

Article 60.-- LICENSING OF COMMUNITY MENTAL HEALTH CENTERS

30-60-1. Scope. The regulations set forth in this article shall provide for the licensing of, and set the standards for the services and programs required of, community mental health centers, including the following:

(a) Each center organized as a community mental health center pursuant to the provisions of K.S.A. 19-4001 et seq., and amendments thereto;

(b) each center organized as a mental health clinic pursuant to the provisions of K.S.A. 65-211 et seq., and amendments thereto; and

(c) each affiliated center meeting the exception specified in K.S.A. 75-3307b(b), and amendments thereto. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 75-3307b, 75-3307c, and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-2. Definitions. Words and phrases used in this article but not defined in this regulation shall have the same meanings as they are defined to have in the "care and treatment act for mentally ill persons," K.S.A. 59-2945 et seq., and

amendments thereto, or in the "mental health reform act," K.S.A. 39-1601 et seq., and amendments thereto. (a) "Affiliate" means any individual or agency that independently provides mental health services and that has entered into an affiliation agreement with a community mental health center in accordance with the provisions of K.A.R. 30-60-29.

(b) "Affiliated center" means any community mental health center that is licensed by the secretary in accordance with this article, based upon the exception specified in K.S.A. 75-3307b(b) and amendments thereto.

(c) "Center" means a community mental health center that is organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, or K.S.A. 65-211 et seq., and amendments thereto, and that is licensed by the secretary in accordance with this article. This term shall not include any "affiliated center" that is licensed by the secretary in accordance with this article, based upon the exception specified in K.S.A. 75-3307b(b) and amendments thereto.

(d) "Consumer" means a person, whether a child, an adolescent, or an adult, who is in need of, is currently receiving, or has recently received any services from any mental health services provider. This term shall include, when

appropriate in the context, the spouse of an adult consumer, the legal guardian of a consumer, the parent of a minor who is a consumer, the foster parent of a minor who is the subject of juvenile court proceedings, other members of the immediate family of a minor who is a consumer, and other individuals, including members of the immediate family of an adult consumer, who may be living with or assisting, or are otherwise being supportive of a consumer.

(e) "Contractor" means any individual or agency providing any service to a licensee in accordance with a contract, whether written or oral, entered into by the licensee and the contractor. This term shall not include a licensee. A "contractor" may also be an "affiliate" if the individual or agency has entered into an affiliation agreement with a center in accordance with the provisions of K.A.R. 30-60-29.

(f) "Department" means the department of social and rehabilitation services.

(g) "Division" means the division of mental health , addiction and prevention services within the department of social and rehabilitation services.

(h) "Executive director" means the individual appointed by a licensee in compliance with K.A.R. 30-60-40(a), regardless

of whether that individual has been given any other title by the licensee. This term shall include, when appropriate, the designee of the executive director.

(i) "Licensee" means either a community mental health center licensed by the secretary in accordance with this article, or an "affiliated center" licensed by the secretary in accordance with this article. This term shall not include an "affiliate" or a "contractor."

(j) "Secretary" means the secretary of social and rehabilitation services. This term shall include, when appropriate, the assistant secretary for health care policy. (Authorized by K.S.A. 39-1603(t), 75-3307b; implementing K.S.A. 39-1603 (t), 75-3304a, and 75-3307b; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-5. Two types of license; requirements. (a) Two types of license shall be issued by the secretary in accordance with this article. One shall be titled "community mental health center." The other shall be titled "affiliated community mental health center." To be eligible for either license, the applicant agency shall demonstrate that it can and will comply with all of the applicable requirements contained within this article. However, the applicant agency shall not be required to meet the requirements contained within article 61 that provide for those additional services and programs that a center must be capable of and willing to provide in order to be eligible to contract with the secretary to become a participating community mental health center.

(b) (1) Only one license shall be issued by the secretary to operate a "community mental health center" within a designated service area , which shall be stated upon the license

issued.

(2) If the board of county commissioners for any county within the service area of a licensed center, pursuant to K.S.A.

19-4001 and amendments thereto, notifies the secretary of the board's withdrawal of its designation of that licensed center as the community mental health center for that county and requests that the secretary either approve the establishment of a new community mental health center for that county, as provided for in K.A.R. 30-60-10, or approve the realignment of the service area of another existing licensed center to include that county within its service area, as provided for in K.A.R. 30-60-12, and if the secretary approves either request, then at least one of the following actions shall be taken by the division:

(A) If the secretary's action involves the establishment of a new community mental health center to replace the existing licensed center and that existing center will not afterwards be serving any other county, the license of the existing center from which the board of county commissioners withdrew its designation shall be revoked.

(B) If the secretary's action involves the realignment of the service area of one or more existing licensed centers, a new

license shall be issued to each involved center. Each new license shall state upon it the new service area of that center.

(c) Each agency meeting the exception specified in K.S.A. 75-3307b(b), and amendments thereto, shall be exempted from the limitation stated in subsection (b) above and may be licensed as an "affiliated community mental health center," if it complies with all of the following:

(1) The agency has an affiliation agreement, as specified in K.A.R. 30-60-29, with each center within whose service area the agency provides any services.

(2) The agency makes regular and timely applications for renewal of its license.

(3) The agency is at all times in compliance with all of the applicable requirements of this article , including those applicable to the services and programs it has agreed to provide in its affiliation agreement with any center. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 75-3307b, 75-3307c, and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-6. Licensing procedure; compliance surveys; duration and renewal of a license; provisional license. (a) Each agency or licensee desiring a new or renewed license as a "community mental health center" or an "affiliated community mental health center" shall submit an application for that license, or for renewal of its license, to the secretary in the format prescribed by the division. Each application for renewal of a license shall be submitted at least 45 days before the

expiration of the current license. This requirement may be waived by the secretary upon a showing of good cause. If a waiver is granted, a reasonable deadline may be established by the secretary for submittal of the required renewal application.

(b) Upon receipt of an application for a license or for renewal of a license, a survey of the applicant agency or licensee may be conducted by the division to determine whether the applicant agency or licensee is in compliance with the applicable requirements of this article or can be expected to be in compliance with the applicable requirements of this article during the term of the requested license.

(c) At any time deemed appropriate by the division, a licensee may be formally resurveyed by the division to determine whether the licensee continues to be in compliance with the requirements of this article. No prior notice by the division of its intent to conduct a continuing compliance survey shall be required to be given to a licensee. Neither technical assistance provided to a licensee nor ongoing monitoring of a licensee's programs and services by any employee of the division assigned by the

department to perform quality assurance duties shall be construed to constitute a formal resurvey for compliance under this subsection. However, if an employee of the division observes any evidence of noncompliance with the requirements of this article by a licensee, a compliance resurvey under this subsection may be instituted.

(d) Following any initial, renewal, or continuing compliance survey, the applicant agency or licensee shall be notified of the division's findings in writing. Any applicant agency or licensee that disagrees with any finding of the division that the applicant agency or licensee is not in compliance with an applicable requirement of this article may submit, in writing and within 15 days of receipt of the division's survey findings, any arguments and supporting documents that the applicant agency or licensee wishes the division to consider. These written materials shall become a part of the record concerning the agency's application for a license or application for renewal of its license. Based upon these materials, a determination may be made by the division to resurvey the applicant agency or licensee or to revise the division's survey findings. If a resurvey or revision of the

division's findings is made, the applicant agency or licensee shall be notified of the division's new findings, in writing.

(e) Upon receipt of an application for a license or for renewal of a license, or following any initial, renewal, or continuing compliance survey, a recommendation for the issuance of a provisional license to begin or continue operations by an applicant agency or licensee may be made to the secretary by the division. Each provisional license issued shall include the requirement that the applicant agency or licensee develop, submit, and implement a plan of corrective action to bring the applicant agency or licensee into compliance with the applicable requirements of this article.

(1) This plan of corrective action shall be submitted to the division within 30 days following receipt by the applicant agency or licensee of the division's written request for a plan of corrective action.

(2) The plan of corrective action shall be reviewed by the division to determine the following:

(A) Whether the plan adequately addresses all of the areas of noncompliance cited in the division's survey report;

and

(B) whether a follow-up resurvey is necessary to determine that the plan has been fully implemented and that the applicant agency or licensee is in compliance with the applicable requirements of this article. No prior notice by the division of its intent to conduct a resurvey shall be required to be given to the applicant agency or licensee.

(3) The division's findings from any follow-up resurvey shall be provided to the applicant agency or licensee, in writing, and may include a recommendation to the secretary that a license be issued, that the application be denied, that a license be revoked, or that further corrective action be taken by the applicant agency or licensee.

(4) Failure of an applicant agency or licensee to submit or to fully implement an acceptable plan of corrective action may be grounds for denial or revocation of a license, regardless of whether or not a provisional license has been recommended or issued.

(f) (1) If the division determines upon receipt of an

application for a license, an application for renewal of a license or a plan of corrective action, that no compliance survey or resurvey is necessary, a recommendation may be made by the division to the secretary that the applicant agency or licensee merits the public's trust and that a license should be issued for a specified term.

(2) If a compliance survey or resurvey finds that the applicant agency or licensee is in compliance with the applicable requirements of this article, or can be expected to be in compliance with the applicable requirements of this article during the term of the requested license, a recommendation may be made by the division to the secretary that the applicant agency or licensee merits the public's trust and that a license should be issued for a specified term.

(3) If a compliance survey or resurvey does not find that the applicant agency or licensee is in compliance with the applicable requirements of this article, or can not be expected to be in compliance with the applicable requirements of this article during the term of the requested license, or if the division determines that the applicant agency or licensee does

not merit the public's trust, a recommendation may be made by the division to the secretary that the application should be denied. A copy of any recommendation made by the division to deny a license, or to deny renewal of a license, shall be sent to the applicant agency or licensee by registered mail and addressed to the executive director of the applicant agency or licensee, and shall clearly state the reasons for the recommended denial. Any recommendation for denial of a license, or denial of renewal of a license, may be appealed to the office of administrative hearings within the Kansas department of administration in accordance with article 7.

(g) Each license issued by the secretary in accordance with this article shall be in effect for a term to be stated upon the license, which shall not exceed two years, unless revoked earlier for cause.

(h) Each provisional license issued by the secretary shall specify the length of time for which it shall be valid , but in no case shall a provisional license be valid for more than six months. Successive provisional licenses may be issued. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 75-3307b, 75-3307c, and 75-3304a; effective Oct. 28, 1991; amended July 7,

2003.)

30-60-7. Suspension; revocation of a license; procedure; voluntary surrender. (a) Any license issued by the secretary in accordance with this article may be suspended or revoked for failure of the licensee to be in compliance with the applicable requirements of this article.

(b) A license may be suspended only upon a determination by the division that continued operations by the licensee during any license revocation proceedings would constitute a serious threat to the health and safety of consumers receiving the licensee's services. A copy of this

determination shall be provided to the licensee, in writing, and shall clearly state the reasons for it.

(c) Before revocation of a license, a written notice of the proposal to revoke the license shall be sent by registered mail to the executive director of the licensee, along with a copy of the division's determination to suspend the license during the revocation proceedings, if applicable. The notice shall include the following:

(1) A clearly written statement of the reasons for the proposed revocation of the license;

(2) the date upon which the revocation of the license will become effective, unless appealed; and

(3) notice to the licensee that this proposal to revoke its license may be appealed to the office of administrative hearings within the Kansas department of administration in accordance with article 7.

