

Health Systems Division: Behavioral Health Services - Chapter 309

August 14, 2019

Division 1. PROCEDURAL RULES; DEFINITIONS

309-001-0000 Model Rules of Procedure

The Oregon Health Authority (Authority), Health Systems Division (Division), Addiction Services, chapter 309, shall comply with Authority rules in chapter 943 regarding Model Rules of Procedure, Notices of Rulemaking, adoption of Temporary Rules, and Delegation of Rulemaking Authority.

Statutory/Other Authority: ORS 413.042

Statutes/Other Implemented: ORS 413.042

History:

BHS 7-2018, adopt filed 03/21/2018, effective 04/11/2018

309-001-0100 Definitions

The following definitions apply with respect to OAR chapter 309.

(x) "Abandonment" has the meaning of "Abandonment" given in OAR Chapter 411, division 20.

(x) "Abuse" has the meaning of "Abuse" given in OAR Chapter 411, division 20.

(X) "The Authority" means the Oregon Health Authority.

(X) "Behavioral Health" means the spectrum of behaviors and conditions comprising mental health, substance use disorders, and problem gambling.

(X) "Certificate" means a Division-issued document that declares a provider certified pursuant to OAR 309-008-0100 through 309-008-1600. A letter accompanying the certificate explains the certificate's scope and the provider's approved service delivery locations.

(X) "Chief Officer" means the Division's Chief Health Systems Officer, or his or her designee.

(X) "Community Mental Health Program" (CMHP) means an entity operated by, or contractually affiliated with, a local mental health authority that is responsible for planning and delivery of services for individuals with behavioral health conditions and developmental disabilities in a specific geographic area of the state under an agreement with the Division, pursuant to OAR chapter 309, division 014.

(X) "Coordinated Care Organization" (CCO) means an entity that has contracted with the Authority to provide coordinated health services to members of the Oregon Health Plan, as described in OAR chapter 410, division 141.

(X) "Cultural Responsiveness" means the process by which people and systems respond respectfully and effectively to people of all cultures, languages, classes, races, ethnic backgrounds, disabilities, religions, genders, sexual orientations, and other diversity factors in a manner that recognizes, affirms, and values the worth of individuals, families, and communities and protects and preserves the dignity of each.

(X) "Declaration for Mental Health Treatment" means a written statement of an individual's preferences concerning their mental health treatment, as described in ORS 127.700 through 127.737.

(X) "Diagnosis" means a DSM diagnosis determined through the mental health assessment and any examinations, laboratory, medical or psychological tests, procedures, or consultations suggested by the assessment.

(X) "The Division" means the Health Systems Division of the Oregon Health Authority.

(X) "DSM" means the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(X) "Family Support Specialist" has the meaning defined in OAR 410-180-0305. Family support specialists provide peer delivered services, as defined in these rules.

(x) "Financial Exploitation" has the meaning of "Financial Exploitation" given in OAR Chapter 411, division 20.

(X) "Guardian" means an individual appointed by a court of law to act as the guardian of a minor or a legally incapacitated person.

(X) "Interdisciplinary Team" (IDT) means a group of professional and direct care staff that have primary responsibility for the development of a service plan for an individual receiving services.

(x) "Involuntary Seclusion" has the meaning of "Involuntary Seclusion" given in OAR Chapter 411, division 20.

(X) "Legally Incapacitated" means that a person:

(a) Has been found by a court of law under ORS 426.295 to be unable, without assistance, to properly manage or take care of one's personal affairs; or

(b) Is under guardianship.

(X) "Licensed Health Care Professional" (LHCP) means a practitioner of the healing arts who is:

(a) Licensed by a recognized governing board in Oregon; and

(b) Acting within their scope of practice under state law.

"Licensed Medical Practitioner" (LMP) means a physician, nurse practitioner, or physician's assistant who is:

(a) Licensed to practice in the State of Oregon; and

(b) Competent by training and experience to conduct a mental health assessment and provide medication management.

(X) "Local Mental Health Authority" (LMHA) means any of the following entities:

(a) The board of county commissioners of one or more counties that establishes or operates a community mental health program;

(b) The tribal council, in the case of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services;

(c) A regional local mental health authority comprised of two or more boards of county commissioners; or

(d) If the county declines to operate or contract for all or part of a CMHP, the board of directors of a public or private corporation that contracts with the Division to operate a CMHP for that county.

