

DEPARTMENT OF HUMAN SERVICES

Behavioral Health

BEHAVIORAL HEALTH

2 CCR 502-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Statement of Basis and Purpose, Fiscal Impact/Regulatory Analysis and Specific Statutory Authority

Rules regarding the Care and Treatment of the Mentally Ill were originally adopted on 3/21/1977, and subsequently amended through April 20, 1993 (effective May 30, 1993), by the Department of Institutions.

The purpose of the 1991 revision of these rules is to make the regulations easier to locate within the document, easier to read and to understand; to incorporate policy statement formerly contained in the Division of Mental Health's Procedures Manual; and to add several changes recommended to the Department of Institutions by the Mental Health Advisory Board for Service Standards and Regulations.

These rules were proposed pursuant to Notice of Public Hearing published on November 10, 1991, and after proper notice, a public hearing was conducted on Thursday, December 5, 1991. Written and oral testimony presented to the Department of Institutions was considered in the determination to adopt these rules. The record of the rule-making proceeding demonstrates the need for these regulations; the regulations have been clearly and simply stated; and the regulations do not conflict with other provisions of law. The effective date for these rules is March 1, 1992.

Sections 103.2.A.2 and 103.2.A.3, which were adopted after January 1, 1992 and before January 1, 1993, were not extended by H.B. 93-1131 and therefore expired effective June 1, 1993.

The entire re-write of these rules were adopted following publication at the 4/2/2004 State Board of Human Services meeting, with an effective date of 6/1/2004 (Rule-making #03-5-14-1). Statement of Basis and Purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Addition of rules concerning Acute Treatment Units, Sections 19.500 through 19.568.2 were adopted following publication at the 9/7/2007 State Board of Human Services meeting, with an effective date of 11/1/2007 (Rule-making #07-3-22-2). Statement of Basis and Purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revision of Section 19.421.3 was adopted following publication at the 7/12/2013 State Board of Human Services meeting, with an effective date of 9/1/2013 (Rule-making# 13-5-14-1). Statement of Basis and Purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.

Rules regarding care and treatment of the mentally ill, as originally found in 2 CCR 502-1 (Rule Vol. 19), are repealed in their entirety and rewritten as a consolidation of Behavioral Health rules in 2 CCR 502-1 (Rule Vol. 21) as adopted following publication at the 9/6/2013 State Board of Human Services meeting, with an effective date of 11/1/2013 (Rule-making# 13-3-4-1). Statement of Basis and Purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.

Revisions to Sections 21.900 through 21.950 were adopted on an emergency basis at the 11/6/2015 State Board of Human Services meeting, with an effective date of 11/6/2015 (Rule-making# 15-10-20-1). Statement of Basis and Purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration.

Revisions to Sections 21.900 through 21.950 were adopted as final (permanent) at the 12/4/2015 State Board of Human Services meeting, with an effective date of 2/1/2016 (Rule-making# 15-10-20-1). Statement of Basis and Purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration.

Revisions to Sections 21.000 through 21.330 were adopted at the 3/4/2016 State Board of Human Services meeting, with an effective date of 5/1/2016 (Rule-making# 15-08-26-1). Statement of Basis and Purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration.

Revisions to Sections 21.120.3 and 21.120.31 were adopted at the 9/9/2016 State Board of Human Services meeting, with an effective date of 11/1/2016 (Rule-making# 16-5-11-1). Statement of Basis and Purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relation, State Board Administrator.

Addition of rules concerning the Behavioral Health Crisis Response System, Sections 21.400 through 21.400.6 were adopted at the 9/9/2016 State Board of Human Services meeting, with an effective date of 11/1/2016 (Rule-making# 16-5-11-1). Statement of Basis and Purpose, fiscal impact, and specific statutory authority for these additions were incorporated by reference into rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relation, State Board Administrator.

21.000 BEHAVIORAL HEALTH

21.100 DEFINITIONS

"42 C.F.R. Part 2" means the federal regulations issued by the Substance Abuse & Mental Health Services Administration of the U.S. Department of Health & Human Services found at 42 C.F.R. Part 2 (Feb. 2018), which are hereby incorporated by reference. No later editions or amendments are incorporated. These regulations are available at no cost from the U.S. Department of Health & Human Services, Substance Abuse & Mental Health Services Administration, Office of Communications, 5600 Fishers Lane, Rockville, MD 20857 or at <https://www.ecfr.gov/>. These regulations are also available for public inspection and copying at the Colorado Department of Human Services, Office of Behavioral Health, 3824 West Princeton Circle, Denver, Colorado 80236, during regular business hours.

“Acute Treatment Unit” (ATU) means a designated facility or a distinct part of a facility for short-term psychiatric care, which may include substance use disorder treatment. An ATU provides a twenty-four (24) hour, therapeutically planned and professionally staffed environment for individuals who do not require inpatient hospitalization but need more intense and individualized services, such as crisis management and stabilization services, than are available on an outpatient basis, as defined in 27-65-102(1), C.R.S.

“Aggrieved” means having suffered actual loss or injury or being exposed to potential loss or injury to legitimate interests as defined in 24-4-102 (3.5), C.R.S.

“Behavioral Health” for the purposes of these rules, behavioral health includes substance use and mental health. “Department” is the Colorado Department of Human Services.

“Community Mental Health Clinic” means a health institution planned, organized, operated, and maintained to provide basic community services for the prevention, diagnosis, and treatment of emotional or mental disorders, such services being rendered primarily on an outpatient and consultative basis.

“Counselor-in-training” means an individual currently in the process of obtaining a professional credential pursuant to Part 8 of Article 245 of Title 12, C.R.S. “Counselor-in-training” does not include a psychologist candidate; a clinical social worker candidate; a marriage and family therapist candidate; a licensed professional counselor candidate; or an addiction counselor candidate.

“Designated Facility” means an agency has applied for and been approved by the department under these rules to provide mental health services.

“Designated Managed Service Organization” means an organization approved and authorized by the Department to manage oversight, quality assurance, and contract compliance of substance use disorder treatment providers within one or more of the seven established geographic sub-state planning areas.

“Disaster” means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to fire, flood, earthquake, wind, storm, wave action, hazardous substance incident, oil spill or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, hostile military or paramilitary action, or a condition of riot, insurrection, or invasion existing in the state or in any county, city, town, or district in the state as defined in Section 24-33.5-703(3), C.R.S..

“Emergency” means an unexpected event that places life or property in danger and requires an immediate response through the use of state and community resources and procedures Section 24-33.5-703(3.5), C.R.S.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, pub. l. no. 104-191, 110 stat. 1936 (1996), codified at 42 U.S.C. § 300GG (2012) and 29 U.S.C. § 1181 et seq. (2012) and 42 U.S.C. § 1320D et seq. (2012) and the federal regulations issued by the U.S. Department of Health & Human Services found at 45 C.F.R. Part 160 (2017); 45 C.F.R. Part 162 (2017); and, 45 C.F.R. Part 164 (2017), which are hereby incorporated by reference. No later editions or amendments are incorporated. These statutes are available for public inspection and copying from the Tenth Circuit Court of Appeals Library, Room 430 Byron Rogers Courthouse, 1929 Stout Street, Denver, Colorado 80294, from the hours of 8 A.M. TO 4:30 P.M. or at <http://uscode.house.gov/>. These statutes are also available for public inspection and copying at the Colorado Department of Human Services, Office of Behavioral Health, 3824 West Princeton Circle, Denver, Colorado 80236, during regular business hours. These regulations are available at no cost from the U.S. Department of Health & Human Services, Office of Civil Rights, 200 Independence Avenue, SW, Room 509F, HHH Building, Washington, D.C. 20201 or at <https://www.ecfr.gov/>. These regulations are also available for public inspection and copying at the Colorado Department of Human Services, Office of Behavioral Health, 3824 West Princeton Circle, Denver, Colorado 80236 during regular business hours.

“Individual” means a person seeking or receiving services.

“Inpatient” refers to inpatient hospitalization as well as twenty-four (24) hour residential levels of care.

“Legal Guardian” is an individual appointed by the court, or by will, to make decisions concerning an incapacitated individual's or minor's care, health, and welfare.

“Legal Representative” means one of the following:

- A. The legal guardian of the individual, where proof is offered that such guardian has been duly appointed by a court of law, acting within the scope of such guardianship;
- B. An individual named as the agent in a Power of Attorney (POA) that authorizes the individual to act on the individual's behalf, as enumerated in the POA;
- C. An individual selected as a proxy decision-maker pursuant to Section 15-18.5-101, et seq., C.R.S., to make medical treatment decisions. For the purposes of these rules, the proxy decision-maker serves as the individual's legal representative for the purposes of medical treatment decisions only; or,
- D. A conservator, where proof is offered that such conservator has been duly appointed by a court of law, acting with the scope of such conservatorship.

“Licensed Agency” means an agency approved and licensed under these rules by the Department to provide substance use disorder treatment.

“Medication formulary” means the *Required Formulary Psychotropic Medications: 2018*, which is hereby incorporated by reference. No later editions or amendments are incorporated. The medication formulary is available at no cost from the Colorado Department of Human Services at <https://www.colorado.gov/pacific/cdhs/behavioral-health-laws-rules>. The medication formulary is also available for public inspection and copying at the Colorado Department of Human Services, Office of Behavioral Health, 3824 West Princeton Circle, Denver, CO 80236, during regular business hours.

The medication formulary is a list of minimum medications, established pursuant to 27-70-103, C.R.S., that may be used by service providers to increase the likelihood that a broad spectrum of effective medications are available to individuals to treat behavioral health disorders, regardless of the setting or service provider. The medication formulary may not contain a complete list of medications, and providers may prescribe and/or carry any additional medications they deem necessary.

“Office” is the Office of Behavioral Health within the Colorado Department of Human Services.

“Plan of Action” is a description of how an agency plans to bring into compliance any standards identified as out of compliance within a specified time period.

“Placement facility” means a public or private facility that has a written agreement with a designated facility to provide care and treatment to any individual undergoing mental health evaluation or treatment by the designated facility. A placement facility may be a general hospital, nursing care facility, or licensed residential child care facility.

“RCCF” means a residential child care facility licensed pursuant to 12 CCR 2509-8, Section 7.705, et seq., by the Colorado Department of Human Services, Division of Child Welfare.

“Short-Term” psychiatric care means the average lengths of services are from three (3) to seven (7) days.

“The ASAM Criteria” means the publication from the American Society of Addiction Medicine, Mee-Lee, D., Shulman, G.D., Fishman, M.J., Gastfriend, D.R., Miller, M.M., EDS. The ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions, 3rd ed. Carson City, NV: The Change Companies®; 2013, which is hereby incorporated by reference. No later editions or amendments are incorporated. Mee-Lee, D., Shulman, G.D., Fishman, M.J., Gastfriend, D.R., Miller, M.M., EDS. The ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions, 3rd ed. Carson City, NV: The Change Companies®; 2013, is available for a reasonable charge at <http://www.asam.org/resources/the-asam-criteria>. Mee-Lee, D., Shulman, G.D., Fishman, M.J., Gastfriend, D.R., Miller, M.M., EDS. The ASAM Criteria: Treatment Criteria for Addictive, Substance Related, and Co-Occurring Conditions, 3rd ed. Carson City, NV: The Change Companies®; 2013, is also available for public inspection at the Colorado Department of Human Services, Office of Behavioral Health, 3824 West Princeton Circle, Denver, Colorado 80236, during regular business hours.

21.105 RIGHT TO APPEAL [Eff. 5/1/16]

Any licensee or designee adversely affected or aggrieved by these rules or by the Department’s decisions in regard to implementation of these rules, has the right to appeal to the Colorado Department of Personnel and Administration, Office of Administrative Courts, and may subsequently seek judicial review of the Department’s action in accordance with Section 24-4-101, et seq., C.R.S.

- A. The following actions may be submitted to an Administrative Law Judge for an evidentiary hearing: denial of a license or designation, provisional license, probationary license, revocation, denial of a waiver, limitation of a license, denial of a modification.
- B. After written notification from the Department of intended action, the licensee or designee has twenty one (21) calendar days to submit a written appeal. The appeal must be received by the Division of Behavioral Health within twenty one (21) days from the date the written notification of action letter was sent by the Department.
- C. In all cases except waiver denials, the Department will file a notice of charges with the Office of Administrative Courts to begin the administrative process. In waiver denials, the Appellant’s request for appeal shall be forwarded to the Office of Administrative Courts. Once the appellant’s request is forwarded to the Office of Administrative Courts, the Department may file a notice of charges.
- D. An answer to the notice of charges shall be due twenty one (21) calendar days after the date of mailing of the notice of charges.
- E. The Office of Administrative Courts shall send out a procedural order directing the course of the proceedings and setting the matter for hearing.

- F. Subsequent to an evidentiary hearing at the Office of the Administrative Courts and the issuance of a final agency decision, a party may seek to appeal the final agency decision through judicial review in accordance with Section 24-4-106, C.R.S.

21.110 GOVERNANCE [Eff. 11/1/13]

- A. Licensed and or designated entities by the Department shall be recognized by and allowed to do business in Colorado.
- B. Governance shall provide for and maintain at minimum:
1. Compliance with these rules and applicable federal and state regulations;
 2. Agency operating policies and procedures based on these rules, Department policies and procedures, and applicable state and federal regulations;
 3. Organizational structures that clearly delineate staff positions, and lines of authority, and supervision;
 4. Adequate financial resources to maintain agency personnel, physical facilities, and operations;
 5. Physical facilities that meet all current and applicable local and state health, safety, building, plumbing and fire codes and zoning ordinances;
 6. Property liability insurance;
 7. Professional liability (malpractice) insurance;
 8. Accurate, up-to-date individual attendance and payment records; and,
 9. A written emergency plan and procedures that address provisions for dealing with medical or natural emergencies. Maps of emergency exits shall be conspicuously posted in each site.

21.120 BEHAVIORAL HEALTH LICENSURE AND DESIGNATION

21.120.1 General Provisions

- A. Any agency licensed and/or designated by the Department shall comply with Sections 21.100 through 21.190 and all rules applicable to the specific behavioral health services for which it is licensed or designated.
- B. The Department will review compliance, at a minimum:
1. Licensed agencies once every two (2) years;
 2. Facilities designated to provide mental health services per Title 27, Article 65, C.R.S., annually and all other designated agencies at least once every two (2) years; and,
 3. When there is reasonable cause to question the agency's fitness to conduct or maintain a license or designation.

- C. Compliance review of sub-contractors and affiliate agencies shall be at the discretion of the Department. Review will be limited to those services that are provided pursuant to contract or affiliation agreement with the licensed or designated agency.
- D. Based on compliance issues identified through application review and on-site inspection, the agency may be issued a provisional or probationary license or designation. If the Governor or local government declares a disaster or emergency the department has discretion to modify the requirement for on-site inspections. If the department modifies the requirement for on-site inspections, the requirement shall only be modified as necessary because of circumstances related to the disaster or emergency.
- E. Applicants that are in full compliance shall be granted a Department license to provide substance use disorder services and/or designated to provide mental health services for up to two (2) consecutive years from the date granted.
- F. Licenses and designations shall be displayed in a prominent, publicly accessible place within each agency and or site.
- G. Current licenses and designations shall remain in effect during the approval process when completed license and designation applications are received by the Department sixty (60) calendar days prior to the existing license or designation expiration date.
- H. An agency whose license or designation is not current shall not indicate in any form or manner that it is licensed or designated and shall not provide behavioral health services requiring a license or designation.
- I. Any agency site that has not provided behavioral health services specific to its license or designation status for two (2) years shall be reviewed for termination of licensure or designation.
- J. Applicants may appeal licensing decisions in accordance with the state Administrative Procedure Act, as found in Section 24-4-101, et seq., C.R.S.

21.120.2 LICENSING PROCEDURES FOR AGENCIES PROVIDING SUBSTANCE USE DISORDER SERVICES

21.120.21 Criteria [Eff. 11/1/13]

- A. Providers shall obtain a license if:
 - 1. Required by statute to be licensed by the Department;
 - 2. They receive public funds to provide substance use disorder treatment or substance use disorder education;
 - 3. They provide such treatment to individual populations whose referral sources require them to be treated in agencies licensed by the Department; or,
 - 4. They are acquiring existing agencies or sites licensed by the Department.
- B. Licenses for treatment and education services and levels of care are required for each physical site.
- C. A license is not transferable from one licensed agency to another, from one treatment site to another, or from a licensed agency to an unlicensed organization or individual.

- D. Hours of education and treatment provided by agencies whose license is not currently in effect may not count toward fulfilling individual obligations to courts; probation; parole; Colorado Department of Revenue, Motor Vehicle Division; and, other referral sources.
- E. Agencies funded by the Department or a by a designated Managed Service Organization shall be licensed to treat individuals involuntarily committed to treatment in accordance with Section 21.270.

21.120.22 Initial Licenses

- A. Applicants for an initial license to provide substance use disorder services shall submit a completed application with required documentation and fees.
- B. An agency may be approved for licensure, granted provisional approval, or have its application denied. The applicant shall be advised of the decision in writing within sixty (60) business days of the initial on-site evaluation. If the Governor or local government declares a disaster or emergency the department has discretion to modify the requirement for on-site inspections. If the department modifies the requirement for on-site inspections, the requirement shall only be modified as necessary because of circumstances related to the disaster or emergency.
- C. An applicant not in compliance may have its license application returned by certified mail with written summaries of deficiencies and notification that the license application is denied. If an applicant disagrees with the decision, s/he may appeal (see Section 21.105); or upon remedying the noted deficiencies, may re-apply for an initial license in accordance with Section 21.120.2 of these rules. Application fees may not be refunded.

21.120.23 Provisional Licenses

- A. A provisional license may be granted for a period not to exceed ninety (90) calendar days if after initial inspection and review:
 - 1. The provider is in substantial compliance with these rules and regulations and is temporarily unable to conform to all the minimum standards required under these rules. No provisional license shall be issued to a provider if the operations may adversely affect individual health, safety, or welfare;
 - 2. Compliance will be achieved within a reasonable period of time;
 - 3. The provider has a reasonable written plan or schedule for achieving compliance; and,
 - 4. The provider shall provide proof that attempts are being made to conform and comply with applicable rules.
- B. A second provisional license for a period not to exceed ninety (90) calendar days may be granted if substantial progress continues to be made, and it is likely compliance can be achieved by the date of expiration of the second provisional license.
- C. During the term of the provisional license, reviews and on-site inspections may be conducted to determine if the applicant is in compliance and meets the requirements for a license. If the Governor or local government declares a disaster or emergency the department has discretion to modify the requirement for on-site inspections. If the department modifies the requirement for on-site inspections, the requirement shall only be modified as necessary because of circumstances related to the disaster or emergency.

- D. Initial applicants who have completed all provisions and are found to be in compliance prior to the expiration of the provisional license shall be granted a license for up to two (2) consecutive years from the date the original provisional license was issued.
- E. If the applicant does not come into compliance during the provisional licensing period, the application for a two (2) year license shall be denied. A denied application shall be returned by certified mail with written summaries of deficiencies and notification that the provisional license is no longer in effect as of ten (10) days from the date the letter was mailed. Original application fees shall not be refunded. If an applicant disagrees with the decision, s/he may appeal (see Section 21.105); or upon remedying the noted deficiencies, may re-apply for an initial license in accordance with Section 21.120.2 of these rules.

21.120.24 License Renewal

- A. An agency seeking renewal shall provide the Department with a completed license application and the applicable fee at least sixty (60) calendar days prior to the expiration of the existing license.
- B. License renewal applications received by the Department after the current license expiration date shall be returned by certified mail with written notification that the license is no longer in effect. Applicants may reapply for an initial license in accordance with Section 21.120.2 of these rules.
- C. License renewal applications that are received by the Department fewer than sixty (60) calendar days prior to the expiration of their existing license may fail to receive their new license prior to the expiration of their old license. An agency that submits its renewal application fewer than sixty (60) days prior to the expiration of the current license and does not receive a new license prior to that date may reapply for an initial license in accordance with Section 21.120.2 of these rules.
- D. Failure of a licensee to accurately answer or report any of the information requested by the Department shall be considered good cause to deny the license renewal application.
- E. The agency licensee shall be notified in writing of non-compliance areas and the need for a plan of action as outlined in Section 21.120.6. A probationary license may be granted.
- F. An agency in compliance with the applicable Department rules and state and federal regulations shall be granted a license renewal effective as of the expiration dates of the current license.

21.120.25 Probationary License [Eff. 11/1/13]

- A. At the Department's discretion, a probationary license may be granted to an agency out of compliance with applicable Department, state or federal regulations prior to issuance of a renewal license or during a current license term. The agency will be notified in writing of non-compliance areas and the need for a plan of action (see Section 21.120.6).
- B. A probationary license will replace the current license for a period not to exceed ninety (90) calendar days.
- C. Administrative and treatment activities may be limited by a probationary license while the agency addresses corrective actions.
- D. A probationary license may be re-issued for a period not to exceed ninety (90) calendar days if substantial progress continues to be made and it is likely that compliance can be achieved by the date of expiration of the second probationary license.

- E. If the licensee fails to comply with or complete a plan of action in the time or manner specified, or is unwilling to consent to the probationary license, the modification to a probationary license shall be treated as a revocation of the licensee and s/he shall be notified by certified mail that the probationary license is no longer in effect as of ten (10) days from the date the letter was mailed. If an applicant disagrees with the decision, s/he may appeal (see Section 21.105); or upon remedying the noted deficiencies, may re-apply for an initial license in accordance with Section 21.120.2 of these rules.

21.120.26 License Modifications

- A. An agency shall submit a license modification application and written documentation demonstrating compliance with all applicable Department rules, policies and procedures, a minimum of thirty (30) calendar days prior, in the following circumstances:
1. Adding, selling, moving or closing agencies, sites, services, or levels of care;
 2. Changing the agency name;
 3. Changing agency governance.
- B. Failure to submit license modification applications and required documentation within thirty (30) calendar days may result in the agency, specific sites, and or levels of care not being licensed.
- C. Application fees for a license modification are not required.
- D. Emergency license modification request
1. An agency may submit a request to the department for an emergency or disaster modification to their license during the timeframe services are disrupted due to a statewide emergency or disaster.
 2. An agency shall provide the department information including but not limited to:
 - a. An explanation for the need for an emergency or disaster license modification; and,
 - b. An explanation or demonstration of compliance with all applicable department rules, policies and procedures.
 3. At the department's discretion, an emergency or disaster license modification may be granted to an agency without an on-site inspection by the department.
 4. Upon receiving confirmation of an emergency or disaster license modification, an agency may provide services immediately and continue to operate under the modified license for up to sixty (60) days after the disaster or emergency has ceased.
 5. To continue to operate beyond sixty (60) days after the emergency or disaster has ceased, an agency shall submit a permanent license modification pursuant to 21.120.26.a.

21.120.27 Limited License [Eff. 11/1/13]

- A. At the Department's discretion, a limited license may be issued to an agency to prevent or address a perceived conflict of interest and/or a dual relationship within the agency that may negatively impact persons receiving services.

The following include, but are not limited to, circumstances where there may be a perceived conflict of interest and/or a dual relationship exists within an agency:

1. The sharing of information across systems that could negatively impact the individual; or,
 2. A financial interest of the agency that may have negative treatment and/or referral implications pertaining to the individual; or,
 3. The combining of professional roles within the agency that is incompatible to the best interests of the individual(s) receiving treatment.
- B. Limitation of the license may include, but is not limited to:
1. Limiting the specific clientele an agency may serve;
 2. Limiting the specific location(s) where an agency may or may not offer services; or,
 3. Limiting the specific level of care that may be provided pursuant to the license.
- C. If an applicant is unwilling to consent to the limitation on the license, the limitation shall be treated as a denial and s/he may appeal (see Section 21.105); or upon remedying the noted perceived conflict of interest and/or a dual relationship, may re-apply for an initial license in accordance with Section 21.120.2 of these rules.

21.120.3 FACILITIES DESIGNATED TO PROVIDE MENTAL HEALTH SERVICES [Eff. 11/1/16]

Facilities designated to provide mental health services may be:

- A. A general or psychiatric hospital licensed or certified by the Colorado Department of Public Health and Environment;
- B. A community mental health center Licensed by the Colorado Department of Public Health and Environment or a community mental health clinic;
- C. An acute treatment unit licensed by the Colorado Department of Public Health and Environment;
- D. A crisis stabilization unit, licensed as an acute treatment unit or as a community clinic by the Colorado Department of Public Health and Environment; or,
- E. A residential child care facility licensed by the Colorado Department of Human Services, Division of Child Welfare.

Applicant facilities shall identify any parent organization ultimately responsible for their operation.

21.120.31 Application of Rules [Eff. 11/1/16]

- A. Designated facilities that are hospitals, acute treatment units, or crisis stabilization units shall comply with all applicable rules including provisions contained in Section 21.280.
- B. Designated facilities that are community mental health centers pursuant to Section 27-66-101, C.R.S., shall comply with Sections 21.130 through 21.200.15, where applicable, and Section 21.280. Treatment provisions, as contained in Sections 21.280.3 through 21.280.9 shall apply to only those individual being treated involuntarily pursuant to Title 27, Article 65, C.R.S.

- C. Designated facilities that are community mental health clinics shall comply with Sections 21.130 through 21.200.15 and Sections 21.280.21 through 21.280.22.
- D. Designated facilities that are residential child care facilities (RCCF) shall follow Section 21.120.3 through 21.120.44 and 21.200 through 21.200.15, where applicable. RCCFs designated to provide mental health services pursuant to Title 27, Article 65, C.R.S. shall follow Sections 21.200, where applicable, and Section 21.280.
- E. Designated managed service organizations (DMSO) shall only comply with 21.120.5 and 21.120.8.

21.120.32 Mental Health Services Pursuant to Title 27, Article 65, C.R.S., Care and Treatment of Persons with Mental Illness Designations [Eff. 5/1/16]

- A. A facility meeting the criteria in Section 21.120.3, excluding community mental health clinics, may apply to the Department to become designated to provide any or all of the following services:
 - 1. Seventy-two (72) hour treatment and evaluation;
 - 2. Short-term treatment; or,
 - 3. Long-term treatment.
- B. Facilities designated for seventy-two (72) hour treatment and evaluation, short-term, or long-term treatment shall have a person who is licensed in Colorado to practice medicine or a certified Colorado psychologist, either employed or under contract, who is responsible for the evaluation and treatment of each individual. Hospital staff privileges shall be an acceptable form of contractual arrangement. The professional person licensed in Colorado to practice medicine or a certified Colorado psychologist may delegate part of his/her duties, except as limited by licensing statutes or these rules, but s/he shall remain responsible at all times for the mental health treatment administered.

21.120.33 Seventy-Two (72) Hour Treatment and Evaluation Facilities [Eff. 5/1/16]

- A. Facilities that are designated as seventy-two (72) hour treatment and evaluation facilities may detain on an involuntary basis persons placed on a seventy-two (72) hour hold for the purpose of evaluation and treatment.
- B. Exclusion of Saturdays, Sundays, and Holidays

Evaluation shall be completed as soon as possible after admission. The designated treatment and evaluation facility may detain a person for seventy-two (72) hour evaluation and treatment for a period not to exceed seventy-two (72) hours, excluding Saturdays, Sundays and holidays if evaluation and treatment services are not available on those days. For the purposes of these rules, evaluation and treatment services are not deemed to be available merely because a professional person licensed in Colorado to practice medicine or a certified Colorado psychologist is on call during weekends and holidays.

21.120.34 Short-Term and Long-Term Treatment Facilities [Eff. 5/1/16]

- A. Facilities that are designated as short-term treatment facilities may involuntarily detain individuals for short-term (a period of not more than three months) or extended short-term care and treatment (a period of not more than an additional three months).

- B. Facilities that are designated as long-term treatment facilities may involuntarily detain individual for long-term care and treatment (a period not to exceed six months) or extended long-term treatment (a period of not more than additional six months).
- C. Every person receiving treatment for a mental health disorder by a designated short-term or long-term facility shall upon admission be placed under the care of a person who is licensed in Colorado to practice medicine or a certified Colorado psychologist and employed by or under contract with the designated facility.

21.120.35 Mental Health Centers and Community Mental Health Clinics [Eff. 5/1/16]

- A. Mental health centers and community mental health clinics shall use membership on the governing board or equivalent for soliciting input regarding issues which impact persons receiving care. Input shall be solicited from adults, children and adolescents receiving services, and their parents or guardians. The input shall be taken into consideration by management or the governing board during decision-making processes.
- B. Emergency/crisis services and evaluation under Sections 27-65-105 and 106, C.R.S., shall be provided twenty-four (24) hours per day including Saturdays, Sundays and holidays. Initial responses to emergencies shall occur either by telephone within fifteen (15) minutes of the call, within one (1) hour of contact in urban and suburban areas, or within two (2) hours of contact in rural and frontier areas.

21.120.36 Medication Consistency in Designated Facilities

- A. Designated facilities shall ensure all clinical staff are aware of and have access to the medication formulary.
- B. Designated facilities shall ensure their providers have access to the medications on the medication formulary when prescribing medications to treat behavioral health disorders.

21.120.4 DESIGNATION PROCEDURE

- A. Facilities applying for designation shall submit an application to the Department on a state approved form.
- B. Facilities providing twenty-four (24) hour inpatient or acute crisis care, must apply for a separate designation based on the unique physical address of each site.
- C. Except in emergency circumstances affecting the facility's ability to provide evaluation and treatment services, a facility seeking to exclude Saturdays, Sundays and holidays from the seventy-two (72) hour limitation on detaining persons for evaluation and treatment must supply in its application for designation or re-designation documentation to establish that it does not have evaluation services available on these days due to the limited availability of a professional person licensed in Colorado to practice medicine or a certified Colorado psychologist.
- D. Receipt of the application shall be acknowledged in writing and state what additional information or documents, if any, are required for review prior to an on-site evaluation. If the Governor or local government declares an emergency or disaster the department has discretion to modify the requirement for on-site evaluations. If the department modifies the requirement for on-site evaluations, the requirement shall only be modified as necessary because of circumstances related to the disaster or emergency.

- E. For initial designation applications, the applicant shall be advised in writing within sixty (60) calendar days of initial on-site evaluation of the decision of the Department. The facility may be approved for designation, granted provisional approval, or the application may be denied. If the Governor or local government declares an emergency or disaster the department has discretion to modify the requirement for on-site evaluations. If the department modifies the requirement for on-site evaluations, the requirement shall only be modified as necessary because of circumstances related to the disaster or emergency.
- F. A facility that is found to be in compliance with these rules shall be approved as a facility designated to provide mental health services effective for up to a two (2) year period.
- G. Designations shall be automatically revoked or deemed lapsed for any facility whose license to operate as a health care or residential child care facility has been withdrawn, revoked or allowed to lapse.
- H. If the application for designation is denied, the reason(s) for denial shall be provided in a certified letter. If an applicant disagrees with the decision, s/he may appeal (see Section 21.105); or upon remedying the noted deficiencies, may re-apply for designation in accordance with Sections 21.120.3 and 21.120.4 of these rules.

21.120.41 Provisional Designation [Eff. 11/1/13]

- A. Provisional approval may be granted for a period not to exceed ninety (90) calendar days if, after initial inspection and review of a facility:
 - 1. The facility is in substantial compliance with these rules, and is temporarily unable to conform to all the minimum standards required under these rules. No provisional designation shall be issued to a facility if the operation of the facility may adversely affect individual health, safety, or welfare;
 - 2. Compliance will be achieved within a reasonable period of time; and,
 - 3. The facility has a reasonable plan or schedule in writing for achieving compliance.
- B. The facility shall provide proof that attempts are being made to conform and comply with applicable rules.
- C. A second provisional approval for a period not to exceed ninety (90) calendar days may be granted under the same criteria if necessary to achieve compliance.
- D. If the facility is not able to come into compliance within one hundred and eighty (180) calendar days from date initial provisional license granted, the application may be denied.

21.120.42 Re-Designation

- A. A facility seeking designation renewal shall provide the department with a completed designation application at least sixty (60) calendar days prior to the expiration of the existing designation.
- B. Designation renewal applications received by the Department after the current designation expiration date shall be returned by certified mail with written notification that the designation is no longer in effect. Applicants may reapply for an initial designation in accordance with Section 21.120.4 of these rules.

- C. Designation renewal applications that are received by the Department fewer than sixty (60) calendar days prior to the expiration of their existing designation may fail to receive their new designation prior to the expiration of their old designation. An agency that submits its renewal application fewer than sixty (60) days prior to the expiration of the current designation and does not receive a new designation prior to that date may reapply for an initial designation in accordance with section 21.120.2 of these rules.
- D. Failure of a designee to accurately answer or report any of the information requested by the Department shall be considered good cause to deny the designation renewal application.
- E. Facilities designated to provide care and treatment to persons with mental health disorders pursuant to Section 27-65-101, et seq., C.R.S., shall receive an annual on-site review for compliance. All other designated facilities shall be reviewed on-site at least every two (2) years. If the Governor or local government declares an emergency or disaster the department has discretion to modify the requirement for on-site facility reviews. If the department modifies the requirement for on-site facility reviews, the requirement shall only be modified as necessary because of circumstances related to the disaster or emergency.
- F. Facilities shall be notified in writing of non-compliance areas and the need for a plan of action as outlined in Section 21.120.6. A probationary designation may be granted.
- G. A facility in compliance with applicable Department rules and state and federal regulations shall be granted designation effective as of the expiration date for a period not to exceed two (2) years.

21.120.43 Probationary Designation [Eff. 11/1/13]

- A. A probationary designation may be granted to a licensee out of compliance with applicable Department or state and federal regulations prior to issuance of a renewal designation or during a current designation period. The facility will be notified in writing of non-compliance areas and the need for a plan of action (see Section 21.120.6).
- B. A probationary designation will replace the current designation for a period not to exceed ninety (90) calendar days.
- C. Administrative and treatment activities may be limited by a probationary designation while the facility addresses corrective actions.
- D. A probationary designation may be re-issued for a period not to exceed ninety (90) calendar days if substantial progress continues to be made and it is likely that compliance can be achieved by the date of expiration of the second probationary license.
- E. If the facility fails to comply with or complete a plan of action in the time or manner specified, or is unwilling to consent to the probationary designation, the modification to a probationary designation shall be treated as a revocation of the designation and the facility shall be notified by certified mail of the deficiencies, reason for action, and that the probationary designation is no longer in effect as of ten (10) days from the date the letter was mailed. If the facility disagrees with the decision, it may appeal (see Section 21.105); or upon remedying the noted deficiencies, may re-apply for a designation in accordance with Sections 21.120.3 and 21.120.4 of these rules.

21.120.44 Change in Designation [Eff. 11/1/13]

If a facility makes a change in its designation status or decides to drop its designation, it shall notify the Department in writing not later than thirty (30) calendar days prior to the desired effective date. The facility shall submit a written plan for the transfer of care for the individuals with mental health disorders if the facility will no longer treat those individuals. This plan shall be submitted no later than ten (10) business days prior to the effective date.

21.120.5 DESIGNATED MANAGED SERVICE ORGANIZATION (DMSO) [Eff. 11/1/13]

- A. The Office of Behavioral Health, within the Department, has the authority pursuant to Section 27-80-107, C.R.S., to designate a Managed Service Organization (MSO) responsible for service delivery to eligible persons, as described in the annual federal Substance Abuse Prevention and Treatment Block Grant application, residing in each of the seven (7) defined geographic regions.
- B. Once designated, each managed service organization shall be reviewed annually for compliance pursuant to Section 27-80-107, C.R.S., and Department rules and contract.
- C. MSO's shall follow all applicable Department rules.

21.120.51 Role of Designated Managed Service Organizations (DMSO) [Eff. 11/1/13]

- A. Each DMSO will oversee the expenditure of Department funds in providing effective population-specific substance use disorder treatment and related services to the priority populations identified in each applicable contract.
- B. Each DMSO will develop and monitor a network of licensed providers of substance use disorder services to deliver a full continuum of care as defined in the Department contract within the designated geographic regions of the state.
- C. Each DMSO will ensure the delivery of population-specific services to priority populations as defined in the Department contract, to include individuals and families in need of substance use disorder treatment and related services.

21.120.52 Reporting Requirements [Eff. 11/1/13]

- A. Each DMSO must maintain a fiscal reporting system that complies with state and federal requirements.
- B. Each DMSO must maintain an individual-services reporting system that complies with state and federal requirements.

21.120.53 Service Provision [Eff. 11/1/13]

When a DMSO provides substance use disorder treatment or a related service to any individual, it must be licensed by the Department and demonstrate compliance with all applicable rules.

21.120.54 Monitoring and Quality Improvement [Eff. 11/1/13]

- A. Each DMSO must demonstrate ethical, legal, and solvent fiscal practices, and must maintain a system for periodic review of its contracts, billing and coding procedures, billing records, contractual requirements, and legal requirements.

- B. Each DMSO must maintain a system for periodic review of its contractors to identify any intentional or unintentional wrongdoing and to ensure that they are exercising ethical, legal, and solvent fiscal practices.

21.120.55 Revocation [Eff. 11/1/13]

- A. Designation shall be revoked for reasons including but not limited to those in Section 21.120.8.
- B. Prior to starting a revocation process, the DMSO shall be notified of the facts or conduct that may warrant such action. A plan of action may be required (see Section 21.120.6).
- C. Where there are grounds to find that the DMSO has engaged in deliberate and willful violation or that the public health, safety, or welfare requires emergency action, the Department may summarily suspend the designation pending proceedings for suspension or revocation.
- D. Written notification of action to revoke a designation shall be sent to the DMSO. Except in cases of deliberate and willful violation or of substantial danger to the public health and safety, such notice shall be sent at least ten (10) working days before the date such action goes into effect, and shall include reasons for the action and rights to the appeal process specified in the State Administrative Procedure Act, pursuant to Sections 24-4-105 through 107, C.R.S.

21.120.6 LICENSE AND DESIGNATION REVIEW PROCESS AND PLANS OF ACTION [Eff. 11/1/13]

- A. If after review or pursuant to a complaint, that a licensed or designated agency, contractor, or affiliate is not in compliance with these rules, the organization shall be notified in writing, within thirty (30) business days, of the specific items found to have been out of compliance.
- B. If the agency does not agree with any or all of the findings regarding non-compliance, the agency has ten (10) business days from the receipt of non-compliance notice to dispute the findings by submitting evidence to the Department.

The agency shall receive a written response within thirty (30) business days of the review of submitted evidence.

If the submitted information is sufficient, the agency shall be determined in compliance with these rules.

If the agency continues to be found out of compliance with these rules, the agency shall have thirty (30) business days from the date of receipt of the review findings to submit a plan of action. The plan shall include anticipated dates for achieving full compliance.

- C. If the agency does not dispute the findings, it shall have thirty (30) business days from the receipt of the notice of non-compliance to submit a written plan of action addressing the compliance issues. The plan shall include anticipated dates for achieving full compliance within ninety (90) business days of the submitted plan.
- D. After reviewing the agency's plan of action, the Department may take action as follows:
 - 1. Approve the proposed plan and schedule for achieving full compliance; or,
 - 2. Approve a modified plan and schedule for achieving full compliance; or,
 - 3. Initiate action to revoke, suspend, make probationary, limit, or modify the license or designation of the agency as provided in Section 24-4-104, C.R.S.; and,

4. In cases where a plan of action has been approved, the agency shall remain licensed or designated subject to the achievement of the plan of action.

21.120.7 WAIVERS [Eff. 11/1/13]

Every licensed and designated agency shall comply in all respects with applicable rules. Upon application to the Department, a waiver of the specific requirements of these rules may be granted in accordance with this section, unless the requirements are otherwise required by state or federal law, and individual rights shall not be waived.

A. Time Period

A waiver of a specific rule may be granted to a licensed or designated agency, or an agency seeking initial application, for a period not to exceed the two year licensing or designation period. The waiver may be renewed at the time of re-licensing or designation.

B. Compliance with all Other Regulations

Agencies applying for or granted a waiver shall be in compliance with local, state and federal regulations, shall not have outstanding findings with regulatory authorities, and be in good standing with meeting any and all contractual requirements related to providing behavioral health services.

C. Grounds for a Waiver

A waiver may be granted upon a finding that:

1. The waiver would not adversely affect the health, safety and welfare of the individuals; and/or,
2. Either it would improve care or application of the particular rule would create a demonstrated financial hardship on the organization seeking the waiver.

D. Burden of Proof

The agency seeking the waiver has the burden of proof. Consideration shall be given as to whether the intent of the specific rule has been met.

E. Placement Facilities

When a designated agency provides mental health services through a placement facility and a waiver is sought for such services, the designated agency and not the placement facility shall request the waiver.

F. Requests for Waivers

Requests for waivers shall be submitted to the Department on the state prescribed form. The request shall include:

1. A detailed description of the behavioral health services provided by the agency;
2. The rule section proposed to be waived and the waiver's effect on the health, safety and welfare of the individuals served;
3. The expected improvement in the care of individuals;

4. If there would be undue financial hardship on the agency, and to what degree; and,

5. Signature of the Board President, Director of the agency, or designee.

G. Decision Process

Unless additional time is required to make inspections or obtain additional information from the agency, the agency shall be notified in writing of the decision within thirty (30) calendar days following the date of receipt of the completed waiver application.

H. Appeal Rights

An agency may appeal the decision of the Department regarding a waiver application as provided by the Colorado Administrative Procedure Act, Sections 24-4-104 and 24-4-105, C.R.S.

21.120.8 LICENSE AND DESIGNATION REVOCATION, DENIAL, SUSPENSION, LIMITATION OR MODIFICATION [Eff. 11/1/13]

A. At the Department's discretion, a license or designation may be revoked, denied, suspended, modified or have limited licenses or designation. Written notification of the basis for action shall be sent by certified mail to the last known address of the agency, and is effective ten (10) days from the date the letter was mailed. If the affected agency disagrees with the decision, it may appeal per Section 21.105.

B. A license or designation may be summarily suspended pending proceedings for suspension or revocation in cases of deliberate or willful violation of applicable statutes and regulations or where the public health, safety, or welfare requires emergency action.