(d) If, at any time during the pendency of revocation proceedings, the division is satisfied that the licensee is in compliance with all of the applicable requirements of this article and that it is in the best interests of the public that

the proposed revocation be withdrawn, all parties to the revocation proceedings shall be notified by the division that the proposed revocation has been withdrawn. The revocation proceedings shall then be terminated.

(e) If, after notice to the licensee of a proposed revocation, the licensee does not timely appeal the proposed revocation, or at the conclusion of any revocation proceedings that result in the proposed revocation being upheld, the following actions shall be taken:

(1) The license previously issued shall be revoked by the division.

(2) The board or boards of county commissioners of each county within the service area of any center whose license has been revoked shall be notified by the division of the revocation and of the procedures by which the board or boards of county commissioners may establish a new community mental health center.

(f) A licensee may at any time voluntarily surrender its license. Upon a voluntary surrender of a license, the license shall be marked by the division as void. The board or boards of

county commissioners of each county within the service area of any center that voluntarily surrenders its license shall be notified by the division of the licensee's voluntary surrender of the license and of the procedures by which the board or boards of county commissioners may establish a new community mental health center.

(g) If the division has revoked a license previously issued, or a licensee has voluntarily surrendered its license, the licensee may be required by the division to develop and implement a plan for the transfer of those consumers then receiving any services from the licensee to another licensed or other appropriate provider of these services. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and ©), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-8. Notice of need of a license; order to cease; appeal. (a) Upon the division's notice to any person or agency of the division's determination that the person or agency is providing services for which a license issued in accordance with this article is required, that person or agency shall either submit an application for the applicable license in accordance with K.A.R. 30-60-6 or cease provision of those services.

(b) If any person or agency so notified fails or refuses to submit, within 60 days, an application for the applicable license but continues to provide the services, a written order addressed and delivered to that person or agency may be issued by the division, requiring the person or agency to cease provision of those services until the person or agency is licensed in accordance with this article.

(c) Any order to cease provision of services may be appealed to the office of administrative hearings within the Kansas department of administration in accordance with article 7. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and ©, 65-4434(f), and 75-3304a; effective July 7, 2003.)

30-60-10. Establishment of a new community mental health center; altered service area. (a) Pursuant to K.S.A. 19-4001 and amendments thereto, the establishment of a new community mental health center shall not be approved by the secretary if it's the proposed center's service area is already being served by one or more existing licensed centers, unless the respective board or boards of county commissioners notify the secretary of the following:

(1) The intent of the board or boards to withdraw their designation of the existing licensed center serving that area as their community mental health center; and

(2) the request of the board or boards that the secretary approve the establishment of a new community mental health center, as requested in accordance with K.A.R. 30-60-11.

(b) No licensed center may alter its existing service area to include an area already being served by one or more other licensed centers, except in compliance with subsection (a) and K.A.R. 30-60-11.

(c) Each proposal to establish a new community mental health center to serve an area not then being served by a

licensed center shall be accompanied by an application for a license as a community mental health center as required by K.A.R. 30-60-6. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and ©), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-11. Necessary elements for a proposal to establish a new community mental health center or to realign the service area of one or more existing centers. (a) A written request

for approval of the establishment of a new community mental health center, or of the realignment of the service area of any licensed center, shall be made by the respective board or boards of county commissioners to the secretary, pursuant to K.S.A. 19-4001 and amendments thereto, and shall include, or contain as an attachment, the following:

(1) The rationale for the proposal;

(2) a specific plan for providing mental health services to persons living within the proposed new service area;

(3) an endorsement of the proposal by the governing boards and executive directors of any licensed centers that might be affected by the proposal, as appropriate;

(4) any written comments that have been received from other governmental agencies existing within any affected service area; and

(5) any written comments received from the public and a summary of any public comments made at a public hearing held for

the purpose of receiving comments on the proposal. The division shall be consulted in advance of this public hearing and shall have approved of the procedures utilized in obtaining the public comments.

(b) The rationale for the proposal shall include the following:

(1) Information about how, and by whom, the decision to create the proposed new community mental health center or to realign the licensed center's service area was initiated;

(2) a map of the service area or areas proposed to be created;

(3) a statement describing the problems thought to exist with the provision of mental health services within this area; and

(4) information about how the proposed community mental health center or the realignment of any licensed center's service area will address these problems.

(c) The plan for providing mental health services shall include the following:

(1) A description of how the services required by this

article to be provided by a community mental health center, and any other planned services, will be provided by the proposed new community mental health center or by the realigned center;

(2) a description of any unique mental health needs of the community within the proposed service area and the manner in which those needs will be met by the proposed new community mental health center or realigned center;

(3) evidence of the establishment of a working relationship between the proposed new community mental health center or realigned center and the local district court, other local providers of mental health services, and the applicable state hospital, as designated in K.A.R. 30-26-1a;

(4) a plan for adequate staffing of the proposed new community mental health center or realigned center;

(5) a description of the planned structure of governance, organization, and management of the proposed new community mental health center or the realigned center;

(6) a financial plan detailing how the proposed new community mental health center or the realigned center will be financed during an initial five-year period; and

(7) a statement of the anticipated fiscal and service

impacts that the creation of this proposed new community mental health center, or the realignment of the licensed center, would have on all other affected service areas. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-12. Approval or disapproval of a proposal to establish a new community mental health center or to realign the service area of one or more existing centers. (a) Each proposal to establish a new community mental health center, or to realign the service area of one or more licensed centers, and the materials required to be submitted to the secretary by K.A.R. 30-60-11 shall be reviewed by the division to determine whether or not the proposal contributes to the state's overall plan for providing mental health services. Additional comments from the following may be received or sought out by the division:

- (1) Other divisions within the department ;

(2) appropriate representatives of the district court for the proposed service area or areas;

(3) consumer organizations;

(4) representatives or advocates of consumers; and

(5) other individuals or agencies as the division deems appropriate.

(b) The approval or disapproval of the proposal may be recommended to the secretary by the division. The proposer shall be notified by the division of that recommendation in writing. If the division recommends disapproval of the proposal, the notification shall clearly state the reasons for this recommendation.

(c) Any recommendation to the secretary that the proposal be disapproved may be appealed to the office of administrative hearings within the Kansas department of administration in accordance with article 7. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-13. Responsibility for compliance. (a) Each center shall comply with the requirements of this article.

(b) Each center shall ensure compliance with the applicable requirements of this article by any affiliated center, affiliate, or contractor with which the center has entered into an affiliation agreement or contract to provide any service specified in this article. (Authorized by K.S.A. 39-1604(r), 75-3307b; implementing K.S.A. 39-1603(r), 75-3307b, and 75-3304a; effective July 7, 2003.)

30-60-14. Departmental assistance; cooperation with compliance monitoring. One or more employees of the division may be assigned by the department to provide technical assistance to a licensee or to assist a licensee in developing its quality improvement program or other similar responsibilities. Each licensee shall cooperate with that employee's efforts and with that employee's monitoring of the licensee's ongoing compliance with the requirements of this article. This cooperation shall include providing that employee with reasonable access to all of the facilities and administrative records of the licensee and to all clinical records and treatment or service activities of the licensee. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective July 7, 2003.)

30-60-15. Access; identification; information. (a) Each center shall make every reasonable effort to overcome any barriers that consumers may have to receiving services, including the following:

- (1) Physical disabilities;
- (2) disabilities specifically resulting from any mental illness;
- (3) language or other communication barriers;
- (4) barriers associated with cultural, social, ethnic, and religious factors; and
- (5) barriers associated with economic issues, including a consumer's access to public transportation, child care needs, and the demands of the consumer's employer.

(b) Each center shall make the following information generally known to or easily discoverable by the public:

- (1) The address and location of the center;
- (2) the center's usual office hours;
- (3) the center's telephone number, including any telephone number that should be called in an emergency; and

(4) the types of services provided by the center or its contractors, or by any affiliated center or affiliate with which the center has an affiliation agreement. Each center shall make an effort to advertise the center's services, the services of any

affiliated center or affiliate with which the center has an affiliation agreement, and the availability of those services, at locations where consumers are likely to be found.

(c) If a center is physically located within a multiuse or multipurpose building, the center shall insure that the center can be found within that building by having posted, both outside and inside of the building, signs or other directory information sufficient to assist consumers to locate the center.

(d) Each center shall make available at the center, and at other appropriate locations, materials that provide information about the following:

(1) A description of the center and the services that the center or its contractors provides;

(2) a description of any affiliated center or affiliate with which the center has an affiliation agreement and the services that each provides;

(3) the rights of consumers;

(4) the center's policy on fees and adjustments to those fees; and

(5) the ways to contact the center for services.

(e) The materials specified in subsection (d) shall be designed to be comprehensible to persons with only a limited education.

(f) All center stationery used to communicate with the public and any preprinted materials prepared for use in communicating with consumers shall have printed on that stationery and those materials the center's name, address, and telephone number, including any telephone number that should be called in an emergency. (Authorized by K.S.A. 39-1603(r), 65-4434(f), and 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 65-4434(f), 75-3307b, and 75-3304a; effective July 7, 2003.)

30-60-16. No denial of required services; exceptions;

requirements; rights, documentation. (a) No center shall deny necessary and appropriate services to any person requesting mental health services from that center unless any of the following conditions is met:

(1) The person requires services that are not required by K.A.R. 30-60-64 to be provided by a center and that are not provided by the center.

(2) The person refuses to pay the fees charged for any services provided, even after those fees have been adjusted or reduced in compliance with K.A.R. 30-60-17, unless the center is required by K.A.R. 30-60-64 to provide those services.

(3) The person is determined by the executive director to have engaged in behavior that threatens the safety of center staff or other individuals present at the center, but only if every reasonable effort has been made to address those issues. The denial of services may continue only as long as the behavior continues.

(b) If a center denies any necessary and appropriate services to any person, the center shall take one or more of the following actions, as applicable:

(1) (A) If the services being denied are services that are required by K.A.R. 30-60-64 to be provided by a center, immediately send to the division the name and address of that person, a list of what specific services are being denied, and the reasons why this denial has been instituted; and

(B) refer the person to another mental health services provider with whom the center has made arrangements for the provision of those services to that person, including, if the other provider requires it, arrangements for the other provider to be paid for its services by the center;

(2) if the services being denied are services not required by K.A.R. 30-60-64 to be provided by a center, refer the person to another appropriate provider; or

(3) if the person is engaging in threatening behavior, either initiate the appropriate involuntary admission of that person to a state psychiatric hospital or to another appropriate treatment facility, or take other appropriate actions necessary to ensure the safety of both that person and other individuals, including, when necessary, calling the appropriate law enforcement agency.

(c) Each person who has been denied any services by a center shall have the right to file a complaint concerning that denial, as specified in K.A.R. 30-60-51, and shall be informed of the procedures and process of filing a complaint. The center shall document its compliance with this requirement. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective July 7, 2003.)

30-60-17. Prohibition against denial of required services because of an inability to pay fees; establishment of a schedule of fees; adjustment; disclosure; reviews; collection of fees. (a) No center shall deny to any consumer requesting services from that center any necessary and appropriate services that the center is required to provide by K.A.R. 30-60-64, solely because of the consumer's inability to pay the fees charged by the center for those services, even after those fees have been adjusted or reduced in compliance with this regulation.

