



Arkansas Department of Human Services

Certification in Deaf Mental Health



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SUPERVISOR
LEGISLATIVE REGISTRATION

1/1/2020

I. **PURPOSE & SCOPE:**

- A. To ensure that mental health services which are allowable and delivered by a Department of Human Services (DHS) Certified Mental Health Professional comply with applicable laws, which require, among other things, that all deaf and hard of hearing persons have access to appropriate mental health services that are provided:
- i) In the primary communication method of the individual, as determined by the preference of the individual who is deaf or hard of hearing, or by an appropriate communication assessment, or both;
 - ii) Using appropriate accommodations and access services; and
 - iii) By the following licensed mental health professionals: psychiatrists, advance practice registered nurses, psychologists, therapists, counselors, and social workers.
- B. Deaf and hard of hearing Arkansans have a right to receive accessible, culturally affirmative and linguistically appropriate mental health services. The needs may vary greatly. For culturally Deaf people, linguistically appropriate may mean that the services are delivered in American Sign Language by a mental health provider who understands Deaf culture. For someone who is hard of hearing, culturally appropriate and accessible services may mean that the services are delivered through the use of assistive listening technology. 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.
- C. The purpose of this certification is to increase the capacity of mental health professionals in Arkansas to provide culturally affirmative, accessible, and linguistically appropriate mental health services to Arkansans who are deaf or hard of hearing. These professionals shall recognize when appropriate referrals need to be made or other professionals need to be consulted. Professionals certified to provide mental health services to people who are deaf or hard of hearing shall possess the following competencies:
- a. fluency in the primary language or communication method of the individual who is deaf or hard of hearing,
 - b. understanding of the unique experience of being deaf or hard of hearing in a hearing world,
 - c. knowledge of the barriers deaf and hard of hearing people face and solutions for removing those barriers in the delivery of mental health services,
 - d. knowledgeable of effective strategies for provision of services, and
 - e. ability to collaborate skillfully with interpreters and other access providers.
- D. Definitions for the purpose of this certification manual are as follows:
- 1. **Advanced Practice Nurse (APN)** means a person holding a current Arkansas License from the Arkansas State Board of Nursing with specialty education and experience in at least one (1) of the following:
 - a. Adult Psychiatric Mental Health Clinical Nurse Specialist;
 - b. Child Psychiatric Mental Health Clinical Nurse Specialist;

- c. Adult Psychiatric Mental Health APN; or
 - d. Family Psychiatric Mental Health APN.
2. **Aural Communication** means the transmission of information through the auditory system which includes the system of speaking and hearing. It usually encompasses both verbal and paralinguistic communication to convey meaning. Paralinguistic communication would include things such as volume, speed, and intonation of voice, along with gestures and facial expressions or other non-verbal cues.
 3. **Communication assessment** means an evidenced-based assessment which is approved by the Deaf Mental Health Advisory Committee prior to implementation. A list of approved communication assessments will be available on the Division of Aging, Adult, and Behavioral Health Services (DAABHS) webpage.
 4. **Communication method** means any one (1), or combinations, of the following languages or systems of communication used by clients, which may include, but are not limited to:
 - a. American Sign Language;
 - b. An English-based system, such as signed English or cued speech;
 - c. High visual orientation communication;
 - d. Tactile American Sign Language
 - e. Spoken English, aural communication, and speechreading (also known as lip-reading); or
 - f. Speech-to-text services, to include but not limited to, CART (Communication Access Realtime Translation) or Typewell, for example.
 5. **Culturally affirmative mental health services** means the full continuum of mental health services that are respectful to and informed by the values and norms of the culture of the individual being served, including members of the Deaf community and culture, that are delivered by licensed mental health professionals who have been certified under the guidelines of this manual. This may also include services to be provided by ancillary staff who are licensed or unlicensed.
 6. **Deaf** means the condition of having a hearing loss at the level that results in the individual having difficulty processing linguistic information through hearing, regardless of amplification or other assistive technology, and thus relying on visual means of communication.
 7. **English-based system** means a sign system that uses manual signs or cues in English word order, sometimes with added affixes that are not present in American Sign Language.
 8. **Fluent** means a score of "Advanced" or higher for licensed mental health professionals certified under the guidelines of this manual, or a score of "Intermediate Plus" for other licensed or non-licensed ancillary staff qualified to work in a mental health setting on a sign language communication skills assessment, including without limitation the Sign Language Proficiency Interview assessment and other communication skills assessments.
 9. **Hard of hearing** means the condition of having a hearing loss, whether permanent or fluctuating, that may be corrected by amplification or other

hearing assistive technology, but yet presents challenges in processing linguistic information through hearing.

