

**MENTAL HEALTH ASSOCIATION OF SOUTH CENTRAL KANSAS
AFFILIATION AGREEMENT**

This Contract entered into as of this _____ day of _____, 2014 by and between Sedgwick County, Kansas ("County") and the Mental Health Association of South Central Kansas, ("Contractor").

WITNESSETH:

WHEREAS, County has established a community mental health center, which is commonly known as COMCARE, pursuant to the provisions of K.S.A. 19-4001 *et seq.*, and amendments thereto; and

WHEREAS, County desires to enter into an agreement with a facility capable of delivering services to persons with serious mental illness for the benefit of those persons who require such services; and

WHEREAS, Contractor desires to provide such mental health rehabilitation services to persons with serious mental illness in accordance with this agreement; and

WHEREAS, Contractor and County wish to establish this relationship to promote the health and welfare of the community by assuring the continued availability of quality mental health services.

NOW, THEREFORE, in consideration of the mutual conditions, covenants and promises contained herein, the parties hereto agree as follows:

1. Purpose. It is understood and agreed by the parties that it is the purpose of this contract that Contractor maintain a program of adult case management, adult peer support, attendant care, parent support, case conference, wraparound facilitation and psychosocial rehabilitation services for Sedgwick County residents who are seriously mentally ill, hereinafter "consumer(s)," in order to facilitate their reintegration into the community and to enable their functioning to the maximum extent of their capabilities. Services provided under this contract will follow all applicable standards as required by law, regulation, and accrediting agencies. Contractor understands and agrees that in the event that the amount of funds the County receives changes, County may adjust the rates (as found in section 3 below) to be paid hereunder.
2. Medical Necessity. Contractor expressly understands and agrees that all services provided under this agreement must meet medical necessity in order to be reimbursed. Medical Necessity is determined by meeting all of the following criteria:
 - a) **Authority**. The clinical intervention is recommended by the treating clinician and is determined to be necessary by the Secretary of the Kansas Department of Social and Rehabilitation Services or the Secretary's designee.

- b) **Purpose.** The clinical intervention has the purpose of treating a medical condition/mental illness.
- c) **Scope.** The clinical intervention provides the most appropriate supply or level of service, considering potential benefits and harms to the client.
- d) **Evidence.** The clinical intervention is known to be effective in improving health outcomes. The scientific evidence for each existing intervention shall be considered first and, to the extent possible, shall be the basis for determination of medical necessity. If no scientific evidence is available, professional standards of care shall be considered. If professional standards of care do not exist, or are outdated or contradictory, decisions about existing interventions shall be based on expert opinion. Coverage of existing interventions shall not be denied solely on the basis that there is an absence of conclusive scientific evidence. Existing interventions may be deemed to meet this regulation's definition of medical necessity in the absence of scientific evidence if there is a strong consensus of effectiveness and benefit expressed through up-to-date and consistent professional standards of care or, in the absence of those standards, convincing expert opinion.
- e) **Value.** The clinical intervention is cost-effective for this condition compared to alternative interventions, including no intervention. The term "cost-effective" shall not necessarily be construed to mean lowest price. An intervention may be clinically indicated and yet not be a covered benefit or meet the definition of medical necessity. Interventions that do not meet the definition of medical necessity may be covered at the choice of the Secretary or Secretary's designee. An intervention shall be considered cost-effective if the benefits and harms relative to costs represent an economically efficient use of resources for members with this condition. In the application of this criterion to an individual case, the characteristics of the individual member shall be determinative. "Medical necessity in psychiatric situations" means that there is a medical documentation that indicates that the person could be harmful to himself or herself or others if not under psychiatric treatment or that the person is disoriented to time, place or person.

3. Medicaid Reimbursements. Payment of the established rate is contingent on Contractor providing services consistent with Medicaid regulations and billing COMCARE the maximum allowed Medicaid charge for each service. Prior to hire, candidates should be cleared through the OIG exclusions list to ensure their ability to bill for services provided. Contractor agrees that failure to bill the full Medicaid rate may result in a reduction of the rate paid hereunder. COMCARE will bill Medicaid and shall pay Contractor in accordance with the payment terms provided herein Contractor understands that billing and service documentation, including treatment plan, must be provided to COMCARE no later than 14 days after the date of service. Submission of transactions over 14 days from date of service may not be eligible for reimbursement. All consumers must be pre-approved for reimbursement by County. Reimbursement for consumers with Medicaid will occur upon receipt of payment to County from Medicaid. Each party will be responsible for, and expressly understands and agrees to hold the other party harmless regarding their respective roles in the administration or

delivery of services; this will include the responsibility of Contractor to provide only medically necessary and authorized services to consumers and to properly document and bill those services. Contractor agrees that they will not charge Medicaid covered persons for all or any part (i.e. balance of a bill) of covered services provided pursuant to this agreement, and the covered persons are not liable for payments to Contractor when the State does not pay COMCARE for any reason.