(b) Each center shall print upon all center stationery

used to communicate with the public and any preprinted materials prepared for use in communicating with consumers a statement indicating that the center will not deny to any consumer necessary and appropriate services that the center is required by K.A.R. 30-60-64 to provide, solely because of the consumer's inability to pay the fees charged by the center for those services. This statement shall also indicate that the fees charged by the center may be adjusted or reduced in compliance with this regulation.

(c) Each licensee shall periodically establish the fees that the licensee charges for its services. These fees shall be published in a schedule of fees, which shall be made available to anyone upon request.

(d) Each licensee shall adopt and adhere to written policies and procedures specifying when staff shall have the authority to adjust from the published schedule of fees the actual fee that will be charged for any service provided to any consumer. These policies and procedures shall require that a consumer's ability to pay that fee, or any responsible party's

ability to pay that fee, shall be considered in making any adjustments. These policies and procedures shall further specify the circumstances in which the services provided by the licensee would be provided to a consumer free of any charge.

(e) Each licensee shall perform the following:

(1) Require its staff to disclose to any consumer seeking services from the licensee that licensee's schedule of fees for those services, and the policies and procedures under which designated staff members have the authority to adjust those scheduled fees; and

(2) require its staff to periodically review the circumstances of every consumer receiving services from the licensee to determine whether any adjustments to the fees being charged that consumer should be made.

(f) Each licensee shall adopt and adhere to written policies and procedures providing for the collection of fees to which the licensee is entitled but that remain unpaid after they are due. These policies and procedures shall include the following:

(1) Requiring staff to document the efforts undertaken to collect any fees that have not been paid when due;

(2) specifying under what circumstances any past-due charges may be reduced or forgiven;

(3) providing that any individual responsible for paying any past-due charges may request that the licensee reduce or forgive all or part of those past-due charges; and

(4) providing that any consumer whose request that past-due charges be reduced or forgiven is denied shall have the right

to file a complaint concerning that denial, as provided for in K.A.R. 30-60-51, and shall be informed of the procedures and process of filing a complaint.

(g) Each licensee shall document its compliance with the requirements of this regulation. (Authorized by K.S.A. 39-1603(r), 75-3307b; implementing K.S.A. 39-1603 (r), 75-3307b and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-18. Coordination and community involvement. Each center, in order to facilitate the coordination of services between itself and other agencies and the referral of consumers, both to the center by others and by the center to other providers of services, shall establish and maintain cooperative working relationships with those local public and private agencies who are also likely to provide services to consumers, including the following:

(a) The department of social and rehabilitation services local area office and any applicable divisions or contractors of the department;

(b) public health agencies, public and private hospitals and clinics, other health care providers, and providers of specialized mental health services, including private mental health treatment facilities, nursing facilities for mental health, and residential care facilities for the mentally ill;

(c) community developmental disability organizations and community mental retardation and developmental disabilities service providers;

(d) the local regional alcohol and drug abuse assessment center and other treatment agencies for alcohol or substance abuse;

(e) public and private schools and other education agencies;

(f) law enforcement agencies, including jails and other adult detention facilities;

(g) the district court for each county within the service area of the center;

(h) juvenile justice agencies, including juvenile detention facilities;

(I) public housing authorities;

(j) area agencies on aging;

(k) employment service agencies;

(l) homeless shelters; and

(m) agencies run by or specifically oriented to consumers. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-19. Data and statistical reporting. (a) Each center shall compile and report to the division data and statistics concerning the operations of the center and its utilization by the community as the division may require.

(b) These data and statistical reporting requirements shall be developed by the division after consultation with the association of community mental health centers, inc. and other parties as the division deems appropriate. (Authorized by ~~and implementing~~ K.S.A. 75-3307b~~7~~; implementing K.S.A. 1990—Supp. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended P-
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30-60-25. Governing or advisory board; powers; bylaws.

(a) Each center shall have a governing board empowered to perform the following:

(1) Adopt bylaws and establish policies and procedures for the center;

(2) set goals and adopt necessary plans and a budget for the center; and

(3) exercise general supervisory authority over the center, including having the authority to hire, evaluate, and fire the executive director of the center, appointed in compliance with K.A.R. 30-60-4.

(b) If, pursuant to K.S.A. 19-4002a or 19-4002b, and amendments thereto, the board of county commissioners acts as the governing board for their center, then the advisory board, pursuant to K.S.A. 19-4002a or 19-4002b, and amendments thereto, shall be empowered to make recommendations to the board of county commissioners concerning the same matters as those listed in subsection (a).

(c) The membership of the governing or advisory board shall meet the following criteria:

(1) Consist of no fewer than seven members;

(2) include among them at least one member who is currently being treated for or who has in the past experienced a severe and persistent mental illness. In addition, a second member shall be included who is a member of a family that has a child or adolescent who is currently being treated for or who has in the past experienced a severe emotional disability or disorder;

(3) to the extent possible, and over time and in rotation, both be representative of the various communities within the center's service area, and include representatives from the following groups within the community:

(A) Public health agencies;

(B) medical professionals;

(C) legal professionals and district court judges;

(D) public assistance agencies;

(E) hospitals and clinics, including any psychiatric treatment facilities;

(F) mental health organizations;

(G) educational agencies;

(H) rehabilitation services agencies;

- (I) labor and business organizations;
- (J) civic groups and organizations;
- (K) consumer-run organizations and advocacy groups; and
- (L) the general public.

(d) The governing or advisory board shall meet at least quarterly, and comprehensive minutes of all meetings of the board shall be kept.

(e) Each center's bylaws and its other policies and procedures shall meet the following criteria:

(1) Provide for the governance of the board, the terms of office of its members, and the election of their successors;

(2) clearly set out and differentiate the responsibilities, authorities, and roles of the following:

(A) The governing or advisory board;

(B) the executive director; and

(C) other staff of the center; and

(3) establish how the center shall operate.

(f) If a center is operated as a governmental agency or is operated as a department of a hospital, the bylaws shall include

provisions establishing and delineating the lines of authority

between the superior governmental authority or the hospital's ownership and the governing or advisory board of the center.

(g) If the center is organized as a private, nonprofit corporation, it shall meet the following criteria:

(1) Be incorporated pursuant to Kansas statutes;

(2) be duly registered with the secretary of state and the register of deeds for the county in which the principal office of the center is located;

(3) pursuant to K.S.A. 19-4007 and amendments thereto, file its written contract for providing mental health services to the residents of that county or counties with the board or boards of county commissioners of the county or counties it serves; and

(4) adopt bylaws, which shall include the following:

(A) A delineation of the powers and duties retained by the corporation's board, its officers, and any committees;

(B) a delineation of the authority and responsibilities delegated to the corporation's employed staff;

(c) the criteria for membership in the corporation, the types of membership that there are, the manner in which the members are elected or appointed, the length of term of

membership, and the method of filling vacancies in the membership;

(D) the frequency of corporation meetings and quorum requirements;

(E) the objectives of the corporation; and

(F) other items that may be appropriate or necessary to demonstrate how the corporation is organized, operates, and selects its officers. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-26. Conflict of interest prohibited. Each licensee shall ensure that no individual serving on the licensee's governing or advisory board or as an employee, contractor, or consultant engages in activities constituting a conflict of interest between the licensee's provision of services and the private, remunerative activities of that individual, employee, contractor, or consultant. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603; 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-27. Annual audit. (a) Each center shall annually obtain an independent audit of the financial affairs and records of the center.

(b) The reports of this audit shall be made available to anyone upon request.

(c) A copy of the two most recently completed audit reports shall be attached to the center's application for renewal of its license, submitted to the division in accordance with K.A.R. 30-60-6, unless previously provided to the division in accordance with K.A.R. 30-60-19 or any separate grant or contract compliance requirement. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-28. Mission and vision statements; strategic plan; coordination with quality improvement program. (a)

Each center shall develop, adopt, and display at appropriate locations a statement of its mission, including a concise statement of the purpose for which the center exists, the general nature of the services it provides, and the population to whom it provides those services.

(b) Each center shall develop and adopt a vision statement of its goals for the future and the values it holds with regard to the consumers it serves.

(c) Each center shall develop and adopt a statement of its strategic plan, including specific, measurable, short-term, and long-term goals, and the specific means or methods by which it intends to accomplish those goals.

(d) Each center shall ensure consistency between its strategic plan and its quality improvement program required by K.A.R. 30-60-55. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-29. Affiliation agreement; notice to secretary of a

center's refusal to enter into; investigation and recommendations; no agreement imposed. (a) Each center shall

have a written affiliation agreement with each affiliated community mental health center that is licensed by the secretary in accordance with this article based upon the exception provided for in K.S.A. 75-3307b(b), and amendments thereto, and that provides any of the services described in this article within the service area of that center. Any center may enter into an affiliation agreement with any other provider of mental health services with which the center chooses to enter into an affiliation agreement.

(b) Each affiliation agreement shall contain the following:

(1) A description of the types of services that the affiliated center or other provider has agreed to provide, pursuant to the terms of the affiliation agreement;

(2) provisions concerning how and by what procedures a consumer requesting or receiving services from the center can be referred to the affiliated center or other provider;

(3) provisions concerning how and by what procedures a

consumer requesting or receiving services from the affiliated center or other provider can or should be referred to the center;

(4) any necessary and appropriate financial arrangements

between the center and the affiliated center or other provider;

(5) provisions concerning how and by what procedures the affiliated center or other provider will assist the center in the collection of any data or statistics that the center may require in order to comply with K.A.R. 30-60-19;

(6) a statement that the affiliated center or other provider agrees to provide any of the services it provides in a manner consistent with the mission statement of the center and that the affiliated center or other provider accepts and will abide by the values of the center. This statement shall include a description of how the services that are to be provided by the affiliated center or other provider will augment or supplement the services of the center or how those services will promote the strategic plan of the center adopted in compliance with

K.A.R. 30-60-28;

(7) an agreement specifying that the affiliated center or other provider is subject to and will abide by and utilize the policies and procedures that the center adopts in compliance with K.A.R. 30-60-30, concerning the solicitation of consumer comments and suggestions;

(8) an agreement specifying that the affiliated center or other provider is subject to and will abide by and utilize the policies and procedures that the center adopts in compliance with K.A.R. 30-60-48, concerning de-escalation techniques and emergency behavioral interventions;

(9) an agreement specifying that the affiliated center or other provider is subject to and will abide by and utilize the policies and procedures that the center adopts in compliance with K.A.R. 30-60-51, concerning accepting and resolving complaints;

(10) an agreement specifying that the affiliated center or other provider is subject to and will abide by and utilize the policies and procedures that the center adopts in compliance with K.A.R. 30-60-55, concerning the center's quality

improvement program;

(11) an agreement specifying that the affiliated center or other provider is subject to and will abide by and utilize the policies and procedures that the center adopts in compliance with K.A.R. 30-60-56, concerning the center's risk management program;

(12) an agreement specifying that the affiliated center or other provider is subject to and will abide by and utilize the policies and procedures that the center adopts in compliance with K.A.R. 30-60-57, concerning the center's utilization review program; and

(13) provisions specifying when and under what circumstances the affiliation agreement either expires or can be cancelled.