C. A license or designation may be revoked, denied, suspended, modified, or limited for reasons including, but not limited to, the following:

1. Non-compliance with these rules, applicable federal and state laws and regulations, or contracting requirements.
2. Negligence resulting in risk to individuals, staff, public health or safety;
3. Knowingly using or disseminating misleading, deceptive, or false information about other agencies including, but not limited to, advertising;
4. Exercising undue influence on or otherwise exploiting individuals to obtain or sell services, goods, property, or drugs for financial or personal gain;
5. Accepting commissions, rebates, or other forms of remuneration for referring persons to or by the licensed or designated agency;
6. Evidence of agency fraud or misrepresentation;
7. Failure to provide persons with information required by these rules and applicable state and federal statutes, rules, and regulations;
8. Failure to submit required data in an accurate and timely manner to the Department or its authorized representatives;
9. Withholding access to clinical, staff, or fiscal records, or administrative information when requested by the Department;

10. Sale, use or distribution of alcohol or illicit drugs, or unauthorized sale or distribution of prescription or over-the-counter drugs on treatment premises or during treatment activities off premises;
11. Knowingly using, and/or disseminating false information about these rules, Department rules and state or federal regulations, or other information essential to interpreting or managing an individual's status, case management or interagency coordination.
12. Commits a fraudulent insurance act as defined in Section 10-1-128, C.R.S.
13. Failure to comply with a written plan of action.

21.130 DATA REQUIREMENTS [Eff. 11/1/13]

Licensed and designated organizations shall provide accurate and timely submission of required data to the Department identified data collection systems or its authorized representatives and retain a copy in treatment record.

21.140 CRITICAL INCIDENT REPORTING

A critical incident is any significant event or condition that must be reported within twenty-four (24) hours to the Department that is of public concern and/or has jeopardized the health, safety and/or welfare of individuals or staff.

- A. The Department may conduct scheduled or unscheduled site reviews for specific monitoring purposes and investigation of critical incidents reports in accordance with:
 1. CDHS policies and procedures;
 2. Regulations that protect the confidentiality and individual rights in accordance with Sections 27-65-101, et seq., C.R.S.; HIPAA; AND, 42 C.F.R. Part 2.
 3. Controlled substance licensing, Title 27, Article 82, C.R.S.; Section 27-80-212, C.R.S., and Section 18-18-503, C.R.S.
- B. The Department shall have access to relevant documentation required to determine compliance with these rules.
- C. The agency shall:
 1. Establish written policies and procedures for reporting and reviewing all critical incidents occurring at the facility;
 2. Submit Critical Incidents reports to the Department according to state prescribed forms. This is not in lieu of other reporting mandated by state statute or federal guidelines;
 3. Make available a report with the investigation findings for review by the Department, upon request; and,
 4. Maintain critical incidents reports for a minimum of three years following the incident.
- D. Nothing in this section shall be construed to limit or modify any statutory or common law right, privilege, confidentiality or immunity.

21.150 QUALITY IMPROVEMENT [Eff. 11/1/13]

- A. The agencies and programs that the Department contracts with, licenses, or designates, shall have a quality improvement program designed to monitor, evaluate, and initiate activities to improve the quality and effectiveness of administrative and behavioral health services.
- B. The agency shall adopt and implement a written quality improvement plan that includes, at a minimum the following processes:
 - 1. Clinical quality measurement of performance.
 - 2. Determine the appropriateness and effectiveness of treatment through a clinical review of a representative sample of open and closed records at a minimum of every six (6) months.
 - 3. Identify and respond to trends concerning significant events, risks, emergency procedures, critical incidents as defined in Section 21.140, and grievances as defined in Section 21.180.
 - 4. Incorporate documented quality improvement findings into clinical and organizational planning, decision making, and to develop staff and individual educational programs.
 - 5. Evaluate annually and update the quality improvement plan as necessary. A copy of the annual findings and report shall be available for review.

21.160 PERSONNEL

21.160.1 GENERAL PROVISIONS

- A. The organization shall have written personnel policies and procedures that include:
 - 1. Personnel (including contracted staff, interns, and volunteers) shall have access to and be knowledgeable about the organization's policies, procedures, and state and federal laws and regulations relevant to their respective duties.
 - 2. Personnel are assigned duties that are commensurate with documented education, training, work experience, and professional licenses and certifications. Licensed or certified staff shall perform duties in accordance with applicable statutes, rules and regulations.
 - 3. Training
 - a. The organization shall document the evaluation of applicable previous related experience for volunteers and for staff, and ensure that these personnel have all of the training, including on-the-job training, required in this section.
 - b. All staff shall be given on-the-job training or have related experience in the job assigned to them. They shall be supervised until they have completed on-the-job training appropriate to their duties and responsibilities, or have had previous related experience evaluated.
 - c. The organization shall maintain records documenting completion of all required training, or review of evaluation of previous related experience.

- d. Volunteers having direct individual contact shall receive training appropriate to their duties and responsibilities.
 - e. Personnel shall receive the following training when first hired and on a periodic basis:
 - 1) Training specific to the particular needs of the populations served;
 - 2) Orientation of the physical plant;
 - 3) Emergency preparedness;
 - 4) Individual rights of the population served;
 - 5) Confidentiality (individual privacy and records privacy and security); and,
 - 6) Training on needs identified through the quality improvement program.
- 4. Personnel (including contracted staff, interns, and volunteers) shall not engage in prohibited activities outlined in Section 12-245-224, C.R.S.
- B. Documentation of training, including topics and attendance, shall be maintained in personnel files or organization training log.
- C. Personnel files for each staff shall be maintained by the organization.
 - 1. Files of current staff shall be available onsite for review by the Department.
 - 2. Files shall include documentation of:
 - a. Job description that shall detail minimum qualifications, core competencies, duties, and supervisory structure;
 - b. Education and work experience; and
 - c. Background investigations as described in Section 21.160.2.

21.160.2 BACKGROUND CHECKS AND EMPLOYEE VERIFICATION

- A. Pre-employment background investigations:
 - 1. Shall be required for all staff, interns and volunteers who have direct contact with individuals receiving services.
 - 2. Take place at submission of an initial Office of Behavioral Health license or designation application or take place at pre-employment.
 - 3. Consist of at least a criminal background check performed by the Colorado Bureau of Investigation.
- B. Pre-employment inquiries:
 - 1. The agency shall verify license, certification, and a check of disciplinary action through the Colorado Department of Regulatory Agencies; and,

- 2. Complete a reference check.
- C. Organizations shall maintain evidence of background investigations and employee verification in personnel files.
- D. The organization shall have written criteria for evaluating which convictions or complaints make an applicant unacceptable for hire or a staff unacceptable for retention.
- E. The organization shall incur the costs of obtaining a criminal history and background check of potential employees.
- F. The organization shall develop and implement written criteria for:
 - 1. Routine monitoring of employee credentials and disciplinary actions; and,
 - 2. Reporting requirements of investigations, indictments, or convictions that may affect employee's ability to carry out his/her duties or functions of job.

21.170 RECORDS CARE AND RETENTION

21.170.1 GENERAL PROVISIONS

- A. Agencies shall assure that all paper and electronic records are maintained to prevent unauthorized access in accordance with 42 C.F.R. Part 2 and HIPAA.
- B. For outpatient agencies:
 - 1. Individual records for adults shall be retained for seven (7) years from date of discharge from agency.
 - 2. For individuals who are under eighteen (18) years of age when admitted to the agency, records shall be retained until the individual is twenty five (25) years of age.
- C. For inpatient agencies:
 - 1. Individual records for adults shall be retained for ten (10) years from date of discharge from agency.
 - 2. For individuals who are under eighteen (18) years of age when admitted to the agency, records shall be retained until the individual is twenty eight (28) years of age.
- D. All records are to be disposed in accordance with State and Federal confidentiality statutes and regulations.
- E. Disposal services commissioned by an agency to dispose of individual records shall sign Qualified Service Organization Agreements or Business Associate Agreements.
- F. Staff having access to individual records shall be knowledgeable of state and federal statutes, policies, and procedures which protect individual identity and service information from unauthorized access and disclosure.
- G. Agencies shall develop policies and procedures that protect individual identity and treatment information when transporting electronic and written records.

- H. Agencies shall establish guidelines for reporting breach or potential loss of individual identity and service information in accordance with state and federal confidentiality statutes and regulations.
- I. Records shall be accessible to agency staff and the Department.
- J. Agencies that are closing or acquired by another agency shall protect individual identity per state and federal regulations.

21.170.2 CONFIDENTIALITY [Eff. 11/1/13]

- A. The confidentiality of the individual record, including all medical, mental health, substance use, psychological and demographic information shall be protected at all times, in accordance with all applicable state and federal laws and regulations.
- B. The information in this section shall not be construed to limit the access of duly authorized representatives of the Department to confidential material for purposes of assuring compliance with these rules. Such duly authorized representatives of the Department are obligated to protect the confidentiality of any individual information reviewed.

21.170.3 RELEASE OF INFORMATION

- A. An agency that is licensed or designated by the Department must comply with release of information regulations Pursuant to 42 C.F.R. Part 2 and HIPAA.
- B. The signed release of information shall state, at a minimum:
 - 1. Persons who shall receive the information;
 - 2. For what purpose;
 - 3. The information to be released;
 - 4. That it may be revoked by the individual, parent, or legal guardian at any time;
 - 5. That the release of information shall be time limited up to two (2) years.
- C. Records shall be released to the staff of the governor's designated Protection and Advocacy System for Individuals with Mental Illness, per Section 27-65-121(1)(i), C.R.S., under the following guidelines for all records of:
 - 1. Any individual who is an individual of the system or the legal guardian, conservator, or other legal representative of such individual has authorized the system to have access;
 - 2. Any individual with a mental health disorder, who has a legal guardian, conservator, or other legal representative, with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy, whenever:
 - a. Such representative has been contacted by such system upon receipt of the name and address of such representative;
 - b. Such system has offered assistance to such representative to resolve the situation;
 - c. Such representative has failed or refused to act on behalf of the individual.

- D. Whenever a family member or other party requesting information, not including the agency, requests that information revealed to treating personnel remain confidential, such information shall not be released unless otherwise provided by law or court order.
 - 1. Whenever confidential information provided by a family member or other party providing information is ordered released, attempts shall be made to notify the family member or informant of the release of information by the individual who has obtained the court order.
 - 2. The fact that confidential information is being withheld may be disclosed to individuals requesting the information, but if the individual's attorney has requested the information, the fact that confidential information is being withheld shall be disclosed.

21.170.4 CONSENTS

- A. A written agreement shall be executed between the agency and the individual or the individual's legal representative at the time of admission. The parties may amend the agreement provided such amendment is evidenced by the written consent of both parties. No agreement shall be construed to relieve the organization of any requirement or obligation imposed by law or regulation.
- B. Individual consents shall include consent to treatment.
- C. Services shall involve families and significant others with written individual consent, unless clinically contraindicated.
- D. For minor's consent, please review Care of Children, Youth, and Families in Section 21.200.13.
- E. For opioid medication assisted treatment consent, see Section 21.320.
- F. If the Governor or local government declares an emergency or disaster an agency may obtain documented oral agreements or consents in place of written agreements or consents. Documented oral agreements and consents shall only be used as necessary because of circumstances related to the emergency or disaster. Agencies shall send a hard copy or electronic copy of the documented agreement or consent to the individual within two (2) business days of the oral agreement or consent.

21.180 GRIEVANCE [Eff. 11/1/13]

- A. The agency shall establish a uniform procedure for prompt management of grievances brought by individuals accessing, receiving or being evaluated for services and their family members. The organization shall develop policies and procedures for handling grievances. A grievance shall mean any expression of dissatisfaction about any matter related to provided services, and shall be accepted verbally or in writing.
- B. The agency shall provide a fair and accessible grievance resolution process, which shall provide the individual with a resolution no later than fifteen (15) business days from submission of the grievance. If the grievance is received verbally the representative shall create a written documentation of the grievance.
- C. The agency shall designate a representative, who shall be available to assist individuals in resolving grievances, and who shall have no involvement in the clinical or regular care of the individual.

- D. The agency shall educate service recipients and their representatives about the mechanisms in place for filing grievances. This education shall include rights, and internal grievance process and procedures, and the name, contact information, and responsibilities of the designated representative within the agency. Appropriate contacts for external appeal shall also be provided, which may include, but are not limited to, the following: the Colorado Department of Regulatory Agencies, the Colorado Department of Public Health and Environment, the Colorado Department of Health Care Policy and Financing, or the governor's designated Protection and Advocacy System for Individuals with Mental Illness. Documentation in the records shall include dated signature of the individual receiving the information.
- E. A notice of rights, grievance procedure, the representative's name, office location, responsibilities, and telephone number shall be posted within the agency in prominent locations where persons access, receive or are evaluated for services.
- F. The agency shall maintain a record of submitted grievances, separate from the individual records that include the date, the type of grievance, and the outcome of investigation. Data shall be reported annually to the Department.

21.190 DOCUMENTATION IN INDIVIDUAL RECORDS

21.190.1 DEFINITIONS [Eff. 5/1/16]

"Admission Summary" is a brief review of assessments and other relevant intake data, including screenings, which summarizes the current status and provides a basis for individualized service planning.

"Assessment" is a formal and continuous process of collecting and evaluating information about an individual for service planning, treatment and referral. This information establishes justification for services.

"Best Practices" are interventions, techniques, and treatment approaches that have some quantitative data showing positive treatment outcomes over a period of time, but may not have enough research or replication to be considered an evidence-based approach.

"Case Management" means activities that are intended to help individuals gain access to behavioral health and supportive services (including social, educational, and medical) that are coordinated and appropriate to the changing needs and stated desires of the individual over time. Activities include, but are not limited to: service planning, referral, monitoring, follow-up, advocacy, and crisis management.

"Chief Complaint/Presenting Problem" means the reason/concern/motivation that prompts the client to seek services or that their referral source identifies as the issue, which requires intervention, usually in the person's own words. It also includes onset, duration, other symptoms noted, progression of the problem, solutions attempted at alleviating the problem, how the person's life has been impacted, and how the person views responsibility for the problem. It can be information from a referral, family or other professional.

"Culture" means the shared patterns of behaviors and interactions, cognitive constructs, and affective understanding learned through a process of socialization. These shared patterns identify the members of a culture group while also distinguishing those of another group. People within a culture usually interpret the meaning of symbols, artifacts, and behaviors in the same or similar ways. Culture includes, but is not limited to: race, ethnicity, religion, spirituality, gender, sexual orientation, language and disabilities.

"Cultural Assessment" means identifying and understanding aspects of an individual's culture and linguistic needs in order to incorporate the information into service planning and service delivery. It is necessary to incorporate cultural considerations into service delivery in order to best understand and address ways in which culture influences an individual's behavioral health issues.

“Discharge” means the termination of treatment obligations and service between the individual and the agency.

“Evidence-Based” practices, principles, and programming are interventions, techniques, and treatment methods that have been tested using scientific methodology and proven to be effective in improving outcomes for a specific population.

“Screening” is a brief process used to determine the identification of current behavioral health or health needs and is typically documented through the use of a standardized instrument. Screening is used to determine the need for further assessment, referral, or immediate intervention services.

21.190.2 CONTENT OF RECORDS [Eff. 5/1/16]

- A. A confidential record shall be maintained for each individual. Records shall be dated and legibly recorded in ink or in electronic format.
- B. Documents shall include, where applicable:
 - 1. Consent to treatment;
 - 2. Consent to release confidential information;
 - 3. Assessments and screenings;
 - 4. Admission summary;
 - 5. Service plan;
 - 6. Re-assessment(s);
 - 7. Progress notes;
 - 8. Medication administration or monitoring record;
 - 9. Physician's orders;
 - 10. Documentation of on-going services provided by external services providers;
 - 11. Advance directives;
 - 12. Acknowledgements and disclosures;
 - 13. Legal and court paperwork; and,
 - 14. Discharge summaries.
- C. See specific program areas for additional content of record requirements.

21.190.3 ASSESSMENT [Eff. 5/1/16]

- A. A comprehensive best practices assessment shall be completed as soon as is reasonable upon admission and no later than seven (7) business days of admission into services with the noted exceptions:
 - 1. Acute Treatment Unit: within twenty-four (24) hours of admission.

2. Withdrawal Management units, inpatient hospitalization: within seventy-two (72) hours of admission.
- B. Assessment shall continue throughout the course of treatment and shall be reviewed and updated when there is a change in the person's level of care or functioning, or, must occur at minimum, every six months.
- C. All methods and procedures used to assess and evaluate an individual shall be developmentally and age appropriate, culturally responsive, and conducted in the individual's preferred language and/or mode of communication.
- D. The assessment shall be documented in the individual record and, at minimum, include the following where information is available and applicable:
 1. Identification and demographic data;
 2. Chief complaint/presenting problem;
 3. Mental health history;
 4. Substance use;
 5. Physical and dental health status;
 6. A diagnosis with sufficient supporting criteria and any subsequent changes in diagnosis;
 7. A mental status examination for each individual who is given a diagnosis;
 8. History of involuntary treatment;
 9. Advance directives.
 10. Capacity for self-sufficiency and daily functioning;
 11. Cultural factors that may impact treatment, including age, ethnicity, linguistic/communication needs, gender, sexual orientation, relational roles, spiritual beliefs, socio-economic status, personal values, level of acculturation and/or assimilation, and coping skills;
 12. Education, vocational training, and military service;
 13. Family and social relationships;
 14. Trauma;
 15. Physical/sexual abuse or perpetration and current risk;
 16. Legal issues;
 17. Issues specific to older adults such as hearing loss, vision loss, strength; mobility and other aging issues;
 18. Issues specific to children/adolescents such as growth and development, daily activities, legal guardians and need for family involvement and engagement in the child's treatment;

19. Strengths, abilities, skills, and interests; and,
20. Barriers to treatment.

E. See specific program areas for additional assessment requirements.

21.190.4 SERVICE PLANNING AND REVIEWS

21.190.41 Service Planning Requirements [Eff. 5/1/16]

- A. An individualized, integrated, comprehensive, written service plan will be:
1. Collaboratively developed between the individual and service provider or treatment team;
 2. Goal focused;
 3. Written in a manner that fosters an individual's highest possible level of independent functioning; and,
 4. Ongoing throughout treatment.
- B. Service planning shall be developed with the individual following an identified assessment(s) and shall apply intervention, treatment, recovery oriented services and continuing care strategies to the degree indicated by the findings of the assessment(s).
- C. An initial service plan shall be formulated to address the immediate needs of the individual within twenty-four (24) hours of assessment.
- D. The service plan shall be developed, by a multidisciplinary team when applicable, as soon as is reasonable after admission and no later than:
1. Acute Treatment Units (ATU): twenty-four (24) hours of admission;
 2. Withdrawal Management: seventy-two (72) hours of admission;
 3. Inpatient Hospitalization: seventy-two (72) hours of admission;
 4. Residential Treatment Facility: ten (10) business days after assessment;
 5. Partial Hospitalization: seven (7) business days after assessment; or,
 6. Outpatient: fourteen (14) business days after assessment.
- E. In addition, services plans shall:
1. Specify goals based on the assessment;
 2. Be strength-based, gender appropriate, and individually directed;
 3. Reflect findings of a cultural assessment, to include, but not limited to: gender, sexual orientation, socio-economic status, ethnicity, personal values, level of acculturation and/or assimilation, spirituality, linguistics, age, family systems, interpretation of trauma and coping skills;

4. Contain specific, measurable, attainable objectives that relate to the goals and have realistic expected date(s) of achievement;
 5. Goals and objectives written in a manner understandable to the individual;
 6. Identify the type, frequency and duration of services;
 7. Be developmentally and/or age appropriate; and,
 8. Include involvement of other identified family and supportive individuals, when appropriate.
- F. All parties (the individual, legal guardian, multidisciplinary team members) who participate in the development of the plan shall sign the plan. The record shall contain documentation whenever a plan is not signed by the individual or participating parties.
- G. There shall be documentation that the individual was offered a copy of the plan.

21.190.42 Service Plan Revisions and Reviews [Eff. 5/1/16]

- A. Unless otherwise indicated, reviews and any service plan revisions shall be completed and documented when there is a change in the individuals' level of functioning or service needs and no later than:
1. Acute Treatment Units (ATU) and Withdrawal Management: three (3) calendar days;
 2. Inpatient Hospitalization: every seven (7) calendar days for four (4) weeks; after four (4) weeks: monthly; and, after six (6) months: quarterly;
 3. Residential Treatment Facility: monthly for six (6) months and quarterly after six (6) months;
 4. Partial Hospitalization: every fourteen (14) calendar days;
 5. Opioid Medication Assisted Treatment: every three (3) months; or,
 6. Outpatient: every six (6) months, unless individuals receive medication/psychiatric services only as described in Section 21.190.7.
- B. The service plan review shall include documentation of:
1. Progress made in relation to planned treatment outcomes;
 2. Any changes in the individual's treatment focus; and,
 3. Adjustments to the plan concerning individual lengths of stay as indicated by on-going assessments.
- C. Reviews shall be conducted collaboratively by clinician and individual.
- D. The record shall contain documentation whenever the individual or participating parties do not sign a revised plan.
- E. There shall be documentation that the individual was offered a copy of the plan.

21.190.5 TREATMENT PROGRESS DOCUMENTATION REQUIREMENTS [Eff. 5/1/16]

- A. Progress notes are a written chronological record of an individual's progress in relation to planned outcomes of services.
- B. Progress notes shall contain the following information unless otherwise noted in specific service population sections of these rules:
 - 1. Ongoing progress including dates and types of service, adhering to program-specific frequency requirements;
 - 2. A summary of the activity for the session and progress toward specific treatment goals to be completed with minimum frequency of:
 - a. One (1) note per session for outpatient and intensive outpatient,
 - b. Daily for inpatient and intensive residential services,
 - c. Weekly for partial hospitalization and all other levels of residential treatment;
 - 3. The individual's response to treatment approaches and information about progress toward achieving service plan goals and objectives;
 - 4. Changes in the service plan with reasons for such changes;
 - 5. Information regarding support and ancillary services recommended and provided;
 - 6. Any significant change in physical, behavioral, cognitive and functional condition and action taken by staff to address the individual's changing needs; and,
 - 7. Case management notes reflecting the content of each contact, including ancillary and collateral contacts.
- C. Treatment notes shall not include protected health information pertaining to other individuals receiving services.
- D. Treatment entries shall be signed and dated by the author at the time they are written, with at least first initial, last name, degree and or professional credentials. Telephone orders shall be written at the time they are given and authenticated at a later time.

21.190.6 DISCHARGE PLANNING AND SUMMARIES

21.190.61 Discharge Planning Requirements [Eff. 5/1/16]

- A. Discharge planning begins at the time of admission, is updated during the course of services, and engages the individual and support systems s/he identifies in the planning process.
- B. Discharge policies and procedures shall include criteria outlining the requirements for an individual's discharge from treatment.
- C. Discharge plans shall be concise, complete, and comprehensive to facilitate transition to the next level of care when applicable.
- D. Persons receiving services on a voluntary basis shall be discharged from treatment immediately at their request unless emergency commitments or emergency mental health holds are in effect.

- E. Documentation of discharge information provided to the individual, where applicable, shall include:
 - 1. Medications at discharge including, dosages and instructions for follow-up;
 - 2. Legal status and any other legal restrictions placed upon the individual;
 - 3. Referrals with details; and,
 - 4. Information if the discharge is being made against advice of provider.

21.190.62 Discharge Summary [Eff. 5/1/16]

Discharge summaries shall be completed as soon as possible, no later than thirty (30) calendar days after discharge. The agency's policy and procedures shall determine the minimum timeframe for completion. Records shall contain a written discharge summary to include, but not limited to, the following information, where applicable:

- A. Reason for admission;
- B. Reason for discharge;
- C. Primary and significant issues identified during course of services;
- D. Diagnoses;
- E. Summary of services, progress made, and outstanding concerns;
- F. Coordination of care with other service providers;
- G. Advance directives developed or initiated during course of services.
- H. Summary of medications prescribed during treatment, including the individual's responses to medications;
- I. Medications recommended and prescribed at discharge;
- J. Summary of legal status throughout the course of services and at time of discharge;
- K. Documentation of referrals and recommendations for follow up care;
- L. Documentation of the individual's and/or family's response and attitude regarding discharge; and,
- M. Information regarding the death of the individual.

21.190.7 MEDICATION/PSYCHIATRIC SERVICES ONLY AT MENTAL HEALTH CENTERS AND CLINICS [Eff. 11/1/13]

- A. A person qualifies to be classified as receiving medication/psychiatric services only when the agency provides a maximum of three (3) services, in addition to services related to medications, within a six (6) month period of time.
- B. At least annually, a licensed behavioral health professional shall complete and document in the clinical record:

1. Clinical rationale supporting a medication/psychiatric services only status;
2. An updated assessment;
3. An updated service plan; and,
4. A Colorado Client Assessment Record (CCAR).

21.200 CARE AND TREATMENT OF CHILDREN, YOUTH AND FAMILIES

21.200.1 BEHAVIORAL HEALTH SERVICES FOR CHILDREN AND YOUTH

21.200.11 Definitions [Eff 5/1/16]

"Youth" in this section means, under the age of twenty-one (21), unless otherwise noted.

21.200.12 General Provisions [Eff. 5/1/16]

In addition to these rules, programs providing behavioral health services to children and adolescents must follow provisions made in Sections 21.110 through 21.190.

Residential child care facilities licensed by the Colorado Department of Human Services, Division of Child Welfare, shall follow Sections 21.120 and 21.200, where applicable.

21.200.13 Rights of Children and Adolescents

These provisions shall not apply to any youth admitted to a facility designated under Title 27, Article 65, C.R.S., Care and Treatment of Persons with Mental Illness, for behavioral health purposes pursuant to the Children's Code, Title 19, C.R.S., when there have been judicial proceedings authorizing the placement of the youth into a facility.

- A. In addition to the individual rights in Section 21.280.26 for adults, youth who are fifteen (15) years of age or older, with or without the consent of a parent or legal guardian, have the right to:
 1. Consent to receive behavioral health services from an agency or a professional person;
 2. Consent to voluntary hospitalization;
 3. Object to hospitalization and to have that objection reviewed by the court under the provision of Section 27-65-103, C.R.S.; and
 4. Consent to release of information.
- B. Parents or legal guardians shall be contacted without the youth's written consent if:
 1. The individual presents as a danger to self or others; or,
 2. Essential medical information is necessary for parents or legal guardians to make informed medical decisions on behalf of youth.
- C. Behavioral health facilities must obtain parental or legal guardian consent for youth under fifteen (15) years of age.
- D. Youth who are under the age of fifteen (15) have the right to object to hospitalization and to have a guardian ad litem appointed pursuant to Section 27-65-103, C.R.S.

- E. Appropriate educational programs shall be available for all school age youth who are residents of the designated facility in excess of fourteen (14) calendar days. These educational programs may be provided by either the local school district or by the designated facility. If provided by the designated facility, the educational program shall be approved by the Colorado Department of Education.

21.200.14 Assessment of Children and Adolescents [Eff. 5/1/16]

Agencies shall follow Section 21.190.3 and the following:

- A. Assessments must include an evaluation of the family's, or other supportive adult's, social and environmental challenges and strengths that may pertain to the youth's treatment. If family or other supportive adults support needs are identified, this shall be addressed in the service plan.
- B. The assessment must explore how the identified family members, supportive individuals or significant others will be involved in behavioral health services. In the event that any individual's involvement is contraindicated, the clinical rationale must be documented.
- C. An assessment shall address any needs of a youth at least seventeen (17) years of age who is expected to require behavioral health services and supports beyond the age of eighteen (18).

21.200.15 Service Planning for Children and Adolescents [Eff. 5/1/16]

Agencies shall follow Section 21.190.4, service planning and reviews, and the following:

- A. The service plan shall be developed in collaboration with the youth's parent or legal guardian and be signed by both. In the event that involvement of the parent or legal guardian is contraindicated, the rationale shall be documented.
- B. A copy of the service plan shall be provided to the individual and parent or legal guardian, unless contraindicated.
- C. The service plan shall include goals and objectives that address family support needs as identified in the assessment.

21.200.2 LICENSED SUBSTANCE USE DISORDER AGENCIES TREATING YOUTH [Eff. 5/1/16]

- A. Agencies providing substance use disorder treatment services to youth shall be licensed by the Department to treat youth and comply with Section 21.210.
- B. Agencies shall implement evidence-based screening, assessment instruments, and curricula, designed and developed for youth.
- C. Agencies shall provide recovery-oriented services appropriate for youth, when indicated.
- D. Youth shall be informed that non-compliance with treatment programs to which they are sentenced shall be reported by the agency to referring courts and/or their agents.

21.200.3 Minor in Possession: Education and Treatment [Eff. 5/1/16]

For the purposes of this section "Minor in Possession" (MIP) is the legal terminology used for an offense that is issued to individuals age twenty (20) and younger for underage drinking or possession. MIP may result in a revocation of a driver's license, a substance use disorder assessment, and/or alcohol education and treatment classes per Section 18-13-122, C.R.S.

21.200.31 General Provisions [Eff. 5/1/16]

- A. Agencies providing MIP services shall comply with Section 21.200.2.
- B. Agencies shall not place a youth with a MIP citation in DUI/DWAI education or therapy groups unless the youth also has a DUI/DWAI offense.
- C. All agency education and treatment staff shall have documented training, supervision and experience in adolescent development and prevention, intervention and treatment approaches.
- D. When possible, minors sixteen (16) years of age and under should be treated in separate groups than those that are provided to individuals seventeen (17) to twenty (20) years old.
- E. Agencies shall conduct ongoing assessment of progress in education and/or treatment level of care to determine if youth are in the appropriate service level.

21.200.32 Minor in Possession: First Offense Education and Intervention [Eff. 5/1/16]

- A. MIP education is for youth who have received their first MIP citation and shall be conducted in an outpatient setting.
- B. MIP education shall be at least eight (8) hours, completed over no less than a two (2) day period with no more than four (4) hours of education per day.
- C. Education topics shall include:
 - 1. Current legal consequences for additional MIP citations;
 - 2. Resources or referrals for treatment level services, when indicated;
 - 3. Developmental impact of early onset substance use and subsequent impact on developing brain;
 - 4. Physiological effect of alcohol and other drug use;
 - 5. Refusal skills; and,
 - 6. Avoidance of high risk situations.
- D. For youth seventeen (17) years old and younger, agencies shall include and document a minimum of two (2) hours of parental involvement, unless contraindicated.

21.200.33 Minor in Possession: Second and Subsequent Offense Treatment [Eff. 5/1/16]

- A. Second Minor in Possession Offense
 - 1. Second offense MIP therapy shall be conducted in an outpatient setting, shall be a minimum of twelve (12) hours in duration over eight (8) weeks, and shall not exceed ninety (90) minute sessions, excluding breaks and administrative procedures.
 - 2. Agencies shall complete an individualized service plan, with each youth in accordance with Sections 21.190.4 and 21.200.15 of these rules.
 - 3. For youth seventeen (17) years old and younger, agencies shall include and document a minimum of four (4) hours of parental involvement, unless contraindicated.

B. Third and Subsequent Minor in Possession Offenses

1. A third MIP results in a Class 2 misdemeanor. Youth shall complete a minimum of twenty (20) hours of substance use disorder treatment over a minimum thirteen (13) week period, as determined by the assessment. Groups shall not exceed ninety (90) minutes in duration.
2. Multiple levels of care shall be offered to meet the needs of the individual and family members, when appropriate.
3. Agencies shall include and document parental involvement, unless contraindicated, throughout the length of treatment.

21.200.4 CHILDREN AND YOUTH MENTAL HEALTH TREATMENT ACT

These rules are intended to implement the mental health treatment services defined in the Children and Youth Mental Health Treatment Act, Sections 27-67-101 through 27-67-109, C.R.S., to ensure the maximum use of appropriate least restrictive treatment services and to provide access to the greatest number of children. The purpose of the Children and Youth Mental Health Treatment Act is to provide access to mental health treatment for eligible children who are Medicaid eligible as well as those who are at risk of out-of-home placement, as defined below. These rules are intended to provide a sliding fee scale for responsible parties to offset the cost of care not covered by private insurance or the family provided under the Children and Youth Mental Health Treatment Act. Appeal procedures for denial of Medicaid funded residential services and denial of Children and Youth Mental Health Treatment Act funding are established in the rules as well as a dispute resolution process for county departments and mental health agencies.

21.200.41 Definitions

“Ability to Pay” means the amount of income and assets of the legally responsible person(s) available to pay for the individual cost of Children and Youth Mental Health Treatment Act funded services.

“Care Management” means arranging for continuity of care and coordinating the array of service necessary for appropriately treating a child or youth; communicating orally or in-person with responsible individuals, and funded providers at least every thirty (30) calendar days to assure services are being delivered as planned and adequate progress is being made; discharge planning and development; and the authority to rescind authorization for any treatment services with proper notice.

“Child at Risk of Out-of-Home Placement” means a child or youth who meets the following criteria:

- A. Has been diagnosed as a person with a mental health disorder, as defined in Section 27-65-102(11.5), C.R.S.;
- B. Requires a level of care that is provided in a residential child care facility pursuant to Section 25.5-5-306, C.R.S., or that is provided through community-based programs and who, without such care, is at risk of unwarranted child welfare involvement or other system involvement, as described in Section 27-67-102, C.R.S., in order to receive funding for treatment;
- C. If determined to be in need of placement in a residential child care facility or psychiatric residential treatment facility, a child or youth shall apply for supplemental security income, but any determination for supplemental security income must not be a criterion for a child or youth to receive funding;
- D. The child or youth is a person for whom there is no pending or current action in dependency or neglect pursuant to Article 3 of Title 19, C.R.S.; and,

- E. The child or youth is younger than eighteen years of age at the time of applying, but he or she may continue to remain eligible for services until his or her twenty-first birthday.

“Children who are categorically Medicaid eligible” has the same meaning as defined in Section 25.5-5-101, C.R.S.

“Community-Based Services” means any intervention that is designed to be an alternative to residential or hospital level of care in which the child or youth resides within a non-institutional setting and includes, but is not limited to, therapeutic foster care, intensive in-home treatment, intensive case management, and day treatment.

“Community Mental Health Center” has the same meaning as defined in Section 27-66-101(2), C.R.S.

“Cost of Care” includes residential and community-based services not covered by private insurance, the family, or Medicaid.

“County Department” means the county or district department of human or social services.

“Dependent” means a person who relies on the responsible person(s) for financial support.

“Face-to-Face clinical assessment” for this Section 21.200.4, means a formal and continuous process of collecting and evaluating information about an individual for service planning, treatment, referral, and funding eligibility as outlined in 21.190, and takes place at a minimum upon a request from the responsible person for funded services through the Children and Youth Mental Health Treatment Act. This information establishes justification for services and Children and Youth Mental Health Treatment Act funding. The child or youth must be physically in the same room as the professional person during the Face-to-Face clinical assessment. If the child is out of state or otherwise unable to participate in a Face-to-Face assessment, video technology may be used. If the Governor or local government declares an emergency or disaster, telephone may be used. Telephone shall only be used as necessary because of circumstances related to the disaster or emergency.

“Family advocate” has the same meaning as provided in Section 27-69-102 (5), C.R.S.

“Family systems navigator” has the same meaning as provided in Section 27-69-102 (5.5), C.R.S.

“First-level appeal” means the initial process a Medicaid member is required to enact to contest a benefit, service, or eligibility decision made by Medicaid or a Medicaid managed care entity.

“Licensed Mental Health Professional” means a psychologist licensed pursuant to Section 12-43-301, et seq., C.R.S., a psychiatrist licensed pursuant to Section 12-36-101, et seq., C.R.S., a clinical social worker licensed pursuant to Section 12-43-401, et seq., C.R.S., a marriage and family therapist licensed pursuant to Section 12-43-501, et seq., a professional counselor licensed pursuant to Section 12-43-601, et seq., C.R.S., or a social worker licensed by pursuant to Section 12-43-401, et seq., C.R.S., that is supervised by a licensed clinical social worker.

“Medicaid child or youth who is at risk of out-of-home placement” means a child or youth who is categorically eligible for Medicaid but who otherwise meets the definition of a child or youth who is at risk of out-of-home placement as defined above.

“Mental Health Agency” means a behavioral health services contractor through the State Department of Human Services serving children and youth statewide or in a particular geographic area, including but not limited to community mental health centers, and with the ability to meet all expectations of 21.200.4 and 27-67-101, C.R.S.

“Plan of Care” is a State Department developed document that at a minimum includes the anticipated frequency and costs of services to be provided for the duration of the plan of care. The plan of care is also a schedule of the fees to be paid by the responsible person including, but not limited to, the estimated amount of Supplemental Security Income payable to the residential facility if awarded to the child at risk of out-of-home placement or another provider, and sliding scale fees payable to the contractor, if applicable.

“Professional person” means a person licensed to practice medicine in this State, a psychologist certified to practice in this State, or a person licensed and in good standing to practice medicine in another state or a psychologist certified to practice and in good standing in another state who is providing medical or clinical services at a treatment facility in this State that is operated by the Armed Forces of the United States, the United States Public Health Service, or the United States Department of Veterans Affairs.

“Residential Treatment” means services provided by a residential child care facility or psychiatric residential treatment facility licensed as a residential child care facility pursuant to Section 26-6-102(8), C.R.S., which has been approved by the State Department to provide mental health treatment.

“Responsible Persons” means parent(s) or legal guardian(s) of a minor.

“State Department” means the State Department of Human Services.

21.200.42 Children and Youth Mental Health Treatment Act Program Description

The Children and Youth Mental Health Treatment Act allows parents or guardians to apply to a mental health agency on behalf of their minor child for mental health treatment services when the parents or guardians believe his or her child is at risk for out-of-home placement, as defined in Section 21.200.41.

- A. For children who are not categorically eligible for Medicaid at the time services are requested, the mental health agency is responsible for clinically assessing the child and providing care management and necessary services that may be clinically appropriate for the child's and family's needs.
- B. The Children and Youth Mental Health Treatment Act provides for an objective third-party review by a professional person at the State Department for the responsible person(s) when services are denied or terminated for a Medicaid child or youth who is at risk of out-of-home placement or a child or youth seeking funding under this Act.
- C. The Children and Youth Mental Health Treatment Act resolves disputes between mental health agencies and county departments when a child is seeking or receiving funding through the Child and Youth Mental Health Treatment Act.
- D. The Children and Youth Mental Health Treatment Act authorizes funding for services for children at risk of out-of-home placement, which are not covered by private insurance, Medicaid, or the family.

21.200.43 Application for Funding From the Children and Youth Mental Health Treatment Act

- A. A responsible person may apply to a mental health agency on behalf of his or her minor child for mental health treatment.
- B. At any point in applying for, appealing, or receiving Children and Youth Mental Health Treatment Act funding the responsible person(s) may request the assistance from a family advocate, family system navigator, nonprofit advocacy organization, or county department.

1. The mental health agency shall provide the contact information for the organization contracted with the State Department to provide these services, free of charge, to the responsible person(s) before an initial evaluation.
 2. The State Department is not obligated to pay for any services provided by entities with which they do not contract.
- C. The mental health agency shall evaluate the child and clinically assess the child's need for mental health services. When warranted, funding for services will be provided as may be necessary and in the best interests of the child and the child's family.
- D. When completing a face to face clinical assessment for a child or youth, the mental health agency shall use one standardized risk stratification tool. The identification of and manner for which the standardized risk stratification tool will be used will be determined by the State Department and identified in contracts and available on the State Department's website. Determination of the assessment for level of care need and eligibility need will be completed jointly by the mental health agency and the State Department.
- E. When evaluating a child or youth for eligibility, the mental health agency shall evaluate all areas outlined in 21.190.
- F. The mental health agency shall be responsible for the provision of care management and necessary services, including any community-based mental health treatment, residential treatment, or any service that may be appropriate for the child's or family's needs.
- G. A face to face clinical assessment and eligibility determination shall be completed within the following time periods after a request for funding has been made by a responsible person(s).
1. Urgent situation, defined as a condition that is likely to escalate to a situation in which the child may become a danger to themselves or others and require a clinical assessment within twenty-four (24) hours. Urgent situation evaluations shall be completed by the mental health agency within twenty-four (24) hours, one business day, of the initial assessment request by the responsible person(s). The mental health agency shall continue to provide care management while funded services are identified and provided.
 2. Routine situations, defined as all other situations, shall be completed within three (3) business days of the initial assessment request.
 3. If the mental health agency requires additional time to make a decision following an assessment and the responsible person agrees, then the mental health agency may take up to, but no more than, fourteen (14) calendar days to provide a decision. If the responsible person does not agree, the notification timelines referenced above remain in effect.
- H. The mental health agency's decision shall be communicated orally and in writing to the responsible person(s) within the time allowed for the completion of the evaluation or at least five (5) business days before the reduction, increase or termination of funded services. Oral notice shall be face to face with the responsible person when possible.
- I. The written decision shall contain the following:
1. Notice of the applicable criteria for mental health treatment;
 2. The factual basis for the decision;

3. The appeals procedures pursuant to the grievance requirements in Section 21.180;
4. If approved, notice that the responsible person(s) may choose to seek services from the provider of their choice, including but not limited to the mental health agency;
5. Notice that the responsible person(s) may request assistance from a family advocate, family system navigator, nonprofit advocacy organization, or county department in applying for, receiving, or appealing Children and Youth Mental Health Treatment Act funding and applying for supplemental security income;
6. The contact information for an organization contracted by the State Department to perform family advocacy or family system navigation;
7. Notice that the contracted advocacy provider is not allowed to charge the family a fee;
8. Notice that the State Department is not obligated to pay for any services provided by entities with which they do not contract; and,
9. A statement for the responsible person to sign, indicating that they agree with the decision or that they disagree and wish to file an appeal.

