 - (i) The independent contractor does not assist in the day-to-day operations of the ADDT; and
 - (ii) The independent contractor has no beneficiary contact.
- (i) “Irreconcilable conflict” means a conflict between two (2) standards where an ADDT cannot comply with both standards at the same time.
- (j) “ITP” means a beneficiary’s individual treatment plan, which is a written, individualized service plan for an ADDT beneficiary to improve the beneficiary’s condition.
- (k) (1) “Marketing” means the accurate and honest advertisement of an ADDT that does not also constitute solicitation.
- (2) “Marketing” includes without limitation:

- (A) Advertising using traditional media;
 - (B) Distributing brochures or other informational materials regarding the services offered by the ADDT;
 - (C) Conducting tours of the ADDT to interested beneficiaries and their families;
 - (D) Mentioning services offered by the ADDT in which the beneficiary or his or her family might have an interest; or
 - (E) Hosting informational gatherings during which the services offered by the ADDT are described.
- (l) “Medication error” means the loss of medication, unavailability of medication, falsification of medication logs, theft of medication, missed doses of medication, incorrect medications administered, incorrect doses of medication, incorrect time of administration, incorrect method of administration, and the discovery of an unlocked medication container that is always supposed to be locked.
- (m) “Plan of correction” means a plan of action that:
- (1) Provides the steps an ADDT must take to correct noncompliance with these standards;
 - (2) Sets a timeframe for each specific action provided in the plan; and
 - (3) Is approved by DPSQA.
- (n) “Residence” means the county where a beneficiary is listed as residing in the Arkansas Medicaid Management Information System.
- (o) “Serious injury” means any injury to a beneficiary that:
- (1) May cause death;
 - (2) May result in substantial permanent impairment;
 - (3) Requires the attention of an emergency medical technician, a paramedic, or a doctor; or
 - (4) Requires hospitalization.
- (p) (1) “Solicitation” means the initiation of contact with a beneficiary or his or her family by an ADDT when the beneficiary is currently receiving services from another provider and the ADDT is attempting to convince the beneficiary or his or her

family to switch to or otherwise use the services of the ADDT that initiated the contact.

- (2) “Solicitation” includes without limitation the following acts to induce a beneficiary or his or her family by:
 - (A) Contacting a beneficiary or the family of a beneficiary that is currently receiving services from another provider;
 - (B) Offering cash or gift incentives to a beneficiary or his or her family;
 - (C) Offering free goods or services not available to other similarly situated beneficiaries or their families;
 - (D) Making negative comments to a beneficiary or his or her family regarding the quality of services performed by another service provider;
 - (E) Promising to provide services in excess of those necessary;
 - (F) Giving a beneficiary or his or her family the false impression, directly or indirectly, that the ADDT is the only service provider that can perform the services desired by the beneficiary or his or her family; or
 - (G) Engaging in any activity that DPSQA reasonably determines to be “solicitation.”

- (q) “Underserved county” means a county that is underserved regarding adult developmental day treatment services in accordance with 20-48-105 of the Arkansas Code.

Subchapter 2. Licensing.

201. License Required.

- (a) (1) An ADDT must have an ADDT license issued by DPSQA pursuant to these standards for the location at which the ADDT will provide services.
- (2) An ADDT must comply with all requirements of these standards.

- (b) (1) An ADDT license is specific to a single location.
- (2) A separate ADDT license is required for each location even if the same person or entity has an ADDT at other locations.
- (3) A location may only have one (1) ADDT license attributed to it at any one time.

202. Licensure Application.

- (a) (1) To apply for an ADDT license, an applicant must submit a complete application to DPSQA.
- (2) A complete application includes:
 - (A) Documentation demonstrating the applicant's entire ownership, including without limitation all the applicant's financial, governing body, and business interests;
 - (B) Documentation of the applicant's management, including without limitation the management structure and members of the management team;
 - (C) Documentation of the applicant's current contractors and the contractors that the applicant intends to use as part of operating the ADDT;
 - (D) Documentation of all required state and national criminal background checks for employees and operators;
 - (E) Documentation of all required Child Maltreatment Registry checks and Adult Maltreatment Registry checks for employees and operators;
 - (F) Documentation demonstrating compliance with these standards; and
 - (G) All other documentation or other information requested by DPSQA.

- (b) To apply to change the ownership of an existing ADDT, the ADDT must submit a complete application described in Section 202(a)(2).

203. Licensure Process.

- (a) DPSQA may approve an application for an ADDT license and issue an ADDT license if:
 - (1) The applicant submits a complete application under Section 202(a);
 - (2) DPSQA determines that the applicant has successfully passed all required criminal background and maltreatment checks.
 - (3) DPSQA determines that the applicant satisfies these standards; and
 - (4) DPSQA determines that one (1) of the following conditions are met:
 - (A) DDS has determined that the county in which the new ADDT would be located is an underserved county;
 - (B) The applicant has one (1) or more ADDT licensed locations in the same county in which the new ADDT would be located; or
 - (C) The applicant has one (1) or more ADDT licensed locations in a county contiguous to the county in which the new ADDT would be located and the existing location serves at least twenty (20) individuals who are eligible, enrolled, and participating in the existing location, but reside in the county in which the ADDT would be located.
- (b) DPSQA may approve an application to change the ownership of an existing ADDT and change the ownership of an existing ADDT license if:
 - (1) The applicant submits a complete application under Section 202;
 - (2) DPSQA determines that all employees and operators have successfully passed all required criminal background and maltreatment checks; and
 - (3) DPSQA determines that the applicant satisfies these standards.
- (c) DPSQA shall issue new ADDT licenses in accordance with the order of priority required by section 20-48-105 of the Arkansas Code.
- (d) ADDT licenses do not expire until terminated under these standards.