(c)(1) If a center refuses to enter into an affiliation agreement with either of the following types of agencies, the agency may notify the secretary of that refusal:

(A) Any agency that wishes to become an affiliated provider and that would otherwise be entitled to any benefits that would be associated with being an affiliate of a community

mental health center; or

(B) any agency that would otherwise be entitled to a license as an affiliated community mental health center by virtue of the exception specified in K.S.A. 75-3307b(b) and amendments thereto.

(2) Upon notification of a center's refusal to enter into an affiliation agreement, the division or any other individual or agency may be requested by the secretary to investigate the circumstances leading to this refusal and to make recommendations

to either or both parties. (Authorized by K.S.A. 75-3307b (b); implementing K.S.A. 75-3307b (b) and 75-3304a; effective July 7, 2003.)

30-60-30. Solicitation and consideration of consumer comments

and suggestions. (a) Each center shall adopt and adhere to written policies and procedures that provide for regular and ongoing solicitation of comments and suggestions from its consumers. Each center shall utilize both formal and informal means of soliciting these comments or suggestions and shall ensure the solicitation of a diverse group of consumers to whom the center, and each affiliated center or other provider with which the center has an affiliation agreement, provides services.

(b) Each center shall ensure coordination between the solicitation of consumer comments and suggestions and its quality improvement program required by K.A.R. 30-60-55.

(c) Records that demonstrate each center's compliance with this requirement shall be centrally maintained for at least five years. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective July 7, 2003.)

30-60-40. Personnel . (a) Each licensee shall vest the following duties in an executive director, to be appointed by and responsible to the governing board of a center, or as provided for in the bylaws or other policies and procedures of an affiliated center:

(1) Responsibility for the day-to-day operations of the licensee;

(2) assurance of the quality of the services provided; and

(3) the effective and efficient management of the licensee's resources.

(b) The medical responsibility for any consumer to whom the licensee provides services shall be vested in a licensed physician. If the physician is not a psychiatrist, then a psychiatric consultant shall be made available to this physician and to other staff assigned to work with that consumer on a continuing and regularly scheduled basis.

(c) Each licensee shall provide its services using appropriately trained or professionally qualified staff. Each licensee shall ensure that it retains the services of sufficient

staff to appropriately meet the needs of those consumers to whom the licensee is providing any services. All treatment shall be provided by, or provided under the direction or supervision of, professionally qualified staff.

(d) Each licensee shall ensure that its professional staff meets any applicable state licensing, registration, or certification requirements and has completed any training program that may be required by the division within the contract, if any, in accordance with K.A.R. 30-61-5, that the department has with the center or with the center with which the licensee is affiliated.

(e) Each licensee shall ensure that any staff providing any community-based services outside of the offices of the licensee have completed, or will have completed within six months, a community services training program approved by the division.

(f) Each licensee shall insure that any volunteers or students providing any services to any person are screened, trained, and regularly supervised in accordance with written policies and procedures, which shall meet the following criteria:

(1) Govern the scope and extent of volunteer or student

participation in any treatment being provided; and

(2) require training that shall include a review of the center's policies and procedures regarding confidentiality and consumer rights. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-41. Personnel policies and procedures. (a) Each licensee shall adopt and adhere to written personnel policies and procedures providing for the rights, duties, and responsibilities of all members of the licensee's staff .

(b) These policies and procedures shall require the following, at a minimum:

(1) That a written job description exist for each position and that it be reviewed by supervisory staff with the employee and revised on a regular basis;

(2) that each employee will receive, at least annually, a written performance evaluation based upon the duties and responsibilities assigned to that staff member within the job description for that position;

(3) that any professional staff obtain and maintain the

skills necessary to meet the individual needs of the consumers to whom the licensee provides services; and

(4) at any time a consumer is employed by a licensee, that the licensee will abide by guidelines for the employment of consumers that may be established by the division. These guidelines shall be available from the division, and each licensee shall be responsible for obtaining these guidelines from the division.

(c) All personnel policies and procedures that a licensee adopts, including any amendments to those policies and procedures, shall be made available for inspection by all members of the staff. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-45. Administrative records. Each licensee shall adopt and adhere to written policies and procedures providing for the creation, retention, and destruction of accurate administrative and business records that shall clearly reflect the business, financial, and administrative operations of the licensee.

(Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-46. Clinical records. (a) Each licensee shall adopt and adhere to written policies and procedures providing for a written, consolidated, and current clinical record for each consumer to whom the licensee provides any service.

(b) This record shall meet the following criteria:

(1) Be contemporaneously created during the course of services, in accordance with the policies and procedures of the licensee concerning the format, organization, and content of these records;

(2) be stored in a secured location with access limited to staff providing treatment to that consumer, and to other individuals only as specified in the policies and procedures of the licensee; and

(3) be maintained in accordance with policies and procedures of the licensee that provide for the following:

(A) The retention of inactive records;

(B) the destruction of obsolete records;

(C) the duplication of records; and

(D) the release of copies of records. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-

1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-47. Confidentiality and release of information.

(a) Each licensee shall adopt and adhere to written policies and procedures that shall ensure the confidentiality of the clinical record, and all portions of that record, and any other information concerning each consumer who has at any time requested or received, or who is currently receiving any services from the licensee. These policies and procedures shall be consistent with any applicable federal or state law, regulation, or rule concerning the confidentiality of that information.

(b) The clinical record, any portion of that record, or any information concerning any consumer who has ever requested or received or who is currently receiving any services from a licensee shall be released only as authorized by law or upon the written authorization of that consumer, or, if applicable, of the parent, legal guardian, or other appropriate representative of that consumer. This authorization shall contain the following:

(1) The name of the consumer whose clinical record, or any portion of that record, or about whom information is being

authorized to be released;

(2) the name and address of, or other information identifying, the person or agency to whom the consumer's clinical record, any portion of that record, or any other information is being authorized to be released;

(3) the name of the licensee or the staff member employed by the licensee being authorized to release the consumer's clinical record, any portion of that record, or any other information;

(4) the reason or purpose for the release of the consumers's clinical record, any portion of that record, or any other information;

(5) (A) A clear indication that the entire clinical record is to be released;

(B) a clear description of the specific portion of the clinical record that is to be released; or

(C) a clear description of what other information is being authorized to be released;

(6) the date, event, or condition upon which the authority to release any information or any portion of the clinical record will expire;

(7) a statement that the consumer authorizing the release of the clinical record, any portion of that record, or any other information reserves the right, to, at any time before this authorization would otherwise expire, revoke the authorization, except for any information or record or portion of that record that has already been released, and information concerning how this revocation may be effected;

(8) the date on which the authorization is signed;
and

(9) the printed name and the signature of the person authorizing the release, whether the consumer or, if applicable, the parent, legal guardian, or other appropriate representative of the consumer.

(c) Before the release of a consumer's clinical record or any portion of that record, or any other information concerning any consumer who has at any time requested or received any services from a licensee or who is currently receiving any services from a licensee, the staff member making the release shall make a reasonable effort to ensure that the authority or authorization upon which the release is being made is in the proper form and, in the context made, seems appropriate. If the

staff member believes that any question should be raised concerning the release of any information or record, or portion of any record, that staff member shall make a reasonable effort to confirm the propriety of the release. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-48. De-escalation techniques and emergency behavioral interventions. (a) Each center shall adopt and adhere to written policies and procedures that require the following:

(1) Each staff member, volunteer, and contractor shall utilize only de-escalation techniques or emergency behavioral interventions that the staff member, volunteer, or contractor has been appropriately trained in or is professionally qualified to utilize. Each use of these techniques and interventions shall be consistent with the rights of consumers as listed in K.A.R. 30-60-50.

(2) No practice utilized shall be intended to humiliate,

frighten, or physically harm a consumer.

(3) No practice that becomes necessary to implement shall continue longer than necessary to resolve the behavior at issue.

(4) Physical restraint or seclusion shall be used as a method of intervention only when all other methods of de-escalation have failed and only when necessary for the protection of that consumer or others.

(5) Each instance of the utilization of a physical restraint or the use of seclusion shall be documented in the consumer's clinical record required by K.A.R. 30-60-46 and reviewed by supervising staff and the center's risk management program required by K.A.R. 30-60-56.

(6) Each instance in which the utilization of a de-escalation technique or emergency behavioral intervention results in serious injury to the consumer shall be reported to the division.

(b) Each center shall ensure that each affiliated provider

with which the center has an affiliation agreement adheres to the center's policies and procedures adopted in compliance with

subsection (a) of this regulation. (Authorized by K.S.A. 39-1603(d) and (t), 65-4434(f), and 75-3306b; implementing K.S.A. 39-1603, 39-1604(d), 65-4434(f), 75-3304a, and 75-3307b; effective July 7, 2003.)

30-60-49. Transportation. (a) Each licensee providing any transportation to consumers shall adopt and adhere to written policies and procedures that require the following:

(1) Before a staff member, a volunteer, or a contractor provides any transportation of a minor consumer, the staff member, volunteer, or contractor shall obtain permission to transport that minor from the minor's parent or legal guardian. If the transportation of a minor is necessary because of a medical or other emergency and permission cannot be obtained, the nature of the emergency and the reason why that permission was unable to be obtained shall be documented in the consumer's clinical record required by K.A.R. 30-60-46.

(2) Each driver of any vehicle used to transport a consumer shall be 18 years of age or older and shall hold a current operator's license for the type of vehicle being used.

(3) Each vehicle owned or leased by the licensee shall be covered by accident and liability insurance. Documentation of the current insurance coverage shall be kept both within the vehicle and in the administrative records maintained by the licensee in accordance with K.A.R. 30-60-45.

(4) Each vehicle owned or leased by the licensee shall be equipped with a fire extinguisher and a first-aid kit, and shall be maintained in a safe operating condition.

(5) No more persons may be transported in a vehicle than the number of safety restraints that the vehicle contains. No more than one person may utilize a single safety restraint at any time.

(6) Only age-appropriate safety restraints may be utilized.

(7) No trailer pulled by another vehicle or truck bed may be utilized to transport any consumer. No motorcycle may be utilized to transport any consumer.

(8) Smoking shall not be permitted at any time a minor

consumer is being transported. Smoking shall not be permitted if any consumer being transported objects to that smoking.

(9) The driver of the vehicle shall not smoke, use a cellular telephone, or eat or drink while the vehicle is in motion.

(10) The driver shall require all parts of each passenger's body to remain inside of the vehicle while the vehicle is in motion.

(11) The driver shall require all doors of the vehicle to be locked while the vehicle is in motion.

(12) The driver shall not leave any minor consumer unattended in the vehicle at any time. The driver shall make certain that no consumer is left in the vehicle before vacating the vehicle.

(13) The driver shall transport each consumer directly to the intended destination without any unauthorized stops en route, except in cases of emergency.

(14) The driver shall require other staff from the licensee to accompany the driver on the trip whenever necessary to

provide adequate supervision of the consumers being transported either because of the number of consumers being transported or because of the nature of a consumer's illness or disability.

(15) The driver shall not allow any consumer to enter or exit the vehicle from or into a lane of traffic.

(16) If a personal vehicle belonging to any staff member, a volunteer, or a contractor is utilized to transport a consumer, the driver and owner of the vehicle shall be covered by sufficient liability insurance to protect the interests of any consumer that is transported.

(b) Nothing in this regulation shall be construed to require any licensee to provide transportation to any consumer. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective July 7, 2003.)