21.200.44 Process of Determining Ability to Pay and Adjusted Charge for Treatment Services

- A. The mental health agency shall determine the cost of care for children and youth that receive funding through the Children and Youth Mental Health Treatment Act. All insurance and other eligible benefits shall be applied first to the cost of care. A responsible person(s) who fails to cooperate in making existing insurance and other benefits available for payment will nevertheless be considered as having benefits available for payment;
- B. Per month, the mental health agency shall determine the 7% of the total cost of all Children and Youth Mental Health Treatment Act funded services for the responsible person, excluding the costs of the initial assessment and all care management;
- C. If the responsible person(s) is unable to pay the 7%, the mental health agency shall consider the responsible person(s) total number of dependents, the mental health needs of those dependents, all current outstanding medical liabilities, expected length of services, and the education costs for the dependents. The mental health agency shall receive approval or denial from the State Department for all fee adjustments;
- D. At minimum, the parental fee shall be no less than \$50 per calendar month;
- E. Per calendar month, the mental health agency shall collect fees directly from the responsible person(s), or monitor that the third-party provider has collected the parental fee;
- F. The funded provider may reserve the right to take any necessary action regarding delinquent payments by the responsible person(s);
- G. The responsible person(s) shall sign a financial agreement indicating an understanding of their financial responsibilities as described, above, to be eligible for funding through the Children and Youth Mental Health Treatment Act;
- H. Within ten (10) business days after the child's admission to residential treatment, the responsible person(s) shall apply for Supplemental Security Income (SSI) on behalf of a child approved for funding under the Children and Youth Mental Health Treatment Act;

- I. If awarded Supplemental Security Income; the responsible person(s) shall disclose the award amount to the mental health agency as determined by the Social Security Administration regulations;
- J. If awarded Supplemental Security Income, it is the responsibility of the responsible person(s) to notify the Social Security Administration immediately upon the child or youth's discharge from residential services;
- K. If awarded Supplemental Security Income, and awarded Medicaid, Medicaid will be used to fund treatment costs while in residential treatment. The parental fee, Supplemental Security Income, all other funding sources, and the Child and Youth Mental Health Treatment Act will fund room and board;
- L. If denied Supplemental Security Income; the Children and Youth Mental Health Treatment Act will fund room and board and behavioral health treatment services that would otherwise have been funded by Supplemental Security Income and Medicaid.

21.200.45 Appeal of the Reduction, Termination, or Denial of Mental Health Services Funded By the Children and Youth Mental Health Treatment Act

- A. Except as provided below, the mental health agency shall follow the formalized notification process as defined in Section 21.200.41 through 21.200.43.
- B. A responsible person(s) may request an appeal of a decrease, increase, or denial of Children and Youth Mental Health Treatment Act fund services or a recommendation that a child is discharged from funded services, and the following shall apply:
 - 1. If the responsible person(s) notifies the mental health agency of a desire to appeal a decision before termination of services, the State Department and the mental health agency shall continue to fund services until the appeal process below has been exhausted.
 - 2. The responsible person(s) shall notify the mental health agency orally or in writing within fifteen (15) business days of notice of action of a desire to appeal a decision;
 - 3. The mental health agency shall have two (2) business days within which to complete an internal appeal review process and communicate a decision to the responsible person(s) orally and in writing.
 - 4. The mental health agency's notice of action shall contain the information required in section 21.200.43, e, along with the process for clinical review in Section 21.200.45, C-E below.
- C. If the mental health agency requires more than two (2) business days to complete the internal review, and the responsible person(s) is in agreement, then the mental health agency may take up to but no more than five (5) business days to complete the review.
- D. Within five (5) business days after the mental health agency's final denial or reduction of requested services or recommendation that the child be discharged from treatment, the responsible person(s) may request a clinical review of the need for services by an objective third-party, at the State Department, who is an independent professional person as that term is defined in Section 27-65- 102(11), C.R.S., to review the action of the mental health agency. Such a request may be oral or in writing, but if completed orally it must be confirmed in writing, and shall be made to the Director of the Office of Behavioral Health or the Office's consumer and family affairs specialist.

- E. Unless waived by the responsible person(s), said clinical review shall include:
 - 1. A review of the mental health agency's denial of services;
 - 2. A face to face evaluation of the child so long as the responsible person(s) arranges transportation of the child for the evaluation; and,
 - 3. A review of the evidence provided by the responsible person(s). The responsible person(s) shall be advised of the name and credentials of the reviewing professional, as well as any mental health agency affiliations of the reviewing professional. The responsible person(s) shall have an opportunity to request an alternate reviewing professional at the State Department at that time, so long as any delay caused by the request is waived by the responsible person(s) as described below.
- F. Within three (3) business days of the receipt of the request for clinical review, a decision shall be communicated orally and in writing by the professional person to the responsible person(s), State Department, and the mental health agency. The written decision shall include the relevant criteria and factual basis. If the clinical review finds residential or community-based services to be necessary and that Children and Youth Mental Health Treatment Act funding is necessary, the mental health agency shall provide services to the child within twenty-four (24) hours of the said decision. If residential treatment is not available within twenty-four hours and placement in residential treatment is recommended, the state level review must recommend appropriate alternatives including emergency hospitalization, if appropriate, if the child is in need of immediate placement out of the home.
- G. If the professional person requires more than three (3) business days to complete the clinical review, or if the responsible person(s) requires more time to obtain evidence for the clinical review, the responsible person(s) may waive the three day deadline above, so long as said waiver is confirmed in writing. In any event, the face to face evaluation and the clinical review shall be completed within six (6) business days.
- H. The decision from the objective third-party, at the State Department, who is an independent professional person, shall constitute final agency action for funding through the Children and Youth Mental Health Treatment Act.

21.200.46 Third-Party Review Process for a Medicaid Child or Youth

A Medicaid child or youth, a responsible person may request an objective third-party clinical review within five (5) business days after all first-level Medicaid appeals processes are exhausted (in accordance with Section 8.057 or 8.209 of the Colorado Department of Health Care Policy and Financing's Medical Assistance Rules [10 CCR 2505-10]). The review must be conducted by a professional person as outlined in Section 21.200.45 within three (3) business days of the date of request. This review does not obligate funding of services.

21.200.47 Dispute Resolution Process between County Departments and Mental Health Agencies

- A. If a dispute exists between a mental health agency and a county department regarding whether mental health services should be funded under the Children and Youth Mental Health Treatment Act or by the county department, one or both may request the State Department's Office of Behavioral Health, to convene a review panel consisting of family advocates, the State Department's Division of Child Welfare, the State Department's Office of Behavioral Health, an independent mental health agency if available, an independent professional person, and an independent county department to provide dispute resolution. The State Department's Office of Behavioral Health shall obtain documentation from independent agencies and individuals that no conflict of interest exists pertaining to the specific child being reviewed.
- B. The request to invoke the dispute resolution process shall be in writing and submitted within five (5) calendar days of either agency recognizing a dispute exists.
- C. The written request for dispute resolution shall include, at a minimum, the following information:
 - 1. The county department and mental health agency involved in the dispute, including a contact person at each;
 - 2. The child's name and age;
 - 3. The responsible person(s) address, phone number, and e-mail address;
 - 4. Pertinent information regarding the child including, but not limited to, medical or mental health status/assessment;
 - 5. The reason for the dispute, any efforts to resolve the matter locally, and any pertinent information regarding the child;
 - 6. Information about the child's mental health status pertaining to the dispute; and,
 - 7. The responsible person(s) perspective on the matter, if known.
- D. The State Department's Office of Behavioral Health shall provide notice to both the mental health agency and a county department that the State Department's Office of Behavioral Health will convene a review panel to resolve the dispute in writing.
- E. Each side will have an opportunity to present its position to the review panel. Interested parties will be allowed to present written or oral testimony at the discretion of the review panel.
- F. The review panel shall have five (5) business days to complete the dispute process and issue its determination in writing to the disputing agencies and the responsible person(s). The review panel's decision shall constitute final agency action, which binds the agency determined responsible for the provision of necessary services.
- G. If the panel deems that neither the mental health agency nor the county department is responsible for the provision of funding for the treatment of the child, then the panel shall provide a rationale for their determination. The panel shall offer recommendations for other funding sources and treatment modalities.

21.200.48 Responsibilities

21.200.481 Responsibilities of Mental Health Agencies

The mental health agency shall provide Children and Youth Mental Health Treatment Act funded services to Children and youth who are eligible as defined in Sections 21.200.4.

- A. Children and Youth Mental Health Treatment Act services include, but are not limited to:
 - 1. Clinical behavioral health assessments completed by a licensed mental health professional;
 - 2. Community-based services;
 - 3. Care management services;
 - 4. Coordination of residential treatment services; and,
 - 5. Non-residential mental health transition services for children and youth.
- B. The mental health agency shall provide to the State Department necessary Children and Youth Mental Health Treatment Act eligibility, service, and financial information in an agreed upon format.
- C. The mental health agency shall submit data to the State Department as required per Section 27-67-105, C.R.S.
- D. The mental health agency shall provide or coordinate treatment services in collaboration with the child or youth, families, and funded service providers.
- E. The mental health agency shall determine the fee for the responsible person(s) and submit the financial agreement to the State Department once signed by the responsible person(s) before state approval.
- F. The mental health agency shall submit all eligibility assessments to the State Department before funding approval or denial.
- G. If a child has been determined eligible under the Children and Youth Mental Health Treatment Act, the mental health agency shall submit a plan of care for approval to the State Department before providing services. If necessary services are not immediately available, mental health agency shall submit an alternative plan of care and provide interim services as appropriate.
- H. The mental health agency shall maintain a comprehensive clinical record for each child receiving services through Children and Youth Mental Health Treatment Act funding consistent with 2 CCR 502-1. Such records shall be made available for review by the State Department. The individualized service plan in the clinical record shall reflect any services provided directly by the center, including any care management services provided and relevant documentation submitted by a third-party provider. The goal of those care management services may be, at least in part, to oversee the delivery of services by third-party providers to assure that adequate progress is achieved and may reference the state plan of care and the provider's clinical service plan.

21.200.482 Responsibilities of the Department

The State Department shall be responsible for administering and regulating the provisions of the Children and Youth Mental Health Treatment Act. The responsibilities of the State Department include:

- A. Ensuring the Children and Youth Mental Health Treatment Act is implemented statewide;
- B. Reviewing requests for funding and making determinations regarding approval of funded services;
- C. The provision of technical assistance to Mental health agencies, residential treatment providers, families, advocacy organizations, county departments, mental health providers, and other stakeholders regarding the technical and financial aspects of the Children and Youth Mental Health Treatment Act;
- D. Oversight and monitoring of service delivery for children receiving Children and Youth Mental Health Treatment Act funded services;
- E. Oversight of the appropriateness of funded services, service standards, and service expectations of Child and Youth Mental Health Treatment Act funded services;
- F. Development and maintenance of the appeal process;
- G. Development and maintenance of dispute resolution processes;
- H. Management of the fiscal aspects of the Children and Youth Mental Health Treatment Act program;
- I. Data Collection and public reporting.

21.200.5 FAMILY ADVOCACY MENTAL HEALTH JUVENILE JUSTICE PROGRAMS [Eff. 5/1/16]

These rules and standards implement the Integrated System of Care Family Advocacy Programs for Mental Health Juvenile Justice Populations defined in Section 27-69-101, et seq., C.R.S. The rules and standards do not apply to other forms of family advocacy provided by persons or organizations, nor do they place any requirements or assume authority over such persons or organizations. Families of youth with mental health and co-occurring disorders who are in, or at-risk of becoming involved with, the juvenile justice system, may choose any form of advocacy and support that best meets their needs and are not limited to utilizing entities approved under these rules and standards.

In order to be eligible for state funding for a family advocacy program as described in Section 27-69-101, et seq., C.R.S., and these rules, an entity must be approved by the Department according to the rules described herein. Such funding is contingent on available appropriations.

21.200.51 Definitions [Eff. 5/1/16]

“At-risk of involvement with the juvenile justice system” means a youth who has come into contact with law enforcement due to a suspected offense or otherwise exhibits behaviors that will likely result in juvenile justice involvement.

“Family advocacy organization” means an entity governed by individuals who have parented, are parenting, or have legal responsibility for a child or youth with a mental health or co-occurring disorder.

“Family member” means individual who has parented, is parenting, or has legal responsibility for a youth with a mental health or co-occurring disorder.

“Involved in the juvenile justice system” means a youth who has committed a delinquent act as defined at Section 19-1-103(36), C.R.S.

“Partnership” means a relationship between a family advocacy organization and another entity whereby the family advocacy organization works directly with another entity for oversight and management of the family advocate or family systems navigator and family advocacy demonstration program, and the family advocacy organization employs, supervises, mentors, and provides training to the family advocate or family systems navigator.

“System of care” means a spectrum of effective, community-based services and supports for children and youth with or at risk for mental health or other challenges and their families, that is organized into a coordinated network, builds meaningful partnerships with families and youth, and addresses their cultural and linguistic needs, in order to help them to function better at home, in school, in the community, and throughout life.

“Technical assistance and coordination” means linking with resources for the purpose of developing or strengthening a family advocacy program.

“Transition services” include, but are not limited to, assisting a youth and family in accessing services and supports necessary for the youth to become a successful adult; developing life skills necessary to function in the community; returning to home, community, or school from an out-of-home placement.

“Youth” for the purposes of this section means an individual whose age falls within the jurisdiction of the juvenile justice system and is older than ten (10) years of age and under eighteen (18) years of age (see Section 19-1-103 (18) for definition of “child”). A young person receiving family advocacy services may continue to do so up to twenty one (21) years of age if enrolled in the program between the ages of ten (10) and eighteen (18).

21.200.52 Intent to Become a Family Advocacy Program [Eff. 5/1/16]

- A. A partnership will indicate its intent to become a family advocacy program by completing the family advocacy program application and submitting it to the Department.
- B. The partnership will follow all requirements of Section 27-69-101 through 27-69-105, C.R.S. and these corresponding rules.
- C. The Department will acknowledge in writing receipt of the letter of application and state which documents, if any, are required to be forwarded to the Department for review.
- D. A partnership may request the Department to facilitate technical assistance and coordination, as described in Section 21.200.53, needed to complete its application.

21.200.53 Program Standards

- A. Family advocacy programs will consist of a partnership between a family advocacy organization providing family advocacy and the system of care, whereby the family advocacy organization works with other entities to enable youth and families to access necessary services and supports. The family advocacy organization employs or otherwise utilizes, supervises, mentors, and provides training to the family advocate or family systems navigator. A community agency may employ or otherwise utilize, supervise, mentor, and provide training to the family advocate or family systems navigator if there is a written agreement with a family advocacy organization describing how this will occur.
- B. The purpose of a family advocacy program is to provide support to families of youth with mental health and co-occurring disorders who are in, or at-risk of becoming involved with, the juvenile justice system.

- C. The support provided to families and youth will include early intervention, navigation, crisis response, integrated planning, transition services, and diversion. These supports will be provided in collaboration with community agencies with specific expertise in the area.
- D. Family support will be provided by a family advocate or a family systems navigator as outlined in Section 27-69-102(5) and (5.5), C.R.S. The requirements for these roles are as follows:
 - 1. Family advocate:
 - a. Training in assisting families in accessing and receiving services and supports, and the system of care philosophy;
 - b. Experience as a family member of a child or adolescent with a mental health or co-occurring disorder; and,
 - c. Experience in working with multiple youth-serving agencies and providers.
 - 2. Family systems navigator:
 - a. Training in assisting families in accessing and receiving services and supports, and the system of care philosophy;
 - b. Skills, experience, and knowledge to work with children and youth with mental health or co-occurring disorders; and,
 - c. Worked with multiple youth-serving agencies and providers.
- E. A family advocacy program will coordinate its efforts with key service providers to ensure that support provided by family advocates and family systems navigators is integrated with services provided by community agencies. Where applicable, this coordination will include the local Interagency Oversight Group of the Collaborative Management Program, described in Section 24-1.9-102, C.R.S. and local juvenile services planning committee described in Section 19-2-211, C.R.S.
- F. A family advocate or family systems navigator will receive training commensurate with their duties and responsibilities. The training will include content on behavioral and co-occurring conditions, working with youth-serving systems, ethics, confidentiality and HIPAA, system of care, working with families, meeting facilitation, prevention and intervention, and documentation and service planning.
- G. A family advocacy program will provide education to the relevant agencies in the system of care, describing the roles and responsibilities of family advocates and family systems navigators, and the ways in which these positions can benefit youth, families, and agency staff members.
- H. A family advocacy program will ensure that adequate resources are available for program operations and evaluation as described in Section 21.200.54.
- I. Family advocates or family systems navigators will receive supervision commensurate with the needs of the youth and families. Family advocates or family systems navigators working in community agencies will receive supervision consistent with the policies and procedures of the host agency.
- J. Any person providing supervision to a family advocate or family systems navigator will have demonstrable knowledge about Section 27-69-101, et seq., C.R.S., these rules, and the role and function of a family advocacy program.

- K. Family advocacy programs will have policies and procedures concerning the work of family advocates and family systems navigators that address:
 - 1. Experience and hiring requirements, including a name search through the Colorado Bureau of Investigation;
 - 2. The program's standards of practice and code of ethics;
 - 3. Training related to providing support to families of youth with a mental health or co-occurring condition;
 - 4. A description of each aspect of the program, including related staff roles and responsibilities;
 - 5. The handling of grievances and complaints;
 - 6. Confidentiality, HIPAA, and 42 C.F.R. Part 2; and,
 - 7. Methods for recording information concerning each family receiving support including demographics, assessment results, needs and strengths, goals and objectives, support provided, and other information as needed.
- L. The services and supports provided by a family advocacy program will include, but not be limited to, those outlined in Section 27-69-104(3), C.R.S., and the following:
 - 1. An assessment of the needs and strengths of the youth and family;
 - 2. Assisting families with significant transitions in the youth's life;
 - 3. Coordination with the local community mental health center and other behavioral health service, and;
 - 4. Culturally and linguistically appropriate and responsive services including bilingual family advocates and/or family systems navigators, and/or access to translation services for families when necessary.

21.200.54 Data Reporting [Eff. 5/1/16]

- A. Family advocacy programs will collect and report data to the Department. This is necessary for the program and the Department to determine its effectiveness and what, if any, changes are necessary to improve outcomes for youth and families. The results of any data analysis conducted by the Department will be shared with the respective family advocacy program.
- B. The data collected and reported to the Department shall include the following:
 - 1. Types of services and support the youth and families received prior to and during involvement in the family advocacy program;
 - 2. Outcomes of services and supports provided during the youth and family's involvement in the family advocacy program;
 - 3. Indicators of the youth and family's satisfaction with support provided by the family advocate or family systems navigator;
 - 4. Indicators of the effectiveness of the family advocate or family systems navigator;

5. Indicators of change in the system of care, e.g., interagency agreements, service access and utilization, leadership development among youth and families; and shared resources;
 6. Costs of services provided; and,
 7. Types of transition services provided.
- C. Data will be submitted to the Department in an established and standardized format.

21.200.55 Technical Assistance and Coordination [Eff. 5/1/16]

- A. The Department will facilitate the provision of technical assistance and coordination for the purpose of developing or strengthening a family advocacy program.
- B. Technical assistance may include linking with written materials, family organizations, and phone consultation.
- C. Technical assistance provided by organizations other than the Department may require a fee paid to that organization.
- D. Interested entities will request technical assistance by contacting the Department verbally or in writing.

21.210 AGENCIES LICENSED TO PROVIDE SUBSTANCE USE DISORDER SERVICES

In addition to the rules provided in Sections 21.000 through 21.190, all agencies licensed to provide substance use disorder services shall comply with the following rule Sections 21.210.1 through 21.210.924.

21.210.1 Agency Staff Qualification and Training

- A. Agencies shall ensure treatment staff are appropriately trained and properly credentialed to provide substance use disorder services in Colorado and are in good standing with their credentialing body.
- B. Agencies shall ensure treatment staff providing independent treatment services in substance use disorder programs within each licensed site are credentialed in accordance with applicable state laws and regulations and are providing treatment services allowed within their scope of practice. Treatment staff is defined in 21.210.1.E. For clinically managed residential withdrawal management staffing requirements, see 21.210.914.
- C. Counselor-in-training staff or certified addiction technician shall not independently counsel, sign clinical documentation or carry out other duties relegated solely to the treatment staff identified in 21.210.1.E. Counselor-in-training staff and certified addiction technicians shall not comprise more than twenty-five percent (25%) of total staff.
 1. Counselor-in-training staff must have all clinical documentation reviewed and co-signed by their agency clinical supervisor able to supervise pursuant to their scope of practice.
 2. Certified addiction technicians may independently provide services within the statutorily defined scope of practice pursuant to Section 12-245-805(3)(a), C.R.S.

- D. Unless otherwise noted, all agencies shall have a designated clinical administrator who shall authorize and oversee the clinical practice and supervise the treatment staff defined in 21.210.1.E. The clinical administrator shall be in good standing with his or her credentialing body and properly licensed as a physician or as one of the following mental health professionals:
1. Licensed psychologist;
 2. Licensed clinical social worker;
 3. Licensed marriage and family therapist;
 4. Licensed professional counselor; or
 5. Licensed addiction counselor.
- E. Treatment staff, for the purpose of this Section 21.210, unless otherwise noted, means the following behavioral health professionals trained in substance use disorder identification and treatment and acting within his or her scope of practice:
1. Licensed physician;
 2. Licensed advanced practice nurse included in the advanced practice registry with a population focus in mental health, behavioral health or psychiatry;
 3. Licensed psychologist;
 4. Licensed clinical social worker;
 5. Licensed marriage and family therapist;
 6. Licensed professional counselor;
 7. Licensed addiction counselor;
 8. Certified addiction specialist; or
 9. Candidate status staff receiving supervision to become a licensed or certified mental health professional pursuant to Article 245 of Title 12, C.R.S. Candidate level staff shall not make up more than fifty percent (50%) of an agency's treatment staff.
- F. All agencies shall provide and document initial training in methods of preventing and controlling infectious diseases and in universal precautions providing protection from possible infection when handling blood and other body fluids. Annual refresher training, including updates, shall be provided and documented.
- G. Staff collecting samples for drug or alcohol testing shall be knowledgeable of collection, handling, recording and storing procedures assuring sample viability for evidentiary and therapeutic purposes.
- H. Agencies administering and/or monitoring individual medications shall maintain at least one staff person per shift who is currently qualified by certification and/or training to perform those functions in accordance with applicable Department rules and state and federal regulations.
- I. Agencies shall document that at least one residential treatment staff person per shift is currently certified in cardiopulmonary resuscitation and basic First Aid.

21.210.2 CONTENT OF RECORDS

In addition to 21.190.2, agencies licensed to provide substance use disorder services shall maintain individual records to include:

- A. Individual acknowledgments of:
 - 1. 42 C.F.R. PART 2;
 - 2. HIPAA;
 - 3. Individual rights;
 - 4. Mandatory disclosure statement;
 - 5. Chargeable fees and collection procedures; and,
 - 6. Awareness of agency emergency procedures.
- B. The out-of state offender questionnaire shall be completed and in all clinical records.
- C. Personal belongings inventories, when applicable.
- D. Court documents, when applicable.
- E. Records of required communication with referral sources such as court, probation, child welfare, and parole, when applicable.
- F. Drug and alcohol testing and monitoring results, when applicable.

21.210.3 COUNSELOR AND INDIVIDUALS RECEIVING SERVICES' SIGNATURES [Eff. 11/1/13]

- A. Counselor signatures shall be required on the following treatment documents:
 - 1. Screenings;
 - 2. Assessments;
 - 3. Admission summaries;
 - 4. Service plans;
 - 5. Service plan reviews;
 - 6. Treatment notes;
 - 7. Discharge summaries.
- B. Credentialed counselors who counsel independently shall sign treatment documents with at least first initial, last name, and Colorado addiction counselor credential, other professional credential, or academic degree.
- C. Counselors not credentialed may sign treatment documents if countersigned by supervising credentialed counselors.

- D. Signature stamps shall be permissible in lieu of written signatures if initialed by the counselors whose signatures they represent. Electronic signatures shall be permissible for computerized individual records.
- E. Agencies shall require persons receiving services, or guardians, to sign service plans, service plan reviews, and revisions, consents, acknowledgments, and other documents needing individual authorization.

21.210.4 PROVISION OF SERVICES

21.210.41 Admission Criteria [Eff. 11/1/13]

- A. The following shall not be the sole reason for treatment ineligibility:
 - 1. Relapse;
 - 2. Leaving previous treatment against advice;
 - 3. Pregnancy;
 - 4. Intravenous drug use; or,
 - 5. Involuntary commitment.
- B. Restrictions, priorities, or special admission criteria shall be applied equally to all prospective persons seeking services.

21.210.42 Screening [Eff. 5/1/16]

- A. Agencies shall screen all female individuals of child bearing age seeking or being referred to substance use disorder treatment for pregnancy.
- B. At admission individuals shall be screened for past and present risk factors associated with substance use disorders that are associated with:
 - 1. Pregnancy complications, including risks to the health of the pregnant woman and fetus;
 - 2. Acquiring and transmitting Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS), Tuberculosis (TB), Hepatitis A, B, or C, and other infectious diseases; and,
 - 3. If clinically indicated by the presence of continuing risk factors, screening shall be conducted at a minimum on a quarterly basis.
- C. Individuals shall be apprised of risk factors associated with acquiring and transmitting HIV/AIDS, TB, Hepatitis A, B, C, and other infectious diseases. Appropriate testing and pre and post-test counseling shall be offered on-site or through referral.
- D. Criminal justice system referrals for substance use related offenses, such as DUI/DWAI, BUI, FUI, and/or controlled substance violations, may be exempt from further substance use disorder screening if previously assessed, or evaluated. Supporting documentation from the referring agency shall be present in the individual record.

- E. Adults shall be screened for past and present criminal charges in any state. Persons with out-of-state charges must be registered by the licensed agency with the interstate compact office in accordance with Title 17, Article 27.1, Section 101, et seq., C.R.S.

21.210.43 LEVEL OF CARE GENERAL PROVISIONS

- A. In addition to meeting the requirements established in 21.190, Agencies shall:
1. Use the ASAM Criteria as a guide for assessing and placing individuals in the appropriate level of care;
 2. Include information gathered on all six (6) dimensions outlined in The ASAM Criteria in assessments; and
 3. Utilize the decisional flow process as outlined in The ASAM Criteria to determine level of care.
- B. Agencies shall specify the specific level(s) of care services the agency plans to provide, including the population(s) the agency plans to serve.
- C. Each level of care shall offer a range of treatment approaches and support services based on the assessment of the individual's treatment needs. Treatment services may include, but are not limited to:
1. Assessment;
 2. Group and individual counseling;
 3. Motivational enhancement;
 4. Family therapy;
 5. Educational groups;
 6. Occupational and recreational therapy;
 7. Addiction pharmacology;
 8. Medication management;
 9. Peer, social and recovery support;
 10. Case management or service coordination; and
 11. Support for development of life skills.
- D. In addition to meeting the staff qualification and training requirements established in 21.210, agencies shall document that staff are appropriately credentialed and qualified to provide treatment services in the levels of care described in this section and to the individual populations they serve.
- E. Agencies shall apply sliding fee scales equally to all prospective persons seeking services.
- F. Agencies shall be responsible for monitoring and routinely reporting to referring courts and the criminal justice system the individual's progress within treatment, including any ancillary services.

- G. In addition to meeting the requirements established in 21.200, agencies shall ensure all staff working with youth under the age of twenty-one (21) at each level of care are trained and knowledgeable of youth development and engaging youth in care.
- H. agencies shall obtain a Controlled Substance License from the Office of Behavioral Health if the program plans to dispense, compound, or administer a controlled substance in order to treat a substance use disorder or to treat the withdrawal symptoms of a substance use disorder.
- I. Agencies shall continue individuals on their medication-assisted treatment regimen and will only detox individuals from medications treating opioid use disorders at the individual's request or if it is deemed medically necessary.
- J. Agencies shall inform individuals receiving services about access to medication-assisted treatment. Upon the individual's consent, agencies shall provide medication-assisted treatment directly, if the agency or provider is appropriately licensed to do so. If an agency or provider is not licensed to provide medication-assisted treatment and an individual receiving services requests medication-assisted treatment, an agency shall refer the individual to an agency that provides medication-assisted treatment.

21.210.5 LEVELS OF CARE Specific Requirements

Each level of care is based on a specific level of care outlined in The ASAM Criteria.

21.210.6 OUTPATIENT SUBSTANCE USE DISORDER SERVICES (Level 1)

- A. Level 1 services shall generally be intended for individuals who are assessed as not appropriate for more intensive levels of care. Level 1 may also be a step-down from a higher level of care or offered when an individual is in early stages of change and not willing to participate in the higher level of care indicated by the assessment.
- B. Level 1 services are appropriate for individuals with co-occurring mental health and substance-related disorders if the mental health disorders are of moderate severity, or are of high severity but have been stabilized.

21.210.61 Level 1 Service Provisions

- A. Level 1 services shall be conducted in regularly scheduled sessions of less than nine (9) treatment contact hours per week for adults, and less than six (6) treatment contact hours per week for youth under the age of eighteen (18).
- B. Level 1 treatment services shall be provided by treatment staff defined in section 21.210.1.E.
- C. Agencies providing Level 1 services shall inform individuals receiving services how to access emergency services by telephone twenty-four (24) hours per day, seven (7) days per week. At minimum, emergency services information shall include contact information for services provided by the Behavioral Health Crisis Response System created pursuant to § 27-60-103, C.R.S.
- D. Agencies providing Level 1 services shall have direct affiliation or close coordination through referral to more intensive levels of care.
- E. Agencies providing Level 1 services shall ensure treatment staff has staff-to-staff consultation available within twenty-four (24) hours by telephone to discuss when warranted, at minimum, psychiatric or medical concerns of individuals receiving services.

21.210.7 INTENSIVE OUTPATIENT/PARTIAL HOSPITALIZATION SUBSTANCE USE DISORDER SERVICES (Level 2)

21.210.71 INTENSIVE OUTPATIENT SUBSTANCE USE DISORDER SERVICES (Level 2.1)

- A. Level 2.1 services shall generally be intended for individuals who require a more structured substance use disorder outpatient treatment experience than can be received in Level 1 outpatient treatment.
- B. Level 2.1 services are appropriate for individuals with co-occurring mental health and substance-related disorders if the disorders are of moderate severity, or are of higher severity but have been stabilized.

21.210.711 Level 2.1 Service Provisions

- A. Level 2.1 services shall be conducted in regularly scheduled sessions that follow a planned format of treatment services of nine (9) to nineteen (19) contact hours per week for adults and six (6) to nineteen (19) contact hours per week for youth under the age of eighteen (18).
- B. Level 2.1 treatment services shall be provided by treatment staff defined in section 21.210.1.E.
- C. Agencies providing Level 2.1 services shall inform individuals receiving services how to access emergency services by telephone twenty-four (24) hours per day, seven (7) days per week. At minimum, emergency services information shall include contact information for services provided by the behavioral health crisis response system created pursuant to § 27-60-103, C.R.S.
- D. Agencies providing Level 2.1 services shall have direct affiliation or close coordination through referral to more and less intensive levels of care.
- E. Agencies providing Level 2.1 services shall ensure treatment staff has staff-to-staff consultation available within twenty-four (24) hours by telephone and within seventy-two (72) hours in person to discuss when warranted, at minimum, psychiatric or medical concerns of individuals receiving services.

2.210.72 PARTIAL HOSPITALIZATION SUBSTANCE USE DISORDER SERVICES (Level 2.5)

- A. Level 2.5 services shall generally be intended for individuals who require daily monitoring or management to treat substance use disorders that can be provided in a structured outpatient setting. Services include direct access to medical, psychiatric, and laboratory services. Level 2.5 service sites for school aged youth shall include access to educational services and coordination with a school system, as appropriate.
- B. Level 2.5 services are appropriate for individuals with co-occurring mental health and substance-related disorders if the disorders are of moderate severity, or are of higher severity but have been stabilized. Staff of Level 2.5 services shall understand the signs and symptoms of mental health disorders and the uses of psychotropic medications and their interactions with substance use disorders.

21.210.721 Level 2.5 Service Provisions

- A. Level 2.5 services shall be conducted with a minimum frequency of twenty (20) regularly scheduled treatment contact hours per week.
- B. Level 2.5 treatment services shall be provided by treatment staff defined in section 21.210.1.E.

- C. Agencies providing Level 2.5 services shall inform individuals receiving services how to access emergency services by telephone twenty-four (24) hours per day, seven (7) days per week when the program is not in session. At minimum, agencies shall provide emergency services information that includes contact information for services provided by the behavioral health crisis response system created pursuant to § 27-60-103, C.R.S.
- D. Agencies providing Level 2.5 services shall have direct affiliation or close coordination through referral to more and less intensive levels of care.
- E. Agencies providing Level 2.5 services shall ensure treatment staff has staff-to-staff consultation available within eight (8) hours by telephone and within forty-eight (48) hours in person to discuss when warranted, at minimum, psychiatric or medical concerns of individuals receiving services.

21.210.8 RESIDENTIAL/INPATIENT SUBSTANCE USE DISORDER SERVICES (Level 3)

Agencies providing residential/inpatient substance use disorder services (Level 3) shall construct and maintain sound and sight barriers between male and female individuals and between adult and youth under the age of eighteen (18) in bathrooms and sleeping quarters.

21.210.81 CLINICALLY MANAGED LOW-INTENSITY RESIDENTIAL SUBSTANCE USE DISORDER SERVICES (Level 3.1)

- A. Level 3.1 services shall generally be intended for whose history of chronic substance use disorders, lack of supportive living situations, unemployment, levels of social or psychological dysfunction and/or lack of housing necessitates twenty-four (24) hour structure and support. Level 3.1 services are generally provided in settings such as a halfway house, group home or other supportive living environment providing twenty-four (24) hour staff and close integration with treatment services.
- B. Level 3.1 services shall have staff who are able to identify the signs and symptoms of acute psychiatric conditions and understand the signs and symptoms of mental health disorders, the uses of psychotropic medication and their interaction with substance use disorders.
- C. Level 3.1 services shall have the capacity to arrange for psychiatric or addiction medications.

21.210.811 Level 3.1 Service Provisions and Staffing

- A. Level 3.1 services shall be regularly scheduled and include a minimum of five (5) hours of planned treatment services per week.
- B. Agencies providing Level 3.1 services shall maintain individual to staff ratio not exceeding twenty to one (20:1) during nighttime hours, per agency site.
- C. Agencies providing Level 3.1 services shall provide twenty-four (24) hour per day, seven (7) days per week on-site staff. Twenty-four (24) hour on-site staff shall be trained and knowledgeable of substance use disorders and the treatment of substance use disorders and in addition to treatment staff defined in 21.210.1.E may include:
 - 1. Peer support specialists as defined in Section 21.400.1; or
 - 2. Addiction technicians certified pursuant to Part 8 of Article 245 of Title 12, C.R.S. or staff in the process of obtaining addiction counselor certification.

- D. Agencies providing Level 3.1 services shall have at least one (1) treatment staff, as defined in 21.210.1.E, trained and knowledgeable of substance use disorders, the treatment of substance use disorders and able to monitor and identify psychiatric conditions available by telephone twenty-four (24) hours per day, seven (7) days per week and available to be on-site within thirty (30) minutes.
- E. Agencies providing Level 3.1 services shall have direct affiliation or close coordination through referral to more and less intensive levels of care.
- F. Agencies providing Level 3.1 services shall ensure staff have telephone or in-person consultation with a physician and emergency services available twenty-four (24) hours per day, seven (7) days per week.

21.210.82 CLINICALLY MANAGED POPULATION-SPECIFIC HIGH-INTENSITY RESIDENTIAL SUBSTANCE USE DISORDER SERVICES (Level 3.3)

- A. Level 3.3 services are a structured recovery environment in combination with high-intensity clinical services to support recovery from substance-related disorders.
- B. Level 3.3 is appropriate for individuals who are unable to benefit from outpatient services or services in general settings because of cognitive impairments that result in functional limitations. Treatment is focused on preventing relapse, continued problems and/or continued use, and promoting the eventual reintegration of the individual into the community. Therapeutic rehabilitation facilities or traumatic brain injury programs are examples of this level of care.

21.210.821 Level 3.3 Service Provisions and Staffing

- A. Agencies providing Level 3.3 services shall deliver treatment services in a manner that is matched to the individual's functioning and may be provided in a deliberately repetitive fashion to address the special cognitive needs of individuals for whom this level of care is considered a medical necessity.
- B. Agencies shall provide daily scheduled Level 3.3 services and include a minimum of nine (9) hours of planned treatment services per week.
- C. Agencies providing Level 3.3 services shall maintain individual to staff ratios not exceeding twenty to one (20:1) during nighttime hours, per agency site. Staff shall include:
 - 1. At least one (1) treatment staff, as defined in 21.210.1.E, trained and knowledgeable of substance use disorders, the treatment of substance use disorders and able to monitor and identify psychiatric conditions available by telephone twenty-four (24) hours per day, seven (7) days per week and available to be on-site within thirty (30) minutes;
 - 2. Addiction technicians certified pursuant to Part 8 of Article 245 of Title 12, C.R.S.;
 - 3. A physician, physician assistant or nurse practitioner available by telephone or in-person twenty-four (24) hours per day, seven (7) days per week to provide medical evaluation and consultation; and
 - 4. Peer support specialists as defined in Section 21.400.1.
- D. Agencies providing Level 3.3 services shall have direct affiliation or close coordination through referral to more and less intensive levels of care.

21.210.83 CLINICALLY MANAGED HIGH-INTENSITY RESIDENTIAL SUBSTANCE USE DISORDER SERVICES (Level 3.5)

- A. Level 3.5 services provide a safe and stable living environment with treatment focused on promoting skills needed to avoid relapse or continued use. Level 3.5 is appropriate for individuals with multiple limitations including criminal activity, psychological problems, and/or impaired social and/or vocational functioning.
- B. Treatment is directed toward reducing relapse risk, enhancing prosocial behaviors and reintegration into the community. A variable length therapeutic community or residential treatment center are examples of this level of care.

21.210.831 Level 3.5 Service Provisions and Staffing

- A. Agencies shall provide daily Level 3.5 services and include a minimum of ten (10) hours of planned treatment services per week.
- B. Agencies providing Level 3.5 services shall maintain individual to staff ratios not exceeding twenty to one (20:1) during nighttime hours, per agency site, and each shift shall have a minimum of two (2) staff members, whenever one (1) or more individuals are present. Staff shall include:
 - 1. At least one (1) treatment staff, as defined in 21.210.1.E, trained and knowledgeable of substance use disorders, the treatment of substance use disorders and able to monitor and identify psychiatric conditions available twenty-four (24) hours per day, seven (7) days per week;
 - 2. Addiction technicians certified pursuant to Part 8 of Article 245 of Title 12, C.R.S. or staff in the process of obtaining addiction counselor certification;
 - 3. a physician, physician assistant or advanced practice nurse available to provide medical evaluation and consultation and assess and treat co-occurring biomedical disorders, as well as prescribe and monitor the administration of medications; and
 - 4. Peer support specialists as defined in Section 21.400.1.
- C. Agencies providing Level 3.5 services shall have direct affiliation or close coordination through referral to more and less intense levels of care.

21.210.84 MEDICALLY MONITORED INTENSIVE INPATIENT SUBSTANCE USE DISORDER SERVICES (Level 3.7)

- A. Level 3.7 services provide a planned and structured regimen of twenty-four (24) hour evaluation, observation, medical monitoring and addiction treatment.
- B. Level 3.7 services are appropriate for individuals whose medical, emotional, behavioral or cognitive problems are so severe that they require twenty-four (24) hour medical monitoring but do not need the full resources of an acute care general hospital or medically managed inpatient treatment program (Level 4). Treatment is designed for individuals who have functional limitations in the areas of intoxication/withdrawal potential; biomedical conditions; or emotional, behavioral or cognitive conditions.

21.210.841 Level 3.7 Service Provisions and Staffing

- A. Level 3.7 services shall be scheduled daily and include a minimum of twenty (20) hours of planned treatment services per week.

- B. Agencies providing Level 3.7 services shall maintain individual to staff ratios not exceeding twenty to one (20:1) during nighttime hours per agency site, and each shift shall have a minimum of two (2) staff members, whenever one (1) or more individuals are present.
- C. Level 3.7 services shall be staffed with a team that includes physicians, nurses and mental health professionals licensed or certified pursuant to Article 245 of Title 12, C.R.S. that provide twenty-four (24) hour professionally directed evaluation, care and treatment services including administration of prescribed medications, withdrawal management and integrated treatment of co-occurring medical, emotional, behavioral or cognitive conditions.
- D. A licensed physician shall oversee treatment and assure quality of care in Level 3.7 services. A physician, physician assistant or nurse practitioner shall perform physical examinations for all individuals admitted. Examinations shall occur within twenty-four (24) hours of admission and thereafter as necessary.
- E. A registered nurse shall conduct an alcohol or other drug-focused nursing assessment at the time of admission.
- F. A licensed nurse is responsible for monitoring the individual's progress and/or medication administration twenty-four (24) hours per day, seven (7) days per week.
- G. Additional medical specialty consultation, psychological, laboratory and toxicology services are available on-site through consultation or referral. Psychiatric services are available on-site through consultation or referral within eight (8) hours by telephone or twenty-four (24) hours in person.

21.210.9 WITHDRAWAL MANAGEMENT SERVICES

21.210.91 CLINICALLY MANAGED RESIDENTIAL WITHDRAWAL MANAGEMENT (LEVEL 3.2-WM)

- A. Level 3.2-WM programs shall provide twenty-four (24) hour supervised withdrawal from alcohol and/or other drugs in a residential setting.
- B. Level 3.2-WM programs shall provide collaboration and coordination with emergency mental health services as needed.
- C. Level 3.2-WM programs shall obtain a Controlled Substance License from the Office of Behavioral Health if the program plans to dispense, compound, or administer a controlled substance in order to treat a substance use disorder or to treat the withdrawal symptoms of a substance use disorder.
- D. Level 3.2-WM programs shall develop and implement policies and procedures in accordance with federal and state regulations, department rules, and in consultation with medical professionals qualified in substance use disorders. Policies and procedures must address but are not limited to:
 - 1. Handling individuals who are assessed as being a current threat to themselves or others and shall include appropriate uses of law enforcement and monitor any use of individual restraint and/or seclusion;
 - 2. Communication with intoxicated individuals leaving treatment against staff recommendations, including the use of emergency commitments; and
 - 3. Circumstances under which individuals shall be discharged, other than completing withdrawal management or leaving against staff recommendations.