10. **Independently Licensed Clinician** means a person holding a current Arkansas license from the applicable State Board as a Licensed Clinical Social Worker (LCSW), Licensed Marriage and Family Therapist (LMFT), Licensed Psychologist (LP), Licensed Psychological Examiner – Independent (LPEI), or a Licensed Professional Counselor (LPC).
 11. **Interpreter** means a licensed qualified interpreter or a licensed provisional interpreter as defined under §20-14-802.
 12. **Linguistically appropriate mental health services** means the full continuum of mental health services that are made available in the communication method preferred by the client or in the communication method that is determined to be most effective by a communication assessment.
 13. **Non-independently Licensed Clinician** means a person holding a current Arkansas license from the applicable State Board as a Licensed Master Social Worker (LMSW), Licensed Associate Marital and Family Therapist (LAMFT), Licensed Associate Counselor (LAC), Licensed Psychological Examiner (LPE), or a Provisionally Licensed Psychologist (PLP).
 14. **Primary communication method** means the communication method preferred by the individual who is deaf or hard of hearing that will be most effective, as determined by the preference of the individual who is deaf or hard of hearing or by an appropriate communication assessment, or both.
- E. A licensed professional certified through this manual shall offer culturally affirmative and linguistically appropriate mental health services to a client in the client's primary communication method. The Certified Mental Health Professional shall not deny access to services in the client's primary communication method to a client due to the client's having residual hearing ability, whether supported by amplification or other hearing assistive technology. The Certified Mental Health Professional shall not deny access to services in the client's primary communication method to a client due to the client's previous experience with some other communication method.
- F. Deaf and hard of hearing persons have the right to decline culturally affirmative and linguistically appropriate mental health services.
- G. The requirements and obligations imposed by this rule are substantive, not procedural.
- H. In the event of any change in or loss of full privileges related to their professional license, or actions that would impact the Certified Mental Health Professionals' ability to appropriately perform his or her duties, the Certified Mental Health Professional must notify DHS/DAABHS immediately.

II. CERTIFIED MENTAL HEALTH PROFESSIONALS

- A. A Certified Mental Health Professional is approved to provide evidenced-based mental health services which address the unique treatment needs of deaf or hard of hearing individuals and

their families or caregivers. A Certified Mental Health Professional shall provide mental health services which contribute to the improvement of the individual's cognitive, behavioral, and social functioning and must be provided by a professional, acting within their Scope of Practice, who has been determined to meet competencies identified by DHS/DAABHS to provide mental health services which are culturally affirmative and linguistically appropriate.

B. The minimum education/experience required to become a Certified Mental Health Professional is outlined below:

- a. A current Arkansas-licensed Doctor of Medicine, or Arkansas-licensed Doctor of Osteopathic Medicine;
- b. A current Arkansas-licensed Advanced Practice Nurse;
- c. A current Arkansas-licensed Independently Licensed Clinician at the Master's/Doctoral level; or
- d. A current Arkansas-licensed Non-Independently Licensed Clinician at the Master's/Doctoral level who is receiving supervision according to the requirements of their licensing board.

