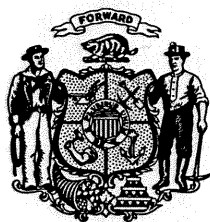


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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 99-138

AN ORDER to repeal subchapter V of chapter HFS 61; and to create chapter HFS 35, relating to standards for outpatient mental health clinics.

Submitted by **DEPARTMENT OF HEALTH AND FAMILY SERVICES**

09-22-99 RECEIVED BY LEGISLATIVE COUNCIL.

10-20-99 REPORT SENT TO AGENCY.

RNS:LR:rv;ksm

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

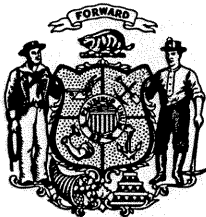
Comment Attached YES NO

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CLEARINGHOUSE RULE 99-138

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. Parenthetical acronyms should be deleted from the rule. See ss. HFS 35.03 and 35.07 (7) (a) 10.

b. Section HFS 35.05 (8) (a) defines "suspension" for purposes of sub. (8). However, since it appears that "suspension" is not used in sub. (8), the defined term should be "suspend."

c. In s. HFS 35.07 (5) (b), it is not necessary to include the phrase "with mental health needs and needs related to either alcohol or drug use or development disabilities," because the definition of "dually diagnosed" in s. HFS 35.04 (4) includes all of that information.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In the analysis, a reference to s. 51.038, Stats., should be added to the list of statutes which the rules interpret. This statute allows the Council on Accreditation of Services for Families and Children standards to be used for accreditation of certain clinics.

b. The rule repeals subch. V of ch. HFS 61 and replaces it with a new ch. HFS 35. The department should check current cross-references to the repealed provisions and replace them with updated cross-references. For example, see s. HFS 105.22 (1) (c) and (d) and (2) (b).

c. Section HFS 35.02 (2) references ss. HFS 61.50 to 61.68. If those sections are renumbered prior to promulgation of this rule, the cross-references here should be changed accordingly. (See Clearinghouse Rule 99-028.)

d. In s. HFS 35.05 (3) (b) 2., the correct reference should be to sub. (12), not to sub. (11). Subsection (12) establishes the right to a hearing. This same comment applies to s. HFS 35.05 (8) (b).

e. In s. HFS 35.07 (2) (b), ch. HFS 12 also applies to employes who the clinic contracts with. In addition, ch. HFS 12 does not apply to every applicant; it applies only to certain applicants that have contact with or access to clients. This paragraph should be revised accordingly.

f. Section HFS 35.07 (3) (b) 11. should clarify that occupational therapists are licensed under ch. 448, Stats., since all of the other subdivisions reference the chapter under which the specified professional is licensed or certified.

g. In s. HFS 35.07 (7) (a) 10., the complete citation for the Civil Rights Act of 1964 should be provided.

h. Section HFS 35.10 (7) (b) 1. references staff qualified under s. HFS 35.07 (3) (b) 11. Is this reference correct? Are occupational therapists qualified to administer medication? Was the correct reference intended to be to s. HFS 35.07 (3) (b) 10., registered nurses? If so, this reference should be corrected.

i. In s. HFS 35.10 (7) (b) 2., registered nurses are referenced as those who may dispense and label certain medications. However, only certain nurses have the authority to do so, pursuant to s. 441.16, Stats., and ch. N 8, Wis. Adm. Code.

j. In s. HFS 35.10 (7) (c), a reference to par. (a) should be inserted after the phrase "the person prescribing the medication."

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. HFS 35.04 (7), major deficiencies of a clinic are listed. In s. HFS 35.05 (8) (b), a number of offenses are listed that would warrant a termination, suspension or refusal to renew a clinic certification. Are these offenses also intended to be major deficiencies? If so, perhaps they should be cross-referenced in the definition of "major deficiency" in s. HFS 35.04 (7).

b. In s. HFS 35.05 (2) (b) 1., the department's designated representative is required to interview a representative sample of clients of the clinic who are willing to be interviewed. More detail should be provided as to what the clients are being interviewed about.

c. In s. HFS 35.05 (2) (c), it is implied that a decision to certify or not certify a clinic is based only upon the inspection. Are the application and supporting documents referenced in s.

HFS 35.05 (2) (a) 1. also utilized in the decision? If so, these should be referenced in this paragraph.

d. Section HFS 35.05 (5) (a) and (b) set forth effective dates of certification. Reading these two paragraphs together, it is confusing as to when the department determines the date of certification. Is it determined on the same day of an inspection under par. (a), is it determined from the date the written application is submitted pursuant to par. (b) or is some other date used? These two paragraphs should be coordinated with each other and made more clear.

e. In s. HFS 35.05 (7), the word "fees" should be changed to "a fee" to agree with the title of that subsection. Also, how will a person be able to find out what the fee is?

f. Section HFS 35.05 (9) (b) states that lack of knowledge by a clinic administrator or a good faith response by a clinic shall be an affirmative defense in response to an action against the clinic by the department. Should "a defense" be substituted for "an affirmative defense"?

g. In s. HFS 35.05 (10) (d), the department is directed to issue a notice of deficiency to a clinic that has one or more "minor deficiencies." However, in s. HFS 35.05 (3) (a) 3., six minor deficiencies could lead to denial of certification. Is it the department's intent that a clinic certification be suspended if the number of minor deficiencies reaches six? If so, these different rule provisions should be coordinated.

h. In s. HFS 35.05 (11), if minor deficiencies are found, the department is directed to issue a notice to the clinic that the deficiencies exist and offer a clinic provisional certification pending correction of the deficiencies. Again, s. HFS 35.05 (3) (a) 3. notes that six minor deficiencies could lead to denial of certification. These different rule provisions should be coordinated.

i. In s. HFS 35.05 (14), should the term "community mental health clinics" be changed to "outpatient mental health clinics"?

j. In s. HFS 35.07 (2) (a) 2., the subdivision should begin with the verb "Document" so the syntax of the subdivision agrees with the other subdivisions. The subdivision should read: "Document references and recommendations either by letter or in a signed and dated record of a verbal contact."

k. In s. HFS 35.07 (3) (b) 12., "advanced" should replace "advance."

l. Section HFS 35.10 (3) (a) 3. states that outpatient psychotherapy services shall be delivered pursuant to a physician's prescription. Is a prescription the common method for authorizing psychotherapy?

m. Section HFS 35.10 (5) (c) references a person "providing primary mental health services for a client." What is the method for assigning this primary responsibility? This should be clarified because this person has duties under the rule that do not apply to other staff persons.

n. In s. HFS 35.10 (7) (a) 5., the subdivision should begin with a verb and should read as follows: "Report any changes in medication to staff providing mental health services to the client."

o. In s. HFS 35.10 (9) (a) 2. a., it is implied that a plateau in treatment could lead to termination of services. If a plateau in treatment is common and possibly temporary, should the reference to a plateau in treatment be deleted here? The subparagraph could be rephrased as follows: "The client has reached the point where further services are likely to have little or no benefit for the client."