21.210.911 Level 3.2-WM Admission and Monitoring

- A. Individuals admitted to level 3.2-WM services shall be intoxicated, under the influence, or in any stage of withdrawal from alcohol and/or other drugs.
- B. Level 3.2-WM admission procedures shall include at a minimum:
 - 1. Degree of alcohol and other drug intoxication as evidenced by breathalyzer, urinalysis, self-report, observation or other evidence-based or best practices;
 - 2. Initial vital signs;
 - 3. Need for emergency medical and/or psychiatric services;
 - 4. Inventorying and securing personal belongings;
 - 5. Substance use disorder history and the degree to which the use of substance affects personal and social functioning, as soon as clinically feasible following admission;
 - 6. Pregnancy screening; and
 - 7. Administration of a validated clinical withdrawal assessment tool.
- C. Withdrawal management monitoring of individuals shall include:
 - 1. Routine monitoring of physical and mental status including observation of individual;
 - 2. Vital signs taken at least every two (2) hours until they remain at the person's baseline for at least four (4) hours, and then taken every eight (8) hours thereafter until discharge; and
 - 3. Documentation per shift to include all individual monitoring activities.

21.210.912 Level 3.2-WM Service Planning

- A. level 3.2-WM programs shall develop and implement service plans in accordance with Section 21.190.4 and address safe withdrawal, motivational counseling, and referral for treatment.
- B. Level 3.2-WM programs shall provide additional service planning for managing individuals with medical conditions, suicidal ideation, pregnancy, psychiatric conditions, and other conditions which place individuals at additional risk during withdrawal management.
- C. Level 3.2-WM programs shall provide assessments of individual readiness for treatment and interventions based on the service plan and the assessments and interventions shall be documented in the individual's record.

21.210.913 Level 3.2-WM Discharge

- A. Level 3.2-WM programs shall provide discharge information to individuals and document in the individual's records the requirements established in Section 21.190.6, and:
 - 1. Effects of alcohol and other drugs;

2. Risk factors associated with alcohol and other drug abuse for acquiring and transmitting HIV/AIDS (Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome), Tuberculosis (TB), and other infectious diseases, and for pregnancy;
3. Availability of testing and pre/post-test counseling for HIV/AIDS, TB, Hepatitis C and other infectious diseases, and pregnancy; and
4. Availability of alcohol and other drug abuse treatment services.

21.210.914 Level 3.2-WM Staff Requirements

- A. At least fifty percent (50%) of withdrawal management staff including on-call staff shall consist of treatment staff as defined in 21.210.1.E, certified addiction technicians or staff in the process of obtaining addiction counselor certification. Plans for addiction counselor certification shall be available for review. Full-time staff shall obtain at least an addiction technician certification within eighteen (18) months of employment.
- B. Uncertified staff or staff without a plan for addiction counselor certification shall not comprise more than fifty percent (50%) of total withdrawal management staff.
- C. Level 3.2-WM programs' individual to staff ratios shall not exceed ten to one (10:1); and
 1. Procedures for responding to periods of high census and/or emergency situations shall be conspicuously posted; and
 2. Each shift shall have a minimum of two (2) staff members, whenever one (1) or more individuals are present.
- D. The staff person overseeing day-to-day operations shall be:
 1. Certified as an addiction specialist or licensed as an addiction counselor pursuant to Part 8 of Article 245 of Title 12, C.R.S.;
 2. A physician licensed pursuant to Article 240 of Title 12, C.R.S.;
 3. A psychologist licensed pursuant to Part 3 of Article 245 of Title 12, C.R.S.;
 4. An advanced practice nurse licensed pursuant to Section 12-255-111, C.R.S.; or
 5. A licensed clinical social worker, licensed marriage and family therapist, or licensed professional counselor licensed under Part 4, 5, or 6 of Article 245 of Title 12, C.R.S.
- E. Level 3.2-WM programs shall provide twenty-four (24) hour per day, seven (7) days per week on-site staff. Twenty-four (24) hour on-site staff shall be trained and knowledgeable of substance use disorders and the treatment of substance use disorders and in addition to treatment staff as defined in 21.210.1.E, twenty-four (24) hour staff may include:
 1. Peer support specialists as defined in 21.400.1; or
 2. Addiction technicians certified pursuant to Part 8 of Article 245 of Title 12, C.R.S. or staff in the process of obtaining addiction counselor certification.
- F. Programs shall maintain documentation that all direct care staff have training in and evaluated knowledge of the following before providing independent services:

1. Withdrawal management;
2. Infectious diseases (AIDS/HIV, Hepatitis C, TB), including universal precautions against becoming infected;
3. Administering cardiopulmonary resuscitation (CPR) and first aid;
4. Monitoring vital signs;
5. Conducting assessment and triage, including identifying suicidal ideation;
6. Emergency procedures and their implementation;
7. Collecting urine and breath samples;
8. Cultural factors that impact withdrawal management;
9. Ethics and confidentiality;
10. Individual records systems;
11. De-escalating potentially dangerous situations; and
12. Basic counseling and motivational interviewing skills.

21.210.92 MEDICALLY MONITORED INPATIENT WITHDRAWAL MANAGEMENT (LEVEL 3.7-WM)

Level 3.7-WM services shall be provided by licensed medical staff qualified to supervise withdrawal from alcohol and other drugs through use of medication and/or medical procedures in residential settings which possess Controlled Substances Licenses in compliance with Part 2 of Article 80 of Title 27, C.R.S.

21.210.921 Level 3.7-WM Admission and Evaluation

- A. Level 3.7-WM programs shall develop and implement specific admission criteria detail for which drugs, including alcohol, medical withdrawal management is provided.
- B. In addition to the consent requirements established in 21.170.4, level 3.7-WM programs shall provide informed consent to medical withdrawal management that include:
 1. Medications to be used; and
 2. Need to consult with primary care physicians.
- C. Level 3.7-WM programs shall provide medical evaluations by physicians licensed pursuant to Article 240 of Title 12, C.R.S. or authorized health-care professionals under the supervision of authorized physicians. The medical evaluations shall consist of, at minimum:
 1. Medical histories including detailed chronologies of substance use disorders;
 2. Identification of current physical addiction including drug types;
 3. Physical examinations to determine appropriateness for outpatient or inpatient medical withdrawal management; and

4. Appropriate laboratory tests including pregnancy tests, and other evaluations as indicated.
- D. Level 3.7-WM service protocols for usual and customary withdrawal management from each drug delineated in the admission criteria shall be developed in consultation with licensed physicians and other allied health-care professionals and shall be implemented in the form of individualized withdrawal management plans under direct supervision of program medical directors. Protocols shall include:
1. Types of intoxication;
 2. Tolerance levels for the individual's drug of choice;
 3. Degrees of withdrawal;
 4. Possible withdrawal and/or intoxication complications;
 5. Other conditions affecting medical withdrawal management procedures;
 6. Types of medications used;
 7. Recommended dosage levels;
 8. Frequency of visits (outpatient settings);
 9. Procedures to follow in the event of withdrawal management complications;
 10. Daily assessments including expected improvements as well as potential problems; and
 11. Expected duration of withdrawal management.
- E. Medical withdrawal management programs using any controlled substances are required to have Controlled Substance Licenses issued by the Department. Buprenorphine is the only medication that can be used for opioid dependent individuals unless the medical withdrawal management program is licensed as an opioid treatment program and it has been verified through the program and coordinated with the Federal Center for Substance Abuse Treatment.
- F. Authorized physicians may prescribe buprenorphine under his/her own Drug Enforcement Administration (DEA) registration number for individuals admitted to the hospital for inpatient withdrawal management or addiction treatment.
- G. Withdrawal management programs must continue patients on their medication-assisted treatment regimen when available and will only detox individuals from medications treating opioid use disorders at the patient's request or if it is deemed medically necessary.

21.210.922 Level 3.7-WM Clinical Staff

- A. Level 3.7-WM programs shall provide, at minimum, the following clinical staff:
1. One medical director;
 2. One registered nurse or licensed practical nurse (R.N. or L.P.N.) with at least one year of withdrawal management experience; and

3. Treatment staff as defined in 2.210.1.E, staffed at a rate that meets the needs of the individuals receiving level 3.7-WM services.
- B. Level 3.7-WM program medical directors' responsibilities shall include, at minimum:
1. Quarterly reviews and revisions of drug withdrawal management categories and protocols;
 2. Reviews of individual withdrawal management plans;
 3. Reviews of individual prescriptions that deviate from standard withdrawal management protocols;
 4. Five (5) hours of monthly supervision of and consultation with staff providing withdrawal management services;
 5. Direct supervision of individual withdrawal management cases that deviate from standard protocols and/or experience complications; and
 6. Develop and implement back-up systems for physician coverage when medical directors are unavailable and/or for emergencies.
- C. level 3.7-WM programs shall ensure twenty-four (24) hour access to clinical staff by telephone and accommodation for unscheduled visits for crises or problem situations.

21.210.923 Level 3.7-WM Treatment Services

- A. Level 3.7-WM programs shall provide the following treatment services in addition to medication dosing contacts:
1. Motivational counseling and support;
 2. Continuous evaluation and behavioral health intervention; and
 3. Development and monitoring of a service plan per Section 21.190.4.
- B. Level 3.7-WM programs shall ensure a minimum of one (1) daily clinical supportive services contact, which shall be documented in individual records.

21.210.924 Level 3.7-Wm Dispensing and Administration Procedures

- A. Level 3.7-WM programs shall develop and implement policies and procedures for dispensing medications per standard withdrawal management protocols that are in accordance with applicable state and federal statutes and for the following:
1. Individual prescriptions filled and dispensed by a registered pharmacist at a designated pharmacy location; and
 2. Individual prescriptions from medical directors that are filled from stock quantities.
- B. Level 3.7-WM programs shall develop and implement policies and procedures in accordance with applicable federal and state statutes for storing and accounting for all drugs including controlled substances.

21.220 GENDER-RESPONSIVE WOMEN'S TREATMENT IN SUBSTANCE USE DISORDER PROGRAMS [Eff. 11/1/13]

In addition to Section 21.210, agencies licensed to provide Gender-Responsive Women's Treatment shall be in compliance with Subsections 21.220.1 through 21.220.4.

21.220.1 GENERAL PROVISIONS [Eff. 11/1/13]

- A. Treatment staff shall have documented training, supervision and experience in women-specific issues and services.
- B. Treatment for substance use disorders shall be provided to the family as a whole, unless clinically contraindicated. Clinical contraindications to this provision must be documented in the individual record.
- C. Agencies shall offer any pregnant woman admission to treatment within forty-eight (48) hours and shall demonstrate compliance with Section 21.220.4, D, Services to Pregnant Women.
- D. Agencies providing gender specific women's treatment shall include the following components:
 - 1. Emotional and physical safety of individuals take precedence over all other considerations in the delivery of services;
 - 2. Services designed to increase women's access to care, and engagement and retention of individuals (such as comprehensive case management, transportation, child care);
 - 3. Women-only therapeutic environments;
 - 4. Women-specific service needs and topic areas;
 - 5. Program services shall directly address trauma issues currently manifesting in the individual's life either through direct service provision or by referral; and,
 - 6. Multiple modalities that meet the specific needs of women (group and individual therapy, case management and opportunities for women to be in treatment with their children where possible).
- E. Agency policy and procedures shall include the mandatory reporting of suspected child abuse, neglect and/or child safety issues, which shall include definitions of abuse and neglect under the Colorado Children's Code (Section 19-1-103, C.R.S.), and which are consistent with the reporting of child abuse allowed under federal law.
- F. Agency policy and procedures shall include the criteria for interventions offered and expected outcomes of services delivered.

21.220.2 SCREENING [Eff. 11/1/13]

In addition to the Section 21.190.3, screening shall include all of the following unless clinically contraindicated:

- A. Screening and documentation of individual's need for prenatal care (where applicable), primary medical care and family planning services;
- B. Screening for child safety issues utilizing an evidence-based or best practices approved instrument.

21.220.3 TREATMENT [Eff. 11/1/13]

- A. Service plans shall be established in accordance with Section 21.190.4 of these rules, and shall address each of the need areas identified in Section 21.220.3.
- B. When not clinically contraindicated the following topic areas shall be addressed in treatment or by referral when applicable:
 - 1. Reductions or elimination of substance use;
 - 2. Individual safety issues
 - 3. Child safety issues;
 - 4. Trauma issues;
 - 5. Parenting issues;
 - 6. Ways in which substance use disorders impact and are impacted by family and relationships;
 - 7. Medical and primary health issues;
 - 8. Mental health issues;
 - 9. Nutrition.

21.220.4 SERVICES TO PREGNANT WOMEN [Eff. 11/1/13]

- A. Pregnant women shall be given priority admission to treatment for substance use disorders.
- B. Programs shall develop policies and procedures for service delivery to pregnant women, which shall include circumstances under which pregnant women may be discharged from treatment.
 - 1. Pregnant women may not be discharged from treatment solely for failure to maintain abstinence from substance use.
 - 2. Every effort shall be made to retain pregnant women in treatment for the duration of their pregnancies in order to maintain an optimal period of abstinence from substance use.
- C. Every attempt shall be made to admit pregnant women to treatment within forty-eight (48) hours of first contact between the woman and the admitting program.
- D. If a pregnant woman is not admitted to treatment within forty-eight (48) hours of first contact, the denial shall be clearly documented, the women's treatment coordinator for OBH shall be informed, and interim services shall be provided consisting of the following at minimum:
 - 1. Referral for pre-natal care;
 - 2. Information on the effects of alcohol and drug use on the fetus;
 - 3. Daily phone contact with the individual; and,
 - 4. Education regarding the transmission and prevention of communicable diseases such as HIV, hepatitis.

- E. Pregnant women shall be linked to prenatal care immediately and barriers to accessing prenatal care shall be addressed, including transportation to prenatal care.
- F. When a woman refuses to seek prenatal care or fails attempts to link her to care, this shall be documented in her record, and there shall be continuing efforts to link her to prenatal care until this is accomplished.

21.230 SUBSTANCE USE DISORDER EDUCATION AND TREATMENT FOR PERSONS INVOLVED IN THE CRIMINAL JUSTICE SYSTEM

21.230.1 GENERAL PROVISIONS

- A. Education, treatment, and ancillary services shall be provided to individuals convicted of misdemeanors and felonies who are assessed as needing substance use disorder treatment, as provided by Title 16, Article 11.5, Part 1, and C.R.S. and in accordance with current standardized assessment and placement protocol.
- B. All agencies admitting out of state offenders must identify and notify the Interstate compact unit for Adult Offender Supervision per Section 17-27.1-101, C.R.S.
- C. Services shall be based on the results of current screening and assessments.
- D. Agencies shall place individuals involved in the criminal justice system according to the standardized offender assessment provided by the referring criminal justice agency.
- E. Education, treatment and ancillary services as indicated by assessment and included in the service plan shall be provided for by the agency or through referrals.
- F. Agencies shall have a written memorandum of understanding with ancillary providers to make available agreed upon services and require specific data and exchange of information related to the individualized services.
- G. Education and treatment shall be a minimum of nine (9) months or as required by the referring criminal justice agency.
- H. Frequency and intensity of education and treatment services shall be based on assessments and at minimum one two hour session per week.
- I. The following content/topics shall be presented during offender treatment:
 - 1. Physiological and psychological effects of alcohol, marijuana and/or marijuana/THC infused products, stimulants, and other drugs;
 - 2. Signs and symptoms of substance use disorders;
 - 3. Stress management and substance use disorders;
 - 4. Anger management and substance use disorders;
 - 5. Behavioral triggers leading to substance use disorders;
 - 6. Drugs in the work place; and,
 - 7. Legal issues and substance use disorders.

- J. Agencies shall implement treatment curricula that are written in manual format and are evidence-based or best practices. All agency clinical staff working with the individuals involved in the criminal justice system population must be trained on and follow the specific curricula as written.
- K. Individuals will receive a complete copy of the participant materials/workbook associated with the approved curriculum. The agency may charge for the curriculum.
- L. Education and treatment sessions shall only consist of face-to-face (as defined in Section 21.240.1) contact and shall not include administrative procedures or breaks.
- M. Agency staff working directly with individuals shall have documented qualifications and training in forensic populations and criminal justice systems.
- N. Drug and alcohol toxicology collection must be observed by trained staff when requested by the referral source.
- O. Records shall contain monthly documentation of communication with the criminal justice referral source describing progress toward specific treatment goals. Agencies shall be responsible for monitoring and reporting to referring courts or their representatives the individual's progress with ancillary services.
- P. Agencies shall have written documentation in an individual's record that the individual has received services to assist in community reintegration, if applicable.

**21.230.2 ENHANCED OUTPATIENT EDUCATION AND TREATMENT SERVICES FOR
PERSONS INVOLVED IN THE CRIMINAL JUSTICE SYSTEM [Eff. 5/1/16]**

- A. An agency may provide enhanced outpatient services if it:
 - 1. Is licensed by the Department for education and treatment services for individuals involved in the criminal justice system;
 - 2. Is in compliance with Section 21.230.1; and,
 - 3. Provides a minimum of four (4) hours over two (2) group sessions of scheduled treatment per week.
- B. Frequency and intensity of treatment activities shall be based on current assessments and conducted in at least two (2) sessions per week.
- C. Changes in frequency and intensity of education and treatment activities shall be assessed.
- D. If, upon discharge from enhanced outpatient treatment, the minimum number of months required by the referring criminal justice agency have not been met, the agency shall transfer the individual to the appropriate level of care where remaining education and treatment requirements can be met.

21.240 DUI/DWAI, BUI, AND FUI EDUCATION AND TREATMENT

21.240.1 DEFINITIONS

“ADDs” is the Alcohol and Drug Driving Safety program, established under Section 42-4-1301.3, C.R.S. The Judicial Department administers an Alcohol and Drug Driving Safety program in each judicial district that provides pre-sentence and post-sentence alcohol and drug evaluations on all persons convicted of Driving, Flying, and Boating Under the Influence (DUI, FUI, BUI) and Driving With Ability Impaired (DWAI).

“Alcohol and Drug Evaluation Specialists” (ADES) are persons within the criminal justice system, qualified to conduct pre- and post-sentence evaluations on, and provide supervision for, persons convicted of Driving, Flying, and Boating Under the Influence (DUI, FUI, BUI) and Driving With Ability Impaired (DWAI).

“BUI” means Boating Under the Influence.

“DUI” means Driving Under the Influence.

“DWAI” means Driving With Ability Impaired.

“Face-to-Face”, for purposes of this section 21.240, means that the individual is physically in the same room as a professional person at an office of a behavioral health licensed or approved site. If the Governor or local government declares an emergency or disaster, video technology may be used. Video technology shall only be used as necessary because of circumstances related to the disaster or emergency.

“FUI” means Flying Under the Influence.

“Persistent Drunk Driver” defined in Section 42-1-102(68.5), C.R.S.

“Level I and Level II Education, Therapy or Treatment” means an approved alcohol and drug driving safety education or treatment program as defined in 42-4-1301.3(3)(c)(IV) C.R.S.

21.240.2 GENERAL PROVISIONS [Eff. 5/1/16]

- A. Agencies providing DUI/DWAI services shall develop and implement policies, procedures, and individualized service planning demonstrating recognition of issues and treatment needs unique to this individual population.
- B. Alcohol and Drug Driving Safety (ADDs) education and treatment services shall be restricted to those arrested, convicted of or receiving deferred prosecutions, sentences, or judgments for alcohol/other drug offenses related to driving (Title 42, Article 4, Part 13, C.R.S. and Title 42, Article 2, Part 1, C.R.S.), boating (Title 33, Article 13, Part 1, C.R.S.), or flying (Title 41, Article 2, Part 1, C.R.S.).
- C. Individuals who are admitted, educated, or treated for Driving Under the Influence (DUI), Driving While Ability Impaired (DWAI), Boating Under the Influence (BUI), or Flying Under the Influence (FUI) shall be screened, referred and placed in accordance with current ADDs program screening, referral, and placement procedures.
 - 1. If an agency does not have a copy of the ADDs referral paperwork, the agency shall conduct a screening of the individual using an evidence-based screening or promising practice process and instrument.

2. If an appropriate level of service has not been determined by the ADDS program screening, the agency shall follow guidelines established by the Colorado Department OF Human Services, Office of Behavioral Health, to determine the most appropriate level of service.
- D. Agencies that do not provide services as identified through the screening or in the individual's court order shall:
1. Refer the individual back to the Alcohol and Drug Evaluation Specialist with documentation of which service(s) will not be provided on site and identified referrals and suggestions for alternative services;
 2. Have a written memorandum of understanding or contract with the ancillary provider to make available agreed upon services and require specific data and exchange of information related to the individualized services; and,
 3. Be responsible for monitoring and reporting to referring courts or their representatives the individual's progress with ancillary services.
- E. Individuals with DUI/DWAI shall not be treated in groups with individuals with other offenses unless they need these groups as determined by the assessment and supported by the service plan.
- F. Agencies providing Level I Education, Level II Therapeutic Education, and Level II Therapy shall submit information using reporting formats and data systems approved by the Department when appropriate to:
1. Sentencing courts;
 2. The Department;
 3. Probation departments;
 4. Alcohol and Drug Evaluation Specialist;
 5. Department of Revenue Hearing Section; and,
 6. Motor Vehicle Division.
- G. Information released shall be in accordance with federal and state confidentiality regulations and shall include:
1. Enrollment;
 2. Cooperation;
 3. Attendance, hours and weeks completed;
 4. Treatment status and progress;
 5. Education/treatment levels;
 6. Fee payment;
 7. Compliance with ancillary services; and,

8. Discharge status.
- H. Agencies shall establish written policies and procedures to ensure that individual data is accurate and submitted within seven (7) business days of service or change in status.
- I. Level I education, Level II therapeutic education, and Level II therapy shall not be combined, nor shall hours completed for one count as hours completed in another.
- J. Individuals shall not be reported as finishing Level I education, Level II therapeutic education, or Level II therapy until all required content/topics have been completed over the minimum required hours and weeks.
- K. Agencies shall provide proof of individual enrollment and report individual status in Level II education and therapy, including discharge, to the Colorado Department of Revenue, Division of Motor Vehicles, within seven (7) business days using Department prescribed reporting formats, in accordance with Sections 42-2-132 and 42-2-144, C.R.S.
- L. Agencies shall provide accurate and timely submission of DUI/DWAI referral summaries (DRS) and other required data submitted through the Treatment Management System (TMS). Agency staff having access to the Treatment Management System shall do so in accordance with federal confidentiality laws.
- M. Discharge DUI/DWAI Referral Summary

Agencies shall provide a copy of the discharge DUI/DWAI referral summary, validated with an agency authorized signature, to individuals and referral sources within ten (10) business days following discharge from education and/or treatment.

 1. A copy of the discharge referral summary shall be provided to individuals at no charge;
 2. The discharge referral summary shall not be withheld for any reason including, but not limited to, collection of outstanding balances; and,
 3. Each discharge referral summary must reflect all DUI/DWAI services the individual received in a given treatment episode.
- N. Ignition Interlock
 1. Agencies shall screen all individuals with DUI/DWAI's for ignition interlock usage and requirements in accordance with the Department's interlock rules;
 2. Agencies shall offer interlock counseling to those individuals who have installed, or plan to install, an ignition interlock device in accordance with Department rules; and,
 3. Interlock counseling shall be offered on site or by referral to another Department licensed agency.

21.240.3 PROVISION OF SERVICES

- A. Agencies shall use and adhere to a curriculum written in a manual form that is evidence-based or a best practice specific to DUI/DWAI, and contains content and topic areas as determined by the Department.

- B. Agencies shall provide individuals with a complete copy of the participant materials and workbook associated with the approved curriculum being used. The agency may charge individuals for the curriculum materials.
- C. Agencies shall assign individuals to a specific class, group or individual session throughout the treatment episode. Individuals attending DUI/DWAI education may make up sessions missed by attending other education sessions that cover the missed content. Make-up groups for DUI/DWAI therapy are not allowed.
- D. Staff conducting DUI/DWAI, BUI and FUI education and therapy shall:
 - 1. Receive training in the curriculum;
 - 2. Meet the minimum staff qualifications per Sections 21.160 and 21.210.1, including credentialing and competency in group processes; and,
 - 3. Possess a CAS or LAC.
- E. Hours of attendance shall only be granted for face-to-face contacts and shall not include administrative procedures or breaks.
- F. Drug and alcohol toxicology collection must be observed by trained staff when requested by the referral source.

21.240.4 YOUTH DUI, DWAI, BUI and FUI EDUCATION AND TREATMENT [Eff. 5/1/16]

Licensed youth DUI/DWAI agencies shall comply with Section 21.200 Behavioral Health Services for Children and Adolescents, the adult DUI, DWAI, BUI, FUI rules (21.240) as well as the following:

- A. Youth under twenty-one (21) years of age that receive a DUI/DWAI are held to the same adult requirements under Alcohol and Drug Driving Safety (ADDS) education and treatment services as identified in (Title 42, Article 4, Part 13 and Title 42, Article 2, Part 1, C.R.S.) boating (Title 33, Article 13, Part 1, C.R.S.), or flying (Title 41, Article 2, Part 1, C.R.S.) and includes Section [42-4-1301.3(3)(c)(IV)] , C.R.S.
- B. Agencies licensed to provide Youth DUI, DWAI, BUI, and FUI education and treatment shall also be licensed to provide DUI/DWAI education and treatment.
- C. Whenever possible providers shall hold a separate group for youth.
 - 1. Providers shall use clinical judgement when determining age appropriate placement of youth under twenty-one (21) years of age in an adult group.
 - 2. When youth are placed in an adult group, individual sessions shall be offered to meet the developmental needs of the youth, when applicable.
- D. Youth under twenty-one (21) years of age shall receive a complete copy, age appropriate materials/workbook, associated with the approved curriculum. The agency may charge for the curriculum.
- E. Parents, other supportive adults, or significant others, shall participate throughout the length of treatment, unless contraindicated.

21.240.5 CONTENT OF RECORDS

Individual records shall be maintained for all levels of education and therapy and follow Section 21.170 (Records Care and Retention, General Provisions) and include:

- A. Court documents regarding referral and classification and placement;
- B. Attendance, individualized progress notes, and course completion data;
- C. Descriptions of content and topics covered during each session;
- D. Relevant reports and records of communication;
- E. Copies of Discharge DUI/DWAI Referral Summary;

21.240.6 Level I EDUCATION

- A. Level I education shall be twelve (12) hours of face-to-face instruction; hours may include intake.
- B. No more than four (4) hours shall be conducted in one (1) calendar day.
- C. Level I education shall be conducted in outpatient settings.

21.240.7 Level II THERAPEUTIC EDUCATION [Eff. 5/1/16]

- A. Agencies applying for approval to conduct Level II therapeutic education must also apply for approval to conduct Level II therapy and meet the requirements of both.
- B. Provision of Services for Level II therapeutic education shall:
 - 1. Be conducted in outpatient settings;
 - 2. Consist of twelve (12) attended weeks and a total of twenty-four (24) face-to-face contact hours; and,
 - 3. Not be conducted concurrently with Level II therapy unless clinical rationale is documented. The combined time in Level II therapeutic education and Level II therapy shall not be less than the minimum number of weeks required for Level II therapy.
- C. Individuals shall not attend more than one (1) session of Level II education per week.

21.240.8 LEVEL II DUI/DWAI THERAPY

21.240.81 LEVEL II Outpatient [Eff. 5/1/16]

- A. Programs applying for approval to conduct Level II therapy must also apply for approval to conduct Level II therapeutic education and meet the requirements for both.
- B. Individuals in Level II therapy shall be assigned treatment tracks in accordance with the ADDS program placement criteria or Department placement guidelines in the absence of the ADDS placement criteria. If a track has not been assigned by the ADDS program, the agency shall assign a track based on the Department's track guidelines. The Department track guidelines are as follows:

1. TRACK A. Individuals whose blood alcohol content was below the statutorily defined persistent drunk driving (PDD) level per Section 42- 1-102(68.5), C.R.S., and who have one offense for DUI/DWAI, BUI, or FUI. Track A is a minimum forty-two (42) face-to-face hours of group and/or individual Level II therapy conducted over twenty-one (21) or more weeks.
 2. TRACK B. Individuals whose blood alcohol content was at or above the statutorily defined PDD level per Section 42-1-102(68.5), C.R.S., and who have one offense for DUI/DWAI, BUI, or FUI. Track B is a minimum of fifty-two (52) face-to-face hours of group and/or individual Level II therapy conducted over twenty-six (26) or more weeks.
 3. TRACK C. Individuals whose blood alcohol content was below the statutorily defined PDD level per Section 42-1-102(68.5), C.R.S., and who have two or more offenses for DUI/DWAI, BUI, or FUI. Track C is a minimum of sixty-eight (68) face-to-face hours of group and/ individual Level II therapy conducted over thirty-four (34) or more weeks.
 4. TRACK D. Individuals whose blood alcohol content was at or above the statutorily defined PDD level per Section 42-1- 102 (68.5), C.R.S., and who have two or more offenses for DUI/DWAI, BUI, or FUI. Track D is a minimum of eighty-six (86) face-to-face hours of group and/or individual Level II therapy conducted over forty-three (43) or more weeks.
- C. Level II therapy shall be conducted only after Level II therapeutic education has been completed unless there is documented assessment and clinical rationale.
- D. Level II therapy group sessions (excluding enhanced or intensive outpatient) shall not be less than two (2) hours of therapeutic contact, and shall not include administrative procedures and breaks.
- E. Individuals are expected to attend group one (1) time per week. Clinical rationale for any changes in frequency of group attendance (fewer or more) shall be documented, and must reflect at least one (1) session per month. Therapy hours attended shall be conducted over the minimum number of weeks associated with the therapy track assigned.
- F. The assessment shall be updated at the onset of Level II therapy.
- G. Using the initial service plan as a basis, a revised service plan and subsequent reviews shall be developed for individuals in Level II therapy in accordance with Section 21.190.4.

21.240.82 DUI/DWAI Enhanced Outpatient THERAPY

- A. An agency licensed to provide DUI/DWAI services may qualify to provide enhanced outpatient therapy if it:
1. Is approved by the Department for Level II therapy;
 2. Meets all the requirements in Sections 21.110 through 21.190, Sections 21.240.2, 21.240.3, and 21.240.5 and Section 21.240.81; and,
 3. Demonstrates ability to provide eight (8) hours of scheduled treatment activities per week.
- B. Level II DUI/DWAI enhanced outpatient therapy shall:
1. Be based on assessments;

2. Include a minimum of three (3) to maximum eight (8) hours of treatment activities;
 3. Be conducted over a minimum of two (2) calendar days per week; and,
 4. Not include Level II education.
- C. DUI/DWAI enhanced outpatient services shall be in addition to any DUI/DWAI level or track requirements.
- D. Treatment activities shall be conducted for a minimum of ninety (90) calendar days.
- E. Changes in frequency and intensity of Level II enhanced outpatient treatment shall be driven and based on treatment service plan reviews.

21.240.83 DUI/DWAI Intensive Outpatient THERAPY

- A. An agency licensed to provide DUI/DWAI services may qualify to provide DUI/DWAI intensive outpatient therapy if it:
1. Is approved by the Department for Level II therapy;
 2. Meets all the requirements in Sections 21.110 through 21.190, Sections 21.240.2, 21.240.3, and 21.240.5, and Section 21.240.81; and,
 3. Demonstrates ability to provide at least nine (9) hours of scheduled treatment activities per week.
- B. DUI/DWAI intensive outpatient treatment therapy shall:
1. Be based on assessments;
 2. Include a minimum of nine (9) hours of treatment activities;
 3. Be conducted over a minimum of three (3) calendar days per week; and,
 4. Not include Level II education.
- C. DUI/DUI intensive outpatient services shall be in addition to any DUI/DWAI level or track requirement.
- D. The length of stay in level ii intensive outpatient shall be four (4) to six (6) weeks.
- E. Any changes in frequency and intensity of Level II intensive outpatient treatment shall be based on assessments and service plan reviews.

21.240.84 Partial Hospitalization, Clinically Managed Low Intensity Residential Services, Clinically Managed High Intensity Residential Services, and Medically Monitored Intensive Residential Treatment [Eff. 5/1/16]

- A. Partial Hospitalization, Clinically Managed Low Intensity Residential Services, Clinically Managed High Intensity Residential Services, and Medically Monitored Intensive Residential Treatment may qualify to provide DUI/DWAI therapy if they:
1. Meet all requirements under specific level of care in Section 21.210.5;

2. Meet all requirements in Sections 21.240.2 and 21.240.3; and,
 3. Are affiliated with the Department licensed outpatient DUI/DWAI programs.
- B. In order for individuals to receive DUI/DWAI therapy credit for participation in Partial Hospitalization, Clinically Managed Low Intensity Residential Services, Clinically Managed High Intensity Residential Services, and Medically Monitored Intensive Residential Treatment, the assessed and identified DUI/DWAI treatment areas must be included in the individualized service plan.

21.240.85 LEVEL II FOUR PLUS TREATMENT

- A. Level II Four Plus Treatment is an approved alcohol and drug driving safety education or treatment program as defined in Section 42-4-1301.3(3)(c)(IV) C.R.S. (2016), intended for someone who has four (4) or more alcohol and/or drug impaired driving offenses.
- B. In order to provide Level II Four Plus Treatment an agency must be licensed to provide:
1. Level II Therapeutic Education; and,
 2. Level II Therapy.
- C. Level II Four Plus Treatment must consist of not less than eighteen (18) months of attendance which includes a minimum of one-hundred eighty (180) hours of treatment.
- D. All Level II Four Plus Treatment shall be driven by the individual's clinical assessment.
- E. Level II Four Plus Staff Requirements
1. Staff providing Level II Four Plus Treatment must meet the requirements in Section 21.240.3(D), and:
 - a. CAS credentialed staff must be receiving clinical supervision or consultation by a CAS or LAC; or,
 - b. Licensed staff must have at least one (1) year of documented addiction counseling experience.
 2. Staff providing specialized treatment services must hold current and valid credentials and/or licensure in the area of service provision.
 3. Staff providing assessment must hold current and valid credentials and/or licensure in the area of service provision.
- F. Level II Four Plus Clinical Assessment(s)
1. A full assessment must be administered in accordance with section 21.190.3.
 2. In addition to the requirements in Section 21.190.3(D), the assessment must contain information on:
 - a. Cognitive functioning;
 - b. Traumatic brain injury;

- c. Adverse childhood experiences (ACES);
 - d. Grief and loss; and,
 - e. Co-occurring mental health issues.
- 3. Agencies shall utilize an assessment tool specifically designed to address co-occurring mental health issues in the impaired driver population.
- 4. Agencies shall document results and coordinate further services as appropriate.
- G. Level II Four Plus Service Planning and Reviews
 - 1. Level II Four Plus service planning and reviews must be administered in accordance with Section 21.190.4.
 - 2. Agencies providing Level II Four Plus Treatment shall conduct service plan reviews at a minimum of every sixty (60) days in collaboration with supervising probation officers.
 - 3. Consideration shall be given to clients' needs for aftercare and peer recovery support services.
- H. Level II Four Plus Discharge Planning

Level II Four Plus discharge planning must be administered in accordance with Section 21.190.6.
- I. Provision of Level II Four Plus services shall:
 - 1. Be determined by the results of the screenings and clinical assessment.
 - 2. Be a combination of education and treatment strategies that include, but not limited to:
 - a. Individual counseling;
 - b. Group therapy, unless clinically contraindicated;
 - c. Family/other supportive adult therapy, if applicable;
 - d. Interlock counseling, if the individual has an ignition interlock installed;
 - e. DUI Level II Education or Level II Therapy, if applicable;
 - f. Education, if applicable;
 - g. Medication assisted treatment, if applicable;
 - h. Residential treatment, if applicable;
 - i. Other treatment as indicated by the initial and ongoing clinical assessment.
 - 3. Agencies providing Level II Four Plus Treatment shall provide case management activities, where applicable, to ensure the coordination of client services and needs, and the continuity of care, with other services.

J. Testing and Monitoring

1. All clients shall be tested and/or monitored for alcohol and drug use. Testing and/or monitoring may include the following:
 - a. Urinalysis;
 - b. Breath analysis;
 - c. Continuous alcohol monitoring;
 - d. Mobile/remote breath testing;
 - e. Direct and indirect biomarker testing;
 - f. Drug and other testing as appropriate.
2. Agency drug and alcohol toxicology collection shall be observed by trained staff.
3. If testing is not done by the agency, there must be documentation of the efforts to obtain test results.
4. Testing and sharing of results shall be coordinated with probation.

21.240.9 DUI/DWAI BEHAVIORAL HEALTH SERVICES [Eff. 5/1/16]

Some behavioral health service contact hours and weeks may be included and reported as hours of Level II therapy. Credit for DUI/DWAI therapy hours may be given if the DUI/DWAI agency conducts a current comprehensive assessment and:

- A. The assessment and service plan support the need for behavioral health services.
- B. Supporting documentation that corresponds to requested hours and weeks of behavioral health services from the ancillary provider is requested and documented in the record.
- C. A discharge DUI/DWAI referral summary is completed for the hours and weeks granted.

21.250 [Repealed eff. 10/01/2020]

21.260 ALCOHOL AND DRUG EMERGENCY COMMITMENTS

- A. Emergency commitment policies and procedures, based on and in compliance with Sections 27-81-111 and 27-82-107, C.R.S., and these rules, shall be developed and implemented by the licensed withdrawal management programs to:
 1. Ascertain if grounds for commitment exist;
 2. Assure that individuals and their legal representatives receive copies of the application for emergency commitment forms and be advised verbally and in writing of the right to challenge commitment through the courts;
 3. Determine when grounds for emergency commitment no longer exist.

- B. The treatment facility administrator shall designate, in writing, qualified staff, who meet the criteria established in Section 21.210.914(B), to assume responsibility for accepting, evaluating, informing, and providing treatment to individuals on emergency commitment.
- C. Applications for emergency commitments shall be prepared on Department designated forms.
- D. Daily evaluations for emergency commitment continuance shall be documented.
- E. If individuals on an emergency commitment require treatment in other licensed withdrawal management programs, transfers may be managed by the programs that initially authorized the commitments.
- F. When transferring individuals, withdrawal management programs shall use Department designated transfer forms. Completed copies shall be given to:
 - 1. Individuals or their legal representatives;
 - 2. The withdrawal management programs to which individuals are being transferred.
- G. When minors are transferred, parents or legal guardians who have given permission for treatment shall receive copies of transfer forms.
- H. When it is determined grounds for emergency commitment no longer exists, the individual shall be transferred to voluntary status and the emergency commitment discontinued and documented. A copy of the form shall be given to the individual and made part of the treatment record.

21.270 ALCOHOL AND DRUG INVOLUNTARY COMMITMENTS [Eff. 5/1/16]

- A. All agencies funded by the Department or by a designated Managed Service Organization shall be licensed to treat individuals on involuntary commitment in accordance with this section.
- B. Involuntary commitment policies and procedures shall be developed and implemented based on and in compliance with Sections 27-81-112 and 27-82-108, C.R.S.
- C. The Department shall be the legal custodian of individuals involuntarily committed to treatment.
- D. Passes shall be issued to individuals on involuntarily commitments in residential settings only if they are directly related to treatment. Passes shall not be issued during the initial thirty (30) days of treatment except in emergencies and with Department approval.
- E. The following information shall be reported to the Department:
 - 1. Non-compliance with program requirements and/or court orders;
 - 2. Failure to appear for admission to treatment;
 - 3. Leaving treatment in violation of court orders;
 - 4. Failure to return from passes;
 - 5. Treatment status every thirty (30) days.
- F. Discharge summaries, as outlined in Section 21.190.6 shall be submitted to the Department, the referring source, and to the referral treatment or aftercare agency.

- G. Requests for early discharge and/or transfer to other treatment programs shall be submitted to the Department for approval.

21.270.1 STAFF REQUIREMENTS

- A. Primary counselors for individuals on involuntary commitment shall:
1. Be Colorado certified addiction specialists; or,
 2. Be Colorado licensed addiction counselors; or,
 3. Possess a clinical master's degree; and,
 4. Complete fourteen (14) hours of training in interviewing techniques related to engaging individuals in treatment.
- B. Copies of course certificates and other relevant documentation shall be retained in counselor personnel files.

21.280 CARE AND TREATMENT OF PERSONS WITH A MENTAL HEALTH DISORDER IN A DESIGNATED FACILITY

21.280.1 DEFINITIONS

"Facility" for the purposes of this section means any facility designated by the Department pursuant to Title 27, Article 65, C.R.S.

"Facility or community based personnel" means:

- A. A professional person;
- B. A registered professional nurse as defined in Section 12-38-103 (11), C.R.S. who by reason of postgraduate education and additional nursing preparation has gained knowledge, judgment, and skill in psychiatric or mental health nursing;
- C. A licensed marriage and family therapist, licensed professional counselor, or addiction counselor licensed under Part 5, 6, or 8 of Article 43 of Title 12, C.R.S., who by reason of postgraduate education and additional preparation has gained knowledge, judgment, and skill in psychiatric or clinical mental health therapy, forensic psychotherapy, or the evaluation of mental health disorders; or,
- D. A licensed clinical social worker licensed under the provisions of Part 4 of Article 43 of Title 12, C.R.S.

"Involuntary Medication" means psychiatric medication administered without an individual's consent.

"Licensed Independent Practitioner" for the purposes of this section means a practitioner permitted by law and by the agency to provide care, treatment, or services, without direction or supervision, within the scope of the practitioner license and consistent with assigned clinical responsibilities.

"Placement facility" means a public or private facility that has a written agreement with a designated facility to provide care and treatment to any individual undergoing mental health evaluation or treatment by a designated facility. A placement facility may be a general hospital, nursing care facility, or licensed residential child care facility.

