

~~ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
DDS DIRECTOR'S OFFICE POLICY MANUAL~~

~~Policy Type _____ Subject of Policy _____ Policy No. 1089-B
Administrative Criteria for Expansion of Early Intervention Day Treatment Services~~

~~I. Purpose. This policy implements Ark. Code Ann. § 20-48-1101 et seq.~~

~~II. Scope. This policy applies to:~~

- ~~1. All Division of Developmental Disabilities Services ("DDS" or "Division") staff charged with implementation of licensure requirements.~~
- ~~2. DDS licensed community based providers of nonresidential services that are or could be covered under the Arkansas developmental day treatment clinic services ("DDTCS") program for children who have a developmental disability.~~
- ~~3. Programs that satisfy all certification criteria established by the Department of Human Services ("DHS" or "Department") for child health management services ("CHMS") and child health management services operated by an academic medical center.~~
- ~~4. Programs related to the delivery of early intervention day treatment services provided by a successor program that is created as a replacement for, combination of, or derived in whole or in part from the CHMS program and the DDTCS program for children. A successor program is not required to include CHMS programs operated by an academic medical center, but CHMS programs operated by an academic medical center shall be subject to all other provisions of this policy.~~
- ~~5. This policy does not apply to the provision or regulation of services under the ACS Waiver Program or to Early Intervention services delivered pursuant to the Individuals with Disabilities Education Improvement Act of 2004 ("IDEA"), Public Law 108-446.~~

~~III. Definitions.~~

- ~~1. "Accredited entity" means a corporate entity that meets the definition of Ark. Code Ann. § 20-48-1102(1).~~
- ~~2. "Child health management services" means an array of clinic services for children:~~

- (A) ~~Intended to provide full medical multidiscipline diagnosis, evaluation, and treatment of developmental delays in Medicaid recipients; and~~
 - (B) ~~That are diagnostic, screening, evaluation, preventive, therapeutic, palliative, or rehabilitative services, including early intervention day treatment services.~~
- 3. ~~“Child health management services operated by an academic medical center” means an academic medical center program specializing in developmental pediatrics that is administratively staffed and operated by an academic medical center and under the direction of a board-certified or board-eligible developmental pediatrician.~~
 - (A) ~~An academic medical center consists of a medical school and its primary teaching hospitals and clinical programs.~~
 - (B) ~~For a child health management services program operated by an academic medical center, services may be provided at different sites operated by the academic medical center as long as the child health management services program falls under one administrative structure within the academic medical center.~~
- 4. ~~“Developmental day treatment clinic services for children” means early intervention day treatment provided to children by a nonprofit community program that:~~
 - (A) ~~Is licensed to provide center-based community services by the Division.~~
 - (B) ~~Serves as a quasi-governmental instrumentality of the state by providing support and services to persons who have a developmental disability or delay and would otherwise require support and services through state-operated programs and facilities.~~
- 5. ~~“Early Developmental Center” means a site from which early intervention day treatment services are provided.~~
- 6. ~~“Early intervention day treatment” means services provided by a pediatric day treatment program run by early childhood specialists, overseen by a physician and serving children with developmental disabilities, developmental delays, or a medical condition that puts them at risk for developmental delay.~~
 - (A) ~~Early intervention day treatment includes without limitation diagnostic, screening, evaluation, preventive, therapeutic,~~

~~palliative, rehabilitative and habilitative services, including speech, occupational, and physical therapies and any medical or remedial services recommended by a physician for the maximum reduction of physical or mental disability and restoration of the child to the best possible functional level.~~

- ~~(B) CHMS and DDTCS or a successor program constitute the state's early intervention day treatment program.~~

~~7. "Existing Operations" means:~~

- ~~(A) Early intervention day treatment services provided by a child health management services program that was either operating a site on or before July 1, 2013 or submitted a completed application to the Division of Medical Services of the Department of Human Services to serve as a Medicaid provider no later than July 1, 2013.~~
- ~~(B) Early intervention day treatment services provided by a licensed developmental day treatment clinic services program.~~
- ~~(C) An early intervention day treatment program that does not have an approved site in a county but provides early intervention day treatment services covered under the Arkansas DDTCS or CHMS program to 30 or more enrolled children who reside in that county.~~

~~8. "Successor Program" means a program:~~

- ~~(A) That provides early intervention day treatment to children;~~
- ~~(B) That is created as a replacement for, combination of, or derived in whole or in part from the CHMS program and the DDTCS program for children; and~~
- ~~(C) In which the for-profit and nonprofit providers from CHMS programs and DDTCS programs are eligible to participate.~~
- ~~(D) Any successor program is not required to include CHMS services offered by an academic medical center.~~

~~9. "Underserved" means:~~

~~A county is underserved with regard to early intervention day treatment services under the following conditions:~~

- ~~(A) There is no DDS licensed or DHS certified provider with existing operations operating a site offering nonresidential~~

~~services to children covered by the Arkansas DDTCS or CHMS program in the county.~~

- ~~(B) There is at least one site operated by a DDS licensed or DHS certified provider in the county, but a service covered under the DDTCS or CHMS program for children is unavailable to an eligible recipient at an existing site in that county.~~
- ~~(C) There is at least one site offering early intervention day treatment clinic services operated by a DDS licensed or DHS certified provider in the county, but a parent, guardian, recipient, or prospective eligible child who has exhausted the grievance mediation procedure set forth in section V of this policy remains dissatisfied and desires another choice of providers of early intervention day treatment services for children in that county.~~

~~**IV. Existing Provider Expansion:** Existing providers having no approved site for the provision of early intervention day treatment services within a county may purchase, construct, or lease a site in that county subject to DDS site approval. New site approval under this provision shall be limited to sites in a county that is contiguous to the county where the provider operates an approved site and shall be based on the needs, benefit, and convenience of the children and families served, and shall be limited to:~~

- ~~1. Providers serving at least 30 children who are eligible, enrolled, and participating in an early intervention day treatment program as defined at Ark. Code Ann. § 20-48-1102(5), but reside in the county in which the provider has no approved site but wishes to expand.~~
- ~~2. Providers that were issued a DDS license on or before February 1, 2007, but that do not currently operate an approved site. Such providers may open a site in the county where the nonprofit community program maintains its headquarters. If a provider subject to this provision has more than one headquarters, it must designate one county as housing the primary headquarters for purposes of this section.~~

~~**V. Dissatisfied Parent, Guardian, Recipient, or Prospective Eligible Individual Grievance Mediation Procedure.** If a parent, guardian, recipient, or prospective eligible individual provides DDS with a written statement of dissatisfaction with an eligible individual's current service provider, and asserts that other providers in the recipient's county of residence cannot meet his or her needs, DDS will schedule mediation between authorized representatives of the parties as soon as practicable but no later than 45 days from the date of receipt of the statement of dissatisfaction.~~

- ~~A. Every parent, guardian, and recipient will be provided notice by their chosen provider of available service options and grievance procedures, including DDS contact information regarding grievances in compliance with DDS licensure standards.~~
- ~~B. If DDS receives an allegation that the statement of dissatisfaction was solicited in violation of DDS licensure policy, DDS shall investigate the allegation. The individual or organization making the allegation shall provide DDS with all documents, supporting materials, and other relevant information which form the basis of the allegation within ten (10) business days.~~
- ~~C. If the mediation fails to resolve the grievance, and parent, guardian, recipient, or prospective eligible individual desires another choice of provider, DDS shall declare the county underserved as defined in section III(9)(C) of this policy.~~
- ~~D. The purpose of the mediation process is to provide a mechanism to resolve a legitimate grievance brought by a parent, guardian, recipient, or prospective eligible individual, and is subject to the following provisions:~~
 - ~~(i) The grievance mediation procedure is intended to resolve disputes related to dissatisfaction with the quality or quantity of services provided or available.~~
 - ~~(ii) In the exercise of its discretion, if DDS determines that a statement of dissatisfaction is wholly unrelated to the quality or quantity of services provided or available, the Division may decline to schedule the mediation.~~
 - ~~(iii) In the exercise of its discretion, if DDS determines that a statement of dissatisfaction is wholly unrelated to the quality or quantity of services provided or available, the Division shall not declare the recipient's county of residence as underserved as defined in section III(9)(C).~~

~~VI. Prerequisites for Certification and Licensure.~~

~~1. Children's Health Management Services:~~

- ~~(A) Certification by the Department is required for operation as a child health management services program.~~
- ~~(B) The Department shall grant certification on a county-wide basis.~~
- ~~(C) Before obtaining certification, a child health management services program is required to apply to and obtain the approval of the Division to implement new child health management services under the criteria established under Ark. Code Ann. § 20-48-1101 et seq.~~

- ~~(D) A certified child health management services program with existing operations on the effective date of this act shall not be required to obtain the approval of the Division to continue existing operations.~~
- ~~2. Developmental Day Treatment Clinic Services for Children:~~
 - ~~(A) Licensure from the Division is required for operation of a developmental day treatment clinic for children.~~
 - ~~(B) The Division shall grant licensure on a county wide basis.~~
 - ~~(C) Before obtaining licensure, a nonprofit community program seeking to operate a developmental day treatment clinic services for children is required to apply to and obtain the approval of the Division to implement new developmental day treatment clinic services for children under the criteria established under Ark. Code Ann. § 20-48-1101et seq.~~
 - ~~(D) A licensed nonprofit community program providing developmental day treatment clinic services for children with existing operations on the effective date of this act shall not be required to obtain the approval of the Division to continue existing operations.~~
- ~~3. A certified CHMS program or a licensed DDTCS program with existing operations on July 1, 2013 is not required to obtain approval from DDS to continue existing operations.~~

~~VII. Determination of Underserved Status for Expansion of Services.~~

- ~~1. An expansion of early intervention day treatment services in a county is necessary when the Division determines that a county is underserved with regard to:~~
 - ~~(A) Early intervention day treatment services.~~
 - ~~(B) A specific category of early intervention day treatment services currently offered to children with developmental disabilities or delays.~~
- ~~2. As a condition of the issuance of a new certification to operate a CHMS program, a new license to operate a DDTCS program for children, or a new certification or license for a successor program, the Division must determine that a county of the state is underserved in accordance with Ark. Code Ann. § 20-48-1104.~~

- ~~3. The Division shall have sixty (60) days from the date of an application for expansion of early intervention day treatment services in which to determine whether a county is underserved.~~
 - ~~(A) The Division shall provide the applicant with a written report of its findings and conclusions by certified mail.~~
 - ~~(B) The Division shall provide a copy of the report to the appropriate licensing or certification authority of the applicant.~~
- ~~4. If the Division determines that the county is not underserved under this policy, the Division will notify the applicant that they shall have thirty (30) days from the date of the applicant's receipt of the written report in which to appeal the determination to the Office of Appeals and Hearings of the Department of Human Services under the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq.~~

~~VIII. Notice of Underserved Area.~~

- ~~1. The Division shall provide written notice by certified mail of its designation that an area is underserved to all CHMS programs, DDTCS programs for children, and successor programs with existing operations in the county designated by the Division as underserved.~~
 - ~~(A) Any qualified provider stating an intention to alter its operations must accomplish the alteration within 90 days from the date it receives notification from DDS that the county is underserved.~~
 - ~~(B) The 90 day period may be extended by DDS if the provider demonstrates in writing to the Division that there is good cause for the delay. In no event shall an aggregate of 180 days be exceeded unless substantial progress has been made towards meeting site approval requirements. DDS shall consider the following: Whether a lease has been secured or construction commenced; whether staff has been recruited or hired for employment.~~
 - ~~(C) If no existing provider states an intention to alter its services, or if a provider expresses an intention to alter its services but fails to accomplish the alteration before deadlines stated above DDS shall proceed to the following step.~~
- ~~2. If all CHMS programs, DDTCS programs for children, and successor programs with existing operations in the county designated by the Division as underserved determine not to expand early intervention day treatment services, including CHMS, DDTCS for children, or successor~~

~~program services in the underserved county, the Division shall provide written notice by certified mail of its designation that an area is underserved to all qualified providers of CHMS, DDTCS for children, and any successor program services in the remainder of the state.~~

- ~~(A) Any qualified provider stating an intention to alter its operations must accomplish the alteration within 90 days from the date it receives notification from DDS that the county is underserved.~~
- ~~(B) The 90 day period may be extended by DDS if the provider demonstrates in writing to the Division that there is good cause for the delay. In no event shall an aggregate of 180 days be exceeded unless substantial progress has been made towards meeting site approval requirements. DDS shall consider the following: Whether a lease has been secured or construction commenced; whether staff has been recruited or hired for employment.~~
- ~~(C) If no existing qualified provider in the state states an intention to alter its services, or if a provider expresses an intention to alter its services but fails to accomplish the alteration before deadlines stated above DDS shall proceed to the following step.~~

- ~~3. If all CHMS programs, DDTCS programs for children, and successor programs in the remainder of the state determine not to expand early intervention day treatment services, including CHMS, DDTCS for children, or successor program services in the underserved county, the Division shall provide notice to the general public in a newspaper of statewide general circulation. In the event a new entity that has never been a provider of CHMS or DDTCS for children services is approved, the deadlines for implementing a new program will be the same as those found in VIII(1)(A) (C) and VIII(2)(A) (C).~~

~~IX. Order of Priority for Granting Approval.~~

- ~~1. When considering an application for approval under this policy for expansion of early intervention day treatment services, including CHMS, DDTCS for children, or any successor program services, the Division shall give approval in the following order of preference:~~
 - ~~(A) A certified CHMS, a licensed DDTCS for children, or a successor program with existing operations in the county identified by the Division as underserved.~~
 - ~~(B) A CHMS program, a licensed DDTCS for children, or a successor program from another county in the state.~~

- ~~(C) An accredited entity in the underserved county.~~
- ~~(D) An accredited entity from another county in the state, and~~
- ~~(E) An accredited entity from outside the state.~~

~~2. The Division shall not require accreditation of the following entities in order to approve the entity's application for expansion of early intervention day treatment services:~~

- ~~(A) A certified CHMS program with existing operations on July 1, 2013.~~
- ~~(B) A licensed nonprofit community program providing developmental day treatment services for children with existing operations on July 1, 2013.~~
- ~~(C) A successor program that was a certified CHMS program with existing operations on July 1, 2013.~~
- ~~(D) A successor program that was a licensed nonprofit community program providing DDTCS services for children with existing operations on July 1, 2013.~~

~~3. **Limitation:**~~

- ~~(A) DDTCS providers with existing operations who are on a regular with requirements, temporary, or provisional licensure status with DDS, or are excluded under DHS Policy 1088 may not file any notice or application to expand under this policy.~~
- ~~(B) CHMS providers with existing operations who are subject to a certification sanction or administrative remedy by DHS, the Department of Health, or are excluded under DHS Policy 1088 may not file any notice or application to expand under this policy.~~

~~ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
DDS DIRECTOR'S OFFICE POLICY MANUAL~~

Policy Type	Subject of Policy	Policy No.
Administrative	Criteria for Expansion of Adult DDTCS Services	1089A

~~I. Purpose.~~ This policy implements Ark. Code Ann. § 20-48-105, as amended by Act 1017 of 2013.

~~II. Scope.~~ This policy applies to all Division of Developmental Disabilities Services (“DDS” or “Division”) staff charged with implementation of licensure requirements, and to DDS licensed community based providers of nonresidential services to adults that are or could be covered under the Arkansas DDTCS program

~~This policy does not apply to the provision or regulation of services under the ACS Waiver Program or to Early Intervention services delivered pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (“IDEA”), Public Law 108-446.~~

~~III. Definitions.~~

~~1. Existing Provider:~~

- ~~A) A DDS licensed nonprofit community program that offers nonresidential services to adults covered under the Arkansas DDTCS program at an approved site within the county in question, or;~~
- ~~B) A DDS licensed nonprofit community program that does not have an approved site in a county but provides developmental disabilities services covered under the Arkansas DDTCS program to 20 or more adults who reside in that county.~~
- ~~C) A nonprofit community program that was issued a DDS license on or before February 1, 2007, that does not operate an approved site but provides developmental disabilities services to adults.~~

~~2. Underserved: A county is underserved if:~~

- ~~A) There is no DDS licensed provider operating a site offering adult development community based, nonresidential services covered by the Arkansas DDTCS program in the county.~~
- ~~B) There is at least one site operated by a DDS licensed provider in the county, but a service covered under the DDTCS program for adults is unavailable to an eligible adult recipient at an existing site in that county.~~

- ~~C) There is at least one site operated by a DDS licensed provider in the county, but a parent, guardian, recipient, or prospective eligible adult who has exhausted the grievance mediation procedure set forth in section V of this policy remains dissatisfied and desires another choice of providers of DDTCS covered adult services in that county.~~

~~**IV. Existing Provider Expansion:** Existing providers of adult services having no approved site within the county may purchase, construct, or lease a site in the county subject to DDS site approval. Approval shall be limited to:~~

- ~~1. Providers that serve at least 20 eligible, enrolled, and participating adults of that county that are covered under the Arkansas DDTCS program.~~
- ~~2. Providers that were issued a DDS license on or before February 1, 2007, but that do not currently operate an approved site for adult services. Such providers may open a site for the provision of adult services in the county where the nonprofit community program maintains its headquarters. If a provider subject to this provision has more than one headquarters, it must designate one county as housing the primary headquarters for purposes of this section.~~

~~**V. Dissatisfied Parent, Guardian, Recipient, or Prospective Eligible Individual Grievance Mediation Procedure.** If a parent, guardian, recipient, or prospective eligible adult individual provides DDS with a written statement of dissatisfaction with an eligible adult's current service provider, and asserts that other providers in the recipient adult's county of residence cannot meet his or her needs, DDS will schedule mediation between authorized representatives of the parties as soon as practicable but no later than 45 days from the date of receipt of the statement of dissatisfaction.~~

- ~~1. Every parent, guardian, or adult recipient will be provided notice by their chosen provider of available service options and grievance procedures, including DDS contact information regarding grievances in compliance with DDS licensure standards.~~
- ~~2. If DDS receives an allegation that the statement of dissatisfaction was solicited in violation of DDS licensure policy, DDS shall investigate the allegation. The individual or organization making the allegation shall provide DDS with all documents, supporting materials, and other relevant information which form the basis of the allegation within ten (10) business days.~~
- ~~3. If the mediation fails to resolve the grievance, and parent, guardian, recipient, or prospective eligible adult desires another choice of provider, DDS shall declare the county underserved as defined in section III(C) of this policy.~~

4. ~~The purpose of the mediation process is to provide a mechanism to resolve a legitimate grievance brought by a parent, guardian, adult recipient, or prospective eligible adult, and is subject to the following provisions:~~

- ~~(A) The grievance mediation procedure is intended to resolve disputes related to dissatisfaction with the quality or quantity of services provided or available.~~
- ~~B) In the exercise of its discretion, if DDS determines that a statement of dissatisfaction is wholly unrelated to the quality or quantity of services provided or available, the Division may decline to schedule the mediation.~~
- ~~C) In the exercise of its discretion, if DDS determines that a statement of dissatisfaction is wholly unrelated to the quality or quantity of services provided or available, the Division shall not declare the recipient's county of residence as underserved as defined in section III(C) of this policy.~~

~~**VI. General Provisions.** DDS may authorize the expansion of the number of developmental disabilities service provider's sites for adult services in a specific county if it determines the county as underserved.~~

~~Following such a determination, DDS will apply the following procedures:~~

- ~~1. DDS will send written notice that a county is underserved to all qualified nonprofit community programs for adult services as defined in Ark. Code Ann. §20-48-101(6)(A) that are existing providers in the underserved county. The notified providers shall have 30 days from receipt of notice to state in writing to DDS whether they wish to alter their operations to eliminate the reason or reasons the county is underserved.~~
- ~~2. Any provider stating an intention to alter its operations must accomplish the alteration within 90 days from the date it receives notification from DDS that the county is underserved.~~
- ~~3. The 90 day period may be extended by DDS if the provider demonstrates in writing to the Division that there is good cause for the delay. In no event shall an aggregate of 180 days be exceeded unless substantial progress has been made towards meeting site approval requirements. DDS shall consider the following: Whether a lease has been secured or construction commenced; whether staff has been recruited or hired for employment.~~
- ~~4. If no existing provider of a qualified nonprofit community program for adult services states an intention to alter its services, or if a provider expresses an intention to alter its services but fails to accomplish the alteration before deadlines stated above DDS shall proceed to the following step.~~

5. ~~DDS shall send written notice that the county is underserved to all qualified nonprofit community programs providing adult services, as defined in Ark. Code Ann. §20-48-101(6)(A), having one or more approved sites within the State of Arkansas. The notified providers shall have 30 days from receipt of notice to state in writing to DDS whether they wish to expand operations to eliminate the reason or reasons that the county is underserved with regard to adult services.~~
- ~~A) Any provider stating an intention to alter its operations must accomplish the alteration within 90 days from the date it receives notification from DDS that the county is underserved.~~
 - ~~B) The 90 day period may be extended by DDS if the provider demonstrates in writing to the Division that there is good cause for the delay. In no event shall an aggregate of 180 days be exceeded unless substantial progress has been made towards meeting site approval requirements. DDS shall consider the following: Whether a lease has been secured or construction commenced; whether staff has been recruited or hired for employment.~~
 - ~~C) If no existing provider of a qualified nonprofit community program states an intention to alter its services, or if a provider expresses an intention to alter its services but fails to accomplish the alteration before deadlines stated above DDS shall proceed to the following step.~~
6. ~~DDS will publish notice to the general public in statewide print media that the agency is accepting applications from any accredited nonprofit entity, as defined in Ark. Code Ann. §20-48-101(1) (A), that provides adult services in the underserved county. Any such entity shall have 30 days from the date of publication to state in writing that it desires to obtain a license and offer the services in question.~~
- ~~A) Any accredited nonprofit entity that states in writing an intention to begin providing adult services under this section shall have 90 days from the date it received notification from DDS to obtain a license from DDS and begin provision of the services in question.~~
 - ~~B) The 90 day period may be extended by DDS if the provider demonstrates in writing to the Division that there is good cause for the delay. In no event shall an aggregate of 180 days be exceeded unless substantial progress has been made towards meeting site approval requirements. DDS shall consider the following: Whether a lease has been secured or construction commenced; whether staff has been recruited or hired for employment.~~
 - ~~C) If no in-state accredited nonprofit entity that provides adult services indicates a desire to apply for a DDS license, or if such an organization fails to obtain a license and begin providing services prior to the deadline, DDS will accept applications from accredited nonprofit organization from outside the State of Arkansas.~~

~~7. **Limitation:** Existing providers who are on a regular with requirements, temporary, or provisional licensure status with DDS, or are excluded under DHS Policy 1088 may not file any notice or application to expand under this policy.~~



~~Arkansas Department of Human Services~~

~~Division of Developmental Disabilities Services~~



~~*DDS STANDARDS*~~ ~~*FOR CENTER-BASED COMMUNITY SERVICES*~~

~~DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES~~

~~PHILOSOPHY & MISSION STATEMENT~~

~~The Division of Developmental Disabilities Services (DDS), the DDS Board, and its providers are dedicated to the pursuit of the following goals:~~

- ~~• Advocating for adequate funding, staffing, and services to address the needs of persons with developmental disabilities.~~
- ~~• Encouraging an interdisciplinary service system to be utilized in the delivery of appropriate individualized and quality services.~~
- ~~• Protecting the constitutional rights of individuals with disabilities and their rights to personal dignity, respect and freedom from harm.~~
- ~~• Assuring that individuals with developmental disabilities who receive services from DDS are provided uninterrupted essential services until such time a person no longer needs to depend on these services.~~
- ~~• Encouraging family, parent/guardian, individual, and public/community involvement in program development, delivery, and evaluation.~~
- ~~• Engaging in statewide planning that ensures optimal and innovative growth of the Arkansas service system to meet the needs of persons with developmental disabilities and to assist such persons to achieve independence, productivity, and integration into the community.~~

~~100.1 To accomplish its mission, DDS, the DDS Board, and its providers are committed to the principle and practices of:~~

~~normalization; least restrictive alternatives; affirmation of individuals' constitutional rights; provision of quality services; the interdisciplinary service delivery model; and the positive management of challenging behaviors.~~

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INTRODUCTION

The licensing standards for DDS Community Programs have been developed to accomplish: normalization, least restrictive alternatives, affirmation of individuals' constitutional rights, provision of quality services, the interdisciplinary service delivery model, and the positive management of challenging behaviors.

Individual program plans shall be developed with the participation of the individual (18 years and older), as appropriate, the family, and representatives of the services required. The team is responsible for assessing needs, developing a plan to meet them, and contributing to its implementation.

NOTE: It is imperative that all Medicaid providers be enrolled with the Division of Medical Services and meet all enrollment requirements for the specific Medicaid Program for which they are enrolling as an Arkansas Medicaid Provider.

All standards are applicable to all services provided, unless otherwise specified.

Administrative Rules and Regulation Sub-Committee of the
Arkansas Legislative Council: October 4, 2007

Effective Date: November 1, 2007

Implementation Date: November 1, 2007

Grandfathering Period: November 1, 2007–October 31, 2008

~~101~~ **100 GOVERNING BOARD/ORGANIZATION/LEADERSHIP**

Guiding Principles: ~~The Governing Board/organization/Leadership is that body of people who have been chosen by the corporation and vested with legal authority to be responsible for directing the business and affairs of the corporation. The responsibilities assured by each Board/organization member by their acceptance of membership are to provide effective and ethical governance leadership on behalf of its owners'/stakeholders' interest to ensure that the organization focuses on its purpose and outcomes for persons served, resulting in the organization's long-term success and stability.~~

~~The mission statement of the organization is based on the Board/organization's philosophical motivations, the services provided, and values of the members. The mission statement should identify the population to be served and the services to be provided. This description shall be nondiscriminatory by reason of sex, age, disability, creed, marital status, ethnic, or national membership.~~

NOTE: ~~See Arkansas Code Ann. §§ 20-48-201–20-48-211 for examples of Board/organization~~

NOTE: ~~All information regarding your organization shall be readily available to staff, consumers, referral and funding sources, and the interested public pursuant to the Freedom of Information Act.~~

~~101 The organization shall be legally incorporated under the appropriate federal, state or local statutes as defined by its official Articles of Incorporation and registered to do business in the State of Arkansas.~~

~~A. The governing body should periodically review the appropriateness of its governing documents. (Ark. Code Ann. §§ 20-48-201–20-48-211). This shall include the organizations mission statement as filed with the Secretary of State, and the Articles of Incorporation.~~

~~B. Any changes in the Articles of Incorporation must be filed with the Secretary of State. This includes name changes, amendments, or any reconstitution of the Governing Board/organization. The organization shall provide copies of any changes to DDS upon filing.~~

~~102 Bylaws shall be established which govern the internal affairs of the organization and will address each of the following areas as applicable:~~

~~A. Composition of Board~~

~~1. This shall include the number of Board members and the eligibility criteria (i.e. citizenship and residency).~~

~~2. Selection of Board/ members~~

~~a. Twenty percent (20%) consumer and advocate representation on the Board is required. (Note: defined as a consumer, immediate family member or guardian of a consumer receiving services or has received services at the organization or~~

person in a qualified position that advocates on behalf of the population served)

~~B. Term of membership:~~

- ~~1. Number of years as dictated by the organization's Articles of Incorporation.
Note: It is recommended that membership on the governing body be rotated periodically.~~

~~C. Replacement/removal of directors:~~

- ~~1. Refers to written criteria for Board membership. Shall include any contingency to include but not be limited to resignation of Board/organization members and removal for non-attendance or other reasons.~~

~~D. Election of officers and directors:~~

- ~~1. Describe the election process~~

~~E. Duties and responsibilities of Board officers are described in writing~~

- ~~1. Must document each position's purpose, structure, responsibilities, authority, if any, and the relationship of the advisory committee of Board members to other entities involved with the organization.~~

~~F. Appointment of committees, if applicable;~~

- ~~1. Duties and functions of standing committees are described in writing, if applicable.~~

~~G. Meetings of the Board/organization and its committees. All meetings shall be planned, organized, and conducted in accordance with the organization's by-laws, policies, procedures, applicable statutes, or other appropriate regulations. In no event shall the full Board/organization meet less than four times per year.~~

~~Note: The Board/organization and its committees should meet with a frequency sufficient to discharge their responsibilities effectively.~~

~~H. The Board/organization shall adopt written procedures to guide the conduct of its meetings (i.e. Parliamentary Procedure, Robert's Rules of Order, etc.);~~

~~I. The Board/organization shall maintain minutes of all actions taken by the Board/organization for review by DDS. Minutes shall accurately document all members present and any action taken at the committee meetings to include any committee recommendations to the Board/organization.~~

- ~~1. Written minutes of previous Board/organization meetings should be made available by posting the adopted minutes in a location convenient to the staff and individuals served, and made available to members of the public upon request, as required under the Freedom of Information Act.~~

~~103 The Board/organization shall establish a procedural statement addressing nepotism as it relates to Board/organization and staff positions.~~

~~103.1 The Board shall establish a procedural statement addressing conflict of interest~~

~~Note: The intent of the standard does not rule out a business relationship, but does call for the governing body to decide in advance what relationships are in the best interest of the organization.~~

~~A. Paid employees may not serve as Board members. (Note: This DOES NOT include individuals receiving services.)~~

Note: Paid employees serving on the Board as of 11/01/07 may continue to serve for the remainder of their current term at which time they must rotate off the Board.

B. ~~Directors of organizations may serve as non-voting ex-officio Board members.~~

~~104 Board/organization meetings and public meetings as defined by Ark. Code Ann. §§ 25-19-106 shall be conducted at a time and place which make the meetings accessible to the public. Specifically, except as otherwise specifically provided by law, all meetings, formal or informal, special or regular, of the governing bodies of all municipalities, counties, townships, and school districts and all boards, bureaus, commissions, or organizations of the State of Arkansas, except grand juries, supported wholly or in part by public funds or expending public funds, shall be public meetings.~~

A. ~~Board/organization meetings and Executive sessions shall be announced to be in compliance with Ark. Code Ann. §§ 25-19-101—25-19-107—Freedom of Information Act.~~

B. ~~All local media are to be notified one week in advance and a notice posted in a prominent place by the organization. Called meetings shall be announced to the local media and others who have requested notification at least two hours in advance of meeting. Documentation of Notification may include newspaper clippings, copy of item posted on bulletin Board/organization, radio contact forms, etc.~~

D. ~~If the meetings are held each month at the same time and location, one notification and posting shall be sufficient.~~

~~105 The Board/organization of Directors shall adopt a mission statement to guide its activities and to establish goals for the organization. The plan shall show evidence of participation by stakeholders (evidence of open meeting, letters of input, survey, questionnaire, etc.).~~

~~105.1 The Board/organization of Directors shall review the mission statement annually and shall make changes as necessary to ensure the overall goals and objectives of the organization are reflected in its mission.~~

~~106 The Board/organization maintains a plan which shall identify annual and long range goals; the plan should address community needs and target populations and should be reviewed and updated annually.~~

A. ~~Each Board/organization will develop and implement a long-range plan of action for that organization. Examples include, but are not limited to starting a new component, accessing individualized services in the community, etc.~~

B. ~~Development and implementation of the plan shall include stakeholder input. The organization shall maintain evidence of this input (i.e., letters of input, minutes of open meetings, questionnaires, surveys, etc.)~~

C. ~~The plan shall be reviewed annually and updated as needed. The Board/organization shall approve the initiation, expansion, or modification of the organization's program based on the needs of the community and the capability of the organization to have an effect upon those needs within its established goals and objectives.~~

Note: The Board/organization of Directors, at its discretion, may assign this responsibility to staff.

~~107—The Board/organization shall demonstrate corporate social responsibility while maintaining overall accountability for the administration and direction of the organization, and shall delegate authority and responsibility to executive leadership as deemed appropriate by the organization.~~

~~A.—The organization shall identify:~~

- ~~1.—Its leadership structure.~~
- ~~2.—The roles and responsibilities of each level of leadership.~~

~~B.—The identified leadership shall guide the following:~~

- ~~1.—Establishment of the mission and direction of the organization.~~
- ~~2.—Promotion of value/achievement of outcomes in the programs and services offered.~~
- ~~3.—Balancing the expectations of both the persons served and other stakeholders, as defined by the organization's policies.~~
- ~~4.—Financial solvency.~~
- ~~5.—Compliance with insurance and risk management requirements.~~
- ~~6.—Ongoing performance improvement.~~
- ~~7.—Development and implementation of corporate responsibilities.~~
- ~~8.—Compliance with all legal and regulatory requirements.~~

~~C.—The organization shall respond to the diversity of its stakeholders with respect to:~~

- ~~1.—Culture.~~
- ~~2.—Age.~~
- ~~3.—Gender.~~
- ~~4.—Sexual orientation.~~
- ~~5.—Spiritual beliefs.~~
- ~~6.—Socioeconomic status.~~
- ~~7.—Language.~~

~~108—The Board/organization shall create a mechanism for monitoring the decisions and operations of the organization's programs which includes provisions for the periodic review and evaluation of its program in relation to the program goals. Documentation of the review must be maintained on file for review. Documentation may include but not be limited to Board/organization minutes, reports, etc.~~

Guiding Principle: An organized training program for Board/organization Members prepares them for their responsibilities and assures that they are kept up-to-date on issues concerning services offered to individuals with a developmental disability.

~~109—The Board shall maintain a general plan for Board/organization training and will ensure that all items listed as required topics are covered in the required three-hour training.~~

~~A.—Training shall be provided for all Board/organization members. Where the Board, because of its size, lacks sufficient resources to conduct a training program, it will make arrangements with another Board, organization, agency, appropriate community resource, or training organization to provide such training.~~

~~109.1—New Board Members must participate in a minimum of three hours of training.~~

~~A.—The following topics shall be required during the first year of service~~

- ~~1.—Functions and Responsibilities of the Board~~
- ~~2.—Composition and Size of the Board~~

- ~~3. Legal Responsibilities~~
- ~~4. Funding Sources and Responsibilities;~~
- ~~5. Equal Employment Opportunity/Affirmative Action;~~
- ~~6. Due Process~~
- ~~7. Ark. Code Ann. §§ 25-19-101-25-19-107—Freedom of Information Act of 1967†~~
- ~~8. U. S. C. § 12101 et. seq.—Title 42 THE PUBLIC HEALTH AND WELFARE—CHAPTER 126—EQUAL OPPORTUNITY FOR INDIVIDUALS WITH DISABILITIES—§ 12101. Findings and purpose†~~
- ~~9. DDS Service Policy 3004-I Maltreatment Prevention, Reporting and Investigation;~~
- ~~10. DHS Policy 1090, Incident Reporting;~~
- ~~11. DDS Administrative Policy 1077~~
- ~~12. Chemical Right to Know~~
- ~~13. The Health Insurance Portability and Accountability Act (HIPAA)~~

~~NOTE: POSSIBLE TRAINING RESOURCES INCLUDE ASPEN PUBLICATIONS, WHICH HAS MATERIALS ON BOARD/ORGANIZATION AND ADMINISTRATOR TRAINING. (WWW.ASPENPUBLISHERS.COM) Resources or additional information should be obtained from DDS Licensure.~~

- ~~B. All new Board members as they begin service shall participate in training. Board members may disseminate training information to new Board members if they are unable to attend formal training sessions. Documentation of the information provided, date provided and the board member(s) involved must be maintained for review by DDS. (Note: Training may be documented in Board minutes or by Certificates of Attendance.)~~

~~109.2 All Board members shall complete a minimum of three hours annual training. Topics may be selected by the Board of Directors and must be germane to the annual plan and services provided. Training should be documented in Board minutes, by Certificates of Attendance or sign in sheets from approved training.~~

~~110 Board members shall visit service components of the organization during operating hours yearly.~~

- ~~A. All components of the organization must be observed annually. If on-site observations to each physical location are not feasible, at least 1 physical site from each program component must be observed during the calendar year. The sites must be rotated yearly. Committees or individual Board Members may be appointed to visit specific components and report back to the other Board members on observations. Documentation of reports in Board minutes shall be accepted as verification.~~

~~111 The Board/organization shall establish and approve policies and procedures which define Eligibility criteria, Readmission criteria, and transition/discharge/exit criteria~~

~~112 The Board/organization shall establish policy regarding financial oversight of the organization that addresses the following:~~

- ~~A. The organization's financial planning and management activities reflect strategic planning designed to meet:~~

1. ~~Established outcomes for the persons served.~~
2. ~~Organizational performance objectives.~~
- B. ~~Budgets are prepared that:~~
 1. ~~Include:~~
 - a. ~~Reasonable projections of revenues and expenditures.~~
 - b. ~~Input from various stakeholders, as required.~~
 - c. ~~Comparison to historical performance.~~
 2. ~~Are disseminated to:~~
 - a. ~~Appropriate personnel.~~
 - b. ~~Other stakeholders, as appropriate.~~
 3. ~~Are written.~~
- C. ~~Actual financial results are:~~
 1. ~~Compared to budget.~~
 2. ~~Reported to:~~
 - a. ~~Appropriate personnel.~~
 - b. ~~Persons served, as appropriate.~~
 - c. ~~Other stakeholders, as required.~~
 3. ~~Reviewed at least quarterly.~~
- D. ~~The organization identifies and reviews, at a minimum:~~
 1. ~~Revenues and expenses.~~
 2. ~~Internal and external:~~
 - a. ~~Financial trends.~~
 - b. ~~Financial challenges.~~
 - c. ~~Financial opportunities.~~
 - d. ~~Business trends.~~
 - e. ~~Management information.~~
 3. ~~Financial solvency, with the development and implementation of remediation plans, if appropriate.~~

~~113 For-profit organizations or organizations who receive less than \$10,000 in compensation for services under this program shall submit a compilation report that includes a balance sheet and statement of revenue and expense to DDS at the close of each financial period.~~

~~Note: Sections 102 & 104 do not apply to organizations that are not governed by a Board of Directors~~

~~200 PERSONNEL PROCEDURES & RECORDS~~

~~201 The organization shall maintain written personnel procedures that are approved by the Board and are reviewed annually and which conform to state and federal laws, rules and regulations.~~

~~NOTE: DDS SHALL NOT BECOME DIRECTLY INVOLVED IN PERSONNEL ISSUES UNLESS IT DIRECTLY IMPACTS CONSUMER CARE AND/OR SAFETY.~~

~~201.1 Personnel procedures shall be clearly stated and available in written form to employees as required by 42 U.S.C. § 2000a-2000 h-6 Title VI of the Civil Rights Act of 1964 and U.S.C. §~~

~~1201 et. Seq. Americans with Disabilities Act. These include but are not limited to:~~

- ~~A. Hiring and promotional procedures which are nondiscriminatory by reason of sex, age, disability, creed, marital status, ethnic, or national membership~~
- ~~B. A procedure for discipline, suspension and/or dismissal of staff which includes opportunities for appeal~~
- ~~C. An appeals procedure allowing for objective review of concerns and complaints~~

~~201.2 One copy of the organization's Personnel procedures must be available in the personnel or administrator's office. This copy must be readily accessible to each employee.~~

~~201.3 The organization shall develop and implement steps to voice grievances within the organization. All grievances are subject to review by the Governing Board and Court of Law (29 U.S.C. §§ 706(8), 794—794(b), the Rehabilitation Act of 1973 Section 504; 20 U.S.C. § 1400 et. Seq. Section 615—The Individual Disabilities Education Act).~~

~~A. All steps in the Grievance Procedure should be time-bound and documented, including initial filing of grievance.~~

~~201.4 The organization shall develop and implement policies regarding whether pre-employment and random drug testing will be required. If the organization chooses to do drug testing they must establish guidelines for actions to be taken when the drug test results are obtained, whether positive or negative.~~

~~Note: The organization may contact Arkansas Transit Association for further information on drug testing~~

~~202 Prior to employment, a completed job application must be submitted which includes the following documents.~~

~~A. The organization shall obtain and verify PRIOR to employment and maintain documentation of the following:~~

- ~~1. The credentials required~~
- ~~2. That required credentials remain current~~
- ~~3. The applicant has completed a statement related to criminal convictions~~
- ~~4. A criminal background check has been initiated. Refer to DDS Policy 1087.~~
- ~~5. Declaration of truth of statement on job application.~~
- ~~6. A release to complete reference checks is signed and reference checks have been completed~~
- ~~7. Results of pre-employment drug screen, if required by organization.~~

~~NOTE: THE ITEMS IN 202A.5 AND 202A.6 WILL NOT BE RATED FOR EMPLOYEES HIRED PRIOR TO JULY 1, 1986.~~

~~B. The organization shall obtain and verify within 30 days of employment and maintain documentation of the following:~~

- ~~1. Adult Maltreatment Central Registry Ark. Code Ann. §§ 5-28-201 has been completed and the response is filed, or a second request submitted~~

2. ~~Arkansas Child Maltreatment Central Registry Ark. Code Ann. §§ 12-12-501—12-12-515 has been completed and the response is filed, or a second request submitted. This check will provide documentation that prospective employee's name do not appear on the statewide Central Registry.~~

a. ~~The organization should adopt policy requiring subsequent criminal checks and registry checks. The organizations that provide licensed daycare services must adhere to Child Care Licensing regulations regarding Criminal background checks and central registry checks.~~

Note: Staff holding professional licenses may be used in lieu of criminal background and adult and child maltreatment checks.

3. ~~TB skin test~~

a. ~~Renewed yearly for ALL STAFF.~~

4. ~~Hepatitis B series or signed declination~~

5. ~~The results of criminal background check of the will be on file.~~

6. ~~Employment reference verification and signed release~~

a. ~~On file within thirty (30) days of hire date~~

C. ~~The organization shall obtain and verify information in 202 A and B in response to information received (i.e., a complaint is received that a person's license has lapsed or a person has been convicted of a crime since they were hired).~~

203 ~~The agency shall ensure sub-contractor's services meet all applicable standards and will assess performance on a regular basis.~~

A. ~~The organization shall ensure that sub-contractors providing direct care services are in compliance with DDS policies and must have verification and documentation of all applicable items listed in 202A.~~

Note: Staff holding professional licenses may be used in lieu of criminal background and adult and child maltreatment checks.

