

AGENDA ITEM REPORT



Date: March 22, 2023
To: Board of County Commissioners
From: Sarah Plinsky, County Administrator
Department: Administration
Subject: Update on the Douglas County Treatment and Recovery Center

BACKGROUND INFORMATION:

As outlined at the February 7, 2023 Board of County Commissioners meeting, County staff and counsel will provide an update on the status of due diligence items, operating agreement and lease. In addition, staff want to provide specific updates on the grievance process, high acuity patients, and present a timeline for opening and phasing in operations. Bert Nash staff will also be available to answer questions.

RECOMMENDATION:

No Action. Informational purposes only.

Douglas County Treatment and Recovery Center Status Update

March 22, 2023



Overview

- This is an update regarding the status of discussions between Douglas County and Bert Nash Community Mental Health Center for possible operation and leasing of the County's Treatment and Recovery Center.
- No decisions have been made and no agreements have been reached. The ultimate decision will be made by the Board of County Commissioners at a public meeting some time in the future.
- Tonight's presentation will highlight several topics:
 - Review the timeline
 - Operating Agreement and Lease Update
 - Review the Scope of Services for High Acuity Patients and discuss involuntary holds
 - Due Diligence status update
 - Timeline for opening
 - Complaint and Grievance procedures



Timeline

December 14, 2022: Bert Nash provided set of documents to County.

January 20: Following analysis of Bert Nash materials, County provided due diligence review questions and requests to Bert Nash.

January 26: County introduced key terms for Operating Agreement and Lease to Bert Nash.

January 31: Zoom meeting between County and Bert Nash for questions and clarification of County's due diligence requests.

February 2: County provided supplemental due diligence policy review comments and questions to Bert Nash.

February 3: Deadline for Bert Nash comments, if any, to County staff on the due diligence requests prior to February 8, 2023, County Commission meeting.

February 6: Zoom meeting with County, Bert Nash, and KDADS to discuss TRC.

February 7: Bert Nash emailed supplemental information to County regarding due diligence review.

February 8: BOCC public meeting. Staff report on status of due diligence review and general update regarding progress.



Timeline (cont'd)

March 22: Public update to Commission regarding status of due diligence review.

March 31: Deadline for Operating Agreement and Lease to be in final form, approved by staff and legal counsel.

April 5: Final agreements presented to County Commission at public meeting for approval.

Notes:

- The County may supplement its due diligence requests up to the time that final documents are approved and executed by the parties.
- No agreements have been reached. The Douglas County Commission will make all decisions regarding the operation and leasing of the TRC facility during public meetings of the Board of County Commissioners.

Key Terms for Operating Agreement

Brooke Aziere - Foulston Siefkin Law Firm

Key Terms of the Operating Agreement

- Term of Agreement
- Services to Be Provided
- Staffing
- Funding
- Data and Reporting
- Accreditation
- Grievance Procedure
- TRC Advisory Council
- Other Terms and Conditions
- Request for Proposal

Key Lease Terms

- Term
- Rent
- Duty to Maintain, Repair, Replace
- Other terms



Scope of Services for High Acuity Patients

The parties agree that the TRC should accept all patients for evaluation and treatment despite their acuity to the greatest extent possible. The County desires a commitment from BNC that it will accept, evaluate, and treat all patients who present with high acuity behavioral health and/or substance use conditions, except in very limited cases when it is not medically or legally possible for the TRC to provide care.

Meanwhile, BNC affirms that it intends to accept, evaluate, and treat all patients despite their acuity to the greatest extent clinically and legally possible, but also desires to preserve the independent medical judgment of its doctors and other clinical specialists.

The County acknowledges this desire on the part of BNC and acknowledges that it is not realistic to exact a commitment from BNC that it will treat every patient, in every circumstance, when the details of a patient's particular condition cannot be predicted with any certainty.



Scope of Services for High Acuity Patients

Accordingly, the parties agree that BNC will use its best efforts to accept, evaluate, and treat all patients who present at the TRC, despite their acuity. This means that Bert Nash will accept patients for evaluation and treatment who are experiencing psychiatric and/or substance use emergencies which put them at risk for harm to self or others; are under the influence of drugs and/or alcohol; are potentially violent or considered to be at risk of harm to themselves or others; may need restraint; or who otherwise are experiencing a wide range of acuity if it is clinically and legally appropriate to do so.



Scope of Services for High Acuity Patients

The BNC will evaluate and treat any patient that arrives via walk-in or first responders despite their acuity. BNC commits to treat all patients according to the standard of care.