(X) "Medicaid" means the public insurance program operated pursuant to Title XIX of the Social Security Act.

(X) "Mental Health Intern" means a person who:

(a) Meets the qualifications for a QMHA, but not the minimum educational qualifications for a QMHP;

(b) Is currently enrolled in a graduate program for a master's degree in psychology, social work, or in a behavioral science field;

(c) Has a collaborative educational agreement with the graduate program and the CMHP or other applicable provider;

(d) Works within the scope of practice and competencies identified by the CMHP or provider's policies and procedures for credentialing clinical staff; and

(e) Receives, at a minimum, weekly supervision by a qualified clinical supervisor employed by the provider.

(x) "Neglect" has the meaning of "Neglect" given in OAR Chapter 411, division 20.

(X) "Oregon State Hospital" (OSH) means the Oregon State Hospital system and any campus thereof.

(X) "Peer" means any individual supporting an individual or the individual's family member who has similar life experience, either as a current or former recipient of substance use, problem gambling, or mental health services, or as a family member of an individual who is a current or former recipient of substance use, problem gambling, or mental health services.

(X) "Peer Delivered Services" means community-based services and supports provided to individuals or family members by trained peer wellness specialists, family support specialists and youth support specialists and peer support specialists, peer wellness specialists, family support specialists and youth support specialists, workers with similar lived experience. These person-directed services are designed to support individuals and families in achieving and maintaining long-term recovery and in living successfully in the community. Peer delivered services may only be delivered by specialists who have been certified pursuant to OAR chapter 410, division 180, including, as appropriate, peer support specialists, peer wellness specialists, family support specialists, and youth support specialists.

(X) "Peer Support Specialist" has the meaning defined in OAR 410-180-0305. Peer wellness specialists provide peer delivered services, as defined in these rules.

(X) "Peer Wellness Specialist" has the meaning defined in OAR 410-180-0305. Peer support specialists provide peer delivered services, as defined in these rules.

(x) "Physical Abuse" has the meaning of "Physical Abuse" given in OAR Chapter 411, division 20.

(X) "Psychiatrist" means a physician licensed pursuant to ORS 677.010 to 677.228 by the Board of Medical Examiners for the State of Oregon and who has completed an approved residency training program in psychiatry.

(X) "Psychologist" means a psychologist licensed by the Oregon Board of Psychologist Examiners.

(X) "Qualified Mental Health Associate" (QMHA) means a person who delivers **treatment** services under the direct supervision of a QMHP, and who meets both of the following criteria.

(a) A QMHA must be competent, by training and experience, to:

(A) Communicate effectively;

(B) Understand mental health assessment, treatment, and service terminology, and apply each of these concepts;

(C) Implement skills development strategies; and

(D) Identify, implement, and coordinate the services and supports identified in a service plan.

(b) A QMHA must meet one of the following minimum qualifications:

(A) Bachelor's degree in a behavioral science field; or

(B) A combination of at least three years of relevant work, education, training, or experience.

(X) "Qualified Mental Health Professional" (QMHP) means an LMP, LHCP, or any other person who meets both of the following criteria.

(a) A QMHP must be competent, by training and experience, to:

(A) Conduct an assessment including identifying precipitating events, to include health and safety risks to self or others; gathering histories of mental and physical health, substance use, past **behavioralmental** health services, and criminal justice contacts; assessing family, cultural, social, and work relationships; conducting a mental status examination; and completing a DSM diagnosis;

(B) Develop a safety plan;

(C) Write and supervise the implementation of a service plan; and

(D) Provide individual, family, or group therapy within the scope of their training.

(b) A QMHP must meet one of the following minimum qualifications:

(A) Bachelor's degree in nursing and licensed by the State of Oregon. Nurses must abide by the Oregon Nurse Practice Act when determining if job descriptions are compliant with the competencies listed above;

(B) Bachelor's degree in occupational therapy and licensed by the State of Oregon;

(C) Graduate degree in psychology;

(D) Graduate degree in social work;

(E) Graduate degree in recreational, art, or music therapy;

(F) Graduate degree in a behavioral science field; or

(G) A qualified mental health intern, as defined in this rule.