C. All Certified Mental Health Professionals must have completed required training as outlined below:

- a. For initial certification:
 1. The Mental Health Professional candidate must possess evidence of an Advanced level certification, or higher level of certification, on a sign language communication skills assessment.
 2. The Mental Health Professional candidate must have attended, participated in, and successfully completed the DHS/DAABHS approved training, which includes twelve (12) weeks of weekly consultation calls, provided by a trainer authorized by the Department of Human Services or designee.
 3. The Mental Health Professional candidate must have demonstrated competencies in the provision of culturally affirmative and linguistically appropriate mental health services introduced during the DHS/DAABHS approved training as evidenced by obtaining a certificate of completion of all requirements related to the DHS/DAABHS approved training, which must be submitted with the application.
 4. The Mental Health Professional candidate must submit evidence of a current Arkansas license as a mental health professional, APN, or physician.

b. For recertification every five (5) years:

1. Evidence of continued Advanced level, or higher, certification on a sign language communication skills assessment as determined by the certifying body.
2. Evidence of continuing education credit directly related to provision of services to this special population amounting to at least three (3) hours for each twelve (12) month period of the five (5) year renewal period, totaling a minimum of fifteen (15) hours per renewal period.
3. The Certified Mental Health Professional renewal application must include evidence of a current Arkansas license as a mental health professional, APN, or physician at the time of renewal request.

c. Decisions for approving Certified Mental Health Professionals based on completion of similar training as part of a specialized graduate or post-graduate training in evidence-based interventions for individuals who are deaf or hard of hearing will exclusively be made by Arkansas DHS/DAABHS. DHS/DAABHS reserves the right to consult with the established Deaf Mental Health Advisory Committee for their review of any alternative education course or training to solicit recommendations on acceptable education, course work, or training.

III. APPLICATION PROCESS FOR CERTIFIED MENTAL HEALTH PROFESSIONAL:

- A. Applications and renewals will be accepted by electronic mail or postal mail, but preferably by electronic mail to the following email address: DHS.BehavioralHealth@dhs.arkansas.gov with **Certified Mental Health Professional Application** indicated on the subject line. Please ensure that all required documentation is included with the initial application or renewal application.
- B. DAABHS Form 801 may be used for the initial application and the renewal application. Please check the appropriate box on the form to indicate which action you are seeking.

IV. APPLICATION REVIEW PROCESS:

A. Timeline:

1. DHS will review all application forms and materials within thirty (30) calendar days after DHS receives a complete application package. DHS will return incomplete applications to senders without review.
2. For approved applications, DHS will furnish an approval letter via postal or electronic mail within ten (10) calendar days of issuing approval.

B. Determinations:

1. Application approved.
2. Application returned for additional information.
3. Application denied. DHS will state the reasons for denial in a written response to the applicant within ten (10) calendar days of the determination.

V. DHS Access to Applicants/Providers:

For the purposes of quality review or investigations, DHS may contact applicants or Certified Mental Health Professionals at any time. Contact may take place through announced or unannounced visits.

VI. ADDITIONAL REQUIREMENTS:

A. Care and Services must:

1. Comply with all state and federal laws, rules, and regulations applicable to the furnishing of mental health services funded in whole or in part by federal funds, to all state laws and rules applicable to health coverage.
2. Conform to professionally recognized behavioral health rehabilitative treatment models; and
3. Be established by clinically sound documentation that is accurate and demonstrates compliance with applicable payor source for health coverage, as well as licensure/board requirements.

B. A Certified Mental Health Professional may not furnish services to any deaf or hard of hearing client during any time the individual's professional license is not current or valid.

VII. PROVIDER RENEWAL:

- A. The term of DAABHS certification approval is continuous for five (5) years from the date of approval.
- B. An application for renewal must be checked as such on the appropriate form as a renewal application.
- C. DHS must receive renewal applications and all required supporting documentation at least fifteen (15) calendar days before the DAABHS Mental Health Professional Certification expiration date.
- D. If DHS has not renewed the provider before the certification expiration date, status is void

beginning 12:00 a.m. Central Standard Time the next day.

VIII. NONCOMPLIANCE

Failure to comply with the requirements outlined in this manual may result in one (1) or more of the following:

1. Submission and implementation of an acceptable corrective action plan as a condition of retaining Mental Health Professional Certification;
2. Suspension of Deaf Mental Health Professional Certification for either a fixed period, to be determined by DHS, or until the provider meets all conditions specified in the suspension notice; or,
3. Termination of Deaf Mental Health Professional Certification.
4. Without limitation, DHS reserves the right to report egregious professional violations to the appropriate licensing board.