1. Case Management (T1017 and H0036-HA,HB, HH, HK, HJ): Case management services will be paid at the rate of \$17.50 per fifteen minute unit for Community Psychiatric Support and Treatment (CPST), \$21.00 per fifteen minute unit for CPST strength-based and employment support evidence-based programs, \$22.00 per 15 minute unit of CPST integrated-dual diagnosis evidence-based program, and \$10.83 per 15 minute unit for Targeted Case Management (TCM). Billing for any of the evidence-based programs may only occur after a program fidelity review has been completed and confirmed by the Kansas Department of Aging and Disability Services (KDADS) or their designee. Contractor expressly understands and agrees that Contractor's child/youth case management program is limited to no more than 184 clients at any given time during the contract term. Exceptions to the child/youth case management limit may be made if mutually agreed upon.
2. Psychosocial Rehabilitation (H2017-HQ, H2017-TJ and H2017): Psychosocial rehabilitation services will be reimbursed at the rate of \$4.00 per 15 minute unit for adult group services and \$6.05 per 15 minute unit for children's groups, and \$7.00 per 15 minute unit of individual psychosocial rehabilitation services. Group psychosocial rehabilitation is limited to 750 hours per calendar year, or a combination of group psychosocial rehabilitation and group peer support unless exception is made by the consumer's managing healthcare agency.
3. Attendant Care (T1019-HE and T1019-HK): Attendant Care services will be paid at the rate of \$6.00 per 15 minute unit. Contractor expressly understands and agrees that SED Waiver attendant care services must receive prior authorization and, 1915(b) attendant care services must receive prior authorization and are limited to the available funding consistent with Medicaid guidelines. Contractor agrees to communicate to COMCARE regularly the number of children/youth referred for but not yet receiving attendant care services and the number of inactive children/youth clients. Contractor reserves the right to limit the number of children/youth served in accordance with staffing resources and administrative capacity. Contractor agrees to notify County of such limitations. COMCARE agrees to maintain TCM responsibility for consumers who do not require CPST but need individual psychosocial rehabilitation or attendant care services.

4. Case Conference (99361): Case conference services will be reimbursed at the rate of \$7.50 per 15 minute unit of case conference. Case conference services require prior authorization consistent with Medicaid guidelines.
5. Peer Support (H0038 and H0038-HQ): Individual peer support services will be reimbursed at the rate of \$9.50 per 15 minute unit and group peer support services will be reimbursed at the rate of \$4.00 per 15 minute unit. Group peer support is limited to 750 hours per calendar year, or a combination of group psychosocial rehabilitation and group peer support unless exception is made by KHS.
6. Services to Individuals without Medicaid Coverage: Contractor expressly understands and agrees to refer all individuals without insurance coverage to COMCARE if Contractor determines they are in need of rehabilitation services. Contractor agrees to notify COMCARE of individuals in service that lose Medicaid coverage, any decisions regarding referral or payment for services to these individuals will be made on a case by case basis. County agrees to reimburse Contractor the affiliate rate for attendant care and individual psychosocial rehabilitation services provided to individuals without insurance coverage, excluding spend down, or other means to pay when referred for these services by COMCARE or if otherwise authorized by COMCARE for these services at the established rate.
7. If COMCARE's payment on a Medicaid claim is reduced by a primary payor payment and/or disallow which causes COMCARE not to be reimbursed the full Medicaid allowable for that claim, the payment to the affiliate will be reduced accordingly. COMCARE will calculate the percent of the Medicaid allowable for the claim that was paid to COMCARE (less any late billing fees) and will pay the affiliate the same percent of their contracted rate.
8. In all cases where Contractor is the primary case manager, Contractor agrees to provide COMCARE staff with the client's treatment plan within fourteen (14) days of the effective date.

4. Home and Community Based (HCBS) Medicaid Waiver Requirements. Contractor agrees to provide therapeutic services for children/youth with a serious emotional disturbance (SED) and families in conformance with the HCBS Medicaid Waiver programming.

HCBS Medicaid Waiver Process Description:

1. Contractor may provide any service included in HCBS Medicaid Waiver Services budget as listed below under rates. Service approval by COMCARE Children's Services will be accomplished through involvement of the child/family team including a wraparound facilitator. Approved services will

be included in each individual youth's plan of care. The intent of provision of services within the plan of care is to facilitate stabilization of symptoms/behaviors that place a child at risk of institutionalization.

2. Contractor understands that only those services pre-approved will be reimbursed. COMCARE's Children's Services staff will act as managers of each treatment plan to ensure clinical and fiscal responsibility. Contractor will not be paid for any services not pre-approved.
3. If Contractor believes that, at any time, there is a valid reason to change the amount of any pre-approved service on the plan of care; contact should be made immediately to the client's wraparound facilitator or case manager.
4. All billing for waiver services will be done by COMCARE. Pre-approved units of service must be reported on a regular basis after the provision of service has occurred, but no later than 14 days after the date of the service. The service information will then be submitted to COMCARE in order for billing to occur. Upon receipt of billing, COMCARE will reconcile the pre-approved units of service with actual utilization of service. Subsequent billing will then be made to the State Medicaid fiscal agent. Billing will occur only after service is rendered. Payment to contractor will be made only after payment is received by COMCARE from the State Medicaid fiscal agent.
5. Contractor shall cooperate with all COMCARE Children's Services waiver administrative activities including but not limited to: applications, eligibility determination, referrals, gate keeping, dispute resolution, and quality assurance.
6. Contractor expressly understands and agrees that it is responsible for compliance with all Medicaid rules, regulations, standards, and expectations as included in the State of Kansas Medicaid plan for mental/behavioral health services.
7. Home and Community Based Medicaid Waiver Services Rates

SERVICE	CODE	RATE PER 15 MINUTE UNIT
Wraparound Facilitation	H2021	\$9.00
Parent Support and Training Individual	S5110	\$8.25
Parent Support and Training Group	S5110-TJ	\$1.75
Attendant Care	T1019 HK	\$6.00

5. Record Keeping. All record keeping processes shall meet the guidelines and expectations for Medicaid reimbursement even if such reimbursement is not received. An audit process shall be set in place by Contractor. The Contractor agrees to participate in data collection for Client Status Reports and the A.I.M.S. database established by the State of Kansas in fiscal year 2000. Contractor agrees to provide County with any documentation required for the A.I.M.S. system upon request and within the time frame designated by County.