9-21-99

PROPOSED ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
REPEALING AND CREATING RULES

check re-refs.

To repeal subchapter V of chapter HFS 61 and to create chapter HFS 35, relating to standards for outpatient mental health clinics.

Analysis Prepared by the Department of Health and Family Services

This is a renumbering and general revision of the Department's standards promulgated under s. 51.42(7) (b), Stats., for certification of outpatient mental health clinics, also called outpatient psychotherapy clinics. In January 1999 there were 851 outpatient mental health clinic programs certified by the Department. The significance of Department program certification is that it is a condition for the purchase of services by counties with state community services funds, for reimbursement by the Medical Assistance (Medicaid) program for the costs of providing outpatient mental health services to Medical Assistance recipients and for mandatory coverage of outpatient mental health services by group insurance policies that provide coverage for any outpatient treatment. The standards now make up subch. V of ch. HFS 61, Wis. Adm. Code. All community mental health program standards in ch. HFS 61 are being taken out of that chapter and a new chapter is being created for each program. The revised standards for mental health outpatient clinics will be in ch. HFS 35, Wis. Adm. Code.

The current rules for outpatient mental health clinic programs cover procedures for certification; required personnel; service requirements; and denial, involuntary termination or suspension of certification. The revised rules permit a clinic to meet, alternatively, the standards of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or the Council on Accreditation of Services for Families and Children (CASFC); establish a detailed certification process similar in both organization and content to the certification process set out in new chapters of rules for other community mental health certified programs, which includes actions taken against certified programs and permits issuance of provisional certification pending correction of minor deficiencies; add a requirement for a criminal records check on prospective new employees; modify minimum professional staffing of a clinic to consist of a clinic administrator, a clinical coordinator qualified under s. HFS 35.07 (3) (b) 1. to 8., a psychiatrist and a mental health professional qualified under s. HFS 35.07 (3) (b) 2. to 8.; add training requirements for clinic staff; permit Master's-level clinicians to offer one of four national professional registry listings in place of the requirement for 3000 hours of supervised clinical experience; add or expand rule language on admission, assessment, consent for treatment, treatment planning and medications administration; and add sections on client rights and obtaining information about client satisfaction with treatment.

stats.?

The Department's authority to repeal and create these rules is found in s. 51.42 (7) (b), Stats. The rules interpret ss. 51.04, 51.42 (7) (b) and 632.89, Stats.

51.038 - allows CASFC to be used, as rules do.

SECTION 1. Chapter HFS 35 is created to read

**CHAPTER HFS 35
OUTPATIENT MENTAL HEALTH CLINICS**

HFS 35.01	Authority and purpose
HFS 35.02	Applicability
HFS 35.03	Compliance with alternative standards
HFS 35.04	Definitions
HFS 35.05	Certification
HFS 35.06	Waivers
HFS 35.07	Personnel
HFS 35.08	Services
HFS 35.09	Admission
HFS 35.10	Treatment
HFS 35.11	Client records
HFS 35.12	Client rights
HFS 35.13	Client satisfaction

HFS 35.01 Authority and purpose. This chapter is promulgated under the authority of s. 51.42(7)(b), Stats., to establish standard definitions, certification procedures and operational criteria for outpatient mental health clinics, to support appropriate use of the services of those clinics and to help ensure that clinic services are readily available and are effective and that clients are protected from harm.

HFS 35.02 Applicability. (1) This chapter applies to any organization seeking to operate an outpatient mental health clinic in the state of Wisconsin that will request reimbursement for services through the Wisconsin medical assistance program or mandatory benefits required by s. 632.89, Stats., and to clinics operated by or under contract to a county department established under s. 46.23, 51.42 or 51.437, Stats.

(2) This chapter does not apply to outpatient programs governed by ss. HFS 61.50 to 61.68 which provide services to persons who have alcohol or other drug abuse related treatment needs. *rev.?*

HFS 35.03 Compliance with alternative standards. (1) An organization holding current accreditation for its outpatient mental health clinic from the joint commission on accreditation of health care organizations (JCAHO) or the council on accreditation of services for families and children (CASFC) may ask the department to waive the requirement that the clinic meet the standards contained in this chapter. A request for a waiver shall be in writing and shall be accompanied by the materials prepared for the inspection of the outpatient clinic by JCAHO or CASFC. Within 60 days after receipt of a request for a waiver, the department shall waive the requirement that the clinic meet the standards contained in this chapter if the department determines that the criteria applied by JCAHO or CASFC are equivalent to or exceed the standards established in this chapter. *def. decisions*

Note: To request a waiver under sub. (1), write: Program Certification Unit, Division of Supportive Living, P.O. Box 2969, Madison WI 53707-7851.

(2) An organization operating a clinic on the basis of a waiver obtained under sub. (1) shall still seek certification or shall request a waiver based on maintenance of JCAHO or CASFC accreditation every 2 years through the process in this chapter and abide by and protect client rights and confidentiality under s.51.61, Stats., and chs. HFS 92 and HFS 94. State personnel responsible for carrying out certification procedures may still investigate complaints of violations of operating standards in programs that have approved alternative certification and all provisions relating to the denial, suspension and termination of certification in this chapter shall apply to those programs.

HFS 35.04 Definitions. In this chapter:

(1) "Client" means an individual admitted to an outpatient mental health clinic to receive services from the clinic.

(2) "Department" means the Wisconsin department of health and family services.

(3) "Division" means the department's division of supportive living, which is the certifying agency under this chapter.

(4) "Dually diagnosed" means a client identified as having a combination of a mental disorder and either a developmental disability as defined in s. 51.01 (5), Stats., or treatment needs resulting from alcohol or other drug abuse, dependency or addiction.

(5) "Guardian" means the person or agency appointed by a court under ch. 880, Stats., to act as the guardian of a person.

(6) "Health care practitioner" means a person licensed in this state to prescribe and administer medications or licensed in another state and recognized by this state as a person authorized to prescribe and administer medications

(7) "Major deficiency" means that, as determined by a representative of the department, an aspect of the operation of a clinic or the conduct of the clinic's personnel deviates from the requirements of this chapter in a way that substantially interferes with the delivery of effective treatment to clients, creates a risk of harm to clients, violates the client rights referenced in this chapter or included in other state or federal statutes or regulations, misrepresents the nature, amount or expense of services delivered or offered or the qualifications of the personnel offering those services, or impedes effective monitoring of the clinic by the department.