IX. APPEAL PROCESS

- A. If DHS denies, suspends, or revokes Deaf Mental Health Professional certification status (takes adverse action), the affected provider may appeal the DHS adverse action. Appeals must be submitted in writing to the Division of Aging, Adult, and Behavioral Health Services Director. The provider has thirty (30) calendar days from the date of the notice of adverse action to appeal. An appeal request received within thirty-five (35) calendar days of the date of the notice will be deemed timely. The appeal must state with particularity the error or errors asserted to have been made by DHS in denying, suspending or revoking the referenced certification status, and cite the legal authority for each assertion of error.
- B. Within thirty (30) calendar days after receiving an appeal the DAABHS Director shall: (1) designate a person who did not participate in reviewing the application or in the appealed-from adverse decision to hear the appeal; (2) set a date for the appeal hearing; (3) notify the appellant in writing of the date, time, and place of the hearing. The hearing shall be set within sixty (60) calendar days of the date DAABHS receives the request for appeal, unless a party to the appeal requests and receives a continuance for good cause.
- C. DHS shall record each hearing and maintain the hearing record.
- D. The hearing official shall issue the decision within forty-five (45) calendar days of the date that the hearing record is completed and closed. The hearing official shall issue the decision in a written document that contains findings of fact, conclusions of law, and the decision. The findings, conclusions, and decision shall be mailed to the appellant except that if the appellant is represented by counsel, a copy of the findings, conclusions, and decision shall also be mailed to the appellant's counsel. The decision is the final agency determination under the Administrative Procedure Act.

- E. Delays caused by the appealing party shall not count against any deadline. Failure to issue the decision within the time required is not a decision on the merits and shall not alter the rights or status of any party to the appeal, except that any party may pursue legal process to compel the hearing official to render a decision.

PROPOSED

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: H3/18/19

A Bill

HOUSE BILL 1471

5 By: Representative C. Fite
6 By: Senator Bond
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE MENTAL HEALTH FOR INDIVIDUALS
10 WHO ARE DEAF OR HARD OF HEARING BILL OF RIGHTS ACT;
11 TO ESTABLISH STANDARDS OF CARE FOR MENTAL HEALTH
12 SERVICES FOR INDIVIDUALS WHO ARE DEAF OR HARD OF
13 HEARING; TO PROVIDE CULTURALLY AFFIRMATIVE MENTAL
14 HEALTH SERVICES AND LINGUISTICALLY APPROPRIATE MENTAL
15 HEALTH SERVICES TO INDIVIDUALS WHO ARE DEAF OR HARD
16 OF HEARING; AND FOR OTHER PURPOSES.
17

Subtitle

18
19
20 TO CREATE THE MENTAL HEALTH FOR
21 INDIVIDUALS WHO ARE DEAF OR HARD OF
22 HEARING BILL OF RIGHTS ACT.
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code Title 20, Chapter 47, is amended to add an
28 additional subchapter to read as follows:

29 Subchapter 10 – Mental Health for Individuals who are Deaf or Hard of Hearing
30 Bill of Rights Act
31

32 20-47-1001. Title.

33 This subchapter shall be known and may be cited as the "Mental Health
34 for Individuals who are Deaf or Hard of Hearing Bill of Rights Act".
35

36 20-47-1002. Legislative findings.



1 The General Assembly finds that:

2 (1) Individuals who are deaf or hard of hearing, as a group,
3 represent an underserved population in many respects, particularly in regard
4 to access to mental health services;

5 (2) Individuals who are deaf or hard of hearing often require
6 highly specialized mental health services due to communication barriers and
7 other complex needs;

8 (3) Research shows that individuals who are deaf or hard of
9 hearing are subject to significantly more risks to their mental health than
10 individuals who are able to hear, due to many factors, including without
11 limitation lack of:

12 (A) Communication access, in general, as well as lack of
13 or impaired communication with family members, educators, and treating
14 healthcare professionals; and

15 (B) Access to:

16 (i) Appropriate educational services; and

17 (ii) Culturally affirmative and linguistically
18 appropriate physical and mental health services;

19 (4)(A) Some individuals who are deaf or hard of hearing may have
20 secondary disabilities that impact the type and manner of mental health
21 services that are needed.

