

Rules for the Division of Medical Services
Licensure Manual for Community Support System Providers



LAST UPDATED: January 1, 2023

Subchapter 1. General.

101. Authority.

- (a) These standards are promulgated under the authority of Ark. Code Ann. §§ 20-38-101 to -113, Ark. Code Ann. §§ 20-48-101 to 1108, Ark. Code Ann. § 25-10-102, and Ark. Code Ann. § 25-15-217.
- (b) The Division of Provider Services and Quality Assurance (DPSQA) shall perform all regulatory functions regarding the licensure and monitoring of Community Support System Providers.
- (c) Providers certified and enrolled as a Base CSSP Agency or an Outpatient Behavioral Health Agency that meet the certification requirements of Intensive CSSP Agency certification or Enhanced CSSP Agency certification, can receive provisional Intensive CSSP Agency certification or Enhanced CSSP Agency certification until July 1, 2023, by executing a provisional certification attestation from DPSQA.

102. Purpose.

The purpose of these standards is to:

- (1) Serve as the minimum standards for home and community-based services and facilities;
- (2) Ensure there are providers of home and community-based services that serve the needs of clients, including clients with behavioral health, intellectual disability, and developmental disability service needs; and
- (3) Allow a client to receive from one provider all home and community-based services identified in the client's individualized plan of care.

103. Definitions.

- (a) “Adverse agency action” means:
 - (1) A denial of CSSP Agency certification;
 - (2) Any enforcement action taken by DPSQA pursuant to sections 703 through 707; and
 - (3) Any other adverse regulatory action or claim covered by the Medicaid Fairness Act, Ark. Code Ann §§ 20-77-1701 to -1718.

- (b) “Applicant” means an applicant for a CSSP Agency Certification.
- (c) “Change of ownership” means fifty percent (50%) or greater change of the financial interests, governing body, operational control, or other operational or ownership interests of a CSSP within a twelve (12) month period.
- (d) “Approved accrediting organization” means:
 - (1) The Commission on Accreditation of Rehabilitation Facilities;
 - (2) The Joint Commission;
 - (3) The Council on Accreditation; and
 - (4) The Council on Quality and Leadership.
- (e) “Base CSSP Agency certification” means a CSSP that has been certified by DPSQA to perform the following services each as defined in the Home and Community-Based Services for Clients with Intellectual Disabilities and Behavioral Health Needs Medicaid manual:
 - (1) Adult life skills development;
 - (2) Supportive Housing;
 - (3) Supportive Employment;
 - (4) Supportive Life Skills Development (individual and group);
 - (5) Respite;
 - (6) Supported Employment;
 - (7) Supportive Living;
 - (8) Specialized Medical Supplies;
 - (9) Adaptive Equipment;
 - (10) Community Transition Services;
 - (11) Consultation;
 - (12) Environmental Modifications;

- (13) Supplemental Support;
 - (14) Pharmacological Counseling; and
 - (15) Therapeutic Host Homes.
- (f) “Client” means any person receiving or who has received one (1) or more home and community-based services from a CSSP.
- (g) “Chemical restraint” means the use of medication or any drug that:
- (1) Is administered to manage a client’s behavior;
 - (2) Has the temporary effect of restricting the client; and
 - (3) Is not a standard treatment for the client’s medical or psychiatric condition.
- (h) “Complex care home” means a CSSP owned, leased, or controlled residential setting where each client residing in the home has been diagnosed with an intellectual or developmental disability and a significant co-occurring deficit, which includes without limitation individuals with an intellectual disability and significant:
- (1) Behavioral health needs; or
 - (2) Physical health needs.
- (i) “CSSP” means an entity that:
- (1) Has received CSSP Agency certification; and
 - (2) Is enrolled with DMS as a Community Support System provider.
- (j) “CSSP Agency certification” means one of the following certifications issued by DPSQA
- (1) Base CSSP Agency certification;
 - (2) Intensive CSSP Agency certification; or
 - (3) Enhanced CSSP Agency certification.
- (k) “DHS” means the Arkansas Department of Human Services.
- (l) “Directed in-service training plan” means a plan of action that:
- (1) Provides training to a CSSP to correct noncompliance with these standards;

- (2) Establishes the topics covered 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.
- (m) “DMS” means the Arkansas Department of Human Services, Division of Medical Services.
 - (n) “DPSQA” means the Arkansas Department of Human Services, Division of Provider Services and Quality Assurance.
 - (o) “Employee” means an employee, owner, independent contractor, or other agent of a CSSP who has or will have direct contact with a client or their personal property or funds, including without limitation any employee, independent contractor, sub-contractor, intern, volunteer, trainee, or agent..
 - (p) “Enhanced CSSP Agency certification” means a CSSP that has been certified by DPSQA to perform:
 - (1) All services available under Base CSSP Agency certification;
 - (2) All services available under Intensive CSSP Agency certification;
 - (3) All services available under the Counseling Services Medicaid manual; and
 - (4) The following services each as defined in the Home and Community-Based Services for Clients with Intellectual Disabilities and Behavioral Health Needs Medicaid manual:
 - (A) Therapeutic Communities;
 - (B) Residential Community Reintegration;
 - (C) Adult Rehabilitation Day Treatment;
 - (D) Substance Abuse Detox (Observational);
 - (E) Partial Hospitalization; and
 - (F) Complex care homes.
 - (q) “Home and community-based services” means services that are available under the Home and Community-Based Services for Clients with Intellectual Disabilities and Behavioral Health Needs Medicaid manual.

- (r) “Intensive CSSP Agency certification” means a CSSP that has been certified by DPSQA to perform:
- (1) All services available under Base CSSP Agency certification;
 - (2) All services available under the Counseling Services Medicaid manual; and
 - (3) The following services each as defined in the Home and Community-Based Services for Clients with Intellectual Disabilities and Behavioral Health Needs Medicaid manual:
 - (A) Assertive Community Treatment;
 - (B) Peer Support;
 - (C) Aftercare Recovery Support (Substance Abuse);
 - (D) Intensive In Home Services;
 - (E) Behavioral Assistance;
 - (F) Child and Youth Support;
 - (G) Family Support Partners; and
 - (H) Crisis Stabilization Intervention.
- (s) “Licensed professional” means a person who holds an Arkansas professional license in good standing in Arkansas operating within the scope of practice of their license.
- (t)
- (1) “Market” means the accurate and honest advertisement of a CSSP that does not also constitute an attempt to solicit.
 - (2) “Market” includes without limitation:
 - (A) Advertising using traditional media;
 - (B) Distributing brochures or other informational materials regarding the services offered by a CSSP;
 - (C) Conducting tours of a CSSP to interested clients and their families;
 - (D) Mentioning services offered by a CSSP in which the client or their family might have an interest;

- (E) Hosting informational gatherings during which the services offered by a CSSP are described.
- (u) “Mechanical restraint” means the use of any device attached or adjacent to the client that:
 - (1) The client cannot easily remove; and
 - (2) Restricts the client’s freedom of movement.
- (v) “Medication error” means any one of the following:
 - (1) Loss of medication;
 - (2) Unavailability of medication;
 - (3) Falsification of medication logs;
 - (4) Theft of medication;
 - (5) Missed dose of medication;
 - (6) Incorrect medications administered;
 - (7) Incorrect dose of medication administered;
 - (8) Incorrect time of administration;
 - (9) Incorrect route of administration; and
 - (10) The discovery of an unlocked medication container that is always supposed to be locked.
- (w) “Mental health professional” or “MHP” means a person who holds an Arkansas professional license in good standing to provide one or more of the services set out in the Counseling Services Medicaid manual.
- (x) “Multidisciplinary team” means a team of employees lead by a mental health professional who are responsible for the development of a client’s treatment plan and the delivery of all home and community-based services in accordance with the treatment plan.
- (y) “PASSE” means a client’s assigned Provider-led Arkansas Shared Savings Entity.
- (z) “PCSP” means a client’s person-centered service plan, which is a written, individualized service and support plan developed by the client’s PASSE care coordinator, which sets out the home and community-based services to be received by the client.