30-60-50. Statement of rights; distribution; adherence to. (a) Each center shall publish and make available at the center, at the principal place of business of each affiliated

center or other provider with which the center has an affiliation agreement, and at other appropriate locations a written statement of the rights of consumers.

(b) Each consumer receiving services from any licensee providing services within the center's service area shall be given a copy of this statement during intake or at the consumer's first appointment, and again at least annually thereafter. Staff shall provide oral or other appropriate explanations that may be required to assist the consumer in understanding the consumer's rights. Delivery of this statement and the provision of any necessary explanations to each consumer shall be documented in that consumer's clinical record required by K.A.R. 30-60-46.

(c) This statement of rights shall contain information that lists the following rights, at a minimum:

(1) The right of the consumer to always be treated with dignity and respect, and not to be subjected to any verbal or physical abuse or exploitation;

(2) the right of the consumer not to be subjected to the use of any type of treatment, technique, intervention, or

practice, including the use of any type of restraint or seclusion, performed solely as a means of coercion, discipline, or retaliation, or for the convenience of staff or any volunteer or contractor;

(3) the right of the consumer to receive treatment in the least restrictive, most appropriate manner;

(4) the right of the consumer to an explanation of the potential benefits and any known side effects or other risks associated with all medications that are prescribed for the consumer;

(5) the right of the consumer to an explanation of the potential benefits and any known adverse consequences or risks associated with any type of treatment that is not included in paragraph (c)(4) and that is included in the consumer's treatment plan;

(6) the right of the consumer to be provided with information about other clinically appropriate medications and alternative treatments, even if these medications or treatments are not the recommended choice of that

consumer's treating professional;

(7) the right of a consumer voluntarily receiving treatment to refuse any treatments or medications to which that consumer has not consented, in compliance with the consumer's rights;

(8) the right of a consumer involuntarily receiving treatment pursuant to any court order to be informed that there may be consequences to the consumer if the consumer fails or refuses to comply with the provisions of the treatment plan or to take any prescribed medication;

(9) the right of the consumer to refuse to take any experimental medication or to participate in any experimental treatment or research project, and the right not to be forced or subjected to this medication or treatment without the consumer's knowledge and express consent, given in compliance with the consumer's rights, or as consented to by the consumer's guardian when the guardian has the proper authority to consent to this medication or treatment on the consumer's behalf;

(10) the right of the consumer to actively participate in the development of an individualized treatment plan, including the right to request changes in the treatment services being provided to the consumer, or to request that other staff members be assigned to provide these services to the consumer;

(11) the right of the consumer to receive treatment or other services from a licensee in conjunction with treatment or other services obtained from other licensed mental health professionals or providers who are not affiliated with or employed by that licensee, subject only to any written conditions that the licensee may establish only to ensure coordination of treatment or any services;

(12) the right of the consumer to be accompanied or represented by an individual of the consumer's own choice during all contacts with the licensee. This right shall be subject to denial only upon determination by professional staff that the accompaniment or representation would compromise either that consumer's rights of confidentiality or the rights of other

individuals, would significantly interfere with that consumer's treatment or that of other individuals, or would be unduly disruptive to the licensee's operations;

(13) the right of the consumer to see and review the clinical record maintained on that consumer, unless the executive director of the licensee has determined that specific portions of the record should not be disclosed. This determination shall be accompanied by a written statement placed within the clinical record required by K.A.R. 30-60-46, explaining why disclosure of that portion of the record at this time would be injurious to the welfare of that consumer or to others closely associated with that consumer;

(14) the right of the consumer to have staff refrain from disclosing to anyone the fact that the consumer has previously received or is currently receiving any type of mental health treatment or services, or from disclosing or delivering to anyone any information or material that the consumer has disclosed or provided to any staff member of the licensee during any process of diagnosis or treatment. This right shall automatically be

claimed on behalf of the consumer by the licensee's staff unless that consumer expressly waives the privilege, in writing, or unless staff are required to do so by law or a proper court order;

(15) the right of the consumer to exercise the consumer's rights by substitute means, including the use of advance directives, a living will, a durable power of attorney for health care decisions, or through springing powers provided for within a guardianship; and

(16) the right of the consumer to at any time make a complaint in accordance with K.A.R. 30-60-51 concerning a violation of any of the rights listed in this regulation or concerning any other matter , and the right to be informed of the procedures and process for making such a complaint.

(d) Each licensee providing any services within the service area of the center shall at all times adhere to each of these consumer rights. (Authorized by K.S.A. 65-4434(f), 39-1603(r), and 75-3307b; implementing K.S.A. 39-1603, 65-4434(f), 75-3304a, and 75-3307b; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-51. Complaints; review; appeals; procedures; records. (a) Each center shall adopt and adhere to written policies and procedures that allow for any consumer, individual, or agency to make a written complaint about any member of the staff or any aspect of the center's operations, requirements, or services, or those of any affiliated center or other provider with which the center has an affiliation agreement. These policies and procedures shall include the following requirements and provisions, at a minimum:

(1) Notice shall be displayed at appropriate locations stating that any consumer, individual, or agency has the right to make a complaint. This notice shall also describe the procedures by which a complaint can be made.

(2) No particular form shall be required in order to make a complaint, but appropriate forms shall be made available at appropriate locations for use by any consumer, individual, or agency wishing to make a complaint.

(3) Procedures shall exist so that a complaint can be made confidentially if a consumer, individual, or agency so desires.

(4) The staff of the center shall be trained to be alert

to, listen for, and identify a complaint of a significant nature that is made either orally or incompletely by a consumer receiving any services from the center, or from any affiliated center or other provider with which the center has an affiliation agreement. The staff shall be required to assist that consumer to write out the complaint if made orally or to more specifically record that complaint for the consumer if the consumer fails or is unable to completely write out the complaint.

(5) The executive director shall review in a timely manner every complaint made, conduct any investigation as appropriate, and take any appropriate actions.

(6) If the complaint is the result of a discontinuation or reduction of any service that had been provided to a consumer, the executive director may, at the executive director's discretion, require that the service that was discontinued or reduced be restored to its former level pending the outcome of the executive director's investigation and determination.

(7) If a complaint received by a center concerns any matter involving the staff or any action, decision, policy, or

requirement of an affiliated center or other affiliate, the executive director of the center may refer the complaint to the executive director of that affiliated center or other affiliate for that director's response. The response of the executive director of the affiliated center or other affiliate may be included in or attached to the center's response when a response is made or if a response is required to be made to a consumer.

(8) The executive director of the center shall reply, in writing, to every complaint concerning any aspect of either the center's operations, requirements, or services, or those of any affiliated center or other provider with which the center has an affiliation agreement, that is made by a consumer receiving services from the center, any affiliated center, or any other provider with which the center has an affiliation agreement, not later than 30 days following receipt of that complaint. This reply shall state the executive director's findings and determinations with regard to that complaint.

(9) A system shall be established to analyze all complaints made during specified periods of time to determine whether any trend or pattern appears and, if so, to attempt to identify the cause of those complaints or any other issue

presented and to deliver this information either to the executive director or to another appropriate party.

(10) Any consumer who is dissatisfied with a determination of the executive director may appeal that determination to the division.

(11) Each appeal of a determination of the executive director shall be made in writing, within 30 days of receipt of that determination. Each appeal shall be addressed to the executive director of the center and shall state specifically the determination that is being appealed and the reasons why the consumer believes that the determination of the executive director is wrong.

(12) Upon receipt of such an appeal, the executive director may contact the consumer who is appealing and offer to meet personally with that consumer to see if some agreement or other resolution can be reached, or to offer mediation of the dispute to the consumer.

(13) The appeal of the executive director's determination shall proceed as provided for in this regulation. The executive director shall forward to the division the consumer's written

appeal and both the original complaint and the executive director's written reply to that complaint when any of the following circumstances occurs:

(A) The executive director does not choose to make any offer for a meeting or for mediation.

(B) The consumer refuses any offer for a meeting or for mediation.

(C) Thirty days have elapsed following receipt of the appeal, and no agreement or resolution has been reached within that time period through the use of any meeting or meetings, or through a process of mediation.

(14) One or more employees of the division shall be assigned by the department to make an investigation and conduct any proceedings necessary to decide the outcome of the appeal. That employee or panel of employees shall give due regard to the rights and interests of both the consumer who is appealing and the center or the affiliated center or other affiliate against which the complaint was made. These procedures shall include the right of the consumer to be represented in the appeal by any individual of that consumer's choice.

(15) If the appeal resulted from a complaint that any

service that had been provided to the consumer was discontinued or reduced, the division employee or panel of employees assigned to hear the appeal shall have the authority to require a licensee to restore that service to its former level during the pendency of the appeal.

(16) Following any investigation or proceeding that is determined appropriate, the division employee or panel of employees assigned to hear the appeal shall make a written decision with regard to the issues appealed. This decision shall be sent to the following individuals:

(A) The consumer and the individual that the consumer selected to represent the consumer, if applicable;

(B) the executive director of the center; and

(C) the executive director of the affiliated center or other affiliate, if applicable.

(17) The decision of the division's employee or panel of employees may be appealed to the office of administrative hearings within the Kansas department of administration in accordance with article 7.

(18) Records of every complaint and appeal made, and of the final determination or decision made with regard to each

complaint, shall be centrally maintained for at least five years.

(b) No consumer shall be denied any service or otherwise penalized solely for any of the following reasons:

(1) Having made a complaint;

(2) having refused any offer to meet, to meet again, or to engage in mediation;

(3) failing to continue any process of mediation even though begun;

(4) failing to resolve or settle the complaint; or

(5) making or pursuing an appeal.

(c) Nothing in this regulation shall be construed to limit the right of any person to bring any action against a licensee that is permitted by law. (Authorized by K.S.A. 39-1603(r), 65-4434(f), and 75-3307b; implementing K.S.A. 39-1603, 65-4434(f), 75-3307b, and 75-3304a; effective July 7, 2003.)

30-60-55. Quality improvement program; records. (a)

Each center shall adopt and adhere to written policies and procedures that provide for a comprehensive quality improvement program designed to continually measure, assess, and improve the quality of the services that are provided by the center, any affiliated center, or any other provider with which the center has an affiliation agreement. These policies and procedures shall require the following:

(1) An ongoing means by which the program measures the degree of consumer satisfaction with the services, from consumers who are currently being or who have recently been provided these services by the center, any affiliated center, or any other provider with which the center has an affiliation agreement;

(2) an ongoing means of furnishing feedback to the staff that provides those services with regard to each consumer's satisfaction or dissatisfaction; and

(3) procedures that ensure that information gathered or generated by the center's risk management program, required by K.A.R. 30-60-56, and the center's utilization management

program, required by K.A.R. 30-60-57, is available to and utilized by the center's quality improvement program.

(b) Records that demonstrate the center's compliance with this regulation shall be centrally maintained for at least five years. (Authorized by K.S.A. 65-4434(f), 39-1603(r), and 75-3307b; implementing K.S.A. 39-1603(l) and (r), 75-3307(b), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-56. Risk management program; records. (a) Each

center shall adopt and adhere to written policies and procedures that provide for a comprehensive risk management program designed to review and evaluate clinical and administrative activities for the following purposes:

(1) Identifying and analyzing incidents that present a risk of harm to consumers, staff, and other individuals, including the public at large, or a risk of financial loss to the center or to any affiliated center or other provider with which the center has an affiliation agreement; and

(2) determining actions that might reduce the risks specified in paragraph (a)(1).