204. Notice of Underserved Status.

DDS shall provide written notice of any underserved determination made under Section 203(a)(3)(i) as required in section 20-48-105 of the Arkansas Code.

Subchapter 3. Administration.

301. Organization and Ownership.

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

- (b) (1) An ADDT must appoint a single manager as the point of contact for all DDS and DPSQA matters and provide DDS and DPSQA with updated contact information for that manager.

- (2) This manager must have authority over the ADDT, all ADDT employees, and is responsible for ensuring that DDS and DPSQA requests, concerns, inquiries, and enforcement actions are addressed and resolved to the satisfaction of DDS and DPSQA.

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

- (2) An ADDT cannot change its ownership unless DPSQA approves the application of the new ownership pursuant to Sections 202 and 203.

- (3) An ADDT cannot change its name or otherwise operate under a different name than the name listed on the ADDT license without prior written notice to DPSQA.

302. Employees and Staffing Requirements.

- (a) (1) An ADDT must appropriately supervise all beneficiaries based on each beneficiary's needs.

- (2) An ADDT must have enough employees on-site to supervise beneficiaries at the ADDT location.

- (b) (1) An ADDT must comply with all requirements applicable to employees under these standards, including without limitation criminal background checks and adult and child maltreatment checks.

- (2) An ADDT must verify an employee still meets all requirements under these standards upon the request of DPSQA or whenever the ADDT receives information after hiring that would create a reasonable belief that an employee no longer meets all requirements under the standards including without limitation requirements related to criminal background checks and adult and child maltreatment checks.

- (c) (1) An ADDT must conduct child maltreatment, adult maltreatment, and criminal background checks for all employees as required by law.

- (2) Except as provided in this section, all ADDT employees, contractors, sub-contractors, interns, volunteers, and trainees, as well as all other persons who have routine contact with beneficiaries within the ADDT or who provide services within the ADDT, must successfully pass all required criminal background checks and adult and child maltreatment checks.
- (d)
 - (1) Employees must be at least eighteen (18) years of age.
 - (2) A beneficiary's custodian or legal guardian is not required to have criminal background checks, child maltreatment checks, or adult maltreatment checks, if the custodian or legal guardian only volunteers on a field trip and is not left alone with any beneficiary.
- (e) An ADDT must maintain at least a 1:10 staff-to-beneficiary ratio at all times.
- (f)
 - (1) An ADDT must document all scheduled and actual employee staffing.
 - (2) The documentation required for of employee staffing includes without limitation employee names, job title or credential, shift role, shift days, and shift times.

303. Employee Training.

- (a) All employees involved in any way with services provided to beneficiaries or who have routine contact with beneficiaries must receive the following training before having contact with beneficiaries and no later than thirty (30) days after beginning employment:
 - (1) Basic health and safety practices;
 - (2) Infection control and infection control procedures;
 - (3) Identification and mitigation of unsafe environmental factors;
 - (4) Emergency and evacuation procedures required in Section 308;
 - (5) Identification and prevention of adult and child maltreatment;
 - (6) Mandated reporter requirements; and
 - (7) Reporting incidents and accidents as required in these standards.
- (b) Employees required to receive training prescribed in subdivision (a) must receive annual re-training on those topics at least once every twelve (12) months.

304. Employee Records.

- (a) An ADDT must maintain a personnel file for each employee that includes:
- (1) A detailed job description;
 - (2) All required criminal background checks;
 - (3) All required Child Maltreatment Registry checks;
 - (4) All required Adult Maltreatment Registry checks;
 - (5) All conducted drug screen results;
 - (6) Signed statement that employee will comply with the ADDT's drug screen and drug use policies;
 - (7) Copy of current state or federal identification;
 - (8) Copy of valid state-issued driver's license, if driving is required in the job description, and documentation of completion of any required driver safety courses;
 - (9) Documentation demonstrating that the employee received all training required in Section 303;
 - (10) Documentation demonstrating that the employee obtained and maintained in good standing all professional licensures, certifications, or credentials for the employee or the service the employee is performing that are required for the employee or the service the employee is performing; and
 - (11) Documentation demonstrating that the employee meets all continuing education, in-service, or other training requirements applicable to that employee under these standards and any professional licensures, certifications, or credentials held by that employee.
- (b) (1) An ADDT must ensure that each personnel record is kept confidential and available only to:
- (A) Employees who need to know the information contained in the personnel record;
 - (B) Persons or entities who need to know the information contained in the personnel record;
 - (C) DPSQA and any governmental entity with jurisdiction or other authority to access the personnel record;

- (D) The employee; and
 - (E) Any other individual authorized in writing by the employee.
- (2) (A) An ADDT must keep personnel records in a file cabinet or room that is always locked.
- (B) (i) An ADDT may use electronic records in addition to or in place of physical records to comply with these standards.
- (ii) An ADDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct a personnel record in the event of a breakdown in the ADDT's electronic records system.
- (c) An ADDT must retain all employee records for five (5) years from the date an employee is no longer an employee of the ADDT or, if longer, the final conclusion of all reviews, appeals, investigations, administrative actions, or judicial actions related to that employee that are pending at the end of the five-year period.