- (aa) “Plan of correction” means a plan of action that:
 - (1) Provides the steps a CSSP must take to correct noncompliance with these standards;
 - (2) Establishes a timeframe for each specific action provided in the plan; and
 - (3) Is approved by DPSQA.
- (bb) “Provider” means an entity that is certified by DHS and enrolled by DMS as a CSSP.
- (cc)
 - (1) “Restraint” means the application of force for the purpose of restraining the free movement of a client, which includes without limitation any chemical restraint and mechanical restraint.
 - (2) “Restraint” does not include:
 - (A) Briefly holding, without undue force, a client to calm or comfort the client;
or
 - (B) Holding a client’s hand to safely escort the client from one area to another.
- (dd) “Risk mitigation plan” means individualized risk management plan developed by a client’s PASSE care coordinator outlining a client’s risk factors and the action steps that must be taken to mitigate those risks.
- (ee) “Seclusion” means the involuntary confinement of a client alone or in a room or an area from which the client is physically prevented from leaving.
- (ff) “Serious injury” means any injury to a client that:
 - (1) May cause death;
 - (2) May result in substantial permanent impairment;
 - (3) Requires hospitalization; and
 - (4) Requires the attention of:
 - (A) An emergency medical technician;
 - (B) A paramedic; or
 - (C) An emergency room

(gg)

- (1) “Solicit” means when a CSSP intentionally initiates contact with a client (or their family) that is currently receiving services from another provider and the CSSP is attempting to convince the client or their family to switch to or otherwise use the services of the CSSP.
- (2) “Solicit” includes without limitation the following acts to induce a client or their family by:
 - (A) Contacting a client or the family of a client that is currently receiving services from another provider;
 - (B) Offering cash or gift incentives to a client or their family;
 - (C) Offering free goods or services not available to other similarly situated clients or their families;
 - (D) Making negative comments to a client or their family regarding the quality of services performed by another service provider;
 - (E) Promising to provide services in excess of those necessary;
 - (F) Giving a client or their family the false impression, directly or indirectly, that the CSSP is the only service provider that can perform the services desired by the client or their family; or
 - (G) Engaging in any activity that DPSQA reasonably determines to be “solicitation.”

(hh) “Treatment plan” means a CSSP’s written, individualized service plan for a client, outlining the specific method, schedule, and goals for home and community-based service(s) delivery by the CSSP.

Subchapter 2. Certification.

201. Certification Requirements.

- (a) A CSSP must have one of the following certifications issued by DPSQA pursuant to these standards:
 - (1) Base CSSP Agency certification;
 - (2) Intensive CSSP Agency certification; or
 - (3) Enhanced CSSP Agency certification.
- (b) A CSSP cannot provide services outside of the authority provided through its CSSP Agency certification without obtaining a separate credential to provide such services independent of its CSSP Agency certification.
- (c) A CSSP must comply with all requirements of these standards for all home and community-based services included within its CSSP Agency certification.
- (d) A CSSP must demonstrate accreditation by an approved accrediting organization for all home and community-based services offered or intended to be offered by the CSSP before DPSQA may issue any CSSP Agency certification.
- (e) A CSSP must comply with all requirements of its accreditations.
- (f) A loss of a CSSP Agency's accreditation constitutes a violation of these standards.
- (g) In the event of a conflict between these standards and the requirements of a CSSP's accreditations, the stricter requirement shall apply.
- (h) In the event of an irreconcilable conflict between these standards and the requirements of a CSSP's accreditations, these standards shall govern.

202. Application for CSSP Agency Certification.

- (a) To apply for a CSSP Agency certification, an applicant must submit a complete application to DPSQA.
- (b) A complete application includes:
 - (1) Documentation demonstrating the applicant's entire ownership, including without limitation all the applicant's financial, governing body, and business interests;

- (2) Documentation of the applicant's management, including without limitation the management structure and members of the management team;
- (3) Documentation of the employees that the applicant intends to use as part of operating the CSSP;
- (4) Documentation of all drug screens and criminal background, maltreatment, and other registry checks and searches required pursuant to section 302(c);;
- (5) Documentation demonstrating compliance with these standards; and
- (6) All other documentation or other information requested by DPSQA.

203. Certification Process.

- (a) DPSQA may approve an application for CSSP Agency certification and issue a CSSP Agency certification if:
 - (1) The applicant submits a complete application under section 202;
 - (2) DPSQA determines that all employees have successfully passed all required drug screens and criminal background, maltreatment, and other registry checks and searches required pursuant to section 302(c); and
 - (3) DPSQA determines that the applicant satisfies these standards.
- (b) DPSQA may approve an application to change the ownership of an existing CSSP and change the ownership of an existing CSSP Agency certification if:
 - (1) The applicant submits a complete application under section 202;
 - (2) DPSQA determines that all employees and operators have successfully passed all drug screens and criminal background, maltreatment, and other registry checks and searches required pursuant to section 302(c); and
 - (3) DPSQA determines that the applicant satisfies these standards.
- (c) A CSSP Agency certification does not expire until terminated under these standards.

Subchapter 3. Administration.

301. Organization and Ownership.

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

- (b)
 - (1) A CSSP must appoint a single manager as the point of contact for all DAABH, DDS, DMS, and DPSQA matters and provide DAABH, DDS, DMS, and DPSQA with updated contact information for that manager.
 - (2) This manager must have authority over the CSSP and all employees and be responsible for ensuring that requests, concerns, inquires, and enforcement actions are addressed and resolved to the satisfaction of DAABH, DDS, DMS, and DPSQA.

- (c)
 - (1) A CSSP cannot transfer its CSSP Agency certification to any person or entity.
 - (2) A CSSP cannot change its ownership unless DPSQA approves the application of the new ownership pursuant to sections 202 and 203.
 - (3) A CSSP cannot change its name or otherwise operate under a different name than the listed on its CSSP Agency certification without notice to DPSQA.

- (d) A CSSP must maintain documentation of all accreditations, including without limitation:
 - (1) Initial accreditations;
 - (2) Accreditation renewals;
 - (3) Accreditation surveys or other reviews; and
 - (4) Accreditation enforcement actions.

302. Employees and Staffing Requirements.

- (a) A CSSP must appropriately supervise all clients based on each client's needs.

- (b) A CSSP must meet the minimum staffing-to-client ratio for each client as provided in each client's treatment plan.