22 (B) Individuals who are deaf and blind often have diverse
23 ways of communicating, including without limitation tactile sign language;

24 (5)(A) Being deaf or hard of hearing affects the most basic
25 human needs, which include the ability to communicate with other human
26 beings.

27 (B)(i) Many individuals who are deaf or hard of hearing
28 use sign language, which may be their primary communication method, while
29 other individuals who are deaf or hard of hearing receive language orally and
30 aurally, with or without visual signs or cues.

31 (ii) However, other individuals who are deaf or hard
32 of hearing lack any significant language skills or suffer from language
33 deprivation, or both;

34 (6)(A) Individuals who are deaf or hard of hearing have highly
35 diverse communication skills and challenges.

36 (B) The nature and timing of a hearing loss, the

1 helpfulness of medical or therapeutic remediation efforts, and the
2 accessibility of sign language or spoken language at home, school, and other
3 settings shape the way that hearing loss impacts individuals who are deaf or
4 hard of hearing.

5 (C)(i) Depending on the circumstances of an individual's
6 hearing loss, his or her innate abilities, and the degree to which he or she
7 has been supported in language acquisition, individuals who are deaf or hard
8 of hearing can range in their communication ability from being multilingual,
9 with fluency in more than one (1) communication method, to being alingual,
10 with fluency in no communication method.

11 (ii) However, poorly developed language skills in
12 both sign language and spoken language are common;

13 (7) It is essential that individuals who are deaf or hard of
14 hearing:

15 (A) Have access to appropriate mental health services that
16 are provided:

17 (i) In the primary communication method of the
18 individual, as determined by the preference of the individual who is deaf or
19 hard of hearing or by an appropriate communication assessment, or both; and

20 (ii) By mental health professionals such as
21 psychiatrists, psychologists, therapists, counselors, social workers, and
22 other personnel who:

23 (a) Are fluent in the primary communication
24 method of the individual who is deaf or hard of hearing;

25 (b) Understand the unique nature of being deaf
26 or hard of hearing; and

27 (c) Possess the knowledge and training to:

28 (1) Work effectively with individuals
29 who are deaf or hard of hearing;

30 (2) Provide culturally affirmative
31 mental health services and linguistically appropriate mental health services
32 to individuals who are deaf or hard of hearing; and

33 (3) Collaborate skillfully with
34 interpreters;

35 (B) Have access to mental health professionals who are
36 familiar with the unique culture and needs of individuals who are deaf or

1 hard of hearing since mental health professionals may misdiagnose individuals
2 who are deaf or hard of hearing if the mental health professionals are
3 unaware of the special needs of individuals who are deaf or hard of hearing
4 or lack training in working with individuals who are deaf or hard of hearing;

5 (C) Are involved in determining the scope, content, and
6 purpose of mental health services tailored for delivery to individuals who
7 are deaf or hard of hearing; and

8 (D) Have access to:

9 (i) Mental health services that provide appropriate
10 one-on-one access to a full continuum of mental health services, including
11 without limitation all modes of therapy and evaluation; and

12 (ii) Specialized mental health services that are
13 recommended as best practice and use appropriate curricula, staff, and
14 outreach to support the unique mental health needs of individuals who are
15 deaf or hard of hearing;

16 (8) Individuals who are deaf or hard of hearing should have
17 access to a resource guide listing the mental health services in this state
18 that offer the best access and provide the most specialized mental health
19 services for clients; and

20 (9) Individuals who are deaf or hard of hearing would benefit
21 from the development and implementation of state and regional services to
22 provide for the mental health needs of individuals who are deaf or hard of
23 hearing.

24
25 20-47-1003. Definitions.