6. Outcomes: Progress on outcomes must be reported on quarterly. Progress reports are due by the 30th day of the month following the end of the calendar quarter.

A. Outcomes

1. The percentage of consumers with an SPMI who improve their vocational status within the reporting period. The Contractor will be assigned a score based on the vocational status of each individual with an SPMI receiving a CSS service within the last 90 days, who can be considered in the workforce. See Appendix C for assignment of point values, determination of service measurement, and explanation of vocational statuses considered for this performance measure.

Numerator: Total points achieved by the Contractor based on the vocational status of each individual with an SPMI who has received a CSS service within the last 90 days.

Denominator: Total number of individuals with an SPMI receiving a CSS service within the last 90 days, who can be considered in the workforce multiplied by 6 (highest point value possible)

Data source: AIMS system/Client Status Reports (CSR)

2. Percent of screening determinations resulting in readmissions of adults, age 18 and over, to any SMHH, private psychiatric hospital, or local acute psychiatric unit within 30 days of previous discharge.

Numerator: Number of adults discharged from SMHH, private psychiatric hospital, or local acute psychiatric unit with a subsequent readmission occurring within 30 days.

Denominator: Total number of adult discharged from SMHH, private psychiatric hospital, or local acute psychiatric services occurring within 30 days of the reporting period.

Data Source: Inpatient Screening Database (IPS)

3. The percentage of consumers with an SPMI who live independently. The Contractor will report the percentage of consumers with an SPMI who are living independently.

Numerator: Number of consumers with an SPMI that have received CSS services in the last six months who are living independently.

Denominator: Total number of consumers with an SPMI that have received CSS services in the last six months.

Data Source: AIMS system (CSR)

4. The percentage of youth with an SED who improve their residential status within the reporting period. The Contractor will be assigned a score based on the residential status of each youth who have received Community Based Services (CBS) within the last 90 days. See Appendix C for assignment of point values, determination of service requirement, and explanation of residential statuses considered for this performance measure.

Numerator: Total points achieved by Contractor receiving at least one CBS service within the last 90 days based on the residential status of each youth with an SED.

Denominator: Total number of youth with an SED receiving a CBS service within the last 90 days multiplied by 5 (highest point value possible).

Data Source: AIMS system/Client Status Reports (CSR)

5. Percent of screening determinations resulting in readmissions of youth, age 17 and under, to any SMHH alternative, private psychiatric hospital, local psychiatric unit, or PRTF, within 30 and 90 days of previous discharge.

Numerator: Number of youth discharged from SMHH alternative, private psychiatric hospital, local acute psychiatric unit, or PRTF with a subsequent readmission within 30 or 90 days.

Denominator: Total number of youth discharges from SMHH alternative, private psychiatric hospital, local acute psychiatric unit, or PRTF occurring within 30 or 90 days of reporting period.

Data Source: Inpatient Screening Database (IPS)

6. The percentage of youth with an SED receiving CBS who attend school regularly. The CMHC will report the percentage of youth with an SED received CHS services who are attending school regularly.

Numerator: Number of youth with an SED that have received CBS services within the last six months who are attending school with less than 5 unexcused absences.

Denominator: Total number of youth with an SED that have received CBS within the last six months.

Data Source: AIMS system

7. At least 90% of children/youth served by Contractor will receive services within 10 business days of referral by COMCARE.

B. Performance Expectations: The Contractor is expected to improve its performance on the outcome measures listed above. Performance improvement planning will be initiated based upon the trend specific to the Contractor for each outcome. Discussion and further study will result if the trend for a given outcome begins to move in a negative direction. A performance improvement plan may be initiated at any time upon agreement between County and Contractor, but will be developed in the event of a negative trend that persists for three consecutive months.

The Contractor will use recognized performance improvement methods to develop and implement a performance improvement plan to improve its performance on the identified outcome(s). If Contractor believes that improving performance on the outcome(s) is beyond its control, the Contractor may, within 15 days submit a written request to be exempted from developing and implementing a performance improvement plan. The request will include data to substantiate the reason(s) for requesting the exemption. County will evaluate the request and notify the Contractor in writing within 15 days of receiving the request whether or not the exemption request is justified.

County will share available outcomes and trend lines with the Contractor as it is received from the State.

7. Term: The term of this contract shall be for a period of one year commencing January 1, 2014 and terminating December 31, 2014. This contract may continue for a reasonable time after December 31, 2014, if both parties agree to continue operating under the terms of this contract while they are actively developing a contract for 2015.

8. Incorporation of Appendices: Appendix A - General Contractual Provisions and Appendix B - Social and Rehabilitation Services Permanent Administrative Regulations are attached hereto and incorporated herein by reference.