B. ~~The organization shall demonstrate:~~

1. ~~Reviews of all contract personnel utilized by the organization that:~~

a. ~~Assess performance of their contracts~~

b. ~~Ensure all applicable policies and procedures of the organization are followed~~

c. ~~Ensure they conform to DDS standards applicable to the services provided~~

d. ~~Are performed annually~~

204 ~~The organization shall develop, implement and monitor policies and procedures for staff recruitment and retention so that sufficient staff is maintained to ensure the health and safety of the individuals served, according to their plans of care.~~

A. ~~The organization must ensure there are an adequate number of personnel to:~~

1. ~~Meet the established outcomes of the persons served.~~

2. ~~Ensure the safety of persons served.~~

3. ~~Deal with unplanned absences of personnel.~~

4. ~~Meet the performance expectations of the organization.~~

B. ~~The organization shall demonstrate:~~

1. ~~Recruitment efforts.~~

2. ~~Retention efforts.~~

3. ~~Identification of any trends in personnel turnover.~~

- 205—~~The organization shall develop and implement procedures governing access to staff members' personnel file.~~
- ~~A. An access sheet shall be kept in front of the file to be signed and dated by those who are examining contents, with stated reasons for examination.~~
 - ~~B. The policy shall clearly state who, when, and what is available concerning access to personnel files and be in compliance with the Federal Privacy Act and Freedom of Information Act. At no time shall the policy allow access that violates the provisions of the Health Insurance Portability and Accountability Act (HIPAA).~~

- 206—~~The organization shall develop written job descriptions which describe the duties, responsibilities, and qualifications of each staff position.~~

~~A. The organization shall:~~

- ~~1. Identify the skills and characteristics needed by personnel to:~~
 - ~~a. Assist the persons served in the accomplishment of their established outcomes.~~
 - ~~b. Support the organization in the accomplishment of its mission and goals.~~
- ~~2. Assess the current knowledge and competencies of personnel at least annually.~~
- ~~3. Provide for the orientation and training needs of personnel.~~
- ~~4. Provide the resources to personnel for learning and growth.~~

~~5. Identify the supervisor of the position and the positions to be supervised.~~

~~B. Performance management shall include:~~

- ~~1. Job descriptions that are reviewed and/or updated annually.~~
- ~~2. Promotion guidelines.~~
- ~~3. Job posting guidelines.~~
- ~~4. Performance evaluations for all personnel directly employed by the organization shall be:~~
 - ~~a. Based on measurable objectives that tie back to specific duties as listed in the Job Description.~~
 - ~~b. Evident in personnel files.~~
 - ~~c. Conducted in collaboration with the direct supervisor with evidence of input from the personnel being evaluated.~~
 - ~~d. Used to:~~
 - ~~1. Assess performance related to objectives established in the last evaluation period.~~
 - ~~2. Establish measurable performance objectives for the next year.~~
 - ~~e. Performed annually.~~

- 207—~~The organization shall establish employment policies/practices for students, interns, volunteers and trainees utilized by the organization who have regular, routine contact with consumers.~~

- ~~A. The organization shall define who has and what constitutes regular, routine contact with consumers.~~
- ~~B. If students, interns, volunteers or trainees are used by the organization, the following shall be in place:~~
 - ~~1. A signed agreement.~~
 - ~~a. If professional services are provided, standards or qualifications applied to~~

- ~~comparable positions must be met.~~
- ~~2. Identification of:~~
 - ~~a. Duties.~~
 - ~~b. Scope of responsibility.~~
 - ~~c. Supervision.~~
- ~~3. Orientation and training.~~
- ~~4. Assessment of performance.~~
- ~~5. Policies and written procedures for dismissal.~~
- ~~6. Confidentiality policies.~~
- ~~7. Background checks, when required.~~

~~300 STAFF TRAINING~~

Guiding Principle: ~~Staff Training is an organized program which prepares new employees to perform their assigned duties competently and maintains and improves the competencies of all employees. Staff Training for the organization shall provide an on-going mechanism for the evaluation of the impact of the program on services provided to individuals with developmental disabilities. This should include service outcomes to individuals, meeting of the organization objectives and overall mission, compliance with regulatory and professional standards and positive changes in staff performance and attitudes. The needs of individuals with developmental disabilities require the efforts of competent personnel who continually seek to expand knowledge in their fields.~~

~~300.1 The organization shall establish a policy designating one or more employees to be responsible for coordinating in-service staff training.~~

~~A. The employee responsible for staff training should have broad knowledge of care and service needs of persons with developmental disabilities, and possess the necessary skills to organize and implement an in-service training program as evidenced in resume.~~

~~301 The organization shall establish a written training plan. This plan must show how the training will be provided and the areas covered. If training occurs during regularly scheduled service hours, documentation must be present that individual staff ratios were maintained.~~

~~301.1 ALL Personnel shall receive initial and annual competency-based training to include, but not limited to:~~

~~A. Health and safety practices.~~

~~1. First Aid (review yearly, renew as required by American Heart Association, Red Cross, or Medic First Aid, applicable for ALL direct service personnel)~~

~~a. There is immediate access to:~~

~~(1) First aid expertise.~~

~~(2) First aid equipment and supplies.~~

~~(3) Emergency information on the:~~

~~(a) Persons served.~~

~~(b) Personnel.~~

~~b. Infection Control Plan~~

- ~~1. The organization shall implement an infection control plan that includes:~~
 - ~~(a). Training regarding the prevention and control of infections and communicable diseases for:~~
 - ~~(1). Persons served, when applicable.~~
 - ~~(2). Personnel.~~
 - ~~(b). The appropriate use of standard or universal precautions by all personnel.~~
 - ~~(c). Procedures that specify that employees with infectious diseases shall be prohibited from contact with individuals until a physician's release has been provided to the organization director.~~

~~B. Identification of unsafe environmental factors.~~

- ~~1. Issues Regarding Prevention of Acquired Immunodeficiency Syndrome (AIDS), Hepatitis B (HIV) and other Bloodborne Pathogens~~

~~C. Emergency procedures and Evacuation Procedures~~

- ~~1. Emergency and Disaster Preparedness~~
- ~~2. Fire and Tornado Drills, Violence in the Workplace, Bomb Threats, Earthquake~~

~~D. General Information~~

- ~~1. Overview of Department of Human Services~~
- ~~2. Overview of Developmental Disabilities Services~~
- ~~3. Philosophy, Goals, Programs, Practices, Policies, and Procedures of Local Organization~~
- ~~4. HIPPA policies and procedures~~
- ~~5. Orientation to history of Developmental Disabilities~~
- ~~6. Current Issues Affecting Individuals with Developmental Disabilities~~
- ~~7. Introduction to Principles of Normalization~~
- ~~8. Procedures for Incident Reporting~~
- ~~9. Appeals Procedure for Individuals Served by the Program~~
- ~~10. Introduction to Behavior Management~~
- ~~11. Community Integration Training.~~

~~E. Legal~~

- ~~1. Overview of Federal and State Laws related to serving individuals with a developmental disability (NOTE: Laws may change every 2 years)~~
- ~~2. Legal Rights of Individuals with Developmental Disabilities~~
- ~~3. Application of Federal Civil Rights Laws to Persons with AIDS or HIV related condition (or those who may be perceived to have AIDS or HIV related conditions).~~
- ~~4. Ark. Code Ann. §§6-41-201—6-41-222 The Children With Disabilities Act of 1973~~
- ~~5. Ark. Code Ann. §§20-48-201—20-48-211;—Arkansas Mental Retardation Act~~
- ~~6. Ark. Code Ann. §§25-19-101—25-19-107—Freedom of Information Act~~
- ~~7. Ark. Code Ann. §§28-65-101—28-65-109;—Guardians Generally~~

8. ~~Ark. Code Ann. §§5-28-101—5-28-109; Abuse of Adults~~
9. ~~Ark. Code Ann. §§12-12-501—12-12-515; Arkansas Child Maltreatment Act~~
10. ~~Ark. Code Ann. §§25-2-104, 25-2-105, 25-2-107, Type 1, Type 2 and Type 4 Transfers~~
11. ~~Ark. Code Ann. §§25-10-102—25-10-116; Department of Health and Human Services General Provisions~~
12. ~~Ark. Code Ann. §§20-78-215—Child sexual abuse—Federal funds~~
13. ~~U.S.C. § 12101 et. seq.—Americans with Disabilities Act of 1990 P. L. 101-336~~
14. ~~20 U.S.C. §1400 et. seq. (Part B and Part C—P. L. 94-142 Individuals with Disability Education (IDEA) P.L. 99-457 Part C~~
15. ~~42 U.S.C. §2000a—2000 h-6—Title VI of the Civil Rights Act of 1964~~
16. ~~29 U.S.C. §§706 (8) Rehabilitation Act of 1973, 794—794(b) Section 504~~
17. ~~5 U.S.C. §552a—Federal Privacy Act~~
18. ~~42 U.S.C. §6000—Developmentally Disabled Assistance & Bill of Rights Act of 1984~~
19. ~~P.L. 109-171, Deficit Reduction Act, and 30 U.S.C. §3729 et. seq. False Claims Act~~ *Note: Documentation of prior training of individual staff may be used for the required topics, if this situation is addressed in the organization's training plan.*

~~301.2. Documentation of prior training of individual staff may be used for the required topics, if this situation is addressed in the organization's training plan.~~

~~301.3. Training Requirements for professional/administrative staff, as defined by the agencies policies~~

1. ~~Twelve (12) hours minimum completed within ninety (90) days of employment (does not include First Aid and CPR training)~~

~~301.4. Training Requirements for direct care staff~~

1. ~~Twelve (12) hours minimum completed within (30) days of employment (does not include First Aid and CPR training)~~
2. ~~In addition to the training requirements specified Section 301.1, all direct care staff must receive the following training:~~
 - a. ~~CPR (Initial Certification, renew as required by American Heart Association, Medic First Aid, or Red Cross).~~
 1. ~~ALL direct care staff members, including bus and van drivers, shall be trained and certified to provide CPR, unless they are deemed incapable of performing this task by a licensed medical professional, such as a nurse or doctor. Documentation must be maintained in the personnel file. Staff that are physically incapable of performing CPR must complete and have documentation of CPR training.~~
 - b. ~~The organization shall develop and implement and monitor policy regarding timeframe for CPR certification after hire date. (Timeframe not to exceed 90 days.)~~
3. ~~Medication—Implications, Side Effects, Legality of Administering medication.~~

~~NOTE: IN ADDITION TO THOSE AREAS ADDRESSED IN THESE STANDARDS, OTHER IDENTIFIED NEEDS BASED ON STAFF INPUT SHOULD BE ADDRESSED.~~

~~NOTE: SEE APPENDIX B for Training Resources~~

~~301.5 In addition to the requirements in Section 301.1-301.4, all direct care staff shall receive annual in-service training and/or continuing education as follows:~~

- ~~A. Minimum of twelve (12) hours of training annually, including the required topics.~~
 - ~~1. Topics must be applicable to the job and are to be chosen by the organization based on identified needs. Topics may be a combination of required and job-specific training.~~
 - ~~2. Behavior management techniques/programming~~
- ~~B. Documentation of the training shall be maintained in the staff's personnel file and shall be evidenced by the signatures of the trainer and the direct care staff, the date the training was provided and the specific information covered.~~

~~302 Annual in-service training and/or continuing education for Managerial Staff, as defined by the agencies policies.~~

- ~~A. Topics Chosen must be related to the job performed.~~
- ~~B. Minimum of twelve (12) hours of training required yearly, from the following list:~~
 - ~~1. Issues Regarding Prevention of Acquired Immunodeficiency Syndrome (AIDS), Hepatitis B (HIV) and other Blood Borne Pathogens~~
 - ~~2. Application of Federal Civil Rights Laws to persons with AIDS or HIV related Conditions (or those who may be perceived to have AIDS or HIV Related conditions)~~
 - ~~3. Management of Non-Profit Organizations~~
 - ~~4. Procedures for Preventing and Reporting Alleged Maltreatment of Children and Adults~~
 - ~~5. Effective Supervision/Management Techniques~~
 - ~~6. Selection and Interviewing~~
 - ~~7. Fair Employment Principles~~
 - ~~8. Performance Evaluation~~
 - ~~9. Techniques for Working with the Board~~
 - ~~10. Overview of Federal and State Laws Related to Serving Individuals with a Developmental Disability (up dated every two (2) years)~~
 - ~~11. Federal and State Laws:~~
 - ~~a. Ark. Code Ann. §§6-41-201-6-41-222 The Children With Disabilities Act of 1973~~
 - ~~b. Ark. Code Ann. §§20-48-201-20-48-211 Arkansas Mental Retardation Act~~
 - ~~c. Ark. Code Ann. §§25-19-101-25-19-107 Freedom of Information Act~~
 - ~~d. Ark. Code Ann. §§28-65-101-28-65-109; Guardians Generally~~
 - ~~e. Ark. Code Ann. §§5-28-101-5-28-109; Abuse of Adults~~

- f. ~~Ark. Code Ann. §§12-12-501—12-12-515;—Arkansas Child Maltreatment Act~~
- g. ~~Ark. Code Ann. §§25-2-104, 25-2-105, 25-2-107, Type 1, Type 2 and Type 4 Transfers~~
- h. ~~Ark. Code Ann. §§25-10-102—25-10-116; Department of Health and Human Services General Provisions~~
- i. ~~Ark. Code Ann. §§20-78-215—Child sexual abuse—Federal funds~~
- j. ~~U.S.C. § 12101 et. seq.—Americans with Disabilities Act of 1990 P. L. 101-336~~
- k. ~~20 U.S.C. §1400 et. seq. (Part B and Part C—P. L. 94-142 Individuals with Disability Education (IDEA) P.L. 99-457 Part C~~
- l. ~~42U.S.C. §2000a—2000 h-6—Title VI of the Civil Rights Act of 1964~~
- m. ~~29 U.S.C. §§706 (8) Rehabilitation Act of 1973, 794—794(b) Section 504~~

~~n. 5 U.S.C. §552a—Federal Privacy Act~~

~~o. 42 U.S.C. §6000—6083—Developmentally Disabled Assistance & Bill of Rights Act of 1984~~

~~C. Managerial Staff, as defined by the agencies policies, who have been with the agency for 2 or more years may select from the above list or choose from continuing education courses.~~

~~NOTE: SEE APPENDIX B FOR TRAINING RESOURCES~~

~~303 All employees who provide transportation services shall have the following training scheduled within thirty (30) days of employment and completed within seventy five (75) days of employment. This training shall be in addition to the required new employee training listed in Section 301~~

~~A. A course of instruction in consumer assistance and transfer techniques, lift operation and how to properly secure a wheelchair, if applicable, prior to transporting consumers; and~~

~~B. The provider must assure and document that each driver obtains the following:~~

~~1. A certificate of completion of an introductory defensive driving course;~~

~~2. A certification of completion of training addressing the transport of older persons and people with disabilities, and a refresher course every three years thereafter, both of which must include:~~

~~a. Sensitivity to aging training;~~

~~b. An overview of diseases and functional factors commonly affecting older adults;~~

~~c. Environmental considerations affecting passengers;~~

~~d. Instruction in consumer assistance and transfer techniques;~~

~~e. Training on the management of wheelchairs, and how to properly secure a wheelchair;~~

~~f. The inspection and operation of wheelchair lifts and other assistive equipment; and,~~

~~g. Emergency procedures.~~

~~C. D. Drivers are required to complete refresher courses every three years after the date the certificate(s) of completion was received.~~

~~Note: For all transportation workers employed prior to 11/01/07, documentation of the required training must be on file no later than 11/01/08.~~

~~304 Providers must assure:~~

~~A. Maintenance of a safety checklist completed prior to transporting consumer(s) and/or travel attendants. Checklist items shall include, but not be limited to, fire extinguisher, first aid kit,~~

~~B. Maintenance of service logs or trip sheets that include the date of service the consumer's name, the pick up point and destination point for each trip, total mileage per trip, and the driver's signature.~~

~~C. Assistance in transfer of the consumer, as necessary, safely from the consumer's door to the vehicle and from the vehicle to the entrance of the destination point. The provider must perform the same transfer assist service when transporting the consumer back to the consumer's residence.~~

400—INDIVIDUAL/PARENT/GUARDIAN—RIGHTS

Guiding Principle: The organization shall implement a system of rights that nurtures and protects the dignity and respect of the persons served. The organization shall protect and promote the rights of the persons served. This commitment shall guide the delivery of services and ongoing interactions with the persons served.

- 401—The organization shall implement policies promoting the following rights of the persons served and ensures all information is transmitted to the person served and/or their parent or guardian in a manner and fashion that is clear and understandable:
- A.—Being free from physical or psychological abuse or neglect, retaliation, humiliation, and from financial exploitation.
 - B.—Having control over their own financial resources.
 - C.—Being able to receive, purchase, have and use their own personal property.
 - D.—Actively and meaningfully making decisions affecting their life.
 - E.—Access to information pertinent to the person served in sufficient time to facilitate his or her decision making.
 - F.—Having Privacy.
 - G.—Being able to associate and communicate publicly or privately with any person or group of people of the individual's choice.
 - H.—Being able to practice the religion of their choice.
 - I.—Being free from the inappropriate use of a physical or chemical restraint, medication, or isolation as punishment, for the convenience of the provider or agent, in conflict with a physician's order or as a substitute for treatment, except when a physical restraint is in furtherance of the health and safety of the individual.
 - J.—Not being required to work without compensation, except when the individual is residing and being provided services outside of the home of a member of the individual's family, and then only for the purposes of the upkeep of their own living space and of common living area and grounds that the individual shares with others.
 - K.—Being treated with dignity and respect.
 - L.—Receiving due process.
 - M.—Having access to their own records, including information about how their funds are accessed and utilized and what services were billed for on the individual's behalf.
 - N.—Informed consent or refusal or expression of choice regarding:
 - 1.—Service delivery.
 - 2.—Release of information.
 - 3.—Concurrent services.
 - 4.—Composition of the service delivery team.
 - 5.—Involvement in research projects, if applicable.
 - O.—Access or referral to legal entities for appropriate representation.
 - P.—Access to self-help and advocacy support services.
 - Q.—Adherence to research guidelines and ethics when persons served are involved, if applicable.
 - R.—Investigation and resolution of alleged infringement of rights.
 - 1.—The agency maintains documentation of all investigations of all alleged violations of individual's rights and actions taken to intervene in such situations.

~~The organization ensures that the individual has been notified of their right to appeal according to DDS Policy 1076.~~

~~R. Rights and responsibilities of citizenship~~

~~S. Other legal and constitutional rights~~

~~402 Records of persons served~~

~~A. The organization shall maintain complete records and treat all information related to persons served as confidential.~~

~~B. The organization shall create policy for the sharing of confidential billing, utilization, clinical and other administrative and service related information, and the operation of any Internet based services that may exist.~~

~~1. Information that is used for reporting or billing shall be shared according to confidentiality guidelines that recognize applicable regulatory requirements such as the Health Insurance Portability and Accountability Act (HIPAA).~~

~~C. The organization shall comply with its own service delivery design for the development of the record. Electronic records are acceptable. Electronic records must meet the following:~~

~~1. Format must meet DHS/ Office of Systems and Technology standards and be acceptable by the Department.~~

~~2. Files must be uniformly organized and easily accessible.~~

~~D. The location of the case record, and the information contained therein, shall be controlled from a central location as defined by the agency, shall be stored under lock and with protection against fire, water, and other hazards in an accessible location at each site. The organization shall establish and implement policies and procedures to ensure direct care staff have adequate access to the individual's current plan of care and other pertinent information necessary to ensure the individual's health and safety (i.e., name and telephone number of physician, emergency contact information, insurance information, etc.). If services are not provided at the central location, at a minimum the following information must be maintained at the service delivery site:~~

~~1. Access Sheet~~

~~2. Face Sheet to include emergency contact information and pertinent health information~~

~~3. Signed consent for emergency treatment~~

~~4. A copy of the consumer's current program plan~~

~~5. Copies of current progress reports~~

~~6. Documentation of service provision to include date, time in and time out, summary of activities, and signature of implementor for the period of the current program plan~~

~~E. Records maintained on computer shall be backed up at a minimum weekly and the duplicate copy shall be stored under lock and with protection against fire, water, and other hazards.~~

~~F. A list of the order of the file information shall either be present in each individual case file or provided to DDS Licensure staff upon request. The documents in active individual case records should be organized in a systematic fashion. An indexing and filing system shall be maintained for all case records.~~

~~G. Each organization shall have written procedures to cover destruction of records. Procedures must comply with all state and federal regulations~~

~~H. Access sheets shall be located in the front of the file to maintain confidentiality according to 5 U.S.C. § 552a. If there is a signed release for a list of authorized persons to review the file, only those not listed will need to sign the access sheet with date, title, reason for reviewing, and signature. If there is not a signed release for authorized persons to review, all persons must sign the access sheet whenever the file is reviewed or any material is placed in the file.~~

~~402.1—DDS staff shall have access upon demand to all individual case records as designated in Ark. Code Ann. §§ 20-48-201—20-48-211, DDS Policy 1090, Licensing Policy for Center-Based Community Services.~~

~~402.2—The organization shall ensure confidentiality of all case records is maintained. Access to case records shall be limited to Individual/Parent/Guardian, professional staff providing direct services to the person served, plus such other individuals as may be authorized administratively or by the consumer. All authorizations either those listed above or others shall be in writing.~~

~~A.—Access to individual files shall be limited to only those staff members who have a need to know information contained in the records of persons served.~~

~~B.—Individual service records shall be maintained according to provisions of the Privacy Act;~~

~~C.—Access to computer records shall be limited to those authorized to view records~~

~~D.—The organization shall ensure the right of all persons served to access their own records.~~

~~E.—The organization shall ensure that all persons served know how to access their records and the organization ensures that appropriate equipment is available.~~

~~F.—An organization shall not prohibit the persons served from having access to their own records, unless a specific state law indicates otherwise. It is recognized that the organization must comply with HIPAA regulations as it relates to specific information that cannot be disclosed to persons served without authorization (i.e., psychotherapy notes).~~

~~402.2—Adult individuals who are legally competent shall have the right to decide whether their family will be involved in planning and implementing the individual service plan. A signed release or document shall be present in individual case record giving permission for family to be involved.~~

~~402.3—The Individual /Parent /Guardian shall be informed of their rights. The organization shall maintain documentation in the individual's file that the following information has been provided in writing: THE INFORMATION LISTED IN 402.3 A—I MUST BE PROVIDED UPON ADMISSION AND ANNUALLY THEREAFTER:~~

~~A.—All possible service options, including those not presently provided by the program.~~

~~B.—A copy of the rules of conduct and mission statement of the organization.~~

~~C.—Current list of Board members of the community program.~~

~~D.—Summary of funding sources.~~

~~E.—Copy of the appeal procedure for decisions made by the organization.~~

~~F.—Solicitation Guidelines **See Solicitation under Definitions~~

~~G.—All external advocacy services.~~

~~H.—Right to appeal any service decision to DDS, under DDS Policy 1076~~

~~I.—Name and phone number of the DDS Service Specialist for that area~~

~~403—Grievances and Appeals~~

Guiding Principle: ~~The organization identifies clear protocols related to formal complaints, including grievances and appeals. An organization may have separate policies and procedures for grievances and appeals, or may include these in a common policy and procedure covering complaints, grievances, and appeals.~~

~~A review of formal complaints, grievances, and appeals gives the organization valuable information to facilitate change that results in better~~

~~A.—The organization shall identify clear protocols related to formal complaints, including~~

~~grievances and appeals.~~

~~B. The organization shall:~~

- ~~1. Implement a policy by which persons served may formally complain to the organization.~~
- ~~2. Implement a procedure concerning formal complaints that:~~
 - ~~a. Is written.~~
 - ~~b. Specifies:~~
 - ~~1. That the action will not result in retaliation or barriers to services.~~
 - ~~2. How efforts will be made to resolve the complaint.~~
 - ~~3. Levels of review, which includes availability of external review.~~
 - ~~4. Time frames that are adequate for prompt consideration and that result in timely decisions for the person served.~~
 - ~~5. Procedures for written notification regarding the actions to be taken to address the complaint.~~
 - ~~6. The rights and responsibilities of each party.~~
 - ~~7. The availability of advocates or other assistance.~~
- ~~3. Make complaint procedures and, if applicable, forms:~~
 - ~~a. Readily available to the persons served.~~
 - ~~b. Understandable to the persons served and in compliance with 29 U. S. C. §§ 706 (8), 794 — 794(b).~~

~~C. These procedures shall be explained to personnel and persons served in a format that is easily understandable and meets their needs. This explanation may include, but not limited to a video or audiotape, a handbook, interpreters, etc.~~

~~403.1 The organization shall annually review all formal complaints filed.~~

~~A. A written review of formal complaints:~~

- ~~1. Determine:~~
 - ~~a. Trends.~~
 - ~~b. Areas needing performance improvement.~~
 - ~~c. Action plan or changes to be made to improve performance and to reduce complaints~~

~~403.2 The organization shall document a review of any action plan or changes made to determine if the plan/changes were effective in reducing complaints and shall make adjustments to the plan as deemed necessary to ensure quality services.~~

~~404 Health Related Issues~~

Guiding Principle: A successful health and safety program goes beyond compliance with regulatory requirements and strives to manage risk and to protect the health and safety of persons served, employees, and visitors. A successful health and safety program addresses both minimizing potential hazards and compliance activities.

~~A. The organization shall implement policies/procedures to ensure the rights of individuals who have or who are perceived as having Acquired Immunodeficiency Syndrome (AIDS) or Human Immune Virus (HIV) related condition (or those who may be perceived as having AIDS or AIDS related conditions including Hepatitis B are not discriminated against in accordance with 29 U.S.C. §§ 706 (8), 794 — 794(b); U.S.C. § 12101 et. seq. A copy of the policies/procedures shall be provided to each Individual/Parent/Guardian(s).~~

~~B. The organization shall implement policies/procedures concerning any person admitted for services or anyone proposed for admission to ensure confidentiality shall be maintained for all information related to HIV testing, positive HIV infection, any HIV associated condition,~~

~~AIDS or Hepatitis B.~~

- C. ~~Each organization will protect the confidentiality of records or computer data that is maintained which relates to HIV, AIDS or Hepatitis B.~~

405 ~~Incident / Accident Reporting~~

- A. ~~The organization shall **report the following incidents to the DDS Licensing Unit** in accordance with DHS Policy 1090. This report shall contain: date, accident/injury, time, location, persons involved, action taken, follow-up, signature of person writing the report. The following are reportable incidents:~~

- ~~1. Use of seclusion or restraint.~~
- ~~2. Maltreatment or abuse as defined in statutes (See Ark. Code Ann. §§ 12-12-501—12-12-515 (503); Ark. Code Ann. §§ 5-28-101—5-28-109 (102))~~
- ~~3. Incidents involving injury:~~
 - ~~a. Accident/injury reports shall be completed for each accident/injury that requires the attention of an EMT, Paramedic or Physician.~~
 - ~~1. Accident is defined as an event occurring by chance or arising from unknown causes.~~
 - ~~2. Injury is defined as an act that damages or hurts and results in outside medical attention.~~
 - ~~3. A copy of the report, redacted as required by the Freedom of Information Act must be sent to parent/guardian of all children (0-18), and to guardian of adults regardless of severity of injury.~~
 - ~~4. Other health-related conditions resulting in Emergency treatment or hospitalization.~~
- ~~4. Communicable disease~~
- ~~5. Violence or aggression~~
- ~~6. Sentinel events (i.e., an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof)~~
- ~~7. Elopement and/or wandering defined as anytime the location of a person cannot be determined within 2 hours~~
- ~~8. Vehicular accidents~~
- ~~9. Biohazardous accidents~~
- ~~10. Use or possession of illicit substances or use or possession of licit substances in an unlawful or inappropriate manner (i.e., possession of prescription drugs by a person to whom the drugs have not been prescribed and who has no legitimate interest in possession of prescription drugs, such as a parent or guardian)~~
- ~~11. Arrests or convictions~~
- ~~12. Suicide or attempted suicide~~
- ~~13. Property destruction~~
- ~~14. Any condition or event that prevents the delivery of DHS services for more than 2 hours~~
- ~~15. Behavioral incidents (incidents involving an individual's actions that are~~

aggressive, disruptive and/or present a danger to the individual or to others)

16. — Other areas, as required

~~NOTE: — FOR INDIVIDUALS 3-21 YEARS OF AGE, DESTRUCTION OF INCIDENT REPORTS MUST BE IN COMPLIANCE WITH DEPARTMENT OF EDUCATION:-~~

~~B. — The organization shall notify the parent/guardian of all children (0-18) or adults who have a guardian any time an incident/ injury report is submitted.~~

~~C. — The organization shall develop and implement policies and procedures regarding follow-up of all incidents to include a time-line for action, remediation and preventative measures that do not exceed DDS established timeframes, in accordance with DHS Policy 1090.~~

~~407 — Behavioral Management~~

~~A. — The organization shall develop policy and procedure that demonstrates a commitment to a system that nurtures personal growth and dignity, and supports the use of positive approaches and supports.~~

~~B. — The organization's policy and procedure shall ensure that when behavior management approaches are used, positive behavior interventions are implemented prior to the use of restrictive procedures.~~

~~C. — Written behavior management policy developed by the organization shall ensure the rights of individuals.~~

~~1. — The policy will be incorporated by the interdisciplinary team in programming, as appropriate.~~

~~2. — The plan must be reviewed quarterly or as dictated by the needs of the individual served.~~

~~3. — This shall include all types of behavior management used i.e., time-out, token economy, etc... This cannot include procedures that are punishing, physically painful, emotionally frightening, or deprivation, or that puts the individual served at medical risk which are used to modify behaviors~~

~~D. — If restrictions are placed on the rights of a person served:~~

~~1. — The organization shall follow its policies and procedures.~~

~~2. — The organization shall obtain informed consent from the individual/parent/guardian prior to implementation.~~

~~3. — The organization shall have methods to reinstate rights as soon as possible.~~

~~4. — Staff members are trained on proper implementation of all restrictions utilized by the organization.~~

~~E. — The organization shall assure that maltreatment or corporal punishment of individuals will not be allowed.~~

~~1. — Policies and Procedure must state that corporal punishment is prohibited.~~

~~a. — "Corporal punishment" refers to the application of painful stimuli to the body in an attempt to terminate behavior or as a penalty for behavior.~~

~~b. — 20 U.S.C. § 1400 et. seq.; Maltreatment laws, Ark. Code Ann. §§ 12-12-501 — 12-12-515; Ark. Code Ann. §§ 5-28-101 — 5-28-109.~~

~~F. — Individuals shall have the right to obtain and retain private property.~~

~~1. — Personal possessions are regarded as the private property of the individuals and shall not be taken away unless danger to safety of the individual or to others is present.~~

~~G. — Emergency Basis Procedure~~

~~An emergency safety situation is defined as unanticipated behavior that places the person served or others at~~

~~serious threat of violence or risk of injury if no intervention occurs.~~

- ~~1. The organization shall establish policies/procedures for the use of restraint and/or emergency intervention procedures that must be used/undertaken in the event of a emergency circumstances for a consumer who has no behavior management plan in place. The policies/procedures must identify the circumstances under which emergency procedures will be used as a protective measure in a life or safety-threatening situation only when de-escalation has failed or is not possible.~~
- ~~2. Emergency basis procedures may not be repeated more than three (3) times within six months without the interdisciplinary team meeting to revise the individual program plan. Each incident consists of: a behavior was exhibited, a procedure was used, the individual was no longer thought to be dangerous, the procedure was discontinued.~~
~~*Note: The number three (3) means three (3) distinct incidents. The three (3) distinct occurrences could take place in one (1) day.*~~

~~500 SERVICE PROVISION STANDARDS~~

~~501 The organization shall establish written policies and procedures for intake, evaluation, and diagnosis necessary to determine the eligibility of a person to receive services shall be documented.~~

~~The organization shall designate specific staff positions assigned with the responsibility for intake, evaluation, assessment, family contact, planning, updating, and alternate placement.~~

~~502 Face sheets shall be completed at intake and shall be updated as needed and at least annually as documented by date of signature of the person designated in organization's policy.~~

~~Every person receiving services shall have a service record face sheet that contains the information in 502.1 A-Q and will be filed in a prominent location in the front of the file.~~

- ~~A. Full name of individual~~
- ~~B. Address, county of residence, telephone number and email address, if applicable~~
- ~~C. Marital status, if applicable~~
- ~~D. Race and gender~~
- ~~E. Birth date~~
- ~~F. Social Security number~~
- ~~G. Medicaid Number~~
- ~~H. Legal status~~
- ~~I. Parents or guardian's name and address and relationship, if applicable~~
- ~~J. Name, address, telephone number and relationship of person to contact in emergency, someone other than item H~~
- ~~K. Health insurance benefits and policy number~~
- ~~L. Primary language~~
- ~~M. Admission date~~
- ~~N. Statement of primary/secondary disability~~
- ~~O. Physician's name, address and telephone number~~
- ~~P. Current medications with dosage and frequency, if applicable~~
- ~~Q. All known allergies or indicate none, if applicable~~

~~502 A case manager/service coordinator/evaluator shall be designated in writing and shall organize the provision of services for every individual served. The case manager/service coordinator/evaluator~~

shall provide the individual or parent/guardian with the name and contact information in writing.

A. ~~For every individual served, the case manager /service coordinator/ evaluator shall:~~

- ~~1. Assume responsibility for intake, assessment, planning and services to the person~~
- ~~2. Coordinate the individual program plan~~
- ~~3. Cultivate the individual's participation in the services~~
- ~~4. Monitor and update services to assure that:~~
 - ~~a. The person is adequately oriented~~
 - ~~b. Services proceed in an orderly, purposeful, and timely manner~~
 - ~~c. The transition and/or discharge decision and arrangements for follow-up are properly made.~~

503 ~~Intake~~

A. ~~A written intake procedure shall be available upon request, shall be understandable to the individual receiving the services, shall be presented to those requesting services, and shall be followed by the organization in the evaluation of a person to determine eligibility for services.~~

B. ~~The organization shall implement policies and procedures for acceptance into services. Policies and procedures must:~~

- ~~1. Establish the criteria for the order of acceptance of any person awaiting service.~~
- ~~2. Identify the position or entity responsible for making acceptance decisions.~~
- ~~3. Provide opportunities for persons to learn about the organization and its services.~~
- ~~4. When a person is found ineligible:~~
 - ~~a. The person is informed of the reasons.~~
 - ~~b. The person is given information about potential alternative services.~~
- ~~5. Ensure that all involved are aware of their responsibilities regarding services prior to the planning and delivery of services~~
- ~~6. Ensure signed informed consent for services are obtained and retained as required by funding sources and for legal reasons~~
- ~~7. Ensure persons served are given information about setting their individual service goals, when applicable, planning the services to be delivered and how progress on service goals will be communicated with them.~~

504 ~~Information gathered prior to admission shall include the following information and shall be filed in the individual's record:~~

A. ~~Signed emergency medical release and all other necessary release forms (i.e., Publicity, field trip, fund raising, etc.). The emergency medical release form shall remain current (yearly) for the protection of the organization and the individual.~~

- ~~1. Competent adults must always sign their releases~~
- ~~2. Publicity releases shall be obtained on an as-needed basis (for each occurrence)~~
- ~~3. Field trip releases shall be obtained on a per occurrence basis unless that field trip is part of the regular program (i.e. bowling each week, swimming each week, etc.)~~
- ~~4. Emergency medical releases must be taken on field trips or incorporated in the field trip release.~~

B. ~~Statement of Legal (competency) status; See Ark. Code Ann. §§ 28-65-101—28-65-109 (see index)~~

- ~~1. If the individual is under the age of 18, he/she is a minor. Organizations shall determine the who is the legal guardian of the child: Natural parent(s), ward of the state (DCFS/foster home, etc.) and shall ensure the legal guardian signs all appropriate documents.~~
- ~~2. If the individual is age 18 or older, he/she is considered competent unless the court has~~

~~appointed a legal guardian. Copies of guardianship orders must be maintained in the individual's record.~~

~~*Note: An individual for whom a guardian has been appointed retains all legal and civil rights except those which have been expressly limited by court order or which have been specifically granted by order of the court to the guardian.*~~ 4.

~~505 Application for services~~

- ~~A. The organization shall develop and implement a written application to be made available upon request or presented to those requesting services. At a minimum, the application shall contain name, address and telephone number of individual/parent/guardian and a statement of the individual's needs. Applications shall be available in an alternate format and assistance to complete shall be offered to individual's that may require it~~

~~506 The organization shall complete a Financial Screen for all applicants for services as applicable.~~

- ~~A. The screen shall be completed prior to admission and is used by the program in the evaluation of a person's financial status~~
- ~~B. The organization shall include all information about benefits for Medicaid eligibility and, for individuals who may not be eligible for Medicaid, shall include information about Tax Equity Family Reform Act eligibility.~~
- ~~C.~~

~~507 Medical prescription for services shall be obtained, if applicable~~

- ~~A. A current prescription for services (within twelve months), signed by qualified medical personnel, shall be on file prior to admission~~

~~508 The organization shall complete or obtain a full assessment at the time of the admission process. The assessment shall include the following items:~~

- ~~A. Social history~~
- ~~1. A social history shall be written or procured within thirty (30) days of admission. The social history must be comprehensive, in narrative form or a completed questionnaire. The social history must be updated annually as evidenced by dated signature.~~
- ~~B. Medical history and evaluation~~
- ~~1. A physical examination/assessment signed by qualified medical personnel shall be on file and current within 5 days but not longer than thirty (30) days after admission. In cases where a physical cannot be obtained within 5 days, documentation of a physical within 1 year will be accepted until a new physical can be obtained~~
- ~~2. Early Periodic Screening Diagnosis Treatment process for Medicaid eligible individuals (0-21)~~
- ~~a. All individuals 0-21 years of age eligible for Medicaid should have evidence in the file that they are participating in the EPSDT process~~

~~509 A psychological evaluation report shall be on file prior to admission for adults (age 18 and older) and for children (age 5-18) if applicable~~

- ~~A. Adults (age 18-up) transferring from a DDS Licensed provider may be admitted with a copy of the most current psychological evaluation~~
- ~~B. A new psychological evaluation may be conducted if an Interdisciplinary Team determines that it is reasonable and necessary based on significant life changes of the individual.~~

~~510 Therapy evaluations must be completed or procured within thirty (30) days after admission, when~~

~~applicable or when prescribed by a physician or a therapist working under a physician's orders. Recommendations from therapy evaluations shall be incorporated into the individual's plan of care as appropriate.~~

~~511—When applicable, all psychiatric evaluation shall be completed by a qualified person and must be on file within thirty (30) days after admission. Recommendations from psychiatric evaluations shall be incorporated into the individual's plan of care as appropriate.~~

~~512—The service needs assessment must be completed on every individual seeking services~~

~~NOTE:—SEE SECTION 521 FOR FURTHER GUIDELINES
(CHILDREN'S SERVICES SECTION).~~

~~A.—The person and/or family served and/or their legal representatives shall be involved in:~~

- ~~1.—Assessments of potential risks to each person's health in the setting in which they receive services as well as in the community~~
- ~~2.—Assessments of potential risks to each person's safety in the setting in which they receive services as well as the community~~
- ~~3.—Decisions to accept or reject such risks~~
- ~~4.—Identification of actions to be taken to minimize risks~~
- ~~5.—Identification of individuals responsible for those actions~~

~~513—Personal Futures Planning~~

Guiding Principle: ~~Individuals with developmental disabilities and their families have competencies, capabilities and personal goals that shall be recognized, supported, encouraged, and any assistance to such individuals shall be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of such individuals. Any plan of service developed should significantly reflect the person for whom it is intended. Services/ supports are most effective when they are adapted to address individual outcomes~~

~~1.—The organization shall prepare a written person-centered support plan for each individual that shall meet their individual needs. At a minimum, the plan shall:~~

~~A.—Be developed only after consultation with the individual/parent/guardian, and other individuals from the individual's support network as determined by the individual/parent/guardian;~~

~~B.—Contain a description of the individual's preferred lifestyle, including:~~

- ~~1.—The type of setting in which the individual wants to live or work;~~
- ~~2.—With whom the individual wants to socialize;~~
- ~~3.—The social, leisure, religious, or other activities in which the individuals wants to participate;~~
- ~~4.—Reflect the individual's / family's choice of services which are relevant to the individual's age, abilities, life goals/outcomes~~
- ~~5.—Address areas such as the individual's / family's health, safety and challenging behaviors which may put the individual at risk~~
- ~~6.—Demonstrates the rights and dignity of individual/ family~~
- ~~7.—Incorporates the culture and value system of the individual/family~~
- ~~8.—Ensures the individual's/ family's orientation and integration to the community, its services and resources.~~
- ~~9.—The necessary activities, training, materials, equipment, assistive technology~~

and services needed to assist the individual in achieving their preferred lifestyle;

10. Describes how opportunities for individual choice will be provided;

11. Be approved, in writing by the individual/parent/guardian.

2. The organization shall regularly review and revise the plan whenever necessary to reflect changes in the individual's preferred lifestyle; achievement of goals or skills outlined within the plan or the goal is no longer deemed appropriate for the individual

514 Every individual shall have a written Individualized Program Plan

NOTE: SEE INDIVIDUAL PROGRAM SECTIONS FOR SPECIFIC TIME FRAMES
(CHILDREN'S SERVICES, SEE SECTION 521).

A. The organization shall include the person served as an active participant giving direction in all aspects of the planning and revision processes

B. Services shall be provided based on the choices of the individual/parent/guardian (as appropriate) and on the strengths and needs of the individuals to be served by the organization

C. Individual choice shall be determined by personal futures planning as specified in Section 513 and a comprehensive assessment which addresses:

1. Relevant medical history

2. Relevant psychological information

3. Relevant social information

4. Information on previous direct services and supports

5. Strengths

6. Abilities

7. Needs

8. Preferences

9. Desired outcomes

10. Cultural background

11. Other issues, as identified

514.1 The Individualized Program Plan:

A. Shall be developed with the input of the person served and/or their legal guardian.

B. Shall Identify:

1. Least restrictive environment

a. Documentation of discussion of least restrictive environment appropriate for individual strengths and needs

b. The program must document the justification for specialized environments if they are to be used. Plans shall be made for return to normal environments as soon as possible.

1. Individuals shall be in contact as much as possible with those who do not have disabilities

2. Individual program plans will be reviewed for provisions of program services in the least restrictive environment appropriate to the ability of the individual. Document this item with a summary of the discussion by the entire team about the least restrictive alternatives

3. ~~If the person chooses community integration or a less restrictive environment, documentation of referral attempts for alternate placement shall be present~~
2. ~~Barriers~~
 - a. ~~Describe the conditions or barriers that interfere with the achievement of the goal(s) or skills(s). Describe why a particular individual's needs cannot be met or what needs to be accomplished to meet the need.~~
 - b. ~~Resources and/or environment changes, adaptations or modifications necessary to attain the goal or skill shall be listed. The person responsible for attempting to get the service must be identified.~~

Note: Example of barriers are: lack of contract work, lack of funds, lack of staff, individual absent due to illness, prosthetic devices, equipment space, etc. The responsible person may be staff member, individual, family, etc.
 - c. ~~Documentation of efforts made to remove the identified barriers shall be noted in the individual's progress reports.~~
3. ~~Long range goals (addressing a period of 3-5 years) and annual goals~~
 - a. ~~The plan shall incorporate the goals and objectives of the individual's person-centered plan.~~
 - b. ~~The planning process shall support the individual / family in decision making and choosing options by actively involving the individual/ family in the Individual Plan (IP) development~~
4. ~~Specific measurable objectives.~~

514.2 ~~Short-term objectives (3-6 months time frame) shall be developed, as needed, for each of the annual goals.~~

- A. ~~Each objective must have criteria for success that states what the individual must do to complete the objective.~~
- B. ~~Short-term objectives must have methods/materials for implementation and give a simple statement describing the procedures to be used in individual training.~~
- C. ~~The person responsible for implementation of each short-term and service objective shall be specified.~~

Note: Utilization of title is recommended. This could be the individual or parent/guardian.
- D. ~~Short-term objectives shall have an initiation date, a target date, and, when completed, a completion date~~
- E. ~~Target dates~~
 1. ~~The target date shall be individualized and noted at the same time of the initiation date and the projected date when the individual can realistically be expected to achieve an objective.~~
 2. ~~The target date shall be used as a prompt to see if expectations for the individual are realistic in relation to attainment and appropriateness of goals and objectives. If the starting or target dates need to be revised, the organization shall mark through, initial and put in a new date.~~
 3. ~~The ending date shall be entered in as the person completes each objective.~~

514.3 ~~Service Objectives~~

- A. ~~Shall be reviewed on a regular basis with respect to expected outcomes.~~
- B. ~~Shall be revised, as appropriate:~~
 1. ~~Based on the satisfaction of the person served.~~

- ~~2. To remain meaningful to the person served.~~
- ~~3. Based on the changing needs of the person served.~~
- ~~C. Shall include a target date, which is a projected date when the team thinks the individual will no longer need the service or the service provision should be reviewed.~~

~~514.4 The following areas shall be assessed to determine needs in the plan and shall be documented:~~

- ~~A. Assistive technology.~~
- ~~B. Reasonable accommodations.~~
- ~~C. Identified health and safety risks~~

~~514.5 The individual program plan shall be communicated in a manner that is understandable:~~

- ~~A. To the person served and/or their guardian / advocate/ representative.~~
- ~~B. To the persons responsible for implementing the plan.~~

~~514.6 The organization shall ensure that persons involved or their legal guardian/advocate understand the plans and their own involvement in achieving the outcomes.~~

- ~~A. Active participation of the persons served, or their guardian or advocate in setting goals and planning services shall be documented. Documentation may be through interviews, records, checklists, etc. and shall be maintained in the individual's file~~
- ~~B. If a person served needs services that are not available through the organization, the organization shall make referrals to other providers as indicated. Documentation of the referral(s) shall be maintained in the individual's file.~~

~~NOTE: CONTACT DDS FOR A LIST OF PROVIDERS THAT PROVIDE THE REQUESTED SERVICE.~~

~~515 Every ninety (90) days of service delivery, the service provider shall complete a quarterly report on the goals/objectives of the IPP. If needed, modifications may be made with meeting of entire team. Quarterly reports must be specific to reflect the individual's performance concerning implemented goals and short-term objectives as specified in the individual program plan and shall be based on the case notes for the reporting period.~~

- ~~A. The quarterly notes shall establish goals or short-term objectives which are:
 - ~~1. Accomplished~~
 - ~~2. To be continued~~
 - ~~3. Modified or deleted (with statement of reason or barrier) and~~
 - ~~4. Will be worked on for the next three months or ninety (90) days~~~~
- ~~B. Data Collection/case notes shall be utilized in writing progress reports.~~
- ~~C. Quarterly reports shall be written, dated, and signed by persons responsible for case management. All persons responsible for implementation of services must contribute to the report.~~
- ~~D. Quarterly reports shall document referral to interdisciplinary team for modification of the annual goals as needed, in compliance with state and federal regulations~~
- ~~E. Documentation of communication of quarterly reports to the individual/parent/guardian (as appropriate) shall occur at least every three (3) months or ninety (90) days as in compliance with state and federal regulations.~~
- ~~F. Quarterly reports must include space for individual and/or parental/guardian evaluation of services. The organization shall document that the persons served and/or the parent/guardian has opportunity to evaluate the services received as in accordance with state and federal guidelines.~~

~~516—Updating~~

- ~~A.—The organization shall have policies and procedures in place for updating individual program plans. Updates shall be done at least annually and more often if monitoring reports indicate a need or if federal regulations require more frequent updates.~~
- ~~B.—The organization shall have policies and procedures in place for revising individual program plans when goals change.~~
- ~~C.—Annually update financial, if applicable, social, medical, medical prescription for services, evaluations as applicable, IPP's, and service needs assessment;~~

~~517—Termination of services or alternate placement~~

~~NOTE:—SEE THE SPECIFIC PROGRAMMING SECTION FOR MORE DETAILED INFORMATION (CHILDREN'S SERVICES 521).~~

- ~~A.—An exit summary shall be prepared each time a person leaves a service, not just when the person is leaving the organization.~~
 - ~~1.—The report shall summarize the results of the services received by the person and makes recommendations for future services to continue the achievement of the person's life goals.~~
 - ~~2.—The plan may suggest referrals to other services that are not available through the organization~~

~~518—Data Collection Requirements~~

- ~~A.—Data collections shall provide specific information on annual goals and short-term objectives and should be designed to measure and record the progress on each short-term objective.~~
- ~~B.—Data collection shall consist of sufficient written documentation to support each. *Daily* service documentation must, at a minimum, include:~~
 - ~~• The specific services furnished;~~
 - ~~• The date and actual beginning and ending time of day the services were performed;~~
 - ~~• Name(s) and title(s) of the person(s) providing the service(s);~~
 - ~~• The relationship of the services to the goals and objectives described in the person's individualized plan of care and~~
 - ~~• Daily progress notes, signed or initialed by the person providing the service(s), describing each individual's status with respect to his or her goals and objectives.~~
- ~~C.—Data Collection shall be filed in the individual's file at least monthly and shall be available for review upon request.~~

~~520—The organization shall establish and maintain each individual's daily schedule based upon the individual's program plan. The schedule shall indicate general activities throughout the day for each individual. As appropriate the schedule should reflect time segments for the individual to exercise choice in the selection of activities.~~

~~102—521—Children's Services Individual Program Planning~~

~~As a key element in establishing goals/objectives/ personal outcomes, the agency shall assess an individual's/family's preferences, desires, lifestyle choices, strengths, needs, skills, etc. through individual observations or interviews. Documentation of the assessment shall be maintained in the individual's file. At a minimum, the assessment must include:~~

- ~~A.—Developmental Assessment~~

- ~~1. Initial evaluation shall include 2 developmental assessments; 1 standardized and 1 criterion based.~~
- ~~2. Documentation must include:~~
 - ~~a. A written summary that includes standard deviation and/or percentage of delay as determined by the test protocols~~
 - ~~b. An informed clinical opinion~~
- ~~3. Must be in a format that is understandable to the parent.~~
- ~~4. Must be signed by the evaluator.~~
- ~~B. An annual assessment must be conducted using a criterion based test.~~
- ~~C. A Social History must be completed, signed and dated on the approved form from DOE.~~

~~521.1 Children 3-5 The Individual Program Plan shall include a statement of the specific services necessary to meet the identified needs of the child/family.~~

- ~~A. At a minimum the IPP must include:~~
 - ~~1. Frequency Number of days or sessions that a service will be provided~~
 - ~~2. Intensity The length of time the service is provided during each session, and whether the service is provided on an individual or group basis~~
 - ~~3. Location Location where the service is provided (e.g., in the child's home, early intervention center, or other setting) as appropriate to the age and needs of the child~~
 - ~~4. Method How a service is provided~~
 - ~~5. Dates and duration Projected dates of initiation of the services, a target date for completion and/or review and the anticipated duration of those services. If either of these dates needs to be revised, then simply mark through, initial and put in new date.~~
- ~~B. Completion of the IPP must meet all State and Federal requirements~~
- ~~C. In order to revise an individual's objectives, at least three (3) members of the team must be present. Parent(s) must be included.~~

~~521.2 Quarterly reviews must include a Family Rating which must be documented on the appropriate form as designated by DDS.~~

~~521.3 Children reaching 5 years of age must have a transition plan.~~

- ~~A. This plan must be developed 180 days prior to age 5 as per State and Federal guidelines.~~
- ~~B. The plan must be child specific and must include specific steps to ensure a smooth transition for the child and family, and must be in accordance with State and Federal Guidelines.~~
- ~~C. The plan must include a transition plan at kindergarten age. Children entering public schools must have a transition plan.~~
- ~~D. The individual program shall include the steps to be taken to support the transition of the child upon reaching kindergarten age.~~
- ~~E. The organization must document contact with the agency which will provide services following the transition, and must demonstrate an attempt to involve that agency in the transition planning. Documentation must be maintained in the individual's file.~~

~~521.4 If the organization is using the supervising teacher model, the organization must follow all State and Federal Guidelines and maintain appropriate documentation of supervision and direct contact with the child on file for review.~~

~~A. Case Notes~~

- ~~1. Case notes shall document each contact with the individual the frequency of each contact will be determined by the team during the development of the IPP it should include date, time and summary of each contact.~~
- ~~2. Service Objectives shall be listed in an outcome-oriented manner.~~
 - ~~A. Each service objective shall specify any environment modification necessary to facilitate the individual's accomplishment.~~
 - ~~B. Each service objective, including physical adaptations or modifications of the individual's environment, shall be stated as a single specific outcome.~~
 - ~~C. Service objectives shall provide opportunities in the social environment to support community integration and the enhancement of individual relationships.~~
 - ~~D. Based on the individual's choice, and the needs assessment, plans shall include facilitation of the individual's participation in normal activities in normal settings of same-age peers.~~

~~523 STAFF RATIOS~~

~~Ratios for Day Programming for Children 0-3 Years
1:4~~

~~Ratios for Day Programming for Children 3-5 Years~~

- ~~1:7 If non-integrated according to December 1st child count~~
- ~~1:9 If integrated at the December 1st child count, the center can send in documentation to DDS and use the alternative ratio of 1:9. Provider shall be required to assure DDS that the integrated status is maintained and it will be checked periodically during licensure visits.~~