If BNC is unable to do so because a patient is medically unstable, BNC will arrange for a transfer to a medical setting where such patient can receive the appropriate treatment.

BNC will make every effort to accept, evaluate, and/or treat patients. The medical professionals at BNC will retain final authority to make determinations regarding the care and treatment of individuals. No individual who is accepted for evaluation and treatment will be denied appropriate access to services through and up to their discharge. Individuals will be accepted for evaluation and treatment if and when they present again with similar or additional symptomology or issues.

Scope of Services for High Acuity Patients

If during the patient's receipt of services at the TRC it is determined by the attending physician that CIC services at the TRC are not the appropriate level of care, Bert Nash will coordinate transfer to a facility with the appropriate level of care and will be responsible for care of the patient until transfer.



Due Diligence for Bert Nash TRC

Due Diligence Items and Status:

- Leadership Team – complete in form. Working on hiring
- Budget – substantial progress. Working on agreement from KDADS
- Insurance - progress
- EMR Workflows – complete. May 15, 2023 implementation
- Facility Workflows; Staffing Plan - complete
- Internal billing; insurance; payor fee schedules - complete
- Ancillary Contracts; Vendor Contracts – Progress made
- PPH License - complete
- CCBHC - complete
- Accreditation - substantially complete
- Measuring Success – substantial progress
- Facility Logistics - complete
- Client satisfaction/Complaint procedure – complete, pending discussion on 3/22
- Financial and Operational Transparency – substantial progress
- TRC Advisory Council – substantial progress
- Law enforcement and EMS engagement – Discussions ongoing

Timeline for Opening

Phase I (Day 1)

- Effective as of Day 1 of operations:
- Facility is open and receiving community walk-ins Monday - Friday, 8 a.m.-8 p.m. and Saturday-Sunday, (four hours between 10 a.m. - 4 p.m.)
- The Access Center will be open 7 days a week regardless of holiday schedules.
- Patients in the Access Center will be seen by a provider within one hour of arrival at the facility.
- Bert Nash Intakes will be completed at TRC.
- BNC will have a written plan for follow-up communication and care coordination with outside providers.
- Patients seen at TRC are able to return to TRC for interim care as needed to follow up.
- BNC will have a mechanism in place to track and report time to follow up appointments.
- BNC will track and provide monthly data reports to the County, including: time to first appointment, referrals; and/or return/follow-up at TRC ACCESS.



Timeline for Opening

Phase II (begins within 30 days of opening)

- Facility is open 24/7
- 23 hour observation unit (OBS) available 24/7 and adequately staffed to receive referrals from the LMH ED, Mobile Team, and LPD Co-responders.
- Short-term stabilization unit (STAB) supports voluntary patients 24/7.
- OBS/STAB capacity at 5-10 patients.

Within the first 90 days

- OBS and STAB units are available 24/7 and adequately staffed to support patients on an involuntary hold.
- OBS and STAB units are available 24/7 and adequately staffed to receive referrals from the LMH ED, Mobile Team, LPD Co-responders as well as all Law Enforcement and EMS drop-offs to the TRC
- OBS/STAB capacity at 16 patients
- Delivery of SUD-specific services, including, but not limited to, medication assisted detoxification services

Timeline for Opening

Within the first 6 months

- Douglas County TRC Advisory Council is convened by the County to provide consumer input, community feedback, public education and accountability.
- First Responder drop off acceptance rate > 90%
- Side Door turn around <10 minutes
- ED BH Health dashboard metrics compared to TRC Dashboard. Both submitted monthly.
- Phase III staffing (24/7 OBS-STAB capacity of 24) should be implemented based on patient volumes in consultation with the County.
- Quality metrics and KPIs will also reflect scope of services and clinical expectations.

Roadmap to opening

URGENT CARE UNIT OPEN - April 10

- Community walk-ins
 - Weekdays: 8 am - 8 pm
 - Weekends: Noon - 4 pm
 - Available 365 days a year
- Levels of services:
 - Triage/Assessments
 - Psychiatric med evaluations/prescriptions
 - Referrals
 - Initial treatment planning
 - Assessments
 - Coordination of care
- Community members return for follow-ups as needed