“Professional person” means a person licensed to practice medicine in Colorado, a psychologist certified to practice in Colorado, or a person licensed and in good standing to practice medicine in another state or a psychologist certified to practice and in good standing in another state who is providing medical or clinical services at a treatment facility in Colorado that is operated by the armed forces of the United States, the United States Public Health Service, or the United States Department of Veterans Affairs.

“Psychiatric medication” is a medication being used to treat psychiatric illness for the patient including, but not limited to, anti-psychotics, antidepressants, and other medications that may have other medical uses but are accepted within the medical profession for psychiatric use as well.

“Secure Treatment Facility” for the purposes of these rules, means the Robert L. Hawkins High Security Forensic Institute at the Colorado Mental Health Institute at Pueblo.

“Therapy or treatments using special procedures” means a therapy that requires an additional, specific consent, including electro-therapy treatment (electro-convulsive therapy), and behavior modifications using physically painful, aversive, or noxious stimuli.

“Unduplicated” means an individual is counted only once, no matter how many specific services the individual received during the calendar year.

21.280.2 ORGANIZATIONAL PROVISIONS

21.280.21 Employment of Persons Receiving Services in Designated Facilities [Eff. 11/1/13]

- A. All labor, employment or jobs involving facility operation and maintenance which are of an economic benefit to the facility, shall be treated as work and shall be compensated according to applicable minimum wage or certified wage rates.
- B. Maintaining a minimum standard of cleanliness and personal hygiene and personal housekeeping, such as making one's bed or cleaning one's area, shall not be treated as work and shall not be compensated.
- C. Individuals shall not be forced in any way to perform work.
- D. Privileges or release from a designated facility shall not be conditioned upon the performance of work.
- E. Vocational programs and training programs must comply with all applicable federal and state laws.
- F. Vocational programs are not subject to the provisions in Section 21.280.21, A, unless the program is of economic benefit to the facility.
- G. All work assignments, together with a specific consent form, and the hourly compensation received, shall be noted in the individual's record.

21.280.22 Environment and Safety [Eff. 11/1/13]

- A. All individuals being treated under these regulations shall receive such treatment in a clean and safe environment with opportunities for privacy.
- B. A facility shall only place an individual in a bedroom with video monitoring due to good cause and safety or security reasons. Individuals shall be notified when placed in bedrooms with video monitoring capabilities.

- C. Each facility shall maintain reasonable security capabilities to guard against the risk of unauthorized departures. The least restrictive method to prevent an unauthorized departure shall be used.
- D. An unlocked facility may place an individual in seclusion to prevent an unauthorized departure when such departure carries an imminent risk of danger for the individual or for others. Under those circumstances, the seclusion procedures in Section 21.280.42, Use of Seclusion, shall be followed.
- E. Seclusion rooms must be a minimum of 100 square feet.

21.280.23 Facility Designated Pursuant to Title 27, Article 65, C.R.S., Care and Treatment of Persons with Mental Illness Data Requirements

- A. Each facility designated by the Department, pursuant to Title 27, Article 65 C.R.S, shall file an annual report with the Department. The report shall be submitted in the format and timeframe required by the Department. This data shall include individuals being treated in placement agencies under the auspices of the designated facility.
- B. For each designated facility, the annual report shall include the name, county, and address of the facility, as well as facility type as defined in 27-65-102(7), C.R.S.
- C. The data report requirements shall include the following types of information as listed in 1 through 4:

- 1. Seventy-Two (72) Hour Treatment and Evaluation (Mental Health Holds)

The facility is required to maintain a data set sufficient to report the following aggregate numbers to the Department annually by July 1, for the most recent, complete calendar year covering January 1 through December 31:

- a. The total number of unduplicated individuals, as defined in Section 21.280.1, who were on a seventy-two hour hold status, as well as:
 - 1) Total number of unduplicated individuals by gender;
 - 2) Total number of unduplicated individuals by race and ethnicity;
 - 3) Total number of unduplicated individuals by age; and,
 - 4) Total number of unduplicated individuals by county of residence.
- B. The total number of seventy-two hour holds, as well as, the total number of seventy-two hour holds grouped by:
 - 1) Who initiated the seventy-two hour hold (each hold can only meet the requirements of one category listed below):
 - a) Certified peace officer;
 - b) Court; or,
 - C) Facility or community based personnel as defined in section 21.280.1.

- 2) The reason(s) for the seventy-two hour hold (each hold can meet the requirements of multiple categories listed below):
 - a) Dangerous to self;
 - b) Dangerous to others; or,
 - c) Gravely disabled.
 - 3) Disposition of the seventy-two hour hold (each hold can only meet the requirements of one category listed below):
 - A) Released without need for further mental health services;
 - B) Referred for further mental health care and treatment on a voluntary basis;
 - C) Certified for treatment pursuant to 27-65-107, C.R.S.; or,
 - D) Transferred to another designated facility while still on the seventy-two hour hold.
- C. The total number of involuntary transportation holds, as defined in Section 21.281.1, received by the facility, as well as total numbers by outcome of the required screening, including at least:
- 1) Total number of involuntary transportation hold screenings resulting in the placement of a seventy-two hour hold;
 - 2) Total number of involuntary transportation hold screenings resulting in a referral for further mental health care and treatment on a voluntary basis; and,
 - 3) Total number of involuntary transportation hold screenings resulting in a release without need for further mental health services.

2. Short and Long-Term Certifications

The facility is required to maintain a data set sufficient to report the following aggregate numbers to the Department annually by July 1, for the most recent, complete calendar year covering January 1 through December 31:

- a. The total number of unduplicated individuals, as defined in Section 21.280.1, who were on a certification, as well as:
 - 1) Total number of unduplicated individuals by gender;
 - 2) Total number of unduplicated individuals by race and ethnicity;
 - 3) Total number of unduplicated individuals by age; and,
 - 4) Total number of unduplicated individuals by county of residence.
- B. The total number of certifications, as well as, the total number of certifications grouped by:

- 1) Type of certification (each certification can only meet the requirements of one category listed below):
 - a) Short-term;
 - b) Extended short-term;
 - c) Long-term; or,
 - d) Extended long-term.
 - 2) Reason for the certification (each certification can meet the requirements of multiple categories listed below):
 - a) Dangerous to self;
 - b) Dangerous to others; or,
 - c) Gravely disabled.
 - 3) Outcome of the certification (each certification can only meet the requirements of one category listed below):
 - A) Released without need for further mental health services;
 - B) Referred for further mental health care and treatment on a voluntary basis; or,
 - c) Certification extended; or,
 - d) Certification transferred.
3. Voluntary Individuals

The facility is required to maintain a data set sufficient to report the following aggregate numbers to the Department annually by July 1 for the most recent, complete calendar year covering January 1 through December 31, the total number of unduplicated individuals, as defined in Section 21.280.1, who accessed mental health treatment voluntarily pursuant to 27-65-103, C.R.S., as well as:

- A. Total number of unduplicated individuals by gender;
- B. Total number of unduplicated individuals by race and ethnicity;
- C. Total number of unduplicated individuals by age; and,
- D. Total number of unduplicated individuals by county of residence.

4. Additional Reporting Requirements

The facility is required to maintain data sets sufficient to report the following aggregate numbers to the Department annually by July 1 for the most recent, complete calendar year covering January 1 through December 31.

- a. Involuntary Medications

Total number of involuntary psychiatric medication procedures, including type of order:

- 1) Emergency; or,
- 2) Court-ordered.

b. Involuntary Treatments

- 1) Total number of restraint and/or seclusion episodes.
- 2) Total number by type of restraint.
- 3) Length of seclusion and/or restraint episode per individual.

c. Total number of electroconvulsive therapy procedures.

d. Imposition of Legal Disability or Deprivation of a Right

Total Number of court orders for:

- 1) Imposition of Legal Disability; and,
- 2) Deprivation of a Right.

- D. Pursuant to § 27-65-121, C.R.S., and HIPAA, as defined in Section 21.100, the facility must maintain confidentiality over the data sets. The reports generated from these data sets are also confidential; but the Department may release aggregated information contained in the reports so long as the total number of individuals in any aggregate data group (including county or facility name) is greater than thirty (30). If the total number in such a data group is less than or equal to thirty (30), the Department may release this information by redacting such number.

21.280.24 Staff Training Requirements [Eff. 11/1/13]

In addition to Section 21.160, facilities designated under these rules shall develop a training curriculum and schedule in order to meet the following requirements. Facilities may choose to use a certification of competency in lieu of training, and shall develop appropriate policies, procedures and testing to assure competency.

- A. All staff participating in the provision of the care and treatment for individuals with mental health disorders shall receive annual training or annual facility certification of competency on the provisions of these rules and the requirements of Section 27-65-101, et seq., C.R.S.
- B. All staff who administer involuntary medications shall receive annual training or annual facility certification of competency on Section 21.280 of these rules and the legal rationale underlying involuntary medication of individuals.
- C. All direct care staff shall receive annual training or annual facility certification of competency in the recognition and response to common side effects of psychiatric medications. These staff shall be trained to respond to emergency drug reactions in accordance with the facility's policies.
- D. All staff who administer restraint/seclusion techniques shall receive annual facility training or annual certification of competency on lower level behavioral interventions and Section 21.280.4 of these rules.

- E. All staff involved in the administration of the treatment program shall receive annual training or annual facility certification of competency on alternative or representative medical decision making, including, but not limited to advance directives, medical durable powers of attorney, and proxy decision making, and guardianships.
- F. Specific staff of placement facilities, as determined by the designated facility, shall receive annual facility training or annual certification of competency on the provisions of these rules and the requirements of Section 27-65-101, et seq., C.R.S.

21.280.25 Placement Facilities [Eff. 5/1/16]

- A. Facilities designated for seventy-two (72) hour evaluation and treatment, short-term, and long-term treatment may provide mental health services directly or through the use of placement facility contract. Whenever a placement facility is used there must be a written agreement with the designated facility. In either case, the designated facility is responsible for assuring an appropriate treatment setting for each individual and services provided in accordance with these rules. Whenever a placement facility is used, the designated facility shall be responsible for the care provided by the placement facility.
- B. All agreements between designated facilities and placement facilities and all supplemental agreements and amendments shall be submitted in writing to the Department no later than ten (10) business days after the effective date of the agreement or amendment.
- C. Only the following Colorado licensed facilities are eligible to be a placement facility:
 - 1. Nursing homes;
 - 2. Residential Child Care Facilities providing mental health services;
 - 3. Non-psychiatric hospitals providing in-patient medical services.
 - 4. Alternative Care Facilities.
- D. Emergency departments are not eligible to be, nor are considered placement facilities.
- E. Whenever a designated facility uses a placement facility, the agreement shall include:
 - 1. An annual training plan for placement facility staff that provides at a minimum training regarding mental health disorders, these rules, Title 27, Article 65, C.R.S., and appropriate, safe behavioral interventions. The implementation of the training plan shall be monitored by the designated facility;
 - 2. A requirement that supervision of direct care staff be provided by professional persons licensed in Colorado to practice medicine or a certified Colorado psychologist employed by or under contract with the designated facility, or designated professional person licensed in Colorado to practice medicine or a certified Colorado psychologist employed by the placement facility to be responsible for direct care supervision provided that the placement facility and the designated facility are operated by the same corporate entity;
 - 3. A requirement that assures the necessary availability and supervision of placement facility staff in order to carry out the contract; and,
 - 4. A requirement that the placement facility adheres to these rules through the placement facility agreement.

- F. Placement facilities agreements shall be executed and signed bi-annually when the designated facility submits its application for designation.
- G. A placement facility can be used by a designated facility, at its discretion under the provisions of these regulations, in order to provide care to any individual undergoing mental health evaluation or treatment. Designated facilities shall not place individuals in a placement facility unless all of the applicable provisions of these rules are met and placement in such facility is appropriate to the clinical needs of the individual. When a placement facility is required, the least restrictive facility possible and available must be used, consistent with the clinical needs of the individual.
- H. A placement facility shall not provide services beyond the scope of its license.

21.280.26 Individual Rights of Persons Receiving Evaluation Care or Treatment Pursuant to Title 27, Article 65, C.R.S. [Eff. 11/1/13]

- A. Individuals shall be informed they have the same rights as any individual, except as limited by law. Among these are the rights to:
 - 1. Receive services in the least restrictive setting, subject to available funding.
 - 2. Have an individualized service plan and the right to participate in the development and subsequent changes.
 - 3. Review the clinical record, as allowed by law.
 - 4. Designate a representative(s) verbally or in writing, to represent the individual's interests in matters related to grievances.
 - 5. Have access to a representative within the designated facility who provides assistance to file a grievance.
 - 6. Be informed by the designated facility that there will be no retaliation against an individual for exercising his or her rights.
- B. Facilities shall post individual rights in prominent places frequented by individuals receiving services.
- C. For Individuals receiving treatment in facilities designated pursuant to Title 27, Article 65, C.R.S.:
 - 1. The facility shall furnish all individuals receiving evaluation, care or treatment under any provisions of Title 27, Article 65, C.R.S., with a written copy of the rights listed under Subsection 21.280.26, C, 2 (translated into a language that the individual understands) upon admission. If the individual is not able to read the rights, the individual shall be read the rights in a language that s/he understands. These rules shall be interpreted by the Department in accordance with a standard of reasonableness.
 - 2. The facility shall post the following list of rights (in appropriate languages) in prominent places frequented by individuals and their families receiving services:
 - a. To receive and send sealed correspondence. No incoming or outgoing correspondence shall be opened, delayed, held or censored by the personnel of the facility;

- b. To have access to letter writing materials, including postage, and to have staff members of the facility assist him/her if unable to write, prepare and mail correspondence;
- c. To have reasonable and frequent access to a telephone, both to make and receive calls in privacy;
- d. To have frequent and convenient opportunities to meet with visitors. The facility may not deny visits by the individual's attorney, religious representative or physician at any reasonable time. The facility will provide privacy to maintain confidentiality of communication between an individual and spouse or significant other, family member(s), staff member(s), attorney, physician, certified public accountant and religious representative, except that if disclosure is required by law, then such privacy may be terminated;
- e. To wear his or her own clothing, keep and use his/her own individual possessions within reason and keep and be allowed to spend a reasonable sum of his/her own money;
- f. To refuse to take psychiatric medications, unless the individual is an imminent danger to self or others or the court has ordered administration of such medications;
- g. To not be fingerprinted unless required by law;
- h. To refuse to be photographed except for facility identification and the administrative purposes of the facility. Photographs and/or video recordings shall be confidential and shall not be released by the facility except pursuant to court order. No other non-medical photographs and/or video recordings shall be taken or used without appropriate consent or authorization (Section 27-65-117(4), C.R.S.).
- i. For individuals who are under certification for care and treatment, to receive twenty-four (24) hour notice before being transferred to another designated or placement facility unless an emergency exists, and the right to have the transferring facility notify someone chosen by the individual about the transfer;
- j. To confidentiality of treatment records except as required by law;
- k. To accept treatment voluntarily, unless reasonable grounds exist to believe the individual will not remain in treatment on this basis;
- l. To receive medical and psychiatric care and treatment in the least restrictive treatment setting possible, suited to meet the individual's needs and subject to available resources;
- m. To request to see his/her clinical record, to see the records at reasonable times, and if denied access, to be given the reason upon which the request was denied and have documentation of such placed in the individual record;
- n. To retain and consult with an attorney at any reasonable time; and,

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- e. No safety or security policy may limit an individual's right to see his or her attorney, clergy, or physician at reasonable times. However, the safety and security policy may provide that advance notice be given to the secure treatment facility for such visits so that the secure facility can adequately staff for the private visit, and take any measures necessary to ensure the safety of the visit.
- f. For the purposes of this rule, placement of individuals in secure treatment facilities on units that are locked at night:
 - 1) Individuals transferred to a secure treatment facility from the Department of Corrections, who are serving a sentence in the Department of Corrections, may be placed on units in which the bedroom doors are locked during sleeping hours.
 - 2) All other individuals who are newly admitted to a secure treatment facility may be placed on units in which the bedroom doors are locked during sleeping hours, for a time period not to exceed sixty (60) calendar days. After sixty (60) calendar days, these individuals will not be placed on a unit with locked doors during sleeping hours unless an individualized assessment is made and the treatment team determines that the individual is imminently dangerous to him/herself or to others.
 - 3) Sleeping hours shall begin no earlier than 9:00 p.m., end no later than 8:00 a.m., and shall not exceed 8-1/2 hours.
 - 4) Individuals shall be provided an effective means of calling for assistance when in a locked room during sleeping hours. The secure treatment facility shall provide staff to promptly assist an individual with his or her individual needs including, but not limited to, staff assigned to a day hall where staff will be able to hear and respond to individuals who knock on their room doors. An intercom call system may also be used. Staff shall monitor each individual's well-being through visual observation checks every fifteen (15) minutes.
- F. As set forth in Sections 27-65-104 and 27-65-127, C.R.S., an individual's rights may be limited or denied under court order by an imposition of legal disability or deprivation of a right.
- G. Information pertaining to the denial of any right shall be made available, upon request, to the individual or his/her attorney.

21.280.3 MEDICAL AND MEDICATION TREATMENT PROVISIONS

21.280.31 Medical/Dental Care [Eff. 11/1/13]

A. Seventy-Two (72) Hour Treatment and Evaluation Facilities

The facility shall ensure the availability of emergency medical care to meet the individual needs of each individual. The facility shall have and adhere to a written plan for providing emergency medical care to include at least:

- 1. A qualified licensed independent practitioner responsible for the completion of physical examinations within twenty-four (24) hours of admission.
- 2. The availability of a physician or access to an emergency medical facility on a twenty-four (24) hour, seven (7) days a week basis.

3. Emergency medical treatment, when indicated, shall be accessed immediately (within one hour) upon determination that an emergency exists.
4. Whenever indicated, an individual shall be referred to an appropriate specialist for either further assessment or treatment. The facility shall be responsible for securing an appropriate assessment to determine the need for further specialty consultation. This information shall be contained in the clinical record.

B. Short-Term and Long-Term Treatment Facilities

The facility shall ensure the availability of medical care and emergency dental care to meet the individual needs of each individual. The facility shall have and adhere to a written plan for providing medical and emergency dental care to include at least:

1. A qualified licensed independent practitioner responsible for the completion of physical examinations within twenty-four (24) hours of admission. Subsequent physical examinations shall be completed annually. This information shall be included in the clinical record.
2. The availability of a qualified licensed independent practitioner or emergency medical facility on a twenty-four (24) hour, seven (7) days a week basis.
3. Emergency medical treatment, when indicated, shall be accessed immediately (within one hour) upon determination that an emergency exists.
4. Whenever indicated, an individual shall be referred to an appropriate specialist for either further assessment or treatment. The facility shall be responsible for securing an appropriate assessment to determine the need for further specialty consultation. This information shall be contained in the clinical record.
5. Ongoing appraisals of the general health of each individual, including need for immunizations in accordance with applicable state and federal law and need for corrective and assistive devices such as glasses, hearing aids, prostheses, dentures, walkers, etc. This information shall be contained in the clinical record.

- C. The obligation to ensure the availability of emergency medical services shall not be construed as the obligation to pay for such services; however, the facility shall secure these services regardless of source of payment.

21.280.32 Psychiatric Medications [Eff. 11/1/13]

- A. In all instances where prescription psychiatric medications are to be ordered as a part of a mental health treatment program, the following information shall be provided to the individual and legal guardian(s). For children under the age of fifteen (15), the following information shall be provided to the child's parent(s) or legal guardian(s). When an individual has designated another to act concerning medication issues pursuant to a medical durable power of attorney, advanced directive, or proxy, the information shall be provided to that individual also.

1. The name(s) of the medication being prescribed.
2. The usual uses of the medication(s).
3. The reasons for ordering the medication(s) for this individual.
4. A description of the benefits expected.

5. The common side effects and common discomforts, if any.
 6. The major risks, if any.
 7. The probable consequences of not taking the medication(s).
 8. Any significant harmful drug or alcohol interactions, or food interactions.
 9. Appropriate treatment alternatives, if any.
 10. That s/he may withdraw agreement to take the medication at any time.
- B. The facility shall have policies and procedures for documenting in the clinical record that the required information was given to the individual, custodian, or guardian and consent obtained before administration of medication(s).
- C. The provider with prescriptive authority or his/her designee shall offer to answer inquiries regarding the medication(s).
- D. No individual shall be threatened with or subjected to adverse consequences by facility staff solely because of a failure to accept psychiatric medication voluntarily.
- E. If an individual has established an advance directive concerning psychiatric medication and the advance directive is still in effect, the Colorado licensed physician or psychologist shall follow the directive unless contraindicated in a psychiatric emergency.
- F. Prescribing, Handling, Administration of Psychiatric Medication(s)

All psychiatric medication(s) shall be administered on the written order of a physician or other professional authorized by statute to order such medications. Verbal medication orders may be given according to facility policies.

1. The facility shall have written policies and procedures regarding Section A, above, and the following:
 - a. Documentation of the administration of medication, medication variances/errors, and adverse medication reactions related to medication administration;
 - b. Notification to a physician or other professional authorized by statute to order such medications in case of medication errors and/or medication reactions/events;
 - c. Discontinuance of medication;
 - d. Disposal of medications; and,
 - e. Acceptance of verbal, fax, or electronically transmitted medication orders.
2. The facility shall note in the individual clinical record all prescription medications administered to the individual by the facility including:
 - a. The name and dosage of medication;
 - b. The reason for ordering the medication;

- c. The time, date and dosage when medication(s) is administered;
- d. The name and credentials of the individual who administered the medication;
- e. The name of the prescribing professional authorized by statute to order such medication; and,
- f. If the medication is administered as an emergency medication or a court-ordered medication.

21.280.33 Involuntary Psychiatric Medications [Eff. 11/1/13]

These rules do not apply to refusal of non-psychiatric medications or medical emergencies. If an individual refuses medications intended to treat general medical conditions and that refusal is likely to cause or precipitates a medical emergency, those professionals who are authorized to order and administer medications may take action in accordance with generally accepted medical practice in an emergency situation.

21.280.34 Psychiatric Emergency Conditions [Eff. 11/1/13]

- A. Individuals who are detained pursuant to Sections 27-65-105, 106, 107, 108 or 109, C.R.S., and refuse psychiatric medication may be administered psychiatric medication(s) ordered up to twenty-four (24) hours without consent under a psychiatric emergency condition.
- B. An emergency condition exists if:
 - 1. The individual is determined to be in imminent danger of harming herself/himself or others, as evidenced by symptoms which have in the past reliably predicted imminent dangerousness in that particular individual; or,
 - 2. By a recent overt act, including, but not limited to, a credible threat of bodily harm, an assault on another individual or self-destructive behavior.
- C. A reasonable attempt to obtain voluntary acceptance of psychiatric medication shall be made prior to the use of involuntary medication.

21.280.35 Continuation of a Psychiatric Emergency

- A. If the psychiatric emergency has abated because of the effect of psychiatric medications and the physician is of the opinion that psychiatric medication is necessary to keep the emergency in abeyance beyond seventy-two (72) hours, then within that seventy-two (72) hours the following steps shall be taken:
 - 1. The facility shall send a written request for a court hearing for an order to administer the medication involuntarily; and,
 - 2. A documented concurring consultation with another physician shall be obtained. The consultation shall include an examination of the individual and a review of the clinical record including an assessment as to whether the psychiatric emergency condition continues to exist.

3. If a concurring consultation is not obtained within seventy-two (72) hours, then emergency psychiatric medication shall be discontinued until such concurring consultation is obtained and documented, except in cases where life threatening consequences could result from an abrupt medication discontinuation. Under these circumstances, the individual shall be safely taken off the medication according to standards of medical practice, with corresponding clinical documentation.
 4. In no case shall an individual receive emergency psychiatric medication(s) involuntarily for a period exceeding ten (10) days without an order from a court of competent jurisdiction, including continuation orders from the court.
 5. The individual shall be notified of the right to contact his or her attorney and/or the court of competent jurisdiction at the time the written request for court-ordered medication is made. This notification shall be documented in the clinical record. If an individual chooses to exercise this right, the designated facility shall aid the individual if necessary, in accomplishing the foregoing.
- B. The specific facts outlining behaviors supporting the finding of the emergency condition shall be detailed in the clinical record. Every twenty-four (24) hours thereafter until such time a final court order is issued, the emergency is resolved, or the individual accepts psychiatric medications voluntarily, the facility shall document the behaviors that substantiated the need to continue the emergency medication, and the physician shall reorder the psychiatric medications.
- C. During the course of emergency medication administration, the individual shall be offered the medication on a voluntary basis each time the medication is given. If the individual voluntarily consents to take the medication(s), and the attending physician determines that the individual will likely continue to accept the medication on a voluntary basis and no longer requires involuntary medications, this shall be documented in the record and the involuntary medication procedures shall be terminated.
- D. If the individual again refuses to voluntarily accept medication(s) and his or her clinical condition returns to an emergency situation as defined in Section 21.280.34, the emergency psychiatric medication procedures may be re-instituted.

21.280.36 Non-Emergency Involuntary Medications [Eff. 11/1/13]

- A. In non-emergency situations in which an individual who is detained pursuant to Sections 27-65-106, 107, 108, or 109, C.R.S., would benefit from the administration of a psychiatric medication, but the individual does not consent, the facility shall petition the court to obtain permission to administer such medication. The following conditions must be documented in the petition:
1. The individual is incompetent to effectively participate in the treatment decision;
 2. Treatment by psychiatric medication is necessary to prevent a significant and likely long-term deterioration in the individual's mental condition or to prevent the likelihood of the individual causing serious harm to him/herself or others;
 3. A less intrusive appropriate treatment alternative is not available; and,
 4. The individual's need for treatment by psychiatric medication is sufficiently compelling to override any bona fide and legitimate interest of the individual in refusing treatment.
- B. The petition shall specify what class or name of psychiatric medication is being recommended as potentially beneficial to the individual.

- C. No psychiatric medications shall be administered without the individual's consent until a court order is received authorizing involuntary use, except under emergency conditions under Section 21.280.34.

21.280.37 Involuntary Medication Data [Eff. 11/1/13]

If the facility uses a medication administration record or another mechanism which meets the criteria listed in Section B, below, can correlate this information as required in Section C, below, and places the information in the clinical record, that mechanism may be used in lieu of a separate log.

- A. The designated facility must maintain a log of all cases where involuntary medications were administered.
- B. The record shall contain, at a minimum, the following:
 - 1. Individual's name and identifying number.
 - 2. Specified use of involuntary medication.
 - 3. Physician or other professional authorized by law ordering involuntary medication.
 - 4. Date/time each involuntary medication was administered.
 - 5. Date/time involuntary medication was discontinued.
 - 6. Reason for discontinuation of involuntary medication(s).
- C. The facility shall have the ability to determine, at a minimum, the aggregate number of individuals receiving emergency and involuntary psychiatric medications during a specified period of time, the start and stop dates for each individual's involuntary medication treatment, and shall incorporate the use of this data into the quality improvement program.

21.280.4 SECLUSION, RESTRAINT, AND PHYSICAL MANAGEMENT FOR 27-65 DESIGNATED FACILITIES [Eff. 11/1/13]

The following rules covering seclusion and restraint apply to all areas of the designated facility including emergency departments and to placement facilities. If a facility is authorized to use physical management, restraint or seclusion at the facility, the facility shall use physical management, restraint or seclusion only in accordance with the following rules unless the specific rules prohibit, limit or modify the requirements placed upon the facility.

- A. Individuals being detained under Sections 27-65-105 through 109, C.R.S., may be secluded or restrained over their objection under the conditions in Section 21.280.4; otherwise, there must be a signed informed consent for such an intervention as outlined in Section 21.280.5 of these rules.
- B. These rules do not supersede any requirements under Section 26-20-101, et seq., C.R.S.
- C. Staff shall ensure that no individual will harm or harass an individual who is secluded and/or restrained.
- D. These measures may only be used in accordance with a service plan developed in consultation with and based on a written order by a Colorado licensed physician or psychologist. The service plan, which shall document if less restrictive measures were unsuccessful, shall be evaluated by a Colorado licensed physician or psychologist every twenty four (24) hours.

21.280.41 Definitions [Eff. 11/1/13]

“Mechanical Restraint” means a physical device used to involuntarily restrict the movement of an individual or the movement or normal function of a portion of his or her body. Types of mechanical restraints include, but are not limited to: restraint sheets, camisoles, belts attached to cuffs, leather armlets, restraint chairs, and shackles.

“Physical Management” means the physical action of placing one’s hands on an individual. Physical management may be used to gain physical control in order to protect the person or others from harm after all attempts to verbally direct or de-escalate the person have failed. Physical management may be utilized when an emergency situation exists. The physical management continuum may include:

- A. Utilizing transitional measures.
- B. Placing one’s hands on a person to physically guide and/or physically control the person.
- C. Use of an approved restraint method to control or contain the person.
- D. Placing of a person into an approved prolonged restraint method.
- E. Physical management may be used to move or escort a person into seclusion. Seclusion, in itself, is not a form of physical management.

“Physical Restraint” means the use of bodily, physical force to involuntarily limit a person’s freedom of movement, except that “physical restraint” does not include the holding of a child by one adult for the purpose of calming or comforting the child.

“Seclusion” means the confinement of a person alone in a room from which egress is prevented. Seclusion does not include the placement of persons, who are assigned to an intake unit in a secure treatment facility, in locked rooms during sleeping hours pursuant to Section 21.280.26.E thru G.

21.280.42 Use of Seclusion [Eff. 11/1/13]

- A. Seclusion may be used only for the purpose of preventing imminent injury to self or others, or to eliminate prolonged and serious disruption of the treatment environment. Any time an individual is placed alone in a room and not allowed to leave, it shall be construed as seclusion.
- B. An unlocked designated facility may place an individual in seclusion to prevent an unauthorized departure when such departure carries an imminent risk of dangerousness for the individual or for others. Under those circumstances, the seclusion procedures in this section shall be followed.
- C. Any decision to seclude shall be based on a current clinical assessment, and may also be based on other reliable information including information that was used to support the decision to take the individual into custody for treatment and evaluation. The fact that an individual is being evaluated or treated under Sections 27-65-105 through 27-65-109, C.R.S., shall not be the sole justification for the use of seclusion.
- D. Seclusion shall be used only when other less restrictive methods have failed. Documentation of less restrictive methods and the outcome shall be contained in the clinical record.
- E. Seclusion rooms shall be lighted, clean, safe, and have a window for staff to observe.
- F. Seclusion shall only be ordered by a Colorado licensed physician or psychologist.

- G. Seclusion shall not be used for punishment, for the convenience of staff, or as a substitute for a program of care and treatment.

21.280.43 Use of Restraint [Eff. 11/1/13]

Restraint may be used in emergency circumstances, wherein the individual presents a serious, probable imminent threat of bodily harm and has the ability to affect such harm.

- A. The decision to restrain shall be based on a current clinical assessment, and may also be based on other reliable information including information that was used to support the decision to take the individual into custody for treatment and evaluation. The fact that an individual is being evaluated or treated under Sections 27-65-105 through 27-65-109, C.R.S., shall not be the sole justification for the use of restraint.
- B. Mechanical restraints may be used only for the purpose of preventing such bodily movement that is likely to result in imminent injury to self or others. Mechanical restraint shall not be used solely to prevent unauthorized departure.
- C. Restraint of a single limb is not permitted, unless court-ordered or approved by the superintendent and the executive body of the secure treatment facility, utilizing the assessment standards set forth in Section 26-20-101, et seq., C.R.S.; Section 21.280.43, A, of these rules; and the secure treatment facility's policies.
- D. Restraint of an individual by a chemical spray is not permissible.
- E. The type of restraint shall be appropriate to the type of behavior to be controlled, the physical condition of the individual, the age of the individual and the type of effect restraint may have upon the individual.
- F. Restraint shall be applied only if alternative interventions have failed. Alternative interventions shall be documented in the clinical record; however, alternative techniques are not required if the alternatives would be ineffective or unsafe, when the individual is physically combative or actively assaultive or self-destructive.
- G. Justification for immediate use of restraint shall be documented in the clinical record.
- H. Restraint shall only be ordered by a Colorado licensed physician or psychologist.
- I. Restraint shall not be used for punishment, for the convenience of staff, or as a substitute for a program of care and treatment.
- J. Restraint does not include restraints used while the facility is engaged in transporting an individual from one facility or location to another facility or location within a facility when it is within the scope of that facility's powers and authority to effect such transportation pursuant to Section 26-20-101, et seq., C.R.S.

21.280.44 Explanation to Individual [Eff. 11/1/13]

In any situation, information shall be given to the individual, and guardian when applicable, as soon as possible after s/he has been secluded or restrained. The individual shall be given a clear explanation of the reasons for use of such intervention, the observation procedure, the desired effect, and the circumstances under which the procedure will be terminated. The fact that this explanation has been given to the individual shall be documented in the clinical record.

In an emergency situation, information given to the individual pursuant to this rule regarding the desired effect and the circumstances under which the procedure(s) will be terminated may not be as detailed as in a non-emergency situation. However, as the individual's condition improves, staff shall promptly supplement the information given and this shall be documented in the clinical record.

21.280.45 Continued Use of Seclusion and/or Restraint [Eff. 11/1/13]

- A. Staff shall document efforts to assure that the use of seclusion/restraint shall be as brief as possible.
- B. If the seclusion/restraint episode goes beyond one (1) hour, a Colorado licensed physician or psychologist must provide an order. A verbal order, including telephone or other electronic orders, may be used if followed by a written order by the Colorado licensed physician or psychologist.
- C. Seclusion and/or restraint shall not be ordered on an "as needed" basis.
- D. If the individual has not been examined by a Colorado licensed physician or psychologist within the previous twenty-four (24) hours, seclusion and/or restraint continued in excess of four (4) hours will require a face-to-face examination and a new written order by Colorado licensed physician or psychologist. If there has been a documented examination by a Colorado licensed physician or psychologist within the previous twenty-four (24) hours, seclusion/restraint continued in excess of fourteen (14) hours will require a face-to-face examination and a new written order by a Colorado licensed physician or psychologist prior to each succeeding twenty-four (24) hours of seclusion/restraint to assure that the need for these interventions is still present. The reasons for continuation shall be documented in the clinical record by the Colorado licensed physician or psychologist.
- E. An episode of seclusion/restraint is terminated when the individual has been out of seclusion/restraint for a continuous period of two (2) hours.
- F. Continued seclusion/restraint in excess of twenty-four (24) hours shall require an administrative review by the medical/clinical director of the facility or his/her designee, other than the Colorado licensed physician or psychologist in charge of treatment. The reviewer shall be an individual with the authority and knowledge necessary to review clinical information and reach a determination that the extension of a seclusion and/or restraint episode beyond twenty four (24) hours is clinically necessary.
- G. If the reviewer does not concur with the order for continuation of seclusion/restraint, the order shall be discontinued and the professional person in charge of treatment shall be notified of such discontinuation.
- H. An administrative review shall be initiated at the conclusion of each twenty four (24) hour period of continuous use of seclusion/restraint, and shall be completed prior to the expiration of each twenty four (24) hour period.

21.280.46 Chart Documentation for the Use of Seclusion and/or Restraint [Eff. 11/1/13]

- A. A staff member shall record each use of seclusion and/or restraint and the clinical justification for the use in the individual's chart. The justification shall include:
 - 1. The individual's specific behavior(s) and the nature of the danger;
 - 2. Describe attempts made to control the individual's behavior prior to using seclusion and/or restraint;

3. Describe the circumstances under which seclusion/restraint will be terminated and evidence that these criteria were given to the individual; and,
 4. Notification to a Colorado licensed physician or psychologist within one (1) hour of the seclusion/restraint intervention.
- B. Administrative review shall document the clinical justification for the continued use of seclusion/restraint in the individual's chart. The justification shall include:
1. Documentation that the professional person ordering the continuous use of seclusion/restraint in excess of twenty-four (24) hours has conducted a face-to-face evaluation of the individual within the previous twenty-four (24) hours.
 2. Documentation of the ongoing behaviors or findings that warrant the continued use of seclusion/restraint and other assessment information as appropriate.
 3. Documentation of a plan for ongoing efforts to actively address the behaviors that resulted in the use of seclusion/restraint.
 4. A determination of the clinical appropriateness of the continuation of seclusion/restraint.
 5. A summary of the information considered by the reviewer and the result of the administrative review with the date, time and signature of the individual completing the review.
- C. Information regarding use of seclusion/restraint shall be readily accessible to authorized individuals for review. Facilities shall have the ability to gather data as follows:
1. Each seclusion/restraint episode including date and time the episode started and ended, specific to each individual.
 2. Aggregated data to include total number of individuals secluded/restrained and average length of time of the episodes over the period of one year.

21.280.47 Observation and Care [Eff. 11/1/13]

- A. An individual who is in seclusion/restraint shall be observed in person by staff at least every fifteen (15) minutes, and such observation, along with the behavior of the individual, shall be recorded each time. Unless contraindicated by the individual's condition, such observation shall include efforts to interact personally with the individual.
- B. Ongoing provisions shall be made for nursing care, hygiene, diet and motion of any restrained limbs. For individuals in mechanical restraints, the facility shall provide relief periods, except when the individual is sleeping, of at least ten (10) minutes as often as every two hours, so long as relief from the mechanical restraint is determined to be safe. Staff shall note in the record relief periods granted. The individual shall have access to food at least every four (4) hours and shall have access to fluids and toileting upon request or during relief periods, but at least every two (2) hours, unless sleeping.
- C. Cameras and other electronic monitoring devices shall not replace the face-to-face observations.
- D. An individual in physical restraint shall be released from such restraint within fifteen (15) minutes after the initiation of physical restraint, except when precluded for safety reasons pursuant to Section 26-20-101, et seq., C.R.S.

- E. To the extent that the duties specified in Section 26-20-101, et seq., C.R.S. are more protective of individual rights, the provisions 26-20-101, et seq., C.R.S. shall apply.

21.280.48 Facility Policies and Procedures for Seclusion/Restraint [Eff. 11/1/13]

The facility shall have and shall implement written policies and procedures that describe the situations in which the use of seclusion and/or restraint are considered appropriate within each specific program and the staff members who can order their use. The policies and procedures shall include the requirements in Section 21.280.4 of these rules and Section 26-20-101, et seq., C.R.S.

In the event a facility does not authorize the use of seclusion and/or restraint of any type, the policy statement shall note the prohibition.

The policies and procedures shall include implementing administrative review including a process for terminating the seclusion and/or restraint episode when the reviewer does not concur with the order for continuation. If the reviewer is not a Colorado licensed physician or psychologist, then the order must be discontinued by a Colorado licensed physician or psychologist.

21.280.5 THERAPY OR TREATMENT USING SPECIAL PROCEDURES

21.280.51 Informed Consent [Eff. 11/1/13]

Therapies using stimuli such as electroconvulsive therapy (ECT), and behavior modifications using physically painful, aversive or noxious stimuli, require special procedures for consent and shall be governed by this rule.

- A. Prior to the administration of a therapy listed above, written informed consent shall be obtained and documented in the clinical record reflecting agreement by both the individual being treated and his/her legal guardian, if one has been appointed or alternative decision maker if one exists. If the individual undergoing treatment using special procedures is a child age sixteen (16) to eighteen (18), the clinical record shall reflect informed consent by both the child and his/her guardian(s).
- B. In the case of electroconvulsive therapy, a consent form prescribed by the Department shall be used and procedures set forth in Sections 13-20-401 through 13-20-403, C.R.S., shall be followed. An informed consent means:
1. It is freely and knowingly given and expressed in writing.
 2. That the following has been explained to the individual:
 - a. The reason for such treatment information;
 - b. The nature of the procedures to be used in such treatment, including their probable frequency and duration;
 - c. The probable degree and duration of improvement or remission expected with or without such treatment;
 - d. The nature, degree, duration, and probability of the side effects and significant risks of such treatment commonly known by the medical profession, the possible degree and duration of memory loss, the possibility of permanent irrevocable memory loss, and the remote possibility of death;

- e. The reasonable alternative treatments, if any, and why the Colorado licensed physician or psychologist is recommending the specific treatment;
 - f. That the individual has the right to refuse or accept the proposed treatment and has the right to revoke his consent for any reason at any time, either orally or in writing;
 - g. That there is a difference of opinion within the medical profession on the use of some treatments;
 - h. An offer to answer any inquiries concerning the recommended special procedures; and,
 - i. The number of treatments expected over a specified period of time to achieve maximum benefit.
- 3. The consent agreement entered into by the individual or other individual(s) shall not include exculpatory language through which the individual or other individual(s) is made to waive, or appear to waive, any of his/her legal rights, or to release the facility or any other party from liability for negligence.
 - 4. Informed consent for the special procedure shall be renewed each time the maximum number of treatments is given or the specified amount of time has expired. No informed consent for special procedures shall be valid for more than thirty (30) days.
 - 5. No one under the age of sixteen (16) shall undergo electroconvulsive treatment.
 - 6. Electroconvulsive treatment requires a concurring consultation by a licensed psychiatrist prior to administration of the treatment. Such consultation shall be noted in the clinical record.
 - 7. All provisions of Sections 13-20-401 through 13-20-403, C.R.S., shall be followed.

21.280.52 Involuntary Treatment Using Special Procedures [Eff. 11/1/13]

In the event the individual or the legal guardian refuses to or cannot consent, treatments referenced in Section 21.280.51 using special procedures shall be administered only under the following circumstances:

- A. With a prior court order for the treatments using special procedure; or,
- B. In an emergency in which the life of the individual is in imminent danger because of the individual's condition. In an emergency situation in which the individual is unable to grant informed consent and sufficient time does not exist to petition the court for an order prior to the administration of the specific therapy, the individual's physician, in consultation with the director of the facility or his/her designee, may, after careful and informed deliberation and under procedures adopted by the facility, order a special procedure without consent.

21.280.53 Documentation of Special Procedures [Eff. 11/1/13]

Along with the evidence of informed consent as delineated in this section, the reason for the use of any special procedure shall be fully documented in the individual's record. The administration and outcome of such special procedure shall also be documented in the clinical record.