(c)

- (1) Except as provided in subsection (c)(2) of this part, each employee must successfully pass the following:
 - (A) All criminal history record checks required pursuant to Ark. Code Ann. § 20-38-103, both prior to hiring and at least every five (5) years thereafter;
 - (B) An Arkansas Child Maltreatment Central Registry check both prior to hiring and at least every two (2) years thereafter;
 - (C) An Arkansas Adult and Long-term Care Facility Resident Maltreatment Central Registry check both prior to hiring and at least every two (2) years thereafter;
 - (D) At least a five (5) panel drug screen both prior to hiring and as required thereafter by Ark. Code Ann. §20-77-128(b); and
 - (E) An Arkansas Sex Offender Central Registry search both prior to hiring and at least every two (2) years thereafter.
- (2) The drug screens, criminal background and registry checks and searches prescribed in subsection (c)(1) of this part are not required for any licensed professional.

(d)

- (1) Employees must be eighteen (18) years of age or older.
 - (2) Employees must have a:
 - (A) High school diploma; or
 - (B) A GED.
- (e) A CSSP must verify an employee meets all requirements under these standards upon the request of DPSQA or whenever a CSSP receives information after hiring that would create a reasonable belief that an employee no longer meets all requirements under these standards.
- (f) A CSSP must document all scheduled and actual employee staffing, including without limitation employee names, job title or credential, shift role, shift days, and shift times.

303. Employee Training.

- (a) Prior to having any direct contact with clients, all employees must meet each of the following:
 - (1) Have at least one (1) year of experience working with persons with:
 - (A) Developmental disabilities; or
 - (B) Behavioral support needs; and
 - (2) Receive training on the following topics:
 - (A) The Health Insurance Portability and Accountability Act (HIPAA), and other applicable state and federal laws and regulations governing the protection of medical, social, personal, financial, and electronically stored records;
 - (B) Mandated reporter requirements and procedures;
 - (C) Incident and accident reporting;
 - (D) Basic health and safety practices;
 - (E) Infection control practices;
 - (F) Verbal intervention; and
 - (G) De-escalation techniques.
- (b)
 - (1) All employees must receive client-specific training in the amount necessary to safely meet the client's individualized needs prior to providing services to those clients.
 - (2) Every employee's client-specific training must at a minimum must include training on the client's:
 - (A) Treatment plan;
 - (B) Diagnosis and medical records;
 - (C) Medication management plan, if applicable;
 - (D) Positive behavioral support plan, if applicable;

- (E) Behavioral prevention and intervention plan; if applicable;
- (F) Permitted interventions; if applicable; and
- (G) Setting-specific emergency and evacuation procedures.

(3)

- (A) Appropriate client-specific training on the additional topics listed in (3)(B) below are required for employees performing home and community-based services:
 - (i) Available under Intensive CSSP Agency certification;
 - (ii) Available under Enhanced CSSP Agency certification;
 - (iii) In a complex care home; and
 - (iv) Available under the Counseling Services Medicaid manual.

(B)

- (i) Home and community-based service record keeping;
- (ii) Appropriate relationships with a client;
- (iii) Group interaction;
- (iv) Listening techniques;
- (v) Confidentiality;
- (vi) Community resources available to individuals within community settings;
- (vii) Cultural competency;
- (viii) Direct care ethics; and
- (ix) Childhood development, if serving a child or adolescent client.

- (c) All employees must receive appropriate refresher training on the topics listed in subsections 303(a)(2) and 303 (b) at least once every calendar year

- (d)
 - (1) All employees must obtain and maintain in good standing the following credentials when performing home and community-based services on behalf of a CSSP:
 - (A) CPR certification from one of the following:
 - (i) American Heart Association;
 - (ii) Medic First Aid, or
 - (iii) American Red Cross; and
 - (B) First aid certification from one of the following:
 - (i) American Heart Association;
 - (ii) Medic First Aid; or
 - (iii) American Red Cross.
 - (2) Employees who have not completed the required certifications cannot be counted towards staffing requirements.
- (e) A licensed professional is not required to receive the training prescribed in this section 303.

304. Employee Records.

- (a) A CSSP 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 Central Registry checks;
 - (4) All required Adult and Long-term Care Facility Resident Maltreatment Central Registry checks;
 - (5) All conducted drug screens;
 - (6) All required sex offender registry searches;
 - (7) Signed statement that the employee will comply with the CSSP's drug screen and drug use policies;

- (8) Copy of current state or federal identification;
 - (9) Copy of valid state-issued driver's license, if driving as required in the job description;
 - (10) Documentation demonstrating that the employee received all required trainings and certifications;
 - (11) Documentation demonstrating that the employee obtained and maintained in good standing all professional licenses, certifications, or credentials required for the employee or the home and community-based service the employee is performing; and
 - (12) Documentation demonstrating 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) A CSSP must retain all employee personnel records for five (5) years from the date an employee ceases providing services to the CSSP 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 (5)-year period.

305. Client Service Records.

- (a)
- (1) A CSSP must maintain a separate, updated, and complete service record for each client documenting the home and community-based services provided to the client and all other documentation required under these standards.
 - (2) A CSSP must maintain each client service record in a uniformly organized manner.
- (b) A client's service record must include a summary document at the front that includes:
- (1) The client's:
 - (A) Full name;
 - (B) Address and county of residence;
 - (C) Telephone number and email address, if available;
 - (D) Date of birth;

- (E) Primary language;
 - (F) Diagnoses;
 - (G) Medications, dosage, and frequency, if applicable;
 - (H) Known allergies;
 - (I) Social Security Number;
 - (J) Medicaid number;
 - (K) Commercial or private health insurance information, if applicable; and
 - (L) Assigned Provider-Led Arkansas Shared Savings Entity (PASSE);
- (2) The date client began receiving home and community-based services from the CSSP;
 - (3) The date client exited from the CSSP, if applicable;
 - (4) The name, address, phone number, and email address, if available, of the client's legal guardian, if applicable; and
 - (5) The name, address, and phone number of the client's primary care provider (PCP).
- (c) A client's service record must include at least the following information and documentation:
- (1) Client PSCP;
 - (2) The treatment plan developed by CSSP for the client;
 - (3) All home and community-based service authorizations;
 - (4) Positive behavioral support plan, as applicable;
 - (5) Behavioral prevention and intervention plan, as applicable;
 - (6) Service logs or other documentation for each home and community-based service;
 - (7) Medication management plan, if applicable;
 - (8) Medication logs, if applicable;

- (9) Copies of all completed client assessments and evaluations;
 - (10) Copies of any court orders that place the client in the custody of another person or entity; and
 - (11) Copies of any leases or residential agreements related to the client's care.
- (d)
- (1) A CSSP must ensure that each client service record is kept confidential and available only to:
 - (A) Employees who need to know the information contained in the client's service record;
 - (B) The client's assigned PASSE;
 - (C) DPSQA and any governmental entity with jurisdiction or other authority to access the client's service record;
 - (D) The client's legal guardian, if applicable; and
 - (E) Any other individual authorized in writing by the client or, if applicable, the client's legal guardian.
 - (2)
 - (A) A CSSP must keep client service records in a file cabinet or room that is always locked.
 - (B)
 - (i) A CSSP may use electronic records in addition to or in place of physical records to comply with these standards.
 - (ii) A CSSP that uses electronic records must take reasonable steps to backup all electronic records and reconstruct a client's service record in the event of a breakdown in the CSSP's electronic records system.
- (e) A CSSP must retain all client service records for five (5) years from the date the client last exits from the CSSP or, if longer, the conclusion of all reviews, appeals, investigations, administrative actions, or judicial actions related to client that are pending at the end of the five (5)-year period.