(8) "Medical assistance" means the assistance program under 42 USC 1396 and ss. 49.43 to 49.497, Stats.

*are items in 35.04(s)(6)
"Major deficiency"*
⑤

(9) "Mental disorder" means a condition listed in the Diagnostic and Statistical Manual of Mental Disorders (4th edition), published by the American psychiatric association, or in Chapter 5, "Mental Disorders," in the International Classification of Diseases, (9th edition), Clinical Modification, ICD-9-CM, published by the commission on professional and hospital activities.

(10) "Mental health professional" means a person qualified under s. HFS 35.07 (3) (b) who is employed or retained through contract by an outpatient mental health clinic to provide outpatient mental health services to a client .

(11) "Minor deficiency" means that, as determined by a representative of the department, while an aspect of the operation of a clinic or the conduct of the clinic's personnel deviates from the requirements of this chapter, the deviation does not substantially interfere with the delivery of effective treatment to clients, create a risk of harm to clients, violate the client rights referenced in this chapter or included in other state or federal statutes or regulations, misrepresent the nature, amount or expense of services delivered or offered, or the qualifications of the personnel offering those services, or impede effective monitoring of the clinic by the department.

(12) "Outpatient mental health clinic" or "clinic" means a program certified under this chapter and offering a comprehensive range of coordinated outpatient mental health services. "Outpatient mental health clinic" includes all of the following:

(a) The office or facility, which houses the central administrative operations of the organization, including records and document storage and supervision of outpatient mental health services.

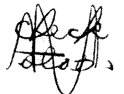
(b) Any additional sites at which outpatient mental health services are provided to clients.

(c) Mental health professionals employed by or under contract to the clinic to provide outpatient mental health services.

(13) "Outpatient mental health services" means services offered by mental health professionals employed by or operating under contract with an outpatient mental health clinic to assist clients in meeting the goals of their treatment plans and may include but are not limited to intake; assessment; planning; individual, family or group counseling; psychotherapy; crisis care; medication management; case coordination; and aftercare support.

(14) "Parent" means a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, Stats., a male who is presumed to be the father under s. 891.41, Stats., or has been adjudicated the child's father either under s. 767.51, Stats., or by final order or judgment of a court of competent jurisdiction in another state, or an adoptive parent, but does not include a person whose parental rights have been terminated.

(15) "Practitioner" means a person licensed in Wisconsin to prescribe and administer



drugs or licensed in another state and recognized by this state as a person authorized to prescribe and administer drugs.

(16) "Primary mental health services" means those mental health services provided by a practitioner who is responsible for the treatment plan of the client.

(17) "Psychotherapy" has the meaning given in s. HFS 101.03 (145).

HFS 35.05 Certification. (1) APPLICATION. A county department or a private organization seeking certification of an outpatient mental health clinic under this chapter shall apply to the department for certification on a form provided by the department and shall include with the application form all supporting materials requested by the department.

Note: For a copy of the application form, contact the Program Certification Unit, Division of Supportive Living, P.O. Box 2969, Madison, WI, 53707.

(2) CERTIFICATION PROCESS. (a) On receipt of an application for initial certification or renewal of certification, the department shall do both of the following:

1. Review the application and its supporting documents.
2. Designate a representative to conduct an on-site inspection of the clinic, including interviewing clinic staff.

(b) The department's designated representative shall do all of the following:

1. Interview a representative sample of clients of the clinic who are willing to be interviewed. } ⁵ vague.
2. Review the results of any grievances filed against the clinic pursuant to ch. HFS 94 during the preceding period of certification.
3. Review a randomly selected, representative sample of client treatment records.

4. Review clinic policies and records, and interview enough clinic staff to determine if staff generally have knowledge of the statutes, rules and standards of practice that apply to the clinic and its clients.

(c) The certification inspection under par. (b) shall be used to determine if the clinic is in compliance with the standards specified in this chapter. A decision to certify or not certify a clinic shall be based on inspection of the clinic. The indicators by which compliance with the standards is determined shall include the following:

1. Statements made by the applicant or the applicant's designated agent, authorized administrative personnel or staff members.

2. Documentary evidence.

3. Answers to questions concerning the implementation of clinic policies and procedures, as well as examples of implementation provided to assist the department in making a judgment regarding the applicant's compliance with the standards in this chapter.

4. On-site observations by a representative of the department.

5. Reports by clients regarding the clinics operations.

6. Information from grievances filed concerning the clinic.

(d) The applicant shall make available for review by the designated representative of the department all documentation necessary to establish whether the clinic is in compliance with the standards in this chapter, including but not limited to the written policies and procedures of the clinic, work schedules of staff, clinic service logs, credentials of staff and client treatment records.

(e) The designated representative of the department who reviews the documents under pars. (a) to (d) and interviews clients under par. (b) 1. shall preserve the confidentiality of all client information obtained during the certification process, in compliance with ch. HFS 92. *Reid*

(3) ISSUANCE OF CERTIFICATION. (a) *Action on application.* Within 60 days after receiving an application for initial certification or for renewal of certification, the department shall do one of the following:

1. Certify the clinic if all requirements for certification are met.

2. Provisionally certify the clinic under sub. (11) if no major deficiencies and no more than 6 minor deficiencies are found.

3. Deny certification if one or more major deficiencies or more than 6 minor deficiencies are found.

(b) *Notice of denial.* 1. If the application for certification is denied, the department shall identify for the applicant in writing the requirements for certification which have not been met.

2. A notice of denial shall state that the applicant may request a hearing on that decision under sub. (11) and a right to submit a plan under par. (c) to correct clinic deficiencies in order to begin or to continue operation of the clinic. *(12) Adequacy of ref.*

(c) *Plan of correction.* 1. Within 10 days after receiving a notice of denial under par. (b), an applicant may submit to the department a plan to correct clinic deficiencies.

2. The plan of correction shall indicate the date on which the applicant will have remedied the deficiencies. Within 60 days after that date, the department shall determine

whether the corrections have been made. If the corrections have been made, the department shall certify the clinic.

(d) *Limited duration of initial certification.* The department may limit the initial certification of a clinic to a period of one year.

see of 51.42(2)(c) applies (cont' prog?)

(4) **CONTENT OF CERTIFICATION.** Certification shall be issued only for the specific clinic named in an application and may not be transferred or assigned to any other clinic. An applicant shall notify the department of all changes of administrator, ownership, clinic name, services offered and locations where services are offered, and any other change that may affect compliance with this chapter, no later than the effective date of the change.