26 As used in this subchapter:

27 (1) "Certified mental health professional" means a psychiatrist,
28 psychologist, advanced practice registered nurse, therapist, counselor, or
29 social worker licensed in this state and certified by the Division of Aging,
30 Adult, and Behavioral Health Services of the Department of Human Services as:

31 (A) Fluent in one (1) or more primary communication
32 methods;

33 (B) A specialist who is trained and experienced in working
34 skillfully with interpreters; and

35 (C) Knowledgeable of the cultural needs of clients;

36 (2) "Client" means an individual who is deaf or hard of hearing

1 and who is in need of mental health services;

2 (3) "Communication method" means any of the following systems of
3 communication used by clients:

4 (A) American Sign Language;

5 (B) An English-based manual or sign system;

6 (C) A highly visually oriented and minimal sign language
7 system to communicate, including without limitation a home-sign-based system,
8 idiosyncratic signs, a sign system or language of another country, or non-
9 linguistic or semi-linguistic communication systems designed to meet the
10 needs of language-deprived or dysfluent individuals; or

11 (D) An oral, aural, or speech-based sign system;

12 (4) "Culturally affirmative mental health services" means the
13 full continuum of mental health services that are sensitive to, and in
14 support of, the diverse cultural affiliations, including the affiliation with
15 the deaf community and culture, and needs of the client that are delivered by
16 certified mental health professionals and ancillary staff;

17 (5) "Deaf" means:

18 (A) The condition of having sustained a hearing loss that
19 is so severe that the individual has difficulty in processing linguistic
20 information through hearing, regardless of amplification or other assistive
21 technology; and

22 (B) The unique culture, community, and identity of an
23 individual who is deaf that has a set of beliefs, values, and traditions;

24 (6) "English-based manual or sign system" means a sign system
25 that uses manual signs in English word order, sometimes with added affixes
26 that are not present in American Sign Language;

27 (7) "Fluent" means a score of "Advanced" or higher for certified
28 mental health professionals and "Intermediate Plus" for other licensed and
29 nonlicensed ancillary staff qualified to work in a mental health setting on a
30 sign language communication skills assessment, including without limitation
31 the Sign Language Proficiency Interview assessment and other communication
32 skills assessments;

33 (8) "Hard of hearing" means the condition of having sustained a
34 hearing loss, whether permanent or fluctuating, that may be corrected by
35 amplification or other hearing assistive technology, but yet presents
36 challenges in processing linguistic information through hearing;

1 (9) "Interpreter" means a licensed qualified interpreter or a
2 licensed provisional interpreter as defined under § 20-14-802;

3 (10) "Linguistically appropriate mental health services" means
4 the full continuum of mental health services that are made available in the
5 communication method preferred by the client or in the communication method
6 that is determined to be most effective by a communication assessment;

7 (11) "Oral, aural, or speech-based system" means a communication
8 system that uses the speech or residual hearing, or both, of an individual
9 who is deaf or hard of hearing, regardless of technology or cued assistance;
10 and

11 (12) "Primary communication method" means the communication
12 method preferred by the individual who is deaf or hard of hearing that will
13 be most effective, as determined by the preference of the individual who is
14 deaf or hard of hearing or by an appropriate communication assessment, or
15 both.

16
17 20-47-1004. Discrimination.

18 (a) A certified mental health professional shall:

19 (1) Offer culturally affirmative mental health services and
20 linguistically appropriate mental health services to a client in the client's
21 primary communication method; and

22 (2) Not deny access to culturally affirmative mental health
23 services and linguistically appropriate mental health services to a client in
24 the client's primary communication method to a client due to the client's
25 having:

26 (A) Residual hearing ability, whether or not supported by
27 amplification or other hearing assistive technology; or

28 (B) Previous experience with some other communication
29 method.

30 (b) This section does not:

31 (1) Prevent a client from receiving mental health services in
32 more than one (1) communication method; or

33 (2) Require a client to receive culturally affirmative mental
34 health services and linguistically appropriate mental health services.

35
36 20-47-1005. Statewide mental health services.