~~523.3 Ratios for Adult Day Programming~~

~~The organization shall maintain a 1:10 ratio throughout the building using the following definition:~~

~~ONE DIRECT CARE STAFF PERSON THAT HAS VISUAL CONTACT WHILE ACTIVELY ENGAGED IN PROVIDING SUPPORT AND SUPERVISION TO CONSUMERS.~~

~~104 524 Square Footage~~

~~A minimum of forty (40) square feet of program training area per individual served shall be required. This is program training area only. This does not include halls, storage areas, or administrative offices.~~

~~105 600 FOODSERVICES~~

- ~~A. This standards section shall be applied to all provider-owned/leased/rented Centers. If the center contracts for food services, the organization shall ensure compliance with DDS policies.~~

~~601 Written procedure shall be established that addresses how food services are provided to the individuals served by the center:~~

- ~~A. Procedure shall include how meals are provided as well as staff responsible.~~

~~601.1 All Day services programs shall assure that organization provided meals are approved, adequate~~

~~diets, which conform to the recommended dietary allowance.~~

~~601.2 Licensed Group Homes shall assure that three (3) meals a day are available for individuals served.~~

- ~~A. The organization shall keep on hand suitable food for preparing sack lunches, if appropriate.~~
- ~~B. All meals shall be part of an approved, adequate diet, which conforms to the recommended dietary allowance.~~
- ~~C. Centers with apartment units shall have a mechanism for monitoring the resident's food related skills.~~

~~602 The organization shall keep menus on file. Menu preparation should occur at least one week in advance in order to:~~

- ~~A. Allow adequate time to purchase foods to avoid too frequent menu substitutions. Meal planning shall occur so that identical meals are not served on the same day of consecutive weeks.~~
- ~~B. Serve as a reminder for scheduling advance preparation;~~
- ~~C. Allow menus to be available as a teaching tool for instruction of individuals, to include development of menus by individuals.~~

~~Menus shall be kept on file for a minimum of three (3) months.~~

~~603 Menus shall be prepared or approved by a registered dietitian/nutritionist. Organizations may contract with a dietitian/nutritionist.~~

- ~~A. Dietitian/nutritionist shall check for nutritional adequacy of menus and acceptable food safety and sanitation practices. This must be documented by a written report at least annually.~~
- ~~B. DDS shall accept Arkansas Nutrition Program approval, or site monitoring reports, as adequate approval for Centers that participate in the free/reduced lunch program.~~

~~604 The organization shall develop and implement written procedures that address provisions for special diets.~~

- ~~A. Special diets pertain to allergies, weight control, diabetes, religion, hypertension, and other medical conditions as documented in the consumers file.~~

~~605 Food items and toxic items shall not be stored together.~~

~~106-700 TRANSPORTATION~~

- ~~A. The organization shall establish written procedures that address how transportation services are provided to individuals served by the program.~~
- ~~B. The procedures shall address transportation to the persons served, as well as staff responsible.~~
- ~~C. The organization shall ensure that all individuals receiving services are provided with a copy of the transportation policies and shall document receipt of this information in the individual's file.~~

~~701 The organization shall assure safety for all persons being transported. For all transportation services provided for the persons served by the organization, the organization shall ensure:~~

- ~~A. For all vehicles owned or operated by the organization:~~
 - ~~1. Compliance with all applicable federal, state, county, and city requirements:~~
 - ~~a. All vehicles shall be properly licensed by the State of Arkansas.~~

- ~~2. Appropriate licensing of all drivers:
 - a. All drivers must be licensed according to state requirements for providers of public transportation.~~
- ~~3. Review of driving records of all drivers on an initial and annual basis.~~
- ~~4. Insurance requirements for vehicles and personnel:
 - a. The organization shall maintain insurance coverage providing a minimum of \$1,000,000 comprehensive, liability, and property damage.~~
- ~~5. Safety equipment / features in vehicle(s):
 - a. Fire extinguisher in every program vehicle used to transport consumers.
 - b. Each vehicle shall utilize seat belts or suitable restraints when in motion in accordance with Ark Code 27-37-702—Seat Belt Use Required and 27-34-101-107—The Child Passenger Protection Act.
 - c. The organization shall establish policy and procedure to ensure Child Safety Alarms on every vehicle required under Ark Code 20-78-225 (all vehicles designed or used to transport more than 7 passengers and 1 bus driver)~~
- ~~6. Accessibility based on the individual's needs and reasonable requests.~~
- ~~7. Training of drivers in the organization's transportation requirements.~~
- ~~8. Written emergency procedures:
 - a. Each vehicle used in transporting clients shall have a documented emergency drill once every six months.~~
- ~~9. Availability of communication devices (i.e., cell phones 2-way radios, etc.).~~
- ~~10. Road warning/hazard equipment (i.e., safety cones, flairs, reflector signs, etc.)~~
- ~~11. First aid supplies:
 - a. Every program vehicle used to transport consumers shall maintain a First Aid kit.~~
- ~~12. Maintenance of vehicles owned or operated by the organization according to manufacturers' recommendations:
 - a. The organization shall establish/implement procedures that ensures a vehicle maintenance log is kept up to date for all vehicles used to transport consumers.
 1. The procedure shall establish who is responsible for upkeep of vehicle and who is responsible for documentation and update of log.
 - b. The maintenance log shall document the following:
 1. Oil changes
 2. Tires and brakes repair/inspection
 3. Head and tail lights and turn signals repair/inspection
 4. Windshield washer and wiper blades repair/inspection
 5. Air conditioner (if any), and defroster inspection/repair
 6. Hoses and fan belts inspection/replacement
 7. Fluid levels inspection and replacement
 8. Exhaust system inspection/repair
 9. Emergency warning system inspection/repair
 10. Steering assemblage inspection/repair~~
- ~~13. If services are contracted:
 - a. An annual review of the contract against elements 1-12 of this standard shall be performed by the organization.
 - b. Personnel or contractors shall provide transportation services for the persons served in a safe manner, with drivers having knowledge of unique needs of persons served, and consistent with the regulations of the local authorities.~~

1. ~~This standard shall apply when any vehicle, including a personal vehicle, is used to provide transportation for persons served.~~

~~702 The organization shall establish written policy and procedure to address apparent abandonment of consumer by family and/or guardian.~~

- A. ~~The organization shall develop a procedure to be followed by transportation staff when unable to leave individuals at home or alternate sites as specified by family that ensure the safety of the individual at all times.~~

~~703 At least one responsible person, in addition to the driver, shall be present in the vehicle if any of the following conditions apply:~~

- A. ~~Any person being transported has medical conditions as defined by the organization guidelines.~~
- B. ~~Any person being transported has a severe disability as defined by the organization's guidelines.~~

~~NOTE: 'Responsible person' shall be defined by the organization's policy.~~

~~704 Organizations operating vehicles transporting children shall comply with the child:staff ratio specified by the Child Care Licensing Standards for Transportation~~

~~705 Organizations operating vehicles transporting adults shall establish/implement policies related to adult:staff ratios.~~

~~NOTE: DDS RECOMMENDS A 1 TO 10 RATIO AT ALL TIMES.~~

~~800 PHYSICAL PLANT, ACCESSIBILITY AND SAFETY~~

- A. ~~The organization shall provide a physical plant compatible with services provided and with the needs of the individuals and staff; provide an accessible and safe environment and be in compliance with U.S.C. § 12101 et. seq. — American with Disabilities Act of 1990 at all owned, leased, and/or rented program site(s).~~

~~801 The organization shall promote accessibility in all settings. The organization shall assess all physical sites to ensure accessibility for individuals and their families and shall establish time lines and actions to be taken for removal of identified barriers.~~

- A. ~~Organizations shall ensure that all physical sites address accessibility issues in order to:~~
 1. ~~Enhance the quality of life for those served in their programs and services.~~
 2. ~~Meet legal and regulatory requirements.~~
 3. ~~Meet the expectations of stakeholders in the area of accessibility.~~

~~801.1 Accessibility Requirements~~

- A. ~~The organization shall ensure architectural accessibility at each center based on the individual's needs.~~
 1. ~~Ramps, doors, corridors, toileting and bathing Centers, furnishings, and equipment are designed to meet the individual's needs.~~
- B. ~~The organization shall ensure that all their Centers are in compliance with 29 U.S.C. §§ 706 (8), 794 — 794(b) — Disability Rights of 1964 and U.S.C. § 12101 et. seq.~~

~~— American with Disabilities Act of 1990. Compliance with the aforementioned laws is required to receive federal monies. Admissions criteria of who can be served shall identify any persons the center or staff would be prevented from serving due to accessibility issues.~~

~~801.2 Accessibility Assessment and Planning~~

~~A. The organization shall assess all Centers. The assessment shall identify all barriers and shall develop a plan for removal of barriers in the following areas:~~

~~1. Architecture~~

~~a. Architectural or physical barriers which may include steps that prevent access to a building for an individual who uses a wheelchair, narrow doorways that need to be widened, bathrooms that need to be made accessible, the absence of light alarms for individuals who have a hearing impairment, and the absence of signs in Braille for individuals who have visual impairments.~~

~~2. Environment~~

~~a. Any location or characteristic of the setting that compromises, hinders, or impedes service delivery and the benefits to be gained.~~

~~802 Physical Plant Structure~~

~~Architecture~~

~~A. All water, food service, and sewage disposal systems must meet all local, state, and federal regulatory agencies, as applicable. The organization shall maintain documentation of all approved inspections for review by DDS.~~

~~1. Sewer inspections are not required if the site is on city water and sewage lines.~~

~~2. Sites using a well and/or septic tank, shall be obtain an inspection by the Division of Health documenting compliance with the DOH and local regulations.~~

~~B. Floor furnaces, gas heaters, electric heaters, hot radiators, and exposed water heaters must be protected by screens or guards that are without sharp corners and are attached to floor or wall to prevent persons from falling against the guard and knocking it over.~~

~~C. Enclosed gas heaters must be properly vented to the outside, and installed with permanent connection that includes a cut-off valve in the rigid part of the gas supply pipe.~~

~~*Note: DDS recommends gas heaters with a pilot light and automatic cut-off valve which automatically cuts off gas to the main burner when the pilot light goes out.*~~

~~D. Restroom Centers used by individuals must provide for individual privacy and be appropriate for the individuals served regarding size and accessibility.~~

~~Environment~~

~~A. Temperature of each center must be maintained within a normal comfort range for the climate. Recognizing that there may be variances within a building, the organization shall make reasonable efforts to maintain a comfortable temperature range throughout the center.~~

~~*Note: The recommended standard for range of comfort is from 65 to 80 degrees F (U.S. Atmospheric Standards 29.1)*~~

~~B. All areas of the center shall be sufficiently lighted to meet the needs of the individuals being served and the usage of the area.~~

~~C. The organization shall maintain the interior and exterior of the building in a sanitary and repaired condition.~~

~~D. The premises shall be free of offensive odors.~~

~~E. The grounds and all buildings on the grounds shall be maintained in a clean and repaired condition.~~

~~1. Play and activity areas shall be free of dense undergrowth and refuse accumulations. All landscape plantings and the lawn shall be well groomed.~~

- ~~F. The center shall be maintained free of infestations of insects and rodents.
 - 1. The organization shall maintain a contract for pest control that is administered by appropriately licensed professionals.~~
- ~~G. The organization shall establish written procedures regarding smoking that is in accordance with The Clean Air Indoor Act (Act 8 of 2006).
 - 1. For all congregate, day hab settings, and licensed group homes, smoking will not be permitted in the following areas:
 - a. Common Work Areas
 - b. Auditoriums
 - c. Classrooms
 - d. Conference and Meeting Rooms
 - e. Private Offices
 - f. Elevators
 - g. Hallways
 - h. Health Care Centers
 - i. Cafeterias
 - j. Employee Lounges
 - k. Stairs
 - l. Restrooms
 - m. All other enclosed areas.
 - 2. Approved Exemptions:
 - a. Private residences or health care center
 - b. All workplaces of any employer with fewer than three (3) employees. (Note: This exemption does not apply to any public place)
 - c. Outdoor areas of places of employment or group homes~~
- ~~H. All materials and equipment and supplies shall be stored and maintained in a safe condition. Cleaning fluids and detergents must be stored in original containers with labels describing contents.
 - 1. The organization shall maintain an MSDS manual in a location that is accessible to all employees. All MSDS sheets must be on file and current.~~

~~803 Safety Inspections~~

- ~~The organization shall ensure that annual safety inspections are completed by qualified individuals to enhance and maintain the organization's health and safety practices.~~
- ~~A. All applicable inspections shall be maintained on file, and current within one year or as specified by law/regulation (i.e., Annual Fire Department, Local Health Department, Safety Engineer, OSHA, Safety Specialist, and Insurance Carrier).~~
 - ~~B. A comprehensive inspection shall be conducted annually at all Centers where the organization delivers services or provides administration on a regular and consistent basis. Inspections shall be conducted by a qualified external authority(ies).
 - 1. Results of each inspection shall contain written documentation that:
 - a. Identifies the areas inspected.
 - b. Identifies recommendations for areas needing improvement.
 - c. Identifies actions taken to respond to the recommendation(s).~~
 - ~~C. All applicable licenses, inspections, etc., shall be current. This shall include health inspections for food service preparation, if applicable. Residential Centers with more than ten (10) residents must have a Division of Health inspection.~~

~~Regular self inspections shall be completed to assist personnel in internalizing current health and~~

~~safety requirements into everyday practices.~~

- ~~A. The organization may designate professional personnel (managers, supervisors, direct service employees, maintenance personnel) or internal groups (safety committees, safety circles, operation teams, consumers or advocates) within the organizational structure to conduct self-inspections. The organization shall ensure that all staff involved in self-inspections have received training in conducting inspections prior to participation.~~
- ~~B. The organization shall maintain a schedule of when self-inspections will be conducted.~~
 - ~~1. At a minimum, self-inspections must be conducted:~~
 - ~~a. At least twice a year.~~
 - ~~b. At all Centers where the organization delivers services or provides administration on a regular and consistent basis.~~
 - ~~2. Results of self-inspections shall contain written documentation that:~~
 - ~~a. Identifies the areas inspected.~~
 - ~~b. Identifies recommendations for areas needing improvement.~~
 - ~~c. Identifies actions taken to respond to the recommendation(s).~~

~~804 Emergency Procedures~~

~~The organization shall establish emergency procedures that detail actions to be taken in the event of emergency and to promote safety for the individuals served.~~

- ~~A. Emergency procedures shall be in written form, and shall be available and communicated to all members of the staff and other supervisory personnel.~~
 - ~~1. At a minimum, emergency procedures shall be implemented for:~~
 - ~~a. Fires.~~
 - ~~b. Bomb threats~~
 - ~~c. Natural disasters.~~
 - ~~d. Utility failures~~
 - ~~e. Medical emergencies~~
 - ~~f. Safety during violent or other threatening situations (i.e., intruders)~~
 - ~~2. Written emergency procedures shall:~~
 - ~~a. Meet the requirements of all applicable authorities.~~
 - ~~b. Implement practices appropriate for the locale (i.e., Arkansas Chemical Stockpile Emergency Preparedness Program/CSEPP)~~
- ~~B. The organization shall maintain an emergency alarm system for each type of drill (fire and tornado).~~
- ~~C. The organization shall ensure that persons served, as appropriate, are be educated and trained about emergency and evacuation procedures.~~
- ~~D. The organization shall evaluate and consider modification of all emergency procedures during the following times:~~
 - ~~a. Training.~~
 - ~~b. After training drills.~~
 - ~~c. As risks increase.~~
 - ~~d. After actual emergencies.~~
 - ~~e. When responsibility is reassigned.~~
 - ~~f. When changes are made to the physical plant.~~
 - ~~g. When changes occur in the physical plant proximity.~~
 - ~~h. When a policy or procedure is revised.~~
 - ~~i. When briefing personnel on emergency plan changes.~~
- ~~E. The organization shall analyze tests of the emergency and evacuation procedures annually and shall use the results of the analysis to improve or to affirm satisfactory current practices.~~

~~For all Centers where the organization delivers services or provides administration on a regular and consistent basis, the organizations shall establish/implement written procedures for evacuations:~~

~~A. Evacuation procedures shall address:~~

- ~~1. When evacuation is appropriate.~~
- ~~2. Complete evacuation from the physical center.~~
- ~~3. The safety of evacuees.~~
- ~~4. Accounting for all persons involved.~~
- ~~5. Temporary shelter, when applicable.~~
- ~~6. Identification of essential services.~~
- ~~7. Continuation of essential services.~~
- ~~8. Emergency phone numbers.~~
- ~~9. Notification of the appropriate emergency authorities.~~

~~B. Evacuation routes must be posted in conspicuous places, except in residential settings and must be easily understandable to the individuals served.~~

~~As a part of an organization's performance improvement activities shall include emergency procedure testing.~~

~~A. A tornado drill must be held monthly.~~

- ~~1. Written reports telling date, hour of day, evacuation time, and other areas of concern shall be maintained.~~

~~B. A fire drill must be held monthly.~~

- ~~1. Written reports telling date, hour of day, evacuation time, and other areas of concern shall be maintained.~~

~~Detectors~~

~~Battery operated or electronic smoke detectors, heat sensors, carbon monoxide detectors and/or sprinklers shall be provided in all buildings where services are provided and shall meet life safety codes.~~

~~A. Fire Marshall's report shall be followed as to placement of these devices.~~

~~B. Equipment shall be tested at least quarterly or as recommended by the manufacturer/monitoring contractor.~~

~~Fire Extinguishers~~

~~Fire extinguishers shall be required to the extent specified by the State Fire Marshall or his designee and shall be checked annually.~~

~~A. The Fire Marshall uses Ark. Code Ann. §§12-13-101-12-13-116—Fire Prevention Act—that follows the Life Safety Code 101 and additional National Fire Prevention Agency publications.~~

~~Emergency Lighting~~

~~The organization shall maintain emergency lighting, (i.e., flashlight or other battery operated lights) as required by the life safety codes.~~

~~First Aid~~

~~The organization shall maintain a first aid kit and current first aid manual at all sites where services are provided on a regular, consistent basis.~~

~~A. Antidote charts and the telephone numbers of poison control centers shall be readily accessible to staff and individuals served.~~

~~*Note: This can be obtained through Poison Control Center at University of Arkansas Medical Science Center in Little Rock if you cannot get locally.*~~

~~Water Temperatures~~

~~Provisions shall be made to control water temperature at Centers where services are provided on a regular, consistent basis.~~

~~A. To ensure the safety of individuals served, each organization shall develop/implement policy and procedure concerning water temperature adhering to current literature regarding water safety with a maximum temperature of 120 degrees. If the thermostat of the hot water heater is set above 120 degrees, a mixer must be to the lavatories and bathing Centers to maintain safety.~~

~~*Note: This standard shall apply only to service areas and where consumers are working.*~~

~~SUGGESTED BOARD/ORGANIZATION TRAINING TOPICS~~

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~~Planning and Evaluation~~

~~Equal Employment Opportunity/Affirmative Action Employee Performance~~

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~~Overview of Department of Human Services Overview of Developmental~~

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~~APPENDIX A~~

~~History, Philosophy, Causes and Types, Functional Levels, Severity Levels, Prevention and Program Issues in Mental Retardation and Other Developmental Disabilities.~~

~~Introduction to Principles of Normalization~~

~~Legal rights of Individuals with a Developmental Disability Interdisciplinary~~

~~Approach Overview~~

~~Age Appropriate Programming~~

~~Medications—Implications, Side Effects, legality of Administering~~

~~Overview of Federal and State Laws related to serving people with Developmental Disabilities (see index):~~

~~U.S.C. S2000a—2000 h-6; Ark. Code Ann. SS 6-41-222; 20 U.S.C S 14000 et. seq. (Part B & Part H); 29 U.S.C SS 706(8), 794-794(b);~~

~~5 U.S.C S 552a; 42 U.S.C SS 6000-6083; Ark. Code Ann. SS 20-48-201—20-48-211; Ark. Code Ann. SS 28-65-101—28-65-109; Ark. Code Ann. SS 5-28-101—5-28-109; Ark. Code Ann. SS 12-12-501—12-12-515; Ark. Code Ann. SS 25-2-104, 25-2-105, 25-2-107, Ark. Code Ann. SS 25-10-102—25-10-116; Ark. Code Ann. SS 20-18-215; U.S.C. S 12101 et. Seq.; DHS Administrative Policy 3002-I (Revised) and DDS Service Policy 3016, Prevention of Transmission of Disease Borne by Blood or other Body Fluids such as AIDS and Hepatitis B; DDS Administrative Policy 1077 Chemical Right to Know; DDS Service Policy 3004-I Maltreatment Prevention, Reporting and Investigation.~~

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~~ARKANSAS CODE ANNOTATIONS~~

~~ACTS~~

Ark. Code Ann. SS	6-41-201- 6-41-222	102 of 1972 Handicapped Children's Act
Ark. Code Ann. SS	20-48-201- 20-48-211	265 of 1969 AR Mental Retardation Act
Ark. Code Ann. SS	25-19-101- 25-19-515	AR Freedom of Information Act
Ark. Code Ann. SS	12-12-501- 12-12-515	397 of 1975 Child Abuse and Neglect Act
Ark. Code Ann. SS	5-28-101- 5-28-109, 5-28-201- 5-28-215, 5-28-301- 5-28-305	452 of 1983 Adult Abuse
Ark. Code Ann. SS	28-65-101- 28-65-109, 28-65-201- 28-65-220, 28-65-301- 28-65-320, 28-65-401- 28-65-403, 28-65-502, 28-65-601- 28-65-602	940 of 1985 Guardianship Law
Ark. Code Ann. SS	25-10-102- 25-10-116, 20-46-202, 20-46-310, 25-2-104, 25-2-105, 25-2-107	348 of 1985 DHS Reorganization
Ark. Code Ann. SS	20-48-601- 20-48-611	611 of 1987 Location of Community Homes
Ark. Code Ann. SS	12-12-501 et. Seq.	Child Maltreatment
Ark. Code Ann. SS	27-34-101- 27-34-107	Child Safety Seat Use
Ark. Code Ann. SS	20-78-215	1050 of 1985 Federal Funds for Child Sexual Abuse
Ark. Code Ann. SS	6-21-609	854 of 1987 Exposure to Smoke
UNITED STATES CITATIONS		ACTS
42 U.S.C. S2000a-2000 h-6		Title VI of the Civil Rights Act of 1964
20 U.S.C. S14000 et. Seq.		P. L. 94-142 Individuals with Disability Education (IDEA) P.L. 99-457 Part H

29 U.S.C. SS 706(8), 794—794(b)	Rehabilitation Act of 1973 Section 504
42 U. S. C. S 552	Federal Freedom of Information Act
42 U.S.C. S 6000—6083	Developmentally Disabled Assistance and Bill of Rights Act of 1984 and Amendments of 1987
5 U.S.C. S 552a	Federal Privacy Act
42 U.S.C. S 12101 et. Seq.	Americans with Disabilities Act of 1990 P. L. 101-336
42 U. S. C. S 6000—6009 6021—6030 6041—6043 6061—6064 6081—6083	P. L. 98-527 Developmentally Disabled Assistance & Bill of Rights Act of 1984

**MINIMUM LICENSURE STANDARDS
FOR EARLY INTERVENTION DAY TREATMENT CENTERS**

ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF PROVIDER SERVICES AND QUALITY ASSURANCE
DIVISION OF DEVELOPMENTAL DISABILITY SERVICES

DRAFT

EFFECTIVE October 1, 2019

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PROPOSED

100 AUTHORITY

- 100.1 These Minimum Licensing Standards are promulgated under the authority of the Arkansas Intellectual Disabilities Act, codified at Ark. Code Ann. § 20-48-201 et seq.

The Department of Human Services (DHS) was created and is operated under an integrated service system model consisting of several programmatic divisions with responsibilities and programs assigned to them as determined by the DHS Director. Ark. Code Ann. § 25-10-102(a). Under Act 913 of 2017, the Division of Provider Services and Quality Assurance (DPSQA) was created and, under the statutory authority vested in the DHS Director, those duties involving programmatic provider licensure and certification functions of various DHS Divisions were transferred to DPSQA. Ark. Code Ann. §§ 25-10-102(a)(9) and 25-10-102(c)(1)(B). With the Director's reorganization, staff positions formerly with the various program divisions were transferred to DPSQA in order to centralize all licensure, certification, surveying, and monitoring functions within DHS.

This effort followed a comprehensive review of the divisional roles and assignments that separated the daily administration of the public assistance programs from the functions of provider certification and licensure. The review revealed inefficiencies and duplications of effort that were determined to add unnecessary burdens to beneficiaries, providers, and department staff. DPSQA is tasked with working as the agent of the Division of Developmental Disabilities Services (DDS) and the Division of Child Care and Early Childhood Education (DCCECE) for the purpose of accomplishing the objectives of the program referenced in this rule. Funding for the programs will remain in the DDS and DCCECE budgets, but licensure and certification responsibilities will be accomplished by DPSQA subject to this rule and through the spending authority granted to DPSQA, which provides:

The Division of Provider Services and Quality Assurance of the Department of Human Services is authorized to use funds appropriated for the certification or licensure of an entity on behalf of any division of the Department of Human Services. Any entity holding a certification or license funded through an appropriation for the Division of Provider Services and Quality Assurance of the Department of Human Services shall hold its certification or license under the authority of the relevant division of the Department of Human Services. All laws that apply to a certified or licensed entity by a relevant division of the Department of Human Services shall apply to an entity certified or licensed by the Division of Provider Services and Quality Assurance on behalf of a relevant division of the Department of Human Services.

101 SCOPE

- 101.1 These Minimum Licensure Regulations constitute the basis for the licensure of Early Intervention Day Treatment (EIDT) Services by DHS, DPSQA, DDS, and DCCECE. DPSQA, DDS, and DCCECE reserve the right, and may at any time, waive any or all of the requirements herein in event of emergency or for good cause shown in the sole determination of DPSQA. DPSQA will notify DDS of any proposed waivers to these requirements prior to waiving the requirement.
- 101.2 Centers licensed as an EIDT before the implementation of these regulations shall be grandfathered in. Centers licensed after the implementation of these regulations or those licensed centers that have closed and want to be re-licensed shall fall under new construction guidelines and shall follow these regulations as listed in Section 900 et seq.

200 PURPOSE

These regulations serve as the minimum requirements for EIDT licensure and ensure that beneficiaries receive without limitation diagnostic, screening, evaluation, preventive, therapeutic, palliative, rehabilitative and habilitative services, including speech, occupational, and physical therapies and any medical or remedial services recommended by a physician for the maximum reduction of physical or mental disability and restoration of the beneficiary to the best possible functional level.

300 DEFINITIONS

As used in these rules and regulations, the following definitions shall apply unless the context clearly states otherwise. Where these rules and regulations refer to an enactment of the General Assembly, such reference shall include subsequent enactment or amendments by the General Assembly on the same subject matter.

Abuse – Any of the following acts or omissions by an employee, contractor, volunteer or any other agent of an EIDT:

- (i) Extreme or repeated cruelty to a beneficiary;
- (ii) Engaging in conduct creating a realistic and serious threat of death, permanent or temporary disfigurement, or impairment of any bodily organ;
- (iii) Injury to a beneficiary's intellectual, emotional, or psychological development as evidenced by observable and substantial impairment of the beneficiary's ability to function within the beneficiary's normal range of performance and behavior;
- (iv) Any injury that is at variance with the history given;
- (v) Any nonaccidental physical injury;
- (vi) Any of the following intentional or knowing acts, with physical injury and without justifiable cause:
 - (a) Throwing, kicking, burning, biting, or cutting a beneficiary;
 - (b) Striking a beneficiary with a closed fist;
 - (c) Shaking a beneficiary; or
 - (d) Striking a beneficiary on the face or head;
- (vii) Any of the following intentional or knowing acts, with or without physical injury:
 - (a) Striking a beneficiary six (6) years of age or younger on the face or head;
 - (b) Shaking a beneficiary three (3) years of age or younger;
 - (c) Interfering with a beneficiary breathing;
 - (d) Pinching, biting, or striking a beneficiary in the genital area;
 - (e) Tying a beneficiary to a fixed or heavy object or binding or tying a beneficiary's limbs together;
 - (f) Giving a beneficiary or permitting a beneficiary to consume or inhale a poisonous or noxious substance not prescribed by a physician that has the capacity to interfere with normal physiological functions;
 - (g) Giving a beneficiary or permitting a beneficiary to consume or inhale a substance not prescribed by a physician that has the capacity to alter the mood of the beneficiary, including, but not limited to, the following:
 - (1) Marijuana;
 - (2) Alcohol,
 - (3) A narcotic; orAn over-the-counter drug if a person purposely administers an overdose to a beneficiary or purposely gives an inappropriate over-the-counter drug to a beneficiary and the beneficiary is detrimentally impacted by the overdose or the over-the-counter drug;

- (h) Exposing a beneficiary to a chemical that has the capacity to interfere with normal physiological functions, including, but not limited to, a chemical used or generated during the manufacture of methamphetamine; or
- (i) Subjecting a beneficiary to Munchausen syndrome by proxy or a factitious illness by proxy if the incident is confirmed by medical personnel; or
- (viii) Recruiting, harboring, transporting, or obtaining a beneficiary for labor or services, through force, fraud, or coercion, for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

This list is illustrative of unreasonable action and is not intended to be exclusive. Abuse does not include when a beneficiary suffers transient pain or minor temporary marks as the result of an appropriate restraint used by an employee or agent of the EIDT, if:

- (i) The person exercising the restraint is acting in his or her official capacity while on duty at the EIDT;
- (ii) The EIDT has policy and procedure regarding the appropriate use of restraints and the use of the restraint conforms to those policies and procedures;
- (iii) The beneficiary has a behavior management plan that details when restraints will be used, and:
 - (a) No other alternative exists to control the beneficiary except for a restraint;
 - (b) The beneficiary is in danger or hurting himself or herself or others; and
 - (c) Use of the restraint follows the beneficiary's behavior management plan.
- (iv) The person exercising the restraint has been trained in properly restraining children, de-escalation, and conflict resolution techniques; and
- (v) The restraint is for a reasonable period of time.

Annual – A twelve-month period preceding the last required action. Unless a date certain is specified in the law or regulation requiring the action, the action may be taken any time during the month in which it is due. Actions which are required to be taken every five (5) years may be taken any time during the month in which they are due.

Beneficiary – Any child receiving services from an EIDT.

Child Care Facility – Any center defined by Ark. Code Ann. § 20-78-202(4).

Choice – Options available to a beneficiary, responsible party, guardian(s), or family in regard to the beneficiary's life and programming needs as established in the beneficiary's Individual Treatment Plan (ITP). The beneficiary and beneficiary's legal guardian(s) also has a choice in providers.

Corporal punishment – The application of painful stimuli to the body in an attempt to terminate behavior or as a penalty for behavior.

Deficiency – An EIDT's failure to meet program participation requirements as defined in these and other applicable regulations and laws.

Direct Care Staff – Any licensed, certified staff or non-certified staff acting on behalf of, employed by, or contracted by the EIDT, to provide services and who provides direct care services or assistance to beneficiaries and who are responsible for implementing a beneficiary's individual treatment plan (ITP) and providing day-to-day direct services in accordance with the ITP and state and federal regulations.

Direct Contact – The ability or opportunity of employees of the EIDT, or individuals with whom the

EIDT contracts, to physically interact with or be in the presence of a beneficiary.

Director – The individual or entity that conducts the business of the EIDT. The individual or individuals executing the licensure application form shall be deemed a director.

Discharge – When a beneficiary leaves the EIDT and it is not anticipated that the beneficiary will return. A discharge occurs when a return to the EIDT by the beneficiary requires that enrollment procedures set forth in these regulations be followed.

Division of Provider Services and Quality Assurance – The Division within the Department of Human Services that has responsibility for the licensure, certification, and regulation, herein referred to as DPSQA.

Early Intervention Day Treatment center (EIDT) – Services provided by a pediatric day treatment program/center serving children with developmental disabilities and developmental delays, or a medical condition that puts them at risk for a developmental delay. EIDT includes comprehensive evaluation, preventative, therapeutic, palliative, rehabilitative, and habilitative services.

Early Intervention Day Treatment (EIDT) license – A time-limited, non-transferable, permit issued for a maximum period of twelve (12) months to a licensee who complies with DPSQA Minimum Licensure Standards. Renewal is contingent upon completion of at least one (1) successful inspection by DPSQA during the previous calendar year (see Sections 400-407).

Elopement – Circumstances where a beneficiary has left an EIDT without staff knowledge. EIDTs must comply with all reporting requirements of any special programs in which they participate.

Emergency Measures – Those measures necessary to respond to a serious situation that threatens the health and safety of a beneficiary.

Extended Care – A service by the EIDT before and after actual EIDT programming begins and ends. The EIDT or its providers may not bill Medicaid for EIDT programmatic services for extended care. The EIDT may bill the beneficiary's responsible party either a flat or hourly rate for the extended care.

Habilitative Services – Instruction in areas of cognition, communication, social/emotional, motor, and adaptive; or to reinforce skills learned and practiced in occupational, physical or speech therapy.

Imminent Danger to Health or Safety – A situation in which death or serious bodily injury could reasonably be expected to occur without intervention.

Independence – The maintenance and promotions of the beneficiary's capabilities to enhance the beneficiary's preferences and choices within a barrier-free environment.

Individual Treatment Plan (ITP) – A written, individualized plan to improve the beneficiary's condition. The ITP must be developed by the Early Childhood Development Specialist (ECDS) assigned to the beneficiary. (see Section 510.1)

Licensee – Any person, firm, corporation, governmental agency or other legal entity issued an EIDT license, and who is responsible for maintaining compliance with approved standards.

Mechanical Restraint – Any physical apparatus or equipment that cannot be easily removed by the beneficiary, restricts the free movement or normal functioning of the beneficiary, or restricts normal

access to a portion or portions of the beneficiary's body.

Medication Administration – Service provided only by licensed medical staff, either directly or through contract, and in accordance with the Nurse Practice Act and interpretations of the Arkansas State Board of Nursing.

Medication Assistance and Monitoring – Services provided by the EIDT, either directly or through contract, in accordance with the Arkansas Nurse Practice Act and interpretations by the Arkansas State Board of Nursing, designed to ensure that the beneficiary receives necessary or prescribed medication, and to prevent waste, abuse or fraud of medications.

Medication Management Plan – The plan created by appropriate EIDT staff that details how and when needed medication will be administered to beneficiaries.

Mental Abuse – Verbal, written, or gestured communications directly to a beneficiary or about a beneficiary within the beneficiary's presence, or in a public forum, that a reasonable person finds to be a material endangerment to the mental health of a beneficiary.

Misappropriation of Property – The deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of a beneficiary's belongings or money without the beneficiary's consent or when consent is obtained through coercion or threat.

National Criminal History Check – A nationwide criminal record check conducted by the Federal Bureau of Investigation that conforms to the applicable federal standards and includes the taking of fingerprints. Application for a nationwide criminal check shall be made to the Identification Bureau of the Department of the Arkansas State Police.

Neglect – Those acts or omissions of by an employee, contractor, volunteer, or other agent of an EIDT, which constitute:

- (i) Failure or refusal to prevent the abuse of a beneficiary when the person knows or has reasonable cause to know the beneficiary is or has been abused;
- (ii) Failure or refusal to provide necessary food, clothing, shelter, or medical treatment necessary for the beneficiary's well-being;
- (iii) Failure to take reasonable action to protect the beneficiary from abandonment, abuse, sexual abuse, sexual exploitation, neglect, or parental unfitness when the existence of the condition was known or should have been known;
- (iv) Failure or irremediable inability to provide for the essential and necessary physical, mental, or emotional needs of the beneficiary;
- (v) Failure to provide for the beneficiary's care and maintenance, proper or necessary support, or medical, surgical, or other necessary care;
- (vi) Failure, although able, to assume responsibility for the care and custody of the beneficiary or to participate in a plan to assume such responsibility;
- (vii) Failure to appropriately supervise the beneficiary that results in the beneficiary's being left alone:
 - (a) At an inappropriate age creating a dangerous situation or a situation that puts the beneficiary at risk of harm; or
 - (b) In inappropriate circumstances creating a dangerous situation or a situation that puts the beneficiary at risk of harm;
- (viii) Failure to appropriately supervise the beneficiary that results in the beneficiary's being placed in:
 - (a) Inappropriate circumstances creating a dangerous situation; or
 - (b) A situation that puts the beneficiary at risk of harm.

New Enrollment – A beneficiary who is being admitted to the EIDT for the first time, or who is returning after a formal discharge.

Non-Compliance – Any violation of these regulations, or of applicable law or regulations.

Nurse Practice Act – As used in these regulations, the term Nurse Practice Act refers to Ark. Code Ann. §17-87-101 et seq. and interpretations thereto by the Arkansas State Board of Nursing.

Nursing Services – Acts that may be performed by licensed personnel while carrying out their professional duties in an EIDT as defined by and in accordance with the Arkansas State Board of Nursing.

Person – An individual, partnership, association, corporation, or other entity.

Personnel/Staff/Employee – Any person who, under the direction, control, or supervision of EIDT administration, provides services as defined in these regulations for compensation, or who provides services voluntarily, and may include the owner, Director, professional, management and persons, firms, or entities providing services pursuant to a contract or agreement.

Plan of Correction – A plan developed by the EIDT that describes the actions the EIDT will take to correct deficiencies and specifies the date by which those deficiencies will be corrected.

Provisional Licensure – A temporary grant of authority to the purchaser to operate an existing EIDT upon application for licensure to DPSQA.

Separate Premises – Buildings of EIDT operations that are located on non-contiguous land.

Serious Bodily Injury – Bodily injury that involves substantial risk of death, extreme physical pain, protracted or permanent obvious disfigurement, or protracted or permanent loss or impairment of the function of a bodily member, organ, or mental faculty. Examples include but are not limited to: fractures, burns, or other injuries that may result in hospitalization.

Significant Medication Error – Any instance in which a beneficiary receives an incorrect drug, dose, form, quantity, route, concentration, or rate of administration that results, or has the potential to result, in life-threatening or permanent adverse consequences.

Solicitation – An attempt to unduly influence a beneficiary served by an EIDT or program component to transfer from one program to another program.

Standard Survey – A comprehensive survey or complaint investigation conducted by DPSQA for the purpose of ensuring program quality and compliance with these Standards and the EIDT Provider Medicaid manual, as well as any other applicable state or federal law referenced herein. The survey and/or complaint investigation will be conducted randomly and unannounced for each EIDT.

State Criminal History Check – A statewide criminal record check conducted by the Identification Bureau of the Arkansas State Police.

Substandard Quality of Care – One or more deficiencies related to participation requirements, as set forth in these or other applicable regulations or laws, that constitute either immediate jeopardy to a beneficiary's health or safety; a pattern of, or widespread actual harm, that is not immediate jeopardy; or

a widespread potential for more than minimal harm, but less than immediate jeopardy, with no actual harm.

Survey – The process of inspection, interviews, or record reviews, conducted by DPSQA.

Therapeutic Diet – A diet ordered by a physician or an advance practice nurse or by a licensed dietician, as allowed by their respective licenses to manage problematic health conditions.

Universal Precautions – Set of guidelines, or precautions, designed to prevent transmission of infectious agents, including blood-borne pathogens, when providing health care, and which assume that all human blood and body fluids are treated as if known to be infectious.

Unnatural Death – The permanent suspension of consciousness and the end of life due to unnatural causes, such as medical error or complications, accident, criminal activity, suicide, or natural disaster.

Verbal Abuse – The infliction of disparaging and angry outbursts that demean or could reasonably be expected to cause shame, ridicule, humiliation, or emotional distress. Examples include, but are not limited to: name calling, blaming, threatening, making derogatory comments.

400 LICENSURE

- 400.1 No EIDT may be established, conducted, or maintained in Arkansas without first obtaining an Early Intervention Day Treatment license from DPSQA.
- 400.2 All licenses issued hereunder, and the slots stated on the license, are non-transferable from one owner or proprietor to another, or from one site or location to another.
- 400.3 No license shall be issued without proof of an application and satisfactory site review.
- 400.4 Providers in Arkansas and the six (6) bordering states (Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas) within fifty (50) miles of the state line may be enrolled as an EIDT provider if they meet all Arkansas Medicaid participation and Licensure standards.

401 LICENSING INFORMATION

- 401.1 Licenses to operate an Early Intervention Day Treatment center are issued to be effective beginning July 1 of the state fiscal year and shall expire on June 30 of the state fiscal year in which they are issued. EIDTs that are currently licensed at the effective date of these regulations shall be grandfathered as an EIDT provider until the next licensure period.
- 401.2 A licensed EIDT may be certified as an Academic Medical Center if it meets the following requirements:
 - (a) Is located in the state of Arkansas;
 - (b) Provides multi-disciplinary diagnostic and evaluation services to children throughout the state of Arkansas;
 - (c) Specializes in developmental pediatrics;
 - (d) Serves as a large, multi-referral program, as well as a referral source for other, non-academic EIDT programs within the state;
 - (e) Is staffed to provide training of pediatric residents and other professionals in the multi-disciplinary diagnostic evaluation of children with developmental disabilities and other special health care needs; and

- (f) Does not provide treatment services to beneficiaries.

In order to be certified as an Academic Medical Center, an EIDT must submit an Application for certification.

- 401.3 A currently licensed EIDT may apply for a time-limited license to provide Habilitative Services in the Summer to children 6-21 (Summer Program). Summer Program applications must be submitted as described below. The license will be issued for the months of May, June, July, and August only.
- 401.4 All licenses issued under these Minimum Licensure Standards shall be issued only for the premises and persons specified in the application and shall be nontransferable except as provided for in this rule.
- 401.5 Licenses shall be posted in a conspicuous place on the licensed premises.
- 401.6 Separate licenses and certifications are required for EIDTs maintained on separate premises, even though they are operated under the same management. Multiple licenses for multiple operations housed in separate buildings on contiguous land will be considered and treated under these regulations as separate EIDTs, and each licensed operation must conform to the requirements of these regulations independent of the other licensed operations housed in other buildings on contiguous land.
- 401.7 Every EIDT owner shall designate a distinctive name for the EIDT, which shall be included on the application for a license. The name of the EIDT shall not be changed without prior written notification to DPSQA. The written notification shall be signed by the Director of the EIDT.

402 INITIAL LICENSURE

- 402.1 Initial licensure shall apply to:
 - (a) Newly constructed structures designed to operate as an EIDT;
 - (b) Existing structures not already licensed as a CHMS/DDTCS center on the effective date of these regulations.
- 402.2 No new EIDT may be constructed or opened without first obtaining a Determination of Underserved Status for Exemption of Services (*see* Section 404.16). No new EIDT may be constructed or opened without first meeting the Minimum Licensure Standards set out below and obtaining a license from DPSQA.
- 402.3 The initial licensure application for new construction shall be accompanied by one (1) set of building plans.

403 COMPLIANCE

- 403.1 An initial license will not be issued until DPSQA verifies that the applicant is in compliance with the licensing standards set forth in these regulations. The EIDT shall abide by all federal and state laws applicable to the operation of its business, including, but not limited to:
 - (a) Health Insurance Portability and Accountability Act (HIPAA)
 - (b) Americans with Disabilities Act (ADA)
 - (c) Federal Privacy Act
 - (d) Developmental Disabilities Assistance & Bill of Rights Act
 - (e) Individuals with Disabilities Education Act
- 403.2 An initial license will be effective on the date specified by DPSQA. The license will expire on June 30 of the fiscal year in which it was issued.

404 APPLICATION, EXPIRATION AND RENEWAL OF LICENSE

- 404.1 Applicants for licensure or renewal of EIDT licensure shall submit all necessary forms for initial or renewal licensure or to request re-licensure of the EIDT after a change of ownership (see Section 404.7 and Section 405) to DPSQA. DPSQA's acceptance of the application packet shall not be construed as a guarantee that application is complete or that DPSQA will issue a license.
- 404.2 The EIDT shall not enroll beneficiaries until a license to operate an EIDT has been issued.
- 404.3 Annual renewal is required for all EIDT licenses. Licenses are effective beginning July 1 of the fiscal year and shall expire on June 30 of the fiscal year in which they are issued. In the event that an EIDT's license is not renewed by June 30, the license for the EIDT will be considered expired.
- 404.4 Applications for annual license renewal shall be delivered or, if mailed, postmarked to DPSQA no later than March 31 of the fiscal year in which the current license was issued.
- 404.5 EIDT shall submit an application for a Summer Program, each year, to DPSQA no later than March 15. A building or floor plan and class rooms to be used by the EIDT be shall identified by the provider and submitted with the application. DPSQA will verify and ensure prior to licensure that the Summer Program's rooms meet minimum safety requirements. The Summer Program license shall designate the number of beneficiaries the program is allowed to serve. The summer program license shall expire in August, in accordance with the school schedule of the school district where the EIDT is located.
- 404.6 A license will not be approved (initial or renewal) if a provider is on the Medicaid Provider Exclusion list.
- 404.7 An EIDT must notify DPSQA in writing of any contemplated change in ownership at least thirty (30) days prior to the effective date of the change in ownership. The proposed EIDT ownership group must submit a new application, request to be inspected, and meet the applicable standards and regulations, including but not limited to, life safety codes and AR Fire Prevention Codes at the time of inspection. The proposed new EIDT ownership group must be eligible to be licensed as an EIDT per Arkansas statute and licensing regulations. If the change in ownership is ultimately approved by DPSQA, the new EIDT ownership group shall be responsible for implementation or performance of any remedy listed in Section 1003 imposed against the EIDT for violations or deficiencies that occurred prior to the effective date of the change in ownership. However, the new EIDT ownership group would not be responsible for any monetary penalties imposed for violations or deficiencies that occurred prior to the effective date of the change in ownership. The prior EIDT ownership group shall remain liable for all monetary penalties assessed against the EIDT for violations or deficiencies occurring prior to the effective date of the change in ownership or operational control. Failure to comply with the provisions of this section will result in the denial of licensure to the new owner.
- 404.8 The applicant/licensee must furnish, at a minimum, the following information:
- (a) The identity of each person having (directly or indirectly) an ownership interest of five percent (5%) or more in the EIDT;
 - (b) The complete name and address of the EIDT;
 - (c) If the applicant/licensee is organized as a corporation, the identity of each officer and director of the corporation, together with a certificate of good standing from the Arkansas Secretary of State;
 - (d) In case such EIDT is organized as a partnership, the identity of each partner and a copy of the partnership agreement, together with a certificate of good standing from the

Arkansas Secretary of State;

- (e) An EIDT may choose to have a governing body or a board of directors. If the EIDT does so, the governing body must include at least one (1) ex officio member who is an individual with developmental disabilities or the parent/guardian of an individual with developmental disabilities. The EIDT must provide DPSQA with the names and credentials for each person who serves on its governing body annually; and
- (f) Evidence of the ability to comply with these minimum licensing standards.

404.9 Procedure for Licensure. The procedure for obtaining a license shall be:

- (a) The individual or applicant shall fully complete all forms for licensure and submit to DPSQA. As applicable and required by law or regulation, the individual or entity seeking licensure shall submit drawings or plans for the EIDT to DPSQA at the time of application.
- (b) DPSQA may elect, for any renewal application, to perform a survey prior to issuance of the license, and issuance of the license is contingent upon the EIDT being found in compliance with all program requirements.
- (c) The applicant must be eligible to be licensed per Arkansas statute and licensing requirements.

