

DEPARTMENT OF HUMAN SERVICES, DIVISION OF AGING, ADULT AND BEHAVIOR HEALTH SERVICES

SUBJECT: Certification in Deaf Mental Health

DESCRIPTION:

Statement of Necessity

Act 644 of 2019 creates a Bill of Rights for persons in need of mental health services who are also deaf or hard of hearing and requires the Division of Aging, Adult, and Behavioral Health Services (DAABHS) to establish a certification process to ensure that persons in need of mental health services receive culturally affirmative and linguistically appropriate treatment services. The establishment of a certification will increase the capacity of the mental health professionals in Arkansas to respond more appropriately to the varying needs of deaf and hard of hearing Arkansans.

Summary

Effective January 1, 2020, DAABHS is promulgating a new rule, Certification in Deaf Mental Health, to implement Acts 2019, No. 644. This new rule outlines the qualifications and process to become a Certified Mental Health Professional. The new rule sets requirements concerning the following:

- Education and experience
- Training for initial certification and recertification
- Application process and application review process
- Compliance with state and federal laws, rules, and regulations
- Conformance to professionally recognized behavioral health rehabilitative treatment models
- Provider renewal
- Noncompliance with requirements
- Appeal process

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired November 3, 2019. The agency indicated that it received no public comments.

Lacey Johnson, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

QUESTION #1: Is there statutory authority for the definitions of “aural communication” and “communication assessment” in Section I.D? **RESPONSE:** In Acts 2019, No. 644, § 20-47-1005(5) provides that DAABHS shall, “[e]stablish a certification process for mental health professionals who meet all standards and guidelines, as determined by the division, to provide culturally affirmative mental health services and linguistically appropriate mental health services to clients.” DHS interprets this provision to allow

DAABHS discretion to determine the standards and guidelines, and these definitions are included as an exercise of that discretion.

QUESTION #2: Where do the Section I.D definitions of Advanced Practice Nurse, Independently Licensed Clinician, and Non-independently Licensed Clinician come from? **RESPONSE:** These definitions are derived from pages 5 and 6 of the Outpatient Behavioral Health Services Medicaid Provider Manual, which can be found here: <https://medicaid.mmis.arkansas.gov/Provider/Docs/obhs.aspx>.

QUESTION #3: Does the sign language proficiency requirement in Section II.C refer to proficiency in American Sign Language or is it intended to include proficiency in any “communication method” as the proposed rules define that term? **RESPONSE:** Consistent with Act 644, the requirement includes proficiency in any “communication method” as is defined in the rule.

The proposed effective date is January 1, 2020.

FINANCIAL IMPACT: The agency stated that this new rule has no financial impact.

LEGAL AUTHORIZATION: This new rule implements Act 644 of 2019, sponsored by Representative Charlene Fite, which created the Mental Health for Individuals who are Deaf or Hard of Hearing Bill of Rights. The Act, codified at Ark. Code Ann. § 20-47-1005(1), requires the Division of Aging, Adult, and Behavioral Health Services to establish and maintain “culturally affirmative . . . and linguistically appropriate mental health services” for clients with hearing impairments. Ark. Code Ann. § 20-47-1005(5), also created by the Act, requires the Division to establish a mental health professional certification process to provide such services.