305. Beneficiary Service Records.

- (a) (1) An ADDT must maintain a separate, updated, and complete service record for each beneficiary documenting the services provided to the beneficiary and all other documentation required under these standards.
- (2) Each beneficiary service record must be uniformly organized and readily available for review by DPSQA at the ADDT's location.
- (b) A beneficiary's service record must include a summary document at the front that includes:
- (1) The beneficiary's full name;
 - (2) The beneficiary's address and county of residence;
 - (3) The beneficiary's telephone number and email address;
 - (4) The beneficiary's date of birth;
 - (5) The beneficiary's primary language;
 - (6) The beneficiary's diagnoses;
 - (7) The beneficiary's medications, dosage, and frequency, if applicable;

- (8) The beneficiary's known allergies;
 - (9) The beneficiary's entry date into the ADDT;
 - (10) The beneficiary's exit date from the ADDT;
 - (11) The beneficiary's Medicaid Number;
 - (12) The beneficiary's commercial or private health insurance information or managed care organization information, if applicable;
 - (13) The name, address, phone number, email address, and relationship of the beneficiary's custodian or legal guardian; and
 - (14) The name, address, and phone number of the beneficiary's primary care physician.
- (c) A beneficiary's service record must include at least the following information and documentation:
- (1) The beneficiary's ITP;
 - (2) The beneficiary's behavioral management plan;
 - (3) The beneficiary's daily activity logs;
 - (4) The beneficiary's medication management plan and medication logs;
 - (5) Copies of any assessments or evaluations completed on the beneficiary; and
 - (6) Copies of any orders that place the beneficiary in the custody of another person or entity.
- (d) (1) An ADDT must ensure that each beneficiary service record is kept confidential and available only to:
- (A) Employees who need to know the information contained in the beneficiary's service record;
 - (B) Persons or entities who need to know the information contained in the beneficiary service record in order to provide services to the beneficiary;
 - (C) DPSQA and any governmental entity with jurisdiction or other authority to access the beneficiary's service record;
 - (D) The beneficiary's legal guardian or custodian; and

- (E) Any other individual authorized in writing by the legal guardian or custodian.
- (2) (A) An ADDT must keep beneficiary service records in a file cabinet or room that is always locked.
- (B) (i) An ADDT may use electronic records in addition to or in place of physical records to comply with these standards.
- (ii) An ADDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct a beneficiary's service record in the event of a breakdown in the ADDT's electronic records system.
- (e) An ADDT must retain all beneficiary service records for five (5) years from the date the beneficiary last exits from the ADDT or, if longer, the final conclusion of all reviews, appeals, investigations, administrative actions, or judicial actions related to beneficiary that are pending at the end of the five-year period.

306. Marketing and Solicitation.

- (a) An ADDT can market its services.
- (b) An ADDT cannot solicit a beneficiary or his or her family.

307. Third-party Service Agreements.

- (a) An ADDT may contract in writing with third-party vendors to provide services or otherwise satisfy requirements under these standards.
- (b) An ADDT must ensure that all third-party vendors comply with these standards and all other applicable laws, rules, and regulations.

308. Emergency Plans and Drills.

- (a) (1) An ADDT must have a written emergency plan.
- (2) (A) The written emergency plan must provide the procedures to follow in the event of emergencies to safeguard the health and safety of beneficiaries and ensure continuity of services to the extent possible.
- (B) A written emergency plan must address all foreseeable emergencies including without limitation fires, floods, tornados, utility disruptions,

bomb threats, active shooters, outbreaks of infectious disease, and public health emergencies.

- (3) An ADDT must evaluate all written emergency plans at least annually and update as needed.
- (b) The written emergency plan must include at least:
- (1) Designated relocation sites and evacuation routes;
 - (2) Procedures for notifying legal guardians and custodians of relocation;
 - (3) Procedures for ensuring each beneficiary's safe return to the ADDT or his or her residence;
 - (4) Procedures to address the special needs of each beneficiary;
 - (5) Procedures to address interruptions in the delivery of ADDT services;
 - (6) Procedures for reassigning employee duties in an emergency; and
 - (7) Procedures for annual training of employees regarding the emergency plan.
- (c)
- (1) An ADDT must conduct emergency fire drills and tornado drills at least once a month each and on separate days and at different times of day.
 - (2) An ADDT must document all emergency drills completed and include at least:
 - (A) The date of the emergency drill;
 - (B) The type of emergency drill;
 - (C) The time of day the emergency drill was conducted;
 - (D) The number of beneficiaries participating in the emergency drill;
 - (E) The length of time taken to complete the emergency drill; and
 - (F) Notes regarding any aspects of the emergency procedure or drill that need improvement based on the performance of the emergency drill.
- (d) An ADDT must have an emergency alarm system in place that will alert all employees and beneficiaries when there is an emergency.

309. Infection Control.

- (a)
 - (1) An ADDT must follow all applicable guidance and directives from the Arkansas Department of Health (ADH) related to infection control including without limitation guidance and directives on preventing the spread of infectious diseases, hand hygiene, handling potentially infectious material, use of personal protective equipment, tuberculosis, blood borne pathogens, and coronaviruses.
 - (2) An ADDT must provide personal protective equipment for all employees and beneficiaries as may be required in the circumstances.
 - (3) Employees and beneficiaries must wash their hands with soap before eating, after toileting, and as otherwise appropriate to prevent the spread of infectious diseases.
- (b)
 - (1) An ADDT cannot allow a beneficiary, employee, or any other person who has an infectious disease to enter an ADDT facility.
 - (2) A beneficiary who becomes ill while at an ADDT must be separated from other beneficiaries to the extent possible.
 - (3) The ADDT must notify a beneficiary's legal guardian or custodian if the beneficiary becomes ill while at an ADDT facility.

310. Compliance with State and Federal Laws, Rules, and Other Standards.

- (a) An ADDT must comply with all applicable state and federal laws and rules including without limitation:
 - (1) The Americans with Disabilities Act of 1990 (ADA);
 - (2) The Disability Rights Act of 1964;
 - (3) The Health Insurance Portability and Accounting Act (HIPPA);
 - (4) The Privacy Act of 1974; and
 - (5) All applicable laws and rules governing the protection of medical, social, personal, financial, and electronically stored records.
- (b) An ADDT facility must comply with all:
 - (1) Building codes and local ordinances;
 - (2) Fire and safety inspections and requirements of the State Fire Marshal or local authorities;

- (3) ADH requirements including without limitation requirements regarding water, plumbing, and sewage;
 - (4) Arkansas Department of Labor and Licensing requirements including without limitation requirements regarding water heaters and boilers; and
 - (5) Other federal, state, or local requirements applicable to the HCBS community service location, property, and structures.
- (c) An ADDT provider must maintain documentation of compliance with applicable state, local, and federal laws, rules, codes, and standards.
 - (d) A violation of any applicable state, local, or federal laws, rules, codes, or standards constitutes a violation of these standards.
 - (e)
 - (1) In the event of a conflict between these standards and other applicable state, local, or federal laws, rules, or standards, the stricter requirement shall apply.
 - (2) In the event of an irreconcilable conflict between these standards and other applicable state, local, or federal laws, rules, or standards these standards shall govern to the extent not governed by federal laws or rules or state law.