(b) Incidents that the risk management program specified in subsection (a) shall review shall include the following, at a minimum:

(1) Any suicide or homicide, attempted suicide or homicide, or other unexpected death involving a consumer who is currently receiving or has recently received any services from the center, the affiliated center, or any other provider with which the center has an affiliation agreement;

(2) any act or series of acts resulting in significant destruction of property belonging to the center, or to the affiliated center or other provider with which the center has an affiliation agreement, committed by any consumer who is currently receiving or has recently received any services from the center or the affiliated center or other affiliate;

(3) any act or omission that falls or might fall below the applicable standard of care or professional obligation; and

(4) any allegation of abuse, neglect, or exploitation of a consumer who is currently receiving or has recently received any services from the center, the affiliated center, or any other provider with which the center has an affiliation agreement, committed by a member of the staff of the center, any contractor, the affiliated center, or other affiliate.

(c) These policies and procedures shall include the following requirements:

(1) Staff members shall be afforded the opportunity to confidentially report any incident that a staff member believes is appropriate for review by the risk management program.

(2) Each action that the center, affiliated center, or

any other provider with which the center has an affiliation agreement takes in response to any incident that comes to the attention of the risk management program shall conform to all statutory

requirements for the reporting of suspected incidents of either child abuse, neglect, or exploitation, or the abuse, neglect, or exploitation of an adult.

(d) Records demonstrating the center's compliance with this regulation shall be centrally maintained for at least five years. (Authorized by K.S.A. 39-1603(r) and 75-3307b; implementing K.S.A. 39-1603(r), 75-3307b, and 75-3304a; effective July 7, 2003.)

30-60-57. Utilization review program; records. (a)

Each center shall adopt and adhere to written policies and procedures that provide for a comprehensive utilization review program designed to facilitate the delivery of high-quality, cost-effective, appropriate services by the center and by each affiliated center or other provider with which the center has an affiliation agreement.

(b) The policies and procedures specified in subsection (a) shall include the following:

(1) A means to ensure monitoring of the usage of the services of the center and of each affiliated center or other provider with which the center has an affiliation agreement;

(2) a means to determine whether inappropriate or unnecessary services are being provided to any consumer; and

(3) a means to determine whether appropriate or necessary services have not been provided to any consumer.

(c) Records demonstrating the center's compliance with this regulation shall be centrally maintained for at least five years. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a;

effective July 7, 2003.)

30-60-58

30-60-60. (Authorized by and implementing K.S.A. 75-3307b, K.S.A. 1990 Supp. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f); effective Oct. 28, 1991; revoked July 7, 2003.)

30-60-61. (Authorized by and implementing K.S.A. 75-3307b, K.S.A. 1990 Supp. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f); effective Oct. 28, 1991; revoked July 7, 2003.)

30-60-62. Basic service delivery standards; service components. (a) Each licensee shall provide all services in a manner consistent with the following basic service delivery standards. Each service provided by a licensee shall include the following components:

(1) An initial assessment, which shall meet the following criteria:

(A) Be performed by adequately trained and professionally qualified staff; and

(B) be completed and documented within 14 days of a consumer's initial intake to record the following:

(i) All of the presenting problems or requests made by that consumer;

(ii) all pertinent history that can be gathered;

(iii) the consumer's present mental status;

(iv) a provisional diagnosis, as applicable;

(v) any strengths or preferences of the consumer that are disclosed or are discernable; and

(vi) the primary intervention provided or disposition made, or both, including a preliminary individualized treatment plan;

(2) a comprehensive, individualized treatment plan, which shall meet the following criteria:

(A) Be centralized into a single integrated and consolidated document;

(B) be developed beginning with the initial assessment and completed, subject to necessary and appropriate revisions, within 30 days thereafter;

(C) be developed with the participation of the consumer and, if appropriate, one or more members of the family of that consumer or other individuals designated by that consumer, evidenced by the signature of that consumer or by other documentation indicating this participation and stating the reason for the absence of the consumer's signature;

(D) contain identified goals, objectives, strengths, and preferences of the consumer, based upon the problems presented, the consumer's requests, the consumer's diagnosis, and the assessed needs of that consumer, each as identified during the initial assessment and subsequently during treatment;

(E) whenever multiple services are being provided, or whenever services are being provided by multiple providers, require that those services be coordinated by a single

individual not necessarily employed by the licensee, in a manner that ensures the integration of the services being provided; and

(F) be regularly reviewed and revised as appropriate, with the participation of the consumer and, when appropriate, one or more members of the family of that consumer or other individuals designated by that consumer. Reviews and revisions shall occur at periodic intervals of not more than 90 days and shall be updated with appropriate notations in the clinical record;

(3) a written, chronological clinical record, as required by K.A.R. 30-60-46, which shall document the consumer's progress toward meeting the identified goals and objectives contained within that consumer's individualized treatment plan, including documentation of each treatment, other service or intervention provided to that consumer, and appropriate notations of dates and times;

(4) regular consultations with the consumer and, when appropriate, with members of the family of that consumer or other individuals designated by that consumer, for the following purposes:

(A) Ensuring that the licensee's treatment staff have complete, accurate, and current information concerning the

circumstances and needs of that consumer or of the members of the consumer's family; obtaining any necessary consent for the release of information to the staff; and confirming and following up on previous consultations or referrals;

(B) identifying other treatment providers, agencies, or other individuals who are providing any treatment or supportive services to that consumer or to any members of the consumer's family;

(C) arranging for the appropriate sharing of information from that consumer's clinical record with other treatment providers, agencies, or other individuals, who either provide or may be able to provide any treatment or supportive services to that consumer or to members of the consumer's family;

(D) involving other appropriate treatment providers, agencies, or individuals, who either provide or could provide other treatment or supportive services to that consumer or to one or more members of the consumer's family, in a process that assures the appropriate, integrated, and efficient delivery of treatment and services; and

(E) reviewing with the consumer the progress of the consumer in treatment and making appropriate modifications to

that consumer's individualized treatment plan, including any appropriate modifications that are requested by that consumer or by one or more members of the consumer's family;

(5) regular consultations with other treatment providers, agencies, or other individuals providing any treatment or supportive services to a consumer or to one or more members of the consumer's family, for the purposes of ensuring coordination, continuity, and appropriate transitions in that consumer's treatment or supportive services; and

(6) a discharge or termination plan, which shall meet the following criteria:

(A) Be developed in a manner consistent with the consumer's individualized treatment plan;

(B) if possible, be developed with the participation of that consumer and, if appropriate, with the participation of one or more members of the consumer's family or with other individuals designated by that consumer;

(C) include a plan for appropriate postdischarge or posttermination of treatment contact by staff with that consumer and, if appropriate, with one or more members of the consumer's family or other individuals designated by that consumer;

(D) include referrals to other treatment providers and supportive services when appropriate; and

(E) result in a final written summary notation, which shall be included in the consumer's clinical record required by K.A.R. 30-60-46.

(b) Compliance with these basic service delivery standards shall be appropriately documented in the consumer's clinical record required by K.A.R. 30-60-46. (Authorized by K.S.A. 39-1603(r), 65-4434(f), and 75-3307b; implementing K.S.A. 39-1603, 65-4434(f), 75-3307b, and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-63. Timeliness of response; requirements; documentation when unable to comply; referral to quality improvement program. (a) Each center shall respond to every

contact or request for services by first determining, in a manner that is consistent with applicable clinical practices, whether or not that initial request constitutes an emergency.

(b) If the initial request is determined to be an emergency, all services that are required by K.A.R. 30-60-64 to be provided by a center shall be provided immediately as necessary to resolve the emergency. After the emergency has been resolved, if the consumer is not detained for inpatient care and treatment, that consumer shall be scheduled for a follow-up appointment and provided any necessary and appropriate services consistent with the requirements of this regulation.

(c) If the initial request is determined to be an urgent matter or a routine matter, the consumer shall be scheduled for an appointment with the appropriate staff within a timely period after that initial contact.

(d) After a consumer's first appointment, the center shall begin providing any necessary and appropriate services to that

consumer within a timely period.

(e) If a center is unable to comply with the requirements of this regulation, the appropriate staff member shall document in the consumer's clinical record, as required by K.A.R. 30-60-46, the reason or reasons why the center was unable to comply with the requirements of this regulation. The staff member shall report the same information to the center's quality improvement program required by K.A.R. 30-60-55. (Authorized by K.S.A. 39-1603(r), 65-4434(f), and 75-3307b; implementing K.S.A. 39-1603, 65-4434(f), 75-3307b, and 75-3304a; effective July 7, 2003.)

30-60-64. Required basic community support services. (a)

Each center shall provide as appropriate, through the center, a contractor, or any affiliated center or other provider with which the center has an affiliation agreement, each of the following basic community support services:

(1) Orientation services, including a means by which any person can discover, or become oriented to the center or its contractors or affiliated providers, through information concerning the following:

(A) What services are offered by the center, its contractors, its affiliated centers, or any other affiliates, and how to access those services, in a manner consistent with the requirements of K.A.R. 30-60-15;

(B) what the requirements or expectations are for each service offered, whether to qualify for or to continue to receive those services;

(C) what fees are charged for any service, and under what circumstances those fees may be adjusted, as required by K.A.R. 30-60-17; and

(D) what rights a consumer has, in a manner consistent

with the requirements of K.A.R. 30-60-50;

(2) public education, including community education programs concerning the following:

(A) What mental illness or severe emotional disturbance is;

(B) what the symptoms of mental illness or severe emotional disturbance are;

(C) what treatments are available;

(D) what the community can do to assist and support persons with a mental illness or a severe emotional disturbance; and

(E) what individuals can do to dispel the myths about mental illness and severe emotional disturbance;

(3) emergency treatment and first response services, which shall be provided on a 24-hour-per-day, seven-day-per-week basis and shall include the following:

(A) Crisis responsiveness, including, when appropriate, staff going out of the office and to the individual for personal intervention, for any person found within the service area of the center who is thought to be experiencing a crisis or other

emergency;

(B) referral to psychiatric and other community services, when appropriate, for any person found within the service area of the center;

(C) emergency consultation and education when requested by law enforcement officers, other professionals or agencies, or the public for the purposes of facilitating emergency services;

(D) evaluation of any person found within the service area of the center to determine the need for either inpatient or involuntary psychiatric care and treatment. This evaluation shall meet the following criteria:

(i) Be completed as soon as possible, but in any case not later than 24 hours after the initial request for that evaluation is made by any individual or agency. The evaluation shall be completed sooner if necessary to provide the certificate required by K.S.A. 59-2957(c)(1) and amendments thereto; and

(ii) be conducted in a place and manner that address the needs of that person;

(E) screening for admission to a state psychiatric hospital, when applicable and required by K.A.R. 30-61-10; and

(F) follow-up with any consumer seen for or provided with any emergency service and not detained for inpatient care and treatment, to determine the need for any further services or referral to any services;

(4) basic outpatient treatment services, including the following:

(A) Evaluation and diagnosis;

(B) individual, group, and family therapy;

(C) medication management, including a means by which a consumer can receive the following under the direction and supervision of a licensed physician:

(i) A prescription for any medication required to treat the consumer's mental illness or severe emotional disturbance;

(ii) assistance with obtaining any medication prescribed for the treatment of the consumer's mental illness or severe emotional disturbance;