306. Marketing and Solicitation.

- (a) A CSSP can market its services.
- (b) A CSSP cannot solicit a client or his or her family.

307. Third-party Service Agreements.

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

308. Financial Safeguards.

- (a)
 - (1) A client must have full use and access to a client's own funds or other assets.
 - (2) A CSSP may not limit a client's use or access to a client's own funds or other assets, unless:
 - (A) The client or, if applicable, the client's legal guardian, provides informed written consent; or
 - (B) The CSSP otherwise has the legal authority.
 - (3) A CSSP is deemed to be limiting a client's use or access to the client's own funds includes without limitation the following:
 - (A) Designating the amount of funds a client may use or access;
 - (B) Limiting the amount of funds a client may use for a particular purpose; and
 - (C) Limiting the timeframes during which a client may use or access the client's funds or other assets.
- (b) A CSSP may use, manage, or access a client's funds or other assets only when:
 - (1)
 - (A) The client, or, if applicable, the client's legal guardian, provides informed written consent; or

- (B) The CSSP otherwise has the legal authority.
 - (2) A CSSP is deemed to be managing, using, or accessing a client's funds or other assets when:
 - (A) Serving as a representative payee of a client;
 - (B) Receiving benefits on behalf of the client; and
 - (C) Safeguarding funds or personal property for the client.
 - (3) A CSSP may only use, manage, or access a client's funds or other assets for the benefit of the client.
 - (4) A CSSP may use, manage, or access a client's funds or other assets only to the extent permitted by law.
 - (5) A CSSP must ensure that a client receives the benefit of the goods and services for which the client's funds or other assets are used.
 - (6) A CSSP must safeguard client funds and other assets whenever a CSSP manages, uses, or has access to a client's funds or other assets.
- (c)
- (1) A CSSP must maintain financial records that document all uses of a client's funds or other assets.
 - (2) Financial records for client funds must be maintained in accordance with generally accepted accounting practices .
 - (3) A CSSP must make client financial records available to a client or a client's legal guardian upon request.
- (d)
- (1) A CSSP must maintain separate accounts for each client whenever the CSSP uses, manages, or accesses a client's funds or other assets.
 - (2) All interest derived from a client's funds or other assets shall accrue to the client's account.

309. Infection Control.

- (a)
 - (1) A CSSP must follow all applicable guidance and directives from the Arkansas Department of Health related to infection control.
 - (2) A CSSP must provide personal protective equipment for all employees and clients as may be required in the circumstances.
 - (3) Employees and clients must wash their hands with soap before eating, after toileting, and as otherwise appropriate to prevent the spread of infectious diseases.
- (b) If applicable, a CSSP must notify a client's legal guardian if the client becomes ill.

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

- (a) A CSSP must comply with all applicable local, state, and federal laws, regulations, and rules, and a violation of any applicable local, state, or federal law, regulation, or rule constitutes a violation of these standards.
- (b)
 - (1) In the event of a conflict between these standards and other applicable local, state, or federal laws, rules, or regulation, the stricter requirement shall apply.
 - (2) In the event of an irreconcilable conflict between these standards and another applicable local, state, or federal laws, rules, or regulation these standards shall govern to the extent not governed by local, state, or federal law.

311. Restraints and Other Restrictive Interventions.

- (a)
 - (1) A CSSP cannot use a restraint on a client unless:
 - (A) The restraint is required as an emergency safety intervention; and
 - (B) The use of the restraint is covered by the CSSP's accreditation.
 - (2) An emergency safety intervention is required when:
 - (A) An immediate response with a restraint is required to address an unanticipated client behavior; and

- (B) The client's behavior places the client or others at serious threat of harm if no intervention occurs.
- (b) If a CSSP uses a restraint, the CSSP must:
 - (1) Comply with the use of the restraint as prescribed by the client's:
 - (A) Treatment plan;
 - (B) Behavioral prevention and intervention plan, if applicable; and
 - (C) Positive behavior support plan, if applicable;
 - (2) Continuously monitor the client during the entire use of the restraint; and
 - (3) Maintain in-person visual and auditory observation of the client by an employee during the entire use of the restraint.
- (c)
 - (1) A CSSP must document each use of a restraint whether the use was permitted or not.
 - (2) The documentation must include at least the following:
 - (A) The behavior precipitating the use of the restraint;
 - (B) The length of time the restraint was used;
 - (C) The name of the individual that authorized the use of the restraint;
 - (D) The names of all individuals involved in the use of the restraint; and
 - (E) The outcome of the use of the restraint.

312. General Nutrition and Food Service Requirements.

- (a)
 - (1) A CSSP must ensure that any meals, snacks, or other food services provided to clients by the CSSP conform to U.S. Department of Agriculture guidelines, Arkansas Department of Health (ADH) requirements, and other applicable laws and regulations.

- (2) In the event of a conflict between these standards and U.S. Department of Agriculture guidelines, ADH requirements, or other applicable laws or regulations related to nutrition and food service, the stricter requirement shall apply.
- (b) All pre-prepared food obtained or purchased by a CSSP from outside sources for client consumption must be:
- (1) From restaurants and other food service providers approved by ADH and transported per ADH requirements; or
 - (2) In individual, commercially pre-packaged containers.
- (c)
- (1) A CSSP must ensure that food provided to clients meet the specialized diet requirements of each client arising from medical conditions or other individualized needs, including without limitation allergies, diabetes, and hypertension.
 - (2) A CSSP must ensure that all food prepared by an employee is prepared, cooked, served, and stored in a manner that protects against contamination and spoilage.
 - (3) A CSSP must not use a perishable food item after its expiration date.
 - (4) A CSSP must ensure all surfaces used by employees to prepare or serve food to clients are clean and in sanitary condition.
 - (5) A CSSP must serve food to clients on individual plates, bowls, or other dishes that can be sanitized or discarded.
 - (6) A CSSP 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) A CSSP must store all food separately from medications, medical items, or hazardous items.
 - (8)
 - (A) A CSSP must ensure that refrigerators used for food storage are maintained at a temperature of forty-one (41) degrees Fahrenheit or below.
 - (B) A CSSP must ensure that freezers used for food storage are maintained at a temperature of zero (0) degrees Fahrenheit or below.

313. Medications.

(a)

- (1) A client, or, if applicable, the client's legal guardian, can self-administer medication.
- (2) The election to self-administer medication must:
 - (A) Document the medications to be self-administered; and
 - (B) Be signed and dated by the client, or, if applicable, the client's legal guardian.

(b)

- (1) A CSSP can administer medication only as:
 - (A) Provided in the client's treatment plan; or
 - (B) Otherwise ordered by:
 - (i) A physician; or
 - (ii) Other health care professional authorized to prescribe or otherwise order the administration of medication.
- (2) A CSSP must administer medication in accordance with the Nurse Practice Act and the Consumer Directed Care Act.

(c)

- (1) A CSSP must develop a medication management plan for any prescribed medication and routinely administered over-the-counter medication that is not self-administered.
- (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 the symptom or symptoms to be addressed by each medication;

- (D) How each medication will be administered, including without limitation time(s) of administration, dose(s), route of administration, and persons who may lawfully administer each medication;
- (E) A list of the most common potential side effects caused by each medication; and
- (F) The consent to the administration of each medication by the client or, if applicable, the client's legal guardian.