1 The Division of Aging, Adult, and Behavioral Health Services of the
2 Department of Human Services shall:

3 (1) Implement and maintain culturally affirmative mental health
4 services and linguistically appropriate mental health services for any client
5 in his or her primary communication method;

6 (2) Recruit, develop, and maintain an adequate number of
7 certified mental health professionals and other licensed and nonlicensed
8 ancillary staff qualified to work in settings where mental health services
9 are provided to clients to ensure the delivery of culturally affirmative
10 mental health services and linguistically appropriate mental health services
11 one-on-one to any client in his or her primary communication method;

12 (3) Monitor all culturally affirmative mental health services
13 and linguistically appropriate mental health services to ensure that clients
14 of all ages are adequately served;

15 (4) Provide adequate supplemental funding to all culturally
16 affirmative mental health services and linguistically appropriate mental
17 health services and incentives for certified mental health professionals;

18 (5) Establish a certification process for mental health
19 professionals who meet all standards and guidelines, as determined by the
20 division, to provide culturally affirmative mental health services and
21 linguistically appropriate mental health services to clients; and

22 (6) Develop and implement strategies for ensuring access to
23 culturally affirmative mental health services and linguistically appropriate
24 mental health services by clients in geographic areas where there is a lack
25 or shortage of certified mental health professionals, including without
26 limitation the authorization of treatment:

27 (A) In a different location by certified mental health
28 professionals; or

29 (B) Through telemedicine or other remote technology that
30 allows a client to be provided culturally affirmative mental health services
31 and linguistically appropriate mental health services from certified mental
32 health professionals.

33
34 20-47-1006. Deaf Services Coordinator – Advisory committee.

35 (a) In order to provide culturally affirmative mental health services
36 and linguistically appropriate mental health services to clients, the

1 Division of Aging, Adult, and Behavioral Health Services of the Department of
2 Human Services shall employ the Deaf Services Coordinator to coordinate and
3 oversee the implementation of these mental health services statewide.

4 (b) The coordinator shall:

5 (1) Be competent and have extensive experience in providing
6 mental health services to clients;

7 (2) Be fluent in American Sign Language and possess a thorough
8 understanding of the deaf community and culture;

9 (3) Have at least three (3) years of experience providing one-
10 on-one services to clients;

11 (4) Possess:

12 (A) A master's degree or higher in a behavioral health or
13 clinical field; and

14 (B) The skill, knowledge, and experience in adapting and
15 developing policies and procedures based on the actual service needs of
16 individuals who are deaf or hard of hearing; and

17 (5) Know and understand applicable state laws and rules and
18 federal laws and regulations.

19 (c) The coordinator shall:

20 (1) Ensure that:

21 (A) Culturally affirmative mental health services and
22 linguistically appropriate mental health services are accessible statewide;
23 and

24 (B) The provision of appropriate consultation, training,
25 and technical assistance is accessible to mental health professionals in
26 various settings, including without limitation inpatient, outpatient, and
27 residential programs;

28 (2) Serve as a professional liaison to other state agencies or
29 boards for the collaboration needed to maximize the use of in-state resources
30 and joint planning;

31 (3) Develop a model for a statewide system of care for
32 culturally affirmative mental health services and linguistically appropriate
33 mental health services for clients that includes without limitation:

34 (A) Standards of care for individuals who are deaf or hard
35 of hearing, including standards for American Sign Language fluency required
36 in providing care in mental health settings;

1 (B) Guidelines to measure the proficiency of a mental
2 health professional in any communication method; and

3 (C) A partnership with the Advisory Board for Interpreters
4 between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of
5 Hearing, or Oral Deaf;

6 (4) Collaborate with state and private mental health
7 professionals throughout the state to assist and ensure compliance with
8 federal and state laws relating to mental health services for clients;

9 (5) Collect and evaluate clinical and programmatic outcome data
10 from mental health professionals serving individuals who are deaf or hard of
11 hearing;

12 (6) Distribute funds or grants to public and private mental
13 health professionals to achieve optimum service delivery within the system of
14 care; and

15 (7) Provide:

16 (A) Reports as requested by the Director of the Division
17 of Aging, Adult, and Behavioral Health Services of the Department of Human
18 Services; and

19 (B) Clinical and administrative case consultation to
20 mental health professionals when appropriate regarding culturally affirmative
21 mental health services and linguistically appropriate mental health services
22 to clients.