21.280.54 Procedures [Eff. 11/1/13]

Each designated facility shall adopt written procedures for administration of special procedures in accordance with these rules and applicable statutes.

21.280.6 CONTINUITY OF CARE [Eff. 11/1/13]

Each facility shall adopt and implement a written policy for continuity of care. The policy shall include at a minimum the following:

- A. Access to all necessary care and services within the facility, and coordination with any other current mental health care providers or other systems of care or support as appropriate.
- B. Coordination of care with the individual's previous mental health care providers or medical providers as appropriate, including retrieval of psychiatric and medical records.
- C. Coordination of the individual's care with family members, guardians and other interested parties as appropriate and in a manner that reflects the individual's culture and ethnicity.
- D. The facility is not responsible for providing non-psychiatric medical care under these rules, but shall facilitate access to proper medical care and shall be responsible for coordinating mental health treatment with medical treatment provided to the individual.

21.280.7 TRANSFER OF CARE AND TRANSPORTATION

21.280.71 Transfer of Care [Eff. 11/1/13]

- A. The individual shall only be transferred to another designated or placement facility when adequate arrangements for care by the receiving facility have been made and documented in the clinical record. Transfer coordination shall include at least one discharge planning conference, face-to-face or by telephone, with participants from both facilities and the individual and his/her guardian, whenever possible.
- B. At least twenty-four (24) hours advance notice of transfer shall be given to individuals under certification, unless knowingly waived in writing by the individual and guardian as appropriate, except in cases of a medical emergency. Notice of such transfer shall also be provided to the court of competent jurisdiction and the individual's attorney.
- C. The transferring facility shall ask the individual to indicate two (2) individuals to whom notification of transfer should be given and shall notify such individuals within twenty-four (24) hours of notification to the individual. Such notification shall be made by the transferring facility with the appropriate written authorization. Actions taken under this section shall be documented in the clinical record.

21.280.72 Transportation [Eff. 11/1/13]

Whenever transportation of an individual is required, the treating staff of the facility shall assess the individual for dangerousness to self or others and potential for escape. Whenever clinically and safely appropriate, the individual may be transported by other means such as ambulance, care van, private vehicle, and restraints shall not be used, unless authorized as necessary by the treating physician. If the treating staff assesses the individual as dangerous to self or others or as an escape risk, the staff may request transportation by the local Sheriff's Department.

- A. A request for transportation from the Sheriff's Department shall be filed with the court of appropriate jurisdiction and shall include:

1. Statements from the treating Colorado licensed physician or psychologist supporting the need for transportation by the Sheriff's Department;
 2. Recommendations concerning the use of mechanical restraints and the impact that handcuffs or shackles would have on the individual;
 3. Recommendations for soft restraints, not handcuffs or shackles, if the findings of the assessment support the use of mechanical restraint;
 4. Recommendations concerning the placement and management of the individual during the time s/he will be absent from the designated facility due to court hearings;
 5. Recommendations of considerations for management of the individual based on the individual's age, physical abilities, culture, medical and psychiatric status and/or stability.
- B. Notice of the request for transportation by the Sheriff's Department shall be given to the individual and his/her attorney at least twenty-four (24) hours prior to the time it is filed with the court. This notice shall not be required during the time a seventy-two hour hold is in effect or in an emergency situation with an individual under certification or when the individual signs a waiver which has been clearly explained.
- C. Requesting transportation by the Sheriff's Department does not require a finding of dangerousness to self or others or an escape risk if the Sheriff's Department is willing to transport the individual without the use of mechanical restraints.

21.280.8 CERTIFICATION FOR TREATMENT ON AN OUTPATIENT BASIS [Eff. 11/1/13]

An individual who has been treated as an inpatient under a short-term or long-term certification for mental health treatment at a designated facility may be treated on an outpatient basis if the following conditions are met:

- A. A Colorado licensed physician or psychologist who has evaluated the individual and who is on the staff of the designated facility which has been treating the individual, determines that while the individual continues to meet the requirements for certification, professional judgment is that with appropriate treatment modalities in place the individual is unlikely to act dangerously in the community.
- B. Certification on an outpatient basis is the appropriate disposition suited to the individual's needs.
- C. The designated facility that will hold the certification on an outpatient basis has documentation of the results of a recent physical examination.
- D. Arrangements have been made for the individual to have access to:
1. Case management;
 2. Medication management;
 3. Essential food, clothing, shelter; and,
 4. Medical care and emergency dental care.
- E. The service plan shall reflect the outpatient certification status, the arrangements under D, 1-4, above, and meet the requirements in Sections 21.190.4 and 21.280.92 Service Planning.

- F. Content of the individual's outpatient record shall meet the requirements in Sections 21.190 and 21.280.9, Documentation in Individual Records.

21.280.81 Enforcement of Certification [Eff. 11/1/13]

- A. If the individual on outpatient certification substantially fails to comply with the requirements specified in his/her service plan, the Colorado licensed physician or psychologist or staff of the designated facility that holds the certification, shall make reasonable efforts, including outreach, to obtain the individual's compliance with the plan. As part of these efforts, reasonable attempts shall be made to advise the individual that s/he may be picked up and taken into custody for appraisal of the individual's need for continued certification and ability to receive treatment on an outpatient basis.
- B. If the designated facility's medical director or the treating Colorado licensed physician or psychologist reasonably believes that there is a significant risk of deterioration in the individual's condition or that the individual may pose a risk of harm to self or the community, and reasonable efforts to obtain the individual's compliance with the service plan have been unsuccessful, the medical director or the treating professional person shall make arrangements to have the individual transported to a designated facility or the emergency room of a hospital. The individual shall be assessed for current clinical needs and modifications made in legal status or treatment as necessary, including readmission to an inpatient facility.
- C. The individual shall not be physically forced to take prescribed psychiatric medication during this appraisal process, unless an emergency situation exists or the individual is court-ordered to do so as set forth in Section 21.280.33 through 21.280.36.
- D. Following the assessment, if the individual is not detained, the facility holding the certification shall arrange transportation for the individual to return to the individual's residence or other reasonable location, if the individual so desires.

21.280.9 DOCUMENTATION IN INDIVIDUAL RECORDS

21.280.91 Assessment [Eff. 11/1/13]

Records shall include:

- A. Assessment information in accordance with Section 21.190.3.
- B. Evidence of ongoing assessment that at a minimum shall be included in the monthly service plan review process.
- C. Evidence of an assessment update for continued certification every six months for individuals being treated under an outpatient certification or a long-term certification.

21.280.92 Service Planning Requirements [Eff. 11/1/13]

Service plans shall follow requirements in 21.190.4 (noting the exception in 21.280.92, G, below, of monthly service plan reviews), and:

- A. The service plan shall contain specific criteria required for discharge from treatment or to progress to less restrictive treatment alternatives.
- B. For individuals receiving care through outpatient certification, the plan shall assure the individual has access to medical and emergency dental care, case management, medication management, food, clothing, and shelter.

- C. If an individual is discharged during a seventy-two (72) hour hold without certification by the facility, and a service plan has not been completed, then pertinent information shall be included in the discharge summary.
- D. The facility shall appoint a clinical staff person to be responsible for the formulation, implementation, review, and revision of the service plan. The name of the responsible staff person shall be specified in the plan and that individual shall sign the plan. The plan shall also be signed by the treating Colorado licensed physician or psychologist, if he or she is not the responsible staff person.
- E. A physician or other professional person authorized by law to prescribe the medications shall be responsible for the component of the plan requiring medication management services.
- F. Service plans shall be readily identifiable and shall be maintained in a place readily accessible to treatment staff.
- G. The service plan shall be reviewed, and revised if necessary, at least monthly by the staff person responsible for the plan, the treating Colorado licensed physician or psychologist, the individual and the legal guardian. This review shall be documented in the record and include progress toward meeting the criteria for termination of treatment and the need for continued involuntary treatment if the individual is certified. If the monthly review is delayed, the reason for such delay shall be noted in the record and the review shall be completed as promptly as possible.

21.280.93 Treatment Progress and Documentation Requirements [Eff. 11/1/13]

Records shall contain treatment progress notes per Section 21.190.5 and the following:

- A. Documentation of all treatment procedures including, but not limited to: brief physical restraint, seclusion, mechanical restraint, medications voluntary and involuntary, and other therapies or interventions.
- B. Information regarding the serious injury of or by the individual and the circumstances and outcome.
- C. Documentation of all transfers and reasons for transfer.
- D. Legal status and all legal documents related to treatment under Section 27-65-101, et seq., C.R.S.
- E. Consultations and/or case reviews.
- F. Pertinent information from outside agencies or persons or from the individual.
- G. Correspondence to and from relevant agencies and individuals.
- H. Monthly documentation of the results of a Colorado licensed physician or psychologist's review of certification, effectiveness of mental health treatment, legal status of the individual and considerations of less restrictive treatment alternatives.
- I. Consent forms as appropriate for alternative treatments or voluntary treatment.
- J. Use or non-use of advance directives.

21.280.94 Discharge Planning Requirements [Eff. 11/1/13]

- A. Records shall include documentation that written information has been given to the individual upon discharge. This information shall include provision of Section 21.190.6, and:
1. If the individual is being transferred to another facility, information regarding that transfer and the facility shall be included.
 2. Information if the discharge is being made against the advice of the treating Colorado licensed physician or psychologist.
- B. Discharge Summary
- Records shall contain a discharge summary to include the provisions of Section 21.190.62 and the following information:
1. A summary of treatment received including: involuntary treatments, advance directives, progress made, and case management activities.
 2. For transfers between facilities, documentation of appropriate clinical information and coordination of services between the two facilities, including mode of transportation.

21.281 INVOLUNTARY TRANSPORTATION FOR IMMEDIATE SCREENING

21.281.1 DEFINITIONS

“Facility” means any outpatient mental health facility or other clinically appropriate facility designated by the office of behavioral health as a seventy-two (72) hour treatment and evaluation facility that has walk-in capabilities and provides immediate screenings. If such a facility is not available, an emergency medical services facility, as defined in Section 27-65-102(5.5), C.R.S., may be used.

“Immediate screening” means the determination if an individual meets criteria for seventy-two (72) hour treatment and evaluation.

“Intervening professional” as defined in section 27-65-105(1)(a)(II), C.R.S., means a certified peace officer; a professional person; a registered professional nurse as defined in section 12-38-103(11), C.R.S. who by reason of postgraduate education and additional nursing preparation has gained knowledge, judgment, and skill in psychiatric or mental health nursing; a licensed marriage and family therapist, licensed professional counselor, or addiction counselor licensed under Part 5, 6, or 8 of Article 43 of Title 12, C.R.S., who by reason of postgraduate education and additional preparation has gained knowledge, judgment, and skill in psychiatric or clinical mental health therapy, forensic psychotherapy, or the evaluation of mental health disorders; or a licensed clinical social worker licensed under the provisions of Part 4 of Article 43 of Title 12, C.R.S.

“Involuntary transportation form” means the report and application allowing for immediate transport of an individual, in need of an immediate screening for treatment, to a clinically appropriate facility.

“Involuntary transportation hold” means the ability to transport an individual in need of an immediate screening to determine if the individual meets criteria for seventy-two (72) hour treatment and evaluation. Pursuant to Section 27-65-105(1)(a)(I.5), C.R.S., an intervening professional may involuntary transport an individual in need of an immediate screening from the community to an outpatient mental health facility or other clinically appropriate facility. The involuntary transportation hold does not extend or replace the timing or procedures related to a seventy-two (72) hour treatment and evaluation hold or an individual’s ability to voluntarily apply for mental health services.

21.281.2 PROCEDURE

- A. An individual may be placed on an involuntary transportation hold pursuant to section 27-65-105(1)(a)(I.5), C.R.S.
1. The involuntary transportation form shall be completed by an intervening professional and contain:
 - a. The circumstances under which the individual's condition was called to the intervening professional's attention;
 - b. The date and time the individual was placed on the involuntary transportation hold;
 - c. The name of the facility to which the individual will be transported; and,
 - d. The signature of the intervening professional placing the involuntary transportation hold.
 2. A copy of the involuntary transportation form must be given to the facility and made part of the individual's medical record.
 3. A copy of the involuntary transportation form must be given to the individual who was placed on the involuntary transportation hold.
- B. The involuntary transportation hold expires:
1. Six (6) hours after it was placed; or,
 2. Upon the facility receiving the individual for screening; thereby resolving the involuntary transportation hold.
- C. The facility shall ensure that the immediate screening is completed to determine if the individual meets criteria for seventy-two (72) hour treatment and evaluation and follow standard procedures pursuant to section 27-65-105(1)(A)(I), C.R.S.

21.282 EMERGENCY MEDICAL SERVICES FACILITY DATA REPORTING REQUIREMENTS

- A. An emergency medical services facility, as defined in 27-65-102(5.5), C.R.S., providing care to an individual pursuant to Title 27, Article 65, C.R.S. is required to maintain a data set sufficient to report the following aggregate numbers to the Department annually pursuant to 27-65-105(7), C.R.S., in the format and timeframe required by the Department.
- B. For each facility, the annual report shall include:
1. The name, county, and address of each facility site where the service was provided.
 2. The total number of unduplicated individuals, as defined in Section 21.280.1, who had a seventy-two hour hold resolved (this includes release without need for further mental health services, or referral for voluntary treatment) at the facility, as well as:
 - a. Total number of unduplicated individuals by gender;
 - B. Total number of unduplicated individuals by race and ethnicity;

- c. Total number of unduplicated individuals by age; and,
 - D. Total number of unduplicated individuals by county of residence.
 - 3. The total number of seventy-two hour holds transferred to a designated facility for continued involuntary services.
 - 4. The total number of involuntary transportation holds, as defined in Section 21.281.1, received by the facility, as well as total numbers by outcome of the required screening, including at least:
 - A. Total number of involuntary transportation hold screenings resulting in the placement of a seventy-two hour hold;
 - B. Total number of involuntary transportation hold screenings resulting in a referral for further mental health care and treatment on a voluntary basis; and,
 - C. Total number of involuntary transportation hold screenings resulting in a release without need for further mental health services.
 - 5. The total number of seventy-two hour holds where the involuntary status was resolved at the facility, as well as, the total number of seventy-two hour holds where the involuntary status was resolved at the facility grouped by:
 - A. Who initiated the seventy-two hour hold (each hold can only meet the requirements of one category listed below):
 - 1) Certified peace officer;
 - 2) Court; or,
 - 3) Facility or community based personnel as defined in Section 21.280.1.
 - B. The reason for the seventy-two hour hold (each hold can meet the requirements of multiple categories listed below):
 - 1) Dangerous to self;
 - 2) Dangerous to others; or,
 - 3) Gravely disabled.
 - C. Disposition of the seventy-two hour hold (each hold can only meet the requirements of one category listed below):
 - 1) Released without need for further mental health services; or,
 - 2) Referred for further mental health care and treatment on a voluntary basis.
- C. Process of data reporting
 - 1. Facilities must submit their annual data report to the Department by July 1 of each year covering the most recent, complete calendar year covering January 1 through December 31. The report must meet the requirements in section 24-1-136(9), C.R.S.

2. The Department will annually request from the Department of Public Health and Environment a list of licensed facilities that may provide emergency services pursuant to Title 27, Article 65, C.R.S. the facility list shall include, but is not limited to: general hospitals; hospital units; psychiatric hospitals; and, community clinics.
 3. If a facility on the list provided by the Department of Public Health and Environment does not report to the Department, the Department will contact the facility to confirm that the facility did not provide involuntary care to an individual pursuant to Title 27, Article 65, C.R.S. during the reporting cycle. If a facility is found to have provided involuntary care to an individual pursuant to Title 27, Article 65, C.R.S. and did not submit an annual report, an annual report will be requested. If a facility refuses to provide the statutorily required report, the Department may submit a complaint to the Office of the Ombudsperson for Behavioral Health Access to Care.
- D. Pursuant to § 27-65-121, C.R.S. and HIPAA, as defined in Section 21.100, the facility must maintain confidentiality over the data sets. The reports generated from these data sets are also confidential; but the Department may release aggregated information contained in the reports so long as the total number of individuals in any aggregate data group (including county or facility name) is greater than thirty (30). If the total number in such a data group is less than or equal to thirty (30), the Department may release this information by redacting such number.

21.290 ACUTE TREATMENT UNITS

21.290.1 DEFINITIONS [Eff. 11/1/13]

“Acute Treatment Unit” (ATU) means a facility or a distinct part of a facility for short-term psychiatric care, which may include substance use disorder treatment. An ATU provides a twenty-four (24) hour, therapeutically planned and professionally staffed environment for individuals who do not require inpatient hospitalization but need more intense and individualized services, such as crisis management and stabilization services, than are available on an outpatient basis. The average lengths of services are from three (3) to seven (7) days.

“Auxiliary Aid” means any device used by individuals to overcome a physical disability and includes, but is not limited to, a wheelchair, walker or orthopedic appliance.

“Bedridden” means an individual who is unable to ambulate or move about independently or with the assistance of an auxiliary aid, who also requires assistance in turning and repositioning in bed.

“Director” means an individual who is responsible for the overall operation and daily administration, management, and maintenance of the facility.

“Emergency Contact” means one of the individuals identified on the face sheet of the individual record to be contacted in the case of an emergency.

“Facility” means an acute treatment unit.

“Licensee” means the individual or entity to whom a license is issued by the Colorado Department of Public Health and Environment pursuant to Section 25-1.5-103(1)(a), C.R.S., and certification as a 27-65 designated facility has been granted by the Department to operate a facility within the definition herein provided.

“Medical or Nursing Care” means care provided under the direction of a physician and maintained by on-site nursing personnel.

“Owner” means the entity in whose name the license and designation is issued. The entity is responsible for the financial and contractual obligations of the facility. “Entity” means any corporation, Limited Liability Corporation, firm, partnership, or other legally formed body, however organized.

“Personal services” means those services that the director and employees of an acute treatment unit provide for each individual including, but not limited to:

- A. An environment that is sanitary and safe from physical harm;
- B. Assistance with transportation whether by providing transportation or assisting in making arrangements for the individual to obtain transportation; and,
- C. Assistance with activities of daily living.

“Protective Oversight” means guidance as required by the needs of the individual or legal representative or as reasonably requested by the individual including the following:

- A. Being aware of an individual’s general whereabouts, although the individual may travel independently in the facility; and,
- B. Monitoring the activities of the individual on the premises to ensure the individual’s health, safety, and well-being, including monitoring the individual’s needs and ensuring that s/he receives the services and care necessary to protect health, safety, and well-being.

“Short-Term Psychiatric Care” means services that average from three to seven (3-7) days provided to individuals with mental health disorders in accordance with Title 27, Section 65, C.R.S.

21.290.2 DESIGNATION OF ACUTE TREATMENT UNITS [Eff. 11/1/13]

Facilities applying for designation as an acute treatment unit (ATU) must be in compliance with Section 21.280 and the requirements in the following Subsections 21.290.21 through 21.290.58.

21.290.21 Director Minimum Education, Training and Experience Requirements [Eff. 11/1/13]

Any individual serving as a director shall meet the minimum education, training, and experience requirements in one of the following ways:

- A. The director shall have received a Bachelor’s degree from an accredited college or university and have three years of verified experience in the human services field, one of which was in a supervisory or administrative position; or,
- B. The director shall have received a Master’s degree from an accredited college or university and have two years of verified experience in the human services field, one of which was in a supervisory or administrative position.
- C. Training in the following areas:
 - 1. Individual rights;
 - 2. Environment and fire safety, including emergency procedures and First Aid;
 - 3. Assessment skills;
 - 4. Identifying and dealing with difficult situations and behavior management; and,

- 5. Nutrition.

21.290.22 Director Responsibilities [Eff. 11/1/13]

The director shall be responsible for the following:

- A. Overall direction and responsibility for the individuals, program, facility, and fiscal management;
- B. Overall direction and responsibility for supervision of staff;
- C. The selection and training of a capable staff member who can assume responsibility for management of the facility in the director's absence; and,
- D. The establishment of relationships and maintaining contact with allied agencies, services, and mental health resources within the community.

21.290.23 Assistant or Acting Director [Eff. 11/1/13]

- A. In each facility, there shall be a specifically designated staff member, age twenty one (21) or over, capable of acting as a substitute for the director during his/her absence. The duties and responsibilities of the acting director shall be clearly defined in order to avoid confusion and conflict among other staff and individuals.
- B. If the director is regularly absent from the facility more than fifty percent (50%) of his/her working hours, an assistant director shall be appointed who meets the same qualifications as the director found at Sections 21.290.21.

21.290.24 Administrative Coverage [Eff. 11/1/13]

When there is a change in director, or when the director has left the facility permanently without a replacement, the facility shall notify the Department in writing, within twenty four (24) hours. When a possible change in director is anticipated, the facility shall notify the Department prior to the change.

Either the director or assistant or acting director shall be available at all times.

21.290.25 Clinical Director [Eff. 11/1/13]

- A. The clinical director is responsible for assuring that there is adequate training and supervision for staff.
- B. Qualifications of a Clinical Director
 - 1. The clinical director shall possess a Master's degree or Ph.D. in a mental health related field or a Bachelor's degree in a mental health related field and five (5) years of work experience.
 - 2. Additionally, the clinical director shall receive training on:
 - a. Individual rights;
 - b. Environment and fire safety, including emergency procedures and First Aid;
 - c. Assessment skills; and,

- d. Identifying and treating individuals who have received diagnoses from the most current diagnostic and statistical manual of mental disorders and who display behaviors that are common to people with severe and persistent mental health disorders.

21.290.3 PERSONNEL

21.290.31 Physical or Mental Impairment [Eff. 11/1/13]

Any individual who is physically or mentally unable to adequately and safely perform duties that are essential functions may not be assigned duties as a direct care staff member or volunteer at an ATU.

21.290.32 Alcohol or Substance Use [Eff. 11/1/13]

The facility shall not employ or allow any individual who is under the influence of a controlled substance, as defined in Sections 18-18-203, 18-18-204, 18-18-205, 18-18-206, and 18-18-207, C.R.S., or who is under the influence of alcohol in the workplace. This does not apply to employees using controlled substances under the direction of a physician and in accordance with their health care provider's instructions, as long as it does not pose a safety risk to the employee, other employees, or individuals.

21.290.33 Access to Policies and Procedures [Eff. 11/1/13]

- A. The facility shall have a written statement of personnel policies that include:
 - 1. Salary range and provisions for increases;
 - 2. Hours of work and holiday, vacation, sick and other applicable leave information;
 - 3. Conditions of employment, tenure and promotion;
 - 4. Employment benefits; including medical/dental/life insurance, workers compensation insurance, retirement plan, and any other available benefits;
 - 5. Employee performance evaluation procedures;
 - 6. Grievance procedures that may be used by staff; and,
 - 7. Discipline and/or termination procedures.
- B. A copy of the personnel policy shall be given to each staff member at the time of his/her employment.

21.290.34 Specialized Training Requirements for ATU [Eff. 11/1/13]

- A. In addition to the personnel training standards in Sections 21.160 and 21.280.24 for designated facilities, prior to providing direct care, the facility shall provide training on:
 - 1. First Aid and injury response;
 - 2. The care and services for the current individuals; and,
 - 3. The recognition and response to common side effects of psychiatric medications, and response to emergency drug reactions in accordance with facility policies.

- B. Within one month of the date of hire, the facility shall provide training for staff on each of the following topics:
 - 1. Assessment skills;
 - 2. Infection control;
 - 3. Behavior management and de-escalation techniques, to include incidents involving suicide, assault, or elopement.
 - 4. Health emergency response; and,
 - 5. Behavioral/psychiatric emergency response training.

21.290.35 Staffing Requirements [Eff. 11/1/13]

- A. The facility shall employ sufficient staff to ensure that the provision of services meets the needs of individuals. The facility shall maintain at least a one to six (1:6) trained staff member(s) to individual resident ratio at all times.
- B. In determining the staffing levels, the facility shall give consideration to factors including, but not limited to:
 - 1. Services to meet the individuals' needs; and,
 - 2. Services to be provided under the individual service plan.
- C. Each facility shall ensure that, at minimum, an individual qualified as described in Section 21.290.57 is available to administer medications at all times.
- D. Residents of the facility may volunteer in performing housekeeping duties and other tasks suited to the individual's abilities; however, these persons who provide services for the facility on a regular basis may not be included in the facility's staffing plan in lieu of facility employees.
- E. Volunteers may be utilized in the facility, but may not be included in the facility's staffing plan in lieu of facility employees.

21.290.4 POLICIES AND PROCEDURES FOR ATU

21.290.41 Emergency Plan and Fire Escape Procedures [Eff. 11/1/13]

- A. Emergency plan: The emergency plan shall include planned responses to fire, gas explosion, bomb threat, power outages, and tornado. Such plan shall include provisions for alternate housing in the event evacuation is necessary.
- B. Fire escape procedures: The fire escape procedures shall include a diagram developed with local fire department officials which shall be posted in a conspicuous place.
- C. Within three (3) days of admission, emergency procedures, including the plan and diagram of fire exits, shall be explained to each individual.

21.290.42 Serious Illness, Serious Injury, or Death [Eff. 11/1/13]

- A. The policy shall describe the procedures to be followed by the facility in the event of serious illness, serious injury, or death of persons receiving services, including incident reporting requirements.
- B. The policy shall include a requirement that the facility notify an emergency contact when the individual's injury or illness warrants medical treatment or face-to-face medical evaluation. In the case of an emergency room visit or unscheduled hospitalization, a facility must notify an emergency contact immediately.

21.290.43 Physical Health Assessment [Eff. 11/1/13]

The facility shall develop policies and procedures that identify when a physical health assessment by a qualified licensed independent practitioner will be required, including the following indicators:

- A. Within twenty-four (24) hours of admission;
- B. A significant change in the individual's condition;
- C. Evidence of possible infection (open sores, etc.);
- D. Injury or accident sustained by the individual that might cause a change in the individual's condition;
- E. Known exposure of the individual to a communicable disease; or,
- F. Development of any condition that would have initially precluded admission to the facility.

21.290.44 Smoking [Eff. 11/1/13]

- A. Facilities' policies for smoking shall address individuals, staff, volunteers and visitors, and shall comply with applicable state laws and regulations.
- B. Prior to admission or employment, individuals and staff shall be informed of any prohibitions.

21.290.45 Discharge [Eff. 11/1/13]

- A. The facility's discharge policy shall include all of the following:
 - 1. Circumstances and conditions under which the facility may require the individual to be involuntarily transferred or discharged;
 - 2. An explanation of the notice requirements;
 - 3. A description of the relocation assistance offered by the facility; and,
 - 4. The right to call advocates, such as the Governor's protection and advocacy for individuals with mental health disorders, the adult protection services of the appropriate county department of social or human services, and/or the Colorado Department of Human Services, Office of Behavioral Health.

B. Disclosure to Individuals

Upon admission, the facility shall document that the individual or legal representative, as appropriate, has read or had explained the discharge policy.

21.290.46 Management of Personal Funds and Personal Property [Eff. 11/1/13]

The facility shall develop written policies that include the procedures for managing individual funds or property.

- A. Upon admission, a written inventory of all personal belongings shall be conducted. This inventory shall be signed and reviewed by facility staff and the individual, and shall be maintained in the individual's clinical record.
- B. All inventoried items shall be stored in a secure location during the individual's stay in the facility.
- C. All inventoried property shall be returned to the individual upon discharge. The individual and facility staff shall sign the inventory form indicating that all items were returned.

21.290.5 ADMINISTRATIVE FUNCTIONS

21.290.51 Admissions [Eff. 11/1/13]

- A. The facility shall develop written admission criteria based on the facility's ability to meet the individual's needs. Admission criteria shall be based upon a comprehensive pre-admission assessment of the individual's mental health, physical health, substance use, and capacity for self-care. The assessment shall determine the level of intervention and supervision required, including medication management, behavioral health services and stabilization prior to return to the community.
- B. Acute treatment units shall not admit individuals with a mental health disorder into a locked setting unless there is no less restrictive alternative and unless they are otherwise in compliance with the requirements of Title 27, Article 65, Colorado Revised Statutes.
- C. Individuals may be admitted to a locked setting as a voluntary or involuntary individual. If voluntary, the individual shall sign a form that documents the following information:
 - 1. The individual is aware that the facility is locked.
 - 2. The individual may exit the facility with staff assistance and/or permission.
 - 3. The individual may leave the facility at any point in time, unless he/she presents as a danger to self or others, or is gravely disabled as defined in Section 27-65-101, et seq., C.R.S.
- D. An individual who is imminently suicidal or homicidal shall only be admitted to the locked facility, upon completion of the facility's assessment and the facility's determination that the individual's safety and the safety of others can be maintained by the facility. If an individual is admitted and facility staff determine that his/her behavior cannot be safely and successfully treated at the ATU, then staff shall make arrangements to transfer the individual to the nearest hospital for further assessment and disposition.
- E. A facility shall not admit or keep any individual who meets the following exclusion criteria:

1. Is consistently incontinent unless the individual or staff is capable of preventing such incontinence from becoming a health hazard.
 2. Is under the age of eighteen (18).
 3. Is bedridden with limited potential for improvement.
 4. Has a communicable disease or infection that is:
 - a. Reportable under the Department of Public Health and Environment's regulations (6 CCR 1009-1 and 2); and,
 - b. Potentially transmittable in a facility, unless the individual is receiving medical or drug treatment for the condition and the admission is approved by a physician.
 5. Has acute withdrawal symptoms, is at risk of withdrawal symptoms, or is incapacitated due to a substance use disorder.
- F. Facilities shall not admit an individual diagnosed with a developmental disability unless he/she has a mental health disorder and has been diagnosed using the most current diagnostic and statistical manual of mental disorders, and whose behaviors can be managed and/or modified by facility staff during the designated length of stay, and whose behaviors will not endanger the safety of the individual, staff or other individuals.
- G. The facility shall maintain a current list of individuals and their assigned room.

21.290.52 Acknowledgements and Disclosures [Eff. 11/1/13]

There shall be written evidence of consent to treat as outlined in Section 21.170.4 and the following upon admission to the individual or individual's legal representative, as appropriate:

- A. Acknowledgements shall specify the understanding between the parties regarding, at a minimum:
1. Charges;
 2. Services included in the rates and charges;
 3. Types of services provided by the facility, those services which are not provided, and those which the facility will assist the individual in obtaining;
 4. Transportation services;
 5. Therapeutic diets;
 6. A physically safe and sanitary environment;
 7. Personal services;
 8. Protective oversight;
 9. Social and recreational activities; and,
 10. A provision that the facility must give individuals thirty (30) calendar days' notice of closure.

- B. Disclosure to individuals shall include:
 - 1. Management of personal funds and property;
 - 2. Facility rules, established pursuant to Section 21.290.53;
 - 3. Staffing levels based on individual needs;
 - 4. Types of daily activities, including examples of such activities that will be provided.

21.290.53 Facility Rules [Eff. 11/1/13]

The facility shall establish written policies, which shall list all possible actions that may be taken by the facility if any policy is knowingly violated by an individual. Facility policies may not violate or contravene any rule herein, or in any way discourage or hinder an individual's rights.

The facility shall prominently post its policies in writing, which shall be available at all times to individuals. Such policies shall address at least the following:

- A. Smoking;
- B. Cooking;
- C. Visitors;
- D. Telephone usage including frequency and duration of calls;
- E. Use of common areas, including the use of television, radio;
- F. Consumption of alcohol and/or illicit drugs;
- G. Dress;
- H. Pets, which shall not be allowed in the facility; however, in no event shall such rules prohibit service or guide animals.

21.290.54 Content of Record [Eff. 11/1/13]

Records shall include Section 21.190.2, Content of Records, and the following:

- A. Demographic and medical information;
- B. A cover sheet to contain the following information:
 - 1. Individual's full name, including maiden name if applicable;
 - 2. Individual's sex, date of birth, marital status and social security number, where needed for Medicaid or employment purposes;
 - 3. Individual's current address of residence;
 - 4. Date of admission;
 - 5. Name, address and telephone number of relatives or legal representative(s), or other individual(s) to be notified in an emergency;

6. Name, address and telephone number of individual's primary physician, and case manager if applicable, and an indication of religious preference, if any, for use in emergency;
 7. Individual's diagnoses, at the time of admission;
 8. Current record of the individual's allergies;
- C. Medication administration record;
- D. Physician's orders.

21.290.55 Service Planning [Eff. 11/1/13]

The facility shall develop and implement a written service plan in accordance with Section 21.190.4 and include the following:

- A. An initial written safety and stabilization plan for each individual detailing risk issues and the stabilization process resulting in discharge shall be completed at the time of admission.
- B. Within twenty four (24) hours of admission, an individualized service plan for each individual shall be written and shall include, but not be limited to:
 1. Special dietary instructions, if any;
 2. Any physical or cognitive limitations; and,
 3. A description of the services which the facility will provide to meet the needs identified in the comprehensive assessment.
- C. The individual may request a modification of the services identified in the service plan at any time.
- D. The individual and his/her service plan shall be reassessed on an ongoing basis to address significant changes in the individual's physical, behavioral, cognitive and functional condition, and identify the services that the facility shall provide to address the individual's changing needs. The service plan shall be updated to reflect the results of the reassessment.

21.290.56 Discharge [Eff. 11/1/13]

- A. An individual shall be discharged for one or more of the following reasons:
 1. When the facility cannot protect the individual from harming him or herself or others;
 2. When the facility is no longer able to meet the individual's identified needs;
 3. When the individual is no longer in need of this level of care; or,
 4. Failure of the individual to comply with facility rules, which contain notice that discharge may result from violation of same.
- B. Notice of discharge shall be provided to the individual or individual's legal representatives as follows:

1. At least twenty-four (24) hours in advance of discharge or transfer, in accordance with the rules governing the care and treatment of persons with a mental health disorder in Sections 21.280.7 and 21.280.8.
 2. In cases of a medical or psychiatric emergency, the emergency contact shall be notified as soon as possible.
- C. Discharge shall be coordinated with the individual, and, with permission, the individual's family, legal representative, or appropriate agency.

21.290.57 Medication

21.290.571 Storage, Disposition, and Disposal [Eff. 11/1/13]

A. Storage and Disposition

1. All personal medication must be surrendered to the facility to be logged in and stored by the facility. Individuals are not allowed to self-administer medication in the facility.
2. Personal medication shall be returned to the individual or individual's legal representative, upon discharge or death, except that return of medication to the individual may be withheld if specified in the individual's service if a physician or other authorized medical practitioner has determined that the individual lacks the decisional capacity to possess or administer such medication safely.
3. Medications shall be labeled with the individual's full name, pursuant to Article 42.5 of Title 12.
4. Any medication container that has a detached, excessively soiled or damaged label shall be returned to the issuing pharmacy for re-labeling or disposed of appropriately.
5. All medication shall be stored in a manner that ensures the safety of all individuals.
6. Medication shall be stored in a central location, including refrigerators, and shall be kept under lock and shall be stored in separate or compartmentalized packages, containers, or shelves for each individual in order to prevent intermingling of medication.
7. Individuals shall not have access to medication that is kept in a central location.
8. Medications that require refrigeration shall be stored separately in locked containers in the refrigerator. If medication is stored in a refrigerator dedicated to that purpose, and the refrigerator is in a locked room, then the medications do not need to be stored in locked containers.
9. Prescription and over the counter medication shall not be kept in stock or bulk quantities, unless such medication is administered by a licensed medical practitioner.

B. Disposal

1. The return of medication shall be documented by the facility.
2. Medication that has a specific expiration date shall not be administered after that date and shall be disposed of appropriately.

21.290.572 Administration of Medication [Eff. 11/1/13]

Facilities shall follow psychiatric medication standards as outlined in Section 21.280.32 and the following:

- A. To be qualified to administer medication, an individual shall be a licensed practical nurse, registered nurse, physician, physician's assistant, or pharmacist.
- B. Only a licensed nurse may accept telephone orders for medication from a physician or other authorized practitioner. All telephone orders shall be evidenced by a written and signed order and documented in the individual's record and the facility's medication administration record.
- C. These rules apply to medications and treatment which do not conflict with state law and regulations pertaining to acute treatment units and which are within the scope of services provided by the facility, as outlined in the individual agreement or the facility rules.
- D. The facility shall be responsible for complying with physician orders associated with the administration of medication or treatment. The facility shall implement a system that obtains clarification from the physician, as necessary and documents that the physician:
 - 1. Has been asked whether refusal of the medication or treatment should result in physician notification.
 - 2. Has been notified, where such notification is appropriate.
 - 3. Has provided documentation of such notification shall be made in the individual's clinical record.
 - 4. Coordinates with external providers or accepts responsibility to perform the care using facility staff.
 - 5. Trains staff regarding the parameters of the ordered care as appropriate.
 - 6. Documents the delivery of the care, including refusal by the individual, of the medication or treatment.

21.290.58 Administration of Oxygen [Eff. 11/1/13]

Individuals may administer oxygen, if the individual is able to manage the administration himself or herself and staff shall assist with the administration as needed for safety, when prescribed by a physician and if the facility follows appropriate safety requirements regarding oxygen herein.

- A. Oxygen tanks shall be secured upright at all times to prevent falling over and secured in a manner to prevent tanks from being dropped or from striking violently against each other.
- B. Tank valves shall be closed except when in use.
- C. Transferring oxygen from one container to another shall be conducted in a well-ventilated room with the door shut. Transfer shall be conducted by a trained staff member or by the individual for whom the oxygen is being transferred, if the individual is capable of performing this task safely. When the transfer is being conducted, no individual, except for an individual conducting such transfer, shall be present in the room.
- D. Tanks and other oxygen containers shall not be exposed to electrical sparks, cigarettes or open flames.

- E. Tanks shall not be placed against electrical panels or live electrical cords where the cylinder can become part of an electric circuit.
- F. Tanks shall not be rolled on their side or dragged.
- G. Smoking shall be prohibited in rooms where oxygen is used or stored. Rooms in which oxygen is used shall be posted with a conspicuous “no smoking” sign.
- H. Tanks shall not be stored near radiators or other heat sources. If stored outdoors, tanks shall be protected from weather extremes and damp ground to prevent corrosion.

21.300 LICENSING OF SUBSTANCE USE DISORDER PROGRAMS USING CONTROLLED SUBSTANCES

21.300.1 DEFINITIONS

“Administer” means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means to the body of an individual.

“Approved Private Treatment Facility” means a private agency meeting the definition set forth in Section 27-81-102(2), C.R.S., and standards prescribed and approved under Section 27-81-106, C.R.S., and shall be referred to as “approved treatment facility”.

“Approved Public Treatment Facility” means an agency operating under the direction and control of or approved by the Department and meeting the definition set forth in Section 27-81-102(3), C.R.S., and standards prescribed and approved under Section 27-81-106, C.R.S., and shall be referred to as “approved treatment facility.”

“Compound” means to produce or create by combining two or more substances.

“Controlled Substance” means a drug whose general availability is restricted or any substance that is strictly regulated or outlawed because of its potential for abuse or dependence. Controlled substances include narcotics, stimulants, depressants, hallucinogens, and cannabis.

“Corrective Action” means a time limited remedial measure applied to agencies that are out of compliance during a two year licensing period.

“Critical Incident” means a significant event or condition, which may be of public concern, which jeopardizes the health, safety, and/or welfare of staff and/or individuals including individual deaths on or off agency premises and theft or loss of controlled substances prescribed for individuals and dispensed, administered, and/or monitored by licensed agencies.

“DATA 2000 Waiver” means the federal waiver allowing qualified practitioners to use buprenorphine products for the treatment of opioid use disorders. The DATA 2000 Waiver is issued pursuant to the registration requirements of the Controlled Substance Act found at 21 U.S.C. § 823(g)(2) (November 2020), which is hereby incorporated by reference. No later editions or amendments are incorporated. These regulations are available at no cost from the U.S. Department of Health & Human Services, Substance Abuse & Mental Health Services Administration, Office of Communications, 5600 Fishers Lane, Rockville, MD 20857 or at <https://uscode.house.gov/>. These regulations are also available for public inspection and copying at the Colorado Department of Human Services, Office of Behavioral Health, 3824 West Princeton Circle, Denver, Colorado 80236, during regular business hours.

“Department” means the Colorado Department of Human Services.

“Dispense” means to interpret, evaluate, and implement a prescription drug order or chart order, including the preparation of a drug for an individual in a suitable container appropriately labeled for subsequent administration to or use by an individual.

“Dispenser” means a practitioner who dispenses.

“Diversion” means the transfer of any controlled substance from a licit to an illicit channel of distribution or use.

“Individual” means any individual who receives a controlled substance for the purpose of substance use disorder treatment or to treat withdrawal symptoms of a substance use disorder.

“Maintenance Treatment” means the dispensing of a controlled substance, such as methadone or buprenorphine, at stable dosage levels for a period in excess of twenty-one (21) days in the supervised treatment of an individual for opioid use disorder.

“Medication Assisted Treatment” means any treatment for a substance use disorder that includes giving a controlled substance for medical detoxification or maintenance treatment, which may be combined with other treatment services including medical, and shall be combined in all circumstances with psychosocial services.

“Medical Detoxification” means the process through which a person who is physically dependent on alcohol, illicit drugs, prescription medications, or a combination of these substances is over a period of time withdrawn from the substances of dependence and the process may include the use of controlled substances to alleviate the symptoms of withdrawal under the supervision of a licensed practitioner.

“Office-based opioid treatment” or “OBOT” means the prescribing of buprenorphine products for the treatment of opioid use disorders by a federally authorized (DATA 2000 Waiver) primary care or general health care provider outside of programs required to be licensed pursuant to 27-80-200, et seq., C.R.S.

“Physical Dependence” means a state of adaptation that is manifested by a drug class specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, and/or administration of an antagonist.

“Practitioner” means:

- A. A physician or other person licensed, registered or otherwise permitted to distribute, dispense, or to administer a controlled substance in the course of professional practice.
- B. A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, or to administer a controlled substance in the course of its professional practice in this state.

“Substance use disorder” shall have the same meaning as defined in Section 27-80-203(23.3), C.R.S.

“Ultimate User” means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household.