(d)

- (1) A CSSP must maintain a medication log for each client to document the CSSP's administration of all prescribed and over-the-counter medications.
- (2) A medication log must be available at each location a client receives home and community-based services and must document the following for each administration of a medication:
 - (A) The name and dosage of medication administered;
 - (B) The route of medication administration;
 - (C) The date and time the medication was administered;
 - (D) The name of the employee who administered the medication or assisted in the administration of the medication;
 - (E) If an over-the-counter medication administered for a specific symptom, the specific symptom addressed and the effectiveness of the medication;
 - (F) Any adverse reaction or other side effect from the medication;
 - (G) Any transfer of medication by an employee that is not self-administered from its original container into individual dosage containers by the client, or, if applicable, the client's legal guardian;
 - (H) Any error in administering the medication; 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.
- (4) A supervisory level employee must review and sign each medication log on at least a monthly basis.
- (e) All medications stored for a client by a CSSP must be:
- (1) Kept in the original medication container unless the client, or, if applicable, the client's legal guardian, transfers the medication into individual dosage containers;
 - (2) Labeled with the client's name; and
 - (3) Stored in an area, medication cart, or container that is always locked.
- (f) If a medication stored by a CSSP is no longer to be administered to the client, then the medication must be:
- (1) Returned to a client's legal guardian, if applicable;
 - (2) Destroyed; or
 - (3) Otherwise disposed of in accordance with applicable laws and rules.

314. Service Logs.

- (a)
- (1) A CSSP must document the delivery of each home and community-based service to a client.
 - (2) The documentation requirement may be satisfied by a daily service log or other electronic or paper documenting method.
- (b) The service log or other documentation of home and community-based service delivery by a CSSP must include at least:
- (1) The specific home and community-based service performed;
 - (2) The date the home and community-based service was performed;
 - (3) The beginning and ending time of the home and community-based service;

- (4) The name, title, and credential of each person performing the home and community-based service for each date and time;
 - (5) The relationship of the home and community-based service to the goals and objectives described in the client's treatment plan; and
 - (6) Progress notes that describe each client's status and progress toward the client's goals and objectives.
- (c)
- (1) Each service log entry must be signed by the employee responsible for the performance of the home and community-based service.
 - (2) Each service log entry must be included in the client's service record.

315. Behavioral Management Plans for IDD Clients.

- (a) The requirements of this section 315 apply only to clients with a diagnosed intellectual or developmental disability as defined in Ark. Code. Ann. § 20-48-101.
- (b)
 - (1)
 - (A) A CSSP must develop a behavioral prevention and intervention plan if a client's risk mitigation plan identifies the client as a **low** risk to display behaviors that can lead to harm to self or others.
 - (B) A behavioral prevention and intervention plan must address:
 - (i) Behavior shaping and management to reduce inappropriate behaviors; and
 - (ii) How the client will safely remain residing in the community and avoid an acute placement.
 - (2)
 - (A) A CSSP must develop a positive behavioral support plan if a client's risk mitigation plan identifies the client as a **moderate or high** risk to display behaviors that can lead to harm to self or others.
 - (B) A positive behavior support plan must include:

- (i) Each behavior to be decreased or increased:
 - (ii) Events or other stimuli that may trigger a client's behavior to be decreased or increased;
 - (iii) What should be provided or avoided in a client's environment to incentivize or disincentivize behaviors to be decreased or increased;
 - (iv) Specific methods employees should use to manage a client's behaviors;
 - (v) Interventions or other actions for employees to take if a triggering event occurs; and
 - (vi) Interventions or other actions for employees to take if a behavior to be decreased or increased occurs.
- (C) A positive behavior support plan must be developed and implemented by one of the following licensed or certified professionals:
- (i) Psychologist;
 - (ii) Psychological examiner;
 - (iii) Positive behavior support specialist;
 - (iv) Board certified behavior analyst;
 - (v) Licensed clinical social worker; or
 - (vi) Licensed professional counselor.
- (c) A CSSP must reevaluate behavioral prevention and intervention plans and positive behavior support plans at least quarterly.
- (d) A CSSP must refer the client to an appropriate licensed professional for reevaluation if the behavioral prevention and intervention plan or positive behavior support plan is not achieving the desired results.
- (e)
- (1) A CSSP must regularly collect and review data regarding the use and effectiveness of all behavioral prevention and intervention plans and positive behavior support plans.

- (2) The collection and review of data regarding the use and effectiveness of behavioral prevention and intervention plans and positive behavior support plans must include at least:
 - (A) The date and time any intervention is used;
 - (B) The duration of each intervention;
 - (C) The employee(s) involved in each intervention; and
 - (D) The event or circumstances that triggered the need for the intervention.
- (3) Behavioral prevention and intervention plans and positive behavior support plans:
 - (A) Must involve the fewest and shortest interventions possible; and
 - (B) Cannot punish or use interventions that:
 - (i) Are physically or emotionally painful to the client;
 - (ii) Frighten the client; or
 - (iii) Put the client at medical risk.

Subchapter 4. Entries and Exits.

401. Request to Change Provider.

- (a) A client or, if applicable, the client’s legal guardian, may initiate a request to change their selected CSSP at any time by contacting their assigned PASSE care coordinator.
- (c) If requested by DHS, the client, or, if applicable, the client’s legal guardian, a CSSP will remain responsible for the delivery of home and community-based services until such time as the client’s transition to the new CSSP is complete.
- (d) A CSSP will remain responsible for the health, safety, and welfare of the client until all transitions to new service providers are complete.

402. Entries.

- (a) A CSSP may enroll and provide those home and community-based services it is certified to delivery pursuant to its CSSP Agency certification to an eligible client.
- (b) A CSSP must document the enrollment of all clients in its program.

403. Exits.

- (a) A CSSP may exit a client:
 - (1) If the client becomes ineligible for home and community-based services;
 - (2) If the client chooses to use another CSSP; or
 - (3) For any other lawful reason.
- (b) A CSSP must document the exit of all clients regardless of reason.
- (c) A CSSP must provide reasonable assistance to all exiting clients , which at a minimum includes:
 - (1) Assisting the client in transferring to another CSSP or other service provider, when applicable;
 - (2) Submitting all necessary transfer paperwork to the Social Security Administration and any other necessary agency or financial institution, when the CSSP is serving as the client’s representative payee; and

(3)

(A) Providing copies of the client's service records to:

- (i) The client,;
- (ii) The client's legal guardian, if applicable; and
- (iii) Any new CSSP or other service provider to which the client transfers after exiting.

(B) Service records include:

- (i) The client's treatment plan;
- (ii) Medication logs; and
- (iii) Any other records requested by the client in compliance with clinical discretion as allowed by law and accreditation.

Subchapter 5. Settings Requirements.