23 (d)(1) The coordinator shall establish an advisory committee to make
24 recommendations and provide advice and assistance concerning the
25 implementation of this subchapter.

26 (2)(A) The advisory committee shall consist of ten (10)
27 individuals appointed by the Director of the Department of Human Services.

28 (B) The advisory committee shall consist of:

29 (i) Individuals who are deaf or hard of hearing;

30 (ii) Parents or legal guardians of individuals who
31 are deaf or hard of hearing;

32 (iii) Certified mental health professionals;

33 (iv) Interpreters; and

34 (v) Educators who are licensed in this state to
35 teach individuals who are deaf or hard of hearing.

36 (C) At least fifty-one percent (51%) of the advisory

1 committee shall be individuals who are deaf or hard of hearing.

2 (D) The members shall serve a two-year term and may be
3 reappointed.

4 (3)(A) The coordinator shall call the first meeting within
5 thirty (30) days of establishing the advisory committee.

6 (B) The advisory committee shall meet at least quarterly
7 after the first meeting is held.

8 (4)(A) Members of the advisory committee are voluntary and shall
9 not receive compensation, wages, or salary due to membership on the advisory
10 committee.

11 (B)(i) Members of the advisory committee may receive
12 reimbursement for travel and other expenses under § 25-16-902 with the
13 approval of the coordinator.

14 (ii) However, the coordinator shall use technology
15 and other available resources to avoid excessive and unnecessary costs
16 related to member reimbursement.

17
18 20-47-1007. Basic standards of care for mental health services for
19 individuals who are deaf or hard of hearing.

20 (a) A client who is admitted for mental health treatment shall have
21 access to culturally affirmative mental health services and linguistically
22 appropriate mental health services.

23 (b)(1) A mental health professional shall work with the Deaf Services
24 Coordinator as appropriate to ensure that culturally affirmative mental
25 health services and linguistically appropriate mental health services are
26 made accessible to clients.

27 (2) A client shall have access to one-on-one culturally
28 affirmative mental health services and linguistically appropriate mental
29 health services from a certified mental health professional who is fluent in
30 the communication method that is preferred by the client or recommended by a
31 communication assessment, or both.

32 (3) If one-on-one culturally affirmative mental health services
33 and linguistically appropriate mental health services by a certified mental
34 health professional are not available within a reasonable geographical area,
35 as determined by the coordinator, for an client, the client shall be offered:

36 (A) An appropriate referral to a certified mental health

1 professional who can provide culturally affirmative mental health services
2 and linguistically appropriate mental health services through telemedicine or
3 other remote technology; or

4 (B)(i) At no cost to the client, culturally affirmative
5 mental health services and linguistically appropriate mental health services
6 through the use of an interpreter.

7 (ii) If an interpreter cannot be physically present
8 in a timely manner, the services of an interpreter may be offered to the
9 client through telemedicine or other remote technology.

10 (4) If an interpreter is offered to a client, the client:

11 (A) May voluntarily decline to accept or use the mental
12 health services through the interpreter without a penalty to the client; and

13 (B) Shall be offered any other assistance and services as
14 required by federal and state law, including without limitation a different
15 interpreter or hearing assistive technology.

16 (5) If a client refuses all culturally affirmative mental health
17 services and linguistically appropriate mental health services that are
18 offered, the mental health professional shall:

19 (A) Secure from the client a signed waiver of the right to
20 receive culturally affirmative mental health services and linguistically
21 appropriate mental health services and place the waiver in the file of the
22 client;

23 (B) Notify the coordinator of the refusal of culturally
24 affirmative mental health services and linguistically appropriate mental
25 health services; and

26 (C) Allow the coordinator to review the culturally
27 affirmative mental health services and linguistically appropriate mental
28 health services offered to ensure that all the mental health services were
29 appropriate.

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31
32 */s/ C. Fite*

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35 **APPROVED: 4/1/19**