404.10 For applicants seeking initial EIDT licensure:

- (a) At the time of application submission to DPSQA, the applicant shall, in writing, request a life-safety code survey from DPSQA. DPSQA will conduct a life-safety code survey to determine compliance with applicable building code requirements.
- (b) Upon being informed that the EIDT meets the requirements for all applicable building codes and receiving licensure, the EIDT may enroll beneficiaries.
- (c) Upon admission of beneficiaries, the EIDT shall, in writing, request an initial survey. DPSQA will conduct an unannounced initial survey to determine compliance with applicable laws and these regulations.

404.11 Sections 404.11 – 404.18 implement Ark. Code Ann. § 20-48-1101 et seq. and apply to:

- (a) All DPSQA staff charged with implementation of licensure requirements.
- (b) DPSQA licensed community-based providers of Early Intervention Day Treatment (EIDT) services. EIDT programs operated by an academic medical center shall be subject to all provisions of this policy.
- (c) This policy does not apply to the provision or regulation of services under the CES Waiver Program or to First Connections early intervention services delivered pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (“IDEA”), Public Law 108-446.

404.12 As used in sections 404.11 - 404.18, the following definitions apply:

- (a) “Accredited entity” means a corporate entity that meets the definition of Ark. Code Ann. § 20-48-1102(1).
- (b) “Academic Medical Center” means an academic medical center program specializing in developmental pediatrics that is administratively staffed and operated by an academic medical center and under the direction of a board-certified or board-eligible developmental

pediatrician.

1. An academic medical center consists of a medical school and its primary teaching hospitals and clinical programs.
 2. For an EIDT program operated by an academic medical center, services may be provided at different sites operated by the academic medical center as long as the EIDT program falls under one administrative structure within the academic medical center.
- (c) “Early Developmental Center” means a site from which early intervention day treatment services are provided.
- (d) “Early intervention day treatment” means services provided by a pediatric day treatment program run by early childhood specialists, overseen by a physician and serving children with developmental disabilities, developmental delays, or a medical condition that puts them at risk for developmental delay.
1. Early intervention day treatment includes without limitation diagnostic, screening, evaluation, preventive, therapeutic, palliative, rehabilitative and habilitative services, including speech, occupational, and physical therapies and any medical or remedial services recommended by a physician for the maximum reduction of physical or mental disability and restoration of the child to the best possible functional level.
- (e) “Existing providers” means:
1. Early intervention day treatment services provided by an EIDT program that was either operating a site on or before July 1, 2013 or submitted a completed application to the Division of Medical Services of the Department of Human Services to serve as a Medicaid provider no later than July 1, 2013.
 2. An early intervention day treatment program that does not have an approved site in a county but provides early intervention day treatment services covered under the Arkansas EIDT program to 30 or more enrolled children who reside in that county.
- (f) “Underserved” means:
A county is underserved with regard to early intervention day treatment services under the following conditions:
1. There is no DPSQA licensed or certified provider with existing operations operating a site offering nonresidential services to children covered by the Arkansas EIDT program in the county.
 2. There is at least one site operated by a DPSQA licensed or certified provider in the county, but a service covered under the EIDT program for children is unavailable to an eligible recipient at an existing site in that county.
 3. There is at least one site offering EIDT services operated by a DPSQA licensed or certified provider in the county, but a parent, guardian, recipient, or prospective eligible child who has exhausted the grievance mediation procedure set forth in section 404.14 of this policy remains dissatisfied and desires another choice of providers of EIDT services for children in that county.

404.13 Existing Provider Expansion: Existing providers having no approved site for the provision of early intervention day treatment services within a county may purchase, construct, or lease a site in that county subject to DPSQA site approval. New site approval under this provision shall be limited to sites in a county that is contiguous to the county where the provider operates an approved site and shall be based on the needs, benefit, and convenience of the children and families served, and shall be limited to:

- (a) Providers serving at least 30 children who are eligible, enrolled, and participating in an early intervention day treatment program as defined at Ark. Code Ann. § 20-48-1102(5), but reside in the county in which the provider has no approved site but wishes to expand.
- (b) Providers that were issued a DDS license on or before February 1, 2007, but that do not currently operate an approved site. Such providers may open a site in the county where the nonprofit community program maintains its headquarters. If a provider subject to this provision has more than one headquarters, it must designate one county as housing the primary headquarters for purposes of this section.

404.14 Dissatisfied Parent, Guardian, Recipient, or Prospective Eligible Individual Grievance

Mediation Procedure. If a parent, guardian, recipient, or prospective eligible individual provides DPSQA with a written statement of dissatisfaction with an eligible individual's current service provider, and asserts that other providers in the recipient's county of residence cannot meet his or her needs, DDS will schedule mediation between authorized representatives of the parties as soon as practicable but no later than 45 days from the date of receipt of the statement of dissatisfaction.

- (a) Every parent, guardian, and recipient will be provided notice by their chosen provider of available service options and grievance procedures, including DPSQA and DDS contact information regarding grievances in compliance with DPSQA licensure standards.
- (b) If DPSQA receives an allegation that the statement of dissatisfaction was solicited in violation of DPSQA licensure policy, DPSQA shall investigate the allegation. The individual or organization making the allegation shall provide DPSQA with all documents, supporting materials, and other relevant information which form the basis of the allegation within ten (10) business days.
- (c) If the mediation fails to resolve the grievance, and parent, guardian, recipient, or prospective eligible individual desires another choice of provider, DDS shall declare the county underserved as defined in section 404.12(i)(3) of this policy.
- (d) The purpose of the mediation process is to provide a mechanism to resolve a legitimate grievance brought by a parent, guardian, recipient, or prospective eligible individual, and is subject to the following provisions:
 1. The grievance mediation procedure is intended to resolve disputes related to dissatisfaction with the quality or quantity of services provided or available.
 2. In the exercise of its discretion, if DPSQA determines that a statement of dissatisfaction is wholly unrelated to the quality or quantity of services provided or available, the Division may decline to schedule the mediation.
 3. In the exercise of its discretion, if DPSQA or DDS determines that a statement of dissatisfaction is wholly unrelated to the quality or quantity of services provided or available, DDS shall not declare the recipient's county of residence as underserved as defined in section 404.12(i)(3).

404.15 Determination of Underserved Status for Expansion of Services.

- (a) An expansion of early intervention day treatment services in a county is necessary when DPSQA determines that a county is underserved with regard to:
 1. Early intervention day treatment services.
 2. A specific category of early intervention day treatment services currently offered to children with developmental disabilities or delays.
- (b) As a condition of the issuance of a new certification to operate an EIDT program, DDS must determine that a county of the state is underserved in accordance with Ark. Code Ann. § 20-48-1104.

- (c) DDS shall have sixty (60) days from the date of an application for expansion of early intervention day treatment services in which to determine whether a county is underserved.
 - 1. DDS shall provide the applicant with a written report of its findings and conclusions by certified mail.
 - 2. DDS shall provide a copy of the report to the appropriate licensing or certification authority of the applicant.
- (d) If DDS determines that the county is not underserved under this policy, DDS will notify the applicant that they shall have thirty (30) days from the date of the applicant's receipt of the written report in which to appeal the determination to the Office of Appeals and Hearings of the Department of Human Services under the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq. See Section 1100.

404.17 Notice of Underserved Area.

- (a) The DPSQA, on behalf of DDS, shall provide written notice by certified mail of its designation that an area is underserved to all EIDT programs with existing operations in the county designated by DDS as underserved.
 - 1. Any qualified provider stating an intention to alter its operations must accomplish the alteration within 90 days from the date it receives notification that the county is underserved.
 - 2. The 90-day period may be extended if the provider demonstrates in writing that there is good cause for the delay. In no event shall an aggregate of 180 days be exceeded unless substantial progress has been made towards meeting site approval requirements. In making a determination to extend the deadline, DPSQA shall consider the following: Whether a lease has been secured or construction commenced; whether staff has been recruited or hired for employment.
 - 3. If no existing provider states an intention to alter its services, or if a provider expresses an intention to alter its services but fails to accomplish the alteration before deadlines stated above DDS and DPSQA shall proceed to the following step.
- (b) If all EIDT programs with existing operations in the county designated by DDS as underserved determine not to expand early intervention day treatment services, including EIDT programs in the underserved county, DPSQA shall provide written notice by certified mail of DDS's designation that an area is underserved to all qualified providers of EIDT services in the remainder of the state.
 - 1. Any qualified provider stating an intention to alter its operations must accomplish the alteration within 90 days from the date it receives notification that the county is underserved.
 - 2. The 90-day period may be extended by DPSQA if the provider demonstrates in writing that there is good cause for the delay. In no event shall an aggregate of 180 days be exceeded unless substantial progress has been made towards meeting site approval requirements. DPSQA shall consider the following: Whether a lease has been secured or construction commenced; whether staff has been recruited or hired for employment.
 - 3. If no existing qualified provider in the state states an intention to alter its services, or if a provider expresses an intention to alter its services but fails to accomplish the alteration before deadlines stated above DPSQA shall proceed to the following step.

- (c) If all EIDT programs in the remainder of the state determine not to expand early intervention day treatment services, in the underserved county, DPSQA shall provide notice to the general public in a newspaper of statewide general circulation. In the event a new entity that has never been a provider of EIDT services is approved, the deadlines for implementing a new program will be the same as those found in section 404.17(a) and (b).

404.18 Order of Priority for Granting Approval.

- (a) When considering an application for approval under this policy for expansion of early intervention day treatment services, the Division shall give approval in the following order of preference:
 - 1. An EIDT with existing operations in the county identified by DDS as underserved.
 - 2. An EIDT from another county in the state.
 - 3. An accredited entity in the underserved county.
 - 4. An accredited entity from another county in the state; and
 - 5. An accredited entity from outside the state.
- (b) DPSQA shall not require accreditation of the following entities in order to approve the entity's application for expansion of early intervention day treatment services from a licensed EIDT program with existing operation on July 1, 2013, as either a CHMS or DDTCS.
 - (c) Limitation:
 - 1. EIDT providers with existing operations who are on a regular with requirements, temporary, or provisional licensure status with DPSQA, or are excluded under DHS Policy 1088 may not file any notice or application to expand under this policy.

405 CHANGE IN OWNERSHIP

405.1 Transactions constituting a change in ownership include, but are not limited to, the following:

- (a) One or more transactions within a twelve (12) month period that in the aggregate result in a change in greater than fifty percent (50%) of the financial or voting interest of the EIDT; or
- (b) The lease or sale of all substantially all of an EIDT's real and personal property.

405.2 Transactions that do not constitute a change of ownership include, but are not limited to, the following:

- (a) Changes in the membership of a corporate board of directors or board of trustees; or
- (b) Changes in the membership of a not-for-profit corporation.

406 PROVISIONAL LICENSURE

406.1 Subject to the requirements below, a provisional license shall be issued to the Applicant and new Director of an EIDT after sale or transfer of ownership when DPSQA has received the Application for Licensure. A provisional license shall be effective from the date DPSQA provides notice to the Applicant, until the date the EIDT license is issued. With the exception of Medicaid provider status, a provisional license confers upon the holder all the rights and duties of licensure.

406.2 Prior to the issuance of a provisional license:

- (a) The purchaser and the seller of the EIDT shall provide DPSQA with written notice of the change of ownership at least thirty (30) days prior to the effective date of the sale.
 - (b) The Applicant and new Director of the EIDT shall provide DPSQA with the application for licensure.
 - (c) The Applicant and new Director of the EIDT shall provide DPSQA with evidence of transfer of operational control signed by all applicable parties.
- 406.3 A provisional license holder may operate the EIDT under a new name, whether fictitious or otherwise. For purposes of this section, the term “new name” means a name that is different than the name under which the EIDT was operated by the prior owner, and the term “operate” means that the provisional license holder may hold the EIDT out to the public using the new name. Examples include, but are not limited to, signage, letterhead, brochures or advertising (regardless of media) that bears the new name.
- 406.4 If the provisional license holder operates the EIDT under a new name, the EIDT shall utilize the prior name in all communications with DPSQA until the license is issued. Such communications include, but are not limited to, incident reports, notices, and Plans of Correction. Upon the issuance of the license, the EIDT shall utilize the new name in all communications with DPSQA.

407 TRANSPORTATION

- 407.1 An EIDT that wishes to own, operate, and provide transportation services for its beneficiaries outside of contracts with non-emergency transportation brokers (NET) or day treatment transportation (DTT) brokers must be certified by DPSQA as an EIDT transportation provider. To be certified, the EIDT provider must demonstrate the ability to meet the following requirements.
- 407.2 The EIDT shall establish written procedures that address how transportation services are provided to beneficiaries and shall ensure that all beneficiaries and their legal guardian(s) receive a copy of the transportation policy. Receipt of the transportation policy shall be documented in the beneficiary’s file. The transportation procedures must address, at a minimum, the following:
- (a) Apparent abandonment of a beneficiary by his or her family and/or guardian(s);
 - (b) Emergency procedures;
 - (c) The process staff will follow when unable to leave a beneficiary at home or an alternate site specified by the family, to ensure the safety of the beneficiary at all times.
- 407.3 The EIDT shall ensure the safety of all beneficiaries being transported.
- 407.4 For all vehicles owned and operated by the EIDT for the purposes of transporting beneficiaries, the EIDT shall ensure:
- (a) That all vehicles are properly licensed by the state of Arkansas and are in compliance with all applicable federal, state, county, and city requirements.
 - (b) That all drivers are licensed according to state requirements for providers of public transportation.
 - (c) That the driving records of all drivers are reviewed on an initial and annual basis.
 - (d) That vehicles used are insured for a minimum of \$1,000,000 comprehensive, liability, and property damage.
 - (e) That all vehicles used are equipped with the following safety equipment:
 1. A fire extinguisher;
 2. Seat belts or suitable restraints in accordance with Ark Code 27-37-702 “Seat Belt Use Required” and 27-34-101-107 “The Child Passenger Protection Act.”;

3. Child Safety Alarms as required under Ark Code 20-78-225 (all vehicles designed or used to transport more than 7 passengers and 1 bus driver);
 4. Communication device (i.e., cell phone or two-way radio);
 5. Road warning/hazard equipment (i.e., safety cones, flairs, reflector signs, etc.); and
 6. A first aid kit.
- (f) That vehicles used are accessible based on the beneficiaries' needs and reasonable requests.
 - (g) That all drivers are trained in the EIDT's transportation requirements.
 - (h) That each vehicle used in transporting beneficiaries shall have a documented emergency drill once every six (6) months.
 - (i) That each vehicle owned or operated by the EIDT is maintained according to manufacturers' recommendations.
 1. The EIDT shall keep a vehicle maintenance log up to date for all vehicles used to transport beneficiaries that establishes who is responsible for upkeep of the vehicle and upkeep of the log.
 2. The maintenance log shall document the following:
 - Oil changes
 - Tires and brakes repair/inspection
 - Head and tail lights and turn signals repair/inspection
 - Windshield washer and wiper blades repair/inspection
 - Air conditioner (if any), and defroster inspection/repair
 - Hoses and fan belts inspection/replacement
 - Fluid levels inspection and replacement
 - Exhaust system inspection/repair
 - Emergency warning system inspection/repair
 - Steering assemblage inspection/repair
 - (j) If transportation services are contracted:
 1. An annual review of the contract against elements a-i of this standard shall be performed by the EIDT.
 2. Personnel or contractors shall provide transportation services for the beneficiaries served in a safe manner, with drivers having knowledge of unique needs of beneficiaries served, and consistent with the regulations of the local authorities.
 3. This standard shall apply when any vehicle, including a personal vehicle, is used to provide transportation for persons served.
- 407.5 At least one (1) responsible person, in addition to the driver, shall be present in any vehicle used to transport beneficiaries if either of the following conditions apply:
- (a) Any beneficiary being transported has medical conditions as defined by the EIDT's policy.
 - (b) Any person being transported has a severe disability as defined by the EIDT's policy.
- 407.6 EIDTs providing transportation services shall comply with the child: staff ratio specified by the Child Care Licensing Standards for Transportation.
- 407.7 The standards governing transportation, set out in Section 407, shall sunset on or before December 31, 2019. New standards will be promulgated on or before that date.

501 GOVERNING BODY

501.1 Each EIDT center shall have an owner or governing body that has oversight of:

- (a) The overall operation of the EIDT;
- (b) The adequacy and quality of care;
- (c) The financial solvency of the EIDT and the appropriate use of its funds;
- (d) The implementation of the standards set forth in these regulations; and
- (e) The adoption, implementation, and maintenance of policies and procedures governing the operation of the EIDT, in accordance with the requirement of state and federal laws and regulations and these licensing standards.

502 GENERAL PROGRAM REQUIREMENTS

502.1 A licensed EIDT shall provide continuous supervision during hours of operation and services that:

- (a) Conform to DPSQA rules and regulations;
- (b) Meet the needs of the beneficiaries and their families;
- (c) Provide for the full protection of the beneficiaries' rights; and
- (d) Promote the social, physical, and mental well-being of the beneficiaries.

503 CONTRACTUAL AGREEMENTS

503.1 An EIDT shall not enroll, or continue to provide care to, beneficiaries whose needs are greater than the EIDT is licensed to provide. For any service required under these regulations that is not provided directly by the EIDT, the EIDT must have a written contractual agreement or contract with an outside program, resource or service to furnish the necessary service.

504 POLICIES AND PROCEDURES (GENERAL AND PERSONNEL)

504.1 The EIDT must develop, maintain, follow and make available for inspection by DPSQA, DDS, DCCECE, or any other DHS agent, as well as all EIDT staff, beneficiaries and the beneficiaries' families, the policies and procedures detailed in this section.

504.2 *Quality Assurance policy.* This policy must include how the EIDT will ensure quality of services, conduct internal investigations when service problems arise, and conduct quality reviews of staff and services.

504.3 *Personnel policy.* This policy must include a personnel policy that complies with the Civil Rights Act of 1964 and the ADA. The EIDT's personnel policy must include, at a minimum:

- (a) Hiring and promotional procedures which are nondiscriminatory by reason of sex, age, disability, creed, marital status, ethnic, or national membership;
- (b) A procedure for discipline, suspension, and/or dismissal of staff which includes opportunities for appeal;
- (c) A policy governing access and review of employee's own personnel files;
- (d) A grievance and appeals procedure that provides for objective review of the employee's concerns and complaints; and
- (e) An employee drug screen policy.

504.4 *Incident and Accident Reporting Policy.* A policy stating how the EIDT will report all allegations of abuse, neglect, or misappropriation of beneficiary property to DPSQA as required by these Minimum Standards and by the Arkansas Child Maltreatment Act, and all incidents that jeopardize the health, safety or welfare of a beneficiary in accordance with applicable regulations (see Section 512).

504.5 *Infection Control Procedure.* The EIDT shall implement an infection control procedure that includes:

- (a) Staff training regarding the prevention and control of infections and communicable diseases for beneficiaries and personnel.
- (b) The appropriate use of standard or universal precautions by all personnel.
- (c) Procedures that specify that employees with infectious diseases that are transmissible through direct contact shall be prohibited from contact with beneficiaries until a physician's release has been provided to the organization.

504.6 *Beneficiary and Guardian Rights Policy.* This policy must set forth in clear and understandable language each beneficiary's rights and the rights of their legal guardian(s).

- (a) At a minimum, the Beneficiary and Guardian Rights policy must ensure that beneficiaries and their guardians have:
 - 1. The right to be free from physical or psychological abuse or neglect, retaliation, coercion, humiliation, and misappropriation of property;
 - 2. The right to privacy;
 - 3. The freedom to associate and communicate publicly or privately with any person or group of people of the beneficiary's or legal guardian(s)' choice, at any time;
 - 4. The freedom of religion;
 - 5. The right to be free from the inappropriate use of a physical or chemical restraint, medication, or isolation as punishment;
 - 6. The right to be treated with dignity and respect;
 - 7. The right to receive due process, including access or referral to legal entities for appropriate representation; and
 - 8. The freedom to access their own or their child's records, including information regarding what services were billed for the beneficiary. Additionally, all beneficiaries and legal guardians must be informed of how to access the beneficiary's service records and the EIDT must ensure that appropriate equipment is available for them to obtain such access. Beneficiaries and their legal guardian(s) may not be prohibited from having access to their own service records, unless a specific state law indicates otherwise.
- (b) The EIDT must maintain the documentation relating to all investigations of alleged beneficiary rights violations, and the actions taken to intervene in such situations. The EIDT will ensure that the beneficiary has been notified of their right to appeal as outlined in DDS Policy 1076 or applicable state statutes or requirements as it pertains to EIDT.
- (c) The EIDT must ensure that the use of corporal punishment on beneficiaries is prohibited

504.7 *Privacy Policy.* Each EIDT must have policies and procedures to protect the privacy of beneficiaries and their health information. These policies must comply with HIPAA, HITECH, and PIPA, as well as any other federal or state laws as it pertains to privacy laws and regulations.

504.8 *Visitors Policy.* Each EIDT must have policies and procedures regarding check-in and check-out of visitors onto their grounds.

504.9 *Emergency Medical Treatment Procedure.* Each EIDT must have policies and procedures regarding the treatment of a medical emergency.

504.10 *Solicitation/Marketing Policy.* Solicitation of a beneficiary or their legal guardian(s) by an EIDT provider is strictly prohibited, and an EIDT provider that is found to be engaging in solicitation of a beneficiary or their legal guardian(s) will be subject to enforcement remedies.

(a) Examples of prohibited solicitation include, but are not limited to, the following:

1. Contacting a beneficiary currently receiving services from another EIDT or their legal guardian(s) to induce them to switch EIDT providers;
2. Offering cash or gift incentives to a beneficiary or their legal guardian(s) to induce them to choose/switch EIDT providers;
3. Offering free goods and/or services not available to other similarly stationed beneficiaries or their legal guardian(s) to induce them to choose/switch EIDT providers;
4. Refusing to provide access to entitlement services for which the beneficiary is eligible if the beneficiary or their legal guardian(s) selects another provider for services;
5. Making negative comments to a beneficiary or their legal guardian(s) regarding the quality of services performed by another EIDT provider;
6. Promising to provide EIDT services more than those necessary to induce a beneficiary or their legal guardian(s) to choose the EIDT;
7. Directly or indirectly giving a beneficiary or their legal guardian(s) the false impression that the EIDT provider is the only provider that can perform the services desired by the beneficiary or their legal guardian(s).

(b) Marketing by an EIDT provider is distinguishable from solicitation and is considered an allowable practice. Examples of acceptable marketing practices include, but are not limited to:

1. Advertising using traditional media;
2. Distributing brochures and other informational materials regarding the services offered by an EIDT;
3. Conducting tours of an EIDT to interested beneficiaries and their families;
4. Mentioning other services offered by the EIDT in which a beneficiary might have an interest; and
5. Hosting informational gatherings during which the services offered by an EIDT are honestly described.

All marketing must be factual and honestly presented or an EIDT provider could be subject to enforcement remedies.

504.11 *An Emergency Disaster Plan.* The EIDT shall have a written plan detailing the procedures to follow in the event of emergencies (i.e., fire, floods, tornadoes, utility disruptions, bomb threats, active shooter, elopement, infectious disease outbreak, and any disaster that could potentially affect the EIDT or its beneficiaries). The EIDT's Emergency Disaster Plan shall meet the minimum requirements set out in the Child Care Licensure Standards.

504.12 *Check out Policy.* Each EIDT must have policies and procedures regarding check-in and check-out of beneficiaries onto the EIDT and its grounds and keep a list of approved individuals who

are able to remove the beneficiary from the EIDT.

505 TERMINATION OF BENEFICIARY-EIDT RELATIONSHIP

505.1 If an EIDT terminates a service relationship with a beneficiary for “just cause,” the EIDT must do the following:

- (a) Document the “just cause” that resulted in termination;
- (b) Notify the beneficiary and his or her guardian(s) at least thirty (30) days prior to the termination of services, unless it jeopardizes the health, safety, and welfare of other beneficiaries. Documentation shall describe the reason for an immediate discharge;
- (c) Provide the beneficiary and guardian(s) with referrals to at least three (3) other appropriate service providers, if available; and
- (d) Facilitate transfer of the beneficiary’s service records to the new provider(s), if applicable.

505.2 “Just Cause” is defined as:

- (a) The EIDT does not have the ability to provide the beneficiary with needed services as identified in the beneficiary’s ITP (unable to serve);
- (b) The beneficiary or legal guardian(s) is not following the EIDT policy;
- (c) The beneficiary is not benefitting from the EIDT’s services; or
- (d) The beneficiary has displayed behavior at the EIDT that places other beneficiaries’ health or safety in immediate danger.

506 PERSONNEL RECORDS

506.1 The EIDT must maintain personnel files on each person it hires. These personnel files must be made available to DPSQA staff upon request or at annual inspection.

506.2 The personnel file for each employee must contain the following:

- (a) A detailed job description;
- (b) A completed and signed job application that contains a declaration of truth (with resume, if applicable);
- (c) Criminal background checks submitted at date of hire in accordance with DDS Policy 1087 requirements, and conducted every five (5) years thereafter;
- (d) An initial child maltreatment check submitted at date of hire, and conducted every two (2) years thereafter;
- (e) An adult maltreatment check submitted at date of hire, and conducted every five (5) years thereafter;
- (f) A successfully completed drug screen and a signed statement that the employee will adhere to the organization’s drug screening and use policy;
- (g) Completed reference checks;
- (h) A signed criminal conviction statement;
- (i) A copy of the employee’s valid state or federal issued identification (if driving is included in the employee’s job description, a valid state-issued driver’s license is required);

- (j) Documentation of education, if applicable;
- (k) Documentation of continuing education and training. CEU documentation must include copies of the documentary evidence of the award of hours by the certifying organization;
- (l) Documentation of attendance at in-service or on-the-job training and orientation, as required by the job description; and
- (m) Employee's signed acknowledgement that he or she has received and read a copy of the EIDT policies described in Section 504, above.
- (n) The EIDT will ensure that each staff person hired to perform duties that require professional licensure or certification (i.e., nursing or therapy) has a current, valid professional license and that license is in good standing.
- (o) If the EIDT receives additional information after hiring that creates a reasonable belief that an employee has had a change in status in connection with one of the requirements of employment (i.e., a license has been revoked/expired, an employee would no longer pass a criminal background and/or registry check, etc.), then the EIDT must verify that the employee still meets all requirements for employment.

506.3 The EIDT must ensure that sub-contractors, students, interns, volunteers, trainees, or any other person who has routine contact with beneficiaries meet the criminal, child maltreatment, and adult maltreatment background check requirements; and undergoes appropriate on-the-job training and orientation to carry out their job duties.

507 REQUIRED STAFFING

507.1 Director

Each EIDT shall have a Director who has responsibility for daily operations. Correspondence from DPSQA to the EIDT will be through the Director. The Director must designate an employee who is at least 21 years old who will be responsible for the management of the EIDT during his or her absence.

507.2 The Director must have the following minimum qualifications:

- (a) Is at least 21 years of age;
- (b) Has at least one (1) year of experience working with adults with developmental and intellectual disabilities;
- (c) Has demonstrated ability in supervision and administration;
- (d) Has knowledge of intellectual and developmental disabilities, aging, and appropriate activity programming; and
- (e) Has knowledge of developing and monitoring an ITP

507.3 Early Childhood Development Specialists (ECDS)

- (a) The ECDS must meet the following requirements:
 1. Is a licensed Occupational Therapist, Speech Therapist, Physical Therapist, or Developmental Therapist; or
 2. Has a Bachelor's Degree, plus one of the following:
 - Current Arkansas state certification in Early Childhood Special Education;
 - A current Child Development Associate Certificate;
 - A current Birth to pre-K credential; or
 - Documented experience working with children with special needs and twelve (12) hours of completed college courses in any of the following

areas:

- Early childhood;
- Child development;
- Special education/elementary education; or
- Child and family studies.

(b) The ECDS is responsible for:

1. Development of ITPs for each beneficiary of EIDT services; and
2. Supervision of the habilitative services provided to EIDT beneficiary.

(c) There must be at least one (1) ECDS for every forty (40) EIDT beneficiaries.

507.4 Direct Care Staff

- (a) Direct Care staff shall be eighteen (18) years of age or older (or 16-17 years of age if under the direct supervision of an adult staff member and enrolled in a high school or GED curriculum).
- (b) Direct Care staff shall have a high school diploma or GED (or be enrolled in a high school or GED curriculum).

507.5 Staffing Ratios

- (a) The following staffing ratios must be observed within each classroom setting. Direct care staff must have visual contact of all beneficiaries while providing support and supervision.

Age Group	Ratio
0-18 months	1:4
18-36 months	1:5
3-4 years	1:7
4-6 years	1:8
Over 6 years of age	1:10

(b) During naptime:

1. A minimum of 50% of the staff shall remain with beneficiaries three (3) years of age and older.
2. Staff ratios must be maintained at 100% for beneficiaries under the age of three (3).
3. Naptime is a billable component of the day habilitation service.

(c) Additional staff must be provided for beneficiaries with significant medical or behavior needs that require more individual attention as determined by the ECDS.

507.6 Volunteer Requirements

- (a) Volunteers are those individuals who have routine contact with beneficiaries and assist staff in the EIDT. If they are left alone with the beneficiaries, considered in the staff/beneficiary ratios, or given supervisory/disciplinary control over any beneficiaries, they must meet the requirements in Section 506.3.
- (b) All volunteers in an EIDT shall be eighteen (18) years of age or older unless the volunteer is under the direct supervision of the director or assistant director/site

supervisor and has been approved on an individual basis by EIDT's Director.

- (c) Volunteers who have direct or routine contact with a beneficiary shall have on file a criminal background check and Child Maltreatment and Adult Maltreatment checks. An exception shall be given to legal guardians who volunteer on field trips but are not left alone with a beneficiary. Criminal background checks and Child Maltreatment and Adult Maltreatment checks for volunteers under eighteen (18) years of age must include a legal guardian's signature.
- (d) Individuals who provide health services or program enrichment activities on a limited basis are not considered volunteers. The EIDT shall retain a register of such persons listing the name, organization, address, telephone number, and date and time in the EIDT.

507.7 Student Observers

- (a) Students visiting the EIDT on a periodic basis to observe classroom activities, or for similar purposes, shall not be counted in the staff/beneficiary ratio, shall not have disciplinary control over a beneficiary, and shall not be left alone with a beneficiary, and shall not be required to have the criminal, child maltreatment or adult maltreatment background checks.
- (b) Students that are conducting practicum, student teaching, or working in the same capacity as a staff member or volunteer must meet applicable criteria in Section 506.3.

508 STAFF TRAINING

508.1 All EIDT personnel shall receive initial and annual competency-based training, which must include:

- (a) Health and safety practices:
 - 1. Infection control
 - 2. Identification of unsafe environmental factors
- (b) Emergency evacuation procedures for the EIDT:
 - 1. Emergency and Disaster Preparedness
 - 2. Drills for fire, tornado, earthquake, and other natural disasters, as well as violence in the workplace (i.e., active shooter or bomb threats).
- (c) General information about EIDT services:
 - 1. Overview of the Department of Human Services, including DDS and DPSQA.
 - 2. Orientation to serving individuals with developmental disabilities, including:
 - The history of developmental disabilities services;
 - Current issues affecting individuals with developmental disabilities;
 - Introduction to the principles of normalization (age-appropriate development activities);
 - Introduction to behavior management; and
 - Community integration activities.
 - 3. The EIDT's philosophy, goals, programs, practices, policies, and procedures, including, at a minimum, the policies outlined in Section 504.

508.2 ALL direct care staff shall receive the following training, in addition to the training outlined in Section 508.1:

- (a) Twelve (12) hours minimum training, completed within first thirty (30) days of employment, and annually thereafter (does not include First Aid and CPR training):

1. Proper supervision of beneficiaries
2. Introduction to behavior management and guidance practice
3. Safe sleep practices for children
4. Shaken baby syndrome, including prevention
5. Appropriate response to children in distress
6. Mandated reporter requirements
7. Administering medication
8. Caring for children with special needs
9. Individual Treatment Plans
10. Transportation and car seat safety
11. Policies for release of beneficiaries to authorized individuals

Other training topics must be applicable to the individual's job and are to be chosen by the organization based on identified needs. Topics may be a combination of required and job specific training.

- (b) CPR and First Aid training and certification by American Heart Association, Medic First Aid, or Red Cross (continued training shall ensure renewal of certification).

1. ALL direct care staff members, including drivers and attendants, shall be trained and certified to provide CPR and First Aid, unless they are deemed incapable of performing this task by a licensed medical professional, such as a nurse or doctor. Documentation of training or exemption from training must be maintained in the individual's personnel file.
2. The EIDT shall develop, implement, and monitor policy regarding timeframe for CPR and First Aid certification after hire date (not to exceed 90 days).

508.3 Documentation of training shall be maintained in the individual's personnel file and shall be evidenced by the signatures of the trainer, the date the training was provided, and the specific information covered during the training.

509 QUALITY ASSURANCE

509.1 The EIDT shall develop and maintain a quality assurance process and assign a staff person to serve as QA Director. The staff designated as QA director can fill more than one role within the EIDT. The QA Director shall meet at least quarterly with Departments, e.g. dietary, therapy, and direct care, to identify issues where quality assessment and assurance activities are necessary, and to develop and implement appropriate plans of action to correct identified quality deficiencies.

509.2 The QA Director shall have the ability to recognize and identify issues of quality deficiencies and to implement changes to EIDT and employee practices designed to eliminate identified issues of quality deficiencies.

509.3 Good faith attempts by the EIDT to identify and correct quality deficiencies will not be used as a basis for sanctions.

510 BENEFICIARY RECORDS

510.1 The EIDT must maintain a separate and distinct record for each EIDT beneficiary that must

contain:

- (a) A Face Sheet that contains the following information:
 - 1. Beneficiary's full name;
 - 2. Full name of beneficiary's legal guardian(s);
 - 3. Address, county of residence, telephone number, and email address, if applicable;
 - 4. Birthdate;
 - 5. Social Security Number;
 - 6. Medicaid Number;
 - 7. Commercial (private) health insurance information, if applicable;
 - 8. Emergency Contact Information (including name and telephone number);
 - 9. Race, gender, and legal status;
 - 10. Primary language;
 - 11. PCP's name, address, and telephone number;
 - 12. EIDT Admission date;
 - 13. Primary and Secondary disability or diagnosis;
 - 14. Indication of a medication management plan, if applicable; and
 - 15. Known allergies, if applicable.
- (b) For newly enrolled beneficiaries, results of the independent developmental screen performed by DHS' approved vendor, if applicable, or an approved opt-out of that screen in accordance with governing regulations.
- (c) The results of the annual evaluations, which indicate that the beneficiary is able to receive each EIDT service on his or her ITP.
- (d) The written prescription for EIDT services, signed and dated by the prescribing physician.
- (e) A copy of the Beneficiary Rights Statement, signed by the beneficiary's legal guardian(s).
- (f) A copy of the signed enrollment agreement as described in Section 601.
- (g) Upon enrollment, and each time there is a significant change in services provided to the beneficiary, and consent was obtained by the beneficiary's legal guardian(s), a written acknowledgement will be provided to the beneficiary's legal guardian(s).
- (h) Any other information that the beneficiary's legal guardian(s) requests the EIDT to keep on record.
- (i) The beneficiary's Individual Treatment Plan (ITP), signed by the beneficiary's ECDS, which must:
 - 1. Document the date of the ITP meeting (which may be by phone or other telecommunication methods) with the legal guardian(s) (or documentation of the legal guardian(s) refusal to participate), ECDS, and other EIDT service providers;
 - 2. Document the names and signatures of all participants in the ITP development meeting;
 - 3. Address the beneficiary's and their family's health, safety and challenging behaviors, which may put the beneficiary at risk;
 - 4. State all short and long treatment goals and objectives for the beneficiary. Goals

- must have an initiation date, a target date, and, when completed, a completion date. Objectives and activities that will be implemented to meet those goals must be specified;
5. List all services, trainings, materials, equipment, and assistive technology that will be provided or made available to assist the beneficiary in achieving those goals and objectives;
 6. Demonstrate respect for the rights and dignity of the beneficiary and their family, including the incorporation of the family's culture and value system;
 7. Be understandable by the beneficiary and their legal guardian(s). At a minimum, the ITP must be written in plain language and in a manner that is accessible to individuals with disabilities and persons who are of limited English proficiency.
- (j) Signed emergency medical release and all other necessary release forms (i.e., publicity, field trip, fund raising, etc.). The emergency medical release form shall be updated at least annually.
1. Publicity releases shall be obtained upon admission and annually, thereafter;
 2. Field trip releases shall be obtained on a per occurrence basis unless that field trip is part of the regular program (i.e. gymnastics, library, etc.); and
 3. Emergency medical releases must be taken on field trips or incorporated in the field trip release.
- (k) The beneficiary's Medication Management Plan and/or Behavior Management Plan, if applicable (*see* Sections 701.5 and 702.3).
- (l) Documentation of a timely referral to DDS First Connections Central Intake Unit, which serves as the State of Arkansas's single point of entry to minimize duplication and expedite service delivery for Part C services under the IDEA.
- (m) Documentation of a timely referral to the Local Education Agency (LEA) for Part B services under the IDEA.
- (n) Appropriate documentation of the legal guardian(s)' waiver of the kindergarten year, if applicable, and a written transition plan to ensure a successful transition of the beneficiary to the school system.
- (o) Documentation that supports the medical necessity of each service provided to the beneficiary, which includes the following:
1. The date the service was furnished, daily;
 2. The beginning and end time the service was performed, daily;
 3. The name and credentials of each person providing the service, daily;
 4. Weekly progress notes summarizing the documented status of the beneficiary's treatment goals and objectives, signed or initialed by the person making the note; and
 5. A note made every time the beneficiary's status changes or when there is an unusual occurrence regarding that beneficiary.

510.2 The EIDT must maintain the beneficiary's records in the following manner:

- (a) Each EIDT must provide a locked file cabinet or locked room for keeping beneficiaries' medical, social, personal, and financial records. When records are maintained electronically, the EIDT must abide by all federal and state laws applicable to maintaining records electronically. All EIDTs must abide by HIPAA, HITECH, PIPA,

ADA, Federal Privacy Act, and the other laws pertaining to record management as to the protection of medical, social, personal, and financial records.

- (b) The EIDT must not disclose any beneficiary's records maintained by the EIDT to any person or agency other than the EIDT personnel, the beneficiary's legal guardian(s), DPSQA, DDS, or the Attorney General except upon expressed written consent of the beneficiary's legal guardian(s), unless the disclosure is permitted by state or federal law or regulation.
- (c) The EIDT must maintain the original records in an accessible manner for a period of five (5) years following the death or discharge of a beneficiary.
- (d) The beneficiary's records shall be kept on the EIDT's premises at all times, unless removed pursuant to subpoena.
- (e) In the event of a change of ownership, the beneficiary's records shall remain with the EIDT.
- (f) If the EIDT closes, the beneficiary's records shall be stored by the owner of the EIDT within the State of Arkansas for five (5) years.
- (g) The EIDT shall take reasonable actions to protect the beneficiary's records from destruction, loss, or unauthorized use.

511 GENERAL HEALTH REQUIREMENTS

511.1 All EIDTs shall follow the health requirements set forth in the Child Care Licensing Standards.

511.2 In addition to reporting requirements under the child care licensing standards, the EIDT shall notify DPSQA of injuries that require the attention of medical personnel per Incident and Accident reporting requirements.

511.3 In addition to the requirements set forth in the child care licensing standards, medications shall only be given to beneficiaries in accordance with their medication management plan. These medication management plans shall be updated regularly, but at a minimum annually.

511.4 EIDTs shall comply with the Clean Indoor Air Act of 2006. Smoking (including e-cigarettes) on the EIDT's premises or in any vehicle used to transport beneficiaries is prohibited at all times.

511.5 The EIDT shall follow any health or medical care plans, and/or medical documentation as provided by the beneficiary's physician or legal guardian(s).

511.6 The EIDT shall report all reportable diseases, whether in a recipient or staff person, in accordance with the Arkansas State Board of Health's Rules and Regulations Pertaining to Communicable Disease.

511.7 It is recommended that all staff members who have direct contact with beneficiaries receive the following immunizations:

- (a) Annual Influenza (flu) immunizations;
- (b) Tdap (Diphtheria, Tetanus & Pertussis) immunization and boosters;
- (c) MMR (measles, mumps, and rubella), 1 or 2 doses depending on indication; and
- (d) Varicella (chicken pox) 2 doses, or evidence of immunity.

512 INCIDENT AND ACCIDENT REPORTING

512.1 Reporting Suspected Abuse, Neglect, Exploitation, or Other Incidents

- (a) Pursuant to Ark. Code Ann. §12-12-1701 *et seq.* and Ark. Code Ann. § 12-18-101, *et seq.*, and any other subsequent statutes and regulatory requirements authorized by DHS, DDS, or DPSQA, the EIDT must develop, implement, and follow written policies and procedures to ensure incidents and accidents are prohibited, reported, investigated, and documented as required by these regulations and by law, including, but not limited to:
 - 1. Witnessed, alleged, or suspected abuse or neglect of beneficiaries; and
 - 2. Any misappropriation of beneficiaries' property.
- (b) The EIDT is not required to report death by natural causes. However, nothing in this regulation negates, waives, or alters the reporting requirements of an EIDT under other regulations or statutes. The EIDT shall also immediately report to local law enforcement any cases of abuse or neglect, including self-neglect.
- (c) EIDT policies and procedures regarding reporting must be included in orientation training for all new staff and must be addressed at least annually during in-service training for all staff.

512.2 Next Day Reporting of Incidents and Accidents (DPSQA-731 form).

The following events shall be reported to DPSQA, by fax (501-682-8551) or email (DPSQA.incidentreporting@dhs.arkansas.gov), on a completed Incident & Accident Intake Form (DPSQA-731 form) no later than 11:00 a.m. on the next business day following discovery by the provider.

- (a) Any alleged, suspected, or witnessed occurrences of the following:
 - 1. Abuse
 - 2. Neglect
 - 3. Misappropriation of Property
 - 4. Unnatural Death
 - 5. Unauthorized Use of Restrictive Interventions
 - 6. Significant Medication Error
 - 7. Elopement/Missing Person
 - 8. Abandonment
 - 9. Serious bodily injury
 - 10. Incidents that require notification to police, fire department or coroner.
- (b) In addition to the requirement of a report by the next business day on DPSQA-731 form, the EIDT shall complete a DPSQA-742 form in accordance with Section 512.6. (see Appendix B for a copy of the DPSQA-731 form and Appendix C for a copy of the DPSQA-742 form).

512.3 Incidents or Occurrences that require internal reporting only (DPSQA-731 or DPSQA-742 not required)

- (a) The following incidents or occurrences shall require the EIDT to prepare an internal report only and do not require DPSQA-731 form or DPSQA-742 form to be sent to DPSQA. The internal report shall include all content specified in Section 512.4, as applicable. EIDTs must maintain these incident report files in a manner that allows verification of compliance with this provision.

1. Incidents where a beneficiary attempts to cause physical injury to another beneficiary without resultant injury. The EIDT shall maintain written reports on these types of incidents to document “patterns” of behavior for subsequent actions.
2. All cases of reportable disease as required by the Arkansas Department of Health.
3. Loss of heating, air conditioning, or fire alarm system for a period of greater than two (2) hours.

512.4 Internal-only reporting procedure

- (a) Written reports of all incidents and accidents shall be completed within five (5) days after discovery. The written incident and accident reports shall be comprised of all information specified in forms DPSQA-731 and DPSQA-742 as applicable.
- (b) All written reports will be reviewed, initialed, and dated by the director or director’s designee within five (5) days after discovery.
- (c) For those EIDTs who do not have licensed nurses:
 1. All reports involving accident or injury to beneficiaries will also be reviewed, initialed, and dated by the director within five (5) days.
 2. The medication management plans shall be reviewed by the director and:
 - Shall be amended upon any change of a beneficiary’s condition or need for services
 - Copies of the amended versions of the medication management plan shall be attached to the written report of the incident or accident.
- (d) For those EIDTs who have licensed nurses:
 1. Reports involving accident or injury to beneficiaries will also be reviewed, initialed, and dated by the licensed nurse within five (5) days of the review by the director.
 2. The medication management plans shall be reviewed by the ECDS and/or registered nurse as appropriate and:
 - Shall be amended upon any change of the beneficiary’s condition or need for services;
 - Copies of the amended versions of the medication management plans shall be attached to the written report of the incident or accident.
- (e) Reports of incidents specified in Section 512.3 will be maintained by the EIDT only and are not required to be submitted to DPSQA.
- (f) All written incident and accident reports shall be maintained on file by the EIDT for a period of three (3) years from the date of occurrence or report, whichever is later.

512.5 Other reporting requirements

- (a) The EIDT’s designee is also required to make any other reports as required by State and federal laws and regulations.

512.6 Investigation report for Incidents and Accidents (DPSQA-742 form)

- (a) The EIDT must ensure that all witnessed, alleged, or suspected incidents that must be reported as required by this policy are thoroughly investigated. The EIDT’s investigation must be in conformance with the process and documentation requirements specified on the DPSQA-742 form and must prevent the occurrence of further incidents while the investigation is in progress.

- (b) The results of all investigations must be reported to the director or director's designee and to other officials in accordance with state law, including DPSQA, within five (5) working days of the EIDT's knowledge of the incident. If the alleged violation is verified, appropriate corrective action must be taken.
- (c) The DPSQA-742 form shall be completed and mailed to the DPSQA by the end of the 5th working day following discovery of the incident by the EIDT. The DPSQA-742 form may be amended and re-submitted at any time circumstances require.

512.7 Reporting Policies and Procedures

- (a) The EIDT's written policies and procedures shall include, at a minimum, all requirements specified in this section.
- (b) That Director or Director's designee immediately reports all cases of witnessed, alleged, or suspected abuse or neglect, excluding self-neglect, of beneficiaries to the toll-free Child Abuse Hotline and the local law enforcement agency in which the provider is located as required by Ark. Code Ann. § 12-12-1701 *et seq.*
- (c) That the Director or Director's designee report all witnessed, alleged, or suspected incidents as required by this policy to DPSQA.
- (d) That all EIDT personnel who have reasonable cause to suspect that a beneficiary has been subjected to conditions or circumstances that have resulted in abuse, neglect, misappropriation of property, or other incidents that must be reported as required by this policy, shall immediately notify the Director or Director's designee (this does not negate that all mandated reporters employed by or contracted with the EIDT shall report immediately to the local law enforcement agency in which the provider is located as required by Ark. Code Ann. § 12-12-1701 *et seq. or statutes*).
- (e) That, upon hiring, each employee be given a copy of, and must read, the EIDT's incident and accident reporting and prevention policies and procedures and sign a statement that the policies and procedures have been received and read. The statement shall be filed in the employee's personnel file.
- (f) That all EIDT personnel receive annual, in-service training in identifying, reporting, and preventing suspected abuse, neglect, misappropriation of property, and other incidents as required by this policy, and that the EIDT develops, maintains, and implements policies and procedures for the prevention of abuse, neglect, misappropriation of property, and other incidents as required by this policy.
- (g) When DPSQA makes a finding that personnel of the EIDT committed an act of abuse, neglect, or misappropriation of property against a beneficiary, the name of that employee or personnel shall be placed in the Employment Clearance Registry of DPSQA. Further, DPSQA shall make a report of its finding to all appropriate licensing or enforcement agencies.