501. Emergency Plans and Drills.

- (a) A CSSP must have a written emergency plan for all CSSP owned, leased, or controlled locations at which the CSSP performs home and community-based services.
- (b) A written emergency plan must address all foreseeable emergencies, including without limitation:
 - (1) Fire;
 - (2) Flood;
 - (3) Tornado;
 - (4) Utility disruption;
 - (5) Bomb threat;
 - (6) Active shooter; and
 - (7) Infectious disease outbreak.
- (c) A CSSP must evaluate and update written emergency plans at least annually.
- (d) Each written emergency plan must at a minimum include:
 - (1) Designated relocation sites and evacuation routes;
 - (2) Procedures for notifying legal guardians of relocation;
 - (3) Procedures for ensuring each client’s safe return;
 - (4) Procedures to address the special needs of each client;
 - (5) Procedures to address interruptions in the delivery of services;
 - (6) Procedures for reassigning employee duties in an emergency; and
 - (7) Procedures for annual training of employees regarding the emergency plan.
- (e)
 - (1) A CSSP must conduct emergency fire drills at least once a month.

- (2) A CSSP must conduct all other emergency drills set out in subsection (d) at least annually.
- (3) A CSSP must document all emergency drills which must include:
 - (A) The date and time of the emergency drill;
 - (B) The type of emergency drill;
 - (C) The number of clients participating in the emergency drill;
 - (D) The length of time taken to complete the emergency drill; and
 - (E) Notes regarding any aspects of the emergency drill that need improvement.

502. General CSSP Owned Service Setting Requirements.

- (a) Each CSSP owned, leased, or controlled home and community-based service setting must meet the home and community-based service setting regulations as established by 42 CFR 441.301(c) (4)-(5).
- (b) All CSSP owned, leased, or controlled home and community-based service locations must meet the following requirements:
 - (1) The interior of the location must:
 - (A) Be maintained at a comfortable temperature;
 - (B) Have appropriate interior lighting;
 - (C) Be well-ventilated;
 - (D) Have a running source of potable water in each bathroom, and, if applicable, kitchen;
 - (E) Be maintained in a safe, clean, and sanitary condition;
 - (F) Be free of:
 - (i) Offensive odors;
 - (ii) Pests;
 - (iii) Lead-based paint; and

- (iv) Hazardous materials.
 - (2) The exterior of each CSSP owned, leased, or controlled home and community-based service location's physical structure must be maintained in good repair, and free of holes, cracks, and leaks, including without limitation the:
 - (A) Roof;
 - (B) Foundation;
 - (C) Doors;
 - (D) Windows;
 - (E) Siding;
 - (F) Porches;
 - (G) Patios;
 - (H) Walkways;
 - (I) Driveways; and
 - (J) Parking lots.
 - (3) The surrounding grounds of each CSSP owned, leased, or controlled home and community-based service location must be maintained in a safe, clean, and manicured condition free of trash and other objects.
 - (4) Broken equipment, furniture, and appliances on or about the premises of each CSSP owned, leased, or controlled home and community-based service location must be either immediately repaired or appropriately discarded off premises and replaced.
- (c) CSSP owned, leased, or controlled home and community-based service locations must at a minimum include:
- (1) A functioning hot water heater;
 - (2) A functioning HVAC unit(s) able to heat and cool;
 - (3) An operable on-site telephone that is available at all hours and reachable with a phone number for outside callers;

- (4) All emergency contacts and other necessary contact information related to a client's health, welfare, and safety in a readily available location, including without limitation:
 - (A) Poison control;
 - (B) The client's personal care provider (PCP); and
 - (C) Local police;
- (5) One (1) or more working flashlights;
- (6) A smoke detector;
- (7) A carbon monoxide detector;
- (8) 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) Antiseptic;
 - (E) Thermometer;
 - (F) Scissors;
 - (G) Disposable gloves; and
 - (H) Tweezers;
- (9) Fire extinguishers in number and location to satisfy all applicable laws and rules, but at least one (1) functioning fire extinguisher is required at each location;
- (10) Screens for all windows and doors used for ventilation;
- (11) Screens or guards attached to the floor or wall to protect floor furnaces, heaters, hot radiators, exposed water heaters, air conditioners, and electric fans;
- (12) Written instructions and diagrams noting emergency evacuation routes 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 clients;

- (13) Have lighted “exit” signs at all exit locations; and
 - (14) Lockable storage containers or closets for any chemicals, toxic substances, and flammable substances that must be stored at the location.
- (d) Each bathroom in a CSSP owned, leased, or controlled home and community-based service location must have the following:
- (1) Toilet;
 - (2) Sink with running hot and cold water;
 - (3) Toilet tissue;
 - (4) Liquid soap; and
 - (5) Towels or paper towels;

503. Specific CSSP Owned Residential Settings Requirements.

- (a) Each CSSP owned, leased, or controlled home and community-based service residential setting must meet all the requirements of section 502 and this section 503.
- (b)
- (1) The following home and community-based service residential setting locations are limited to no more than sixteen (16) clients:
 - (A) Therapeutic Community; and
 - (B) Residential Community Reintegration.
 - (2) A home and community-based service residential setting that is a complex care home is limited to no more than eight (8) clients.
 - (3) Previously grandfathered group home locations continuously licensed by DDS since July 1, 1995, may continue to serve up to fourteen (14) unrelated adult clients with intellectual or developmental disabilities.
 - (4) CSSP owned, leased, or controlled home and community-based service residential settings that house at least one (1) client with an intellectual or development disability are limited to no more than four (4) clients.
- (c) Each CSSP owned, leased, or controlled home and community-based service residential setting must provide each client with a bedroom that has:

- (1) An individual bed measuring at least thirty-six (36) inches wide with:
 - (A) A firm mattress that is:
 - (i) At least four (4) inches thick; and
 - (ii) Covered with moisture repellent material;
 - (B) Pillows; and
 - (C) Linens, which must be cleaned or replaced at least weekly;
 - (2) Bedroom furnishings, which at a minimum includes:
 - (A) Shelf space;
 - (B) Storage space for personal items; and
 - (C) Adequate closet space for clothes and other belongings;
 - (3) An entrance that can be accessed without going through a bathroom or another person's bedroom;
 - (4) An entrance with a lockable door; and
 - (5) One (1) or more windows that can open and provide an outside view.
- (d) Each CSSP owned, leased, or controlled home and community-based service residential setting must meet the following bathroom requirements:
- (1) At least one (1) bathroom must have a shower or bathtub;
 - (2) All toilets, bathtubs, and showers must provide for individual privacy; and
 - (3) All toilets, bathtubs, and showers must be designed and installed in an accessible manner for clients.
- (e) Each CSSP owned, leased, or controlled home and community-based service residential setting that houses more than one (1) client must provide:
- (1) Fifty (50) or more square feet of separate bedroom space for each client;
 - (2) At least one (1) bathroom with a shower/bathtub, sink, and toilet for every four (4) clients; and
 - (3) Each client with their own locked storage container for client valuables.

- (f) Male and female clients cannot share a bedroom in a CSSP owned, leased, or controlled home and community-based service residential setting.
- (g) Each CSSP owned, leased, or controlled home and community-based service residential setting must provide:
 - (1) A reasonably furnished living room;
 - (2) A reasonably furnished dining area; and
 - (3) A kitchen with equipment, utensils, and supplies necessary to properly store, prepare, and serve three (3) or more meals a day for up to one (1) week.