9. Referral and Authorization Procedures: County and Contractor agree to the following referral and authorization procedures for individuals requiring services:

- a. Adult Consumers: All referrals for contracted services will come through COMCARE for authorization. This may occur at any time the client is receiving treatment at COMCARE. Referrals initiated by COMCARE will include a treatment plan authorizing services and opening of assignments in the medical record. MHA will obtain referrals and treatment plans from COMCARE's electronic medical record for cases in which COMCARE is the primary case management provider. Clients may request contracted services through the affiliate. In these cases, the affiliate will provide COMCARE with a copy of the affiliate's intake, SPMI Determination and any other relevant documentation to support the request for services. The Director of Rehabilitative Services or their designee will authorize the affiliate to provide contracted services. Authorization will be noted in the client's record.
- b. Children/Youth: All referrals for contracted services will come through COMCARE. This may occur at any time the client is receiving treatment at COMCARE. Referrals initiated by COMCARE will include a treatment plan authorizing services and opening of assignments in the medical record. MHA will obtain referrals and treatment plans from COMCARE's electronic medical record for cases in which COMCARE is the primary case management provider. Families/Guardians may request contracted services through the affiliate. In these cases, the affiliate will provide COMCARE with a copy of the affiliate's intake, SED Determination and any other relevant documentation to support the request for services. The Director of Rehabilitative Services or their designee will authorize the affiliate to provide contracted services. Authorization will be noted in the client's record.

- c. Single Primary Case Management Entity: Recognizing that the services related to case management are core services, the client will have one primary case management provider agency as defined by County. Therefore one contracting agency shall have the authority to deliver Community Psychiatric Support and Treatment (CPST) and Targeted Case Management (TCM) per authorized client unless otherwise authorized by COMCARE.

COMCARE retains the ability to provide and bill TCM for case coordination across contracted providers and other resources.

Contracting agency acting as the case management agency is responsible for delivering any and all contracted services and supports in a manner that assists clients in achieving their goals, including those related to independent living, employment and education, as well as other recovery related goals.

COMCARE's Crisis Intervention Services retains the right to deliver and bill for Psychiatric Rehabilitation Services related to crisis intervention and hospitalization prevention activities and/or those services delivered by Sedgwick County Offender Assessment Program for jail utilization reduction.

- d. Authorization to Deliver Contracted Services: Contractor will submit a completed intake assessment meeting State of Kansas criteria, a form incorporating Adult Psychiatric Rehabilitation Services Eligibility Worksheet/SPMI Determination information, and the Authorization for Affiliate Psychiatric Rehabilitation form to COMCARE's CSS Program Director or their designee for review of eligibility. Authorization or discussion will occur within five business days of receipt, approvals to be effective the date of submission. Contractor will ensure confidentiality and privacy using accepted internet security functions for electronic submission of these documents.

10. Compliance with State of Kansas Administrative Regulations: Contractor expressly agrees to maintain compliance with all State of Kansas Department of Aging and Disability Services' administrative regulations as pertain to affiliated mental health service Contractors. Specifically, Contractor agrees to:

1. Provide all services in a manner consistent with COMCARE's mission statement and values. Contractor's services are designed to supplement the services provided by COMCARE and promote the strategic plan through increased availability of community-based services to individuals with mental illness and youth with serious emotional disturbances. COMCARE agrees to provide Contractor with a copy of the strategic plan, mission statement and values and updates upon request.
2. Abide by and utilize policies and procedures consistent with COMCARE's policies and procedures for solicitation of consumer comments and suggestions. All policies and procedures for consumer comments and suggestions must comply with K.A.R. 30-60-30 and are subject to review and approval by COMCARE.
3. Abide by and utilize policies and procedures consistent with COMCARE's policies and procedures for de-escalation techniques and emergency behavioral interventions.

All policies and procedures for de-escalation techniques and emergency behavioral interventions must comply with K.A.R. 30-60-48 and are subject to review and approval by COMCARE.

4. Abide by and utilize policies and procedures consistent with COMCARE's policies and procedures for accepting and resolving complaints. All policies and procedures for accepting and resolving complaints must comply with K.A.R. 30-60-51 and are subject to review and approval by COMCARE. Contractor expressly agrees to provide the information necessary for COMCARE to investigate complaints made regarding Contractor. Contractor agrees to provide the information requested to investigate complaints within a reasonable time frame as set by COMCARE.
5. Abide by and utilize policies and procedures consistent with COMCARE's policies and procedures for a quality improvement program. All policies and procedures for Contractor's quality improvement program must comply with K.A.R. 30-60-55 and are subject to review and approval by COMCARE.
6. Abide by and utilize policies and procedures consistent with COMCARE's policies and procedures for a risk management program. All policies and procedures for Contractor's risk management program must comply with K.A.R. 30-60-56 and are subject to review and approval by COMCARE.
7. Abide by and utilize policies and procedures consistent with COMCARE's policies and procedures for a utilization review program. All policies and procedures for Contractor's utilization review program must comply with K.A.R. 30-60-57 and are subject to review and approval by COMCARE.

11. Incorporation of and Compliance with MCO Requirements. As County has entered into agreements with the three Managed Care Organizations (MCO's) selected by the State of Kansas to manage its Medicaid program Contractor agrees to comply with those MCO requirements as applicable and warrants it can meet the standards of the MCO contracts which are herein incorporated. Contractor also agrees to comply with all provisions and requirements set out in each MCO Provider Manual as applicable in connection with the provision of services to covered persons enrolled in the KanCare Medicaid program. Contractor agrees that covered services shall be provided in accordance with the three MCO contracts and any applicable Provider Manuals, as well as state and federal laws and regulations. Provider Manuals will be made available to Contractor via the appropriate MCO website. Contractor agrees to follow all applicable MCO rules and regulations for rehabilitation services provided under this agreement which shall include but are not limited to: service authorizations and limits, utilization review, release of information, and service documentation. To the extent Contractor is unclear about their duties and obligations, they shall request clarification from COMCARE.