513 ELECTRONIC RECORDS

513.1 EIDTs have the option of utilizing electronic records rather than, or in addition to, paper or "hardcopy" records. The EIDT must have safeguards to prevent unauthorized access to the records and a process for reconstruction of the records in the event of a system breakdown. Any electronic record or signature system shall, at a minimum:

- (a) Require authentication and dating of all entries. "Authentication" means identification of the author of an entry by that author and no other, and that reflects the date of entry. An authenticated record shall be evidence that the entry to the record was what the author

entered. To correct or enhance an entry, further authenticated entries may be made, by the original author, or by any other author, as long as the subsequent entries are authenticated as to who entered them, complete with date and time stamp of the entry, and that the original entries are not modified. "Entry" means any changes, deletions, or additions to a record, or the creation of a record.

The electronic system utilized by the EIDT shall retain all entries for the life of the medical record and shall record the date and time of any entry, as well as identifying the individual who performed the entry. The electronic system must not allow any original signed entry or any stored data to be modified from its original content except for computer technicians correcting program malfunction or abnormality. A complete audit trail of all events as well as all "before" and "after" data must be maintained.

- (b) Require data access controls using unique personal identifiers to ensure that unauthorized individuals cannot make entries to a record or create or enter an electronic signature for a record. The EIDT shall maintain a master list of authorized users, past and present. The EIDT shall terminate user access when the user leaves employment with the EIDT.
- (c) Include physical, technical, and administrative safeguards to ensure confidentiality of beneficiary records, including procedures to limit access to only authorized users. The authorized user must certify in writing that the identifier will not be shared with or used by any other person and that they are aware of the requirements and penalties related to improper usage of their unique personal identifier.
- (d) Provide audit controls. The system must be capable of tracking and logging user activity within its electronic files. These audit logs shall include the date and time of access and the user ID under which access occurred. These logs shall be maintained a minimum of six (6) years. The EIDT must certify in writing that it is monitoring the audit logs to identify questionable data access activities, investigate breaches, assess the security program, and are taking corrective actions when a breach in the security system becomes known.
- (e) Have a data recovery plan. Data must be backed up either locally or remotely. Backup media shall be stored at both onsite and offsite locations or alternatively at multiple offsite locations. The backup system must have the capability of timely restoring the data to the EIDT or to the central server in the event of a system failure. Barring a natural disaster of epic proportions (e.g., earthquake, tornado), timely means that the restoration of the backup occurs within a period of time that will permit no more than minimal disruption in the delivery of care and services to the beneficiaries. Pending restoration from backup, the EIDT shall maintain newly generated records in a paper format and shall copy or transfer the contents of the paper records to the electronic system upon restoration of the system and backup. A full backup shall be performed at least weekly, with incremental or differential backups daily. Back up media shall be maintained both locally and at the off-site location or alternatively at multiple offsite locations until the next full weekly backup is successfully completed. Backups shall be tested periodically, but no less than monthly. Testing shall include restoration of the backup to a computer or system that shall not interfere with, or overwrite, current records. If utilizing a third-party company for computer data storage and retrieval, the EIDT shall require that said third party company shall comply with these requirements.
- (f) Provide DHS, DPSQA, DDS, the Office of Medicaid Inspector General (OMIG) or any other State or Federal Agency having jurisdiction over the program access to the electronic records. Access may be by means of an identifier, by a printout of the record,

or both, as requested by the requesting entity. Access must be in a “human readable” format and shall be provided in a manner that permits the requesting entity to view the records without EIDT personnel being present. Access shall include all entries and accompanying logs and shall list the date and time of any entry, as well as identifying the individual who performed the entry. Any computer system utilized, whether in-house or from a third-party vendor, must comply with this regulation.

- 513.2 Physicians’ Orders. When EIDT personnel take telephone orders from physicians or other individuals authorized by law or regulations to issue orders, the EIDT shall document the appropriate information, including but not limited to, the date and time of the order, and the identity of the physician or other authorized individual giving the order as well as the identity of the EIDT personnel taking the order. The EIDT shall ensure that the physician electronically countersigns the physician’s order upon the physician’s next rounds at the EIDT or through Internet access from the physician’s office.
- 513.3 For purposes of these Licensing Standards, in all instances in which the regulations require, or appears to require, the EIDT to use written records or written signatures, the EIDT may use electronic records or electronic signatures in lieu of written records or written signatures when doing so conforms to the requirements of this section for the use of electronic records or electronic signatures.

514 GENERAL REQUIREMENTS CONCERNING BENEFICIARIES

- 514.1 In the event of a beneficiary’s illness or accident, the EIDT shall:
- (a) Notify the beneficiary’s legal guardian(s) and beneficiary’s PCP, or in the event the PCP is not available, a qualified alternate.
 - (b) Take immediate and appropriate steps to see that the beneficiary receives necessary medical attention including transfer to an appropriate medical center;
 - (c) Make a notation of the illness or accident in the beneficiary’s records.
- 514.2 A minimum of an hour of quiet activities shall be provided when a beneficiary is in care all day, as applicable (does not pertain to sick beneficiaries).

600 ENROLLMENT

601 ENROLLMENT AGREEMENT

- 601.1 Prior to or on the day of enrollment, the EIDT and the beneficiary’s legal guardian(s) shall enter into an enrollment agreement.
- 601.2 The agreement shall be in writing and shall be signed by both parties.
- (a) The legal guardian(s), prior to the execution of the enrollment agreement, shall have an opportunity to review the agreement, or have a representative review the agreement.
 - (b) In the event the legal guardian(s) is unable to understand the agreement, necessary steps shall be taken to ensure communication of its contents to the legal guardian(s).
- 601.3 The legal guardian(s) shall be given a signed copy of the agreement and the original shall be retained in the beneficiary’s record at the EIDT.
- 601.4 The enrollment agreement shall include, at a minimum, services the EIDT is providing to the beneficiary; charges, if any to be paid by the beneficiary’s legal guardian; the beneficiary’s ITP and transition/discharge plan; and, when applicable, medication plans, nursing plans, behavior

management plans, or therapy plans.

602 ESTABLISHING ELIGIBILITY AND COMPREHENSIVE EVALUATION

Eligibility for EIDT services will be established by an assessment screening process and comprehensive evaluation as defined by DDS and by the EIDT Medicaid Manual. Documentation of the screening and evaluation must be maintained in the beneficiary's record. Upon completion of the comprehensive evaluation, a prescription from the beneficiary's PCP for EIDT services must be received by the EIDT prior to initiating services. DPSQA's responsibility is to ensure all documentation as stated in the EIDT Medicaid Manual is in the beneficiary's record as pertains to eligibility and evaluation.

700 PROGRAM REQUIREMENTS

701 SERVICES

701.1 Habilitative Services for ages 0-6

- (a) Habilitative Services are instruction in areas of cognition, communication, social/emotional, motor, and adaptive; or to reinforce skills learned and practiced in occupational, physical, or speech therapy. Habilitative activities must be designed to teach habilitation goals and objectives specified in the beneficiary's ITP.
- (b) Habilitative Services may be provided to a beneficiary before they reach school age, including beneficiaries who are aged 5 – 6 years and 364 days, if the kindergarten year has been waived by the beneficiary's legal guardian(s) and documented in the beneficiary's record.
- (c) Habilitative services must be overseen by an ECDS and provided by an ECDS or appropriately trained direct care staff.
- (d) Each beneficiary may receive up to five (5) hours per day of habilitative services, in accordance with the beneficiary's ITP. If more than five (5) hours of habilitative services are provided, the beneficiary's record must include the approved request for extension of benefits.
- (e) The beneficiary's file must contain the evaluation that support the provision of habilitative services in accordance with the ITP.
- (f) Documentation of habilitative services must include the activities and interventions performed, the date and time each activity or intervention was performed, the direct care staff or ECDS who assisted with the activity or intervention, and the beneficiary's weekly progress toward the habilitative goals listed in his or her ITP.

701.2 Habilitative Services in the Summer

- (a) Habilitative services in the summer may only be provided to beneficiaries age 6 to 21 who were enrolled in school the previous academic year.
- (b) Habilitative Services in the summer are designed to continue habilitation instruction to beneficiaries who were enrolled in school the previous school year in order to prevent regression while school is not in session.
- (c) Habilitative services in the summer may only be provided to a beneficiary when the school they attend is not in session during the months of May, June, July, and August.
- (d) Beneficiaries of habilitative services in the summer must meet the eligibility criteria set out in the EIDT Medicaid Provider Manual.
- (e) All other requirements for Habilitative Services for ages 0-6 must be met for

beneficiaries receiving Habilitative Services in the summer.

701.3 Physical Therapy, Occupational Therapy, and Speech Therapy Services

- (a) Eligible beneficiaries may receive physical therapy, occupational therapy, or speech therapy services (therapy services) in accordance with a written prescription (DMS-640).
- (b) The prescription for therapy services must be contained in the beneficiary's file, and the therapy services must be documented on the beneficiary's ITP. If therapy aids or assistive devices are needed for therapy services, those must also be documented in the ITP.
- (c) Therapy services must be provided by an appropriately licensed physical therapist, occupational therapist or speech therapist or an appropriately licensed therapy assistant.
- (d) Therapy services may be provided in a group or individual setting.
- (e) For each therapy service, documentation must include: the activities performed, the date and time each activity was performed, the qualified therapist or therapy assistant who assisted in the provision of that activity or service, and the beneficiary's weekly progress toward the therapeutic goals.

701.4 Nursing Services

- (a) EIDT nursing services are available for beneficiaries who are medically fragile, have complex health needs, or both, if prescribed by the beneficiary's PCP.
- (b) Nursing services that may be performed by the EIDT nursing staff are as follows (or similar activities):
 - 1. Assisting ventilator-dependent beneficiaries
 - 2. Tracheostomy: suctioning and care
 - 3. Feeding tube: feeding, care and maintenance
 - 4. Catheterizations
 - 5. Breathing treatments
 - 6. Monitoring of vital statistics, including diabetes sugar checks, insulin, blood draws, and pulse ox
 - 7. Medication Administration
- (c) EIDT reimbursable nursing services do not include the taking of temperature or the provision of standard first aid.
- (d) The beneficiary's file must document a medical diagnosis and a comprehensive nursing evaluation approved by a PCP that designates a need for nursing services. The nursing evaluation must specify what the needed nursing services are, and the frequency those services must be provided.
- (e) Based on the evaluation, the PCP must authorize the provision of nursing services through a written, signed, and dated physician's order.
- (f) Needed nursing services must be documented in the beneficiary's ITP (*see* Section 510.1(i)).
- (g) Each staff member that performs a nursing service that is to be billed must be a licensed practical nurse (LPN) or a registered nurse (RN), and the service must be within the nurse's scope of practice as defined by the Arkansas State Board of Nursing.
- (h) When a nursing service is performed, it must be documented in a nursing log. The

nursing log must be kept in the beneficiary's file. Each service in the log must specify:

1. Date and time the service was performed;
 2. Name and credentials of the staff who performed the service;
 3. Specific service performed, including information about how it was performed, what equipment was used, etc.;
 4. Any documented side effects the beneficiary experienced;
 5. Any errors that occurred during the provision of the service; and
 6. Signed and dated progress notes.
- (i) Administration of medication alone does not qualify a beneficiary for nursing services.
- (j) An extension of benefits is required for nursing units exceeding 4 units per day.

701.5 Medications

(a) Medication Policy

1. Each EIDT must have written policies and procedures to ensure that beneficiaries receive medications as ordered.
2. EIDTs must comply with applicable state laws and regulations governing the administration of medications and restrictions applicable to non-licensed personnel. However, licensed nursing personnel (RN, LPN) may administer medication in accordance with the Arkansas Nurse Practice Act and associated position papers.
3. EIDT's shall have and implement a policy in regard to the use of stock or pro re nata (prn) medications to include: physician orders for the prn medication and legal guardian(s)' consent.

(b) Medication Management Plans

1. In order for EIDT staff to administer medication to a beneficiary, the beneficiary's file must contain a medication management plan. The medication management plan must include the following:
 - Name of each medication to be administered.
 - Dosage and frequency of the administration of each medication.
 - Name of the staff person(s) who may administer the medication.
 - Prescription medication must be in original labeled container and administered as per instructions on the label.
 - Name, address, and phone number of the prescribing physician.
 - Under no circumstance will one beneficiary's medication that is under the EIDT's control be shared with another beneficiary.

(c) Medication Logs

1. EIDTs shall maintain medications logs detailing the administration of medications to beneficiaries with medication management plans.
2. The medication logs must be readily available for DPSQA, DDS or other DHS regulatory agencies to review at all times.
3. The medication log shall document the following, at the time of medication administration:
 - Name and dosage of the medication administered;
 - Route the medication was administered;
 - Date and time the medication was administered;

- Initials of the staff administering or assisting with the administration of the medication;
- Any side effects or adverse reactions to the medication experienced by the beneficiary; and
- Any errors in administering the medication.

(d) Medication Errors

1. The EIDT must ensure that:
 - Beneficiaries are free of any significant medication errors; and
 - That its overall medication error rate is five percent (5%) or less.
2. Medication error means the observed preparation or administration of drugs or biologicals which is not in accordance with:
 - Physician's orders;
 - Manufacturer's specifications (not recommendations) regarding the preparation and administration of the drug or biological; or
 - Accepted professional standards and principles which apply to professionals providing services. Accepted professional standards and principles include the various practice regulations in Arkansas, and current commonly accepted health standards established by national organizations, boards, and councils.
3. Overall medication error rate means the percentage of both significant and non-significant medication errors.
 - Significant medication error means one which causes the beneficiary discomfort or jeopardizes his or her health and safety. Whether a medication error is significant is determined with consideration of the beneficiary's condition, the drug category, and the frequency of the error.
 - Non-significant medication error means a medication error that does not meet the definition of a significant medication error.
4. The medication error rate is determined by dividing the number of errors by the opportunities for errors and multiplying the result by 100 and is expressed as *Medication Error Rate = (Number of Errors Observed / the Opportunities for Errors) X 100*.
 - The *Number of Errors Observed* is the total number of errors that the survey team observes, both significant and non-significant.
 - The *Opportunities for Errors* includes all the doses the team observed being administered plus the doses ordered but not administered.

(e) Medication Charting

1. If an EIDT stores a beneficiary's medications, the EIDT shall maintain a list of those medications.
2. If the EIDT stores and administers a beneficiary's medication, a notation must be made on the individual record for each beneficiary who refuses, either through affirmative act, omission, or silence, to take his or her medications. The notation shall include the date, time and dosage of medication that was not taken, including a notation that the beneficiary's legal guardian(s) was notified, along with the prescribing physician, if such notice is required.
3. If medications are prescribed to be taken as needed (PRN) by the beneficiary, documentation in the beneficiary's file should list the medication, the date and time received by the beneficiary, and the reason given.

4. A record shall be maintained in a bound ledger book, in ink, with consecutively numbered pages, or electronically (if the electronic record meets all of the requirements listed below), of all controlled drugs procured or administered. The record shall contain:
 - Name, strength and quantity of drug;
 - Date received, and date, time, and dosage administered;
 - Name of the beneficiary for whom the drug was prescribed, or who received the drug;
 - Name of the prescribing physician or advance practice nurse;
 - Name of the dispensing pharmacy;
 - Quantity of drug remaining after each administered dosage; and
 - Signature of the individual administering the drug.
5. When a dose of a controlled drug managed by the EIDT is dropped, broken or lost, two (2) employees shall record in the ledger the facts of the event, and sign or otherwise identify themselves for the record.
6. For all controlled medications stored by the EIDT, there shall be a weekly count of medications. The count shall be made by the person responsible for medications in the EIDT and shall be witnessed by another employee. The count shall be documented by both employees and shall include the date and time of the event, a statement as to whether the count was correct, and if incorrect, an explanation of the discrepancy. When the count is incorrect, the EIDT shall document, as required.

(f) Medication Storage

1. All medications stored for beneficiaries by the EIDT must be stored in a locked area or a locked medication cart and labeled with the beneficiary's name.
2. Medications must be stored in an environment that is clean, dry and not exposed to extreme temperature ranges. Medications requiring cold storage shall be refrigerated. A locked container placed below food level in an EIDT's refrigerator is acceptable storage.
3. All drugs on the premises of the EIDT shall be labeled in accordance with accepted professional principles and practices.
4. Prescription medications must be properly labeled in accordance with current applicable laws and regulations pertaining to the practice of pharmacy.
5. All medications in the control or care of the EIDT shall have an expiration date marked and shall not be expired.
6. Medications must be individually labeled with the beneficiary's name and kept in the original container unless the beneficiary's legal guardian(s) transfers the medication into individual dosage containers. Under no circumstances may EIDT staff repackage medication.
7. Any medication that is stored by the EIDT that has been prescribed for, but is no longer in use by a beneficiary, must either be:
 - Destroyed or disposed of in accordance with state law, or
 - Returned to the beneficiary's legal guardian(s) in accordance with this section.
8. Any medication stored by the EIDT that has been placed on hold status by the beneficiary's PCP may be transferred to a locked medication cabinet in a locked office for future use by the beneficiary. Upon physician notice to resume the medication, all current medication labeling must be in accordance with this section.

9. When unused portions of controlled drugs are returned to the beneficiary's legal guardian(s), the person in charge of the medications for the EIDT shall sign the Controlled Drug Record in the EIDT.
10. For all medications that are stored by the EIDT, the EIDT must remove from use, in accordance with applicable laws:
 - Outdated or expired medication or drugs;
 - Drug containers with illegible or missing labels; and
 - Drugs and biologicals discontinued by the beneficiary's physician or advance practice nurse.
11. In all cases in which the EIDT destroys drugs, destruction shall be made by a nurse, and witnessed by another employee. A record shall be made of the date, quantity, prescription number and name, beneficiary's name, and strength of the medication. Destruction shall comply with state laws and regulations governing the destruction of drugs. The record of the destruction shall be recorded in a bound ledger, in ink, with consecutively numbered pages, and retained by the EIDT as a permanent, retrievable record.
12. Reporting misappropriation of controlled substances shall be in accordance with the Arkansas Department of Health's Rules and Regulations Pertaining to Controlled Substances.

702 BEHAVIOR GUIDANCE AND BEHAVIOR MANAGEMENT

702.1 Behavior Guidance

- (a) Behavior guidance shall be:
 1. Individualized and consistent for each beneficiary.
 2. Appropriate to the beneficiary's level of understanding.
 3. Directed toward teaching the beneficiary acceptable behavior and self-control.
- (b) Physical punishment shall not be administered to beneficiaries.
- (c) The length of time a beneficiary is placed in time out shall not exceed one minute per year of the beneficiary's age.
- (d) Acceptable behavior guidance techniques include:
 1. Looking for appropriate behavior and reinforcing beneficiary's appropriate behavior with praise and encouragement.
 2. Reminding the beneficiary, on a daily basis, of the rules by using clear positive statements regarding how they are expected to behave rather than what they are not supposed to do.
 3. Attempting to ignore minor inappropriate behavior and concentrating on what the beneficiary is doing properly.
 4. Using brief supervised separation from the group only when the beneficiary does not respond to a verbal command which instructs the beneficiary as to how he or she is supposed to behave.
 5. When a misbehaving beneficiary begins to behave appropriately, encouraging and praising small steps rather than waiting until the beneficiary has behaved for a long period of time.
 6. Attend to the beneficiaries who are behaving appropriately, and other beneficiaries will follow their example in order to obtain your attention.

- (e) The following activities or threats of such activities are unacceptable as behavior guidance measures and shall not be used for beneficiaries. These include, but are not limited to the following:
1. Restraints (Restraining a beneficiary briefly by holding the beneficiary is allowed when the beneficiary's actions place the beneficiary or others at risk of injury.)
 2. Washing mouth with soap.
 3. Taping or obstructing a beneficiary's mouth.
 4. Placing unpleasant or painful tasting substances in mouth, on lips, etc.
 5. Profane or abusive language.
 6. Isolation without supervision.
 7. Placing beneficiary in a dark area.
 8. Inflicting physical pain, hitting, pinching, pulling hair, slapping, kicking, twisting arms, biting or biting back, spitting, swatting, etc.
 9. Yelling (This does not include a raised voice level to gain a beneficiary's attention to protect the beneficiary from risk of harm.)
 10. Forcing physical activity, such as running laps, doing push-ups, etc. (This does not include planned group physical education activities that are not punitive in nature.)
 11. Associating punishment with rest, toilet training or illness.
 12. Denying food (lunch or snacks) as punishment or punishing beneficiaries for not eating.
 13. Beneficiaries shall not be forced or bribed to eat.
 14. Shaming, humiliating, frightening, labeling, physically or mentally harming beneficiaries.
 15. Covering the faces of beneficiaries with blankets or similar items.
- (f) Posted group behavior charts shall not be used. (Individual behavior charts that are not viewable by beneficiaries and individual charts used by therapists are allowable.)
- (g) Behavior guidance practices used by the EIDT shall be discussed with each beneficiary's legal guardians(s) and provided to them in writing at the time of enrollment with a copy signed by the legal guardian(s) maintained in the beneficiary's record.
- (h) Infant and Toddler Behavior Guidance Requirements
1. Time-out shall not be used for beneficiaries under two years of age.
 2. These beneficiaries may be placed in a supervised area away from the group or in a crib or playpen while staff attends to the situation. Brief separation from the group is acceptable when the beneficiary's behavior places the beneficiary or others at risk of harm. Example: A beneficiary who has bitten another beneficiary would be removed from the group, briefly, while staff attends to the bitten beneficiary.

702.2 Behavior Management

- (a) When applicable, the EIDT must have a behavior management plan that incorporates positive behavior strategies for the beneficiary.
- (b) Beneficiaries must have a behavior management plan when he or she exhibits distinct and chronic challenging behaviors (e.g., head banging, biting, self-mutilation).

702.3 Behavior management plans must be written and monitored by the ECDS and be approved by the beneficiary's legal guardian(s). All behavior management plans must:

- (a) Identify the behavior(s) to be decreased;
- (b) Identify the behavior(s) to be increased;
- (c) Identify what things should be provided or avoided in the beneficiary's environment on a daily basis to decrease the likelihood of the identified behavior(s);
- (d) Identify the methods that staff should use to manage behavior(s);
- (e) Identify the event(s) that appear to trigger beneficiary's behavior(s);
- (f) Identify what staff should do if the triggering event(s) occur;
- (g) Identify what staff should do if the behavior(s) to be increased or decreased occur;
- (h) Involve the fewest interventions or strategies possible;
- (i) Protect the beneficiary's rights;
- (j) Preclude procedures that are punishing, physically painful, emotionally frightening, involve deprivation, or put the beneficiary at medical risk;
- (k) Specify what behaviors, if any, require the use of restraints, the length of time the restraint is to be used, the staff person responsible for the authorization and the use of restraints, and the methods for monitoring the beneficiary and staff;
- (l) Prohibit the use of medications for the sole purpose of preventing, modifying, or controlling challenging behavior that is not associated with a diagnosed co-occurring psychiatric condition, or for the purpose of chemical restraint; and
- (m) Prohibit the use of mechanical restraints for the purpose of limiting or controlling challenging behavior.

702.4 Behavior management plans must be re-evaluated at least quarterly.

- (a) Each EIDT provider is responsible for maintaining written documentation sufficient to prove that any required re-evaluation was properly conducted.
- (b) The re-evaluation must be based on data collected by the EIDT regarding the frequency of use of behavior management interventions, length of time of each use, the duration of use over time and the impact of the use of interventions.

702.5 The EIDT must provide training to all staff who implement behavior management plans. Training requirements must, at a minimum, include an introduction to behavior management and a course on abuse and neglect of beneficiaries.

800 NUTRITION REQUIREMENTS

801 GENERAL NUTRITION REQUIREMENTS

801.1 The EIDT shall meet all nutrition requirements set out in the Child Care Licensing Standards.

801.2 If food is prepared on site at the EIDT, food service personnel shall:

- (a) Wear clean clothing and hair coverings while in the kitchen preparing or handling food.
- (b) Ensure that all food is prepared, cooked, served, and stored in such a manner that protects against contamination and spoilage.

802 INFANT AND TODDLER

- 802.1 Mothers shall be allowed and encouraged to breast feed their child (beneficiary) at the EIDT.
- 802.2 Instructions regarding therapeutic diets, when applicable, shall be obtained from the physician and followed by the EIDT.

803 FOOD PREPARATION

- 803.1 EIDT programs shall assure that provided meals are approved, adequate diets, which conform to the recommended dietary allowance.
- 803.2 The EIDT shall keep menus on file for at least three (3) months.
- 803.3 Menus shall be prepared or approved by a registered dietitian/nutritionist or the EIDT program may utilize State and Federal Agency Nutrition programs.
- 803.4 If an EIDT contracts with a dietitian/nutritionist, the dietitian/nutritionist shall check for nutritional adequacy of menus and acceptable food safety and sanitation practices. This must be documented by a written report at least annually.
- 803.5 The EIDT shall develop and implement written procedures that address provisions for special diets that pertain to allergies, weight control, diabetes, religion, hypertension, and other medical conditions as documented in the beneficiary's file.

804 FOOD STORAGE

For those EIDTs that provide meals prepared by the EIDTs staff, the following regulations shall be followed. For those EIDT's that provide meals from an outside provider, a copy of the provider's current certification from the Arkansas Department of Health shall be available for DPSQA to review.

- 804.1 Food items and toxic items shall not be stored together.
- 804.2 Food scraps shall be placed in garbage cans with airtight fitting lids and bag liners. Garbage cans shall be emptied as necessary, but no less than daily. Garbage cans shall not be overflowing.
- 804.3 Leftover foods are to be immediately discarded.
- 804.4 Meat and eggs shall be separated from cooked foods and other foods when refrigerated. Raw meat is to be stored in such a way that juices do not drip on other foods.
- 804.5 Fresh whole eggs shall not be cracked more than two (2) hours before use.
- 804.6 Hot foods should leave the kitchen (or steam table) above 140 degrees Fahrenheit and cold foods at or below 41 degrees Fahrenheit.
- 804.7 Containers of food shall not be stored on the floor of a walk-in refrigerator, freezer, or storage rooms. Containers shall be seamless with tight-fitting lids and shall be clearly labeled as to content.
- 804.8 In EIDTs that have a residential type kitchen, a five (5)-lb. ABC fire extinguisher is required in the kitchen. In EIDTs that have commercial kitchens with automatic extinguishers in the range hood, the portable five (5)-lb. fire extinguisher must be compatible with the chemicals used in the range hood extinguisher. The manufacturer recommendations shall be followed.

900 PHYSICAL ENVIRONMENT

901 CODES AND STANDARDS

901.1 In addition to these licensure requirements, minimum requirements set forth in the Child Care Licensing Standards shall be met.

902 GENERAL REQUIREMENTS

902.1 An EIDT shall be both physically and programmatically distinct from any other type of center or program located on the same premises.

- (a) The EIDT may share a common lobby or access area with other centers or programs.
- (b) All areas where beneficiaries are served must be painted and appropriately furnished.

902.2 Separate space shall be provided for the isolation of beneficiaries who become ill.

- (a) This separate space for ill beneficiaries shall be located in an area that can be supervised at all times by a staff member.
- (b) Provisions in this separate space for ill beneficiaries shall include waterproof cots or mats if a beneficiary becomes ill.

902.3 Portable fuel fired heaters shall not be used.

- (a) If natural gas or propane is used, the EIDT's heating systems shall be inspected and cleaned if necessary before each heating season by a qualified HVAC technician.
- (b) Carbon monoxide detectors shall be installed, maintained, and operated in accordance with manufacturer's requirements and recommendations and shall include documentation that the detectors passed the quarterly check in accordance with the manufacturer's recommendations:
 - 1. EIDTs shall not use wood. Propane, natural gas or any other product as a heat source that can produce carbon monoxide indoors or in an attached garage shall not be utilized.

903 TOILET CENTERS

903.1 Boys and girls, ages 7 and above shall be toileted separately.

903.2 When EIDTs utilize multi-stall restrooms, there must be separate facilities for boys and girls.

904 SAFETY STANDARDS

904.1 If the local municipality in which the EIDT is located has not adopted requirements based on the above standards, or if DPSQA determines that the regulations adopted by the local municipality are not adequate to protect a beneficiary, the EIDT must meet the provisions of the most current edition of the Arkansas Fire Prevention Code, including the National Fire Protection Association (NFPA) requirements referenced by the Arkansas Fire Prevention Code.

904.2 Safety Requirements

- (a) Within 30 days of licensure and within 30 days of any change or modification of the floor plan, the EIDT shall document that the EIDT has filed a copy of their floor plan with the local Office of Emergency Management including the following (Ark. Code Ann. § 20-78-228, see Act 1159 of 2013):
 - 1. A schematic drawing of the EIDT and property used by the EIDT including the configuration of rooms, spaces, and other physical features of the building.

2. The location or locations where beneficiaries enrolled in the EIDT spend time regularly.
 3. The escape routes approved by the local fire department for the EIDT.
 4. The licensed capacity and ages of beneficiaries per room at the EIDT.
 5. The contact information for at least two (2) emergency contacts for the EIDT.
 6. An aerial view of the EIDT and property used by the EIDT shall be included with the floor plan if available.
- (b) In addition to notification requirements set out in the Child Care Licensing standards, the EIDT shall notify DPSQA of any extended utility outages or significant damage to the building and/or grounds within one (1) hour of the occurrence. If phone service is not available, notification shall be as soon as service is restored or available.
- (c) Swimming Pools
1. Swimming pools may be used to meet habilitative services treatment goals for children three (3) and over if the Child Care Licensing Standards related to swimming pools are met.

904.3 Fire Safety Inspection

- (a) The EIDT shall have an annual onsite fire safety inspection by the local fire marshal. Documentation of the date, source, and results of the fire safety inspection shall be kept. If the EIDT has a sprinkler system, the sprinkler system shall be inspected annually to ensure working order.
- (b) Beneficiaries must be able to evacuate the entire building by themselves or with staff assistance.
- (c) Practices that create an increased risk of fire are prohibited. This includes, but is not limited to:
1. Space heaters. In cases of emergency, such as extended power loss during periods of cold weather and the EIDT remains open or beneficiaries remain on site, space heaters are permitted upon the approval of DPSQA.
 2. The accumulation or storage within the EIDT of combustible materials such as rags, paper items, gasoline, kerosene, paint or paint thinners.
 3. The use of candles, oil lamps, incense, or open-flamed items.
 4. The use of extension cords or multi-plug adapters for electrical outlets. EIDT may utilize Transient Voltage Surge Protectors or Surge Suppressors with microprocessor electronic equipment such as computers or CD/DVD recorders or players. Any Transient Voltage Surge Protectors or Surge Suppressors must have a minimum UL rating of 330v and must have a functioning protection indicator light. EIDT may not use Transient Voltage Surge Protectors or Surge Suppressors that do not have a functioning protection indicator light or Transient Voltage Surge Protectors or Surge Suppressors in which the functioning protection indicator light does not light to indicate that the device is functioning. Automatic electrical timers with a UL rating are permitted, for programmed time periods, for energy efficiency and safety, if the EIDT or beneficiaries elect to use it for lamps, holiday decorations, or other small electrical devices.
- (d) Exit signs bearing the word “EXIT” in plain, legible letters shall be placed at exits.
- (e) If the exit or way to reach the exit is not immediately visible to the beneficiaries, access to exits shall be marked with visible signs indicating the direction of travel.

904.4 Fire extinguishers

- (a) There shall be at least one (1) fire extinguisher with a minimum 2-A rating for each floor including the basement.
- (b) If the indoor floor area is more than 5,000 square feet on a floor including the basement, there shall be an additional fire extinguisher with a minimum 2-A rating for each additional 5,000 square feet of indoor floor space.
- (c) A fire extinguisher with a minimum 10-B rating shall be located in each kitchen. This extinguisher is required in addition to the extinguishers with a minimum 2-A rating required for each floor in subsections (a) and (b).
- (d) Fire extinguishers shall be listed by Underwriters Laboratories or approved by Factory Mutual Systems.
- (e) Fire extinguishers shall be easily accessible to staff.
- (f) Fire extinguishers shall be inspected and approved annually by a fire safety expert. The date of the inspection shall be on the extinguisher.

904.5 Exits

- (a) Each building in which the EIDT operates shall have a minimum of two (2) exits leading directly to the outside.

904.6 Unobstructed egress

- (a) Stairways, halls, doorways, aisles, passageways and exits from rooms and from the building shall be unobstructed. Basements shall not be utilized in an EIDT unless there are exits with direct egress to the ground level.

905 WATER SUPPLY

- 905.1 An adequate supply of water, under pressure, must be provided at all times. When a public water system is available, a connection must be made thereto. If water from a source other than a public water supply is used, the supply must meet the requirements set forth under rules and regulations of the State Board of Health.
- 905.2 A contract to supply potable water shall be implemented with a third party not associated with the operation of the EIDT in the event the EIDT's water supply should be interrupted. The EIDT shall document the third party in their admission agreement.

906 SEWAGE

- 906.1 All sewage must be disposed of by means of either:

- (a) A public system where one is accessible within 300 feet; or
- (b) An approved sewage disposal system that is constructed and operated in conformance with the standards established for such systems by the State Board of Health.

907 ELECTRICAL

- 907.1 Electrical wiring, fixtures, appliances, motors, and other electrical equipment must be installed in accordance with the national electrical code and comply with local regulations and codes where they exist.

908 HEATING/COOLING

- 908.1 All liquefied petroleum gas systems must be installed and maintained in accordance with the State Code for Liquefied Petroleum Gas Containers and Equipment, State of Arkansas.
- (a) All gas heating units must bear the stamp of approval of the American Gas Association Testing Laboratories, Inc. or other nationally recognized testing agency for enclosed, vented heaters for the type of fuel used.
 - (b) All gas heating units and water heaters must be vented adequately to carry the products of combustion to the outside atmosphere. Vents must be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the American Gas Association Recommended Procedures.
- 908.2 All heating units must be provided with a sufficient supply of outside air to support combustion without depletion of the air in the occupied room.
- 908.3 All heating and cooling units must be installed and maintained in a manner that will provide for the safety and comfort of the occupants.
- 908.4 In new EIDTs licensed after the effective date of these standards, the EIDT must provide each classroom area or unit with an individual thermostat controlling the temperature in that area or unit. In addition, the EIDT must provide a heating, ventilating and air conditioning (HVAC) system(s) for the area or units and common areas capable of maintaining any temperature between 68 and 80 degrees at any time throughout the year.

909 ZONING CODES

- 909.1 Each newly licensed EIDT, after the implementation of these regulations, must be operated in areas permitted by local codes. Each owner must provide DPSQA with documentation that the EIDT is in compliance with zoning requirements.

910 LOT REQUIREMENTS, NEWLY LICENSED EIDT

- 910.1 Conditions of soil, ground water level, drainage and topography must not create hazards to the property or to the health and safety of the beneficiaries. The site of the EIDT shall not be subject to unpredictable and/or sudden flooding. Documentation shall be submitted to DPSQA before licensure by the local authority verifying the site is not in a flood zone.

911 PLAYGROUNDS / OUTDOOR LEARNING ENVIRONMENT

- 911.1 The EIDT shall meet the minimum requirements for playgrounds and outdoor learning environments established by the Child Care Licensing Standards.
- (a) All areas where beneficiaries play outdoors shall be properly maintained in accordance with applicable regulations. The EIDT shall maintain documentation that it has inspected and maintained playground equipment to manufacturers requirements at least annually or if a beneficiary has been in an accident due to the malfunction or possible malfunction of the playground equipment. Should the beneficiary receive an injury that requires emergency services, the provider shall document the injury and submit documentation to DPSQA indicating the extent of the injury. The EIDT shall review the injury in their quarterly QA meetings.
- 911.2 General Hazards
- (a) Equipment that has been determined by DPSQA to be unsafe for the beneficiaries in the

licensed EIDT to use shall be removed from the play area or enclosed by a fence or other suitable barrier so the beneficiaries will not have access to it.

912 SUBMISSION OF PLANS, SPECIFICATIONS AND ESTIMATES

- 912.1 When construction is contemplated either for new buildings, additions or major alterations in excess of one hundred thousand dollars (\$100,000), plans and specifications shall be submitted in duplicate, one (1) to DPSQA and one (1) to the Plumbing Division of the Arkansas Department of Health. Final plan approval shall be given by DPSQA.
- 912.2 Such plans and specifications shall be prepared by a registered professional engineer or an architect licensed in the State of Arkansas pursuant to Act 270 of 1941, codified as Ark. Code Ann. §17-15-101, *et seq.* and shall be drawn to scale with the title and date shown thereon. DPSQA shall have a minimum of three (3) weeks to review the drawing and specifications and submit their comments to the applicant. Any proposed deviations from the approved plans and specifications shall be submitted to DPSQA prior to making any changes. Construction cannot start until approval of plans and specifications have been received from DPSQA. DPSQA shall be notified as soon as construction of a new building or alteration to an existing building is started.
- 912.3 An estimate shall accompany all working plans and specifications when the total cost of construction is more than one hundred thousand dollars (\$100,000).
- 912.4 Representatives from DPSQA shall have access to the construction premises and the construction project for purposes of making whatever inspections DPSQA deems necessary throughout the course of construction.

913 PLANS AND SPECIFICATIONS

- 913.1 All EIDTs licensed under these regulations shall be designed and constructed to substantially comply with pertinent local and state laws, codes, ordinances, and standards. All new construction shall be in accordance with the requirements as specified in the most current version of the Arkansas Fire Prevention Code.
- 913.2 The EIDT shall develop and shall comply with a written evacuation plan approved by the local fire marshal. All new construction shall be readily accessible and useable by persons with physical disabilities including persons who use wheelchairs. All construction shall comply with the requirements of the ADA.
- 913.3 Plans shall be submitted to DPSQA in the following stages:
- (a) Step (1) – Working drawings and specifications that shall be prepared so that clear and distinct prints may be obtained; accurate dimensions including all necessary explanatory notes, schedules, and legends. Working drawings shall be complete and adequate for contract purposes. Separate drawings shall be prepared for each of the following branches of work, architectural, structural, mechanical, and electrical, and shall include the following:
 - 1. Approved plan showing all new topography, newly established levels and grades, existing structures on the site (if any), new buildings and structures, roadways, walks, and the extent of the areas to be seeded. All structures and improvements that are to be removed under the construction contract shall be shown. A print of the survey shall be included with the working drawings;
 - 2. Plan of each floor and roof;
 - 3. Elevations of each facade;

4. Sections through building;
 5. Scale and full-size details as necessary to properly indicate portions of the work; and
 6. Schedule of finishes.
- (b) Step (2) – Equipment Drawings: Large-scale drawings of typical and special rooms indicating all fixed equipment and major items of furniture and movable equipment.
- (c) Step (3) – Structural Drawings:
1. Plans of foundations, floors, roofs, and all intermediate levels shall show a complete design with sizes, sections, and the relative location of the various members. Schedule of beams, girders, and columns, shall be included;
 2. Floor levels, column centers, and offsets shall be dimensioned;
 3. Special openings and pipe sleeves shall be dimensioned or otherwise noted for easy reference;
 4. Details of all special connections, assemblies, and expansion joints shall be given.
- (d) Step (4) – Mechanical Drawings: These drawings with specifications shall show the complete heating and ventilation systems, plumbing, drainage, and standpipe system and laundry and shall include:
1. Heating and air-conditioning systems, including:
 - Air-conditioning systems with required equipment, water and refrigerant piping and ducts;
 - Exhaust and supply ventilating systems with steam connections and piping; and
 - Air quantities for all room supply and exhaust ventilating duct openings.
 2. Plumbing, drainage, and standpipe systems, including:
 - Size and elevation of street sewer, house sewer, house drains, street water main, and water service into the building;
 - Locations and size of soil, waste, and vent stacks with connections to house drains, clean outs, fixtures, and equipment;
 - Size and location of hot, cold, and circulating mains, branches and risers from the service entrance and tanks;
 - Riser diagram to show all plumbing stacks with vents, water risers, and fixture connections;
 - Gas, oxygen, and special connections; and
 - Plumbing fixtures and equipment that require water and drain connections;
 3. Elevators and dumbwaiters: Details and dimensions of shaft, pit, and machine room; sizes of car platform and doors;
 4. Kitchens, laundry, refrigeration, and laboratories: These shall be detailed at a satisfactory scale to show the location, size, and connection of all fixed equipment.
- (e) Step (5) – Electrical Drawings:
1. Drawings shall show electrical wiring, outlets, smoke detectors, and equipment that require electrical connections;
 2. Electrical service entrances with switches and feeder to the public service feeders shall be shown;
 3. Plan and diagram showing main switchboard, power panels, light panels, and

- equipment;
 - 4. Light outlets, receptacles, switches, power outlets, and circuits;
 - 5. Fire alarm system with stations, signal devices, control board, and wiring diagrams; and
 - 6. Emergency electrical system with outlets, transfer switch, source of supply, feeders, and circuits.
- (f) Step (6) – Specifications: Specifications shall supplement the drawings to fully describe types, sizes, capacities, workmanship, finishes, and other characteristics of all materials and equipment, and shall include the following:
- 1. Cover or title sheet;
 - 2. Index;
 - 3. General conditions;
 - 4. General requirements; and
 - 5. Sections describing material and workmanship in detail for each class of work.

1000 INSPECTIONS AND ENFORCEMENT

1000.1 The following actions and remedies may be taken by DPSQA pursuant to the authority conferred by Ark. Code Ann. §20-48-101 *et seq.*, and Ark. Code Ann. §25-10-129.

1000.2 DPSQA may initiate a referral to the Medicaid Audit division or the Office of Medicaid Inspector General (OMIG) if, in the course of any review or inspection, they identify instances of non-compliance with Medicaid billing. The results of a Medicaid Audit alone may result in DHS imposing enforcement remedies on a Provider.

1001 INSPECTIONS

1001.1 The EIDT shall submit to regular and unannounced inspection surveys and complaint investigations in order to receive or maintain a license. An inspection may occur at any time, in the discretion of DHS, DDS, DPSQA, or the Attorney General.

- (a) DHS, DDS, DPSQA, or the Attorney General have the right to conduct interviews in a private area with the beneficiary, the beneficiary's legal guardian(s), or employees who consent to interviews and shall be permitted to photograph the EIDT.
- (b) The EIDT shall inform the beneficiary and the beneficiary's legal guardian(s) of the survey process and the beneficiary's rights with regard to privacy during the process. The beneficiary, beneficiary's legal guardian(s), or employees may refuse to be interviewed or photographed.
- (c) This standard shall not be construed as a waiver of any constitutional rights, including but not limited to the right against self-incrimination.

1001.2 All areas of the EIDT that are accessible to beneficiaries or are used in the care or support of beneficiaries, including but not limited to kitchen or food preparation areas, laundry areas, and storage areas shall be open for inspection by DHS, DDS, DPSQA, or the Attorney General.

- (a) This shall include access to all beneficiary records, including but not limited to beneficiary's and beneficiary's legal guardian(s)' financial and medical records maintained by the EIDT.
- (b) All EIDT records related to the care or protection of beneficiaries, including related employee records shall be open for inspection by DHS, DDS, DPSQA or the Attorney

General for the purpose of enforcing these regulations and applicable laws.

- (c) The EIDT shall provide access to any copying equipment the EIDT has on premises to permit the above-named entities the ability to make copies of EIDT records. This shall not be construed as a requirement that an EIDT be required to have copy equipment on its premises.

1001.3 The EIDT shall provide for the maintenance and submission of such billing, records, or reports related to the beneficiary's care in such form and at such time and in such manner as DHS, DDS, DPSQA, or the Attorney General may require.

1001.4 When areas of noncompliance with these Standards are noted during an inspection by DPSQA, DPSQA will provide the EIDT with a "Statement of Deficiencies" that details those areas of non-compliance.

1001.5 The EIDT must post the Statement of Deficiencies and the EIDT's response and the outcome of the response from the latest survey in a public area utilized by beneficiaries and their legal guardian(s). The last twelve (12) months of deficiency notices and EIDT responses and outcomes of responses, for all surveys shall be provided beneficiaries or their legal guardian(s), upon request.

1002 PLAN OF CORRECTION

1002.1 Regardless which other remedies are applied, or the nature or severity of the violation, each EIDT that has deficiencies with respect to program requirements must submit a plan of correction for approval by DPSQA.

1002.2 The Plan of Correction shall be set forth on the Statement of Deficiencies. While an EIDT may provide a disclaimer in the plan of correction, the EIDT is still required to provide corrective actions to address the cited deficiencies, the time frames in which the corrective actions will be completed, and the manner to be utilized by the EIDT to monitor the effectiveness of the corrective action.

1002.3 EIDTs must provide an acceptable written plan of correction within fifteen (15) working days of receipt of written notification of deficiencies (also referred to as a Statement of Deficiencies) found during routine inspections or surveys, special visits or complaint investigations. DPSQA shall determine whether the proposed plan of correction, including any proposed dates by which correction will be made, is acceptable.

1002.4 Failure by the EIDT to provide an acceptable plan of correction may result in the imposition of additional remedies pursuant to these Standards at the discretion of DPSQA.

1003 IMPOSITION OF REMEDIES

Noncompliance may occur for a variety of reasons and can result in harm to beneficiaries or put beneficiaries at risk for harm. When EIDT providers do not maintain substantial compliance, DHS may use various enforcement remedies to encourage prompt compliance. The purpose of these State remedies is to promote the initiative and responsibility of providers to continuously monitor their performance and promptly achieve, sustain, and maintain compliance with all DHS licensure requirements.

This guidance does not apply to past noncompliance. However, the determination to impose State remedies for past noncompliance is at the discretion of DPSQA.

1003.1 Temporary Administration

- (a) This is the temporary appointment of a substitute EIDT director, manager, or administrator with authority to hire, terminate, or reassign staff, obligate EIDT funds,

alter EIDT procedures, and manage the EIDT to correct deficiencies identified in the EIDT's operation. A temporary manager may be imposed anytime an EIDT is not in substantial compliance but must be imposed when an EIDT deficiencies constitute widespread actual harm to beneficiaries and a decision is made to impose an alternative remedy to termination. It is the temporary manager's responsibility to oversee correction of the deficiencies and assure the health and safety of the beneficiaries while the corrections are being made. A temporary manager remedy may also be imposed to oversee orderly closure of an EIDT. The State will select the temporary manager when the State Medicaid Agency is imposing the remedy. Each EIDT should compile a list of individuals who are eligible to serve as temporary managers. These individuals do not have to be located in the State where the EIDT is located.

- (b) A temporary Director may be appointed by DPSQA only upon the consent and agreement of the EIDT.
- (c) The temporary Director shall provide reports to DPSQA regarding the operation of the EIDT and the efforts toward correction of deficiencies, as requested by DPSQA.
- (d) The temporary Director must:
 - 1. Be qualified to oversee correction of deficiencies on the basis of experience and education, as determined by DPSQA;
 - 2. Not have been found guilty of misconduct by any licensing board or professional society in any state;
 - 3. Have no financial ownership interest in the EIDT (this includes a member of his or her immediate family);
 - 4. Not currently serve or, within the past 2 years, have served, unless approval has been obtained from DPSQA, as a member of the staff of the EIDT; and
 - 5. Successfully undergo a criminal record check pursuant to these Standards.
- (e) The temporary Director's salary:
 - 1. Will be paid directly by the EIDT while the temporary Director is assigned to that EIDT; and
 - 2. Must be at least equivalent to the sum of the following:
 - The prevailing salary paid by EIDT providers for positions of this type in what DPSQA considers the EIDT's geographic area;
 - Additional costs that would have reasonably been incurred by the EIDT if such person had been in an employment relationship; and
 - Any other costs incurred by such a person in furnishing services under such an arrangement or as otherwise set by DPSQA.
 - May exceed the amount specified above if DPSQA is otherwise unable to attract a qualified temporary Director.
- (f) The remedy of temporary Director shall be used in only lieu of termination of the EIDT license. Provided, however, that if the appointment of the temporary Director does not result in compliance by the EIDT within the timeframes estimated by the temporary Director and agreed to by DPSQA, the remedy of termination of license may be imposed.
- (g) If an EIDT fails to relinquish authority to the temporary Director, DPSQA may impose additional remedies, including but not limited to termination of the EIDT's license.
- (h) An EIDT's failure to pay the salary of the temporary Director is considered a failure to relinquish authority to temporary administration.