504. CSSP Owned Residential Setting Exceptions and Variations.

- (a) Any client need or behavior that requires a variation or exception to the setting requirements set out in section 503 must be justified in the client's treatment plan.
- (b) The justification for a variation or exception to any settings requirement must at a minimum include:
 - (1) The specific, individualized need or behavior that requires a variation or exception;
 - (2) The positive interventions and supports used prior to the implementation of the variation or exception;
 - (3) The less intrusive methods of meeting the need or managing the behavior that were attempted but did not work;
 - (4) A clear description of the applicable variation or exception;
 - (5) The regular data collection and reviews that will be conducted to measure the ongoing effectiveness of the variation or exception;
 - (6) A schedule of periodic reviews to determine if the variation or exception is still necessary or can be terminated;
 - (7) The informed consent of the client, or, if applicable, the client's legal guardian; and
 - (8) An assurance that interventions and supports will cause no harm to the client.

Subchapter 6. Incident and Accident Reporting.

601. Incidents to be Reported.

A CSSP must report all alleged, suspected, observed, or reported occurrences of any of the following events while a client is receiving a home and community-based service:

- (1) Death of a client;
- (2) Serious injury to a client;
- (3) Maltreatment of a client;
- (4) Any event where an employee threatens or strikes a client;
- (5) Use of a restrictive intervention on a client, including without limitation:
 - (A) Seclusion;
 - (B) A restraint;
 - (C) A chemical restraint; or
 - (D) A mechanical restraint;
- (6) Any situation the whereabouts of a client are unknown for more than one (1) hour;
- (7) Any unscheduled situation where a client's services 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 client;
- (9) Medication errors that cause or have the potential to cause death, serious injury, or serious illness to a client;
- (10) Any act or admission that jeopardizes the health, safety, or quality of life of a client;
- (11) Motor vehicle accidents involving a client;
- (12) A client or employee testing positive for any infectious disease that is the subject of a public health emergency declared by the Governor, Arkansas Department of Health, the President of the United States, or the United States Department of Health and Human Services; and

(13) Any event that requires notification of the police, fire department, or coroner.

602. Reporting Requirements.

(a) A CSSP must:

(1) Submit all reports of the following events within one (1) hour of the event:

(A) Death of a client;

(B) Serious injury to a client; and

(C) Any incident that a CSSP 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) A CSSP must submit all reports to the client's assigned PASSE and to DPSQA through DPSQA's website: <https://humanservices.arkansas.gov/about-dhs/dpsqa>.

(c) Reporting under these standards does not relieve a CSSP from complying with other applicable reporting or disclosure requirements under state or federal laws, rules, or regulations.

603. Notification to Legal Guardians.

(a) A CSSP Agency must notify the client's legal guardian of any reportable incident involving the client.

(b) A CSSP should maintain documentation evidencing notification required in (a).

Subchapter 7. Enforcement.

701. Monitoring.

- (a)
 - (1) DPSQA shall monitor a CSSP to ensure compliance with these standards.
 - (2)
 - (A) A CSSP 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, DDS, DAABH, DMS, or DPSQA.
- (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) Requests for documentation and records required under these standards;
 - (4) 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, DDS, DAABH, DMS, or DPSQA.

702. Written Notice of Enforcement Action.

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

703. Enforcement Actions.

- (a)
 - (1) DPSQA shall not impose an enforcement action unless:
 - (A) The CSSP is given written notice pursuant to section 702 and an opportunity to be heard pursuant to subchapter 9; or
 - (B) DPSQA determines that public health, safety, or welfare imperatively requires emergency action;
 - (2) If DPSQA imposes an enforcement action as an emergency action before the CSSP receives written notice and an opportunity to be heard pursuant to (a)(1), DPSQA shall:
 - (A) Provide immediate notice to the CSSP of the enforcement action; and
 - (B) Allow the CSSP an opportunity to be heard pursuant to Subchapter 9.
- (b) DPSQA may impose on a CSSP any of the following enforcement actions for a failure to comply with these standards:
 - (1) Plan of correction;
 - (2) Directed in-service training plan;
 - (3) Moratorium on new admissions;
 - (4) Transfer of clients;
 - (5) Monetary penalties;
 - (6) Suspension of CSSP Agency certification;
 - (7) Revocation of CSSP Agency certification; and
 - (8) Any remedy authorized by law or rule including without limitation Ark. Code Ann. § 25-15-217.
- (c) DPSQA shall determine the imposition and severity of these enforcement actions 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 client'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 a CSSP to appropriate agencies for investigation and further action.
- (2) DPSQA shall report non-compliance involving Medicaid billing requirements to DMS, the Arkansas Attorney General's Medicaid Fraud Control Unit, and the Office of Medicaid Inspector General.

- (e) These enforcement actions are not mutually exclusive and DPSQA may apply multiple actions simultaneously to a failure to comply with these standards.
- (f) The failure to comply with an enforcement actions imposed by DPSQA constitutes a separate violation of these standards.

704. Moratorium.

- (a) DPSQA may prohibit a CSSP from accepting new clients.
- (b) A CSSP prohibited from accepting new admissions may continue to provide services to existing clients.

705. Transfer of Clients.

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

706. Monetary Penalties.

- (a) DPSQA may impose on a CSSP 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 CSSP does not pay the civil monetary penalty within sixty (60) calendar days from the date DPSQA provides written notice to the CSSP 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 CSSP is located.

707. Suspension and Revocation of CSSP Certification.

- (a)
 - (1) DPSQA may temporarily suspend a CSSP Agency certification if the CSSP fails to comply with these standards.
 - (2) If a CSSP Agency certification is suspended, the CSSP must immediately stop providing services until DPSQA reinstates its certification
- (b)
 - (1) DPSQA may permanently revoke a CSSP Agency certification if the CSSP fails to comply with these standards.
 - (2) If a CSSP Agency certification is revoked, the CSSP must immediately stop providing services and comply with the permanent closure requirements in section 801(a).

Subchapter 8. Closure.

801. Closure.

(a)

- (1) A CSSP Agency certification ends if a CSSP permanently closes, whether voluntarily or involuntarily, and is effective the date of the permanent closure as determined by DPSQA.
- (2) A CSSP that intends to permanently close, or does permanently close without warning, whether voluntarily or involuntarily, must immediately:
 - (A) Provide the client, or, if applicable, the client's legal guardian, with written notice of the closure;
 - (B) Provide the client, or, if applicable, the client's legal guardian, with written referrals to at least three (3) other appropriate service providers;
 - (C) Assist each client and, if applicable, the client's legal guardian, in transferring services and copies of client records to any new service providers;
 - (D) Assist each client and, if applicable, the client's legal guardian, in transitioning to new service providers; and
 - (E) Arrange for the storage of client records to satisfy the requirements in section 305.

(b)

- (1) A CSSP 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 CSSP Agency certification for up to one (1) year from the date of the request.
- (2) A CSSP must comply with subdivision (a)(2)'s requirements for notice, referrals, assistance, and storage of client records if DPSQA grants a CSSP request for a temporary closure.
- (3)
 - (A) DPSQA may grant a temporary closure if the CSSP demonstrates that it is reasonably likely it will be able to reopen after the temporary closure.

(B) DPSQA shall end a CSSP temporary closure and direct that the CSSP permanently close if the CSSP fails to demonstrate that it is reasonably likely that it will be able to reopen after the temporary closure.

(4)

(A) DPSQA may end a CSSP's temporary closure if the CSSP demonstrates that it is in full compliance with these standards.

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

Subchapter 9. Appeals.