12. Integrated Clinical Record: Consistent with good patient care and State of Kansas mental health licensing requirements, County and Contractor agree it is their mutual intent to provide an integrated clinical record system for clients receiving services from both parties. Both parties will comply with the provisions of state and federal regulations in regard to confidentiality of

eligible participant records.

13. Notification Requirement: Contractor shall provide written notice to the Director of COMCARE if it is unable to provide the requested quantity or quality of service provided for under this agreement. This written notice shall include a plan to address the issues affecting quantity and/or quality of services being provided.

Additionally, Contractor is required to notify COMCARE of any critical incidents within 24 hours of the time Contractor becomes aware of the occurrence. COMCARE's Director of Quality Management must be notified by Contractor as soon as possible, but no later than 24 hours after Contractor is aware of the incident. The following incidents must be reported immediately:

- Death of a mental health consumer receiving services from Contractor.
- Suicide attempt.
- Medication error.
- Any event requiring the services of the fire department or law enforcement agency beyond the scope of contractor's routine delivery of services.
- Abuse or alleged abuse involving a consumer.
- An injury or illness (non-psychiatric) of a consumer that requires medical treatment more intensive than first aid.
- A consumer who is out of contact with staff for more than 24 hours without prior arrangement, or a consumer who is in immediate danger because he/she is missing for any period of time.
- Any fire, disaster, flood, earthquake, tornado, explosion, or unusual occurrence that necessitates the temporary shelter or relocation of residents.
- Seclusion or restraint (seclusion and/or restraint of clients on the SED or PRTF waiver must be reported by the fifth working day of the month to COMCARE's Director of Quality, Risk Management and Compliance).
- Other incidents identified by Contractor as critical, adverse or unusual.

14. Management of Risk, Compliance and Compliance Reporting Requirements: Contractor expressly understands and agrees to maintain an internal auditing and monitoring program and to immediately report to COMCARE any suspected fraud, abuse or waste as it relates to compliance and billing practices, to include submission of documentation of the investigation/review and outcome. Additionally, Contractor agrees to respond timely (i.e. within one week or sooner if the issue warrants immediate attention) to any and all issues identified as a result of a compliance investigation by COMCARE. Routine compliance efforts must be documented and communicated to COMCARE quarterly via a report due to the COMCARE Compliance Officer no later than the last day of the month following the end of the calendar quarter).

15. Contractor shall provide medical records requested for internal and external compliance quality reviews within three (3) business days of request from County.

16. Insurance Requirements. As mandated by the KanCare Medicaid program, Contractor is required to maintain professional liability insurance in the amount of \$1,000,000 per occurrence and \$3,000,000 aggregate.

IN WITNESS WHEREOF, County and Contractor have executed this to Contract as of the day and year first above written.

ATTEST:

SEDGWICK COUNTY, KANSAS

Kelly B. Arnold, County Clerk

David M. Unruh, Chairman
Board of Sedgwick County Commissioners

APPROVED AS TO FORM ONLY:

MENTAL HEALTH ASSOCIATION OF
SOUTH CENTRAL KANSAS



Jennifer Magaña, Deputy County Counselor



Carol Manning, President & CEO

APPENDIX A

GENERAL CONTRACTUAL PROVISIONS

1. AUTHORITY TO CONTRACT.

A. **Affirmation of Legal Authority.** Contractor assures it possesses legal authority to contract these services; that resolution, motion or similar action has been duly adopted or passed as an official act of Contractor's governing body, authorizing the signing of this contract, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of Contractor to act in connection with the application and to provide such additional information as may be required.

B. **Required Documentation.** Domestic (Kansas) corporations shall 1) furnish evidence of good standing in the form of a Certificate signed by the Kansas Secretary of State. Foreign (non-Kansas) corporations shall furnish evidence of authority to transact business in Kansas, in the form of a Certificate signed by the Kansas Secretary of State; and 2) a copy of the Corporation Resolution evidencing the authority to sign the Contract Documents, executed by the Corporation's Secretary or Assistant Secretary.

2. RELATIONSHIP OF PARTIES.

It is agreed that the legal relationship between Contractor and County is of a contractual nature. Both parties assert and believe that Contractor is acting as an independent contractor in providing the services and performing the duties required by County hereunder. Contractor is at all times acting as an independent contractor and not as an officer, agent, or employee of County. As an independent contractor, Contractor, and employees of Contractor, will not be within the protection or coverage of County's worker's compensation insurance, nor shall Contractor, and employees of Contractor, be entitled to any current or future benefits provided to employees of County. Further, County shall not be responsible for withholding of social security, federal, and/or state income tax, or unemployment compensation from payments made by County to Contractor.

3. PERSONNEL.

A. **Qualified Personnel.** Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees of or have any other contractual relationship with County. All personnel engaged in the work shall be fully qualified according to the laws of the State of Kansas and the provisions of this contract.

B. **Minimum Wages.** Contractor will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act.

C. **Employee Conflict of Interest.** Contractor shall establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

D. **Contractor's Safeguard.** The parties to this agreement recognize that entities or persons providing government-funded services to the public are the subject of public scrutiny. Consequently, by entering into this agreement Contractor assumes an affirmative and ongoing duty during the pendency of this contract to maintain compliance with requirements set forth in subsection E below. Such compliance requires the use of criminal or other legal background checks upon all personnel or agents providing services pursuant to this agreement, or administering the funds conveyed under this agreement.