Subchapter 4. Facility Requirements.

401. General Requirements.

An ADDT facility must:

- (1) Have a minimum of forty (40) square feet of program training area per beneficiary;
- (2) Be heated, air-conditioned, well-lighted, well-ventilated, and well-maintained at a comfortable temperature;
- (3) Be safe, clean, maintained, in good repair, and sanitary, including without limitation as to the facility's exterior, surrounding property, and interior floors and ceilings;
- (4) Be free of offensive odors and potentially hazardous objects including without limitation explosives and broken equipment;
- (5) Have drinking water available to beneficiaries and employees;
- (6) Have an emergency alarm system throughout the facility to alert employees and beneficiaries when there is an emergency;
- (7) Have at least one (1) toilet and one (1) sink for every fifteen (15) beneficiaries, with running hot and cold water, toilet tissue, liquid soap, and paper towels or air dryers;
- (8) Have bathrooms that provide for individual privacy and are appropriate for all beneficiaries with regard to size and accessibility;
- (9) Have at least one (1) operable telephone on site that is available at all hours and reachable with a phone number for outside callers;
- (10) Have working smoke and carbon monoxide detectors in all areas used by beneficiaries or employees;
- (11) Have a first aid kit that includes at least the following:
 - (A) Adhesive band-aids of various sizes;
 - (B) Sterile gauze squares;
 - (C) Adhesive tape;
 - (D) Roll of gauze bandages;

- (E) Antiseptic;
 - (F) Thermometer;
 - (G) Scissors;
 - (H) Disposable gloves; and
 - (I) Tweezers;
- (12) Have enough fire extinguishers in number and location to satisfy all applicable laws and rules, but no fewer than two (2) fire extinguishers;
 - (13) Have hallways and corridors at least six (6) feet in width;
 - (14) Have screens for all windows and doors used for ventilation;
 - (15) Have screens or guards attached to the floor or wall to protect floor furnaces, heaters, hot radiators, exposed water heaters, air conditioners, and electric fans;
 - (16) Have no lead-based paint;
 - (17) Have lighted “exit” signs at all exit locations;
 - (18) Have written instructions and diagrams noting emergency evacuation routes and shelters to be used in case of fire, severe weather, or other emergency posted at least every twenty-five (25) feet, in all stairwells, in and by all elevators, and in each room used by beneficiaries;
 - (19) Have a copy of Title VI and VII of the Civil Rights Law of 1964 and all required legal notices prominently posted as required;
 - (20) Have an emergency power system to provide lighting and power to essential electrical devices throughout the ADDT, including without limitation power to exit lighting and fire detection, fire alarm, and fire extinguishing systems;
 - (21) Have chemicals, toxic substances, and flammable substances stored in locked storage cabinets or closets;
 - (22) Have the ADDT’s telephone, hours of operation, and hours of access, if applicable, posted at all public entrances;
 - (23) Prohibit the possession of firearms or other weapons except by authorized law enforcement personnel; and

- (24) Prohibit smoking, use of tobacco products, and the consumption of prescription medication without a prescription, alcohol, and illegal drugs.

Subchapter 5. Enrollments and Exits.

501. Enrollments.

- (a) An ADDT may enroll and provide services to a beneficiary who is eligible to receive ADDT services.
- (b) An ADDT must document the enrollment of all beneficiaries to the ADDT.

502. Exits.

- (a) An ADDT may exit a beneficiary from its program if the person becomes ineligible for ADDT services, chooses to enroll with another ADDT, or for any other lawful reason.
- (b) An ADDT must document the exit of all beneficiaries from its program.
- (c) An ADDT must provide reasonable assistance to all beneficiaries exiting its program including without limitation by:
 - (1) Assisting the beneficiary in transferring to another ADDT or other service provider; and
 - (2) Providing copies of the beneficiary's records to the beneficiary, the beneficiary's legal custodian or guardian, and the ADDT or other service provider to which the beneficiary transfers after exiting the program.

Subchapter 6. Program and Services.

601. Arrivals, Departures, and Transportation.

- (a) (1) An ADDT must ensure that beneficiaries safely arrive to and depart from an ADDT facility.
 - (2) (A) An ADDT must document the arrival and departure of each beneficiary to and from an ADDT facility.
 - (B) Documentation of arrivals to and departures from an ADDT must include without limitation the beneficiary's name, date of birth, date and time of arrival and departure, name of the person or entity that provided transportation, and method of transportation.
 - (3) (A) A manager or designee of an ADDT must:
 - (i) Review the beneficiary arrival and departure documentation each day and compare it with the ADDT's attendance record;
 - (ii) Sign and date the beneficiary arrival and departure documentation verifying that all beneficiaries for the day safely arrived to and departed from the ADDT facility.
 - (B) An ADDT must maintain beneficiary arrival and departure documentation for one (1) year from the date of transportation.
- (b) The requirements in subdivisions (c) through (f) apply only if an ADDT elects to provide transportation services.
- (1) Transportation to which these requirements apply includes without limitation transportation provided to a beneficiary by any person or entity on behalf of the ADDT and regardless of whether the person is an employee, or the transportation is a billed service; and
 - (2) Transportation to which these requirements apply also includes periodic transportation, including without limitation transportation provided at the request of a beneficiary's legal guardian or custodian to have a beneficiary occasionally dropped off or picked up due to a scheduling conflict with the legal guardian or custodian.
- (c) All employees transporting beneficiaries or present in vehicles during the transportation of beneficiaries shall meet the following requirements before transporting beneficiaries:

- (1) Be at least twenty-one (21) years of age or the minimum age required by the ADDT's commercial automobile insurance, whichever is higher;
 - (2) Hold a current valid driver's license or commercial driver's license as required by state law; and
 - (3) Successfully complete a driver safety training course.
- (d) (1) Each vehicle used to transport beneficiaries must:
- (A) Be licensed and maintained in proper working condition, including without limitation as to air conditioning and heating systems; and
 - (B) Have a seating space and a specific appropriate restraint system for each beneficiary transported.
- (2) (A) Any vehicle designed or used to transport more than seven (7) passengers and one (1) driver must have a safety alarm device.
- (B) The safety alarm device must:
- (i) Always be in working order and properly maintained;
 - (ii) Installed so that the driver is required to walk to the very back of the vehicle to reach the switch that deactivates the alarm;
 - (iii) Be installed in accordance with the device manufacturer's recommendations; and
 - (iv) Sound the alarm for at least one (1) minute after the activation of the safety alarm device.
- (3) (A) An ADDT must maintain commercial insurance coverage for any vehicle used to transport beneficiaries.
- (B) The commercial insurance coverage must include at least:
- (i) \$100,000 combined single limit;
 - (ii) \$100,000 for uninsured motorist;
 - (iii) \$100,000 for under-insured motorist; and
 - (iv) \$5,000 personal injury protection for each passenger based on the number of passengers the vehicle is manufactured to transport.

- (C) An ADDT must maintain documentation of all required commercial insurance coverage.
- (e)
 - (1) An ADDT must maintain a roster of beneficiaries for each vehicle each day listing the driver, other persons, and name, age, date of birth, and emergency contact information for all beneficiaries that will be transported in that vehicle.
 - (A) The daily roster shall be used to check beneficiaries on and off the vehicle when they are picked up or dropped off at home, the ADDT, or other location.
 - (B) The employee who conducts the walk-through required by subdivision (f) must sign the vehicle roster once the employee confirms that all beneficiaries have exited the vehicle.
 - (2)
 - (A) A manager or designee of an ADDT must:
 - (i) Review the daily roster each day and compare it with the ADDT's attendance record;
 - (ii) Sign and date the daily roster verifying that all beneficiaries for the day safely arrived to and departed from home, the ADDT facility, or other location.
 - (B) An ADDT must maintain the daily roster for one (1) year from the date of transportation.
- (f)
 - (1) An employee must walk through a vehicle used to transport beneficiaries after each trip and physically inspect each seat after unloading to ensure that no beneficiaries are left on the vehicle.
 - (2) The walk-through inspection for any vehicles designed or used to transport more than seven (7) passengers and one (1) driver must be conducted in one (1) of the following ways:
 - (A)
 - (i) An employee unloads all beneficiaries from the vehicle, walks or otherwise moves through the interior of the vehicle to ensure that no beneficiaries remain on board, and deactivates the safety alarm device.
 - (ii) This option can only be used if all beneficiaries are able to unload from the vehicle in less than one (1) minute.
 - (B)
 - (i) An employee supervises the beneficiaries during unloading and a second employee immediately walks or otherwise moves through

the interior of the vehicle to ensure that no beneficiaries remain on board and deactivates the safety alarm device.

- (ii) The employee who deactivated the safety alarm device will remain near the safety alarm device deactivation switch until all beneficiaries have unloaded to ensure that no beneficiary is left on board.
 - (iii) This option will require at least two (2) employees, one (1) to supervise the beneficiaries and one (1) to remain near the safety alarm device deactivation switch.
- (C)
- (i) An employee deactivates the safety alarm device and unloads all beneficiaries immediately upon arrival.
 - (ii) Immediately after unloading, an employee will start the vehicle and move it to a different location for final parking, which must reactivate the safety alarm device.
 - (iii) An employee deactivates the safety alarm device and walks or otherwise moves through the interior of the vehicle to ensure that no beneficiaries remain on board and deactivates the safety alarm device.

602. Medications.

- (a) (1) An ADDT must develop a medication management plan for all beneficiaries with prescribed medication that may be administered at the ADDT.
- (2) A medication management plan must include without limitation:
 - (A) The name of each medication;
 - (B) The name of the prescribing physician or other health care professional if the medication is by prescription;
 - (C) A description of each medication prescribed and any symptom or symptoms to be addressed by each medication;
 - (D) How each medication will be administered, including without limitation times of administration, doses, delivery, and persons who may lawfully administer each medication;
 - (E) How each medication will be charted;

- (F) A list of the potential side effects caused by each medication; and
 - (G) The consent to the administration of each medication by the beneficiary or, if the beneficiary lacks capacity, by the beneficiary's legal guardian or custodian.
- (b)
- (1) An ADDT must maintain a medication log detailing the administration of all medication to a beneficiary, including without limitation prescribed medication and over-the-counter medication.
 - (2) Each medication log must be uniformly organized and document the following for each administration of a medication:
 - (A) The name and dosage of medication administered;
 - (B) The symptom that the medication was used to address;
 - (C) The method by which the medication was administered;
 - (D) The date and time the medication was administered;
 - (E) The name of the employee who administered the medication or assisted in the administration of the medication;
 - (F) Any adverse reaction or other side effect from the medication;
 - (G) Any transfer of medication from its original container into individual dosage containers by the beneficiary's legal guardian or custodian;
 - (H) Any error in administering the medication and the name of the supervisor to whom the error was reported; and
 - (I) The prescription and the name of the prescribing physician or other health care professional if the medication was not previously listed in the medication management plan.
 - (3) Medication errors must be:
 - (A) Immediately reported to a supervisor;
 - (B) Documented in the medication log; and
 - (C) Reported as required under all applicable laws and rules including without limitation the laws and rules governing controlled substances.
- (c) All medications stored for a beneficiary by an ADDT must be:

- (1) Kept in the original medication container unless the beneficiary's custodian or legal guardian transfers the medication into individual dosage containers;
 - (2) Labeled with the beneficiary's name;
 - (3) Stored in an area, medication cart, or container that is always locked; and
 - (4) Returned to a beneficiary's custodian or legal guardian, or destroyed or otherwise disposed of in accordance with applicable laws and rules, if the medication is no longer to be administered to a beneficiary.
- (d) An ADDT must store all medications requiring cold storage in a separate refrigerator that is used only for the purpose of storing medications.

603. Behavior Management Plans.

- (a) An ADDT may implement a written behavior management plan for a beneficiary if a beneficiary exhibits challenging behaviors on a chronic basis.
- (b) A behavior management plan:
 - (1) Must involve the fewest and shortest interventions possible; and
 - (2) Cannot punish or use interventions that are physically or emotionally painful, frighten, or put the beneficiary at medical risk.
- (c)
 - (1) (A) An ADDT must reevaluate behavior management plans at least quarterly.
 - (B) An ADDT must refer the beneficiary to an appropriately licensed professional for re-evaluation if the behavior management plan is not achieving the desired results.
 - (2) An ADDT must regularly collect and review data regarding the use and effectiveness of all behavior management plans, including the use and effectiveness of restraints and other interventions.
 - (3) The collection and review of data regarding the use and effectiveness of behavior management plans must include at least:
 - (A) The date and time any intervention is used;
 - (B) The duration of each intervention;
 - (C) The employee or employees involved in each intervention; and

- (D) The event or circumstances that triggered the need for the intervention.

604. General Nutrition and Food Service Requirements.

- (a) An ADDT must ensure that a noon meal is available to each beneficiary who receives at least four (4) hours of adult developmental day treatment services in a day and who is unable to provide his or her own meal on that date of service.
 - (1) When a component of a beneficiary's ITP is the beneficiary providing his or her own meal, the ADDT may request the beneficiary furnish the meal.
 - (2) If a beneficiary who is responsible for providing his or her own meal fails to do so, the ADDT must furnish a meal for that beneficiary if he or she receives more than four (4) hours of adult developmental day treatment services that day.
 - (3) An ADDT may not charge a beneficiary for any meal provided by the ADDT, regardless of whether a component of the beneficiary's ITP is the beneficiary providing his or her own meal.
- (b)
 - (1) Each ADDT must ensure that any meals, snacks, or other food services provided to beneficiaries by the ADDT conform to U.S. Department of Agriculture guidelines including without limitation portion size, ADH requirements, and other applicable laws and rules.
 - (2) All food brought in from outside sources must be:
 - (A) From food service providers approved by ADH and transported per ADH requirements;
 - (B) In individual, commercially pre-packaged containers; or
 - (C) Individual meals or snacks brought from home by a beneficiary or a beneficiary's family.
 - (3)
 - (A) A violation of U.S. Department of Agriculture guidelines, ADH requirements, or other applicable laws or rules related to nutrition and food service constitutes a violation of these standards.
 - (B) In the event of a conflict between these standards and the requirements of U.S. Department of Agriculture guidelines, ADH requirements, or other applicable laws or rules related to nutrition and food service, the stricter requirement shall apply.

- (C) In the event of an irreconcilable conflict between these standards and the requirements of U.S. Department of Agriculture guidelines, ADH requirements, or other applicable laws or rules related to nutrition and food service, these standards shall govern to the extent not governed by federal or state laws or rules.
- (c) (1) An ADDT must ensure that food provided to beneficiaries meets the specialized diet requirements of each beneficiary arising from medical conditions or other individualized needs including without limitation allergies, diabetes, and hypertension.
- (2) An ADDT must ensure that all food prepared on-site is prepared, cooked, served, and stored in a manner that protects against contamination and spoilage.
- (3) An ADDT must not use a perishable food item after its expiration date.
- (4) An ADDT must keep all food service surfaces clean and in sanitary condition.
- (5) An ADDT must serve all food on individual plates, bowls, or other dishes that can be sanitized or discarded.
- (6) An ADDT must ensure that all food scraps are placed in garbage cans with airtight lids and bag liners that are emptied as necessary and no less than once every day.
- (7) An ADDT must store all food separately from medications, medical items, or hazardous items.
- (8) (A) An ADDT provider must ensure that all refrigerators used for food storage are maintained at a temperature of forty-one (41) degrees Fahrenheit or below.
- (B) An ADDT provider must ensure that all freezers used for food storage are maintained at a temperature of zero (0) degrees Fahrenheit or below.

Subchapter 7. Incident and Accident Reporting.

701. Incidents to be Reported.

- (a) An ADDT must report all alleged, suspected, observed, or reported occurrences of any of the following events:
- (1) Death of a beneficiary;
 - (2) Serious injury to a beneficiary;
 - (3) Adult or child maltreatment of a beneficiary;
 - (4) Any event where an employee threatens or strikes a beneficiary;
 - (5) Unauthorized use on a beneficiary of restrictive intervention, including seclusion or physical, chemical, or mechanical restraint;
 - (6) Any situation when the whereabouts of a beneficiary are unknown for more than two (2) hours;
 - (7) Any unanticipated situation when services to the beneficiary are interrupted for more than two (2) hours;
 - (8) Events involving a risk of death, serious physical or psychological injury, or serious illness to a beneficiary;
 - (9) Medication errors made by an employee that cause or have the potential to cause death, serious injury, or serious illness to a beneficiary;
 - (10) Any act or admission that jeopardizes the health, safety, or quality of life of a beneficiary;
 - (11) Motor vehicle accidents involving a beneficiary;
 - (12) A positive case of a beneficiary or a staff member for any infectious disease that is the subject of a public health emergency declared by the Governor, ADH, the President of the United States, or the United States Department of Health and Human Services; or
 - (13) Any event that requires notification of the police, fire department, or coroner.
- (b) Any ADDT may report any other occurrences impacting the health, safety, or quality of life of a beneficiary.