(5) **EFFECTIVE DATE OF CERTIFICATION.** (a) The date of certification shall be the date that the department determines, by means of an on-site inspection, that an applicant is in compliance with this chapter.

⑤
someday?
completing...
app. date
insp. date
as dated cert. ⑤

(b) The department may change the date of certification if the department has made an error in the certification process. A date of certification which is adjusted under this paragraph may not be earlier than the date the written application under sub. (1) was submitted to the department.

(6) **RENEWAL.** (a) Upon application and the successful completion of a certification inspection under sub. (2) (b), the department may renew the clinic's certification for a period of up to 3 years unless sooner suspended or revoked or unless a shorter period of time is specified under sub. (3) (c) at the time of approval.

(b) The department shall send written notice of expiration and an application for renewal of certification to a certified clinic at least 30 days prior to expiration of the certification. If the department does not receive an application for renewal of certification before the expiration date, the clinic's certification shall expire. If a clinic's certification expires, the clinic to be certified again shall apply for certification under sub. (1).

(c) Upon receipt of an application for renewal of certification, the department shall, prior to the expiration of certification, conduct an inspection as provided in sub. (2) to determine the extent to which the clinic continues to comply with the requirements of this chapter.

(7) **FEE FOR CERTIFICATION.** The department shall establish fees for certification.

a fee ⑤ under?

(8) **ACTIONS AGAINST A CERTIFIED PROGRAM.** (a) In this subsection, "suspension" means a temporary withdrawal of certification.

not used {

(b) The department may terminate, suspend or refuse to renew a clinic's certification after providing the clinic with prior written notice of the proposed action, which shall include the reason for the proposed action and notice of opportunity for a hearing under sub. (11), whenever the department finds that any of the following has occurred:

(12) (3)

1. A license, certificate or required local, state or federal approval of the clinic has been revoked or suspended or has expired.

2. A staff member of the clinic requiring a professional license or certificate claimed to be licensed or certified when he or she was not, has had his or her license or certificate suspended, revoked or otherwise limited or has allowed his or her license or certificate to expire.

3. A staff member of the clinic has had sexual contact as defined in s. 940.225 (5) (b), Stats., or sexual intercourse, as defined in s. 940.225 (5) (c), Stats., with a client.

4. A staff member of the clinic has been convicted of client abuse, neglect or misappropriation under s. 940.285, 940.29 or 940.295, Stats., or has been listed in the caregiver registry under ch. HFS 13. *deed*

5. A staff member of the clinic has been convicted of a criminal offense related to the provision of care, treatment or services to a person who is mentally ill, developmentally disabled, alcoholic or drug dependent, or has been convicted of a crime against a child under ch. 948, Stats.

6. A staff member of the clinic has been convicted of a criminal offense related to the provision of or claiming reimbursement for services under the medicare program under 42 CFR 405 to 424, or under this state's or any other state's medicaid program under 42 CFR 430 to 456, or any other third party payer. In this subdivision, "convicted" means that a judgment of conviction has been entered by a federal, state or local court, regardless of whether an appeal from that judgment is pending. *deed*

7. The clinic has submitted or caused to be submitted statements, for the purpose of obtaining certification under this chapter, which it knew or should have known to be false.

8. The clinic failed to maintain compliance with one or more of the requirements set forth in this chapter.

9. A clinic staff member signed billing or other documents as the provider of service when the service was not provided by the staff member.

10. There is no documentary evidence in a client's treatment file that the client received services for which bills were submitted to a third party payer.

(c) A clinic shall have a written policy and procedure for the immediate reporting of any conduct under par. (b) to the clinic administrator.

(9) IMMEDIATE SUSPENSION. (a) Pending a hearing on the matter under sub. (12), the department may immediately suspend the certification of a clinic if it determines that the health or safety of a client is in imminent danger because one or more of the violations noted in sub. (8) (b) has occurred or because of a knowing failure of the program or a staff member to

comply with the requirements of this chapter or any other applicable local, state or federal law or regulation.

(b) Where the conduct under par. (a) which is the focus of concern was carried out by an individual staff member, lack of knowledge of the conduct by the clinic administrator or other supervisory staff or the good faith response by the clinic when the conduct became known shall be an affirmative defense in response to an action against the clinic by the department.

(c) The department shall provide written notice to the clinic of the nature of the immediate suspension, the acts or conditions on which the suspension is based, any additional remedies and the right of the clinic under the suspension to a hearing pursuant to sub. (12).

(10) INSPECTIONS. (a) The department may make announced and unannounced inspections of the clinic to verify continuing compliance with this chapter or to investigate complaints received regarding the services provided by the clinic.

(b) Inspections shall minimize any disruption to the normal functioning of the clinic.

(c) If the department determines during an inspection that the clinic has one or more major deficiencies, the department shall bring an action under sub. (8) to suspend or terminate the certification of the clinic.

(d) If the department determines during an inspection that the clinic has one or more minor deficiencies, the department shall issue a notice of deficiency to the clinic and offer the clinic provisional certification pursuant to sub. (11).

(e) If the department terminates or suspends the certification of a clinic, the department shall provide the clinic with written reasons for the suspension or termination and inform the clinic of the right to a hearing under sub. (12).

(11) PROVISIONAL CERTIFICATION. (a) If the department determines during an inspection for initial certification or renewal of certification or during any other inspection that minor deficiencies exist, the department shall issue a notice of deficiency to the clinic and offer the clinic a provisional certificate pending correction of the deficiencies.

(b) If a clinic wishes to continue operation after the issuance of a notice of deficiency under an offer for provisional certification, the clinic shall, within 30 days of the receipt of the notice of deficiency, submit a plan of correction to the department that identifies the specific steps which the clinic will take to remedy the deficiencies and the timeline in which these steps will be taken.

(c) If the department approves the plan of correction, the department shall issue a provisional certificate for up to 60 days of operation.

d) 1. Prior to expiration of the provisional certification, the department shall conduct an on-site inspection of the clinic to determine whether the proposed corrections have been made.

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2. If the department determines that the proposed corrections have been made, the department shall restore the clinic to full certification and withdraw the notice of deficiency.

3. If the department determines that the proposed corrections have not been made, the department may deny the application for renewal, suspend or terminate the clinic's certification or allow the clinic one extension of no more than 30 additional days to complete the plan of correction which may require another on-site inspection. If after an extension the clinic has still not remedied the identified deficiencies, the department shall deny the application for renewal or suspend or terminate the certification.

(e) If the department denies the application for renewal or suspends or terminates the certification, it shall provide the clinic with a written notice of the reasons for the action and inform the clinic of its right to a hearing under sub. (12).

(12) RIGHT TO A HEARING. (a) In the event that the department denies, terminates, suspends or refuses to renew certification, or gives prior notice of its intent to do so, the applicant or clinic affected may request a hearing under ch. 227, Stats.