21.300.2 CONTROLLED SUBSTANCE LICENSE REQUIREMENTS

- A. Agencies shall apply for and obtain a controlled substance license if they dispense, compound, or administer (pursuant to Section 27-80-204, C.R.S.) a controlled substance in order to treat a substance use disorder or to treat the withdrawal symptoms of a substance use disorder. All applicants for a controlled substance license shall demonstrate compliance with these rules and all applicable state and federal statutes and regulations including, but not limited to those pertaining to controlled substances.
- B. An office-based opioid treatment (OBOT) provider that does not dispense, compound, or administer a controlled substance on-site is not required to obtain a controlled substance license pursuant to this rule section 21.300.2.

21.300.21 Licensing Procedures

Treatment facilities meeting all the requirements of Colorado Revised Statutes Title 12, Article 280, Part 1; Title 18, Article 18, Part 3; Section 27-81-106, C.R.S.; the requirements of the controlled substance license rules; and, all applicable state and federal regulations including those that apply to controlled substances shall be issued a controlled substance license.

- A. A controlled substance license issued by the Department shall be obtained annually for each approved treatment facility that dispenses, compounds, or administers a controlled substance to treat substance use disorders or the withdrawal symptoms of a substance use disorder.
- B. A separate controlled substance license is required for each approved treatment facility site where controlled substances are dispensed, compounded, or administered, in order to treat substance use disorders or the withdrawal symptoms of a substance use disorder.
- C. Any approved treatment facility that receives a controlled substance license may dispense, compound, or administer controlled substances only to the extent authorized by their license and in conformity with Colorado Revised Statutes Title 12, Article 280, Part 1 and Title 18, Article 18.
- D. Routine monitoring: controlled substance licensing visits shall be scheduled and conducted by the Department during the approved agencies' normal business hours to the extent possible.
- E. The Department shall conduct unscheduled site visits for specific monitoring purposes and investigation of complaints or critical incidents involving approved agencies that have a controlled substance license. These unscheduled visits shall be in accordance with the:
 - 1. Controlled substance license rules;
 - 2. Department policies and procedures;
 - 3. Department substance use disorder treatment rules;
 - 4. Any statutes and regulations that protect the confidentiality of individual identifying information.
- F. The Department shall have access to all individual, agency, and staff records and any other relevant documentation required to determine compliance with these rules and to coordinate individual placement and care.

- G. A controlled substance license shall not be granted to an agency unless there is documentation that the medical director or health care practitioner dispensing, compounding or administering controlled substances has not been convicted within the last two (2) years of a willful violation of Title 12, Article 280, Part 1 of the Colorado Revised Statutes or any other state or federal law regulating controlled substances.

21.300.22 Initial License

Applicants for an initial controlled substance license to dispense, compound, or administer controlled substances to treat a substance use disorder or to treat the withdrawal symptoms of a substance use disorder shall submit a controlled substance license application that has been affirmed and signed by a physician, a copy of current policies and procedures addressing the use of controlled substances to treat substance use disorders or withdrawal symptoms of a substance use disorder, and the application fee of five hundred dollars (\$500).

- A. No approved treatment facility that is required to be licensed shall engage in any activity for which a controlled substance license is required until the facility's application is granted and a license is issued to the facility by the Department.
- B. Initial controlled substance license applications received by the Department that are not completed according to instructions, do not include the application fee, or do not include the required policies and procedures shall be returned to the applicant by certified mail with the submitted application fee and a written explanation as to why their application is being returned.
- C. The Department shall review complete initial applications that have the required fee and appropriate policies and procedures and the Department shall conduct an on-site inspection to determine that the applicant is in compliance with these controlled substance license rules, treatment rules, and all state and federal statutes and regulations. If the Governor or local government declares an emergency or disaster the department has discretion to modify the requirement for on-site inspections. If the department modifies the requirement for on-site inspections, the requirement shall only be modified as necessary because of circumstances related to the disaster or emergency.
- D. Initial applicants that are in full compliance shall be granted a six (6) month provisional license while they receive Drug Enforcement Administration (DEA) registration and Substance Abuse and Mental Health Services Administration (SAMHSA) certification.
- E. After the first provisional license, a second six (6) month provisional license may be granted if substantial progress continues to be made, and it is likely compliance can be achieved by the date of expiration of the second provisional license.
- F. Upon an agency receiving their DEA registration, SAMHSA certification and having enrolled individuals into services, the Office of Behavioral Health shall conduct a site visit to determine compliance with all applicable state and federal laws and regulations. If an agency demonstrates compliance a full controlled substance license shall be issued.
- G. An applicant for licensure pursuant to these rules and regulations shall also be considered an applicant for registration pursuant to Section 18-18-302, Colorado Revised Statutes.

- H. Initial applicants that are found not to be in full compliance shall have their license applications returned by certified mail with a written explanation as to why their application is being returned and notification that their controlled substance license application has been denied as of ten (10) days from the date the denial letter was mailed. Application fees shall not be refunded. If an applicant disagrees with the decision, s/he may appeal (see Section 21.105); or upon remedying the noted deficiencies, may re-apply for an initial license in accordance with Section 21.300 of these rules.

21.300.23 License Renewal

A controlled substance license shall expire one year from the date the license is granted.

- A. Agencies wishing to continue their controlled substance license shall submit a license renewal application affirmed and signed by a physician to the Department thirty (30) days prior to the expiration date of their current controlled substance license along with the required fee of five hundred dollars (\$500). A copy of the licensee's current controlled substance policies and procedures shall also be submitted with each annual renewal application.
- B. Any treatment facility that currently has a controlled substance license issued by the Department may not apply for renewal more than sixty days before the expiration date of the current controlled substance license.
- C. A controlled substance license renewal application that is received by the Department fewer than thirty (30) calendar days prior to the expiration of their existing license may fail to receive their new license prior to the expiration of their existing license. An agency that submits its renewal application fewer than thirty (30) days prior to the expiration of the current license and does not receive a new license prior to the current license expiration may reapply for an initial license in accordance with section 21.300 of these rules.
- D. A controlled substance license renewal application that is received by the Department after the current license expiration date shall be returned by certified mail with written notification that the license is no longer in effect. Applicants may reapply for an initial license in accordance with section 21.300 of these rules.
- E. If the Governor or local government declares an emergency or disaster the department has discretion to modify the requirement for on-site inspections. If the department modifies the requirement for on-site inspections, the requirement shall only be modified as necessary because of circumstances related to the disaster or emergency.
- F. A licensee that is in full compliance shall be granted renewal of their annual controlled substance license that shall be effective for one year from the prior license's expiration date.
- G. Licensees not in full compliance shall have their applications for renewal of their controlled substance license denied. The licensee shall receive by certified mail written notification as to why the license was denied and notification that their current controlled substance license is no longer in effect as of ten (10) days from the date the denial letter was mailed. If an applicant disagrees with the decision, s/he may appeal (see Section 21.105); or upon remedying the noted deficiencies, may re-apply for an initial license in accordance with Section 21.300 of these rules.

21.300.24 License Denial, Revocation, or Suspension

- A. A controlled substance license may be denied, suspended, or revoked in accordance with Section 21.120.8 and upon finding that the licensee:
1. Is not in compliance with the controlled substance license rules;

2. Has violated any provision of Title 12, Article 280, Part 1, and Title 18, Article 18 of the Colorado Revised Statutes;
 3. Has failed to implement the Department imposed corrective actions;
 4. Has been negligent resulting in risk to individual and/or staff health or safety;
 5. Has failed to provide for adequate supervision of treatment staff as outlined in addiction counselor certification and licensure standards (Section 21.330);
 6. Has furnished false or fraudulent information in an application;
 7. Has, as a practitioner, been convicted of, or has had accepted by a court a plea of guilty or *nolo contendere* to a felony under any state or federal law relating to a controlled substance;
 8. Has had their federal registration to manufacture, conduct research on, distribute, or dispense a controlled substance suspended or revoked.
- B. The Department may limit revocation or suspension of a controlled substance license to the particular controlled substance, which was the basis for revocation or suspension.
- C. If the Department denies, suspends or revokes a controlled substance license, all controlled substances owned or possessed by the licensee at the time of the denial or suspension or on the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for making an appeal has elapsed or until all appeals have concluded unless a court orders otherwise or orders the sale of any perishable controlled substances and the deposit of the proceeds with the court. Upon a revocation order's becoming final, all controlled substances may be forfeited to the state.
- D. The Department shall promptly notify the Drug Enforcement Administration and the appropriate professional licensing agencies, if any, of all charges and the final disposition thereof and of all forfeitures of a controlled substance.

21.300.3 MEDICATION ASSISTED TREATMENT PROVISIONS

A. Agency Policies and Procedures

Agencies shall develop and implement policies and procedures, as defined in this section that address the use of controlled substances in the treatment of substance use disorders or the withdrawal symptoms of a substance use disorder. These policies shall include, but are not limited to, how individuals are assessed to be appropriate to receive a controlled substance to treat their SUD or the withdrawal symptoms of a substance use disorder. These policies shall meet the requirements of all federal, state, and local laws pertaining to controlled substances.

- B. Medication assisted treatment using a controlled substance shall be provided to individuals who are physically dependent on alcohol, illicit drugs, prescription medications, or a combination of these substances to alleviate the individual's physical withdrawal symptoms and cravings, to help stabilize behavior, to increase productivity, and to reduce the risk of contracting and transmitting infectious diseases.
- C. Approved agencies shall only dispense, compound, or administer, controlled substances by or on the order of a physician who currently possesses and maintains a license to practice medicine in the State of Colorado as provided by Article 240, Title 12, C.R.S. The physician's medical order shall be documented in the individual's treatment record.

- D. Approved agencies that dispense, compound, or administer, controlled substances must also have a current registration from the Drug Enforcement Administration.
- E. All controlled substances shall be dispensed, compounded, or administered, according to applicable state and federal statutes, regulations and rules, controlled substance license rules, and Department rules.
- F. Controlled substances shall be dispensed, compounded, or administered, in accordance with the manufacturer's specifications found on product labels and/or in printed instructions accompanying the product.
- G. Licensees shall maintain an individual dispensing record on each individual that receives controlled substances at their facility. The dispensing record shall include:
 - 1. Complete name of individual receiving the controlled substance;
 - 2. Name of the controlled substance, strength, and dosage form;
 - 3. Amount consumed;
 - 4. Amount dispensed;
 - 5. Date dispensed;
 - 6. Amount and dosage form taken home by individual (if applicable);
 - 7. First initial and last name and the credentials of the individual who dispensed the controlled substance medication.
- H. Licensees shall ensure that all personnel are working within their scope of practice and shall only allow licensed medical personnel to dispense, compound, or administer, controlled substances.
- I. Each approved treatment facility shall provide formal training and testing on an annual basis to all employees on the Department's rules, the pharmacology of the substances dispensed and state and federal requirements regarding controlled substances and confidentiality.
- J. Critical Incident Reporting

In addition to the provisions of Section 21.140, theft, loss, or diversion of a controlled substance shall also be considered a critical incident and the Department critical incident reporting policy shall be followed. The Department must be notified verbally within twenty-four (24) hours of the critical incident and a written report must be submitted to the Department within three (3) business days.

21.300.4 MEDICAL EVALUATIONS

Individuals who wish to receive medication assisted treatment shall have medical evaluations conducted by a physician, physician's assistant, or nurse practitioner to determine physical dependence and to determine that such individuals are appropriate for treatment with a controlled substance. Evaluations shall include, but are not limited to:

- A. A medical history that includes a detailed and comprehensive account of substance use history that includes all substances of abuse;
- B. Evidence of current physiological dependence; and,

- C. A pregnancy screen for females of childbearing age.

21.300.5 INFORMED CONSENT

All individuals receiving medication assisted treatment shall sign informed consent that they are voluntarily agreeing to treatment with a controlled substance. The individual shall be informed of what controlled substance they are receiving and the expected benefits and risks of medication assisted treatment. All individuals receiving controlled substances must also be informed of the risks of using other substances in combination with a controlled substance.

21.300.6 SECURITY CONTROLS AND OPERATING PROCEDURES

All licensees must follow the standards of physical security controls and operating procedures required by the federal Drug Enforcement Administration necessary to prevent diversion as outlined in Title 21, Food and Drugs, Chapter II, Code of Federal Regulations, Sections 1301.71 through 1301.77 (November 2020), which are hereby incorporated by reference. No later editions or amendments are incorporated. These regulations are available at no cost from the U.S. Department of Justice, Drug Enforcement Administration, Office of Diversion Control, 2401 Jefferson Davis Highway, Alexandria, VA 22301; or, the Colorado Department of Human Services, Office of Behavioral Health, 3824 West Princeton Circle, Denver, Colorado 80236; or at any state publications depository library, during regular business hours.

21.300.7 RECORD KEEPING

Licensees shall follow the record keeping requirements of the federal Drug Enforcement Administration, Code of Federal Regulations (Title 21, Food and Drugs, Part 1304) to ensure compliance with the requirements in Title 12, Article 280, Part 1, C.R.S. (November 2020), which are hereby incorporated by reference. No later editions or amendments are incorporated. These regulations are available at no cost from the U.S. Department of Justice, Drug Enforcement Administration, Office of Diversion Control, 2401 Jefferson Davis Highway, Alexandria, VA 22301; or the Colorado Department of Human Services, Office of Behavioral Health, 3824 West Princeton Circle, Denver, Colorado 80236; or at any state publications depository library, during regular business hours.

Licensees shall also keep inventories, records, and reports that are required by any other state or federal law or standard regulating controlled substances.

21.300.8 HANDLING AND STORAGE

All licensees shall have adequate and proper facilities for the handling and storage of controlled substances. All licensees must maintain proper control over such controlled substances to ensure against their being illegally dispensed or distributed. Access to the storage area shall be restricted to individuals specifically authorized to handle controlled substances. This includes restricting the number and accessibility of keys or passwords.

Licensees shall also develop and implement policies on how controlled substances will be obtained, stored, and accounted for. These policies shall include, but are not limited to:

- A. What controlled substance the licensee will be using for the substance use disorder they are treating and how these controlled substances will be dispensed, compounded, or administered, as well who will be responsible for ordering the controlled substances;
- B. Where the controlled substances will be stored;
- C. How the controlled substances will be accounted for; and,
- D. Who will have access to the controlled substances.

21.300.9 TOXICOLOGY SCREENING REQUIREMENTS

Licensees shall develop and implement toxicology screen policies and procedures that specify a random sample collection protocol and these policies shall include, but not be limited to:

- A. How appropriate and approved samples for drug testing shall be collected and analyzed in accordance with applicable state and federal statutes and regulations.
- B. How toxicology screens shall be used to detect the presence of the approved controlled substance, that is being dispensed, and its metabolite, for which laboratory analyses are available.
- C. How all individuals entering medication assisted treatment shall provide a toxicology screen at time of admission and then at least one random toxicology screen per month which test for the presence of all substances of abuse, including alcohol and marijuana.
- D. How a licensee shall address an individual having illicit substances in a toxicology screen, including unauthorized prescription medication:
- E. How the licensee will have the ability to observe sample collection by appropriate personnel to help minimize falsification.

21.310 [Repealed eff. 10/01/2020]

21.320 OPIOID TREATMENT PROGRAMS (OTP)

21.320.1 DEFINITIONS

“Administrative Discharge” means a process where it has been determined that a person in OTP is unsafe and needs to be discharged immediately. The timeframe for this typically involves a taper at a rate set forth by the program.

“Administrative Transfer” means a process whereby a person in OTP is determined unsafe or has violated a behavioral agreement and a program is looking to transfer to another clinic of the person’s choice. This person is to be transferred at a time frame that is determined by agreement with the other programs.

“Courtesy Dosing” is known nationally as “Guest Dosing”, which means a process where a person in OTP may be able to dose at another clinic; either in the state, or out of state to maintain the continuity of care for their OTP.

“Dilute Urinalysis” for the purposes of these rules means a creatinine level less than twenty (20) milligrams.

“Lock In” means a process where a program along with the State authority determine that a person is best served clinically at one program. This determines where the person is to go for their OTP.

“Lock Out” means a process where a program along with the State authority determine that it is in a person's best interest to be locked out of a program due to concerns of this person not being safe to themselves or others in a program and/or could be a threat to that program due to diversion or other items.

“OTP” means opioid treatment program.

“Special Exception Requests” are requests that must be sent to the state controlled administrator for final approval. These requests are for take home bottles above and beyond what is allowed for the person who is on Methadone at the time of the request.

“Take-Out Bottle” is a prescription of individually labeled bottle or bottles of Methadone that is determined to be allowed for each particular phase of treatment. Each bottle or bottles is labeled with proper required DEA information.

“Taper” refers to when an individual is being reduced on his/her dose for any reason either of their own accord or due to concerns that the medical director raises. Tapers are started with a medical order and monitored by the medical staff.

“Torsades de Pointe” or simply Torsades, is a French term that literally means “twisting of the spikes.” It refers to a specific, rare variety of ventricular tachycardia that exhibits distinct characteristics on the electrocardiogram (ECG).

“Transfer” is when an individual transfers from one program to another without a break in treatment.

21.320.2 GENERAL PROVISIONS

- A. Opioid Treatment Programs (OTP) shall be provided to individuals meeting criteria for opioid use disorder according to the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) (2013), which is hereby incorporated by reference. No later editions or amendments are incorporated. You may obtain a copy of the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) (2013) from the American Psychiatric Association, 1000 Wilson Boulevard, Arlington, VA 22209-3901. You may inspect a copy of the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) (2013) at the Colorado Department of Human Services, Office of Behavioral Health, 3824 W. Princeton Circle, Denver, CO 80236, during regular business hours.
- B. Agencies applying to be licensed as an OTP shall have the following:
 - 1. Controlled substance license;
 - 2. Federal accreditation;
 - 3. Drug Enforcement Administration (DEA) registration; and,
 - 4. Substance Use and Mental Health Services Administration (SAMHSA) certification.
- C. Agencies shall provide admission to pregnant individuals within forty-eight (48) hours of request for services or provide interim services until an admit date is available.
- D. Agencies shall not detoxify pregnant individuals receiving methadone or other approved controlled substances without the approval of the Office of Behavioral Health.

21.320.3 ADMINISTRATIVE AND MEDICAL RESPONSIBILITY

21.320.31 OTP Sponsors

OTP sponsors are responsible for the following:

- A. Overall operation of the program including, but not limited to:

1. Compliance with all applicable state and federal laws, rules, and regulations;
2. Medical and counseling personnel are qualified to provide opioid replacement treatment;
3. Individuals are enrolled on their own volition;
4. Full disclosure is made to individuals about opioids and their use in treatment.
5. Written, informed consents for opioid replacement treatment are signed by individuals eighteen (18) years of age and older;
6. Written, informed consents for all aspects of opioid replacement treatment are signed by parents, legal guardians or other responsible adults designated by appropriate state authorities for individuals under age eighteen (18) years old;
7. Individual/counselor ratios do not exceed fifty to one (50:1) for full-time counseling staff, forty (40) hours per week, and twenty five to one (25:1) for half-time counseling staff, twenty (20) hours per week;
8. Written (OTP) policies and procedures are developed, implemented and maintained that are based on and in compliance with Department rules;
9. All reasonable and clinically indicated efforts are made to coordinate treatment with other healthcare and behavioral health providers. Documentation includes obtaining individuals' consent to release information to communicate with those practitioners.
10. Methadone and other controlled substances are disposed of in accordance with the federal regulations.
11. Printed acknowledgements are signed by patients and kept in patient records stating that they have been informed of the United States Department of Transportation regulation against the use of OTP prescribed methadone by commercial drivers and the possible loss of commercial driver's license if taking methadone for an opioid use disorder is discovered.

B. Training

1. Training for new (OTP) staff is documented in personnel records including, but not limited to provisions of Section 21.160.1, A, 3, and:
 - a. Federal Opioid Medication Assisted Treatment regulations;
 - b. OTP treatment rules;
 - c. OTP policies and procedures;
 - d. Clinical practices including, but not limited to:
 - 1) Protocols around special exception requests;
 - 2) Phase level requests; and
 - 3) Any take-home protocol such as holiday dosing, weekend dosing, hold doses, hospitalization of individuals, incarceration, nursing home stays, and courtesy dosing.

- e. Pharmacology of methadone including, but not limited to, loss of tolerance to opioids, dangerous drug or alcohol interactions, signs and symptoms of overdose, purpose of its use.
- 2. Annual training for OTP staff including, but not limited to:
 - a. Most current pharmacology of medications used, and clinical practices applicable to OTP, including problems with interactions of medications.
 - b. Review of federal and state regulations and rules.
 - c. Review of current OTP policies and procedures.
 - d. Infectious disease risks and screening.

21.320.32 OTP Medical Directors

- A. Agencies shall have designated medical directors who shall authorize and oversee other physicians, other appropriately licensed and/or certified medical personnel and all medical services provided.
- B. Each OTP shall have at least one medical director per program location. These site-level medical directors shall be physically present at the OTP at least forty percent (40%) of the time that the program administers or dispenses medication. Site-level medical directors may serve in their same capacity at additional sites as long as they are physically present at the ancillary opioid treatment programs at least forty percent (40%) of the time that the program administers or dispenses medication and can satisfactorily discharge all of their duties for each program.
- C. Medical directors and other medical healthcare providers shall currently possess and maintain licenses to practice medicine/nursing in compliance with the credentialing requirements of their own profession in Colorado as provided by Article 240, Title 12, C.R.S. OTP medical directors shall assure appropriate credentials and training for other OTP physicians and other qualified health care providers to dispense, compound or administer a controlled substance in an OTP.
- D. Medical directors shall ensure that the OTP agency is in compliance with all state and federal rules and regulations regarding medical treatment for opioid use disorder.
- E. OTP medical directors, other OTP physicians and authorized OTP medical personnel shall ensure the following:
 - 1. Medical evaluations including evidence of current physiological dependence and/or history of opioid use or exceptions to admission criteria that are documented prior to initial dosing;
 - 2. These medical evaluations are done at admission prior to initial dose.
 - 3. The physical examinations and all appropriate laboratory tests are performed and reviewed within fourteen (14) calendar days following treatment admission;
 - 4. All medical professionals shall educate individuals regarding risks and benefits of OTP and document that individuals are entering voluntarily.

5. All medical orders are properly signed or countersigned including initial orders for approved controlled substances and other medications, subsequent dose increases or decreases, changes in take-home dose privileges, emergency situations and other special circumstances by the medical director.
- F. Medical directors or other physicians shall review, countersign and date intake evaluations written by authorized medical personnel before initial doses may be administered to individuals. When medical directors and other physicians are not available on-site to review, countersign and date evaluations for admission written by medical personnel, required physician reviews may be conducted by telephone and initial doses may be administered to individuals on physicians' verbal or standing orders. In such cases, medical personnel shall document in individual records that no physicians were available on site and that physician reviews were conducted by telephone. Medical directors or other physicians shall review and countersign authorizations.
- G. Medical directors and other qualified health care professionals shall utilize the information obtained from the Colorado State Board of Pharmacy's electronic Prescription Drug Monitoring Program (PDMP), developed pursuant to 12-280-403, C.R.S., as clinically appropriate upon intake.

21.320.4 INDIVIDUAL PLACEMENTS

21.320.41 Admission Criteria and Procedures

- A. Agencies shall follow all federal requirements in accordance with 42 CFR Part 8 (2019), which are hereby incorporated by reference. No later editions or amendments are incorporated. These regulations are available at no cost from the U.S. Department of Health & Human Services, Substance Abuse & Mental Health Services Administration, Office of Communications, 5600 Fishers Lane, Rockville, MD 20857 or at <https://www.ecfr.gov/>. These regulations are also available for public inspection and copying at the Colorado Department of Human Services, Office of Behavioral Health, 3824 West Princeton Circle, Denver, Colorado 80236, during regular business hours.
- B. Individuals shall be admitted to opioid medication assisted treatment if OTP medical directors or other OTP physicians determine, and subsequently document in individual records, that such individuals are currently physiologically dependent on opioid drugs or were physiologically dependent on opioid drugs, continuously or episodically for most of the year immediately preceding admission.
- C. In the case of individuals for whom the exact date on which physiological dependence began cannot be ascertained, OTP medical directors or other OTP physicians may, using reasonable clinical judgment, admit such individuals to opioid replacement treatment if from the evidence presented and recorded in individual records it is reasonable to conclude that such individuals were physiologically dependent on opioid drugs approximately one year prior to admission.
- D. OTP medical directors or other OTP physicians may waive the one-year history of opioid use requirement, if clinically appropriate, for the following:
 1. Persons released from penal institutions if admitted to treatment within six (6) consecutive months following release;
 2. Pregnant individuals, if OTP physicians certify pregnancy; or
 3. Former persons receiving treatment for up to two (2) consecutive years after discharge.

- E. Persons under age eighteen (18) shall have at least two unsuccessful attempts at short-term detoxification or drug-free treatment documented within a twelve-month period.
- F. OTPs offering short-term or long-term detoxification treatment shall follow all applicable state and federal laws, rules and regulations regarding admission criteria.
- G. OTPs shall not admit persons for more than two (2) detoxification treatment episodes per year.
- H. At time of admission, individuals shall be oriented to OTP policies and procedures including, but not limited to:
 - 1. Benefits and risks of opioid replacement treatment.
 - 2. Fee structure and payment options. This policy shall include written acknowledgement of understanding from the individual. The individual will be provided with a copy of this document and a copy will be placed in the clinical record.
 - 3. Conditions for dosing, counseling and toxicology sample collection. The policy shall include provisions for holding doses, evaluation of the "impaired" individual, treatment stipulations and agreements, "refusal" or "inability" to provide specimens for toxicology testing and unacceptable/unsafe behavior that limits the individual's ability to participate in OTP.
 - 4. Take-home dose privilege phase system.
 - 5. Special privilege exception requests.
 - 6. Consequences for violating policies; and,
 - 7. Written procedures and signed acknowledgements around the following shall include, but not be limited to:
 - a. Behavioral agreements;
 - b. Office treatment lock-in;
 - c. Office treatment lock-out;
 - d. Reductions in take-home dose privileges;
 - e. Administrative discharges;
 - f. Administrative transfers;
 - g. Courtesy dosing;
 - h. OTP transfer policy;
 - i. Taper protocol for any and all circumstances including inability to pay;
 - j. Hospitalization while in OTP instructions including, clinic after hours information;
 - k. Emergency procedures in case of a natural disaster or emergent closing of the clinic;

- I. Use of Prescription Drug Monitoring Program in treatment;
- m. Use of other prescription medications in treatment; and,
- n. Provisions around conditions for dosing.

21.320.42 Other Prescription Medications

- A. Individuals will bring in all personal prescription medications for review to the program.
- B. The program shall assess and document the appropriateness of use of personal medications.
- C. Programs will have a policy for the assessment of all prescription medication that an individual may bring in.
- D. Programs will make regular use of the prescription drug monitoring program as evidenced by documentation. In addition, they will refer to their policy on the PDMP for clinical decisions.

21.320.5 PRESCRIBING, DISPENSING, AND ADMINISTERING APPROVED CONTROLLED SUBSTANCES

- A. OTP medical directors or other OTP physicians shall order approved controlled substances and document orders in individual records.
- B. Exceptions to dosing regimens outlined in federal regulations shall require approval by the Department prior to dosing.
- C. Approved controlled substances shall be administered by OTPs according to manufacturer's specifications found on product labels and/or in printed instructions accompanying the product.
- D. In circumstances where individuals must be administratively withdrawn from methadone due to inability or unwillingness to pay treatment fees, OTPs shall provide a safe medical taper if necessary. Pregnant individuals shall have the option to defer payment for treatment and continue to receive OTP.

21.320.6 EVALUATIONS AND ASSESSMENTS

21.320.61 General Provisions

- A. Individuals re-admitted to treatment following treatment absences of six (6) months or more shall undergo medical evaluations, physical examinations, and/or laboratory tests as deemed appropriate by OTP medical directors or other healthcare providers.
- B. Other medical concerns shall be addressed by OTPs or referred to other medical agencies when appropriate as determined by OTP medical directors or other health care providers

21.320.62 Medical Evaluations

Individuals admitted to OTPs shall have medical evaluations conducted by medical directors, other OTP physicians, nurse practitioners, or physician assistants prior to the first dose. Medical evaluations shall include, at minimum, the following:

- A. Past medical history, past substance abuse history including required opioid use and dependence chronologies, choice of opioid and route of administration;

- B. Evidence of current physiological dependence; and
- C. Cardiovascular assessment for the risk of Torsades de Pointe.

21.320.63 Physical Examinations

- A. Thorough physical examinations shall be conducted, evaluated and documented in individual records by medical directors or other OTP qualified healthcare professionals practicing within their scope, within fourteen (14) consecutive calendar days following treatment admission and every two (2) consecutive years from date of admission.
- B. At a minimum, physical examinations shall consist of:
 - 1. Examinations of organ systems for possible infectious diseases and pulmonary, liver, and cardiac abnormalities;
 - 2. Checks for dermatologic indication of opioid use;
 - 3. Vital signs (temperature, pulse, blood pressure and respiratory rate);
 - 4. Evaluations of individuals' general appearance;
 - 5. Inspections of head, ears, eyes, nose, throat (thyroid), chest (including heart and lungs), abdomen, extremities, and skin (tracks, scarring, abscesses);
 - 6. Neurological assessments; altered mental status.

21.320.64 Laboratory Tests

- A. Admission laboratory tests shall be conducted with individual consent either on-site or through referral, and results shall be evaluated and documented in individual records within fourteen (14) consecutive calendar days following treatment. Admission laboratory tests shall include:
 - 1. Serological test for syphilis;
 - 2. Tuberculin skin test and/or other tests for tuberculosis when clinically indicated;
 - 3. Urine toxicology or other tests to determine current drug use;
 - 4. Complete blood count and differential, as clinically indicated;
 - 5. Routine and microscopic urinalysis, as clinically indicated;
 - 6. Liver function tests;
 - 7. Test for Hepatitis B, C, and Delta when clinically indicated;
 - 8. Test for HIV/AIDS when clinically indicated.
- B. The following laboratory tests shall be conducted with consent, every two (2) consecutive years from date of admission.
 - 1. Tuberculin skin test and/or other tests for tuberculosis when clinically indicated.
 - 2. Complete blood count and differential, as clinically indicated.

3. Liver function profile, as clinically indicated.

21.320.7 TOXICOLOGY SCREENS/URINE DRUG SCREENS

- A. OTPs shall develop and implement policies and procedures that ensure a random sample collection protocol that minimizes falsification and limits individuals' inability or refusal to provide specimens for testing.
 1. Individuals shall have no notification prior to the day they are required to give a sample.
 2. Individuals shall not be allowed to give a sample on days they normally attend the clinic unless those days are coincidentally randomly assigned sample days.
- B. OTPs shall develop and implement policies and procedures that establish treatment responses to the following:
 1. Evidence of unauthorized drugs in toxicology screens, including prescription medications;
 2. Lack of OTP-administered controlled substances in toxicology screens, including Suboxone;
 3. Dilute urine analysis;
 4. Use of the prescription drug monitoring program.
- C. Procedures for toxicology screens shall be designed and implemented to ensure random sample collection in accordance with requirements for each phase of take-home dose privileges.
- D. Toxicology screens shall occur with the following frequencies:
 1. One (1) toxicology screen at admission;
 2. Minimum of eight (8) annual random toxicology screens;
 3. An initial toxicology screen for individuals undergoing short-term detoxification;
 4. An initial toxicology screen and at least one (1) random toxicology screen per month for individuals undergoing long-term detoxification;
 5. At least one (1) random toxicology screen during thirty (30) day reductions in take-home dose privileges.
- E. Refusal to provide samples for toxicology screens shall be considered to be positive toxicology screens.
- F. Dilute urinalysis will be reviewed and assessed.

21.320.8 TAKE-HOME DOSE PRIVILEGES

21.320.81 Take-Home Dose Protocols

- A. Individuals may qualify to self-administer methadone doses at locations other than OTPs if they meet all the criteria for each of six (6) phases of take-home dose privileges. Individuals shall qualify for each phase sequentially and must have the following, at minimum, in addition to length of time for each phase:

1. Most recent toxicology screen is negative;
2. Clinical assessments completed;
3. Minimum of one (1) hour of counseling per month;
4. No unexcused dosing absences;
5. No unexcused counseling absences;
6. Compliance with OTP policies and procedures;
7. No known recent criminal activity;
8. No alcohol abuse;
9. Competent to safely handle take-home doses;
10. Responsible behavior;
11. Stable living environments;
12. Stable social relationships;
13. Adherence to service plans;
14. Compliance with on-site dosing schedules; and,
15. Prescription drug monitoring shall be used upon increase of each phase and documented in the chart.
 - a. In addition to items 1-15, above, Phase 1 permits a take-home dose for Sunday and one (1) additional take-home dose per week on or after the first ninety (90) consecutive calendar days of treatment.
 - b. In addition to items 1-15(a), Phase 2 permits a take-home dose for Sunday and two (2) additional take-home doses per week when the individual has completed four (4) or more consecutive months in treatment, and the most recent two (2) consecutive urine screens are negative. Individuals shall receive no more than two (2) consecutive calendar days of take-home doses.
 - c. In addition to items 1-15(a) through (b), Phase 3 permits a take-home dose for Sunday and three (3) additional take-home doses per week when the individual has completed six (6) or more consecutive months in treatment, and the most recent three (3) consecutive urine drug screens are negative. Individuals shall receive no more than two (2) consecutive days of take-home doses.
 - d. Individuals may qualify for Phase 4 when, in addition to items 1-15(a) through (c), an individual has completed nine (9) or more months in treatment and the most recent four (4) consecutive toxicology screens are negative. Phase 4 permits a take-home dose for Sunday and five (5) additional take-home doses per week.

- e. Phase 5 permits thirteen (13) take-home doses per two-week period. Individuals may qualify for Phase 5 when, in addition to items 1-15(a) through (d), the individual has completed one (1) or more years in treatment, AND the most recent eight (8) consecutive toxicology screens are negative.
 - f. Phase 6 permits twenty-eight (28) to thirty (30) take-home doses per month. Individuals may qualify for Phase 6 when, in addition to the above, the following criteria are met:
 - 1) Completed two (2) or more years in treatment;
 - 2) Most recent eight (8) consecutive toxicology screens are negative.
- B. Individuals transferring from out of state must meet the Colorado state requirements for the take out phase they are requesting.
- C. All phases must receive special state approval for take-outs beyond their approved week schedule.
- D. Take-home doses may be approved by OTPs for days clinics are closed, including Sundays and state and federal holidays.
- E. Take-home doses shall not be approved for individuals undergoing short-term detoxification.
- F. Written agreements shall be developed and implemented for individuals approved for take-home doses. Agreements shall be part of the service plan and shall explain the rationale for approving take-home dose privilege phases, stipulate dose amounts and set consequences for violating agreement conditions.
- G. Take-home doses shall be dispensed in medication containers that conform to state and federal poison prevention packaging requirements, including childproof lids.
- H. Labels shall be affixed to containers with the following information:
 - 1. OTP names, addresses, and telephone numbers;
 - 2. Individual names;
 - 3. Drug types;
 - 4. Dose amounts, if not physician-authorized blind doses;
 - 5. Directions for use.
- I. Take-home doses numbering six (6) or less shall be transported in a discrete and secure manner agreed upon by OTPs and individuals.
- J. Take-home doses numbering seven (7) or more shall be transported in locked containers constructed of rigid materials that resist tampering.
- K. Take-home doses shall be securely and discretely stored where individuals reside, in a manner that reduces the risk for access by children and unauthorized individuals.
- L. OTPs shall submit and obtain Department approval for the following:

1. Split doses with the exception of pregnant individuals;
 2. Take-home doses for individual detoxification lasting less than thirty (30) consecutive calendar days;
 3. Take-home doses that do not conform to take-home dose phase requirements;
 4. Take-home medication doses for individuals with unacceptable urine drug screen results within the last ninety (90) calendar days;
 5. Take-home doses for OTP individuals admitted to extended health care agencies or licensed residential substance use disorder agencies;
 6. Phase 5 take-home doses.
- M. Requests for thirty one (31) take-home doses or more for individuals in Phase 6 shall require the federal Center for Substance Abuse Treatment (CSAT) approval in addition to Department approval.
- N. Individuals reporting loss or theft of take-home doses shall not be provided replacement doses or daily doses, until the day after the last take-home dose would have been taken, unless there are extenuating circumstances or medical necessity.
- O. OTPs shall have policies and procedures for transporting methadone or other approved controlled substances to individuals in residential treatment or recovery agencies that includes a secure plan for storage from the facility.

21.320.82 Reductions in Take-Home Dose Privilege Phases

- A. Illicit positive toxicology screens and unexcused dosing and counseling absences shall result in thirty-day reductions in take-home dose privilege phases.
- B. Positive toxicology screens during thirty-day reduction periods shall result in further reductions in privilege phases.
- C. Privilege phases for which individuals qualified prior to reductions may be sequentially restored at a rate of one (1) phase every thirty (30) consecutive calendar days if toxicology screens remain negative and all other requirements are met.

21.320.9 DIVERSION AND CENTRAL REGISTRY

- A. OTPs shall prevent simultaneous enrollment of individuals in more than one clinic by fully participating in the Department Central Registry of opioid individuals, developed pursuant to 27-80-215, C.R.S.
 1. Prior to admitting applicants to treatment, OTPs shall initiate a clearance inquiry to the Department's Central Registry of opioid individuals by submitting applicant information in Department prescribed formats.
 2. Applicant information shall include:
 - a. Name;
 - b. Date of birth;

- c. Proposed date of admission; and
 - d. Other information required by the individual clearance procedure.
- 3. Applicants shall not be admitted to treatment when the Department's Central Registry shows them as currently enrolled in another OTP.
- 4. In the event that the Central Registry is inaccessible, not functioning, or the Department is closed, an OTP shall contact other OTPs within their geographic area to verify an individual's enrollment status.
- 5. OTPs shall report clinic discharges to the Department's Central Registry within three (3) business days or immediately upon transfer.

21.330 ADDICTION COUNSELOR CERTIFICATION AND LICENSURE

21.330.1 STATUTORY AUTHORITY AND APPLICABILITY

- A. Authority to establish the educational requirements necessary for an individual to pursue certification as an addiction counselor pursuant to Part 8 of Article 245 of Title 12, C.R.S. is provided by Sections 12-245-804(3), C.R.S. and 27-80-108(1)(e), C.R.S.
- B. Authority to establish requirements for clinical supervision is provided by Section 12-245-805(1), C.R.S.
- C. Authority to establish requirements for addiction counseling continuing professional competency is provided by Section 12-245-806(1)(b), C.R.S.
- D. Levels of addiction counselor certification and licensure
 - 1. Individuals pursuing certification as an addiction technician (CAT) or an addiction specialist (CAS) shall be in compliance with all applicable state statutes and CDHS regulations.
 - 2. Pursuant to Section 12-245-804(1)(e), C.R.S. an applicant pursuing licensure as an addiction counselor or registration as an addiction counselor candidate, pursuant to 12-245-804(3.7), C.R.S. shall meet the requirements for a certification as an addiction specialist established in section 21.330.31.B.
- E. The Department of Regulatory Agencies' State Board of Addiction Counselor Examiners created pursuant to Section 12-245-802, C.R.S. is the entity responsible for issuing a license as an addiction counselor (LAC), a certification as an addiction specialist (CAS) or a certification as an addiction technician (CAT) granted an applicant meets all applicable statutory and regulatory requirements, including the regulatory standards established in section 21.330.

21.330.2 DEFINITIONS

"CAS" for the purpose of this section means a certified addiction specialist.

"CAT" for the purpose of this section means a certified addiction technician.

"DORA" means the Department of Regulatory Agencies.

"LAC" means a Licensed Addiction Counselor.

21.330.3 COURSE WORK AND TRAINING REQUIREMENTS FOR INDIVIDUALS PURSUING AN ADDICTION COUNSELOR CREDENTIAL

21.330.31 Addiction Counseling Course Work and Training

- A. An individual must complete the following course work and trainings to be eligible for credentialing as a CAT:
1. Addiction counseling;
 2. Client records management;
 3. Principles of addiction;
 4. Professional ethics;
 5. Culturally informed treatment;
 6. Pharmacology;
 7. Motivational interviewing;
 8. Trauma-informed care; and
 9. Group counseling skills.
- B. In addition to the course work and trainings established in 21.330.31.A., an individual must complete the following course work and trainings to be eligible for credentialing as a CAS:
1. Clinical assessment and treatment planning;
 2. Cognitive behavioral therapy;
 3. Co-occurring disorders;
 4. Advanced pharmacology;
 5. Advanced professional ethics;
 6. Advanced motivational interviewing;
 7. Advanced models;
 8. Specialized addiction treatment;
 9. Infectious diseases;
 10. Clinical supervision I; and
 11. Clinical supervision II.

21.330.32 Completion of Addiction Counseling Course Work and Training

- A. Addiction counseling course work and training shall be completed through an addiction counselor clinical training program approved by the Department pursuant to 27-80-111, C.R.S.

- B. Course work and training competency may also be obtained through academic educational equivalency.
 - 1. An individual pursuing academic educational equivalency must demonstrate proficiency in each of the addiction counseling course work and trainings established in Section 21.330.31.
 - 2. Academic educational equivalency may be accomplished by successful completion of equivalent department required course work and trainings, obtained from accredited institutions of higher education.
 - 3. Courses in the behavioral health sciences obtained from accredited institutions of higher education equivalent to the department required training shall be demonstrated through official transcripts and syllabi and/or course descriptions.

21.330.4 REQUIREMENTS FOR CLINICAL SUPERVISION PROVIDED BY A CERTIFIED ADDICTION SPECIALIST (CAS) AND LICENSED ADDICTION COUNSELOR (LAC)

An individual pursuing a credential as a certified addiction technician (CAT) or a certified addiction specialist (CAS) may receive clinically supervised addiction work experience hours and consultation from an appropriately trained certified addiction specialist (CAS) or licensed addiction counselor (LAC). Exceptions to who can provide clinical supervision for an individual pursuing a credential as a CAT or CAS may be reviewed by DORA'S State Board of Addiction Counselor Examiners, created pursuant to 12-245-802, C.R.S.