702. Reporting Requirements.

- (a) An ADDT must:
 - (1) Submit all reports of the following events within one (1) hour of the event:
 - (i.) Death of a beneficiary;
 - (ii.) Serious injury to a beneficiary; or
 - (iii.) Any incident that an ADDT should reasonably know might be of interest to the public or the media.
 - (2) Submit reports of all other incidents within forty-eight (48) hours of the event.
- (b) An ADDT must submit reports of all incidents to DPSQA as provided through DPSQA's website: <https://humanservices.arkansas.gov/about-dhs/dpsqa/>.
- (c) Reporting under these standards does not relieve an ADDT of complying with any other applicable reporting or disclosure requirements under state or federal laws, rules, or regulations.

703. Notification to Guardians and Legal Custodians.

- (a) An ADDT must notify the guardian or legal custodian of a beneficiary of any reportable incident involving a beneficiary, as well as any injury or accident involving a beneficiary even if the injury or accident is not otherwise required to be reported in this Section.
- (b) An ADDT should maintain documentation evidencing notification required in subdivision (a).

Subchapter 8. Enforcement.

801. Monitoring.

- (a) (1) DPSQA shall monitor an ADDT to ensure compliance with these standards.
- (2) (A) An ADDT must cooperate and comply with all monitoring, enforcement, and any other regulatory or law enforcement activities performed or requested by DPSQA or law enforcement.
- (B) Cooperation required under these standards includes without limitation cooperation and compliance with respect to investigations surveys, site visits, reviews, and other regulatory actions taken by DPSQA or any third-party contracted by DHS to monitor, enforce, or take other regulatory action on behalf of DHS, DPSQA, or DDS.
- (b) Monitoring includes without limitation:
 - (1) On-site surveys and other visits including without limitation complaint surveys and initial site visits;
 - (2) On-site or remote file reviews;
 - (3) Written requests for documentation and records required under these standards;
 - (4) Written requests for information; and
 - (5) Investigations related to complaints received.
- (c) DHS may contract with a third-party to monitor, enforce, or take other regulatory action on behalf of DHS, DPSQA, or DDS.

802. Written Notice of Enforcement Action.

- (a) DPSQA shall provide written notice to the ADDT of all enforcement actions taken against the ADDT.
- (b) DPSQA shall provide written notice to the ADDT by mailing the imposition of the enforcement action to the manager appointed by the ADDT pursuant to Section 301.

803. Remedies.

- (a) (1) DPSQA shall not impose any remedies imposed by an enforcement action unless:

- (A) The ADDT is given notice and an opportunity to be heard pursuant to this Section 802 and Subchapter 10; or
 - (B) DPSQA determines that public health, safety, or welfare imperatively requires emergency action;
- (2) If DPSQA imposes a remedy as an emergency action before the ADDT has notice and an opportunity to be heard pursuant to subdivision (a)(1), DPSQA shall:
 - (A) Provide immediate notice to the ADDT of the enforcement action; and
 - (B) Provide the ADDT with an opportunity to be heard pursuant to Subchapter 10.
- (b) DPSQA may impose on an ADDT any of the following enforcement actions for the ADDT's failure to comply with these standards:
 - (1) Plan of correction;
 - (2) Directed in-service training plan;
 - (3) Moratorium on new admissions;
 - (4) Transfer of beneficiaries;
 - (5) Monetary penalties;
 - (6) Suspension of ADDT license;
 - (7) Revocation of ADDT license; and
 - (8) Any remedy authorized by law or rule including without limitation section 25-15-217 of the Arkansas Code.
- (c) DPSQA shall determine the imposition and severity of these enforcement remedies on a case-by-case basis using the following factors:
 - (1) Frequency of non-compliance;
 - (2) Number of non-compliance issues;
 - (3) Impact of non-compliance on a beneficiary's health, safety, or well-being;
 - (4) Responsiveness in correcting non-compliance;

- (5) Repeated non-compliance in the same or similar areas;
 - (6) Non-compliance with previously or currently imposed enforcement remedies;
 - (7) Non-compliance involving intentional fraud or dishonesty; and
 - (8) Non-compliance involving violation of any law, rule, or other legal requirement.
- (d) (1) DPSQA shall report any noncompliance, action, or inaction by the ADDT to appropriate agencies for investigation and further action.
 - (2) DPSQA shall refer non-compliance involving Medicaid billing requirements to the Division of Medical Services and the Arkansas Attorney General's Medicaid Fraud Control Unit.
- (e) These enforcement remedies are not mutually exclusive and DPSQA may apply multiple remedies simultaneously to a failure to comply with these standards.
 - (f) The failure to comply with an enforcement remedy imposed by DPSQA constitutes a separate violation of these standards.

804. Moratorium.

- (a) DPSQA may prohibit an ADDT from accepting new beneficiaries.
- (b) An ADDT prohibited from accepting new admissions may continue to provide services to existing beneficiaries.

805. Transfer of Beneficiaries.

- (a) DPSQA may require an ADDT to transfer a beneficiary to another ADDT if DPSQA finds that the ADDT cannot adequately provide services to the beneficiary.
- (b) If directed by DPSQA, an ADDT must continue providing services until the beneficiary is transferred to his or her new service provider of choice.
- (c) A transfer of a beneficiary may be permanent or for a specific term depending on the circumstances.