(b) The request for a hearing shall be submitted in writing to and received by the department of administration's division of hearings and appeals within 30 working days after the date the notice required under sub. (3), (8), (10) or (11) has been received, or the date the clinic's certification was immediately suspended under sub. (9). Review is not available if the request is received by the division of hearings and appeals more than 30 days after the date the notice was received or the certification was suspended.

Note: The mailing address of the Division of Hearings and Appeals is P.O. Box 7875, Madison, WI 53707, or an appeal may be delivered to the Division at 5005 University Ave., Room 201, Madison WI.

(13) REAPPLICATION. If an application for certification is denied, the clinic may not reapply for certification for 2 years following the date on which certification was denied.

(14) DISSEMINATION OF RESULTS. Upon completing action on an application for certification, department staff responsible for certification shall provide a summary of the results of the process to the applicant, to the subunit within the department responsible for monitoring community mental health clinics and to the county department under s. 46.23 or 51.42, Stats., in the county in which the clinic is located.

HFS 35.06 Waivers . (1) POLICY. (a) Except as provided in par. (b), the department may grant a waiver of any requirement of this chapter when the department determines that granting the waiver would not diminish the effectiveness of the services provided by the clinic, violate the purposes of the program or adversely affect client health, safety or welfare, and that one or more of the following applies:

1. Strict enforcement of the requirement would result in unreasonable hardship on the program or on a client.

2. An alternative to the requirement, including a new concept, method, procedure or technique, new equipment, new personnel qualifications or the implementation of a pilot project is in the interests of better client care or clinic management.

(b) The department may not grant a waiver of client confidentiality or rights under this chapter, ch. HFS 92 or HFS 94 or any other administrative rule or state statute or federal statute or regulation, or a requirement related to admission criteria under s. HFS 35.09.

(2) APPLICATION. An application for a waiver under this section shall be made in writing to the department and shall specify all of the following:

(a) The requirement from which the waiver is requested.

(b) The time period for which the waiver is requested.

(c) Any alternative action which the clinic proposes.

(d) The reason for the request.

(e) Assurance that the requested waiver would meet the requirements of sub. (1).

(3) GRANT OR DENIAL. (a) The department may require additional information from a clinic before acting on the clinic's request for a waiver.

(b) The department shall grant or deny a request for waiver in writing within 60 calendar days after receiving it provided that the request is complete. The notice of denial shall contain the reasons for denial.

(c) The department may impose any condition on the granting of a waiver which it deems necessary.

(d) The department may limit the duration of a waiver.

(e) The department's decision to grant or deny a waiver shall be final.

HFS 35.07 Personnel. (1) POLICIES. (a) A clinic shall have written personnel policies and procedures.

(b) A clinic shall maintain written documentation of employe qualifications and shall make that information available for review by clients, their parents or guardians where parental or guardian consent is required for treatment, and the department.

(2) GENERAL QUALIFICATIONS. A clinic shall ensure that all staff who have client contact have the professional and interpersonal skills necessary to carry out their assigned duties and have never been convicted of an action that may place clients of the clinic at risk of being harmed. The clinic shall:

(a) 1. For an applicant for professional employment or a person being retained to provide services under contract, obtain references regarding professional abilities from at least 2 people. The clinic may also request references or transcripts from any post-secondary educational institutions attended, employment history and recommendations from prior employers.

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2. References and recommendations shall be documented either by letter or in a signed and dated record of a verbal contact.

(b) Comply with ch. HFS 12, which directs a clinic to perform background information checks on applicants for employment and, periodically, on current employees, and not hire or retain persons who because of specified past actions are prohibited from working with clients.

(c) Comply with ch. HFS 13, which directs a clinic to report to the department all allegations that come to the attention of the clinic that a staff member or contracted employe has misappropriated property of a client or has abused or neglected a client.

(d) Confirm an applicant's current professional licensure or certification if that licensure or certification is a condition of employment.

(3) QUALIFICATIONS OF PROFESSIONAL STAFF. (a) 1. In this subsection, "supervised clinical experience," means a minimum of one hour per week of clinical staffing by a mental health professional qualified under par. (b) 1. to 8., gained after the person being supervised has received a master's degree.

2. Professional staff identified in par. (b) shall provide clinical services within the limits of their discipline's scope of practice as defined through state licensure or certification.

(b) A person employed or retained by contract to fill any of the following professional positions shall meet the minimum qualifications listed for that position:

1. Psychiatrists shall be physicians licensed under ch. 448, Stats., to practice medicine and surgery and shall have completed 3 years of residency training in psychiatry in a program approved by the accreditation council for graduate medical education and be either certified or eligible for certification by the American board of psychiatry and neurology.

2. Psychiatric residents shall hold a doctoral degree in medicine and shall have successfully completed 1500 hours of supervised clinical experience, the acceptable completion of which has been documented by the program director of a psychiatric residency program accredited by the accreditation council for graduate medical education.

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3. Psychologists shall be licensed under ch. 455, Stats., and shall be listed with the national register of health service providers in psychology, meet the requirements for listing with the national register of health services providers in psychology or have a minimum of one year of supervised post-doctoral clinical experience related directly to the assessment and treatment of clients with mental disorders.

4. Psychology residents shall hold a doctoral degree in psychology meeting the requirements of s. 455.04 (1) (c), Stats., and shall have successfully completed 1500 hours of supervised clinical experience as documented by the Wisconsin psychology examining board.

5. Certified independent clinical social workers shall meet the qualifications established in ch. 457, Stats., and be certified by the examining board of social workers, marriage and family therapists and professional counselors.

6. Psychiatric nurses shall be licensed as a registered nurse under ch. 441, Stats., have completed 3000 hours of supervised clinical experience and hold a master's degree in psychiatric mental health nursing from a graduate school of nursing accredited by the national league for nursing.

7. Professional counselors and marriage and family therapists shall meet the qualifications required for providing outpatient psychotherapy services established in ch. 457, Stats., and be certified by the examining board of social workers, marriage and family therapists and professional counselors.

8. Master's level clinicians shall be persons with a master's degree and course work in areas directly related to providing mental health services, including clinical psychology, psychology, school or educational psychology, rehabilitation psychology, counseling and guidance or counseling psychology. Master's level clinicians shall have 3,000 hours of supervised clinical experience or be listed in the national registry of health care providers in clinical social work, the national association of social workers' register of clinical social workers, the national academy of certified mental health counselors or the national register of health service providers in psychology;

9. Alcohol and drug abuse counselors shall meet the requirements established in s. HFS 61.06 (14).

10. Registered nurses shall be licensed under ch. 441, Stats., as a registered nurse and shall have had training in psychiatric nursing and at least one year of experience working in a clinical mental health facility.