(iii) education concerning the effects, benefits, and proper usage and storage of any medication prescribed for the treatment of the consumer's mental illness or severe emotional disturbance;

(iv) assistance with the administration of, or with

monitoring the administration of, any medication prescribed for the treatment of the consumer's mental illness or severe emotional disturbance; and

(v) any physiological testing or other evaluation necessary to monitor that consumer for adverse reactions to, or for other health-related issues that might arise in conjunction with, the taking of any medication prescribed for the treatment of the consumer's mental illness or severe emotional disturbance; and

(D) referral to other community treatment providers and services, when appropriate;

(5) basic case management services for adults, which shall be provided to any adult consumer who has a severe or persistent mental illness and who is determined to be in need of case management services. Case management services shall be provided either by a single individual acting as the case manager or by a team of individuals jointly acting as the case manager. If a team is jointly acting as the case manager, an individual from that team shall be assigned the responsibility for overseeing the provision of case management services to each consumer. Each individual case manager and each member of a team of case

managers shall be sufficiently qualified by education and experience, and shall have completed, or shall have completed within six months, a case management training program that has been approved by the division and is specifically focused upon adults. Each case manager shall have the responsibility to provide, through a mutually acceptable process involving the consumer, the following:

(A) Engagement services and activities, including the following:

(i) Engaging the consumer in a purposeful, supportive, and helping relationship;

(ii) eliciting the consumer's choices concerning basic needs, including determining where the consumer desires to reside, what supports the consumer desires to rely upon, what productive activities the consumer desires to engage in, and what leisure activities the consumer desires to participate in; and

(iii) understanding the consumer's personal history and either satisfaction or dissatisfaction with services and treatments, including medications, that have been provided to or prescribed for that consumer in the past;

(B) strengths assessment services and activities, including the following:

(i) Identifying and assessing the consumer's wants and needs, the consumer's aspirations for the future, the resources that are or might be available to that consumer, the sources of motivation available to the consumer, and the strengths and capabilities the consumer possesses;

(ii) identifying and assessing what the consumer's preferences are with regard to having designated members of the consumer's family involved in the consumer's treatment, or with regard to having other designated individuals involved in the consumer's treatment, and depending upon what those preferences are, determining how best to involve those designated family members or other individuals in the consumer's assessment, treatment, and rehabilitation;

(iii) identifying and researching what educational and vocational, financial, and social resources are or might be available to the consumer and might facilitate that consumer's recovery; and

(iv) identifying, researching, and understanding the cultural factors that might have affected or that might affect

the consumer's experience with receiving treatment and other services, the role that family and other natural supports play in the life of that consumer, the effects that these factors might have on the treatment process, and the ways in which these factors might be used to support the consumer's recovery;

(C) goal-planning services and activities, including the following:

(i) Helping the consumer to identify, organize, and prioritize the consumer's personal goals and objectives with regard to independent living, education and training, employment, and community involvement;

(ii) assisting and supporting the consumer in choosing and pursuing activities consistent with achieving those goals and objectives at a pace consistent with that consumer's capabilities, resources, and motivation;

(iii) teaching the consumer goal-setting and problem-solving skills, and living, social, and self-management skills;

(iv) identifying critical stressors that negatively affect the consumer's mental status and those interventions, coping strategies, and supportive resources that have been successful or helpful in addressing or relieving those stressors in the

past; and

(v) developing relapse-prevention strategies, including wrap-around plans and advance directives, which the consumer may choose to utilize;

(D) resource acquisition services and activities, including the following:

(i) Assisting the consumer to access housing, transportation, education, job training, employment, public assistance, and recreational services available in the community;

(ii) assisting the consumer in finding and utilizing services provided by peer-companion programs, mutual support groups, and self-help organizations; and

(iii) ensuring that the consumer is knowledgeable of, and assisting the consumer in accessing, necessary and available medical and dental services and treatment;

(E) emergency services coordination during periods of crisis;

(F) advocacy services and activities, including the following:

(i) Acting as a liaison between the consumer and that

consumer's other service providers;

(ii) coordinating the treatment and supportive efforts of all the consumer's service providers, family members, and peers;

(iii) advocating for the consumer, as appropriate, in developing goals and objectives within the consumer's individualized treatment plan during the course of that consumer's treatment, and in acquiring the resources necessary for achieving those goals and objectives;

(iv) identifying factors that place the consumer at high risk for suicide, violence, substance abuse, victimization, or infection with serious medical disorders, including HIV, and assisting that consumer to develop strategies to eliminate or mitigate these risks; and

(v) providing ongoing education to the consumer, to members of that consumer's family, and to other individuals involved with that consumer about mental illness, treatment, medication and its side effects, rehabilitation, empowerment, and supportive resources;

(6) basic community-based support services for children, adolescents, and their families, which shall include consultative and advocative services and activities designed to

assist professionals, service agencies, governmental and educational entities, and other individuals in understanding, planning for, developing, and comprehensively meeting the special needs of children and adolescents who either have a severe emotional disability or disorder or are mentally ill, and are therefore considered to be at risk of hospitalization or other out-of-home placement, and meeting the special needs of their families; and

(7) basic case management services for children, adolescents, and their families, which shall be provided to any child or adolescent consumer who either has a severe emotional disability or disorder or has been diagnosed as mentally ill and who is determined to be in need of case management services, and to the immediate family with whom that child or adolescent consumer resides or with whom it is intended that that child or adolescent consumer will reside. Case management services shall be provided either by a single individual acting as the case manager or by a team of individuals acting jointly as the case manager. If a team is jointly acting as the case manager, an individual from that team shall be assigned the responsibility for overseeing the provision of case management services to each

child or adolescent and the family. Each individual case manager and each member of a team of case managers shall be sufficiently qualified by education and experience, and shall have completed, or shall have completed within six months, a case management training program that has been approved by the division and is specifically focused upon children, adolescents, and their families. Each case manager shall have responsibility to provide the following:

(A) Engagement services and activities, including the following:

(i) Engaging the child or adolescent and members of the child's or adolescent's family in a purposeful, supportive, and helping relationship;

(ii) eliciting the family's choices concerning what supports the family desires to utilize; and

(iii) understanding both the child's or adolescent's and the family's experiences and either satisfaction or dissatisfaction with services and treatments, including medications, that have been provided to or prescribed for that child or adolescent in the past;

(B) strengths assessment services and activities,

including the following:

(i) Identifying and assessing the child's or adolescent's and the family's wants and needs, their goals, the resources that are or might be available to them, and the strengths and capabilities that both the child or adolescent and the family possess;

(ii) identifying and researching what educational, financial, and social resources are or might be available to the child or adolescent, or to the family, and that might facilitate that child's or adolescent's or the family's treatment; and

(iii) identifying, researching, and understanding the cultural factors that might have affected or that might affect the child's or adolescent's or the family's experience with receiving treatment and other services, the role that natural supports play in the life of that child or adolescent or in the functioning of the family, the effects that these factors might have on the treatment process, and the ways in which these factors might be used to support the child or adolescent, or the family;

(C) goal-planning services and activities, including the following:

(i) Helping the child or adolescent and the child's or adolescent's family to identify and prioritize specific goals and objectives based upon needs identified during the strengths assessment;

(ii) assisting and supporting the child or adolescent and the child's or adolescent's family in choosing and accessing the services and supports necessary for achieving those goals and objectives and for increasing that family's community integration;

(iii) identifying critical stressors that negatively affect the child's or adolescent's or the family's ability to function, and developing interventions and coping strategies to address or relieve those stressors; and

(iv) developing crisis strategies that the child or adolescent or a member of the child's or adolescent's family can utilize to control symptomatic behavior in order to avoid crisis situations that present a risk of harm to either the child or adolescent or to others, or that result in an out-of-home placement of that child or adolescent;

(D) resource acquisition services and activities,

including the following:

(i) Assisting the child or adolescent and the child's or adolescent's family to obtain needed benefits and services that are available in the community;

(ii) assisting the child or adolescent and the child's or adolescent's family in finding and utilizing services provided by peer-companion programs and groups, and other support organizations; and

(iii) ensuring that the family is knowledgeable of, and assisting the family in accessing, necessary and available medical and dental services and treatment;

(E) emergency services coordination during periods of crisis;

(F) transitional services and activities, which shall meet the following criteria:

(i) Commence in early adolescence in order to assist the adolescent to move into adulthood and to transition to services intended for adults; and

(ii) include the utilization of a wrap-around approach to services involving the appropriate persons and agencies

necessary to coordinate and collaborate with the educational, employment, living, and supportive services necessary to ensure community integration and tenure; and

(G) advocacy services and activities, including the following:

(i) Acting as a liaison between the child or adolescent, or the child's or adolescent's family, and that child's, adolescent's, or family's other service providers;

(ii) coordinating the treatment and supportive efforts of all the child's or adolescent's or the family's service providers, including educational, child welfare, and juvenile justice agencies;

(iii) advocating for the child or adolescent or for the child's or adolescent's family, as appropriate, in developing goals and objectives within that child's or adolescent's individualized treatment plan during the course of that child's or adolescent's treatment and in acquiring the resources necessary for achieving those goals and objectives;

(iv) identifying factors that place the child or adolescent at risk for suicide, violence, substance abuse, victimization, or infection with serious medical disorders, including HIV, and

assisting both the child or adolescent and the members of the child's or adolescent's family to develop strategies to eliminate or mitigate those risks; and

(v) providing ongoing education to the child or adolescent, to the members of the child's or adolescent's family, and to other persons involved with that child or adolescent about severe emotional disturbances and behavior disorders, treatment, medication and its side effects, rehabilitation, empowerment, and supportive resources.

(b) Each center shall adopt and adhere to written policies and procedures, which shall include the following requirements:

(1) The services required to be provided by this regulation shall be provided by staff who are supervised by professionals who are sufficiently qualified by education and experience.

(2) The caseloads of staff providing these services shall be monitored and managed in a manner that ensures the quality of the services provided.

(3) Supervision of case managers shall be provided by supervisors who are sufficiently qualified by education and experience and who have completed a supervisory training program

approved by the division.

(4) No consumer shall be denied access to any of these services solely on the basis of any previous unsuccessful intervention or experience.

(5) Continuity shall be maintained, whenever possible, in any relationship that might be established between a consumer and a staff member that provides any services to that consumer.

(6) Appropriate staff shall be encouraged to provide the majority of their services to consumers in settings outside of the offices of that center or those of any affiliated center or other provider with which the center has an affiliation agreement.

(c) Each center shall ensure that each affiliated center or other provider with which the center has an affiliation agreement adheres to the center's policies and procedures adopted in compliance with subsection (b) of this regulation.

(d) If a center elects to provide any of these basic community support services through any contractor, affiliated center, or other provider with which the center has an affiliation agreement, the center shall regularly monitor the services provided by that contractor or affiliated center or

other affiliate to ensure the quality of the services that are provided and compliance with the requirements of this regulation. (Authorized by K.S.A. 39-1603(r), 65-4434(f), and 75-3307b; implementing K.S.A. 39-1603, 65-4434(f), 75-3304a, and 75-3307b; effective July 7, 2003.)