1003.2 State Monitoring

A State monitor oversees the correction of cited deficiencies in the EIDT as a safeguard against further harm to beneficiaries when harm or a situation with a potential for harm has occurred. The state will consider imposing this remedy when, for example, there are concerns that the situation in the EIDT has the potential to worsen or the EIDT seems unable or unwilling to take corrective action. A State monitor must be used when an EIDT has been cited with quality of care deficiencies on the last three (3) consecutive standard (annual) or follow up health surveys.

- (a) A State Monitor may be utilized by DPSQA for any level or severity of deficiency.
- (b) The State Monitor must:
 - 1. Be an employee or a contractor of DPSQA;
 - 2. Be identified by DPSQA as an appropriate professional to monitor cited deficiencies;
 - 3. Not be an employee or contractor of the EIDT;
 - 4. Not have an immediate family member who is a beneficiary of the EIDT to be monitored; and
 - 5. Not have an immediate family member who owns the EIDT or who works in the EIDT or a corporation that operates or owns the EIDT.
- (c) The State Monitor oversees the correction of deficiencies specified by DPSQA at the EIDT and protects the EIDT's beneficiaries from harm.

1003.3 Directed Plan of Correction

This remedy provides for directed action(s) from the State that the EIDT must take to address the noncompliance or a directed process for the EIDT to more fully address the root cause(s) of noncompliance. Achieving compliance is ultimately the EIDT's responsibility, whether or not a directed plan of correction is followed.

- (a) DPSQA, or the temporary Director with DPSQA approval, may develop a directed plan of correction. The intent of the directed plan of correction is to achieve correction of identified deficiencies and compliance with applicable laws.
- (b) A directed plan of correction sets forth the tasks to be undertaken and the manner in which the tasks are to be performed by the EIDT to correct deficiencies, as well as the timeframe in which the tasks will be performed.
- (c) An EIDT's failure to comply with a directed plan of correction may result in additional remedies, including revocation of license.

1003.4 Directed In-Service Training

The State will consider this remedy in cases where the EIDT has deficiencies where there are knowledge gaps in standards of practice, staff competencies or the minimum requirements of participation and where education is likely to correct the noncompliance. Depending on the topic(s) that need to be addressed and the level of training needed, EIDTs should consider using programs developed by well-established centers of programs in regard to their licensure e.g. health services such as schools of medicine or nursing, centers for the developmentally disabled and area health education centers which have established programs in children with fragile medical conditions, etc. If it is willing and able, the State may provide special consultative services for obtaining this type of training. They may also compile a list of resources that can provide directed in-service training and could make this list available to providers and interested

organizations. EIDTs may also utilize the ombudsman program, if applicable, to provide training about beneficiary's rights and quality of life issues.

- (a) DPSQA may require the staff of an EIDT to attend an in-service training program, if education is likely to correct, or is likely to assist in correcting, cited deficiencies.
- (b) DPSQA may specify the timeframes in which the training must be performed, the type or nature of the training, and the individual or entities to provide the training.
- (c) The EIDT must pay for the directed in-service training.
- (d) After the staff has received in-service training, if the EIDT has not corrected the violations or deficiencies that led to the directed in-service, DPSQA may impose one or more other remedies.

1003.5 Transfer

- (a) DPSQA has the authority to transfer beneficiaries to another EIDT when:
 - 1. An emergency exists where the health, safety, or welfare of beneficiaries are imperiled, and no other remedy exists that would ensure the continued health, safety, or welfare of the beneficiaries at the EIDT; or
 - 2. An EIDT intends to close but has not arranged for the orderly transfer of its beneficiaries at least thirty (30) days prior to closure.
- (b) When DPSQA orders transfer of beneficiaries from an EIDT, DPSQA may:
 - 1. Assist in providing for the orderly transfer to other suitable EIDTs or make other provisions for the beneficiaries' care and safety; and
 - 2. Assist in locating alternative EIDT and services for each beneficiary.
- (c) Unless transfer is due to an emergency, DPSQA shall provide the EIDT from which the beneficiaries are to be transferred at least fifteen (15) days' notice of the proposed transfer.

1003.6 Denial or Suspension of New Enrollments

This remedy may be imposed alone or in combination with other remedies to encourage quick compliance. Regardless of any other remedies that may be imposed, a mandatory denial of payment for new admissions must be imposed when the EIDT is not in substantial compliance as identified in the most recent statement of deficiency.

1003.7 Termination of License

While this remedy may be imposed any time the circumstances warrant regardless of whether a quality of care issue in regard to the health safety and welfare of the beneficiary is present; regardless of any other remedies that may be imposed, termination of an EIDT's license must be imposed when the EIDT is not in substantial compliance six (6) months after the last day of the survey identifying deficiencies or within no more than twenty-three (23) days if health, safety, and welfare is identified and not removed.

- (a) The remedy of termination of licensure is a remedy of last resort and may be imposed only as set forth below.
- (b) DPSQA may terminate an EIDT's license when the EIDT:
 - 1. Permits, aids or abets in the commission of any unlawful act in connection with the operation of the EIDT;
 - 2. Refuses to allow entry or inspection by DPSQA;
 - 3. Fails to make any or all records available to representatives or agents of DHS,

DDS, DPSQA, or the Attorney General, unless such refusal is made pursuant to court order or during the pendency of an appeal specifically on the issue of the release of the records, or the records are records created by the quality assessment unit;

4. Closes, either voluntarily or through action of the State;
 5. The Director, or owner refuses to obtain a criminal record check of any individual required to undergo a criminal record check pursuant to these regulations in Sections 506.2(c) and (o), 506.3, 507.6(c), 507.7(a), and 1003.1(d)(5) and DDS Policy 1087.
 6. Has conditions wherein the health, safety, or welfare of the beneficiary are imperiled, and no other remedy exists that would ensure the continued health, safety, or welfare of the beneficiary.
- (c) When an EIDT's license is terminated, DPSQA may assist in the safe and orderly transfer of all beneficiaries to another EIDT.
- (d) An EIDT who's license is terminated will have to wait a minimum of three (3) years before applying for licensure again.

1003.8 Fines

- (a) DPSQA may impose monetary penalties not to exceed \$500 for each violation of licensure rules in accordance with the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-217. or other changes in statutory requirements.

1004 NOTICE REQUIREMENTS

1004.1 Except in cases of emergency termination of a license or in cases or emergency removal or transfer or the beneficiary, DPSQA shall give the provider notice of the remedy, including:

- (a) Nature of the deficiency and facts supporting the deficiency determination;
- (b) Remedy or remedies imposed;
- (c) Date the remedy begins; and
- (d) Right to appeal the deficiency determination.

1004.2 When DPSQA imposes remedies in the situation of an emergency, DPSQA will follow the notice and hearing requirements set forth in the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-211(c).

1004.3 Notice shall not be required for state monitoring.

1005 DURATION OF REMEDIES

1005.1 Unless otherwise provided by law or other applicable regulations, remedies continue until:

- (a) The EIDT has corrected the deficiencies that resulted in the imposition of the remedy or remedies, as determined by DPSQA based upon a revisit, or after an examination of credible written evidence that it can verify without an on-site visit, or both; or,
- (b) DPSQA terminates the EIDT license.

1006 CLOSURE

1006.1 Closure of an EIDT shall result in the immediate revocation of the license. An EIDT that closes shall:

- (a) Notify each beneficiary it serves and the guardians of each beneficiary at least (30) days before the closure;
- (b) Provide each beneficiary it serves and the guardians of each beneficiary with referrals to at least (3) other appropriate service providers, if available; and
- (c) Facilitate transfer of the service records of each beneficiary to the new providers, if applicable.

1006.2 An EIDT that closes or is unable to operate due to natural disaster or similar circumstances beyond the control of the owner of the EIDT, or an EIDT that closes, regardless of the reason, to effectuate repairs or renovations, may make written request to DPSQA for renewal of the EIDT license to take effect after completion of the repairs or renovation to the EIDT. DPSQA may, in its sole discretion, grant the written request.

1006.3 Any EIDT that closes or ceases operation or surrenders or fails to timely renew its license must meet the Standards then in effect for new construction and licensure to be eligible for future licensure.

1006.4 If the request for re-licensure is granted, DPSQA will provide written notification to the EIDT, which will include deadlines for various stages of the repairs or renovations, including the completion date. In no event shall the completion date set by DPSQA extend beyond twenty-four months of the date of the request; provided, however, that the deadlines may be extended by DPSQA upon good cause shown by the EIDT.

- (a) For purposes of this regulation, “good cause” means natural disasters or similar circumstances, such as extended inclement weather that prevents repairs or construction within the established deadlines, beyond the control of EIDT.
- (b) Good cause shall not include the unwillingness or inability of EIDT to secure financing for the renovations or repairs.

1006.5 The EIDT shall comply with all deadlines established by DPSQA in its notice. Failure to comply with the deadlines established by DPSQA shall constitute grounds for revocation of the license, and for denial of re-licensure.

1100 APPEALS TO COURT

Any applicant or licensee who considers himself/herself injured in his or her person, business or property by a final Department administrative adjudication shall be entitled to judicial review thereof as provided for by law. All petitions for judicial review shall be in accordance with the Arkansas Administrative Procedure Act as codified at Ark. Code Ann. § 25-15-201 *et seq.*

PROPOSED

APPENDIX A

EIDT Application for Licensure

PROPOSED

**ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF PROVIDER SERVICES AND QUALITY ASSURANCE**

APPLICATION FOR LICENSE TO CONDUCT AN
EARLY INTERVENTION DAY TREATMENT CENTER
OR ADULT DEVELOPMENTAL DAY TREATMENT CENTER

For State Use Only:

☐ Original

☐ Renewal

License Issued for _____
Year

_____/_____/_____
Month Day Year

License Number _____ Vendor No. _____ No. Licensed For _____

License Granted Effective _____ License Denied _____

Executive Director, _____

I. Name and Location

The undersigned hereby make application for a license to operate ☐ Early Intervention Day Treatment center
☐ Adult Day Treatment Center
☐ Academic Medical Center
☐ EIDT/ADDT Transportation

Name of Center _____

Address of Center _____
Street City or Town

County State Zip Code Telephone # Fax #

Email address: _____

Mailing Address if different from above _____

II. Management and Ownership

A. The Operation or management of the center is vested in the following:

(1) ☐ _____ (2) Private ☐ (3) Non-Profit ☐

B. If public center, list individual who heads the governmental department having jurisdiction over the center and members of the Governing Board:

Name	Address
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

C. If privately owned, list Ownership status

(1) ☐ Sole Proprietorship

(2) ☐ Partnership

(3) ☐ Corporation

Partnership: List names and addresses of partner(s)

Name	Address
_____	_____
_____	_____
_____	_____

Corporation: List names and addresses of corporate officers and percentage of individuals owning 5% or more stock (List % of ownership by the individual's names)

Name	Address
_____	_____
_____	_____
_____	_____

Non-Profit: List names and addresses of Board of Directors of the Governing Body

Name	Address
_____	_____
_____	_____
_____	_____

D. If ownership of building is different from the person(s) or group operating the center, explain the relationship including names and addresses of the owner(s).

Name	Address
_____	_____
_____	_____
_____	_____

II. Licensure

A. Number of slots _____ (Total)

B. If above total is different from that which you are currently licensed, explain the difference

C. Name and address of center Director

Name

Address

State

Telephone #

III. Certification and Verification

State of _____ County of _____

I hereby certify that I have read the aforementioned Application and that all statements are true to the best of my knowledge and belief. I am aware that any willful misrepresentation of any material fact contained on the Application will subject me to penalties as prescribed in the State Licensing Law including, but limited to revocation and/or suspension of this license.

I further affirm that I understand that I am eligible for a license only if the center is in compliance with the law and regulations thereunder, and that the Division of Provider Services and Quality Assurance is empowered to deny, suspend, or revoke my license on any of the grounds listed in the State Licensing Law.

Signature of person(s) authorized to sign in
accordance with instruction II. C

Subscribed and sworn to before me on this the _____ day of _____,

Notary Public

(Notary Seal)

My Commission expires on _____

MINIMUM LICENSURE STANDARDS
FOR ADULT DEVELOPMENTAL DAY TREATMENT CENTERS

ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF PROVIDER SERVICES AND QUALITY ASSURANCE
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES

DRAFT

EFFECTIVE October 1, 2019

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100 AUTHORITY

- 100.1 These Minimum Licensing Standards are promulgated under the authority of the Arkansas Intellectual Disabilities Act, codified at Ark. Code Ann. § 20-48-201 et seq.

The Department of Human Services (DHS) was created and is operated under an integrated service system model consisting of several programmatic divisions with responsibilities and programs assigned to them as determined by the DHS Director. Ark. Code Ann. § 25-10-102(a). Under Act 913 of 2017, the Division of Provider Services and Quality Assurance (DPSQA) was created and, under the statutory authority vested in the DHS Director, those duties involving programmatic provider licensure and certification functions of various DHS Divisions were transferred to DPSQA. Ark. Code Ann. §§ 25-10-102(a)(9) and 25-10-102(c)(1)(B). With the Director's reorganization, staff positions formerly with the various program divisions were transferred to DPSQA in order to centralize all licensure, certification, surveying, and monitoring functions within DHS.

This effort followed a comprehensive review of the divisional roles and assignments that separated the daily administration of the public assistance programs from the functions of provider certification and licensure. The review revealed inefficiencies and duplications of effort that were determined to add unnecessary burdens to beneficiaries, providers, and department staff. DPSQA is tasked with working as the agent of the Division of Developmental Disabilities Services (DDS) for the purpose of accomplishing the objectives of the program referenced in this rule. Funding for the programs will remain in the DDS budget, but licensure and certification responsibilities will be accomplished by DPSQA subject to this rule and through the spending authority granted to DPSQA, which provides:

The Division of Provider Services and Quality Assurance of the Department of Human Services is authorized to use funds appropriated for the certification or licensure of an entity on behalf of any division of the Department of Human Services. Any entity holding a certification or license funded through an appropriation for the Division of Provider Services and Quality Assurance of the Department of Human Services shall hold its certification or license under the authority of the relevant division of the Department of Human Services. All laws that apply to a certified or licensed entity by a relevant division of the Department of Human Services shall apply to an entity certified or licensed by the Division of Provider Services and Quality Assurance on behalf of a relevant division of the Department of Human Services.

101 SCOPE

- 101.1 These Minimum Licensure Regulations constitute the basis for the licensure of Adult Developmental Day Treatment (ADDT) Services by DHS, DPSQA, and DDS. DPSQA and DDS reserve the right, and may at any time, waive any or all of the requirements herein in event of emergency or for good cause shown in the determination of DPSQA and DDS.
- 101.2 Centers licensed as an ADDT before the implementation of these regulations shall be grandfathered in. Centers licensed after the implementation of these regulations or those licensed centers that have closed and want to be re-licensed shall fall under new construction guidelines and shall follow these regulations as listed in Section 900 et seq.

200 PURPOSE

These regulations serve as the minimum requirements for ADDT licensure and ensure that beneficiaries with the highest needs can access person-centered services and maintain their individuality and independence in centers designed to meet their unique needs.

300 DEFINITIONS

As used in these rules and regulations, the following definitions shall apply unless the context clearly states otherwise. Where these rules and regulations refer to an enactment of the General Assembly, such reference shall include subsequent enactment or amendments by the General Assembly on the same subject matter.

Abuse – Includes:

- (A) Any purposeful and unnecessary physical act that inflicts pain on or causes injury to a beneficiary;
- (B) Any purposeful or demeaning act that a reasonable person would believe subjects a beneficiary, regardless of age, ability to comprehend, or disability, to ridicule or psychological injury in a manner likely to provoke fear or alarm;
- (C) Any purposeful threat that a reasonable person would find credible and nonfrivolous to inflict pain on or cause injury to a beneficiary except in the course of medical treatment or for justifiable cause; or
- (D) With regard to any beneficiary, any purposeful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish.

Adult Developmental Day Treatment center (ADDT)– A day treatment program/center serving adults. ADDT services include habilitative services in areas of cognition, communication, social/emotional, motor, and adaptive, or to reinforce skills learned and practiced in occupational, physical or speech therapy. ADDT center means a center in which ADDT services are provided either directly or through contractual arrangements.

Adult Developmental Day Treatment (ADDT) license – A time-limited, non-transferable, permit issued for a maximum period of twelve (12) months to a licensee who complies with DPSQA Minimum Licensure Standards. Renewal is contingent upon completion of at least one (1) successful inspection by DPSQA during the previous calendar year (*see* Sections 400-407).

Annual – A twelve-month period preceding the last required action. Unless a certain date is specified in the law or regulation requiring the action, the action may be taken any time during the month in which it is due. Actions which are required to be taken every five (5) years may be taken any time during the month in which they are due.

Beneficiary – Any individual receiving services from an ADDT.

Care Plan – Documentation of a beneficiary's medical or long-term care services. Examples include but are not limited to direct care services, health care services, individualized program, and person-centered service plans.

Choice – Options available to a beneficiary that enable the beneficiary to exercise greater control over his or her life. Choice is supported by beneficiary's self-directed care, including methods and scheduling, established through the Individual Program Plan (IPP), and the provision of sufficient private and common space within the ADDT to provide opportunities for beneficiaries to select when and how to spend time for breaks at the ADDT, and when and how to receive personal or ADDT services. (*See* Section 504.6).

Corporal punishment – The application of painful stimuli to the body in an attempt to terminate behavior or as a penalty for behavior.

Deficiency – An ADDT's failure to meet program participation requirements as defined in these and other applicable regulations and laws.

Direct Care Staff – Any licensed, certified staff or non-certified staff acting on behalf of, employed by, or contracted by the ADDT, to provide services and who provides direct care services or assistance to beneficiaries and who are responsible for implementing an individual program plan (IPP) and providing day-to-day direct services in accordance with the IPP and state and federal regulations.

Direct Contact – The ability or opportunity of employees of the ADDT, or individuals with whom the ADDT contracts, to physically interact with or be in the presence of a beneficiary.

Director – The individual or entity that conducts the business of the ADDT. The individual or individuals executing the licensure application form shall be deemed a director.

Discharge – When a beneficiary leaves the ADDT, and it is not anticipated that the beneficiary will return. A discharge occurs when a return to the ADDT by the beneficiary requires that admission procedures set forth in these regulations be followed.

Division of Provider Services and Quality Assurance – The Division within the Department of Human Services that has responsibility for the licensure, certification, and regulation, of Adult Developmental Day Treatment Providers, herein referred to as DPSQA.

Elopement – Circumstances where a beneficiary has left an ADDT without staff knowledge. ADDTs must comply with all reporting requirements of any special programs in which they participate.

Emergency Measures – Those measures necessary to respond to a serious situation that threatens the health and safety of a beneficiary.

Habilitative Services – Instruction in areas of cognition, communication, social/emotional, motor, and adaptive; or to reinforce skills learned and practiced in occupational, physical or speech therapy. These services must be based on the goals and objectives of the beneficiary's Individual Program Plan (IPP).

Imminent Danger to Health or Safety – A situation in which death or serious bodily injury could reasonably be expected to occur without intervention.

Independence – The maintenance and promotions of the beneficiary's capabilities to enhance the beneficiary's preferences and choices within a barrier-free environment.

Individual Program Plan (IPP) - A written, individualized plan to improve the beneficiary's condition. The IPP must contain a written description of the treatment objectives for the beneficiary and be beneficiary specific.

Licensee – Any person, firm, corporation, governmental agency or other legal entity, issued an ADDT license, and who is responsible for maintaining compliance with approved standards.

Mechanical restraint – Any physical apparatus or equipment that cannot be easily removed by the beneficiary, restricts the free movement or normal functioning of the beneficiary, or restricts normal access to a portion or portions of the beneficiary's body.

Medication Administration – Service provided only by licensed medical staff, either directly or through contract, and in accordance with the Nurse Practice Act and interpretations of the Arkansas State Board of Nursing.

Medication Assistance and Monitoring – Services provided by the ADDT, either directly or through contract, in accordance with the Nurse Practice Act and interpretations by the Arkansas State Board of Nursing, designed to ensure that beneficiaries receive necessary or prescribed medication, and to prevent waste, abuse or fraud of medications.

Medication Management Plan – The plan created by appropriate ADDT staff that details how and when needed medication will be administered to beneficiaries.

Mental Abuse – Verbal, written, or gestured communications directly to a beneficiary or about a beneficiary within the beneficiary's presence, or in a public forum, that a reasonable person finds to be a material endangerment to the mental health of a beneficiary.

Misappropriation of Property – The deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of a beneficiary's belongings or money without the beneficiary's consent or when consent is obtained through coercion or threat.

National Criminal History Check - A nationwide criminal record check conducted by the Federal Bureau of Investigation that conforms to the applicable federal standards and includes the taking of fingerprints. Application for a nationwide criminal check shall be made to the Identification Bureau of the Department of the Arkansas State Police.

Neglect – Includes:

(A) An act or omission by beneficiary, for example, self-neglect; or

(B) An act or omission by ADDT staff constituting:

- (i) Negligently failing to provide necessary treatment, rehabilitation, care, food, clothing, shelter, supervision, or medical services to a beneficiary;
- (ii) Negligently failing to report health problems or changes in health problems or changes in the health condition of a beneficiary to the appropriate medical personnel; or
- (iii) Negligently failing to carry out a treatment plan developed or implemented by the ADDT; or
- (iv) Negligently failing to provide goods or services to a beneficiary necessary to avoid physical harm, mental anguish, or mental illness.

New Enrollment – A beneficiary who is being enrolled in the ADDT program for the first time, or who is returning after a formal discharge.

Non-Compliance – Any violation of these regulations, or of applicable law or regulations.

Nurse Practice Act – As used in these regulations, the term Nurse Practice Act refers to Ark. Code Ann. §17-87-101 et seq. and interpretations thereto by the Arkansas State Board of Nursing.

Nursing Services – Acts that may be performed by licensed personnel while carrying out their professional duties in an ADDT as defined by and in accordance with the Arkansas State Board of Nursing.

Optional Services – A service that is not included in the basic core services of the beneficiary's enrollment agreement. Optional services available through ADDT include occupational, physical and

speech therapy, nursing services and nursing evaluation as an essential component of the Individual Program Plan (IPP) for an individual accepted for ADDT services.

Person – An individual, partnership, association, corporation, or other entity.

Personnel/Staff/Employee – Any person who, under the direction, control, or supervision of ADDT administration, provides services as defined in these regulations for compensation, or who provides services voluntarily, and may include the owner, Director, professional, management and persons, firms, or entities providing services pursuant to a contract or agreement.

Plan of Correction – A plan developed by the ADDT that describes the actions the ADDT will take to correct deficiencies and specifies the date by which those deficiencies will be corrected.

Provisional Licensure – A temporary grant of authority to the purchaser to operate an existing ADDT upon application for licensure to the DPSQA.

Separate Premises – Buildings of ADDT operations that are located on non-contiguous land.

Serious Bodily Injury – Bodily injury that involves substantial risk of death, extreme physical pain, protracted or permanent obvious disfigurement, or protracted or permanent loss or impairment of the function of a bodily member, organ, or mental faculty. Examples include but are not limited to fractures, burns, other injuries that may result in hospitalization.

Significant Medication Error – Any instance in which a beneficiary receives an incorrect drug, dose, form, quantity, route, concentration, or rate of administration that results, or has the potential to result, in life-threatening or permanent adverse consequences.

Solicitation - An attempt to unduly influence a beneficiary served by an ADDT or program component to transfer from one program to another program.

Standard Survey - A comprehensive survey or complaint investigation conducted by DPSQA for the purpose of ensuring program quality and compliance with these standards and the ADDT Provider Medicaid manual, as well as any other applicable state or federal law referenced herein. The survey and/or complaint investigation will be conducted randomly and unannounced for each ADDT.

State Criminal History Check - A statewide criminal record check conducted by the Identification Bureau of the Arkansas State Police.

Substandard Quality of Care – One or more deficiencies related to participation requirements, as set forth in these or other applicable regulations or laws, that constitute either immediate jeopardy to a beneficiary's health or safety; a pattern of, or widespread actual harm, that is not immediate jeopardy; or a widespread potential for more than minimal harm, but less than immediate jeopardy, with no actual harm.

Survey – The process of inspection, interviews, or record reviews, conducted by DPSQA.

Therapeutic Diet – A diet ordered by a physician or an advance practice nurse or a licensed dietician, as allowed by their respective licenses to manage problematic health conditions.

Unauthorized Use of Restrictive Interventions – Utilization of restrictive interventions, such as restraint and seclusion, when it is not allowed or before all other less intrusive methods are exhausted.

Universal Precautions – Set of guidelines, or precautions, designed to prevent transmission of infectious agents, including blood-borne pathogens, when providing health care, and which assume that all human blood and body fluids are treated as if known to be infectious.

Unnatural Death – The permanent suspension of consciousness and the end of life due to unnatural causes, such as medical error or complications, accident, criminal activity, suicide, or natural disaster.

Verbal Abuse – The infliction of disparaging and angry outbursts that demean or could reasonably be expected to cause shame, ridicule, humiliation, or emotional distress. Examples include, but are not limited to, name calling, blaming, threatening, making derogatory comments.

400 LICENSURE

- 400.1 No ADDT may be established, conducted, or maintained in Arkansas without first obtaining an Adult Developmental Day Treatment license from DPSQA.
- 400.2 All licenses issued hereunder, and the slots on the license, are non-transferable from one owner or proprietor to another, or from one site or location to another.
- 400.3 No license shall be issued without proof of an application and site review.
- 400.4 Providers in Arkansas and the six (6) bordering states (Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas) within fifty (50) miles of the state line may be enrolled as an ADDT provider if they meet all Arkansas Medicaid participation and Licensure standards.

401 LICENSING INFORMATION

- 401.1 Licenses to operate an Adult Developmental Day Treatment center are issued to be effective beginning July 1 of the state fiscal year and shall expire on June 30 of the state fiscal year in which they are issued. ADDTs that are currently licensed at the effective date of these regulations shall be grandfathered as an ADDT provider until the next licensure period.
- 401.2 All licenses issued under these Minimum Licensure Standards shall be issued only for the premises and persons specified in the application and shall be nontransferable.
- 401.3 Licenses shall be posted in a conspicuous place on the licensed premises.
- 401.4 Separate licenses and certifications are required for ADDTs maintained on separate premises, even though they are operated under the same management. Multiple licenses for multiple operations housed in separate buildings on contiguous land will be considered and treated under these regulations as separate ADDTs, and each licensed operation must conform to the requirements of these regulations independent of the other licensed operations housed in other buildings on contiguous land.
- 401.5 Every ADDT owner shall designate a distinctive name for the ADDT, which shall be included on the application for a license. The name of the ADDT shall not be changed without prior written notification to DPSQA. The written notification shall be signed by the Director of the ADDT.

402 INITIAL LICENSURE

402.1 Initial licensure shall apply to:

- (a) Newly constructed structures designed to operate as an ADDT; and
- (b) Existing structures not already licensed as an ADDT on the effective date of these regulations.

402.2 No new ADDT may be constructed or opened without first obtaining a Determination of Underserved Status for Exemption of Services (see Section 404.10). No new ADDT may be constructed or opened without first meeting the Minimum Licensure Standards set out below and obtaining a license from DPSQA.

402.3 The initial licensure application for new construction shall be accompanied by one (1) set of building plans.

403 COMPLIANCE

403.1 An initial license will not be issued until DPSQA verifies that the ADDT is in compliance with the licensing standards set forth in these regulations. The ADDT shall abide by all federal and state laws applicable to the operation of its business, including, but not limited to:

- (a) Health Insurance Portability and Accountability Act (HIPAA)
- (b) Americans with Disabilities Act (ADA)
- (c) Federal Privacy Act
- (d) Developmental Disabilities Assistance & Bill of Rights Act

403.2 An initial license will be effective on the date specified by DPSQA. The license will expire on June 30 of the fiscal year in which it was issued.

404 APPLICATION, EXPIRATION, AND RENEWAL OF LICENSE

404.1 Applicants for licensure or renewal of ADDT licensure shall submit all necessary forms for initial or renewal licensure or to request re-licensure of the ADDT after a change of ownership (see Section 404.6 and Section 405) to DPSQA. DPSQA's acceptance of the application packet shall not be construed to be a guarantee that the application is complete or that DPSQA will issue a license.

404.2 The ADDT shall not admit beneficiaries until a license to operate an ADDT has been issued.

404.3 Annual renewal is required for all ADDT licenses. Licenses are effective beginning July 1 of the state fiscal year and shall expire on June 30 of the state fiscal year in which they are issued. In the event that an ADDT's license is not renewed by June 30, the license for the ADDT will be considered expired.

404.4 Applications for annual license renewal shall be delivered or, if mailed, postmarked, to DPSQA no later than March 31 of the fiscal year in which the current license was issued.

404.5 A license will not be approved (initial or renewal) if a provider is on the Medicaid Provider

Exclusion list.

404.6 An ADDT must notify DPSQA in writing of any contemplated change in ownership at least thirty (30) days prior to the effective date of the change in ownership. The proposed new ADDT ownership group must submit a new application request to be inspected, and meet the applicable standards and regulations, including but not limited to, life safety codes and AR Fire Prevention Codes at the time of inspection. The proposed new ADDT ownership group must be eligible to be licensed as an ADDT per Arkansas statute and licensing regulations. If the in change in ownership is ultimately approved by DPSQA, the new ADDT ownership group shall be responsible for implementation or performance of any remedy listed in Section 1003 imposed against the ADDT for violations or deficiencies that occurred prior to the effective date of the change in ownership. However, the new ADDT ownership group would not be responsible for any monetary penalties imposed for violations or deficiencies that occurred prior to the effective date of the change in ownership. The prior ADDT ownership group shall remain liable for all monetary penalties assessed against the ADDT for violations or deficiencies occurring prior to the effective date of the change in ownership or operational control. Failure to comply with the provisions of this section will result in the denial of licensure to the new owner.

404.7 The applicant/licensee must furnish the following information:

- (a) The identity of each person having (directly or indirectly) an ownership interest of five percent (5%) or more in the ADDT;
- (b) The complete name and address of the ADDT;
- (c) If the applicant/licensee is organized as a corporation, the identity of each officer and director of the corporation, together with a certificate of good standing from the Arkansas Secretary of State;
- (d) In case such ADDT is organized as a partnership, the identity of each partner and a copy of the partnership agreement, together with a certificate of good standing from the Arkansas Secretary of State;
- (e) An ADDT may choose to have a governing body or a board of directors. If the ADDT does so, the governing body must include at least one (1) ex officio member who is an individual with developmental disabilities or the parent/guardian of an individual with developmental disabilities. The ADDT must provide DPSQA with the names and credentials for each person who serves on its governing body annually; and
- (f) Evidence of the ability to comply with these minimum licensing standards.

404.8 Procedure for Licensure. The procedure for obtaining a license shall be:

- (a) The individual or applicant shall fully complete all forms for licensure and submit to DPSQA. As applicable and required by law or regulation, the individual or entity seeking licensure shall submit drawings or plans for the ADDT to DPSQA at the time of application.
- (b) DPSQA may elect, for any renewal application, to perform a survey prior to issuance of the license, and issuance of the license is contingent upon the ADDT being found in compliance with all program requirements.
- (c) The applicant must be eligible to be licensed per Arkansas Statute and licensing

requirements.

404.9 For applicants seeking initial ADDT licensure:

- (a) At the time of application submission to DPSQA, the applicant shall, in writing, request a life-safety code survey from DPSQA. DPSQA will conduct a life-safety code survey to determine compliance with applicable building code requirements.
- (b) Upon being informed that the ADDT meets the requirements for all applicable building codes and receiving licensure, the ADDT may enroll beneficiaries.
- (c) Upon admission of beneficiaries, the ADDT shall, in writing, request an initial survey. DPSQA will conduct an unannounced initial survey to determine compliance with applicable law and these regulations.

404.10 Sections 404.10 – 404.15 implement Ark. Code Ann. § 20-48-105, as amended by Act 1017 of 2013, and apply to all DPSQA staff charged with implementation of licensure requirements, and to DPSQA licensed community-based providers of nonresidential services to adults that are or could be covered under the Arkansas ADDT program.

This policy does not apply to the provision or regulation of services under the CES Waiver Program or to First Connections early intervention services delivered pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (“IDEA”), Public Law 108-446.

404.11 As used in sections 404.10 – 404.15, the following definitions apply:

- (a) Existing Provider:
 - 1. A DPSQA licensed nonprofit community program that offers nonresidential services to adults covered under the Arkansas ADDT program at an approved site within the county in question, or;
 - 2. A DPSQA licensed nonprofit community program that does not have an approved site in a county but provides developmental disabilities services covered under the Arkansas ADDT program to 20 or more adults who reside in that county.
 - 3. A nonprofit community program that was issued a DPSQA license on or before February 1, 2007, that does not operate an approved site but provides developmental disabilities services to adults.
- (b) Underserved: A county is underserved if:
 - 1. There is no DPSQA licensed provider operating a site offering adult development community-based, nonresidential services covered by the Arkansas ADDT program in the county.
 - 2. There is at least one site operated by a DPSQA licensed provider in the county, but a service covered under the ADDT program for adults is unavailable to an eligible adult recipient at an existing site in that county.
 - 3. There is at least one site operated by a DPSQA licensed provider in the county, but a parent, guardian, recipient, or prospective eligible adult who has exhausted the grievance mediation procedure set forth in section 404.13 of this policy remains dissatisfied and desires another choice of providers of ADDT covered adult services in that county.

404.12 Existing Provider Expansion: Existing providers of adult services having no approved site within the county may purchase, construct, or lease a site in the county subject to DPSQA site approval.

- (a) Approval shall be limited to:

1. Providers that serve at least 20 eligible, enrolled, and participating adults of that county that are covered under the Arkansas ADDT program.
2. Providers that were issued a license on or before February 1, 2007, but that do not currently operate an approved site for adult services. Such providers may open a site for the provision of adult services in the county where the nonprofit community program maintains its headquarters. If a provider subject to this provision has more than one headquarters, it must designate one county as housing the primary headquarters for purposes of this section.

404.13 Dissatisfied Parent, Guardian, Recipient, or Prospective Eligible Individual Grievance Mediation Procedure: If a parent, guardian, recipient, or prospective eligible adult individual provides DPSQA with a written statement of dissatisfaction with an eligible adult's current service provider, and asserts that other providers in the recipient adult's county of residence cannot meet his or her needs, DDS will schedule mediation between authorized representatives of the parties as soon as practicable but no later than 45 days from the date of receipt of the statement of dissatisfaction.

- (a) Every parent, guardian, or adult recipient will be provided notice by their chosen provider of available service options and grievance procedures, including DPSQA and DDS contact information regarding grievances in compliance with DPSQA licensure standards.
- (b) If DPSQA receives an allegation that the statement of dissatisfaction was solicited in violation of DPSQA licensure policy, DPSQA shall investigate the allegation. The individual or organization making the allegation shall provide DPSQA with all documents, supporting materials, and other relevant information which form the basis of the allegation within ten (10) business days.
- (c) If the mediation fails to resolve the grievance, and parent, guardian, recipient, or prospective eligible adult desires another choice of provider, DDS shall declare the county underserved as defined in section 404.11(b)(3) of this policy. DDS shall notify DPSQA of its determination of a county's underserved status.
- (d) The purpose of the mediation process is to provide a mechanism to resolve a legitimate grievance brought by a parent, guardian, adult recipient, or prospective eligible adult, and is subject to the following provisions:
 1. The grievance mediation procedure is intended to resolve disputes related to dissatisfaction with the quality or quantity of services provided or available.
 2. In the exercise of its discretion, if DPSQA determines that a statement of dissatisfaction is wholly unrelated to the quality or quantity of services provided or available, DPSQA may decline to schedule the mediation.
 3. In the exercise of its discretion, if DPSQA determines that a statement of dissatisfaction is wholly unrelated to the quality or quantity of services provided or available, DDS shall not declare the recipient's county of residence as underserved as defined in section 404.11(b)(3) of this policy.

404.14 General Provisions: DPSQA may authorize the expansion of the number of developmental disabilities service provider's sites for adult services in a specific county if DDS determines the county as underserved. Following such a determination, DPSQA will apply the following procedures:

- (a) DPSQA will send written notice that a county is underserved to all qualified nonprofit community programs for adult services as defined in Ark. Code Ann. §20-48-101(6)(A) that are existing providers in the underserved county. The notified providers shall have 30

days from receipt of notice to state in writing to DPSQA whether they wish to alter their operations to eliminate the reason or reasons the county is underserved.

- (b) Any provider stating an intention to alter its operations must accomplish the alteration within 90 days from the date it receives notification from DPSQA that the county is underserved.
- (c) The 90-day period may be extended by DPSQA if the provider demonstrates in writing to DPSQA that there is good cause for the delay. In no event shall an aggregate of 180 days be exceeded unless substantial progress has been made towards meeting site approval requirements. DPSQA shall consider the following: Whether a lease has been secured or construction commenced; whether staff has been recruited or hired for employment.
- (d) If no existing provider of a qualified nonprofit community program for adult services states an intention to alter its services, or if a provider expresses an intention to alter its services but fails to accomplish the alteration before deadlines stated above DPSQA shall proceed to the following step.
- (e) DPSQA shall send written notice that the county is underserved to all qualified nonprofit community programs providing adult services, as defined in Ark. Code Ann. §20-48-101(6)(A), having one or more approved sites within the State of Arkansas. The notified providers shall have 30 days from receipt of notice to state in writing to DPSQA whether they wish to expand operations to eliminate the reason or reasons that the county is underserved with regard to adult services.
 - 1. Any provider stating an intention to alter its operations must accomplish the alteration within 90 days from the date it receives notification from DPSQA that the county is underserved.
 - 2. The 90-day period may be extended by DPSQA if the provider demonstrates in writing to DPSQA that there is good cause for the delay. In no event shall an aggregate of 180 days be exceeded unless substantial progress has been made towards meeting site approval requirements. DPSQA shall consider the following: Whether a lease has been secured or construction commenced; whether staff has been recruited or hired for employment.
 - 3. If no existing provider of a qualified nonprofit community program states an intention to alter its services, or if a provider expresses an intention to alter its services but fails to accomplish the alteration before deadlines stated above DPSQA shall proceed to the following step.
- (f) DPSQA will publish notice to the general public in statewide print media that the agency is accepting applications from any accredited nonprofit entity, as defined in Ark. Code Ann. §20-48-101(1) (A), that provides adult services in the underserved county. Any such entity shall have 30 days from the date of publication to state in writing that it desires to obtain a license and offer the services in question.
 - 1. Any accredited nonprofit entity that states in writing an intention to begin providing adult services under this section shall have 90 days from the date it received notification from DPSQA to obtain a license from DPSQA and begin provision of the services in question.
 - 2. The 90-day period may be extended by DPSQA if the provider demonstrates in writing to DPSQA that there is good cause for the delay. In no event shall an aggregate of 180 days be exceeded unless substantial progress has been made towards meeting site approval requirements. DPSQA shall consider the following: Whether a lease has been secured or construction commenced; whether staff has been recruited or hired for employment.

3. If no in-state accredited nonprofit entity that provides adult services indicates a desire to apply for a DPSQA license, or if such an organization fails to obtain a license and begin providing services prior to the deadline, DPSQA will accept applications from accredited nonprofit organization from outside the State of Arkansas.

404.15 Limitation: Existing providers who are on a regular with requirements, temporary, or provisional licensure status with DPSQA, or are excluded under DHS Policy 1088 may not file any notice or application to expand under this policy.

405 CHANGE IN OWNERSHIP

405.1 Transactions constituting a change in ownership include the following:

- (a) One or more transactions within a twelve (12) month period that in the aggregate result in a change in greater than fifty percent (50%) of the financial or voting interest of the EIDT; or
- (b) The lease or sale of all or substantially all of an ADDT's real and personal property.

405.2 Transactions that do not constitute a change of ownership include, but are not limited to, the following:

- (a) Changes in the membership of a corporate board of directors or board of trustees; or
- (b) Changes in the membership of a not-for-profit corporation.

406 PROVISIONAL LICENSURE

406.1 Subject to the requirements below, a provisional license shall be issued to the Applicant and new Director of an ADDT after sale or transfer of ownership when DPSQA has received the completed Application for Licensure. A provisional license shall be effective from the date DPSQA provides notice to the Applicant, until the date the ADDT license is issued. With the exception of Medicaid provider status, a provisional license confers upon the holder all the rights and duties of licensure.

406.2 Prior to the issuance of a provisional license:

- (a) The purchaser and the seller of the ADDT shall provide DPSQA with written notice of the change of ownership at least thirty (30) days prior to the effective date of the sale.
- (b) The Applicant and new Director of the ADDT shall provide DPSQA with the application for licensure.
- (c) The Applicant and new Director of the ADDT shall provide DPSQA with evidence of transfer of operational control signed by all applicable parties.

406.3 A provisional license holder may operate the ADDT under a new name, whether fictitious or otherwise. For purposes of this section, the term "new name" means a name that is different than the name under which the ADDT was operated by the prior owner, and the term "operate" means that the provisional license holder may hold the ADDT out to the public using the new name. Examples include, but are not limited to, signage, letterhead, brochures, or advertising (regardless of media) that bears the new name.

406.4 If the provisional license holder operates the ADDT under a new name, the ADDT shall utilize the prior name in all communications with DPSQA until the license is issued. Such communications include, but are not limited to, incident reports, notices, and Plans of Correction. Upon the issuance of the license, the ADDT shall utilize the new name in all communications with DPSQA.

407 TRANSPORTATION

407.1 An ADDT that wishes to own, operate, and provide transportation services for its beneficiaries outside of contracts with non-emergency transportation (NET) brokers and day treatment transportation (DTT) brokers must be certified by DPSQA as an ADDT transportation provider. To be certified, the ADDT provider must demonstrate the ability to meet the following requirements.

407.2 The ADDT shall establish written procedures that address how transportation services are provided to beneficiaries and shall ensure that all beneficiaries and their legal guardian(s) receive a copy of the transportation policy. Receipt of the transportation policy shall be documented in the beneficiary's file. The transportation procedures must address, at a minimum, the following:

- (a) Apparent abandonment of a beneficiary by his or her family and/or guardian(s);
- (b) Emergency procedures;
- (c) The process staff will follow when unable to leave a beneficiary at home or an alternate site specified by the family, to ensure the safety of the beneficiary at all times;

407.3 The ADDT shall ensure the safety of all beneficiaries being transported.

407.4 For all vehicles owned and operated by the ADDT for the purposes of transporting beneficiaries, the ADDT shall ensure:

- (a) That all vehicles are properly licensed by the state of Arkansas and are in compliance with all applicable federal, state, county, and city requirements.
- (b) That all drivers are licensed according to state requirements for providers of public transportation.
- (c) That the driving records of all drivers are reviewed on an initial and annual basis.
- (d) That vehicles used are insured for a minimum of \$1,000,000 comprehensive, liability, and property damage.
- (e) That all vehicles used are equipped with the following safety equipment:
 - 1. A fire extinguisher;
 - 2. Seat belts or suitable restraints in accordance with Ark Code 27-37-702 "Seat Belt Use Required";
 - 3. Communication device (i.e., cell phone or two-way radio);
 - 4. Road warning/hazard equipment (i.e., safety cones, flairs, reflector signs, etc.); and
 - 5. A first aid kit.

- (f) That vehicles used are accessible based on the beneficiaries' needs and reasonable requests.
- (g) That all drivers are trained in the ADDT's transportation requirements.
- (h) That each vehicle used in transporting beneficiaries shall have a documented emergency drill once every six (6) months.
- (i) That each vehicle owned or operated by the ADDT is maintained according to manufacturers' recommendations.
 - 1. The ADDT shall keep a vehicle maintenance log up to date for all vehicles used to transport beneficiaries that establishes who is responsible for upkeep of the vehicle and upkeep of the log.
 - 2. The maintenance log shall document the following:
 - Oil changes
 - Tires and brakes repair/inspection
 - Head and tail lights and turn signals repair/inspection
 - Windshield washer and wiper blades repair/inspection
 - Air conditioner (if any), and defroster inspection/repair
 - Hoses and fan belts inspection/replacement
 - Fluid levels inspection and replacement
 - Exhaust system inspection/repair
 - Emergency warning system inspection/repair
 - Steering assemblage inspection/repair
- (j) If transportation services are contracted:
 - 1. An annual review of the contract against elements a-i of this standard shall be performed by the ADDT.
 - 2. Personnel or contractors shall provide transportation services for the beneficiaries served in a safe manner, with drivers having knowledge of unique needs of beneficiaries served, and consistent with the regulations of the local authorities.
 - 3. This standard shall apply when any vehicle, including a personal vehicle, is used to provide transportation for persons served.

407.5 At least one (1) responsible person, in addition to the driver, shall be present in any vehicle used to transport beneficiaries if either of the following conditions apply:

- (a) Any beneficiary being transported has medical conditions as defined by the ADDT's policy.
- (b) Any person being transported has a severe disability as defined by the ADDT's policy.

407.6 ADDTs providing transportation services shall comply with the beneficiary: staff ratio set out for the ADDT center.

500 ADMINISTRATION

501 GOVERNING BODY

501.1 Each ADDT center shall have an owner or governing body that has oversight of:

- (a) The overall operation of the ADDT;
- (b) The adequacy and quality of care;
- (c) The financial solvency of the ADDT and the appropriate use of its funds;
- (d) The implementation of the standards set forth in these regulations; and
- (e) The adoption, implementation, and maintenance of policies and procedures governing the operation of the ADDT, in accordance with the requirement of state and federal laws and regulations and these licensing standards.

502 GENERAL PROGRAM REQUIREMENTS

502.1 A licensed ADDT shall provide continuous supervision during hours of operation and services that:

- (a) Conform to DPSQA rules and regulations;
- (b) Meet the needs of the beneficiaries and their families;
- (c) Provide for the full protection of beneficiaries' rights; and
- (d) Promote the social, physical, and mental wellbeing of beneficiaries.

503 CONTRACTUAL AGREEMENTS

503.1 An ADDT shall not admit, or continue to provide care to, beneficiaries whose needs are greater than the ADDT is licensed to provide. For any service required under these regulations that is not provided directly by the ADDT, the ADDT must have a written contractual agreement or contract with an outside program, resource or service to furnish the necessary service.

504 POLICIES AND PROCEDURES (GENERAL AND PERSONNEL)

504.1 The ADDT must develop, maintain, follow and make available for inspection by DPSQA, DDS or any other DHS agent, as well as all ADDT staff, beneficiaries, and beneficiaries' families, the policies and procedures detailed in this section.

504.2 *Quality Assurance Policy.* This policy must include how the ADDT will ensure quality of services, conduct internal investigations when service problems arise, and conduct quality reviews of staff and services.

504.3 *Personnel Policy.* This policy must include a personnel policy that complies with the Civil Rights Act of 1964 and the ADA. The ADDT's personnel policy must include, at a minimum:

- (a) Hiring and promotional procedures which are nondiscriminatory by reason of sex, age, disability, creed, marital status, ethnic, or national membership;

- (b) A procedure for discipline, suspension and/or dismissal of staff which includes opportunities for appeal;
- (c) A policy governing access and review of employee's personnel files;
- (d) A grievance and appeals procedure that provides for objective review of the employee's concerns and complaints; and
- (e) An employee drug screen policy.