11. Occupational therapists shall have a bachelor's degree and have completed a minimum of one year of experience working in a mental health clinical setting and shall meet the requirements of s. HFS 105.28 (1).

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12. Certified social workers, certified advance practice social workers and certified independent social workers shall meet the qualifications established in ch. 457, Stats., and

related administrative rules, and have received certification by the examining board of social workers, marriage and family therapists and professional counselors.

13. Rehabilitation counselors shall be certified or eligible for certification by the commission on rehabilitation counselor certification.

14. Vocational counselors shall possess or be eligible for a provisional school counselor certificate and shall have a master's degree in counseling and guidance.

15. Specialists in specific areas of therapeutic assistance, such as recreational and music therapists, shall have complied with the appropriate certification or registration procedures for their profession as required by state statute or administrative rule or by the governing body regulating their profession, and shall have at least one year of experience in a mental health clinical setting.

(4) REQUIRED STAFF. (a) *Clinic administrator.* A clinic shall have a clinic administrator, or equivalently titled person, who shall have overall responsibility for operation of the clinic and for ensuring that the clinic complies with this chapter.

(b) *Clinical coordinator.* 1. A clinic shall have a clinical coordinator or similarly titled person who shall have overall responsibility for client treatment services and for providing direct supervision of clinical staff.

2. The clinical coordinator shall be qualified under sub. (3) (b) 1. to 8.

3. The clinical coordinator shall ensure that all of the following occur:

a. Clinical staff performs duties within the scope of their training and experience.

b. Each client's treatment plan identifies expected outcomes of the services provided.

c. Client services are sufficient and targeted to match each client's need as described in the client's assessments and treatment plan and as documented by staff in progress notes.

4. Either the clinical coordinator or a psychiatrist shall be available for consultation in person or by phone at all times that clients are receiving services from the clinic.

(c) *Other required staff.* Staff of a certified clinic shall include at least one mental health professional qualified under sub. (3) (b) 1. and at least one mental health professional qualified under sub. (3) (b) 2. to 8.

(5) SUFFICIENT QUALIFIED STAFF. (a) Each clinic shall have available sufficient staff with appropriate training, experience and supervision to meet the specific needs of the clients served by the clinic as identified in each client's treatment plan.

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(b) If a clinic serves clients who are dually diagnosed with mental health needs and needs related to either alcohol or drug use or developmental disabilities, the clinic shall demonstrate that the multiple needs of those clients are being met by one or more of the following means:

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1. Mental health services are being provided by a professional with documented qualifications in both areas of need.
2. Two professionals, one of whom has documented qualifications in the area of mental health and the other has documented qualifications in the non-mental health area.
3. One professional with documented qualifications in the area of mental health diagnosis and treatment is providing mental health services with documented consultation from a professional who has documented qualifications in the non-mental health area.

(c) A clinic providing mental health services for children or adolescents shall demonstrate that staff providing those services have specific training in meeting the treatment needs of children and families, have at least 2 years of experience in providing child and adolescent mental health services or are providing those services jointly with or with documented consultation from a mental health professional with that training or experience.

(6) CLINICAL SUPERVISION. (a) *Written policy.* Each clinic shall develop and implement a written policy for clinical supervision and for providing consultation for all staff who provide mental health services for clients.

(b) *Responsibility of clinical coordinator.* The clinical coordinator is responsible for the quality of the mental health services provided to clients, maintaining appropriate supervision of staff and making available appropriate consultation for staff.

(c) *Content.* Clinical supervision of individual clinic staff shall include direct review, assessment and discussion with the staff person about the staff person's delivery of outpatient mental health services.

(d) *Means.* Clinical supervision shall be accomplished by one or more of the following means:

1. Individual, face-to-face meetings with staff to review cases, assess performance and give advice.
2. Individual side-by-side sessions in which the supervisor is present while the staff person provides treatment or counseling to a client in the clinic, after which the supervisor assesses, teaches and gives advice regarding the staff member's performance with the particular client.
3. Group staff meetings to review the services being provided to clients, investigate alternative approaches or provide teaching opportunities.

4. Any other professionally recognized method of supervision, such as review using videotaped sessions or peer review, designed to provide sufficient guidance to ensure that effective services are delivered to the clinic's clients by that staff person, if the method for staff supervision is approved by the department, specifically described in the written policies of the clinic and the names of the persons who do the supervision and the time they spend on supervision are documented in the personnel records of staff members who attend the session or review and in the general records of the clinic.

(e) *Minimum hours of supervision.* 1. A staff member providing mental health services who does not have 3,000 hours of supervised clinical experience or who is not qualified under sub. (3) (b) 1. to 8., shall receive a minimum of one hour of direct, individual clinical supervision for every 30-clock hours of face-to-face mental health services provided.

2. A staff member who has completed 3,000 hours of supervised clinical experience and who is qualified under sub. (3) (b) 1. to 8. shall participate in ongoing consultation for a minimum of one hour of peer clinical consultation per month or for every 120 clock hours of face-to-face mental health services provided, whichever is greater.

(f) *Additional required hours of supervision or consultation.* The clinical coordinator may direct a staff person to participate in additional hours of supervision or consultation beyond the minimum identified in par. (e) in order to ensure that clients of the clinic receive appropriate mental health services.

(g) *Providers of supervision and consultation.* Clinical supervision and consultation for individual clinic staff shall be provided by mental health professionals qualified under sub. (3) (b) 1. to 8.

(h) *Group supervision.* Group supervision of staff may involve no more than 4 persons receiving supervision and there shall be at least one supervisor for every 2 people receiving supervision.

(i) *Clinical consultation.* Clinical consultation may be provided through one-to-one contacts between professionals, either face-to-face or by phone, joint sessions with clients or other professionally recognized methods of peer support and consultation.

(j) *Documentation.* The supervisor providing clinical supervision for individual program staff shall document that supervision by signature and date in a regularly maintained clinic record.