806. Monetary Penalties.

- (a) DPSQA may impose on an ADDT a civil monetary penalty not to exceed five hundred dollars (\$500) for each violation of these standards.

- (b) (1) DPSQA may file suit to collect a civil monetary penalty assessed pursuant to these standards if the ADDT does not pay the civil monetary penalty within sixty (60) days from the date DPSQA provides written notice to the ADDT of the imposition of the civil monetary penalty.
- (2) DPSQA may file suit in Pulaski County Circuit Court or the circuit court of any county in which the ADDT is located.

807. Suspension and Revocation of ADDT License.

- (a) (1) DPSQA may temporarily suspend an ADDT license if the ADDT fails to comply with these standards.
- (2) If an ADDT's license is suspended, the ADDT must immediately stop providing ADDT services until DPSQA reinstates its license.
- (b) (1) DPSQA may permanently revoke an ADDT license if the ADDT fails to comply with these standards.
- (2) If an ADDT's license is revoked, the ADDT must immediately stop providing ADDT services and comply with the permanent closure requirements in Section 901(a).

Subchapter 9. Closure.

901. Closure.

- (a) (1) An ADDT license ends if an ADDT permanently closes, whether voluntarily or involuntarily, and is effective the date of the permanent closure as determined by DPSQA.
- (2) An ADDT that intends to permanently close, or does permanently close without warning, whether voluntarily or involuntarily, must immediately:
 - (A) Provide the custodian or legal guardian of each beneficiary with written notice of the closure;
 - (B) Provide the custodian or legal guardian of each beneficiary with written referrals to at least three (3) other appropriate service providers;
 - (C) Assist each beneficiary and his or her custodian or legal guardian in transferring services and copies of beneficiary records to any new service providers;
 - (D) Assist each beneficiary and his or her custodian or legal guardian in transitioning to new service providers; and
 - (E) Arrange for the storage of beneficiary service records to satisfy the requirements of Section 305.
- (b) (1) An ADDT that intends to voluntarily close temporarily due to natural disaster, pandemic, completion of needed repairs or renovations, or for similar circumstances may request to temporarily close its facility while maintaining its ADDT license for up to one (1) year from the date of the request.
- (2) An ADDT must comply with the requirements in subdivision (a)(2) for notice, referrals, assistance, and storage of beneficiary records if DPSQA grants an ADDT's request for a temporary closure.
- (3) (A) DPSQA may grant a temporary closure if the ADDT demonstrates that it is reasonably likely that it will be able to reopen after the temporary closure.
- (B) DPSQA shall end an ADDT's temporary closure and direct that the ADDT permanently close if the ADDT fails to demonstrate that it is reasonably likely that it will be able to reopen after the temporary closure.
- (4) (A) DPSQA may end an ADDT's temporary closure if the ADDT demonstrates that it is in full compliance with these standards.

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

Subchapter 10. Appeals.

1001. Reconsideration of Adverse Regulatory Actions.

- (a) (1) An ADDT may ask for reconsideration of any adverse regulatory action taken by DPSQA by submitting a written request for reconsideration to: Division of Provider Services and Quality Assurance, Office of the Director: Requests for Reconsideration of Adverse Regulatory Actions, P.O. Box 1437, Slot 427, Little Rock, Arkansas 72203.
- (2) The written request for reconsideration of an adverse regulatory action taken by DPSQA must be submitted by the ADDT and received by DPSQA within thirty (30) calendar days of the date the ADDT received written notice of the adverse regulatory action.
- (3) The written request for reconsideration of an adverse regulatory action taken by DPSQA must include without limitation the specific adverse regulatory action taken, the date of the adverse regulatory action, the name of ADDT against whom the adverse regulatory action was taken, the address and contact information for the ADDT against whom the adverse regulatory action was taken, and the legal and factual basis for reconsideration of the adverse regulatory action.
- (b) (1) DPSQA shall review each timely received written request for reconsideration and determine whether to affirm or reverse the adverse regulatory action taken based on these standards.
- (2) DPSQA may request, at its discretion, additional information as needed to review the adverse regulatory action and determine whether the adverse regulatory action taken should be affirmed or reversed based on these standards.
- (c) (1) DPSQA shall issue in writing its determination on reconsideration within thirty (30) days of receiving the written request for reconsideration or within thirty (30) days of receiving all information requested by DPSQA under subdivision (b)(2), whichever is later.
- (2) DPSQA shall issue its determination to the ADDT using the address and contact information provided in the request for reconsideration.
- (d) (1) An applicant may ask for reconsideration of a determination by DDS that a county is not underserved by submitting a written request for reconsideration pursuant to DDS Policy 1076.
- (2) If a determination that a county is not underserved is reversed on reconsideration by DDS or on appeal by an agency or court with jurisdiction:

- (A) The applicant shall notify DPSQA of the reversal and submit a written request for reconsideration to DPSQA as provided in this section for any adverse regulatory action taken by DPSQA based on the initial determination; and
 - (B) DPSQA shall review the written request for reconsideration as provided in this section.
- (e) DPSQA may also decide to reconsider any adverse regulatory action on its own accord any time it determines, in its discretion, that an adverse regulatory action is not consistent with these standards.

1002. Appeal of Regulatory Actions.

- (a)
 - (1) An ADDT may administratively appeal any adverse regulatory action to the DHS Office of Appeals and Hearings (OAH) except for provider appeals related to the payment for Medicaid claims and services governed by the Medicaid Fairness Act, Ark. Code Ann. § 20-77-1701 to -1718, which shall be governed by that Act.
 - (2) OAH shall conduct administrative appeals of adverse regulatory actions pursuant to DHS Policy 1098 and other applicable laws and rules.
- (b) An ADDT may appeal any adverse regulatory action or other adverse agency action to circuit court as allowed by the Administrative Procedures Act, Ark. Code Ann. § 25-15-201 to -220.