E. **Participant Safeguard.** Contractor certifies that:

1) Persons convicted of any felony, drug or drug-related offense, crime of falsehood or dishonesty, crime of moral turpitude or crime against another person during the ten-year period concluding on the date of execution of this contract or during the pendency of this contract, or any individual who is known by Contractor to have had a prior employment history of abuse, neglect or exploitation of children or vulnerable adults, shall not be permitted to administer this contract or handle the funds conveyed under this contract;

2) Persons with convictions for crimes against persons, for crimes of moral turpitude, including, but not limited to, sex offenses and crimes against children, or any individual who is known by Contractor to have had a prior employment history of abuse, neglect or exploitation of children or vulnerable adults, shall not be permitted to provide services or interact in any way with persons served pursuant to this contract; and

3) Persons having been convicted of a serious driving offense, including but not limited to driving under the influence of alcohol or a controlled substance, during the five-year period concluding on the date of execution of this contract, or during the pendency of this contract, shall not be permitted to operate a vehicle in which a person served pursuant to this contract is a passenger. For purposes of this section, "serious traffic offense" shall not include any offense deemed a "traffic infraction" under K.S.A. 8-2116 and 8-2118.

4) Any question concerning the interpretation of this subsection E and/or its application to an individual shall be referred to the Director of the Agency administering the funding of this agreement for the County. The Director's decision shall be final for purposes of compliance with this contract. The term "conviction" shall include convictions from any federal, state, local, military, or other court of competent jurisdiction, and shall include being placed into a diversion or deferred judgment program in lieu of prosecution. Contractor shall not be held accountable for cases in which diversions or deferred judgments are not reflected in an individual's criminal record, or for expunged convictions, if Contractor would have no other reasonable way of knowing of these acts.

F. It is understood that this contract may be revoked at the discretion of the County if Contractor is in violation of Subsection E.

No penalty shall be assessed to the County for revocation of this agreement in the event of a breach of any portion of Appendix A, Section 3.

4. PROHIBITION OF CONFLICTS OF INTEREST.

A. Interest of Public Officials and Others. No officer or employee of County, no member of its governing body, and no other public official who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project shall participate in any decision relating to this contract which affects such person's personal interest or the interest of any corporation, partnership, or association in which such person is directly or indirectly interested; nor shall any officer or employee of County or any member of its governing body or other public official have any interest, direct or indirect, in this contract or the proceeds thereof.

B. Interest of Contractor. Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract.

C. Employee Conflicts. Situations in which 1) an employee of the County shall also be an employee of Contractor at time of agreement, 2) an employee of Contractor seeks additional/alternate employment with County during pendency of agreement, or 3) an employee of County seeks additional/alternate employment with Contractor during pendency of agreement, shall require written notice to the County at the addresses listed in Section Twenty (20) below. The County shall make every effort to assure that such employees do not have any authority to approve 1) grant funds, 2) agreements, or 3) affiliate status to the Contractor or Contractor's competitors.

D. Notice to Bidders. Requests for proposal or invitations for bid issued by Contractor to implement this contract will provide notice to prospective bidders that County's conflict of interest provision is applicable in that contractors who develop or draft specifications, requirements, statements of work and/or RFP's for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement.

5. FUNDING.

A. Reprogramming of Funds. It is understood and agreed that in the event the amount of funds County actually receives from the County mill levy is less than anticipated, County may decrease the total compensation and reimbursement to be paid hereunder.

B. Inability to Perform Contract. It is further understood and agreed that in the event Contractor's rate of progress on this contract is leading to underspending due to inability to provide services at planned levels, County may decrease the total compensation and reimbursement to be paid hereunder or withdraw from the agreement.

C. Cash Basis and Budget Laws. The right of the County to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the County shall at all times stay in conformity with such laws, and as a condition of this Agreement the County reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

D. Non-Supplanting Existing Funds. Contractor assures that grant funds made available under County mill levy grants and administered under this contract will not be used to supplant existing funds or other funding sources, but will be used to increase the amounts of those other funding sources.

E. Unexpended funds. It is agreed by Contractor and County that upon termination or expiration of the contract, any unexpended funds shall be returned to County.

6. PROGRAM INCOME.

Contract-related program income, if generated, shall be collected by Contractor and reported to County on Contractor's quarterly reports, required in Section Seven (7) below, and shall be used to offset the costs related to the program.

7. RECORDS, REPORTS AND INSPECTION.

A. Documentation of Costs. All costs incurred by Contractor for which Contractor purports to be entitled to reimbursement shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible to both parties to this agreement.

B. Maintenance of Records. Except as otherwise authorized by County, Contractor shall retain such documentation for a period of three (3) years after receipt of the final expenditure report under this contract, unless action, including but not limited to litigation or audit resolution proceedings, necessitate maintenance of records beyond this three (3) year period.

C. Reports. During the term of this contract, Contractor shall furnish to County, in such form as County may require, such statements, records, reports, data and information as County requests pertaining to matters covered by this contract. Payments to Contractor will be withheld by County if Contractor fails to provide all required reports in a timely and accurate manner, until such time as all reports are furnished to County. Incomplete reports may be considered a breach of this contract.

D. Audit. Contractor shall provide for an annual independent audit of its financial records and shall provide a copy of said audit to

County, upon request. If not otherwise required by law to perform an audit and upon approval by County, Contractor may provide a copy of a financial balance sheet developed by a reputable accountant/accounting firm instead of a formal audit.