OBSERVATION & STABILIZATION UNIT OPEN - MAY 25

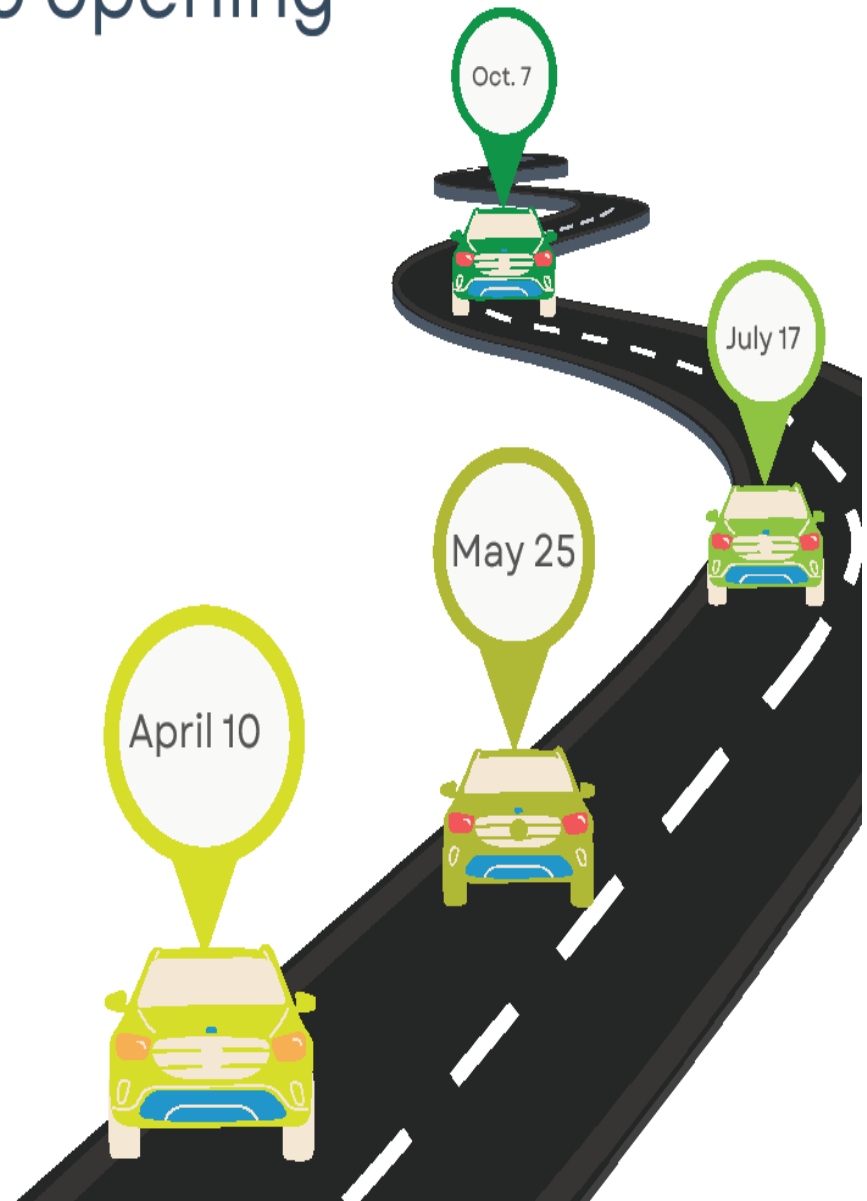
- Units are open 24/7; Building is open 365 days a year
- Accept referrals from LMH, Mobile Response Team, First Responders, & TRC Urgent Care Unit
- Capacity at 10 patients

OBSERVATION & STABILIZATION UNIT - JULY 17

- Capacity at 16 patients

OBSERVATION & STABILIZATION UNIT - OCT. 7

- Capacity at 24 patients





Complaint/Grievance Procedure

Statement re High Acuity Patients for Term Sheet

March 6, 2023

The parties agree that the TRC should accept all patients for evaluation and treatment despite their acuity to the greatest extent possible. The County desires a commitment from BNC that it will accept, evaluate, and treat all patients who present with high acuity behavioral health and/or substance use conditions, except in very limited cases when it is not medically or legally possible for the TRC to provide care. Meanwhile, BNC affirms that it intends to accept, evaluate, and treat all patients despite their acuity to the greatest extent clinically and legally possible, but also desires to preserve the independent medical judgment of its doctors and other clinical specialists. The County acknowledges this desire on the part of BNC and acknowledges that it is not realistic to exact a commitment from BNC that it will treat every patient, in every circumstance, when the details of a patient's particular condition cannot be predicted with any certainty.