(7) **ORIENTATION AND IN-SERVICE TRAINING.** (a) *Orientation training.* Each clinic shall develop and implement orientation training which all new staff members shall complete. Orientation training shall be designed to ensure that staff know and understand all of the following:

1. Pertinent parts of this chapter.

2. The clinic's policies and procedures.
3. Job responsibilities of staff persons of the clinic.
4. Applicable parts of chs. 48, 51, 55, 115 and 880, Stats., given the nature of the clients served by the clinic, and any related administrative rules.
5. The mental health services offered by the clinic, and any services offered in collaboration with other agencies or programs.
6. Cultural factors that need to be taken into consideration in providing mental health treatment.
7. The provisions of s. 51.61, Stats., and ch. HFS 94 regarding client rights, including the procedures established by the clinic under ch. HFS 94 for investigating and resolving client grievances.
8. The provisions of s. 51.30, Stats., and ch. HFS 92 regarding confidentiality of treatment records.
9. Techniques and procedures for providing non-violent crisis management for clients, including verbal de-escalation, methods for obtaining backup and acceptable methods for self-protection and protection of the client and others in emergency situations.
10. The basic provisions of the civil rights laws, including the Americans with Disabilities Act (ADA) of 1990, 42 USC 12101 to 12213, and the Civil Rights Act of 1964, 42 USC 1981, as they apply to the delivery of mental health services.
11. Basic principles of pharmacology as they relate to persons with mental disorders.
12. Techniques for assessing and responding to the needs of clients who appear to have problems related to abuse of alcohol or other drugs.
13. How to assess clients to detect suicidal tendencies and to manage persons at risk of attempting suicide.

(b) *Inservice training.* 1. A clinic shall have specific policies and procedures for in-service instruction which ensure that each staff member will remain current on developments in his or her field of practice and on relevant changes in the statutes or rules affecting the operation of the clinic and delivery of mental health services.

2. Each mental health professional shall participate in at least the required number of hours of annual documented training necessary to retain certification or licensure.

(c) *Training records.* A clinic shall maintain in its central administrative records updated copies of its orientation and in-service training policies, evidence of current licensure and

certification of professional staff and documentation of orientation and in-service training received by all program staff.

HFS 35.08 Services. (1) TYPES. (a) Each clinic certified under this chapter shall provide or contract for sufficient mental health services to meet the needs of persons admitted for treatment by the clinic. Services provided by professional staff as defined in s. HFS 35.07(3) (b) shall be delivered within each discipline's scope of practice as defined by state licensure or certification. These services shall include all of the following:

1. Diagnostic, assessment and evaluation services to identify a client's specific mental health needs and plan a course of treatment.

2. Emergency mental health services to assist clients believed to be in immediate danger of injuring themselves or others. These services shall be an in-person clinical response available within a half hour period on a 24 hour per day, 7 day a week basis provided either by clinic staff or through agreement with another clinic or a community mental health service program approved under ch. HFS 34.

3. Outpatient mental health services.

(b) For services under par. (a) obtained by contract, a clinic shall maintain on file written documentation that identifies the persons or organizations that have agreed to provide the services and copies of the formal agreements for assistance.

(2) LOCATION OF SERVICE DELIVERY. Outpatient services shall be provided at the clinic, except in instances where therapeutic reasons are documented in the individual treatment record to show that it is necessary to use an alternative location, such as the client's home or a setting in the community.

(3) LIMITATIONS ON GROUP THERAPY SESSIONS. A group therapy session may not exceed 10 clients and 2 therapists.

(4) MEDICATION MANAGEMENT. (a) A clinic may choose to provide medication management as part of its services.

(b) If medication is offered to a client as part of the mental health services provided by the clinic and is prescribed by a health care professional employed by or acting under contract with the clinic, the client's treatment plan shall meet the requirements of s. HFS 35.10 (7).

(5) REFERRAL FOR PSYCHOTHERAPY. A mental health professional meeting the criteria of s. HFS 35.07 (3) (b) 1. or 3. shall make written referrals of clients who need psychotherapy when psychotherapy is not provided by or under the clinical direction or supervision of a psychiatrist or psychologist qualified under s. HFS 35.07 (3) (b) 1. or 3. The referral shall include a signed and written order for psychotherapy and contain the date, name of the client, name of the person making the referral, the diagnosis being applied to the client and the purpose of the referral.

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(6) **MINIMUM SERVICES.** A clinic shall provide a minimum of 2 hours of outpatient mental health services by professionals qualified under s. HFS 35.07 (3) (b) 1. to 8. for every 40 hours of outpatient mental health services provided by the clinic.

HFS 35.09 Admissions. (1) **EFFECTIVE COMMUNICATION.** A clinic shall have written policies and procedures to ensure that intake, the explanation of rights and clinic procedures, billing, the obtaining of consent for services, assessment, treatment planning and the delivery of services to a client take place in the client's primary language or means of communication or in another language with which the person is fluent and comfortable, and that where the consent of a guardian or parent is needed to provide treatment, consent is obtained using the guardian or parent's primary language or means of communication or in another language with which the person is fluent and comfortable.

(2) **SELECTION CRITERIA.** A clinic offering outpatient mental health services may not discriminate against a person seeking treatment based solely on the person's age, race, creed, color, gender or handicap. However, a clinic may establish other selection criteria to be used when screening persons seeking treatment, which may include any of the following limitations as they may apply:

- (a) Sources from which referrals may be accepted by the clinic.
- (b) If the clinic limits its practice to clients with certain treatment needs, the specific conditions or mental disorders for which the clinic provides services.
- (c) Any funding restrictions such as, but not limited to, availability of insurance, required support for the services from other agencies or the ability of the client or the client's family to pay.
- (d) The range of ages of clients whom the clinic will serve.
- (e) Any diagnostic or behavioral requirements which the clinic will apply in deciding whether or not to admit a client for treatment.
- (f) Any client characteristics for which the clinic has been specifically designed, including the nature or severity of disorders which can be managed within the clinic setting, and the expected length of time that services may be necessary.

(3) **CRITERIA FOR ADMISSION.** To be eligible for services, a client shall have a mental disorder and there shall be a reasonable likelihood that the client will benefit from the services being offered by the clinic.

(4) **ADMISSION PRIORITIES.** If a clinic establishes priorities for clients to be served or a waiting list for clients who have been admitted but for whom space is not yet available, the priorities or the procedures for the operation of the waiting list shall be maintained in writing and applied fairly and uniformly.

(5) INTAKE. (a) *Written policies and procedures.* A clinic shall have written policies and procedures for intake, which shall include all of the following:

1. The information to be obtained from or about a person seeking or being referred for treatment.

2. The procedures to be followed for referring a person to other services and programs when a decision is made not to admit the person for treatment.

3. The procedures to be used to ensure that clients with special conditions will receive appropriate screening, assessment and services, including but not limited to clients with sensory, physical or other impairments and those who do not use English as a primary language.

(b) *Staff conducting intake.* Intake of persons referred for or seeking services from a clinic shall be conducted by professional staff who are qualified under s. HFS 35.07 (3) (b) 1. to 8.

(c) *Intake process.* The intake process shall include all of the following.

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1. Asking the prospective client about the concerns which brought him or her to the clinic and identifying with the individual the outcomes he or she hopes to achieve through the services offered by the clinic.