E. Availability of Records. Contractor agrees to make any and all of its records, books, papers, documents and data available to County, or the authorized representative of a State agency with statutory oversight authority, for the purpose of assisting in litigation or pending litigation, or making audits, examinations, excerpts, copies and transcriptions at any time during the terms of this contract and for a three (3) year period following final payment under the terms of this contract. Contractor gives SRS/MH & DD, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to its grant of funds.

F. Contractor's Purchasing Procedure. Contractor certifies that it does not practice any form of discrimination based on race, ethnic origin, gender or religion or disability in its purchasing procedures. Contractor agrees to make available a written description of its purchasing procedures if requested by County.

G. Confidentiality. Both parties will comply with the provisions of State and federal regulations in regard to confidentiality of eligible participant records.

8. METHOD OF BILLING AND PAYMENT.

A. Billing Procedures. Contractor agrees that billings and payments under this contract shall be processed in accordance with established budgeting, purchasing and accounting procedures of Sedgwick County, Kansas. Subject to the maximum amount of compensation prescribed on page 1 at paragraph 4 of this contract, payment shall be made after the receipt of billing, and the amount of payment shall not exceed the maximum amount allowed by this contract.

B. Support Documentation. Billing shall be supported with documentation required by County including, but not necessarily limited to, that documentation described in Section Seven (7) above.

C. Reimbursement Restrictions. Payments shall be made to Contractor only for items and services provided to support the contract purpose when such items and services are specifically authorized by this agreement. County reserves the right to disallow reimbursement for any item or service billed by Contractor if County believes that such item or service was not provided to support the contract purpose or was not authorized by the contract.

D. Pre-disbursement Requirements. Contractor must provide to County the documentation required pursuant to this contract prior to any disbursements being made by County to Contractor.

E. Mailing Address. Payments shall be mailed to Contractor's address as listed in paragraph 20 below.

9. PARTICIPANT INPUT.

Contractor shall provide persons receiving services funded pursuant to this contract with an opportunity to assess and evaluate the program at least once during the contract term, unless such requirements are more specifically addressed elsewhere in this agreement or by statute.

10. LICENSES AND PERMITS.

Contractor shall maintain all licenses, permits, certifications, bonds, and insurance required by federal, state or local authority for carrying out this contract. Contractor shall notify County immediately if any required license, permit, bond or insurance is canceled, suspended or is otherwise ineffective. Such cancellation, suspension, or other ineffectiveness may form the basis for immediate revocation by County, in its discretion.

11. INSURANCE REQUIREMENTS

Contractor shall annually provide a certificate of insurance to verify liability insurance. Sedgwick County shall be listed as an additional insured on the general liability policy, and the certificate should provide for at least a 10 day written notice of cancellation. If Contractor transports clients during services provided for under this agreement, evidence of auto insurance on the Certificate is required. Contractor shall also annually provide evidence of Professional Liability insurance, as appropriate. The above insurance requirements apply to all commercial vendors providing services for Sedgwick County.

12. EPA APPROVED BUILDING.

Contractor will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the contract are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the contract is under consideration for such listing by the EPA.

13. HANDICAPPED ACCESSIBILITY.

Contractor will comply with the Rehabilitation Act of 1973, as amended, Section 504, which prohibits discrimination against handicapped persons in employment services, participation and access to all programs receiving federal financial assistance. Contractor shall also comply with applicable requirements of the Americans With Disabilities Act (ADA) which is a federal anti-discrimination statute designed to

remove barriers which prevent qualified individuals with disabilities from enjoying equal treatment by state and local governments and their agencies in employment practices and accessibility in public services and programs.

14. ASSIGNMENT.

Neither this contract nor any rights or obligations hereunder shall be assigned or otherwise transferred by either party without the prior written consent of the other.

15. SUBCONTRACTING.

None of the work or services covered by this contract shall be subcontracted without the prior written approval of County. All approved subcontracts must conform to applicable requirements set forth in this contract and in its appendices, exhibits and amendments, if any.

16. PUBLICATION OF CONTRACT RESULTS.

A. Copyright. If this contract results in a book or other material which may be copyrighted, the author is free to copyright the work. County reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use all copyrighted material and all material which can be copyrighted.

B. Documentation of originality or source. All published material and written reports submitted under this contract or in conjunction with the third party agreement under this contract will be originally developed material unless specifically provided for otherwise. Material not originally developed included in reports will have the source identified either in the body of the report or in a footnote, whether the material is in a verbatim or extensive paraphrase format. All published material and written reports shall give notice that funds were provided by a grant from County.

17. COMPLIANCE WITH APPLICABLE LAWS, SERVICE STANDARDS AND REQUIRED PROCEDURES.

A. Service Standards and Procedures. Contractor shall perform the services set forth in this contract in compliance with applicable standards and procedures specified in Appendix B which covers the specific purpose, goals and objectives of this agreement.

B. Governing Law. This contract shall be interpreted under and governed by the laws of the State of Kansas.

C. Compliance With Law. Contractor shall comply with all applicable local, state and federal laws and regulations, in carrying out this contract, regardless of whether those legal requirements are specifically referenced in this agreement.

D. Access to Meetings. Contractor agrees to grant access to County to meetings of its managing board or committee during that time when matters involving use of County grant funds are discussed, if requested by County.

18. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION.

In carrying out this contract, Contractor shall deny none of the benefits or services of the program to any eligible participant pursuant to K.S.A. 44-1001 *et seq.*

A. Contractor shall observe the provisions of the Kansas act against discrimination and shall not discriminate against any person in the performance of work under this contract because of race, religion, color, sex, disability, national origin, or ancestry.