Accordingly, the parties agree that BNC will use its best efforts to accept, evaluate, and treat all patients who present at the TRC, despite their acuity. This means that Bert Nash will accept patients for evaluation and treatment who are experiencing psychiatric and/or substance use emergencies which put them at risk for harm to self or others; are under the influence of drugs and/or alcohol; are potentially violent or considered to be at risk of harm to themselves or others; may need restraint; or who otherwise are experiencing a wide range of acuity if it is clinically and legally appropriate to do so. The BNC will evaluate and treat any patient that arrives via walk-in or first responders despite their acuity. BNC commits to treat all patients according to the standard of care. If BNC is unable to do so because a patient is medically unstable, BNC will arrange for a transfer to a medical setting where such patient can receive the appropriate treatment. BNC will make every effort to accept, evaluate, and/or treat patients. The medical professionals at BNC will retain final authority to make determinations regarding the care and treatment of individuals. No individual who is accepted for evaluation and treatment will be denied appropriate access to services through and up to their discharge. Individuals will be accepted for evaluation and treatment if and when they present again with similar or additional symptomology or issues.

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Feedback Form

This is a form used to provide us with information about your experiences with our organization based on your experiences with services, facilities, team members, processes, and other areas. Feedback forms are reviewed weekly by the Quality Improvement Department Director and responses will be provided in writing or by phone within thirty business days.

CONTACT INFORMATION

This feedback is anonymous, and I do not want to be contacted regarding the response.

I am a: Client Parent Guardian Community Member Educator Other : _____

Name: _____

Mailing Address: _____

Phone Number: _____

Email Address: _____

Preferred method of contact: _____

SUBJECT AND CATEGORY

Subject: Service Facility Team Member Process Other: _____

Is this feedback related to a reduction or discontinuation of service/s: Yes No

Category: Complaint Suggestion Compliment Concern Other: _____
(The organization defines a complaint as a situation that is unsatisfactory or unacceptable).

If this is a complaint, would you like to request to file an official grievance? Yes No

DESCRIPTION

Summarize the situation including date, time, location, event, others present, etc. (additional space on back of page).

Names of others involved in the situation such as a, community partner, team member?

What would the preferred outcome of your feedback be?

DATE:

SIGNATURE:

Bert Nash Center Feedback Form

Quality Improvement Department, 10/07/22, 11/17/22



Feedback Form

DESCRIPTION AND ADDITIONAL INFORMATION CONTINUED

DATE:

SIGNATURE:

Bert Nash Center Feedback Form

Quality Improvement Department, 10/07/22, 11/17/22

BERT NASH COMMUNITY MENTAL HEALTH CENTER, INC.
POLICIES AND PROCEDURES

SUBJECT: Client Complaints and Appeals

POLICY: The Bert Nash CMHC will allow for clients/patients, individuals, or agencies to make a written complaint about staff members' actions or decisions that concern/influence treatment or any aspect of the center's operations, requirements, or services.

PURPOSE: To resolve disputes and respond to concerns regarding the care and service provided.

PROCEDURE:

- I. Notice will be displayed in all Center waiting room areas stating that clients/patients, individuals, or agencies have the right to make a complaint and the procedure by which a complaint can be made.
- II. Clients will be advised of the Center's Client Complaint and Appeals policy at the beginning of their treatment process and will be informed of their right to file a complaint with BNC and/or the Department of Health and Human Services. Every effort will be made to resolve client/patient complaints at the time the complaint is expressed.
- III. No specific form is required to make a complaint; however, feedback forms will be made available at the reception desks and the Bert Nash Center website for use by any client/patient, agency, or individual.
- IV. A complaint can be made confidentially by submitting an anonymous written or verbal complaint. Anonymous written feedback can be provided by using the Feedback Form and checking the box that states: "this feedback is anonymous". Center staff will 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 client/patient receiving services. Staff will be required to assist that client/patient to write out the complaint if made orally or to record the complaint more specifically for the client/patient if the client/patient fails or is unable to completely write out the complaint.
- V. A sufficient description of the subject of the complaint, the act of omission regarding the complaint, the persons involved, how the individual became aware of the problem, and the remedy sought by the client should be obtained and submitted on the Feedback Form.
- VI. Clients who use the Feedback Form to communicate their complaint may turn it in at the black mailboxes posted by reception desks, submit a completed form through the website, or send a completed form via email to feedback@bertnash.org.
- VII. The black mailboxes used to collect Feedback Forms will be checked at each building at least twice weekly and scanned to the Quality Improvement team within one business day for further review.
- VIII. Phone calls regarding client complaints will be directed to the Director of Performance & Quality Improvement.
- IX. An individual will not be retaliated against for the filing of any complaint against BNC or a BNC team member.
 - X. Submitting a complaint against BNC or a BNC team member is not a barrier to service and any action will not result in a barrier to services.
- XI. The Director of Performance and Quality Improvement will review each complaint as they are received and may respond with a letter of acknowledgement to the complainant.
- XII. After the initial review of the client by the Director of Performance and Quality Improvement, the client complaint will immediately be sent to the appropriate Service Director, or their designee for review. The Service Director or their designee will investigate as appropriate and take any appropriate actions.
- XIII. If the complaint is the result of a discontinuation or reduction of any service that had been provided to a client, the Executive Director or designee may require that the service that was discontinued or reduced be restored to its former level pending the outcome of an investigation and determination.
- XIV. The Center will work with clients/patients to ensure their needs are met and the dispute is resolved in a timely manner. The Service Director or designee will respond as appropriate either in writing, by face-to-face meeting or by telephone to every complaint concerning any aspect of either the Center's operations, requirements, or