21.331 ADDICTION COUNSELING CONTINUING PROFESSIONAL COMPETENCY

21.331.1 STATUTORY AUTHORITY

- A. Pursuant to Section 12-245-806, C.R.S., licensed addiction counselors, certified addiction specialists and certified addiction technicians shall demonstrate continuing professional competence through participation and compliance with the continuing professional development program set forth in 21.331.3.
- B. Pursuant to Section 12-245-806(2), C.R.S., the Department Of Regulatory Agencies' State Board of Addiction Counselor Examiners created pursuant to Section 12-245-802, C.R.S., shall use the addiction counseling continuing professional competency program to determine whether a licensed or certified addiction counselor is maintaining continuing professional competency to engage in the profession of addiction counseling.

21.331.2 DEFINITIONS

"Addiction professional" means a licensed addiction counselor (LAC), a certified addiction specialist (CAS) or a certified addiction technician (CAT).

21.331.3 ADDICTION COUNSELING CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS

- A. During the two (2) years between the start date of the current credential and the upcoming expiration date, an addiction professional shall complete a self-assessment of the knowledge and skills of a licensed or certified addiction counselor. The self-assessment shall address, but not be limited to, the following transdisciplinary foundations that underlie the work of all addiction counselors established in Section 12-245-803(2), C.R.S.:
 - 1. Understanding addiction;

2. Treatment knowledge;
 3. Application to practice; and
 4. Professional readiness.
- B. Based on the self-assessment completed pursuant to 21.331.3(A), an addiction professional shall develop, execute, and document a learning plan that addresses how the addiction counselor will learn, integrate, and apply the knowledge, skill, and judgment to practice as an addiction counselor according to generally accepted industry standards and professional ethical standards.
- C. An addiction professional shall demonstrate the completion of learning plan goals through documentation of activities in the area of understanding addiction, treatment knowledge, application to practice, and professional readiness necessary to ensure at least minimal ability to safely practice the profession.
1. A certified addiction technician (CAT) is required to complete a total of twenty (20) contact hours of education/training activities (online or in-person) within the two (2) years between the start date of the current credential and the upcoming expiration date.
 2. A licensed addiction counselor (LAC) or certified addiction specialist (CAS) is required to complete a total of forty (40) contact hours of education/training activities (online or in-person) within the two (2) years between the start date of the current credential and the upcoming expiration date.
- D. An addiction professional is responsible for maintaining proof of the self-assessment, learning plan, and supporting documents demonstrating the completion of continuing professional competency education/training activity hours within the two (2) years between the start date of the current credential and the upcoming expiration date.

21.400 BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM

21.400.1 DEFINITIONS [Eff. 11/1/16]

“Assessment” means a formal and continuous process of collecting and evaluating information about an individual for service planning, treatment and referral. Assessments establish justification for services.

“Chief complaint/presenting problem” means the reason/concern/motivation which prompts the client to seek services or that which their referral source identifies as the issue which requires intervention, usually in the person’s own words. Also includes, onset, duration, other symptoms noted, progression of the problem, solutions attempted at alleviating the problem, how the person’s life has been impacted and how the person views responsibility for the problem. This information can be from a referral source, family member or other professional.

“Crisis stabilization unit” or “CSU” means a facility, utilizing a restrictive egress alert device, which serves individuals requiring 24-hour intensive behavioral health crisis intervention for up to five days and cannot be accommodated in a less restrictive environment. Crisis stabilization units are licensed by the Colorado department of public health and environment as an acute treatment unit, pursuant to 6 CCR 1011-1, Chapter 6, or as a Community Clinic, pursuant to 6 CCR 1011-1, chapter 9.

“Integrated care model” means the systematic coordination of mental health, substance use, and primary care services.

“Licensed mental health professional” means a psychologist licensed pursuant to Section 12-43-301, et seq., C.R.S., a psychiatrist licensed pursuant to Section 12-36-101, et seq., C.R.S., a clinical social worker licensed pursuant to Section 12-43-401, et seq., C.R.S., a marriage and family therapist licensed pursuant to Section 12-43-501, a professional counselor licensed pursuant to Section 12-43-601, et seq., C.R.S., or an addiction counselor licensed pursuant to Section 12-43-801, et seq., C.R.S.

“Peer specialist,” or peer support specialist, recovery coach, peer and family recovery support specialist, peer mentor, family advocate or family systems navigator, means an individual who uses his or her lived experience of recovery from mental illness and/or addiction, plus skills learned in formal training, to deliver services in behavioral health settings. A family advocate or family systems navigator uses his or her lived experience of having a family member with a mental illness or substance use disorder and the knowledge of the behavioral health care system gained through navigation and support of that family member.

“Peer support” means recovery-oriented services provided by peer specialists that promote self-management of psychiatric symptoms, relapse prevention, treatment choices, mutual support, enrichment, and rights protection. Peer support also provides social supports and a lifeline for individuals who have difficulties developing and maintaining relationships.

“Physician” is defined in Section 27-65-102(16), C.R.S.

“Restrictive egress alert device” means a device used to prevent the elopement of a resident who is at risk if he or she leaves the facility unsupervised. Egress alert devices are not considered restrictive when used only to alert staff regarding the ingress and egress of residents, visitors, and others.

“Screening” means a brief process used to identify current behavioral health needs, including assessment, referral, or immediate intervention services, and is typically documented through the use of a standardized instrument.

“Skilled professional” means a person who has a minimum of a master’s degree in a behavioral health field, has completed a pre-service training program specific to their modality of service and has clinical crisis intervention experience.

“Supervision” means weekly clinical guidance from a licensed mental health professional.

“Triage” means a dynamic process of evaluating and prioritizing the urgency of crisis intervention needed based on the nature and severity of the individuals’ presenting situation.

“Trauma informed” means being aware of and responsive to the presence of trauma and the potential effects of past and current traumatic experiences in an individual’s life.

“Warm line/support line” means a telephonic service where individuals can “opt in” from the statewide crisis line to receive individualized screening and resources by peer specialists.

21.400.2 GENERAL PROVISIONS [Eff. 11/1/16]

- A. The Behavioral Health Crisis Response System is based on the following principles, established pursuant to Section 27-60-103(1)(a)(I) through (VII), C.R.S.:
1. Cultural competence;
 2. Strong community relationships;
 3. The use of peer supports;

4. The use of evidence based practices;
 5. Building on existing foundations with an eye towards innovation;
 6. Utilization of an integrated system of care; and,
 7. Outreach to students through school-based clinics.
- B. Each component within the behavioral health crisis response system must be capable of serving:
1. Children, adolescents, adults and older adults;
 2. Individuals with co-occurring conditions; including:
 - a. Mental health conditions;
 - b. Substance use disorders;
 - c. Medical needs;
 - d. Intellectual/developmental disabilities;
 - e. Physical disabilities;
 - f. Traumatic brain injuries; and/or,
 - g. Dementia.
 3. Individuals demonstrating aggressive behavior;
 4. Individuals who are uninsured or unable to pay for services; and,
 5. Individuals who may lack Colorado residency or legal immigration status.
- C. Each component within the Behavioral Health Crisis Response System must provide services in a culturally competent manner.
- D. Each modality of service within the Behavioral Health Crisis Response System must incorporate peer support into the services they provide, when clinically appropriate.

21.400.3 TELEPHONE CRISIS SERVICES [Eff. 11/1/16]

The Department shall maintain a comprehensive telephonic system capable of assessing any individual experiencing a self-defined crisis situation and making appropriate referrals. Telephone crisis services must be accessible to all individuals throughout the state of Colorado 24 hours per day, 7 days per week, and 365 days per year.

- A. The telephone crisis service must provide:
1. Screening and triage;
 2. Psycho-social support;
 3. Connection to appropriate resources;

- 4. Follow-up capability to callers as clinically appropriate; and,
 - 5. Access to a support line (also known as a warm line) provided by peer specialists. Peer specialists must have the ability to seamlessly transfer individuals to the crisis line when urgent clinical intervention is warranted.
- B. The telephone crisis service must be staffed by skilled professionals capable of assessing and making culturally competent, appropriate referrals.
- C. The telephone crisis service must use trauma-informed screenings and assessments and incorporate this information into safety planning, referrals and follow-up interventions.
- D. The telephone crisis service must initiate mobile crisis services when appropriate and be linked with walk-in crisis service facilities.

21.400.4 WALK-IN CRISIS SERVICES [Eff. 11/1/16]

Walk-in crisis services facilities offer confidential, in-person support for anyone experiencing a self-defined crisis. Every walk-in crisis services facility must have the ability to provide information and referrals to anyone in need, including, if appropriate, access and clinically appropriate transportation to crisis stabilization for up to five days in a crisis stabilization unit.

- A. Each walk-in crisis services facility, including crisis stabilization units, must be designated pursuant to Title 27, Article 65, C.R.S., Care and Treatment of Persons with Mental Illness, and be in compliance with Section 21.280.
- B. Walk-in crisis services must employ an integrated care model based on evidence-based practices that consider an individual's physical and emotional health.
- C. Walk-in crisis services must include screening, assessment, and referrals to appropriate resources.

1. Screening.

- a. Screening must collect at least the following information from an individual seeking crisis services:
 - 1) Identifying information;
 - 2) Chief complaint/presenting problem;
 - 3) Medical concerns/chronic health issues; and,
 - 4) Current healthcare providers.
- b. Screenings must be reviewed by a skilled professional who is licensed or receiving supervision from a licensed mental health professional.

2. Assessment.

A full assessment must be administered in accordance with Section 21.190.3, if clinically indicated by the initial screening in Section 21.340.4(C)(1).

3. Referrals.

The facility shall refer all individuals seeking crisis services to appropriate resources based on the level of care indicated by the screening or assessment.

D. Crisis stabilization units

1. Services provided on a crisis stabilization unit must include:

- a. Full psychiatric evaluation;
 - 1) By a physician or other professional authorized by statute to order medications; and,
 - 2) Within 24 hours of admission.
- b. Medical and medication treatment in accordance with Section 21.280.3;
- c. Service planning in accordance with Section 21.190.4;
- d. Peer support, when clinically appropriate;
- e. Treatment, to include:
 - 1) Individual counseling; and/or,
 - 2) Groups.
- f. Coordination with medical services;
- g. Case management;
- h. Service coordination and referral; and,
- i. Discharge planning.

2. Crisis stabilization unit staffing requirements

- a. In addition to the walk-in crisis service staffing requirements listed in 21.400.41, crisis stabilization units must have:
 - 1) Access to a physician or other professional authorized by statute to order medications upon admission; and,
 - 2) At minimum, one on-site staff member qualified to administer medications.

21.400.41 Walk-In Crisis Services Staffing Requirements [Eff. 11/1/16]

- A. A walk-in crisis services facility must be staffed 24 hours per day, 7 days per week, and 365 days per year.
- B. A walk-in crisis services facility must employ sufficient staff to ensure that the provision of services meets the needs of individuals. At minimum, a facility must have two staff on-site at all times.

- C. A walk-in crisis services facility must be staffed by skilled professionals who are licensed or receiving supervision from a licensed mental health professional.
- D. If a walk-in crisis services facility is staffed by unlicensed skilled professionals, a licensed mental health professional must be on-call and able to respond to the facility within thirty (30) minutes.
- E. A walk-in crisis services facility must have the ability to provide peer support on-site when clinically appropriate.

21.400.5 MOBILE CRISIS SERVICES AND UNITS [Eff. 11/1/16]

Mobile crisis services provide a timely in-person response to a behavioral health crisis in the community. Mobile crisis services must collaborate with telephone crisis services, walk-in crisis services, and crisis residential and in-home respite services.

- A. A mobile crisis unit must have the capacity to:
 - 1. Intervene wherever the crisis occurs;
 - 2. Serve individuals unknown to the system;
 - 3. Coordinate multiple simultaneous requests for services; and,
 - 4. Work closely with police, crisis hotlines, schools, and hospital emergency departments;
- B. A mobile crisis unit must operate 24 hours per day, 7 days per week, and 365 days per year in providing community-based crisis intervention, screening, assessment, and referrals to appropriate resources.
 - 1. In screening the individual in crisis, the mobile crisis unit must collect at least the following information:
 - a. Identifying information;
 - b. Chief complaint/presenting problem;
 - c. Medical concerns/chronic health issues; and,
 - d. Current healthcare providers.
 - 2. The mobile crisis unit must administer a full assessment in accordance with Section 21.190.3 if clinically indicated by the initial screening in Section 21.400.5(C)(1).
- C. A mobile crisis unit must be staffed by skilled professionals who are licensed themselves or receiving supervision from a licensed mental health professional.
- D. If a mobile crisis staff member is an unlicensed skilled professional, he or she must have, at minimum, immediate phone access to a licensed mental health professional.
- E. A mobile crisis unit must utilize peer supports, in conjunction with a skilled professional, in a mobile response when clinically appropriate.

21.400.6 RESIDENTIAL AND IN-HOME RESPITE CRISIS SERVICES [Eff. 11/1/16]

Residential and in-home respite crisis services allow an individual experiencing a crisis to stabilize, resolve problems, and link with resources for ongoing support in a safe environment.

- A. Residential and in-home respite services include a range of short-term, not to exceed 14 calendar days, services 24 hours per day, 7 days per week, and 365 days per year.
- B. In order to be eligible for residential or in-home respite services, an individual experiencing a behavioral health crisis must:
 - 1. Be referred by a walk-in crisis services professional or a mobile crisis services professional;
 - 2. Agree to residential or in-home respite services;
 - 3. Not meet emergency procedure criteria outlined in Section 27-65-105, C.R.S., Care and Treatment for Persons with Mental Illness;
 - 4. Present a minimal risk of significant withdrawal complications;
 - 5. Cooperate with program guidelines; and,
 - 6. Be able and willing to participate in forming a service plan.
- C. Residential and in-home respite providers will utilize peer specialists to provide support, when appropriate.

21.410 COMMUNITY TRANSITION SPECIALIST PROGRAM

- A. Pursuant to Title 27, Article 66.5, C.R.S. the Community Transition Specialist Program is a statewide program that receives referrals from hospitals and withdrawal management facilities and coordinates services for individuals prior to their release or discharge to the community.
- B. The Office is responsible for the administration and oversight of the Community Transition Specialist Program. Pursuant to § 27-66.5-103(5), C.R.S., the Office may contract with a vendor to provide the referral and coordination services required for statewide implementation of the Community Transition Specialist Program. The Office shall coordinate the vendor-provided services with other relevant state supported programs and services.
- C. The Community Transition Specialist Program will coordinate services for individuals meeting the section 27-66.5-102(3), C.R.S. definition of a "high-risk individual". "High-risk individual" means a person who:
 - 1. Is under:
 - A. An emergency procedure for a seventy-two-hour hold pursuant to section 27-65-105, C.R.S.;
 - B. A certification for short-term treatment or extended short-term treatment pursuant to section 27-65-107, C.R.S. or section 27-65-108, C.R.S.;
 - C. Long-term care and treatment pursuant to section 27-65-109, C.R.S.;

- D. An emergency commitment pursuant to section 27-81-111, C.R.S. or section 27-82-107, C.R.S.; or,
 - E. An involuntary commitment pursuant to section 27-81-112, C.R.S. or section 27-82-108, C.R.S.;
2. Has a significant mental health or substance use disorder, which means:
- A. The individual has had two (2) or more seventy-two hour holds or emergency commitments in the previous twelve (12) months;
 - B. The individual has been certified for short-term treatment pursuant to section 27-65-107, C.R.S., certified for extended short-term treatment pursuant to section 27-65-108, C.R.S. or, ordered for long-term care and treatment pursuant to section 27-65-109, C.R.S. one (1) or more times in the previous twelve (12) months; or,
 - C. The individual has been arrested or detained two (2) or more times related to an alcohol or substance use disorder in the last twelve (12) months and does not have a probation or parole officer; and,
3. Is not currently engaged in consistent behavioral health treatment, which means the individual has not received any local or available outpatient behavioral health treatment services in the last forty-five (45) calendar days or has been terminated from outpatient behavioral health services within the last forty-five (45) calendar days. Outpatient behavioral health treatment services do not include crisis services, emergency care, withdrawal management services, initial intake appointments, assessments, or inpatient hospitalization.

21.500 RECOVERY RESIDENCE CERTIFICATION PROGRAM

21.500.1 STATUTORY AUTHORITY

The statutory authority to promulgate these rules is set forth in Sections 25-1.5-108.5(4), C.R.S. and 27-80-122(4), C.R.S.

21.500.2 DEFINITIONS

“Recovery residence certifying body” means an entity that has been approved by the office of behavioral health to certify recovery residences pursuant to 25-1.5-108.5, C.R.S.

“Recovery residence”, “sober living facility”, or “sober home” as defined in 25-1.5-108.5(1), C.R.S., means any premises, place, facility, or building that provides housing accommodation for individuals with a primary diagnosis of a substance use disorder that: is free from alcohol and nonprescribed or illicit drugs; promotes independent living and life skill development; and provides structured activities and recovery support services that are primarily intended to promote recovery from substance use disorders. A “recovery residence” does not include: a private residence in which an individual related to the owner of the residence by blood, adoption, or marriage is required to abstain from substance use or receive behavioral health services for a substance use disorder as a condition of residing in the residence; the supportive residential community for individuals who are homeless operated under Section 24-32-724, C.R.S. at the Fort Lyon property for the purpose of providing substance abuse supportive services, medical care, job training, and skill development for the residents; a facility approved for residential treatment by the office of behavioral health in the department of human services; or permanent supportive housing units incorporated into affordable housing developments.

“The NARR Standard” means the National Standard for Recovery Residences Version 3.0 (2018) established by the National Alliance of Recovery Residences, which is hereby incorporated by reference. No later additions or amendments are incorporated. The National Standard for Recovery Residences Version 3.0 (2018) is available at <https://narronline.org> and is also available for public inspection at the Colorado Department of Human Services, Office of Behavioral Health, 3824 West Princeton Circle, Denver, Colorado 80236, during regular business hours.

21.500.3 RECOVERY RESIDENCE CERTIFYING BODY APPROVAL PROGRAM

A. Recovery residence certifying body obligations prior to approval

1. A recovery residence certifying body applicant must submit an application to the office of behavioral health for approval as a recovery residence certifying body. The application must contain information on how the recovery residence certifying body applicant will meet the standards established in Section 21.500.3(B).

B. Recovery residence certifying body obligations after approval

1. A recovery residence certifying body must ensure that any premises, place, facility, or building they certify meets minimum standards that provide safe and healthy housing environments that support individuals in achieving and sustaining substance use disorder recovery.
2. A recovery residence certifying body must ensure that each recovery residence that it certifies in Colorado, complies with The NARR Standard as defined in 21.500.2 for providing the appropriate level of support and housing accommodations for individuals with a primary diagnosis of a substance use disorder.
3. A recovery residence certifying body must ensure recovery residences comply with the standards established in 25-1.5-108.5, C.R.S.
4. A recovery residence certifying body must have written policies and procedures that must be posted on the recovery residence certifying body’s website. At minimum, the written policies and procedures must include:
 - a. The certification process;
 - b. Application submission requirements, including the cost for certification;
 - c. How certification fees relate to service delivery and how recovery residences are informed about changes to certification fees;
 - d. The application review process;
 - e. The approval, revocation, denial, suspension, limitation, or modification process for certification;
 - f. The right and process to appeal decisions made by the recovery residence certifying body;
 - g. Re-application timeframes; and,
 - h. How grievances will be managed.

5. A recovery residence certifying body must maintain a website that contains, at minimum:
 - a. Information on how a recovery residence can apply for certification, as outlined in 21.500.3(b)(3);
 - b. The standards a recovery residence must meet to obtain differing levels of certification as defined by The NARR Standard as defined in 21.500.2, including the cost of certification for each level.
 - c. Board information as outlined in 21.500.3(B)(5);
 - d. Contact information for how individuals can submit a grievance to the recovery residence certifying body; and,
 - e. A list of certified recovery residences to ensure people throughout Colorado have access to information and locations of certified recovery residences; and,
 - f. The written policies and procedures outlined in 21.500.3(B)(3).
6. A recovery residence certifying body must have a board that has approval oversight of the recovery residence certifying body's practices, policies, and procedures. At minimum, the recovery residence certifying body must ensure:
 - a. A representative from the office of behavioral health is on the board;
 - b. A minimum of twenty-five percent (25%) of board members must represent recovery residences that are certified and do not otherwise have a conflict of interest with the certifying body;
 - c. The board includes at least two board members that represent individuals in recovery. The representatives for individuals in recovery must not own, volunteer at, or be employed by the recovery residence certifying body or a certified recovery residence;
 - d. That board members disclose any potential conflict of interest and have standards for how a conflict of interest is acknowledged, determined, and reconciled in regard to the execution of board duties;
 - e. That board meetings are open to the public, except as to the portion of the meeting that information that is confidential pursuant to state or federal statute is being discussed; and,
 - f. That board information is publicly posted on the recovery residence certifying body's website, including:
 - 1) A list of board members, each board member's representative role on the board, and each board member's term limit;
 - 2) The board member application and selection process;
 - 3) Board bylaws;
 - 4) Board meeting dates, times, and locations posted at least one (1) week prior to the board meeting; and,

- 5) Board agendas and minutes.
- 7. On or before February 1, of each year, a recovery residence certifying body must submit an annual report to the Office of Behavioral Health that covers the previous calendar year. At minimum, the annual report must include:
 - a. The total number of recovery residences certified in Colorado, as of the previous January 1.
 - b. The percentage of certified recovery residences which are also members of the approved recovery residence certifying body's association;
 - c. The total number of recovery residences which applied for certification in the previous calendar year;
 - d. The total number of recovery residences which applied for certification and were granted certification;
 - e. The total number of recovery residences which applied for certification and were denied certification, including the reason(s) why each recovery residence was denied;
 - f. The total number of recovery residences which certification was revoked, denied, suspended, or modified, including the reason(s) for the certification change;
 - g. The total number of grievances received, including the topic and outcome of each grievance;
 - h. Increases or decreases in certification fees, including justification for each fee change; and,
 - i. Any changes to the makeup, structure, and/or duties of the certifying body's board.
- C. An approval from the Office of Behavioral Health as a recovery residence certifying body is not time limited, with the exception that at the Office of Behavioral Health's discretion, an approval as a recovery residence certifying body may be revoked, denied, suspended, or modified. Written notification of the basis for action must be sent by certified mail to the last known address of the recovery residence certifying body. If the affected recovery residence certifying body disagrees with the decision, it has the right to appeal to the Colorado Department of Personnel and Administration, Office of Administrative Courts in accordance with the regulations set forth at 2 CCR 502-1 § 21.105, except that the time for answering the notice of charges will be thirty (30) days after the mailing of such notice. An affected recovery residence certifying body may subsequently seek judicial review of the Office of Behavioral Health's action in accordance with Section 24-4-101, et seq., C.R.S.

21.500.4 RECOVERY RESIDENCE CERTIFICATION GRANT PROGRAM

Subject to available appropriations as established in 27-80-122(3), C.R.S., a recovery residence may be eligible for a grant from the Office of Behavioral Health to pay a portion of, or all, application for certification and/or membership fees and/or dues required by a recovery residence certifying body.

21.500.41 RECOVERY RESIDENCE CERTIFICATION GRANT PROGRAM CRITERIA

- A. A recovery residence seeking a recovery residence certification grant must complete, in its entirety, the recovery residence certification grant application available on the Colorado Department of Human Services website.
- B. A recovery residence certification grant must only be used to pay fees related to gaining certification and/or membership from a recovery residence certifying body, which may include the payment of membership dues.
- C. A recovery residence certification grant application must be submitted to the Office of Behavioral Health by the last business day of each month.
- D. Recovery residence certification grant applications received by the Office of Behavioral Health within the time frame established in 21.500.41(C), must be reviewed by the Office of Behavioral Health to determine approval or denial. Grants will be awarded in alignment with state fiscal rules created pursuant to 24-30-202, C.R.S.
- E. Recovery residence certification grant applications that are not complete, contain inaccurate or false information, or express intent to use the recovery residence certification grant money in a manner that does not comply with state statutes or regulations, may be denied.
- F. A recovery residence which previously received a recovery residence certification grant must submit a new application each time they are seeking another recovery residence certification grant.
- G. A recovery residence which applies for a recovery residence certification grant must provide the office of behavioral health with documentation of the paid certification fees and/or membership dues from the approved recovery residence certifying body. A recovery residence that does not provide the required documentation may have their current or any subsequent recovery residence certification grant applications denied.
- H. The Office of Behavioral Health's decision regarding the recovery residence certification grant application is a final agency decision. If the affected recovery residence disagrees with the final agency decision, it may seek judicial review of the Office of Behavioral Health's action in accordance with Section 24-4-101, et seq., C.R.S.

21.600 - 21.700 (NONE)

21.800 UNIFORM METHOD OF DETERMINING ABILITY TO PAY FOR ANY PERSON WHO RECEIVES SERVICES FROM ANY PUBLIC INSTITUTION SUPERVISED BY THE DEPARTMENT OF HUMAN SERVICES FOR THE CARE, SUPPORT, MAINTENANCE, EDUCATION OR TREATMENT OF THE MENTALLY ILL OR DEVELOPMENTALLY DISABLED

21.810 STATUTORY AUTHORITY [Eff. 11/1/13]

The statutory authority for these rules and regulations is found at Sections 27-92-101 through 27-92-109, C.R.S.

21.820 DEFINITIONS [Eff. 11/1/13]

"Ability to Pay" is the amount of the legally responsible person's income and assets available to pay for the individual cost of care, support, maintenance, treatment, and education at the institution.

“Adjusted Assets” is the balance of the assets of the legally responsible person(s) after allowed asset deductions.

“Adjusted Charge” is the charge for hospital care, support, maintenance and treatment, up to but not exceeding the ability to pay of the responsible person(s).

“Adjusted Income” is the balance of the total gross monthly income of the legally responsible person(s) after allowed income deductions.

“Allowed Asset Deduction” includes liabilities; the value of the equity in the home; assets which are specifically targeted for retirement and which are not available for other purposes; and the Supplemental Security Income (SSI) asset allowance for each legally responsible parent, patient, spouse, and other dependent.

“Allowed Income Deduction” includes withholding taxes, employee union or association dues, mandatory retirement deductions, health insurance premiums, conservator fees, one-twelfth of the federal personal exemption allowance for each dependent, and child support and/or alimony payments.

“Colorado Net Taxable Income” refers to the calculation on the State of Colorado Income Tax Form, and reportable under Colorado law, which is used as the base against which state tax liability is determined.

“Cost of Care” refers to the full rate multiplied by the number of days of care provided.

“Department” refers to the Colorado Department of Human Services.

“Dependent” is an individual who qualifies as a dependent under Internal Revenue Service (IRS) regulations for federal income tax purposes.

“Executive Director” refers to the Executive Director of the Department.

“Federal Personal Exemption Allowance” refers to the dollar amount allowed by the IRS for each dependent.

“Full Rate” refers to the institution's daily rate, which is determined periodically, based on the cost for care, support, maintenance, treatment and education of patients, as approved by the Executive Director.

“Institution” refers to any public institution of this state supervised by the Department of Human Services for the care, support, maintenance, education, or treatment of the mentally ill or developmentally disabled.

“Insurance and Other Benefits” includes all insurance, health maintenance organizations, Medicare, Medicaid, and any other resources covering the cost of care, support, maintenance, or treatment by the institution.

“Legally Responsible Person(s)” is the patient, fiduciary, spouse, and parent(s) of children under 18 years of age, as applicable.

“Patient” refers to any person admitted, committed or transferred to any public institution of this state supervised by the Department of Human Services for the care, support, maintenance, education or treatment of the mentally ill or developmentally disabled.

“Personal Needs Allowance” refers to the uniform dollar amount determined by the Department to be available to each patient receiving income from a benefit or employment, which may be used for items not provided by the institution.

“SSI Asset Allowance” refers to the maximum dollar amount of assets that an individual is allowed to retain and still qualify for the Supplemental Security Income (SSI) Program.

21.830 INTRODUCTION [Eff. 11/1/13]

These rules are intended to provide the method used to assess charges at the public institutions under the supervision of the Department of Human Services for the care, support, maintenance, education, or treatment of the mentally ill or developmentally disabled. No person shall be denied admission because of inability to pay. These rules and regulations do not apply to individuals at these institutions who are receiving services under federally funded programs whose rules conflict with these rules.

21.840 PROCESS OF DETERMINING ABILITY TO PAY AND ADJUSTED CHARGE [Eff. 11/1/13]

A. Insurance and Other Benefits

Insurance and other benefits shall be applied first to the cost of care. Insurance and other benefits for any patient shall be billed at the cost of care. A legally responsible person who fails to cooperate in making existing insurance and other benefits available for payment will nevertheless be considered as having benefits available for payment.

B. Calculation of Ability to Pay

The ability to pay shall be calculated taking into consideration the factors in Section 27-92-104, C.R.S., and using the schedule in Section 21.860 of these rules and regulations.

C. Determination of Adjusted Charge

The adjusted charge shall be the balance of the cost of care after insurance and other benefits have been deducted, or the ability to pay, whichever is less. If the legally responsible person(s) does not cooperate in making insurance and other benefits available, the legally responsible person(s) will be billed for the amount equal to the dollar value of the insurance or benefits in addition to the lesser of the balance of the cost of care or the ability to pay. If the dollar value of insurance and other benefits cannot be determined, the legally responsible person(s) will be billed the full cost of care.

D. Modifications

A legally responsible person whose income is substantially reduced as a result of changed financial circumstances after the ability to pay has been determined, may request a redetermination and provide the hospital with evidence of financial change so that a new ability to pay may be determined based on current income and assets.

Should there be an increase in income, assets, insurance or other benefits, this information must be reported to the institution within sixty (60) calendar days of the changed financial circumstances so that an appropriate redetermination of the ability to pay can be made.

21.850 FACTORS AFFECTING THE DETERMINATION OF ABILITY TO PAY [Eff. 11/1/13]

The following factors are considered in the determination of ability to pay, in accord with Section 27-92-104, C.R.S.

A. Length of a Patient's Care and Treatment

To avoid undue hardship on patients and/or their families, the ability to pay is reduced after the sixth calendar month of treatment.

B. Medical and Physical Condition of Dependents

To avoid undue hardship on families, monthly payments for medical services for dependents with serious mental or physical conditions may be deducted from income when the adjusted income is determined, provided adequate supporting documentation is submitted to the institution.

21.860 SCHEDULE FOR DETERMINING THE ABILITY TO PAY [Eff. 11/1/13]

The ability to pay of the legally responsible person(s) is the sum of the monthly adjusted income and the monthly adjusted assets available to pay for the cost of care, support, maintenance, treatment, and education at the institution.

The monthly adjusted assets considered available to pay for care, support, maintenance and treatment is one (1) percent of adjusted assets.

The following table is used to calculate the monthly adjusted income considered available to pay for care, support, maintenance, treatment, and education.

MONTHLY ADJUSTED INCOME AVAILABLE TO PAY FOR CARE, SUPPORT, MAINTENANCE, TREATMENT AND EDUCATION

<u>Adjusted Income</u>	<u>1st - 6th Calendar Months</u>	<u>7th and Subsequent Calendar Months</u>
	Percent of Adjusted Income Available	
\$0-\$ 499	20%	15%
\$500-\$ 999	30%	25%
\$1,000 - \$1,499	35%	30%
\$1,500 - \$1,999	40%	35%
\$2,000 and above	45%	40%

21.870 ADDITIONAL FACTORS AFFECTING THE ABILITY TO PAY AND THE ADJUSTED CHARGE [Eff. 11/1/13]

- A. For legally responsible parents of children under eighteen (18) years of age, the monthly adjusted income available in the seventh and subsequent calendar months shall be one percent of Colorado Net Taxable Income.
- B. For single patients receiving only fixed income benefits, or when a husband and wife both reside in an institution or other health care facility and receive only fixed income benefits, the monthly adjusted income available will be the amount of these benefits, less the personal needs allowance and any other applicable deductions.

21.900 COMPETENCY EVALUATIONS IN CRIMINAL CASES [Emergency eff. 11/6/15; Permanent eff. 2/1/16]

These rules are established to create standards for psychologists and psychiatrists wishing to become approved as evaluators of competency to proceed.

21.910 DEFINITIONS [Emergency eff. 11/6/15; Permanent eff. 2/1/16]

“Approved evaluator” means an evaluator who is currently employed by CDHS; or has completed the application process through the Colorado Mental Health Institute at Pueblo (CMHIP) Court Services Division and is providing services under an active purchase order or a personal services contract, or as a fellow in forensic psychology or psychiatry training.

“Board Certification” in forensic psychiatry or forensic psychology means recognition of specialized training and knowledge in the field of forensic psychiatry by the American Board of Psychiatry and Neurology (ABPN), or in the field of forensic psychology by the American Board of Forensic Psychology (ABFP); no amendments or editions are incorporated. These board certification requirements may be reviewed during regular business hours by contacting the Superintendent of the Colorado Mental Health Institute in Pueblo, 1600 W. 24th Street, Pueblo, Colorado; or a state publications library.

“Competency Evaluator” means a licensed physician who is a psychiatrist or a licensed psychologist, each of whom is trained in forensic competency assessments, or a psychiatrist who is in forensic training and practicing under the supervision of a psychiatrist with expertise in forensic psychiatry and who is an approved evaluator, or a psychologist who is in forensic training and is practicing under the supervision of a licensed psychologist with expertise in forensic psychology and who is an approved evaluator.

“Competent to Proceed” means that the defendant does not have a mental disability or developmental disability that prevents the defendant from having sufficient present ability to consult with the defendant's lawyer with a reasonable degree of rational understanding in order to assist in the defense, or prevents the defendant from having a rational and factual understanding of the criminal proceedings.

“Court-Ordered Competency Evaluation” means a court-ordered examination of a defendant either before, during, or after trial, directed to developing information relevant to a determination of the defendant's competency to proceed at a particular stage of the criminal proceeding, that is performed by a competency evaluator and includes evaluations concerning restoration to competency.

“Forensic” means relating to or dealing with the application of scientific knowledge to the legal issues of defendants in criminal proceedings.

“Incompetent to proceed” means that, as a result of a mental disability or developmental disability, the defendant does not have sufficient present ability to consult with the defendant's lawyer with a reasonable degree of rational understanding in order to assist in the defense, or that, as a result of a mental disability or developmental disability, the defendant does not have a rational and factual understanding of the criminal proceedings.

21.920 APPLICATION PROCESS [Emergency eff. 11/6/15; Permanent eff. 2/1/16]

Individuals other than independent contractors or those providing services under an active purchase order or personal services contract wishing to become an approved evaluator shall contact the Director of Court Services at the Colorado Mental Health Institute at Pueblo (CMHIP) for application information, and the following shall be submitted to the CMHIP:

- A. A completed application form;
- B. Verification of licensure as a psychiatrist or psychologist;
- C. Verification of board certification in forensic psychiatry from the ABPN or board certification in forensic psychology from the ABFP, when relevant;
- D. Proof of current malpractice insurance;
- E. A minimum of two work samples, preferably forensic reports;
- F. A minimum of three professional references.

21.930 TRAINING

21.931 APPROVED EVALUATORS [Emergency eff. 11/6/15; Permanent eff. 2/1/16]

- A. All approved evaluators shall have received training as specified in these rules, consisting of at least six hours of classroom instruction. This initial training shall, at a minimum, cover the following elements:
1. Legal background and legal standards for competency to proceed and competency to stand trial;
 2. Forensic versus clinical evaluation, ethical issues and challenges in competency evaluations, dual relationships, constitutional protections for defendants, informed consent in defendants with severe mental illnesses, and communication with attorneys;
 3. Interviewing for competency to proceed;
 4. Assessment of malingering;
 5. Use of third-party (collateral) data and resources;
 6. Working with the difficult defendant;
 7. Evaluating developmentally delayed defendants;
 8. Special issues in evaluating juveniles;
 9. Writing the competency or restoration report;
 10. Acting as an expert witness; and,
 11. Unique requests from the court, such as for evaluations for competency to waive the right to counsel.
- B. Exemptions to Initial Training
1. Evaluators who are board certified in forensic psychiatry by the ABPN or board certified in forensic psychology by the ABFP shall be considered exempt from this initial training requirement.
 2. Evaluators who are in forensic training and practicing under the supervision of a licensed psychiatrist who is an approved evaluator and who has expertise in forensic psychiatry, or a licensed psychologist who is an approved evaluator and who has expertise in forensic psychology, may practice without the initial training; however, it is expected that these evaluators will receive equivalent education during the course of their training programs.
 3. Independent contractors or individuals providing services under an active purchase order or personal services contract are not subject to the training requirements in Section 21.931, A.

C. Ongoing Training

Approved evaluators other than independent contractors or individuals providing services under an active purchase order or personal services contract shall participate in at least four hours of ongoing training annually. Training will be made available at least annually by staff of the Court Services Division; alternative training to fulfill this requirement may be substituted for that offered by the Court Services Division, with prior approval from the Director of Court Services.

21.932 MENTORING [Emergency eff. 11/6/15; Permanent eff. 2/1/16]

Mentoring shall be made available to approved CDHS-employed evaluators. Mentoring will be provided by senior clinical staff from the CMHIP Court Services Division whenever possible.

- A. Approved CDHS-employed evaluators wishing to participate in mentoring will be provided the opportunity to observe one or more evaluations being conducted by senior clinical staff of CMHIP Court Services, and to conduct one or more evaluations while being observed by senior clinical staff of the CMHIP Court Services Division.
- B. Approved CDHS-employed evaluators wishing to participate in mentoring shall be required to travel to CMHIP to receive this additional training.

**21.940 STANDARDS FOR CONDUCTING EVALUATIONS AND ESTABLISHING A REPORT
[Emergency eff. 11/6/15; Permanent eff. 2/1/16]**

Each report shall conform with the requirements for report content as set forth in Section 16-8.5-105(5), C.R.S., and in accordance with best practices for forensic assessment of competency to stand trial.

21.950 QUALITY ASSURANCE [Rev. eff. 11/6/15]

All approved evaluators shall have one or more of their competency or restoration reports reviewed at least annually by a senior CMHIP Court Services Division evaluator or his or her designee.

- A. All approved evaluators shall have their first two reports reviewed by the senior CMHIP Court Services Division evaluator, or his or her designee, with additional reports being reviewed as necessary.
- B. Any and all reports submitted by approved evaluators are subject to review.

Editor's Notes

History

Rules SB&P, 19.500 eff. 11/01/2007.

Rules SB&P, 19.421.3 eff. 09/01/2013.

Entire rule eff. 11/01/2013.

Rules SB&P, 21.900-21.950 emer. rules eff. 11/06/2015.

Rules SB&P, 21.900-21.950 eff. 02/01/2016.

Rules SB&P, 21.000-21.120.35, 21.190-21.210.59, 21.230-21.280.25, 21.330-21.330.2 eff. 05/01/2016.

Rules SB&P, 21.120.3-21.120.31, 21.400 eff. 11/01/2016.

Rules 21.240.1, 21.240.85 eff. 07/01/2017.

Rule 21.281 eff. 06/01/2018.

Rules 21.100, 21.120.36 eff. 08/01/2018.

Rules 21.160.2 A.3, 21.200.53 K.1 emer. rules eff. 08/03/2018.

Rules 21.160.2 A.3, 21.200.53 K.1 emer. rules eff. 11/02/2018.

Rules 21.100, 21.120.1 G, 21.120.24 A, 21.120.24 C-F, 21.120.42 A-G, 21.140 A.2, 21.170.1 A, 21.170.3 A, 21.200.53 K.6, 21.210.1 E.1.a, 21.210.2 A.1-2, 21.210.43 A, 21.210.51 D, 21.210.52 C, 21.210.53 C, 21.210.54 D, 21.210.55, 21.210.56 I, 21.210.57 G, 21.210.58 D, 21.210.59, 21.230.1 D, 21.240.5 F, 21.240.6 A, 21.240.82 B.5, 21.240.83 B, 21.280.1, 21.280.23, 21.282, 21.410 eff. 01/01/2019.

Rules 21.160.2 A.3, 21.200.53 K.1, 21.200.4 eff.02/01/2019.

Rules 21.160.1 A.4, 21.250.5 C, 21.260 B, 21.500 eff. 12/01/2019.

Rules 21.100, 21.120.1 D, 21.120.22 B, 21.120.23 C, 21.120.26 D, 21.120.4 D-E, 21.120.42 E, 21.170.4, 21.200.13 B, 21.200.4, 21.200.41, 21.240.1, 21.280.35 A.4, 21.300.22 C, 21.300.23 D, 21.200.5, 21.320.31 A.5 emer. rules eff. 04/03/2020.

Rules 21.100, 21.120.1 D, 21.120.22 B, 21.120.23 C, 21.120.26, 21.120.4 D-E, 21.120.42 E, 21.170.4, 21.200.13 B, 21.200.4, 21.200.41, 21.240.1, 21.280.35 A.4, 21.300.22 C, 21.300.23 D, 21.200.5, 21.320.31 A.5 eff. 08/01/2020.

Rules 21.100, 21.210, 21.210.1 A-E, 21.210.43-21.210.924, 21.260 B eff. 10/01/2020. Rules 21.250, 21.310 repealed eff. 10/01/2020.

Rules 21.300.1, 21.300.2, 21.300.21-21.300.23, 21.300.24 A.2, 21.300.3 A, 21.300.3 C, 21.300.3 I-J, 21.300.6, 21.300.7, 21.300.8 A, 21.320, 21.320.1, 21.320.2, 21.320.31, 21.320.32, 21.320.41, 21.320.42 D, 21.320.5, 21.320.61, 21.320.62, 21.320.63 A, 21.320.63 B.2, 21.320.7, 21.320.81, 21.320.9 eff. 03/02/2021.

Rules 21.100, 21.210.1 C, 21.240.3 D, 21.240.85 E, 21.270.1 A, 21.330-21.331.3 eff. 04/01/2021. Rules 21.330.3-21.330.92 repealed eff. 04/01/2021.