B. In all solicitations or advertisements for employees, Contractor shall include the phrase "equal opportunity employer" or a similar phrase to be approved by the Kansas Human Rights Commission.

C. If Contractor fails to comply the provisions of K.S.A. 44-1031, requiring reports to be submitted to the Kansas Human Rights Commission when requested by that Commission, Contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended, in whole or in part, by County.

D. If Contractor is found guilty of a violation of the Kansas act against discrimination under a decision or order of the Kansas Human Rights Commission which has become final, Contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended, in whole or in part by County.

E. Contractor shall include the provisions of paragraphs A through D inclusively of this section in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

F. The provisions of this section shall not apply to a contract entered into by a contractor who: 1) employs fewer than four employees during the term of this contract; or 2) whose contracts with the County cumulatively total \$5,000.00 or less during the fiscal year of the County pursuant to K.S.A. 44-1031(c).

19. TERMINATION OF CONTRACT.

A. Termination for Cause. If Contractor shall fail to fulfill in a timely and proper manner its obligations under this contract, or if Contractor

shall violate any of the terms, covenants, conditions, or stipulations of this contract, County shall thereupon have the right to terminate this contract by promptly giving written notice to Contractor of such termination and specifying the reasons for the termination and the effective date thereof. A breach shall include, but not be limited to, failure to comply with any or all items contained in this contract and any appendices, exhibits or amendments thereto, if any.

In the event of termination, such information prepared by Contractor to carry out this contract, including data, studies, surveys, records, drawings, maps and reports shall, at the option of County, become the property of the County and be immediately turned over to the County. Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Notwithstanding the above, Contractor shall not be relieved of liability to County by virtue of any breach of this contract by Contractor and County may withhold any payments to Contractor for the purpose of set off until such time as the exact amount of damages due County from Contractor are determined.

B. Termination of Contract on Other Grounds. Except for paragraph A above, this contract may be terminated in whole or in part by either party, upon thirty (30) days written notice to the other party, stating the reasons(s) for the termination and the effective date of the termination. A partial termination shall also be specified in writing by the terminating party and shall not be effective unless and until the other party has given its written assent thereto. When this contract is terminated, Contractor shall not incur new obligations for the terminated portion after the effective date of the termination and shall cancel as many outstanding obligations as possible. County shall allow full credit to Contractor for the grant share of the non-cancelable obligations properly incurred by Contractor prior to termination. Whether this contract is canceled by County or Contractor as provided herein, Contractor shall be paid for work satisfactorily completed, so long as the provisions applicable to Billing and Payment have been met by Contractor.

20. INDEMNIFICATION AGREEMENT.

Both parties hereby expressly agree and covenant that they will hold and save harmless and indemnify the other party, its officers, agents, servants and employees from liability of any nature or kind connected with the work to be performed hereunder arising out of any act or omission of such party or of any employee or agent of that party to the degree such indemnification is allowed by law.

20. NOTIFICATION.

Notifications required pursuant to this contract shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

County: Comprehensive Community Care Of Sedgwick County

Attn: Marilyn Cook, Executive Director
635 N. Main
Wichita, KS 67203-3752
PHONE (316) 660-7600
FAX (316) 383-7925

Sedgwick County Legal Department
Attn: Contract Notification
Sedgwick County Courthouse
525 N. Main, Suite 359
Wichita, KS 67203-3790

Contractor: Mental Health Association of South Central Kansas

Attn: Carol Manning
555 N. Woodlawn, Ste 3105
Wichita, KS 67208

22. AMENDMENTS TO AGREEMENT.

To provide necessary flexibility for the most effective execution of this contract, whenever both County and Contractor mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract. Any change which affects contract objectives must be approved by COMCARE and the Sedgwick County Board of Commissioners. Line item changes to the approved Appendix C- Budget (where applicable) exceeding ten percent (10%) or \$5,000 (whichever is less) must be presented to and approved by the Executive Director of COMCARE.

23. CERTIFICATE OF TAX CLEARANCE.

Annually Contractor shall provide County with a certificate of tax clearance from the State of Kansas certifying Contractor has paid all state taxes.

24. DEBARMENT/SUSPENSION

Contractor acknowledges that as part of the Code of Federal Regulations (2 C.F.R. Part 180) a person or entity that is debarred or suspended in the Excluded Parties List System (EPLS) shall be excluded from Federal financial and nonfinancial assistance and benefits under Federal programs and activities. All non-federal entities, including Sedgwick County, must determine whether the Contractor has been placed on the Excluded Parties List System (EPLS) and any federal funding received or to be received by Sedgwick County in relation to this Agreement prohibits Sedgwick County from contracting with any Contractor that has been so listed. In the event the Contractor is debarred or suspended under the EPLS, the Contractor shall notify Sedgwick County in writing of such determination within five (5) business days as set forth in the Notice provision in this Agreement. Sedgwick County shall have the right, in its sole discretion, to declare the Agreement terminated for breach upon receipt of the written notice. Contractor shall be responsible for determining whether any sub-contractor performing any work for Contractor pursuant to this Agreement has been debarred or suspended under EPLS and to notify County within the same five (5) business days, and with the County reserving the same right to terminate for breach as set forth herein.

APPENDIX - B
Kansas Department of Aging and Disability Services
Permanent Administrative Regulations

Article 60.— LICENSING OF COMMUNITY MENTAL HEALTH CENTERS

30-60-2. Definitions

(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.

(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.

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.)

30-60-28. 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 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.)

30-60-48. 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.)

30-60-51. 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, 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 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 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.