504.4 *Incident and Accident Reporting Policy.* A policy stating how the ADDT will report all allegations of abuse, neglect, or misappropriation of recipient property to DPSQA as required by these Minimum Standards and by the Arkansas Adult Maltreatment Act, and all incidents that jeopardize the health, safety or welfare of a beneficiary in accordance with applicable regulations (see Section 512).

504.5 *Infection Control Procedure.* The ADDT shall implement an infection control plan that includes:

- (a) Staff training regarding the prevention and control of infections and communicable diseases for beneficiaries and personnel.
- (b) The appropriate use of standard or universal precautions by all personnel.
- (c) Procedures that specify that employees with infectious diseases that are transmissible through direct contact shall be prohibited from contact with beneficiaries until a physician's release has been provided to the organization.

504.6 *Beneficiary and Guardian Rights Policy.* This policy must set forth in clear and understandable language each beneficiary's rights and the rights of their legal guardian(s).

- (a) At a minimum, the Beneficiary and Guardian Rights policy must ensure that beneficiaries and their guardians have:
 - 1. The right to be free from physical or psychological abuse or neglect, retaliation, coercion, humiliation, and misappropriation of property;
 - 2. The right to privacy;
 - 3. The freedom to associate and communicate publicly or privately with any person or group of people of the beneficiary's or legal guardian(s)' choice, at any time;
 - 4. The freedom of religion;
 - 5. The right to be free from the inappropriate use of a physical or chemical restraint, medication, or isolation as punishment;
 - 6. The right to be treated with dignity and respect;
 - 7. The right to receive due process, including access or referral to legal entities for appropriate representation, and;
 - 8. The freedom to access their own records, including information regarding what services were billed for the beneficiary. Additionally, all beneficiaries and legal guardians must be informed of how to access the beneficiary's service records and the ADDT must ensure that appropriate equipment is available for them to obtain such access. Beneficiaries and their legal guardian(s) may not be

prohibited from having access to their own service records, unless a specific state law indicates otherwise.

- (b) The ADDT must maintain the documentation relating to all investigations of alleged beneficiary rights violations, and the actions taken to intervene in such situations. The ADDT will ensure that the beneficiary has been notified of their right to appeal as outlined in DDS Policy 1076 or applicable state statutes or requirements as it pertains to ADDT.
- (c) The ADDT must ensure that the application of corporal punishment to beneficiaries is prohibited.

504.7 *Privacy Policy.* Each ADDT must have policies and procedures to protect the privacy of beneficiaries and their health information. These policies must comply with HIPAA, HITECH, and PIPA, as well as any other federal or state laws as it pertains to privacy laws and regulations.

504.8 *Visitors Policy.* Each ADDT must have policies and procedures regarding check-in and check-out of visitors onto their grounds.

504.9 *Emergency Medical Treatment Procedure.* Each ADDT must have policies and procedures regarding the treatment of a medical emergency.

504.10 *Solicitation/Marketing Policy.* Solicitation of a beneficiary or their legal guardian(s) by an ADDT provider is strictly prohibited, and an ADDT provider that is found to be engaging in solicitation of a beneficiary or their guardian(s) will be subject to enforcement remedies.

- (a) Examples of prohibited solicitation include, but are not limited to, the following:
 - 1. Contacting a beneficiary currently receiving services from another ADDT or their legal guardian(s) to induce them to switch ADDT providers;
 - 2. Offering cash or gift incentives to a beneficiary or their legal guardian(s) to induce them to choose/switch ADDT providers;
 - 3. Offering free goods and/or services not available to other similarly stationed beneficiaries or their legal guardian(s) to induce them to choose/switch ADDT providers;
 - 4. Refusing to provide access to entitlement services for which the beneficiary is eligible if the beneficiary or their legal guardian(s) selects another provider for services;
 - 5. Making negative comments to a beneficiary or their legal guardian(s) regarding the quality of services performed by another ADDT provider;
 - 6. Promising to provide ADDT services more than those necessary to induce a beneficiary or their legal guardian(s) to choose the ADDT;
 - 7. Directly or indirectly giving a beneficiary or their legal guardian(s) the false impression that the ADDT is the only provider that can perform the services desired by the beneficiary or their legal guardian(s).
- (b) Marketing by an ADDT provider is distinguishable from solicitation and is considered an allowable practice. Examples of acceptable marketing practices include, but are not limited to:
 - 1. Advertising using traditional media;

2. Distributing brochures and other informational materials regarding the services offered by an ADDT;
3. Conducting tours of an ADDT to interested beneficiaries or their legal guardians;
4. Mentioning other services offered by the ADDT in which a beneficiary might have an interest; and
5. Hosting informational gatherings during which the services offered by an ADDT are honestly described.

All marketing must be factual and honestly presented, or an ADDT could be subject to enforcement remedies.

504.11 *An Emergency Disaster Plan.* The ADDT shall have a written plan detailing the procedures to follow in the event of emergencies (i.e., fire, floods, tornadoes, utility disruptions, bomb threats, active shooter, elopement, infectious disease outbreak, and any disaster that could potentially affect the ADDT or its beneficiaries). Fire safety standards shall be also met as set forth in Section 903.

504.12 *Check out Policy.* Each ADDT must have policies and procedures regarding check-in and check-out of beneficiaries ADDT and its grounds and keep a list of approved individuals who are able to remove the beneficiary from the ADDT, if the beneficiary has a legal guardian.

505 TERMINATION OF BENEFICIARY-ADDT RELATIONSHIP

505.1 If an ADDT terminates a service relationship with a beneficiary for “just cause,” the ADDT must do the following:

- (a) Document the “just cause” that resulted in termination;
- (b) Notify the beneficiary and his or her guardian(s) at least thirty (30) days prior to the termination of services, unless it jeopardizes the health, safety, and welfare of the other beneficiaries. Documentation shall describe the reason for any immediate discharge;
- (c) Provide the beneficiary and guardian(s) with referrals to at least three (3) other appropriate service providers, if available; and
- (d) Facilitate transfer of the beneficiary’s service records to the new provider(s), if applicable.

505.2 “Just Cause” is defined as:

- (a) The ADDT does not have the ability to provide the beneficiary with needed services as identified in the beneficiary’s IPP (unable to serve);
- (b) The beneficiary or legal guardian(s) is not following ADDT policy;
- (c) The beneficiary is not benefitting from the ADDT’s services; or
- (d) The beneficiary has displayed behavior at the ADDT center that places other beneficiaries’ health or safety in immediate danger.

506 PERSONNEL RECORDS

506.1 The ADDT must maintain personnel records on each person it hires. These personnel files must

be made available to DPSQA staff upon request or at annual inspection.

506.2 The personnel file for each employee must contain the following:

- (a) A detailed job description;
- (b) A completed and signed job application that contains a declaration of truth (with resume, if applicable);
- (c) Criminal background checks submitted at the date of hire in accordance with DDS Policy 1087 requirements, and done every five (5) years thereafter;
- (d) An initial child maltreatment check submitted at the date of hire, and done every two (2) years thereafter;
- (e) An adult maltreatment check submitted at the date of hire, and done every five (5) years thereafter;
- (f) A successfully completed drug screen and a signed statement that the employee will adhere to the organization's drug screening and use policy;
- (g) Completed reference checks;
- (h) A signed criminal conviction statement;
- (i) A copy of the employee's valid state or federal issued identification (if driving is included in the employee's job description, a valid state-issued driver's license is required);
- (j) Documentation of education, if applicable;
- (k) Documentation of continuing education and training, including orientation training. CEU documentation must include copies of the documentary evidence of the award of hours by the certifying organization;
- (l) Documentation of attendance at in-service or on-the-job training and orientation, as required by the job description; and
- (m) Employee's signed acknowledgement that he or she has received and read a copy of the ADDT policies described in Section 504, above.
- (n) The ADDT will ensure that each staff person hired to perform duties that require professional licensure or certification (i.e., nursing or therapy) has a current, valid professional license and that license is in good standing.
- (o) If the ADDT receives additional information after hiring that creates a reasonable belief that an employee has had a change in status in connection with one of the requirements of employment (i.e., a license has been revoked/expired, an employee would no longer pass a criminal background and/or registry check, etc.), then the ADDT must verify that the employee still meets all requirements for employment.

506.3 The ADDT must ensure that sub-contractors, students, interns, volunteers, trainees, or any other person who has routine contact with beneficiaries meet the criminal, child maltreatment, and adult maltreatments background check requirements; and undergoes appropriate on-the-job

training and orientation to carry out their job duties.

507 REQUIRED STAFFING

507.1 Director

Each ADDT shall have a Director who has responsibility for daily operation. Correspondence from DPSQA to the ADDT will be through the Director. The Director must designate an employee who is at least 21 years old who will be responsible for the management of the ADDT during his or her absence.

507.2 The Director must have the following minimum qualifications:

- (a) Is at least 21 years of age;
- (b) Has at least one (1) year of experience working with adults with developmental and intellectual disabilities;
- (c) Has demonstrated ability in supervision and administration;
- (d) Has knowledge of intellectual and developmental disabilities, aging, and appropriate activity programming; and
- (e) Has knowledge of developing and monitoring an ITP

507.3 Direct Care Staff

- (a) Direct Care staff shall be eighteen (18) years of age or older (or 16-17 years of age if under the direct supervision of an adult staff member and enrolled in a high school or GED curriculum).
- (b) Direct Care staff shall have a high school diploma or GED (or be enrolled in a high school or GED curriculum).

507.4 Staffing Ratios

- (a) The ADDT shall maintain a one direct care staff to ten beneficiaries (1:10) ratio throughout the building. Direct care staff must have visual contact of all beneficiaries while providing support and supervision.

507.5 Volunteer Requirements

- (a) Volunteers are those individuals who have routine contact with a beneficiary and assist staff in the ADDT. If they are left alone with a beneficiary, considered in the staff/beneficiary ratio, or given supervisory/disciplinary control over any beneficiary, they must meet the requirements in Section 506.2.
- (b) All volunteers in an ADDT shall be eighteen (18) years of age or older unless the volunteer is under the direct supervision of the director or assistant director/site supervisor and has been approved on an individual basis by the ADDT's Director.
- (c) Volunteers, who have routine contact with a beneficiary, shall have on file a criminal background check and Child Maltreatment and Adult Maltreatment checks. An exception shall be given to legal guardians who volunteer on field trips but are not left alone with

beneficiaries. Criminal background checks and Child Maltreatment and Adult Maltreatment checks for volunteers under eighteen (18) years of age must include a legal guardian's signature.

- (d) Individuals who provide health services or program enrichment activities on a limited basis are not considered volunteers. The ADDT shall retain a register of such persons listing name, organization, address, telephone number, and date and time in the ADDT.

507.6 Student Observers

- (a) Students visiting the ADDT on a periodic basis to observe classroom activities, or for similar purposes, shall not be counted in the staff/beneficiary ratio, shall not have disciplinary control over a beneficiary, and shall not be left alone with a beneficiary, and shall not be required to have the criminal, child maltreatment, or adult maltreatment checks.
- (b) Students that are conducting practicum, student teaching, or working in the same capacity as a staff member or volunteer must meet the criteria in Section 506.2.

508 STAFF TRAINING

508.1 All ADDT personnel shall receive initial and annual competency-based training, which must include:

- (a) Health and safety practices:
 - 1. Infection control
 - 2. Identification of unsafe environmental factors
- (b) Emergency and evacuation procedures for the ADDT:
 - 1. Emergency and Disaster Preparedness
 - 2. Drills for fire, tornado, earthquake, and other natural disasters, as well as violence in the workplace (i.e., active shooter or bomb threats).
- (c) General information about ADDT services:
 - 1. Overview of Department of Human Services, including DDS and DPSQA.
 - 2. Orientation to serving individuals with developmental disabilities, including:
 - History of developmental disabilities services;
 - Current issues affecting individuals with developmental disabilities;
 - Introduction to the principles of normalization (age-appropriate development activities);
 - Introduction to behavior management; and
 - Community integration activities.
 - 3. The ADDT's philosophy, goals, programs, practices, policies, and procedures, including, at a minimum, the policies outlined in Section 504.

508.2 ALL direct care staff shall receive the following training, in addition to the training outlined in Section 508.1:

- (a) Twelve (12) hours minimum training, completed within the first thirty (30) days of

employment, and annually thereafter (does not include First Aid and CPR training):

1. Proper supervision of beneficiaries
2. Introduction to behavior management and guidance practice
3. Appropriate response to beneficiaries in distress
4. Mandated reporter requirements
5. Administering medication
6. Caring for adults with special needs
7. Individual Program Plans
8. Transportation safety
9. Policies for release of beneficiaries to authorized individuals

Other training topics must be applicable to the individual's job and are to be chosen by the organization based on identified needs. Topics may be a combination of required and job specific training.

- (b) CPR and First Aid training and certification according by American Heart Association, Medic First Aid, or Red Cross (continued training shall ensure renewal of certification).
1. ALL direct care staff members, including drivers and attendants, shall be trained and certified to provide CPR and First Aid, unless they are deemed incapable of performing this task by a licensed medical professional, such as a nurse or doctor. Documentation of training or exemption from training must be maintained in the personnel file.
 2. The ADDT shall develop, implement, and monitor policy regarding timeframe for CPR and First Aid certification after hire date (not to exceed 90 days).

508.3 Documentation of training shall be maintained in the individual's personnel file and shall be evidenced by the signatures of the trainer, the date the training was provided, and the specific information covered during the training.

509 QUALITY ASSURANCE

509.1 The ADDT shall develop and maintain a quality assurance process and assign a staff person to serve as QA Director. The staff designated as QA director can fill more than one role within the ADDT. The QA Director shall meet at least quarterly with Departments, e.g. dietary, therapy, and direct care, to identify issues where quality assessment and assurance activities are necessary, and to develop and implement appropriate plans of action to correct identified quality deficiencies.

509.2 The QA Director shall have the ability to recognize and identify issues of quality deficiencies and to implement changes to ADDT and employee practices designed to eliminate identified issues of quality deficiencies.

509.3 Good faith attempts by the ADDT to identify and correct quality deficiencies will not be used as a basis for sanctions.

510 BENEFICIARY RECORDS

510.1 The ADDT must maintain a separate and distinct record for each ADDT beneficiary that must contain:

- (a) A Face Sheet that contains the following information:
1. Beneficiary's full name;
 2. Full name of beneficiary's legal guardian/guardian(s), if applicable;
 3. Address, county of residence, telephone number, and email address, if applicable;
 4. Birthdate;
 5. Social Security Number;
 6. Medicaid Number;
 7. Commercial (private) health insurance information, if applicable;
 8. Emergency Contact Information (including name and telephone number);
 9. Race, gender, and legal status;
 10. Primary language;
 11. PCP's name, address, and telephone number;
 12. ADDT Admission date;
 13. Primary and Secondary disability or diagnosis;
 14. Indications of medication management plan, if applicable; and
 15. Known allergies, if applicable.
- (b) An annual Assessment, which indicates the beneficiary is able to receive each ADDT service on his or her IPP.
- (c) The written prescription for ADDT services, signed and dated by the prescribing physician.
- (d) A copy of the Beneficiary Rights Statement, signed by the beneficiary and, if applicable, his or her legal guardian.
- (e) A copy of the signed enrollment agreement as described in Section 601.
- (f) Upon enrollment, and each time there is a significant change in services provided to the beneficiary, and consent was obtained by the beneficiary's legal guardian(s), a written acknowledgement will be provided to the beneficiary and/or the beneficiary's legal guardian(s).
- (g) Any other information that the beneficiary and/or the beneficiary's legal guardian(s) request the ADDT to keep on record.
- (h) The beneficiary's Individual Program Plan (IPP), which must:
1. Document the date of the IPP meeting (which may be by phone or other telecommunication methods) with the beneficiary, legal guardian(s) if applicable (or documentation of the legal guardian(s)' refusal to participate), staff members who will be providing services when possible, and anyone else the beneficiary requests to be present;
 2. Document the names and signatures of all participants in the IPP development meeting;

3. Address the beneficiary's and their family's health, safety and challenging behaviors, which may put the beneficiary at risk;
 4. State all short and long treatment goals and objectives for the beneficiary. Goals must have an initiation date, a target date, and, when completed, a completion date. Objectives and activities that will be implemented to meet those goals must be specified. Set out the re-evaluation schedule for the beneficiary, which shall be at least once per year;
 5. List all services, trainings, materials, equipment, and assistive technology that will be provided or made available to assist the beneficiary in achieving those goals and objectives;
 6. Demonstrate respect for the rights and dignity of the beneficiary, including the incorporation of the beneficiary's culture and value system;
 7. Be understandable by the beneficiary and their legal guardian(s). At a minimum, the IPP must be written in plain English and in a manner that is accessible to individuals with disabilities and persons who are of limited English proficiency; and
 8. Ensure the beneficiary and their responsible party are oriented and integrated into the ADDT community.
- (i) Signed emergency medical release and all other necessary release forms (i.e., publicity, field trip, fund raising, etc.). The emergency medical release form shall be updated at least annually.
1. Publicity releases shall be obtained upon admission and annually, thereafter;
 2. Field trip releases shall be obtained on a per occurrence basis unless that field trip is part of the regular program (i.e. gymnastics, library, etc.); and
 3. Emergency medical releases must be taken on field trips or incorporated in the field trip release.
- (j) The beneficiary's Medication Management Plan and/or Behavior Management Plan, if applicable (see Sections 701.5 and 702.3).
- (k) Documentation that supports the medical necessity of each service provided to the beneficiary, which includes the following:
1. The date the service was furnished, daily;
 2. The beginning and end time the service was performed, daily;
 3. The name and credentials of each person providing the service, daily;
 4. Weekly progress notes summarizing the documented status of the beneficiary's treatment goals and objectives, signed or initialed by the person making the note; and
 5. A note made every time the beneficiary's status changes or when there is an unusual occurrence regarding that beneficiary.

510.2 The ADDT must maintain the beneficiary's records in the following manner:

- (a) Each ADDT must provide a locked file cabinet or locked room for keeping beneficiaries' medical, social, personal, and financial records. When records are maintained

electronically, the ADDT must abide by all federal and state laws applicable to maintaining records electronically. All ADDTs must abide by HIPAA, HITECH, PIPA, ADA, Federal Privacy Act, and the other laws pertaining to record management as to the protection of medical, social, personal, and financial records.

- (b) The ADDT must not disclose any beneficiary's records maintained by the ADDT to any person or agency other than ADDT personnel, the beneficiary, the beneficiary's legal guardian(s), DPSQA, DDS, or the Attorney General except upon expressed written consent of the beneficiary or his or her legal guardian(s), unless the disclosure is permitted by state or federal law or regulation;
- (c) The ADDT must maintain the original records in an accessible manner for a period of five (5) years following the death or discharge of a beneficiary;
- (d) The beneficiary's records shall be kept on the EIDT's premises at all times, unless removed pursuant to subpoena.
- (e) In the event of a change of ownership, the beneficiary's records shall remain with the ADDT.
- (f) If the ADDT closes, the beneficiary's records shall be stored by the owner of the ADDT within the State of Arkansas for five (5) years.
- (g) The ADDT shall take reasonable actions to protect the beneficiary records from destruction, loss, or unauthorized use.

511 GENERAL HEALTH REQUIREMENTS

- 511.1 In addition to reporting requirements under the developmental day treatment licensing standards, the ADDT shall notify DPSQA of injuries that require the attention of medical personnel per Incident and Accident reporting requirements.
- 511.2 In addition to the requirements set forth in the developmental day treatment licensing standards, medications shall only be given to beneficiaries in accordance with their medication management plan. These medication management plans shall be updated regularly, but at a minimum annually.
- 511.3 ADDTs shall comply with the Clean Indoor Air Act of 2006. Smoking (including e-cigarettes) on the ADDT's premises or in any vehicle used to transport beneficiaries is prohibited at all times.
- 511.4 The ADDT shall follow any health or medical care plans, and/or medical documentation as provided by the beneficiary's physician or legal guardian(s).
- 511.5 The ADDT shall report all reportable diseases, whether in a recipient or staff person, in accordance with the Arkansas State Board of Health's Rules and Regulations Pertaining to Communicable Disease.
- 511.6 It is recommended that all staff members who have direct contact with beneficiaries receive the following immunizations:
 - (a) Annual Influenza (flu) immunizations;

- (b) Tdap (Diphtheria, Tetanus & Pertussis) immunization and boosters;
- (c) MMR (measles, mumps, and rubella), 1 or 2 doses depending on indication; and
- (d) Varicella (chicken pox) 2 doses, or evidence of immunity.

512 INCIDENT AND ACCIDENT REPORTING

512.1 Reporting Suspected Abuse, Neglect, Exploitation, or Other Incidents

- (a) Pursuant to Ark. Code Ann. §12-12-1701 et seq. and Ark. Code Ann. § 12-18-101, et seq., and any other subsequent statutes and regulatory requirements authorized by DHS, DDS, or DPSQA, the ADDT must develop, implement, and follow written policies and procedures to ensure incidents and accidents are prohibited, reported, investigated, and documented as required by these regulations and by law, including, but not limited to:
 - 1. Witnessed, alleged, or suspected abuse or neglect of beneficiaries; and
 - 2. Any misappropriation of beneficiaries' property.
- (b) The ADDT is not required to report death by natural causes. However, nothing in this regulation negates, waives, or alters the reporting requirements of an ADDT under other regulations or statutes. The ADDT shall also immediately report to local law enforcement any cases of abuse or neglect, including self-neglect.
- (c) ADDT policies and procedures regarding reporting must be included in orientation training for all new staff and must be addressed at least annually during in-service training for all staff.

512.2 Next Day Reporting of Incidents and Accidents (DPSQA-731 form).

The following events shall be reported to DPSQA, by fax (501-682-8551) or email (DPSQA.incidentreporting@dhs.arkansas.gov), on a completed Incident & Accident Intake Form (DPSQA-731 form) no later than 11:00 a.m. on the next business day following discovery by the provider.

- (a) Any alleged, suspected, or witnessed occurrences of the following:
 - 1. Abuse
 - 2. Neglect
 - 3. Misappropriation of Property
 - 4. Unnatural Death
 - 5. Unauthorized Use of Restrictive Interventions
 - 6. Significant Medication Error
 - 7. Elopement/Missing Person
 - 8. Abandonment
 - 9. Serious bodily injury
 - 10. Incidents that require notification to police, fire department or coroner.
- (b) In addition to the requirement of a report by the next business day on DPSQA-731 form, the ADDT shall complete a DPSQA-742 form in accordance with Section 512.6 (*see*

Appendix B for a copy of the DPSQA-731 form and Appendix C for a copy of the DPSQA-742 form).

512.3 Incidents or Occurrences that require internal reporting only (DPSQA-731 or DPSQA-742 not required)

- (a) The following incidents or occurrences shall require the ADDT to prepare an internal report only and do not require DPSQA-731 form or DPSQA-742 form to be sent to DPSQA. The internal report shall include all content specified in Section 512.4, as applicable. ADDTs must maintain these incident report files in a manner that allows verification of compliance with this provision.
 1. Incidents where a beneficiary attempts to cause physical injury to another beneficiary without resultant injury. The ADDT shall maintain written reports on these types of incidents to document “patterns” of behavior for subsequent actions.
 2. All cases of reportable disease as required by the Arkansas Department of Health.
 3. Loss of heating, air conditioning, or fire alarm system for a period of greater than two (2) hours.

512.4 Internal-only reporting procedure

- (a) Written reports of all incidents and accidents shall be completed within five (5) days after discovery. The written incident and accident reports shall be comprised of all information specified in forms DPSQA-731 and DPSQA-742 as applicable.
- (b) All written reports will be reviewed, initialed, and dated by the director or director’s designee within five (5) days after discovery.
- (c) For those ADDTs who do not have licensed nurses:
 1. All reports involving accident or injury to beneficiaries will also be reviewed, initialed, and dated by the director within five (5) days.
 2. The medication management plans shall be reviewed by the director and:
 - Shall be amended upon any change of a beneficiary’s condition or need for services
 - Copies of the amended versions of the medication management plan shall be attached to the written report of the incident or accident.
- (d) For those ADDTs who have licensed nurses:
 1. Reports involving accident or injury to beneficiaries will also be reviewed, initialed, and dated by the licensed nurse within five (5) days of the review by the director.
 2. The medication management plans shall be reviewed by the registered nurse as appropriate and:
 - Shall be amended upon any change of the beneficiary’s condition or need for services;
 - Copies of the amended versions of the medication management plans shall be attached to the written report of the incident or accident.
- (e) Reports of incidents specified in Section 512.3 will be maintained by the ADDT only and

are not required to be submitted to DPSQA.

- (f) All written incident and accident reports shall be maintained on file by the ADDT for a period of three (3) years from the date of occurrence or report, whichever is later.

512.5 Other reporting requirements

- (a) The ADDT's designee is also required to make any other reports as required by State and federal laws and regulations.

512.6 Investigation report for Incidents and Accidents (DPSQA-742 form)

- (a) The ADDT must ensure that all witnessed, alleged, or suspected incidents that must be reported as required by this policy are thoroughly investigated. The ADDT's investigation must be in conformance with the process and documentation requirements specified on the DPSQA-742 form and must prevent the occurrence of further incidents while the investigation is in progress.
- (b) The results of all investigations must be reported to the director or director's designee and to other officials in accordance with state law, including DPSQA, within five (5) working days of the ADDT's knowledge of the incident. If the alleged violation is verified, appropriate corrective action must be taken.
- (c) The DPSQA-742 form shall be completed and mailed to the DPSQA by the end of the 5th working day following discovery of the incident by the ADDT. The DPSQA-742 form may be amended and re-submitted at any time circumstances require.

512.7 Reporting Policies and Procedures

- (a) The ADDT's written policies and procedures shall include, at a minimum, all requirements specified in this section.
- (b) That Director or Director's designee immediately reports all cases of witnessed, alleged, or suspected abuse or neglect, excluding self-neglect, of beneficiaries to the toll-free Child Abuse Hotline and the local law enforcement agency in which the provider is located as required by Ark. Code Ann. § 12-12-1701 et seq.
- (c) That the Director or Director's designee report all witnessed, alleged, or suspected incidents as required by this policy to DPSQA.
- (d) That all ADDT personnel who have reasonable cause to suspect that a beneficiary has been subjected to conditions or circumstances that have resulted in abuse, neglect, misappropriation of property, or other incidents that must be reported as required by this policy, shall immediately notify the Director or Director's designee (this does not negate that all mandated reporters employed by or contracted with the ADDT shall report immediately to the local law enforcement agency in which the provider is located as required by Ark. Code Ann. § 12-12-1701 et seq. or statutes).
- (e) That, upon hiring, each employee be given a copy of, and must read, the ADDT's incident and accident reporting and prevention policies and procedures and sign a statement that the policies and procedures have been received and read. The statement shall be filed in the employee's personnel file.

- (f) That all ADDT personnel receive annual, in-service training in identifying, reporting, and preventing suspected abuse, neglect, misappropriation of property, and other incidents as required by this policy, and that the ADDT develops, maintains, and implements policies and procedures for the prevention of abuse, neglect, misappropriation of property, and other incidents as required by this policy.
- (g) When DPSQA makes a finding that personnel of the ADDT committed an act of abuse, neglect, or misappropriation of property against a beneficiary, the name of that employee or personnel shall be placed in the Employment Clearance Registry of DPSQA. Further, DPSQA shall make a report of its finding to all appropriate licensing or enforcement agencies.

513 ELECTRONIC RECORDS

513.1 ADDTs have the option of utilizing electronic records rather than, or in addition to, paper or “hardcopy” records. The ADDT must have safeguards to prevent unauthorized access to the records and a process for reconstruction of the records in the event of a system breakdown. Any electronic record or signature system shall, at a minimum:

- (a) Require authentication and dating of all entries. “Authentication” means identification of the author of an entry by that author and no other, and that reflects the date of entry. An authenticated record shall be evidence that the entry to the record was what the author entered. To correct or enhance an entry, further authenticated entries may be made, by the original author, or by any other author, if the subsequent entries are authenticated as to who entered them, complete with date and time stamp of the entry, and that the original entries are not modified. “Entry” means any changes, deletions, or additions to a record, or the creation of a record.

The electronic system utilized by the ADDT shall retain all entries for the life of the medical record and shall record the date and time of any entry, as well as identifying the individual who performed the entry. The electronic system must not allow any original signed entry or any stored data to be modified from its original content except for computer technicians correcting program malfunction or abnormality. A complete audit trail of all events as well as all “before” and “after” data must be maintained.

- (b) Require data access controls using unique personal identifiers to ensure that unauthorized individuals cannot make entries to a record or create or enter an electronic signature for a record. The ADDT shall maintain a master list of authorized users, past and present. The ADDT shall terminate user access when the user leaves employment with the ADDT.
- (c) Include physical, technical, and administrative safeguards to ensure confidentiality of beneficiary records, including procedures to limit access to only authorized users. The authorized user must certify in writing that the identifier will not be shared with or used by any other person and that they are aware of the requirements and penalties related to improper usage of their unique personal identifier.
- (d) Provide audit controls. The system must be capable of tracking and logging user activity within its electronic files. These audit logs shall include the date and time of access and the user ID under which access occurred. These logs shall be maintained a minimum of six (6) years. The ADDT must certify in writing that it is monitoring the audit logs to identify questionable data access activities, investigate breaches, assess the security program, and are taking corrective actions when a breach in the security system becomes known.

- (e) Have a data recovery plan. Data must be backed up either locally or remotely. Backup media shall be stored at both onsite and offsite locations or alternatively at multiple offsite locations. The backup system must have the capability of timely restoring the data to the ADDT or to the central server in the event of a system failure. Barring a natural disaster of epic proportions (e.g., earthquake, tornado), timely means that the restoration of the backup occurs within a period of time that will permit no more than minimal disruption in the delivery of care and services to the beneficiaries. Pending restoration from backup, the ADDT shall maintain newly generated records in a paper format and shall copy or transfer the contents of the paper records to the electronic system upon restoration of the system and backup. A full backup shall be performed at least weekly, with incremental or differential backups daily. Back up media shall be maintained both locally and at the off-site location or alternatively at multiple offsite locations until the next full weekly backup is successfully completed. Backups shall be tested periodically, but no less than monthly. Testing shall include restoration of the backup to a computer or system that shall not interfere with, or overwrite, current records. If utilizing a third-party company for computer data storage and retrieval, the ADDT shall require that said third party company shall comply with these requirements.
- (f) Provide access to DHS, DDS, DPSQA, the Office of Medicaid Inspector General (OMIG) or any other State or Federal Agency having jurisdiction over the program access to the electronic records. Access may be by means of an identifier, by a printout of the record, or both, as requested by the requesting entity. Access must be in a “human readable” format and shall be provided in a manner that permits the requesting entity to view the records without ADDT personnel being present. Access shall include all entries and accompanying logs and shall list the date and time of any entry, as well as identifying the individual who performed the entry. Any computer system utilized, whether in-house or from a third-party vendor, must comply with this regulation.

513.2 Physicians’ Orders. When ADDT personnel take telephone orders from physicians or other individuals authorized by law or regulations to issue orders, the ADDT shall document the appropriate information, including but not limited to, the date and time of the order, and the identity of the physician or other authorized individual giving the order as well as the identity of the ADDT personnel taking the order. The ADDT shall ensure that the physician electronically countersigns the physician’s order upon the physician’s next rounds at the ADDT or through Internet access from the physician’s office.

513.3 For purposes of these regulations, in all instances in which the regulations, or appears to require, the ADDT to use written records or written signatures, the ADDT may use electronic records or electronic signatures in lieu of written records or written signatures when doing so conforms to the requirements of this section for the use of electronic records or electronic signatures.

514 GENERAL REQUIREMENTS CONCERNING BENEFICIARY

514.1 In the event of a beneficiary’s illness or accident, the ADDT shall:

- (a) Notify the beneficiary or his or her legal guardian and PCP or in the event the PCP is not available, a qualified alternate.
- (b) Take immediate and appropriate steps to see that the beneficiary receives necessary medical attention including transfer to an appropriate medical center;
- (c) Make a notation of the illness or accident in the beneficiary records.

600 ENROLLMENT

601 ENROLLMENT AGREEMENT

- 601.1 Prior to or on the day of enrollment, the ADDT and the beneficiary's legal guardian(s) shall enter into an enrollment agreement.
- 601.2 The agreement shall be in writing and shall be signed by both parties.
- (a) The legal guardian(s), prior to the execution of the enrollment agreement, shall have an opportunity to review the agreement, or have a representative review the agreement.
 - (b) In the event the legal guardian(s) is unable to understand the agreement, necessary steps shall be taken to ensure communication of its contents to the legal guardian(s).
- 601.3 The legal guardian(s) shall be given a signed copy of the agreement and the original shall be retained in the beneficiary's record at the ADDT.
- 601.4 The enrollment agreement shall include, at a minimum, services the ADDT is providing to the beneficiary; charges, if any to be paid by the beneficiary's legal guardian; the beneficiary's IPP and transition/discharge plan; and, when applicable, medication plans, nursing plans, behavior management plans, or therapy plans.

602 ESTABLISHING ELIGIBILITY AND COMPREHENSIVE EVALUATION

- 602.1 A physician must determine that ADDT services are medically necessary to address the beneficiary's identified needs by writing a prescription for ADDT services that is valid for no more than 1 year. Each prescription must be signed and dated by the physician.
- 602.2 In order to receive ADDT services, a beneficiary must have a developmental disabilities diagnosis that originated before the age of 22, as defined by DDS Policy 1035.
- 602.3 Qualifying beneficiaries must be between ages 18 and 21 with a diploma or certificate of completion, or age 21 and older.
- 602.4 The assessment service constitutes the process of determining a person's need for individual ADDT services. The assessor must document that the test protocols for the assessment instrument were followed and that the assessor met the qualifications to administer the instrument. Assessments must be conducted for each beneficiary annually.

700 PROGRAM REQUIREMENTS

701 SERVICES

- 701.1 Habilitative Services
- (a) Adult habilitative services are instruction in the areas of cognition, communication, social/emotional, motor, and adaptive; or to reinforce skills learned and practiced in occupational, physical, or speech therapy. These services must be based on the goals and objectives of the beneficiary's IPP.
 - (b) The IPP must specify how the habilitative activities or interventions provided to the beneficiary are designed to help the beneficiary reach treatment objectives.

- (c) The ADDT is responsible for maintaining all documentation required by the Medicaid Provider Manual for adult habilitative services. This documentation must be made available to DPSQA upon request.

701.2 Nursing Services

- (a) ADDT nursing services are available for beneficiaries who are medically fragile, have complex health needs, or both, if prescribed by the recipient's PCP.
- (b) Nursing services that may be performed by the ADDT nursing staff are as follows (or similar activities):
 - 1. Assisting ventilator-dependent beneficiaries
 - 2. Tracheostomy: suctioning and care
 - 3. Feeding tube: feeding, care and maintenance
 - 4. Catheterizations
 - 5. Breathing treatments
 - 6. Monitoring of vital statistics, including diabetes sugar checks, insulin, blood draws, and pulse ox
 - 7. Medication Administration
- (c) ADDT reimbursable nursing services do not include the taking of temperature or the provision of standard first aid.
- (d) The beneficiary's file must document a medical diagnosis and a comprehensive nursing evaluation approved by a PCP that designates a need for nursing services. The nursing evaluation must specify what the needed nursing services are, and the frequency those services must be provided.
- (e) Based on the evaluation, the PCP must authorize the provision of nursing services through a written, signed, and dated physician's order.
- (f) Needed nursing services must be documented in the beneficiary's IPP.
- (g) Each staff member that performs a nursing service that is to be billed must be a licensed practical nurse (LPN) or a registered nurse (RN), and the service must be within the nurse's scope of practice as defined by the Arkansas State Board of Nursing.
- (h) When a nursing service is performed, it must be documented in a nursing log. The nursing log must be kept in the beneficiary's file. Each service in the log must specify:
 - 1. Date and time the service was performed;
 - 2. Name and credentials of the nursing staff who performed the service;
 - 3. Specific service performed, including information about how it was performed, what equipment was used, etc.;
 - 4. Any documented side effects the beneficiary experienced;
 - 5. Any errors that occurred during the provision of the service; and
 - 6. Signed and dated progress notes.

- (i) Administration of medication alone does not qualify a beneficiary for nursing services.
- (j) An extension of benefits is required for nursing units exceeding 4 units per day.

701.3 Meals

- (a) ADDT must ensure that a noon meal is available to each Medicaid beneficiary who receives at least four (4) hours of adult habilitative services in a day, and who is unable to provide his or her own meal on that date of service.
- (b) When being responsible for providing his or her own meal is a component of the beneficiary's IPP, the ADDT may request the beneficiary furnish the meal.
- (c) If a beneficiary who is responsible for providing his or her own meal fails to do so, the ADDT must furnish a meal for the individual if he or she receives more than four (4) hours of habilitative service that day.
- (d) A beneficiary may not be charged for a meal the ADDT provides, whether or not providing his or her own meal is included in the beneficiary's IPP.
- (e) All meals provided must meet the requirements set forth in Section 800.

701.4 Medications

(a) Medication Policy

- 1. Each ADDT must have written policies and procedures to ensure that beneficiaries receive medications as ordered.
- 2. ADDTs must comply with applicable state laws and regulations governing the administration of medications and restrictions applicable to non-licensed personnel. However, licensed nursing personnel (RN, LPN) may administer medication in accordance with the Arkansas Nurse Practice Act and associated position papers.

(b) Medication Management Plans

- 1. In order for ADDT staff to administer medication to a beneficiary, the beneficiary's file must contain a medication plan. The medication management plan must include the following:
 - Name of each medication to be administered.
 - Dosage and frequency of the administration of each medication.
 - Name of the staff person(s) or position who may administer the medication.
 - Prescription medication must be in original labeled container and administered as per instructions on the label.
 - Name, address, and phone number of the prescribing physician.
 - Under no circumstance will one beneficiary's medication that is under the ADDT's control be shared with another beneficiary.

(c) Medication Logs

- 1. ADDTs shall maintain medications logs detailing the administration of medications to beneficiaries with medication management plans.

2. The medication logs must be readily available for DPSQA, DDS or other DHS regulatory agencies to review at all times.
3. The medication log shall document the following, at the time of medication administration:
 - Name and dosage of the medication administered;
 - Route the medication was administered;
 - Date and time the medication was administered;
 - Initials of the staff administering or assisting with the administration of the medication;
 - Any side effects or adverse reactions to the medication experienced by the beneficiary; and
 - Any errors in administering the medication

(d) Medication Errors

1. The ADDT must ensure that:
 - Beneficiaries are free of any significant medication errors; and
 - That its overall medication error rate is five percent (5%) or less.
2. Medication error means the observed preparation or administration of drugs or biologicals which is not in accordance with:
 - Physician's orders;
 - Manufacturer's specifications (not recommendations) regarding the preparation and administration of the drug or biological; or
 - Accepted professional standards and principles which apply to professionals providing services. Accepted professional standards and principles include the various practice regulations in Arkansas, and current commonly accepted health standards established by national center, boards, and councils.
3. Overall medication error rate means the percentage of both significant and non-significant medication errors.
 - Significant medication error means one which causes the recipient discomfort or jeopardizes his or her health and safety. Whether a medication error is significant is determined by consideration of the beneficiary's condition, the drug category, and the frequency of the error.
 - Non-significant medication error means a medication error that does not meet the definition of a significant medication error.
4. The medication error rate is determined by dividing the number of errors by the opportunities for errors and multiplying the result by 100 and is expressed as *Medication Error Rate = (Number of Errors Observed / the Opportunities for Errors) X 100*.
 - The *Number of Errors Observed* is the total number of errors that the survey team observes, both significant and non-significant.
 - The *Opportunities for Errors* includes all the doses the team observed being administered plus the doses ordered but not administered.

(e) Medication Charting

1. If an ADDT stores a beneficiary's medications, the ADDT shall maintain a list of those medications.

2. If the ADDT stores and administers a beneficiary's medication, a notation must be made on the individual record for each beneficiary who refuses, either through affirmative act, omission, or silence, to take his or her medications. The notation shall include the date, time and dosage of medication that was not taken or administered to or by the beneficiary, including a notation, when applicable, that the beneficiary's legal guardian was notified, along with the prescribing physician, if such notice is required.
3. If medications are prescribed to be taken as needed (PRN) by the beneficiary, documentation in the beneficiary's file should list the medication, the date and time received by the beneficiary and the reason given.
4. A record shall be maintained in a bound ledger book, in ink, with consecutively numbered pages, or electronically (if the electronic records meets all of the requirements listed below), of all controlled drugs procured or administered. The record shall contain:
 - Name, strength and quantity of drug;
 - Date received, and date, time, and dosage administered;
 - Name of the beneficiary for whom the drug was prescribed, or who received the drug;
 - Name of the prescribing physician or advance practice nurse;
 - Name of the dispensing pharmacy;
 - Quantity of drug remaining after each administrated dosage; and
 - Signature of the individual administering the drug.
5. When a dose of a controlled drug, managed by the ADDT is dropped, broken or lost, two (2) employees shall record in the record the facts of the event, and sign or otherwise identify themselves for the record.
6. For all controlled medications stored by the ADDT, there shall be a weekly count of medications. The count shall be made by the person responsible for medications in the ADDT and shall be witnessed by another employee. The count shall be documented by both employees and shall include the date and time of the event, a statement as to whether the count was correct, and if incorrect, an explanation of the discrepancy. When the count is incorrect, the ADDT shall document as required.

(f) Medication Storage

1. All medications stored for beneficiaries by the ADDT must be stored in a locked area and be labeled with the beneficiary's name.
2. Medications must be stored in an environment that is clean, dry and not exposed to extreme temperature ranges. Medications requiring cold storage shall be refrigerated. A locked container placed below food level in an ADDT's refrigerator is acceptable storage.
3. All drugs on the premises of the ADDT shall be labeled in accordance with accepted professional principles and practices.
4. Prescription medications must be properly labeled in accordance with current applicable laws and regulations pertaining to the practice of pharmacy.
5. All medications in the control or care of the ADDT shall have an expiration date and shall not be expired.
6. Medications must be individually labeled with the beneficiary's name and kept in

the original container unless the beneficiary or his or her legal guardian(s) transfers the medication into individual dosage containers. Under no circumstances may ADDT staff repackage medication.

7. Any medication that is stored by the ADDT that has been prescribed for, but is no longer in use by a beneficiary, must either be:
 - Destroyed or disposed of in accordance with state law, or
 - Returned to the beneficiary or his or her legal guardian in accordance with this section.
8. Any medication stored by the ADDT that has been placed on hold status by the beneficiary's PCP may be transferred to a locked medication cabinet in a locked office for future use by the beneficiary. Upon physician notice to resume the medication, all current medication labeling must be in accordance with this section.
9. When unused portions of controlled drugs are returned to the beneficiary or their guardian, the person who assumes responsibility for the medication and the person in charge of the medications for the ADDT shall sign the Controlled Drug Record in the ADDT.
10. For all medications that are stored by the ADDT, the ADDT must remove from use, in accordance with applicable laws:
 - Outdated or expired medication or drugs;
 - Drug containers with illegible or missing labels;
 - Drugs and biologicals discontinued by the physician or advance practice nurse.
11. In all cases in which the ADDT destroys drugs, destruction shall be made by a nurse, and witnessed by another employee. A record shall be made of the date, quantity, prescription number and name, beneficiary's name, and strength of the medication. Destruction shall comply with state laws and regulations governing the destruction of drugs. The record of the destruction shall be recorded in a bound ledger, in ink, with consecutively numbered pages, and retained by the ADDT as a permanent, retrievable record.
12. Reporting misappropriation of controlled substances shall be in accordance with the Arkansas Department of Health Pharmacy Services Branch Rules and Regulations Pertaining to Controlled Substances.

702 BEHAVIOR GUIDANCE AND BEHAVIOR MANAGEMENT

702.1 Behavior Guidance

- (a) Behavior guidance shall be:
 1. Individualized and consistent for each beneficiary.
 2. Appropriate to the beneficiary's level of understanding.
 3. Directed toward teaching the beneficiary acceptable behavior and self-control.
- (b) Physical punishment shall not be administered to beneficiaries.
- (c) Acceptable behavior guidance techniques include:
 1. Looking for appropriate behavior and reinforcing beneficiary's appropriate behavior with praise and encouragement.

2. Reminding the beneficiary, on a daily basis, of the rules by using clear positive statements regarding how they are expected to behave rather than what they are not supposed to do.
 3. Attempting to ignore minor inappropriate behavior and concentrating on what the beneficiary is doing properly.
 4. Using brief supervised separation from the group only when the beneficiary does not respond to a verbal command which instructs the beneficiary as to how he or she is supposed to behave.
 5. When a misbehaving beneficiary begins to behave appropriately, encouraging and praising small steps rather than waiting until the beneficiary has behaved for a long period of time.
 6. Attend to the beneficiaries who are behaving appropriately, and other beneficiaries will follow their example in order to obtain your attention.
- (d) The following activities or threats of such activities are unacceptable as behavior guidance measures and shall not be used for beneficiaries. These include, but are not limited to the following:
1. Restraints (Restraining a beneficiary briefly by holding the beneficiary is allowed when the beneficiary's actions place the beneficiary or others at risk of injury.)
 2. Washing mouth with soap.
 3. Taping or obstructing a beneficiary's mouth.
 4. Placing unpleasant or painful tasting substances in mouth, on lips, etc.
 5. Profane or abusive language.
 6. Isolation without supervision.
 7. Placing beneficiary in a dark area.
 8. Inflicting physical pain, hitting, pinching, pulling hair, slapping, kicking, twisting arms, biting or biting back, spitting, swatting, etc.
 9. Yelling (This does not include a raised voice level to gain a beneficiary's attention to protect the beneficiary from risk of harm.)
 10. Forcing physical activity, such as running laps, doing push-ups, etc. (This does not include planned group physical education activities that are not punitive in nature.)
 11. Associating punishment with rest, toileting or illness.
 12. Denying food as punishment or punishing beneficiaries for not eating.
 13. Beneficiaries shall not be forced or bribed to eat.
 14. Shaming, humiliating, frightening, labeling, physically or mentally harming beneficiaries.
 15. Covering the faces of beneficiaries with blankets or similar items.
- (e) Posted group behavior charts shall not be used. (Individual behavior charts that are not viewable by beneficiaries and individual charts used by therapists are allowable.)
- (f) Behavior guidance practices used by the ADDT shall be discussed with each beneficiary

and their legal guardians(s) and provided to them in writing at the time of enrollment with a copy signed by the beneficiary and legal guardian(s), if applicable, maintained in the beneficiary's record.

702.2 Behavior Management

- (a) Beneficiaries must have a behavior management plan that incorporates positive behavior strategies, when one (1) of the following occurs:
 - 1. Three (3) or more distinct challenging behaviors occur in a three (3) month period;
 - 2. The beneficiary is prescribed psychotropic medications for behavior; or
 - 3. Any other time the ADDT believes a beneficiary's behavior warrants intervention.
- (b) A challenging behavior is a behavior that is considered problematic or maladaptive by others who observe the behaviors or by the person displaying the behaviors. They are actions that:
 - 1. Come into conflict with what is generally accepted in the individual's community;
 - 2. Often isolate the person from their community, or are barriers to the person living or remaining in the community; and
 - 3. Vary in seriousness and intensity.