services. The response will occur no later than thirty (30) days following the receipt of the complaint; however, every effort will be made to exceed this directive. The reply shall cover the Service Director's (or designee's) findings and determinations about that complaint. Face to face or telephone responses will be documented in writing.

- XV. The Center's Quality Management Plan will include a system to track and analyze complaints, not less than annually, to determine trends or patterns. An attempt will be made to identify the cause of those complaints, or any other issue presented. Complaint trends and patterns will be reported to the Chief Executive Office and the Governing Board of Directors annually.
- XVI. Any client/patient who is dissatisfied with a determination may appeal that determination to the Center.
- XVII. Each appeal should be made in writing within thirty (30) days of receipt of the Center's determination. Each appeal will be addressed to the Director of Performance and Quality Improvement of the Center and shall state specifically the determination that is being appealed and the reasons why the client/patient believes that the determinations of the Service Director or designee is wrong.
- XVIII. Upon receipt of the written appeal, the Director of Performance and Quality Improvement will work with the appropriate Service Director, or designee to contact the client/patient who is appealing and offer to meet personally with that client/patient to see if some agreement or other resolution can be reached, or to offer mediation of the disputer to the client/patient. The response will occur no later than 30 days following the receipt of the complaint; however, every effort will be made to exceed this directive.
- XIX. If a resolution cannot be reached, the complaint and appeal will be discussed with the Chief Executive Officer. A decision will be made, and a written notification will be mailed to the complainant.
- XX. The final decision may be appealed to the Office of Administrative Hearings within the Kansas Department for Aging and Disability Services-Behavioral Health Services at 888-582-3759.
- XXI. If a client asks for information concerning the filing of a complaint with the Department of Health and Human Services or other government entity, they will be provided with the following information. All complaints must be filed in writing, either on paper or electronically.
- a. Paper filings should be sent to the following address:
 - i. Office of Civil Rights U.S. Department of Health and Human Services
 - ii. 200 Independence Avenue, S.W.
 - iii. Room 509F, HHH Building
 - iv. Washington, D.C. 20201
 - b. Electronic filings should be sent via email to:
 - i. ocrmail@hhs.gov
 - c. The complaint should identify Bert Nash Community Mental Health Center, Inc and describe the acts of omissions believed to be in violation of the federal law.
 - d. The complaint must be filed within one hundred and eighty (180) days of when the person knew or should have known that the act of omission occurred to guarantee consideration. The department may consider complaints filed outside this time based on good cause shown.
 - e. The Director of Performance & Quality Improvement shall request that the individual who expresses an intention to submit a complaint to the Department of Health and Human Services submit a copy of the complaint to the Bert Nash Center.
- XXII. Records of every complaint and appeal made, and of the final determination or decision made regarding each complaint shall be centrally maintained for at least five (5) years.
- XXIII. No client/patient shall be denied any service or otherwise penalized solely for any of the following reasons:
 - a. Having made a complaint.
 - b. Having refused an offer to meet, or to engage in mediation.
 - c. Failing to continue any process of mediation even though the process had begun.
 - d. Failing to resolve or settle the complaint.
 - e. Making or pursuing an appeal.
- XXIV. Nothing in regulation K.A.R. 30-60-51 shall be construed to limit the right of any person to bring any action against the Center that is permitted by law.

POLICY APPROVAL

Date of Adoption: 9/13/2004

Revised Date

Review Date: 10/2008; 1/2019, 6/2022, 12/2022

Deleted Date:

Approved by: _____

Approved by: _____

Approved by: _____

Approved by: _____