901. Reconsideration of Adverse Regulatory Actions.

(a)

- (1) A CSSP 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 CSSP and received by DPSQA within thirty (30) calendar days of the date the CSSP 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 the CSSP against whom the adverse regulatory action was taken, the address and contact information for the CSSP 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 CSSP using the address and contact information provided in the request for reconsideration.

- (d) 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.

902. Appeal of Regulatory Actions.

- (a)
 - (1) A CSSP may administratively appeal any adverse regulatory action covered 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) A CSSP may appeal any adverse regulatory action or other agency action to circuit court as allowed by the Administrative Procedures Act, Ark. Code Ann. §§ 25-15-201 to -220.

Subchapter 10. Intensive CSSP Agency Certification.

1001. Intensive CSSP Agency Certification Requirements.

- (a) A CSSP with Intensive CSSP Agency certification must meet all standards applicable to Base CSSP Agency certification found in subchapters three (3) to nine (9), in addition to the requirements set out in this subchapter ten (10).

1002. Employee and Staffing Requirements.

- (a)
 - (1) Each CSSP with Intensive CSSP Agency certification must employ or contract with a medical director who is a licensed physician in good standing with the Arkansas Medical Board.
 - (2) The medical director is responsible for:
 - (A) Oversight of all medical services performed by the CSSP;
 - (B) Oversight of the CSSP's medical care quality and compliance; and
 - (C) Ensuring all medical services performed by the CSSP are provided:
 - (i) Within each practitioner's scope of practice under Arkansas law; and
 - (ii) Under such supervision as required by law for practitioners not licensed to practice independently.
 - (3) The medical director must ensure appropriate medical services are accessible twenty-four (24) hours a day, seven (7) days a week for all clients receiving home and community-based services available under Intensive CSSP Agency certification.
 - (4) If the medical director is not a licensed psychiatrist, then the medical director must contact the licensed psychiatrist contracted or employed by the CSSP within twenty-four (24) hours in the following situations:
 - (A) When antipsychotic or stimulant medications are used in dosages higher than recommended in guidelines published by DMS;
 - (B) When two (2) or more medications from the same pharmacological class are used; and

(C) When there is a client clinical deterioration or crisis causing risk of danger to the client or others.

(b)

(1) Each CSSP with Intensive CSSP Agency Certification must employ or contract with a licensed psychiatrist certified by one of the specialties of the American Board of Medical Specialties to serve as a consultant to the medical director and other employees, as needed.

(2) If the medical director is certified by one of the specialties of the American Board of Medical Specialties, then a CSSP is not required to retain a second licensed psychiatrist.

(c)

(1) Each CSSP with Intensive CSSP Agency certification serving clients under the age of twenty-one (21) must employ or contract with a board-certified child psychiatrist to serve as a consultant to the CSSP medical director and other employees, as needed.

(2) If the medical director is a board-certified child psychiatrist, then a CSSP is not required to retain a second board-certified child psychiatrist.

(d)

(1) Each CSSP with Intensive CSSP Agency certification must employ or contract with a full-time clinical director (or functional equivalent) who holds one (1) of the following State of Arkansas licenses or certifications:

(A) Psychologist;

(B) Certified Social Worker;

(C) Psychological Examiner – Independent;

(D) Professional Counselor;

(E) Marriage and Family Therapist ;

(F) Advanced Practice Nurse with:

(i) A specialty in psychiatry or mental health; and

- (ii) A minimum of two (2) years' clinical experience post master's degree; or
 - (G) Clinical Nurse Specialist with:
 - (i) A specialty in psychiatry or mental health; and
 - (ii) A minimum of two (2) years' clinical experience post master's degree.
- (2) The clinical director is responsible for:
 - (A) Oversight of all home and community-based services (professional and paraprofessional) conducted by a CSSP pursuant to its Intensive CSSP Agency certification;
 - (B) Oversight of the CSSP's care and service quality and compliance;
 - (C) Ensuring all home and community-based services (professional and paraprofessional) conducted by a CSSP pursuant to its Intensive CSSP Agency certification are provided:
 - (i) Within each employee's or practitioner's scope of practice under Arkansas law; and
 - (ii) Under such supervision as required by law for employees and practitioners not licensed to practice independently;
 - (D) Ensuring all licensed professionals appropriately supervise the delivery of all home and community-based services in accordance with the client's treatment plan;
- (e)
 - (1) A CSSP must assign a multidisciplinary team to each client receiving one (1) or more home and community-based services pursuant to its Intensive CSSP Agency certification.
 - (2) The multidisciplinary team is responsible for:
 - (A) The development of the client's treatment plan for those home and community-based services to be performed by the CSSP; and
 - (B) The CSSP's delivery of all home and community-based services included in client's treatment plan.

- (3)
 - (A) Each multidisciplinary team must have a designated multidisciplinary team leader.
 - (B) Each multidisciplinary team leader must be a mental health professional (MHP).
 - (C) The designated multidisciplinary team leader must have licensure and training applicable to the treatment of the client as indicated in the client's PCSP.
 - (D) Each multidisciplinary team leader is responsible for:
 - (i) Overseeing the development of the treatment plan for those home and community-based services to be performed by the CSSP;
 - (ii) Monitoring the CSSP's delivery of all home and community-based services included in the client's treatment plan;
 - (iii) Directly supervising the CSSP employees performing the home and community-based services included in the client's treatment plan;
 - (iv) Providing case consultation and in-service training to members of the multidisciplinary team, as needed.

1003. Behavioral Health Crisis Response Services.

- (a) A CSSP must establish, implement, and maintain a site-specific crisis response plan for all CSSP owned, leased, or controlled locations at which the CSSP performs home and community-based services pursuant to its Intensive CSSP Agency certification.
- (b) Each site-specific crisis response plan must include a twenty-four (24) hour emergency telephone number that provides for a:
 - (1) Direct access call with a mental health professional (MHP) within fifteen (15) minutes of an emergency/crisis;
 - (2) Face-to-face crisis assessment of a client within two (2) hours of an emergency/crisis (which may be conducted through telemedicine) unless a different time frame is within clinical standards guidelines and mutually agreed upon by the requesting party and the responding MHP; and
 - (3) Clinical review by the clinical director within twenty-four (24) hours of the emergency/crisis.

(c) A CSSP must:

- (1) Provide the twenty-four (24)-hour emergency telephone number to all clients;
- (2) Post the twenty-four (24)-hour emergency telephone number on all public entrances to each location; and
- (3) Include the twenty-four (24)-hour emergency telephone phone number on all answering machine greetings.

Subchapter 11. Enhanced CSSP Agency Certification.

1101. Enhanced CSSP Agency Certification Requirements.

A CSSP with Enhanced CSSP Agency certification must meet all standards applicable to Base CSSP Agency certification and Intensive CSSP Agency certification in subchapters three (3) through ten (10) in addition to the requirements set out in this subchapter.

1102. Enhanced Certification Medical Director Requirements.

(a)

- (1) Each CSSP with Enhanced CSSP Agency certification must always have its medical director on-site or on-call during hours of operation.
- (2) An on-call medical director must respond:
 - (A) Within twenty (20) minutes of initial contact; and
 - (B) In-person if required by the circumstances.

(b) A CSSP must document each after-hours contact with a its medical director, including without limitation:

- (1) The date and time the medical director was contacted;
- (2) The date and time the medical director responded; and
- (3) The date and time an on-call medical director came on-site when called in due to circumstances.