(X) "Serious Emotional Disorder" (SED) means a subpopulation of individuals under age 21 who meet the following criteria:

- o A child or youth, between the ages of birth to 21 years of age
- o Must meet criteria for diagnosis, functional impairment and duration
 - Diagnosis: The child or youth must have an emotional, socio-emotional, behavioral or mental disorder diagnosable under the DSM-5 or its ICD-10-CM equivalents, or subsequent revisions (with the exception of DSM "V" codes, substance use disorders and developmental disorders, unless they co-occur with another diagnosable serious emotional, behavioral, or mental disorder).
 - For children 3 years of age or younger:
 - o The child or youth must have an emotional, socio-emotional, behavioral or mental disorder diagnosable under the Diagnostic Classification of Mental Health and Developmental Disorders of Infancy and Early Childhood-Revised (DC: 0-3R) (or subsequent revisions).
 - For children 4 years of age and older:
 - o The child or youth must have an emotional, socio-emotional, behavioral or mental disorder diagnosable under the Diagnostic Interview Schedule for Children (DISC) or DSM-V or its ICD-10-CM equivalents, or subsequent revisions (with the exception of DSM 5 -codes, substance use disorders and developmental disorders, unless they co-occur with another diagnosable serious emotional, behavioral, or mental disorder).
 - Functional impairment: An individual is unable to function in the family, school or community, or in a combination of these settings; or the level of functioning is such that the individual requires multi-agency intervention involving two or more community service agencies providing services in the areas of mental health, education, child welfare, juvenile justice, substance abuse, or primary health care.
 - Duration: The identified disorder and functional impairment must have been present for at least 1-year or, on the basis of diagnosis, severity or multi-agency intervention, is expected to last more than 1 year.

(X) "Serious and Persistent Mental Illness" (SPMI) means the current DSM diagnostic criteria for at least one of the following conditions, as a primary diagnosis for an adult 18 years of age or older:

(a) Schizophrenia and other psychotic disorders;

(b) Major depressive disorder;

(c) Bipolar disorder;

(d) Anxiety disorders limited to Obsessive Compulsive Disorder (OCD) and Post Traumatic Stress Disorder (PTSD);

(e) Schizotypal personality disorder; or

(f) Borderline personality disorder.

(X) "Serious Incident" means an actual or alleged event, occurrence, or situation that creates a significant risk of substantial serious harm to the physical or mental health, safety or wellbeing of an individual or child of the individual or risk thereof. Serious incidents include but are not limited to death, events that require intervention to sustain life, suicide or attempted suicide, harm to self or others, serious physical or psychological injury, medical emergency, physical abuse, verbal or emotional abuse, abandonment, neglect, exploitation, rights violations, missing individuals, medical errors, law enforcement contact, wrongful or unauthorized use of physical or chemical restraint, and wrongful or unauthorized use of seclusion. The phrase "or risk thereof" includes any process variation for which a recurrence would carry a significant chance of a serious adverse outcome.

(X) "Sexual Abuse" has the meaning of "Sexual Abuse" given in OAR Chapter 411, division 20.

(X) "Superintendent" means the chief executive officer of any campus of the Oregon State Hospital or the chief executive officer's designee.

(X) "Trauma Informed Approach" means a program, organization, or system that realizes the widespread impact of trauma and demonstrates an understanding and implementation of potential paths for recovery; recognizes the signs and symptoms of trauma in clients, families, staff, and others involved with the system; responds by fully integrating knowledge about trauma into policies, procedures, and practices; and seeks to actively resist re-traumatization.

(X) "Trauma Informed Behavioral Health Services" means services that are reflective of a trauma informed approach, considering trauma that may have occurred in the lives of people seeking mental health, substance use, or problem gambling services, including recognition of the traumatic effect of misdiagnosis and coercive treatment. Services are responsive to the vulnerabilities of trauma survivors, and are delivered in a way that avoids inadvertent re-traumatization and facilitates individual direction of services.

(X) "Variance" means an exception from a provision of these rules, granted in writing by the Division, upon written application from the provider.

(x) "Verbal or Emotional Abuse" has the meaning of "Verbal or Emotional Abuse" given in OAR Chapter 411, division 20.

(X) "Youth Support Specialist" has the meaning defined in OAR 410-180-0305. Family support specialists provide peer delivered services, as defined in these rules.

(X) "Wrongful Use of a Physical or Chemical Restraint" has the meaning of "Wrongful Use of a Physical or Chemical Restraint" given in OAR Chapter 411, division 2