30-60-70. Optional services. The services specified in K.A.R. 30-60-71 through K.A.R. 30-60-76 shall be deemed optional services that a licensee may choose to offer directly or through a contractor. If a licensee elects to provide any or all of these services, the licensee, or its contractor, shall comply with the provisions of the applicable regulations. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-71. Alcohol and substance abuse services. If a licensee provides, directly or through a contractor, specialized alcohol or substance abuse services, these services shall meet the following conditions: (a) Be separately licensed or certified as required by the department ;

(b) be provided by appropriately trained or professionally qualified staff ; and

(c) be administered in accordance with written policies and procedures adopted by the licensee. (Authorized by K.S.A. 75-3307b; and implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-72. Acute care services. If a center provides, directly or through a contractor, services consisting of inpatient care and treatment that is more intensive than outpatient treatment, in a facility or unit that is separately licensed by this department as a psychiatric hospital or by the Kansas department of health and environment as a general hospital, but that is operated by the licensee, these services shall meet the following conditions: (a) Be provided in the least restrictive manner appropriate, following generally accepted clinical standards of practice;

(b) provide both medical and nursing services as each consumer's care requires;

(c) be provided by appropriately trained or professionally qualified staff; and

(d) be administered in accordance with written policies and procedures adopted by the licensee. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-73. Partial or day hospitalization services. If a licensee provides, directly or through a contractor, partial or day hospitalization services, these services shall meet the following conditions: (a) Be provided in compliance with the requirements of the department's medicaid regulations;

(b) be provided by appropriately trained or professionally qualified staff ; and

(c) be administered in accordance with written policies and procedures adopted by the licensee. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-60-74. Residential treatment services. If a licensee provides, directly or through a contractor, residential treatment services at a facility other than in a consumer's own home, these services shall meet the following conditions: (a) Be separately inspected or licensed as required by the Kansas department of health and environment, or by this division or any other division within this department, if applicable;

(b) be provided in accordance with an individualized plan developed for each consumer provided with any residential treatment services, which shall be developed with the participation of that consumer and, when appropriate, members of the immediate family of that consumer or other individuals designated by that consumer. This plan shall be based on an assessment of the level of supervision and support necessary for that consumer to be able to function in the least restrictive setting possible;

(c) be provided by appropriately trained or professionally qualified staff; and

(d) be administered in accordance with written policies and procedures adopted by the licensee. These policies and procedures shall require that the facility be maintained in a

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manner that meets any applicable state or local fire or safety code. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

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30-60-75. (Authorized by and implementing K.S.A. 75-3307b, K.S.A. 1990 Supp. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f); effective Oct. 28, 1991; revoked July 7, 2003.)

30-60-76. Research programs. If a licensee conducts research programs utilizing human subjects, directly through research being conducted by the staff of the licensee or of a contractor, these programs shall meet the following conditions:

(a) Be strictly conducted under written policies and procedures adopted by the licensee and developed specifically for each research project;

(b) require review of any proposed project by a specifically established committee of appropriately selected professionals before the initiation of the research;

(c) be conducted only on subjects who are capable of and who have given written, informed consent to be the subject of a specific research project; and

(d) strictly adhere to any applicable professional standards regarding the conducting of research, as well as all applicable federal and state laws and regulations. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

Article 61.-PARTICIPATING COMMUNITY MENTAL HEALTH CENTERS

30-61-1. Scope. The regulations in this article shall apply to each community mental health center licensed by the secretary in accordance with article 60 that desires to enter into a contract with the secretary pursuant to the "mental health reform act," K.S.A. 39-1601 et seq., and amendments thereto, for the purposes of being a participating community mental health center. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-61-2. Definitions. Words and phrases used in this article but not defined in this regulation shall have the same meanings as they are defined to have in the "care and treatment act for mentally ill persons," K.S.A. 59-2945 et seq., and amendments thereto, in the "mental health reform act," K.S.A. 39-1601 et seq., and amendments thereto, or in K.A.R. 30-60-2.

(a) "Community mental health center" and "center" mean a community mental health center that is organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, or K.S.A. 65-211 et seq., and amendments thereto, and that is licensed by the

secretary in accordance with article 60. These terms shall not include any affiliated community mental health center licensed by the secretary in accordance with article 60, based upon the exception specified in K.S.A. 75-3307b(b) and amendments thereto.

(b) "Participating community mental health center" means a community mental health center, as defined in this regulation, that has entered into a contract with the secretary in accordance with this article.

(c) (1) "Target population" means any of the following categories of consumers:

(A) Adults with a severe and persistent mental illness;

(B) children or adolescents with a severe emotional disturbance; or

(C) other individuals at risk of requiring institutional care because of a mental illness.

(2) Each of the categories of consumers listed in this subsection may be further defined within the contract provided for in K.A.R. 30-61-5. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-61-5. Annual contracts; application; plan for compliance; term. (a) Each community mental health center desiring to become the participating community mental health center for its service area shall apply to the secretary for a contract on an annual basis at the time and in the manner that shall be announced by the secretary.

(b) Each center that desires to become a participating community mental health center may be required by the secretary to submit to the division, in addition to the center's application for a contract, a plan detailing how the center will come into and stay in compliance with the applicable requirements of this article if the center has not before been in compliance. This plan shall be reviewed by the division. A recommendation shall be made by the division to the secretary concerning whether a contract should be awarded or denied.

(c) If the parties agree to a contract, the term during which the center is considered to be a participating mental health center shall be specified in the contract. During the term in which the center is considered to be a participating community mental health center, the center shall provide the additional services required to be provided by this article or

by the contract.

(d) A center shall have no obligation to be a participating community mental health center, or to be in compliance with the requirements of this article, beyond the term specified in the contract if the center does not subsequently contract with the secretary to be a participating community mental health center. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

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**30-61-6. Preference for licensed service area center;
secretary's right to contract with another licensed center.**

(a) Preference shall be given to the community mental health center in each service area to enter into a contract with the secretary to become the participating community mental health center for that area.

(b) The secretary shall have the right to contract with another center to provide the services of a participating community mental health center to that service area if any of the following conditions is met:

(1) The center fails to timely enter into a contract to become a participating community mental health center.

(2) The center is unwilling to enter into a contract to provide all of the required services of a participating community mental health center.

(3) The secretary determines that the center is unable or has failed in the past to adequately provide all of the required services of a participating community mental health center.

(Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

30-61-10. Screening and gatekeeping services. (a) Each participating community mental health center shall provide, when necessary or when requested and necessary, to any person found within the service area of the center, screening services to determine whether either of the following applies:

(1) The person can be evaluated or treated by community services.

(2) The person needs to be admitted to the designated state psychiatric hospital for evaluation or treatment, or both.

(b) This screening and gatekeeping service shall meet the following criteria:

(1) Be performed by a qualified mental health professional;

(2) be completed by utilizing the screening assessment instrument designated by the division for this purpose; and

(3) if the screening results in a determination that the person needs to be admitted to a state psychiatric hospital, whether on a voluntary or involuntary basis, be evidenced by a completed statement upon the form designated by the division for

this purpose.

(c) The center shall arrange for any protective custody necessary to complete the screening.

(d) The center shall offer to provide, shall provide, or shall refer to and coordinate with another appropriate provider, including providing any follow-up that might be necessary, any appropriate and necessary services that are required by this article to be provided by a participating community mental health center or that are required by article 60 to be provided by a center, to any person meeting the following criteria:

(1) Is determined by the qualified mental health professional acting on behalf of that center not to be in need of admission to a state psychiatric hospital; and

(2) is in need of treatment or could benefit from any of the services required by this article to be provided by a participating community mental health center or required by article 60 to be provided by a center. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

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30-61-11. Liaison services. (a) Each participating community mental health center shall designate staff who shall perform the following:

(1) Regularly visit at the hospital with every person admitted to a state psychiatric hospital from the service area of the center, whether on a voluntary or involuntary basis;

(2) participate in the discharge planning of each person admitted to a state psychiatric hospital from the service area of the center in order to facilitate the return of that person to the community;

(3) be empowered by the center to commit the center to specified services upon the discharge and return to the community of any person admitted to a state psychiatric hospital from the service area of the center; and

(4) coordinate the treatment provided at the state psychiatric hospital with the treatment provided by the center, any affiliated center, or any other provider with which the center has an affiliation agreement.

(b) The names and professional qualifications of liaison staff shall be communicated by the executive director of the center to the superintendent of the state psychiatric hospital

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to which the liaison staff is assigned.

(c) The liaison staff shall follow all rules of the state psychiatric hospital while on the campus of the hospital.

(Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective July 7, 2003.)

30-61-15. Enhanced community support services . (a) Each participating community mental health center shall provide directly, or through a contractor, an affiliated center, or any other provider with which the center has an affiliation agreement, enhanced community support services in extension of the services required to be provided by K.A.R. 30-60-64, including the following:

(1) Outreach services designed to achieve the following:

(A) Identify and locate persons in the target population, particularly persons who do not often seek mental health services in traditional ways;

(B) encourage these persons to utilize the services of the center , its affiliated centers, or other affiliates; and

(C) offer special assistance to these persons, as required, in order to enable them to utilize the services of the center, its affiliated centers, or other affiliates;

(2) public education about the enhanced services that are available at the center or through its contractors, affiliated centers, or other affiliates;

(3) liaison services with any nursing facilities for

mental health that are located in the center's service area or to which a person from the center's service area has been admitted, designed to facilitate the discharge of persons residing in those nursing facilities who could live in the community with the assistance and support provided by the services available through the center, its affiliated centers, or other affiliates;

(4) any services necessary to provide any treatment required to fulfill a court order for outpatient treatment that is issued by the district court of any county within the service area of the center; and

(5) attendant care services, designed as an extension of the center's basic outpatient treatment services, basic case management services for adults, basic community-based support services for children, adolescents, and their families, and basic case management services for children, adolescents and their families, required by K.A.R. 30-60-64, tailored specifically to accomplish the following:

(A) To enhance the independence of consumers in the target population;

(B) to reduce the risks for the need to be admitted to a state psychiatric hospital that are known to be associated with consumers in the target population;

(C) to facilitate the discharge of consumers in the target population who have been admitted to any state psychiatric hospital; and

(D) to otherwise assist consumers in the target population to be able to live in the community.

(b) Each center shall adopt and adhere to written policies and procedures that shall require all of the following:

(1) The services required to be provided by this regulation shall be provided by staff who are supervised by professionals who are sufficiently qualified by education and experience.

(2) The caseloads of staff members providing these services shall be monitored and managed to ensure the quality of the services provided.

(3) No consumer shall be denied access to any of these services solely on the basis of any previous unsuccessful intervention or experience.

(4) Continuity shall be maintained, whenever possible, in any relationship that might be established between a consumer and staff member that provides any services to that consumer.

(5) Appropriate staff shall be encouraged to provide the majority of their services to consumers in settings outside of the offices of the center.

(c) If a participating community mental health center elects to provide any of these enhanced community support services through any contractor, affiliated center, or other provider with which the center has an affiliation agreement, the center shall regularly monitor that contractor, center, or provider to ensure compliance with the requirements of this regulation and the quality of the services that are provided. (Authorized by K.S.A. 39-1603(r), 65-4434(f), and 75-3307b; implementing K.S.A. 39-1603, 65-4434(f), 75-3304a, and 75-3307b; effective Oct. 28, 1991; amended July 7, 2003.)

30-61-16. (Authorized by and implementing K.S.A. 75-3307b,
K.S.A. 1990 Supp. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-
4434(f); effective Oct. 28, 1991; revoked July 7, 2003.)