702.3 Behavior management plans must be written and monitored by qualified staff, e.g., Qualified Developmental Disability Professional (QDDP), and be approved by the beneficiary and their legal guardian(s), if applicable. All behavior management plans must:

- (a) Identify the behavior(s) to be decreased;
- (b) Identify the behavior(s) to be increased;
- (c) Identify what things should be provided or avoided in the beneficiary's environment on a daily basis to decrease the likelihood of the identified behavior(s);
- (d) Identify the methods that staff should use to manage behavior(s);
- (e) Identify the event(s) that appear to trigger beneficiary's behavior(s);
- (f) Identify what staff should do if the triggering event(s) occur;
- (g) Identify what staff should do if the behavior(s) to be increased or decreased occur;
- (h) Involve the fewest interventions or strategies possible;
- (i) Protect the beneficiary's rights;
- (j) Preclude procedures that are punishing, physically painful, emotionally frightening, involve deprivation, or put the beneficiary at medical risk;
- (k) Specify what behaviors, if any, require the use of restraints, the length of time the restraint

is to be used, the staff person responsible for the authorization and the use of restraints, and the methods for monitoring the beneficiary and staff;

- (l) Prohibit the use of medications for the sole purpose of preventing, modifying, or controlling challenging behavior that is not associated with a diagnosed co-occurring psychiatric condition, or for the purpose of chemical restraint; and
- (m) Prohibit the use of mechanical restraints for the purpose of limiting or controlling challenging behavior.

702.4 Behavior management plans must be re-evaluated at least quarterly.

- (a) Each ADDT provider is responsible for maintaining written documentation sufficient to prove that any required re-evaluation was properly conducted.
- (b) The reevaluation must be based on data collected by the ADDT regarding the frequency of use of behavior management interventions, length of time of each use, the duration of use over time and the impact of the use of interventions.

702.5 The ADDT must provide training to all staff who implement behavior management plans. Training requirements must, at a minimum, include an introduction to behavior management and a course on abuse and neglect of adults.

800 NUTRITION REQUIREMENTS

801 GENERAL NUTRITION REQUIREMENTS

801.1 If food is prepared on site at the ADDT, food service personnel shall:

- (a) Wear clean clothing and hair coverings while in the kitchen preparing or handling food.
- (b) Ensure that all food is prepared, cooked, served, and stored in such a manner that protects against contamination and spoilage.

801.2 The ADDT shall have a written policy for food services that addresses how meals are provided to the beneficiaries served by the ADDT. This policy shall include how meals are provided as well as staff responsible.

801.3 The ADDT shall keep menus on file for at least three (3) months. Menu preparation should occur at least one week in advance to:

- (a) Allow adequate time to purchase foods to avoid too frequent menu substitutions.
- (b) Allow menus to be available as a teaching tool for instruction of beneficiaries, to include development of menus by beneficiaries.

801.4 Menus shall be prepared or approved by a registered dietitian/nutritionist.

801.5 ADDTs may contract with a dietitian/nutritionist.

801.6 The dietitian/nutritionist shall check for nutritional adequacy of menus and acceptable food safety and sanitation practices. The use of State and Federal Agency Nutritional programs may be utilized.

801.7 The ADDT shall develop and implement written procedures that address provisions for special diets that pertain to allergies, weight control, diabetes, religion, hypertension, and other medical conditions as documented in the beneficiary's file.

802 FOOD STORAGE

For those ADDTs that provide meals prepared by the ADDTs staff, the following regulations shall be followed. For those ADDT's that provide meals from an outside provider, a copy of the provider's current certification from the Arkansas Department of Health shall be available for DPSQA to review.

802.1 Food items and toxic items shall not be stored together.

802.2 Food scraps shall be placed in garbage cans with airtight lids and bag liners. Garbage cans shall be emptied as necessary, but no less than daily. Garbage cans shall not be overflowing.

802.3 Leftover foods are to be immediately discarded.

802.4 Meat and eggs shall be separated from cooked foods and other foods when refrigerated. Raw meat is to be stored in such a way that juices do not drip on other foods.

802.5 Fresh whole eggs shall not be cracked more than two (2) hours before use.

802.6 Each ADDT shall have adequate refrigeration and storage space.

- (a) An adequately sized storage room shall be provided with adequate shelving. The storage room shall be constructed to prevent the invasion of rodents, insects, sewage, water leakage or any other contamination. The bottom shelf shall be of sufficient height from the floor to allow cleaning of the area underneath the bottom shelf.
- (b) Refrigerator temperature shall be maintained at 41 degrees Fahrenheit or below, and freezer temperatures shall be maintained at 0 degrees Fahrenheit or below. Thermometers will be placed in each refrigerator and freezer.

802.7 Hot foods should leave the kitchen (or steam table) above 140 degrees Fahrenheit and cold foods at or below 41 degrees Fahrenheit.

802.8 Containers of food shall not be stored on the floor of a walk-in refrigerator, freezer, or storage rooms. Containers shall be seamless with tight-fitting lids and shall be clearly labeled as to content.

802.9 In ADDTs that have a residential type kitchen, a five (5)-lb. ABC fire extinguisher is required in the kitchen. In ADDTs that have commercial kitchens with automatic extinguishers in the range hood, the portable five (5)-lb. fire extinguisher must be compatible with the chemicals used in the range hood extinguisher. The manufacturer recommendations shall be followed.

803 DINING CENTERS AND EQUIPMENT

803.1 The ADDT must have table space and chairs adequate for all beneficiaries to be served a meal at their schedule time.

803.2 All food service surfaces shall be kept sanitary.

803.3 The kitchen and dining area must be cleaned after each meal.

803.4 An adequate supply of eating utensils (e.g., cups, glasses, saucers, plates, glasses, bowls, and flatware) will be maintained in the ADDTs kitchen to meet the needs of the communal dining program. Eating utensils shall be free of chips or cracks.

803.5 An adequate number of pots and pans shall be available for preparing meals.

900 PHYSICAL ENVIROMENT

901 CODES AND STANDARDS

901.1 ADDTs seeking initial licensure shall comply with the Minimum Requirements of the most current Arkansas Fire Prevention Code and Life Safety Code, as administered by the local fire department or by the State Fire Marshall, who has final authority. Written verification of annual approval shall be maintained on file. Those ADDTs licensed before the adoption of the requirements shall be grandfathered in.

901.2 All applicable Arkansas Health Department requirements shall be met, including but not limited to rules regarding plumbing and food services. Written verification of annual approval shall be maintained on file.

901.3 Department of Labor, Boiler Inspection Division requirements shall be met. All water heaters and any other boilers in licensed ADDT settings shall be inspected upon installation and an annual basis. Verification that initial and/or annual inspection has been scheduled shall be maintained on file. Inspection, or proof of attempt to set up initial inspection, shall be completed within six (6) months of licensure. Scheduling and completion of annual inspections will be the responsibility of the Department of Labor; however, the ADDT is responsible for cooperating and keeping documentation of such inspection on file for review. See Ark. Code Ann. § 20-23-101 et seq.

901.4 The ADDT must be fully accessible by the beneficiary and his or her family. Each center must be in compliance with USC § 12101 et seq., “Americans with Disabilities Act of 1990,” and 29 USC § 706(8), 794—794(b), “Disability Rights Act of 1964” requirements.

902 GENERAL REQUIREMENTS

902.1 All parts of the ADDT used by beneficiaries shall be well heated, air conditioned, lighted, ventilated and maintained at a comfortable temperature.

- (a) Floor furnaces, hot radiators, water heaters, air conditioners and electric fans shall have guards and shall not present a safety hazard.
- (b) Portable fuel fired heaters shall not be used.
- (c) If natural gas or propane is used, the ADDT’s heating systems shall be inspected and cleaned if necessary before each heating season by a qualified HVAC technician.
- (d) Carbon monoxide detectors shall be placed in the ADDT according to manufacturer’s recommendations if one of the following situations applies:
 - 1. The ADDT uses wood, propane, natural gas or any other product as a heat source that can produce carbon monoxide indoors or in an attached garage.
 - 2. When carbon monoxide detectors are required by state or local law.

- 902.2 Floors, ceilings and walls shall be in good repair and kept clean. Paints used at the ADDT shall be lead free.
- 902.3 Glass doors shall be clearly marked.
- 902.4 When windows and doors are used for ventilation, they shall be screened and shall not present a safety hazard. Window screens shall be intact.
- 902.5 Separate space shall be provided for the isolation of beneficiaries who become ill and shall be located in an area that can be supervised by a staff member.
- 902.6 An ADDT shall have an operable telephone on site all hour's beneficiaries are present. The ADDT shall provide the phone number and email address to DPSQA, beneficiaries, and their responsible parties. (This phone may be a cell phone if the cell phone meets all requirements of this subdivision.)
- 902.7 The following structures shall not be used as an ADDT:
- (a) Manufactured homes constructed prior to June 1976
 - (b) Manufactured homes constructed with metal roofs and outside walls
 - (c) Single-wide manufactured homes
 - (d) Portable storage type buildings
- 902.8 Portable buildings are not considered manufactured homes but do require approval from the local Fire Department and DPSQA. New Portable buildings shall have Fire Department approval prior to purchase and installation.
- 902.9 A minimum of forty (40) square feet per beneficiary of usable floor space shall be required for indoor activities.
- (a) Usable floor space is program training areas. This includes areas in the training area used for storage of programmatic materials, if they are accessible to the beneficiaries.
 - (b) This does not include bathrooms, kitchen and hallways, closets or storage space for equipment that is not in use.
- 902.10 There shall be a quiet area for rest. This area shall:
- (a) The quiet area shall be equipped with a comfortable chair or bed in good repair.
- 902.11 All equipment and furnishings shall be safe and in good condition.
- (a) Furniture, including dining tables and chairs, shall be of a size and design that is easily used by persons with physical limitations.
 - (b) Furniture shall be sturdy and secure so that it cannot easily tip when used for support by someone walking, standing, sitting, or arising from the furniture.
- 902.12 There shall be at least one comfortable chair per beneficiary.

902.13 Equipment and supplies shall be adequate to meet the needs of beneficiaries. They shall include items necessary to provide direct care and to encourage active participation and group interaction.

902.14 An ADDT shall be both physically and programmatically distinct from any other type of DPSQA licensed center or program.

902.15 An ADDT may share a common lobby and access area of a multipurpose building and may be entered via elevator from the lobby or access area.

902.16 Toilet centers shall be provided to meet the needs of beneficiaries, staff and visitors, and shall be located in areas other than the beneficiaries' areas.

902.17 All beneficiary areas must be painted and appropriately furnished.

903 SAFETY STANDARDS

903.1 If the local municipality in which the ADDT is located has not adopted requirements based on the above standards, or if DPSQA determines that the regulations adopted by the local municipality are not adequate to protect a beneficiary, the ADDT must meet the provisions of the most current edition of the Arkansas Fire Prevention Code, including the National Fire Protection Association (NFPA) requirements referenced by the Arkansas Fire Prevention Code.

903.2 Fire Safety Inspection

- (a) The ADDT shall have an annual onsite fire safety inspection by the local fire marshal. Documentation of the date, source, and results of the fire safety inspection shall be kept. If the ADDT has a sprinkler system, the sprinkler system shall be inspected annually to ensure working order. The fire safety expert may not be an employee of the center or of the legal entity of the center.
- (b) A tornado drill must be conducted quarterly with all staff and beneficiaries present participating. ADDTs shall document the date/time of the drills. The drills shall be on different days of the week and at different times.
- (c) An unannounced fire drill shall be held at least quarterly.
 - 1. Fire drills shall be held during normal attendance and staffing conditions and not when additional staff persons are present or when attendance is below average.
 - 2. A written fire drill record shall be kept of the date, time, the amount of time it took for evacuation, the exit route used, problems encountered and whether the fire alarm was operative.
 - 3. Beneficiaries shall be able to evacuate the entire building by themselves or with staff assistance. There shall be a fire safe area that is accessible from the ADDT by two different routes and that is separated from other areas of the building by a minimum of 1-hour rated wall and door assemblies. Two fire safe areas in different directions of travel from the ADDT are acceptable.
 - 4. Alternate exit routes shall be used during fire drills.
 - 5. Fire drills shall be held on different days of the week and at different times of the day.

6. Beneficiaries and staff shall evacuate to a designated meeting place outside the building or within the fire safe area during each fire drill.
 7. A fire alarm shall be set off during each fire drill.
- (d) An evacuation drill shall be conducted annually with all staff and beneficiaries present participating.
- (e) Practices that create an increased risk of fire are prohibited. This includes, but is not limited to:
1. Space heaters. In cases of emergency, such as extended power loss during periods of cold weather and the ADDT remains open or beneficiaries remain on site, space heaters are permitted upon the approval of DPSQA.
 2. The accumulation or storage within the ADDT of combustible materials such as rags, paper items, gasoline, kerosene, paint or paint thinners.
 3. The use of candles, oil lamps, incense, or open-flamed items.
 4. The use of extension cords or multi-plug adapters for electrical outlets. ADDT may utilize Transient Voltage Surge Protectors or Surge Suppressors with microprocessor electronic equipment such as computers or CD/DVD recorders or players. Any Transient Voltage Surge Protectors or Surge Suppressors must have a minimum UL rating of 330v and must have a functioning protection indicator light. EIDT may not use Transient Voltage Surge Protectors or Surge Suppressors that do not have a functioning protection indicator light or Transient Voltage Surge Protectors or Surge Suppressors in which the functioning protection indicator light does not light to indicate that the device is functioning. Automatic electrical timers with a UL rating are permitted, for programmed time periods, for energy efficiency and safety, if the ADDT or beneficiaries elect to use it for lamps, holiday decorations, or other small electrical devices.
- (f) Exit signs bearing the word “EXIT” in plain, legible letters shall be placed at exits.
- (g) If the exit or way to reach the exit is not immediately visible to the beneficiaries, access to exits shall be marked with visible signs indicating the direction of travel.

903.3 Fire extinguishers

- (a) There shall be at least one (1) fire extinguisher with a minimum 2-A rating for each floor including the basement.
- (b) If the indoor floor area is more than 5,000 square feet on a floor including the basement, there shall be an additional fire extinguisher with a minimum 2-A rating for each additional 5,000 square feet of indoor floor space.
- (c) A fire extinguisher with a minimum 10-B rating shall be located in each kitchen. This extinguisher is required in addition to the extinguishers with a minimum 2-A rating required for each floor in subsections (a) and (b).
- (d) Fire extinguishers shall be listed by Underwriters Laboratories or approved by Factory Mutual Systems.
- (e) Fire extinguishers shall be easily accessible to staff.

- (f) Fire extinguishers shall be inspected and approved annually by a fire safety expert. The date of the inspection shall be on the extinguisher.

903.4 Exits

- (a) Each building in which the ADDT operates shall have a minimum of two (2) exits leading directly to the outside.

903.5 Unobstructed egress

- (a) Stairways, halls, doorways, aisles, passageways and exits from rooms and from the building shall be unobstructed. Basements shall not be utilized in an ADDT unless there are exits with direct egress to the ground level.

904 WATER SUPPLY

904.1 An adequate supply of water, under pressure, must be provided at all times. When a public water system is available, a connection must be made thereto. If water from a source other than a public water supply is used, the supply must meet the requirements set forth under rules and regulations of the State Board of Health.

904.2 A contract to supply potable water shall be implemented with a third party not associated with the operation of the ADDT in the event the ADDT's water supply should be interrupted. The ADDT shall document the third party in their admission agreement.

905 SEWAGE

905.1 All sewage must be disposed of by means of either:

- (a) A public system where one is accessible within 300 feet; or
- (b) An approved sewage disposal system that is constructed and operated in conformance with the standards established for such systems by the State Board of Health.

906 ELECTRICAL

906.1 Electrical wiring, fixtures, appliances, motors, and other electrical equipment must be installed in accordance with the national electrical code and comply with local regulations and codes where they exist.

907 HEATING/COOLING

907.1 All liquefied petroleum gas systems must be installed and maintained in accordance with the State Code for Liquefied Petroleum Gas Containers and Equipment, State of Arkansas.

- (a) All gas heating units must bear the stamp of approval of the American Gas Association Testing Laboratories, Inc. or other nationally recognized testing agency for enclosed, vented heaters for the type of fuel used.
- (b) All gas heating units and water heaters must be vented adequately to carry the products of combustion to the outside atmosphere. Vents must be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the American Gas Association Recommended Procedures.

- 907.2 All heating units must be provided with a sufficient supply of outside air to support combustion without depletion of the air in the occupied room.
- 907.3 All heating and cooling units must be installed and maintained in a manner that will provide for the safety and comfort of the beneficiaries.
- 907.4 In new ADDTs licensed after the effective date of these standards, the ADDT must provide each training area or unit with an individual thermostat controlling the temperature in that area or unit. In addition, the ADDT must provide a heating, ventilating and air conditioning (HVAC) system(s) for the training areas or units and common areas capable of maintaining any temperature between 68 and 80 degrees at any time throughout the year.

908 ZONING CODES

- 908.1 Each newly licensed ADDT, after implementation of these regulations, must be operated in areas permitted by local codes. Each owner must provide DPSQA with documentation that the ADDT is in compliance with zoning requirements.

909 LOT REQUIREMENTS, NEWLY LICENED ADDT

- 909.1 Conditions of soil, ground water level, drainage and topography must not create hazards to the property or to the health and safety of the beneficiaries. The site shall not be subject to unpredictable and/or sudden flooding. Documentation shall be submitted to DPSQA before licensure by the local authority verifying the site is not in a flood zone.

910 SUBMISSION OF PLANS, SPECIFICATIONS AND ESTIMATES

- 910.1 When construction is contemplated either for new buildings, additions or major alterations in excess of one hundred thousand dollars (\$100,000), plans and specifications shall be submitted in duplicate, one (1) to DPSQA and one (1) to the Plumbing Division of the Arkansas Department of Health. Final plan approval shall be given by DPSQA.
- 910.2 Such plans and specifications shall be prepared by a registered professional engineer or an architect licensed in the State of Arkansas pursuant to Act 270 of 1941, codified as Ark. Code Ann. §17-15-101 et seq. and shall be drawn to scale with the title and date shown thereon. DPSQA shall have a minimum of three (3) weeks to review the drawing and specifications and submit their comments to the applicant. Any proposed deviations from the approved plans and specifications shall be submitted to DPSQA prior to making any changes. Construction cannot start until approval of plans and specifications have been received from DPSQA. DPSQA shall be notified as soon as construction of a new building or alteration to an existing building is started.
- 910.3 An estimate shall accompany all working plans and specifications when the total cost of construction is more than one hundred thousand dollars (\$100,000).
- 910.4 Representatives from DPSQA shall have access to the construction premises and the construction project for purposes of making whatever inspections DPSQA deems necessary throughout the course of construction.

911 PLANS AND SPECIFICATIONS

- 911.1 All ADDTs licensed under these regulations shall be designed and constructed to substantially

comply with pertinent local and state laws, codes, ordinances, and standards. All new construction shall be in accordance with the requirements as specified in the most current version of the Arkansas Fire Prevention Code.

911.2 The ADDT shall develop and shall comply with a written evacuation plan approved by the local fire marshal. All new construction shall be readily accessible and useable by persons with physical disabilities including persons who use wheelchairs. All construction shall comply with the requirements of the ADA.

911.3 Plans shall be submitted to DPSQA in the following stages:

- (a) Step (1) – Working drawings and specifications that shall be prepared so that clear and distinct prints may be obtained; accurate dimensions including all necessary explanatory notes, schedules, and legends. Working drawings shall be complete and adequate for contract purposes. Separate drawings shall be prepared for each of the following branches of work, architectural, structural, mechanical, and electrical, and shall include the following:
 - 1. Approved plan showing all new topography, newly established levels and grades, existing structures on the site (if any), new buildings and structures, roadways, walks, and the extent of the areas to be seeded. All structures and improvements that are to be removed under the construction contract shall be shown. A print of the survey shall be included with the working drawings;
 - 2. Plan of each floor and roof;
 - 3. Elevations of each facade;
 - 4. Sections through building;
 - 5. Scale and full-size details as necessary to properly indicate portions of the work; and
 - 6. Schedule of finishes.
- (b) Step (2) – Equipment Drawings: Large-scale drawings of typical and special rooms indicating all fixed equipment and major items of furniture and movable equipment.
- (c) Step (3) – Structural Drawings:
 - 1. Plans of foundations, floors, roofs, and all intermediate levels shall show a complete design with sizes, sections, and the relative location of the various members. Schedule of beams, girders, and columns, shall be included;
 - 2. Floor levels, column centers, and offsets shall be dimensioned;
 - 3. Special openings and pipe sleeves shall be dimensioned or otherwise noted for easy reference;
 - 4. Details of all special connections, assemblies, and expansion joints shall be given.
- (d) Step (4) – Mechanical Drawings: These drawings with specifications shall show the complete heating and ventilation systems, plumbing, drainage, and standpipe system and laundry and shall include:
 - 1. Heating and air-conditioning systems, including:

- Air-conditioning systems with required equipment, water and refrigerant piping and ducts;
 - Exhaust and supply ventilating systems with steam connections and piping; and
 - Air quantities for all room supply and exhaust ventilating duct openings.
2. Plumbing, drainage, and standpipe systems, including:
 - Size and elevation of street sewer, house sewer, house drains, street water main, and water service into the building;
 - Locations and size of soil, waste, and vent stacks with connections to house drains, clean outs, fixtures, and equipment;
 - Size and location of hot, cold, and circulating mains, branches and risers from the service entrance and tanks;
 - Riser diagram to show all plumbing stacks with vents, water risers, and fixture connections;
 - Gas, oxygen, and special connections; and
 - Plumbing fixtures and equipment that require water and drain connections.
 3. Elevators and dumbwaiters: Details and dimensions of shaft, pit, and machine room; sizes of car platform and doors;
 4. Kitchens, laundry, refrigeration, and laboratories: These shall be detailed at a satisfactory scale to show the location, size, and connection of all fixed equipment.
- (e) Step (5) – Electrical Drawings:
1. Drawings shall show electrical wiring, outlets, smoke detectors, and equipment that require electrical connections;
 2. Electrical service entrances with switches and feeder to the public service feeders shall be shown;
 3. Plan and diagram showing main switchboard, power panels, light panels, and equipment;
 4. Light outlets, receptacles, switches, power outlets, and circuits;
 5. Fire alarm system with stations, signal devices, control board, and wiring diagrams; and
 6. Emergency electrical system with outlets, transfer switch, source of supply, feeders, and circuits.
- (f) Step (6) – Specifications: Specifications shall supplement the drawings to fully describe types, sizes, capacities, workmanship, finishes, and other characteristics of all materials and equipment, and shall include the following:
1. Cover or title sheet;
 2. Index;
 3. General conditions;
 4. General requirements;
 5. Sections describing material and workmanship in detail for each class of work.

1000 INSPECTIONS AND ENFORCEMENT

1000.1 The following actions and remedies may be taken by DPSQA pursuant to the authority conferred by Ark. Code Ann. §20-48-101 et seq., and Ark. Code Ann. §25-10-129.

1000.2 DPSQA may initiate a referral to the Medicaid Audit division or the Office of Medicaid Inspector General (OMIG) if, during any review or inspection, they identify instances of non-compliance with Medicaid billing. The results of a Medicaid Audit alone may result in DHS imposing enforcement remedies on a ADDT.

1001 INSPECTIONS

1001.1 The ADDT shall submit to regular and unannounced inspection surveys and complaint investigations in order to receive or maintain a license. An inspection may occur at any time, in the discretion of DHS, DDS, DPSQA, or the Attorney General.

- (a) DHS, DDS, DPSQA, or the Attorney General have the right to conduct interviews in a private area with the beneficiary, the beneficiary's legal guardian(s), or employees who consent to interviews and shall be permitted to photograph the ADDT.
- (b) The ADDT shall inform the beneficiary and the beneficiary's legal guardian(s), if applicable, of the survey process and the beneficiary's rights with regard to privacy during the process. The beneficiary, beneficiary's legal guardian(s), or employees may refuse to be interviewed or photographed.
- (c) This standard shall not be construed as a waiver of any constitutional rights, including but not limited to the right against self-incrimination.

1001.2 All areas of the ADDT that are accessible to beneficiaries or are used in the care or support of beneficiaries, including but not limited to kitchen or food preparation areas, laundry areas, and storage areas shall be open for inspection by DHS, DDS, DPSQA, or the Attorney General.

- (a) This shall include access to all beneficiary records, including but not limited to beneficiary's and beneficiary's legal guardian(s)' financial and medical records maintained by the ADDT.
- (b) All ADDT records related to the care or protection of beneficiaries, including related employee records shall be open for inspection by DHS, DDS, DPSQA or the Attorney General for the purpose of enforcing these regulations and applicable laws.
- (c) The ADDT shall provide access to any copying equipment the ADDT has on premises to permit the above-named entities the ability to make copies of ADDT records. This shall not be construed as a requirement that an ADDT be required to have copy equipment on its premises.

1001.3 The ADDT shall provide for the maintenance and submission of billing, records, or reports related to the beneficiary's care in such form and at such time and in such manner as DHS, DDS, DPSQA, or the Attorney General may require.

1001.4 When areas of noncompliance with these Standards are noted during an inspection by DPSQA, DPSQA will provide the ADDT with a "Statement of Deficiencies" that details those areas of non-compliance.

1001.5 The ADDT must post the Statement of Deficiencies and the ADDT's response and the outcome of the response from the latest survey in a public area utilized by beneficiaries and their legal guardian(s). The last twelve (12) months of deficiency notices and ADDT responses and outcomes of responses, for all surveys shall be provided to beneficiaries or their legal guardian(s), upon request.

1002 PLAN OF CORRECTION

1002.1 Regardless which other remedies are applied, or the nature or severity of the violation, each ADDT that has deficiencies with respect to program requirements must submit a plan of correction for approval by DPSQA.

1002.2 The Plan of Correction shall be set forth on the Statement of Deficiencies. While an ADDT may provide a disclaimer in the plan of correction, the ADDT is still required to provide corrective actions to address the cited deficiencies, the time frames in which the corrective actions will be completed, and the manner to be utilized by the ADDT to monitor the effectiveness of the corrective action.

1002.3 ADDTs must provide acceptable written plan of correction within fifteen (15) working days of receipt of written notification of deficiencies (also referred to as a Statement of Deficiencies) found during routine inspections or surveys, special visits or complaint investigations. DPSQA shall determine whether the proposed plan of correction, including any proposed dates by which correction will be made, is acceptable.

1002.4 Failure by the ADDT to provide an acceptable plan of correction may result in the imposition of additional remedies pursuant to these Standards at the discretion of DPSQA.

1003 IMPOSITION OF REMEDIES

Noncompliance may occur for a variety of reasons and can result in harm to beneficiaries or put beneficiaries at risk for harm. When ADDT do not maintain substantial compliance, DHS may use various enforcement remedies to encourage prompt compliance. The purpose of these State remedies is to promote the initiative and responsibility of providers to continuously monitor their performance and promptly achieve, sustain and maintain compliance with all DHS licensure requirements.

This guidance does not apply to past noncompliance. However, the determination to impose State remedies for past noncompliance is at the discretion of DPSQA.

1003.1 Temporary Administration

- (a) This is the temporary appointment of a substitute ADDT director, manager, or administrator with authority to hire, terminate, or reassign staff, obligate ADDT funds, alter ADDT procedures, and manage the ADDT to correct deficiencies identified in the ADDT's operation. A temporary operator may be imposed anytime an ADDT is not in substantial compliance but must be imposed when an ADDT deficiencies constitute widespread actual harm to beneficiaries and a decision is made to impose an alternative remedy to termination. It is the temporary manager's responsibility to oversee correction of the deficiencies and assure the health and safety of the beneficiaries while the corrections are being made. A temporary manager remedy may also be imposed to oversee orderly closure of an ADDT. The State will select the temporary manager when the State Medicaid Agency is imposing the remedy. Each ADDT should compile a list of individuals who are eligible to serve as temporary managers. These individuals do not have to be located in the state where the ADDT is located.

- (b) A temporary Director may be appointed by DPSQA only upon the consent and agreement of the ADDT.
- (c) The temporary Director shall provide reports to DPSQA regarding the operation of the ADDT and the efforts toward correction of deficiencies, as requested by DPSQA.
- (d) The temporary Director must:
1. Be qualified to oversee correction of deficiencies on the basis of experience and education, as determined by DPSQA;
 2. Not have been found guilty of misconduct by any licensing board or professional society in any state;
 3. Have no financial ownership interest in the ADDT (this includes a member of his or her immediate family);
 4. Not currently serve or, within the past 2 years, have served, unless approval has been obtained from DPSQA, as a member of the staff of the ADDT; and
 5. Successfully undergo a criminal record check pursuant to these Standards.
- (e) The temporary Director's salary:
1. Will be paid directly by the ADDT while the temporary Director is assigned to that ADDT; and
 2. Must be at least equivalent to the sum of the following:
 - The prevailing salary paid by ADDT providers for positions of this type in what DPSQA considers the ADDT's geographic area;
 - Additional costs that would have reasonably been incurred by the ADDT if such person had been in an employment relationship; and
 - Any other costs incurred by such a person in furnishing services under such an arrangement or as otherwise set by DPSQA.
 - May exceed the amount specified above if DPSQA is otherwise unable to attract a qualified temporary Director.
- (f) The remedy of temporary Director shall be used only in lieu of termination of the ADDT license. Provided, however, that if the appointment of the temporary Director does not result in compliance by the ADDT within the timeframes estimated by the temporary Director and agreed to by DPSQA, the remedy of termination of license may be imposed.
- (g) If an ADDT fails to relinquish authority to the temporary Director, DPSQA may impose additional remedies, including but not limited to termination of the ADDT's license.
- (h) An ADDT's failure to pay the salary of the temporary Director is considered a failure to relinquish authority to temporary administration.

1003.2 State Monitoring

A State monitor oversees the correction of cited deficiencies in the ADDT as a safeguard against further harm to beneficiaries when harm or a situation with a potential for harm has occurred. The state will consider imposing this remedy when, for example, there are concerns that the situation in the ADDT has the potential to worsen or the ADDT seems unable or unwilling to take corrective action. A State monitor must be used when an ADDT has been cited with quality

of care deficiencies on the last three (3) consecutive standard (annual) or follow up health surveys.

- (a) A State Monitor may be utilized by DPSQA for any level or severity of deficiency.
- (b) The State Monitor must:
 - 1. Be an employee or a contractor of DPSQA;
 - 2. Be identified by DPSQA as an appropriate professional to monitor cited deficiencies;
 - 3. Not be an employee or contractor of the ADDT;
 - 4. Not have an immediate family member who is a beneficiary of the ADDT to be monitored; and
 - 5. Not have an immediate family member who owns the ADDT or works in the ADDT or a corporation that operates or owns the ADDT.
- (c) The State Monitor oversees the correction of deficiencies specified by DPSQA at the ADDT and protects the ADDT's beneficiaries from harm.

1003.3 Directed Plan of Correction

This remedy provides for directed action(s) from the State that the ADDT must take to address the noncompliance or a directed process for the ADDT to more fully address the root cause(s) of the noncompliance. Achieving compliance is ultimately the ADDT's responsibility, whether or not a directed plan of correction is followed.

- (a) DPSQA, or the temporary Director with DPSQA approval, may develop a directed plan of correction. The intent of the directed plan of correction is to achieve correction of identified deficiencies and compliance with applicable laws.
- (b) A directed plan of correction sets forth the tasks to be undertaken and the manner in which the tasks are to be performed by the ADDT to correct deficiencies, as well as the timeframe in which the tasks will be performed.
- (c) An ADDT's failure to comply with a directed plan of correction may result in additional remedies, including termination of license.

1003.4 Directed In-Service Training

The State will consider this remedy in cases where the ADDT has deficiencies where there are knowledge gaps in standards of practice, staff competencies or the minimum requirements of participation and where education is likely to correct the noncompliance. Depending on the topic(s) that need to be addressed and the level of training needed, ADDTs should consider using programs developed by well-established centers of programs in regard to their licensure, e.g., health services such as schools of medicine or nursing, centers for the developmentally disabled and area health education centers which have established programs in individuals with fragile medical conditions, etc. If it is willing and able, a State may provide special consultative services for obtaining this type of training. They may also compile a list of resources that can provide directed in-service training and could make this list available to provider and interested organizations. ADDTs may also utilize the ombudsman program, if applicable, to provide training about beneficiaries' rights and quality of life issues.

- (a) DPSQA may require the staff of an ADDT to attend an in-service training program, if

education is likely to correct, or is likely to assist in correcting, cited deficiencies.

- (b) DPSQA may specify the timeframes in which the training must be performed, the type or nature of the training, and the individual or entities to provide the training.
- (c) The ADDT must pay for the directed in-service training.
- (d) After the staff has received in-service training, if the ADDT has not corrected the violations or deficiencies that led to the directed in-service, DPSQA may impose one or more other remedies.

1003.5 Transfer

- (a) DPSQA has the authority to transfer beneficiaries to another ADDT when:
 - 1. An emergency exists where the health, safety, or welfare of beneficiaries are imperiled, and no other remedy exists that would ensure the continued health, safety, or welfare of the beneficiaries at the ADDT; or
 - 2. An ADDT intends to close but has not arranged for the orderly transfer of its beneficiaries at least thirty (30) days prior to closure.
- (b) When DPSQA orders transfer of beneficiaries from an ADDT, DPSQA may:
 - 1. Assist in providing for the orderly transfer to other suitable ADDTs or make other provisions for the beneficiaries' care and safety; and
 - 2. Assist in locating alternative ADDT and services for each beneficiary.
- (c) Unless transfer is due to an emergency, DPSQA shall provide the ADDT from which the beneficiaries are to be transferred at least fifteen (15) days' notice of the transfer.

1003.6 Denial or Suspension of New Enrollments

This remedy may be imposed alone or in combination with other remedies to encourage quick compliance. Regardless of any other remedies that may be imposed, a mandatory denial of payment for new admissions must be imposed when the ADDT is not in substantial compliance as identified in the most recent statement of deficiency.

1003.7 Termination of License

While this remedy may be imposed any time the circumstances warrant regardless of whether a quality of care issue in regard to the health safety and welfare of the beneficiary is present; regardless of any other remedies that may be imposed, termination of an ADDT's license must be imposed when the ADDT is not in substantial compliance six (6) months after the last day of the survey identifying deficiencies or within no more than twenty-three (23) days if health, safety, and welfare is identified and not removed.

- (a) The remedy of termination of licensure is a remedy of last resort and may be imposed only as set forth below.
- (b) DPSQA may terminate an ADDT's license when the ADDT:
 - 1. Permits, aids or abets in the commission of any unlawful act in connection with the operation of the ADDT;
 - 2. Refuses to allow entry or inspection by DPSQA;

3. Fails to make any or all records available to representatives or agents of DHS, DDS, DPSQA, or the Attorney General, unless such refusal is made pursuant to court order or during the pendency of an appeal specifically on the issue of the release of the records, or the records are records created by the quality assessment unit;
 4. Closes, either voluntarily or through action of the State;
 5. The Director, or owner, refuses to obtain a criminal record check of any individual required to undergo a criminal record check pursuant to these regulations in Sections 506.2(c) and (o), 506.3, 507.5(c), 507.6, and 1003.1(d)(5) and DDS Policy 1087;
 6. Has conditions wherein the health, safety, or welfare of the beneficiary are imperiled, and no other remedy exists that would ensure the continued health, safety, or welfare of the beneficiaries.
- (c) When an ADDT's license is terminated, DPSQA may assist in the safe and orderly transfer of all beneficiaries to another ADDT.
- (d) An ADDT whose license is terminated will have to wait a minimum of three (3) years before applying for licensure again.

1003.8 Fines

- (a) DPSQA may impose monetary penalties in accordance with the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-217, or other changes in statutory requirements.

1004 NOTICE REQUIREMENTS

1004.1 Except in cases of emergency termination of a license or in cases of emergency removal or transfer of the recipient, DPSQA shall give the provider notice of the remedy, including:

- (a) Nature of the deficiency and facts supporting the deficiency determination;
- (b) Remedy or remedies imposed;
- (c) Date the remedy begins; and
- (d) Right to appeal the deficiency determination.

1004.2 When DPSQA imposes remedies in the situation of an emergency, DPSQA will follow the notice and hearing requirements set forth in the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-211(c).

1004.3 Notice shall not be required for state monitoring.

1005 DURATION OF REMEDIES

1005.1 Unless otherwise provided by law or other applicable regulations, remedies continue until:

- (a) The ADDT has corrected the deficiencies that resulted in the imposition of the remedy or remedies, as determined by DPSQA based upon a revisit, or after an examination of credible written evidence that it can verify without an on-site visit, or both; or

- (b) DPSQA terminates the ADDT center license.

1006 CLOSURE

1006.1 Closure of an ADDT shall result in the immediate revocation of the license. An ADDT that closes shall:

- (a) Notify each beneficiary it serves and the guardians of each beneficiary at least (30) days before the closure;
- (b) Provide each beneficiary it serves and the guardians of each beneficiary with referrals to at least three (3) other appropriate service providers, if available; and
- (c) Facilitate transfer of the service records of each beneficiary to the new providers, if applicable.

1006.2 An ADDT that closes or is unable to operate due to natural disaster or similar circumstances beyond the control of the owner of the ADDT, or an ADDT that closes, regardless of the reason, to effectuate repairs or renovations, may make written request to DPSQA for renewal of the ADDT license to take effect after completion of the repairs or renovation to the ADDT. DPSQA may, in its sole discretion, grant the written request.

1006.3 Any ADDT that closes or ceases operation or surrenders or fails to timely renew its license, must meet the Standards then in effect for a new construction and licensure to be eligible for future licensure.

1006.4 If the request for re-licensure is granted, DPSQA will provide written notification to the ADDT, which will include deadlines for various stages of the repairs or renovations, including the completion date. In no event shall the completion date set by DPSQA extend beyond twenty-four months of the date of the request; provided, however, that the deadlines may be extended by DPSQA upon good cause shown by the ADDT.

- (a) For purposes of this regulation, “good cause” means natural disasters or similar circumstances, such as extended inclement weather that prevents repairs or construction within the established deadlines, beyond the control of the ADDT.
- (b) Good cause shall not include the unwillingness or inability of the ADDT to secure financing for the renovations or repairs.

1006.5 The ADDT shall comply with all deadlines established by DPSQA in its notice. Failure to comply with the deadlines established by DPSQA shall constitute grounds for revocation of the license, and for denial of re-licensure.

1100 APPEALS TO COURT

Any applicant or licensee who considers himself/herself injured in his or her person, business or property by final Department administrative adjudication shall be entitled to judicial review thereof as provided for by law. All petitions for judicial review shall be in accordance with the Arkansas Administrative Procedure Act as codified at Ark. Code Ann. § 25-15-201, *et seq.*

PROPOSED

APPENDIX A – ADDT Application for Licensure

PROPOSED

**ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF PROVIDER SERVICES AND QUALITY ASSURANCE**

**APPLICATION FOR LICENSE TO CONDUCT AN
EARLY INTERVENTION DAY TREATMENT CENTER
OR ADULT DEVELOPMENTAL DAY TREATMENT CENTER**

For State Use Only:

☐ Original

☐ Renewal

License Issued for _____
Year

_____/_____/_____
Month Day Year

License Number _____ Vendor No. _____ No. Licensed For _____

License Granted Effective _____ License Denied _____

Executive Director, _____

I. Name and Location

The undersigned hereby make application for a license to operate ☐ Early Intervention Day Treatment center
☐ Adult Day Treatment Center
☐ Academic Medical Center
☐ EIDT/ADDT Transportation

Name of Center _____

Address of Center _____
Street City or Town

County State Zip Code Telephone # Fax #

Email address: _____

Mailing Address if different from above

II. Management and Ownership

A. The Operation or management of the center is vested in the following:

(1) ☐ _____ (2) Private ☐ (3) Non-Profit ☐

B. If public center, list individual who heads the governmental department having jurisdiction over the center and members of the Governing Board:

Name	Address
1. _____	_____
2. _____	_____
3. _____	_____

4. _____

5. _____

C. If privately owned, list Ownership status

(1) ☐ _____ Sole Proprietorship

(2) ☐ _____ Partnership

(3) ☐ _____ Corporation

Partnership: List names and addresses of partner(s)

Name

Address

Corporation: List names and addresses of corporate officers and percentage of individuals owning 5% or more stock (List % of ownership by the individual's names)

Name

Address

Non-Profit: List names and addresses of Board of Directors of the Governing Body

Name

Address

D. If ownership of building is different from the person(s) or group operating the center, explain the relationship including names and addresses of the owner(s).

Name

Address

III. Licensure

A. Number of slots _____ (Total)

B. If above total is different from that which you are currently licensed, explain the difference

C. Name and address of center manager/director if different from the ownership

_____	_____
Name	Address
_____	_____
State	Telephone #

IV. Certification and Verification

State of _____ County of _____

I hereby certify that I have read the aforementioned Application and that all statements are true to the best of my knowledge and belief. I am aware that any willful misrepresentation of any material fact contained on the Application will subject me to penalties as prescribed in the State Licensing Law including, but limited to revocation and/or suspension of this license.

I further affirm that I understand that I am eligible for a license only if the center is in compliance with the law and regulations thereunder, and that the Division of Provider Services and Quality Assurance is empowered to deny, suspend, or revoke my license on any of the grounds listed in the State Licensing Law.

Signature of person(s) authorized to sign in
accordance with instruction II. C

Subscribed and sworn to before me on this the _____ day of _____,

Notary Public

(Notary Seal)

My Commission expires on _____

PROPOSED

INSTRUCTIONS

- A. Enclosed is a copy of Application for Licensure. Complete one copy and return to the Division of Provider Services and Quality Assurance and retain one copy for your files.
- B. Please read these instructions carefully and complete this application in full. This application must be completed in ink or typed.
- C. This application is not valid unless it is notarized.
- D. This license application must be signed by the following person(s) dependent upon the type of management and ownership.
 - 1. If the institution is public (i.e., County, City, etc.) it must be signed by the person who is head of the governmental department having jurisdiction over it (i.e., Chairman of County Board or Chairman of Commission) or his duly authorized representative. This authorization must be in writing, notarized and submitted along with this application.
 - 2. If the institution is private, it must be signed by the following dependent upon the type of business center.

Type	Signer
Sole Proprietorship	Owner
Partnership	One of the partner
Corporation, Church, Non-Profit Association	

If someone other than the above named is authorized to sign in his or her behalf, such authorization must be in writing, notarized and attached to this application.

- E. All licenses expire on **June 30 of the fiscal year** in which they are issued.
- F. Application for annual renewal **must be postmarked no later than March 31 of the fiscal year** in which current license was issued.
- G. This application should be returned by **certified mail** to the following address:

**DEPARTMENT OF HUMAN SERVICES
DIVISION OF PROVIDER SERVICES AND QUALITY ASSURANCE
P.O. BOX 8059 SLOT S408
LITTLE ROCK, AR 72203**

Please make certain that you use the above listed address only

Statement of Necessity and Rule Summary

Minimum Licensure Standards for Adult Developmental Day Treatment (ADDT) and Early Intervention Day Treatment (EIDT) Centers

Statement of Necessity

The new Adult Developmental Day Treatment (ADDT) and Early Intervention Day Treatment (EIDT) programs developed by the Division of Developmental Disabilities Services (DDS) are replacing the Developmental Day Treatment Clinic Services programs for adults and children. As such, the new Minimum Licensure Standards for ADDT and EIDT centers are being promulgated to replace the DDS Standards for Center-Based Community Services, which governed the Developmental Day Treatment Clinic Services program.

Acts 2017, No. 913, created the Division of Provider Services and Quality Assurance (DPSQA). Under the statutory authority vested in the Director of the Department of Human Services (DHS) in Arkansas Code § 25-10-102(c)(1)(B), those duties involving programmatic provider licensure and certification functions of various DHS divisions, including DDS, were transferred to DPSQA. Thus, DPSQA was granted the authority to license all ADDT and EIDT providers on behalf of DDS.

Rule Summary

The Minimum Licensure Standards for Adult Developmental Day Treatment (ADDT) and Early Intervention Day Treatment (EIDT) centers being promulgated will serve as the minimum licensure requirements for the new ADDT and EIDT programs developed by DDS. In addition, the ADDT and EIDT manuals contain standards governing transportation. It is the intent of the Department of Human Services (DHS) to revise these standards governing transportation in a future promulgation.

These rules incorporate the substance of the DDS Standards for Center-Based Community Services that are being repealed, with the following revisions and updates:

- Incorporate the language of DDS 1089A, the Criteria for Expansion of Adult DDTCS, into the ADDT manual
- Incorporate the language of DDS 1089B, the Criteria for Expansion of Early Intervention Day Treatment Services, into the EIDT manual
- Reflect new incident and accident reporting procedures to hold the provider accountable for their part in investigating abuse, neglect, and misappropriation of resident property
- Add definitions of “abuse”, “neglect”, and “misappropriation”
- Add procedural guidelines for conducting criminal record checks and identify DPSQA as the division through which federal criminal record check paperwork will be routed
- Include guidelines for conducting Adult Maltreatment Registry, Child Maltreatment Registry, and Employment Registry checks
- Provide guidelines for program expansion
- Contain Life Safety Code guidelines for new construction and major renovations
- Require compliance with the Arkansas Fire Prevention Code for new construction and major renovations
- Add a new licensure application

This promulgation repeals the following:

- DDS Standards for Center-Based Community Services

This draft is a working document. All information contained herein is subject to change and may differ substantially from the final document. The information contained in this document should not be considered the position or views of the agency or the Governor.

- DDS Policy 1089A, the Criteria for Expansion of Adult DDTCS Services
- DDS Policy 1089B, the Criteria for Expansion of Early Intervention Day Treatment Services

DRAFT

NOTICE OF RULE MAKING

The Division of Developmental Disabilities Services (DDS) and the Division of Provider Services and Quality Assurance (DPSQA) hereby issue, for a thirty-day public comment period, a notice of rulemaking for the following proposed medical assistance rule(s) under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§ 20-48-205, 20-48-1107, 20-76-201, 20-77-107, 25-10-102, and 25-10-129.

The Minimum Licensure Standards for Early Intervention Day Treatment (EIDT) Centers serve as the minimum licensure requirements for the new EIDT program developed by the Division of Developmental Disabilities Services. The EIDT program replaces the Developmental Day Treatment Clinic Services – Children program. The Minimum Licensure Standards for Adult Developmental Day Treatment (ADDT) Centers serve as the minimum licensure requirements for the new ADDT program developed by the Division of Developmental Disabilities Services. The ADDT program replaces the Developmental Day Treatment Clinic Services – Adults program. These manuals replace the DDS Standards for Center-Based Community Services, which are being repealed in this promulgation.

DDS Policy 1089B, the Criteria for Expansion of Early Intervention Day Treatment Services, is being repealed. The substance of DDS Policy 1089B is being incorporated into the EIDT manual. DDS Policy 1089A, the Criteria for Expansion of Adult DDTCS Services, is being repealed. The substance of DDS Policy 1089A is being incorporated into the ADDT manual.

In addition, the ADDT and EIDT manuals contain standards governing transportation. It is the intent of the Department of Human Services (DHS) to revise these standards governing transportation in a future promulgation.

This promulgation will be effective October 1, 2019.

The proposed rules are available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rules on the Medicaid website at <https://medicaid.mmis.arkansas.gov/General/Comment/Comment.aspx>.

A public hearing will be held on July 9, 2019 at 5:00 pm, at the Arkansas Enterprises for the Developmentally Disabled Multipurpose Center, 105 East Roosevelt Road, Little Rock, AR 72206.

Public comments must be submitted in writing at the above address or at the following email address: ORP@dhs.arkansas.gov. All public comments must be received by DHS no later than July 28, 2019. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at 501-320-6164.

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color or national origin. 4501837416

Craig Cloud, Director
Division of Provider Services and Quality Assurance