2. Conducting a clinical interview.

3. If additional information is needed to develop a treatment plan, asking the prospective client to participate in formal testing or additional assessment procedures.

4. If the prospective client is a child or adolescent, gathering relevant information about family history and involvement, school and legal status, as those matters affect the client's need for or ability to receive services.

5. Gathering information from the prospective client and his or her parent or guardian, where required, regarding other services or programs in which the individual may be involved in order to permit better coordination among service providers.

6. Based on the intake interview and information from any additional assessments, forming a diagnostic impression of the prospective client's mental health needs and a recommendation as to whether the individual would be likely to benefit from the outpatient mental health services available through the clinic.

(d) *Admission recommendation.* If a recommendation about admission was not made during the intake interview, the clinic shall inform the prospective client of the recommendation

for ongoing services within 10 days following the date of completion of the intake and assessment process.

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(6) SCREENING FOR SUICIDE RISK AT ADMISSION. (a) A clinic shall include in its written policies procedures for identifying risk of attempted suicide at the time a person is admitted for treatment.

(b) The procedures shall require as part of the assessment of mental health needs under s. HFS 35.08 (1) (a) 1. both of the following:

1. A mental status exam with an assessment of mood and suicide risk.
2. Collection of information relevant to assessing risk of attempted suicide as part of the psychosocial history and functional assessment.

(7) CONSENT FOR TREATMENT. (a) If a recommendation is made that the person seeking or referred for services is appropriate for and would benefit from receiving outpatient mental health services through the clinic, the person or his or her parent or guardian, where consent of the parent or guardian is required for treatment, shall be informed of all of the following items and asked whether he or she wishes to receive services or have services provided:

1. The service or services which will be offered.
2. The rights of a client receiving outpatient mental health services.
3. The hours during which services are available.
4. The amount that the client or the client's guardian or parent will be expected to pay for the proposed services.
5. How to use the clinic's grievance procedure for which standards are specified in subch. III of ch. HFS 94.
6. The means by which clients may obtain emergency mental health services outside the operating hours of the clinic.

(b) If the prospective client wishes to receive services through the clinic, the individual or his or her parent or guardian, where the consent of the parent or guardian is required for treatment, shall sign a clinic form to indicate his or her informed consent to receive treatment.

(c) 1. If a prospective client for voluntary services wishes to receive the offered services but is not willing to sign the consent form, the staff person conducting the intake process shall document by date and signature that the client has been informed of and appears to understand the items listed in par. (a) and has verbally agreed to receive services.

2. Staff providing services to clients who are receiving services pursuant to a documented verbal consent shall continue to make a concerted effort to obtain a written consent for services.

(d) An outpatient mental health clinic shall comply with the requirements of ss. 51.14 and 51.61 (6), Stats., relating to consent for treatment.

Note: Section 51.14, Stats., provides for a system of review for authorizing outpatient treatment for a youth aged 14 to 17 if either the parent or the youth consents to treatment but the other objects. Section 51.61 (6), Stats., requires the consent of a parent or guardian for treatment of a person under age 14, the combined consent of a parent or guardian and the client for a client age 14 to 17, and the written, informed consent of an adult client, unless found incompetent to refuse medication or treatment under s. 51.61 (1) (g), Stats

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(e) If a client will be receiving services as part of an involuntary order of commitment under s. 51.20, Stats., or pursuant to the consent of a parent or guardian, the staff person or persons who conduct the intake and treatment planning process shall explain the nature of the order for treatment to the client or the concerns of the parent or guardian consenting to treatment, and shall provide the client with the opportunity to be actively involved in the development of a plan of care which addresses the client's concerns, whenever possible, as well as those expressed by the parent or guardian or the order of commitment.

(f) If a client is prescribed medication as part of the client's treatment plan developed under s. HFS 35.10, the clinic shall obtain a separate consent which indicates that:

1. The practitioner prescribing the medication has explained to the client, or the client's parent or guardian if the parent or guardian's consent is required, the nature, risks and benefits of the medication.

2. The client, parent or guardian understands the explanation and consents to the administration of the medication.

(g) The clinic shall maintain signed and current consent forms in the client's chart or record and shall provide copies to the client upon request.

HFS 35.10 Treatment. (1) DEVELOPING A TREATMENT PLAN. (a) Upon admission of a person for services and after obtaining consent under s. HFS 35.09 (7) for treatment, the clinic shall assign one or more staff persons to develop with the new client a plan of care designed to address the concerns which were the basis for the request or referral for services.

(b) A client's treatment plan shall be based on the client's needs as reflected in the clinical assessment.

(c) Interim and crisis services may be provided with the consent of the client or with the consent of the client's parent or guardian, where the parent's or guardian's consent is required

for treatment, at any time after the person is admitted for care until the treatment plan is approved

(2) **COMPONENTS OF THE TREATMENT PLAN.** The treatment plan shall be based on the nature and complexity of the client's needs. The plan shall state at least all of the following:

- (a) The needs of the client which are being addressed.
- (b) The services which will be offered to address those needs.
- (c) The date on which the client began or will begin to receive services.
- (d) The names and professions of staff members who will be providing treatment and services for the client.
- (e) The outcomes which the client hopes to achieve.
- (f) The estimated duration of the plan for services.
- (g) If applicable, the process for coordinating the clinic's services with other related programs or services in which the client and his or her family are participating, including the names and addresses of those programs or services and any necessary releases of information to facilitate communication between providers.
- (h) If the client will be receiving medication to address concerns identified in the plan through a provider who is not part of or formally associated with the clinic and if the client or, if required, the client's parent or guardian, has consented to the release of information about the medication to clinic staff, the name of the practitioner prescribing the medication, the purpose for which it is being prescribed and a plan for monitoring its administration and effects and for coordinating planning and treatment among the client, clinic staff and the practitioner prescribing the medication.

(3) **APPROVAL OF THE TREATMENT PLAN.** (a) 1. The treatment plan prepared for a client shall be reviewed for approval by the clinical coordinator or another staff person with delegated authority from the clinical coordinator who is qualified under s. HFS 35.07 (3) (b) 1. to 8.

2. The clinical coordinator or designee shall indicate by his or her signature whether or not the services identified in a treatment plan are approved. For purposes of medical assistance, if the clinical coordinator is not qualified under s. HFS 35.07 (3) (b) 1., the clinical coordinator shall confer with a physician and obtain from the physician a written statement that the treatment plan is approved and is medically necessary.

3. For medical assistance reimbursement, outpatient psychotherapy services shall be delivered pursuant to a physician's prescription.)

4. Services may be provided pending approval of the plan but shall be suspended if the plan is not approved.

(b) The participation of the client or the client's parent or guardian, where consent of the parent or guardian is required for treatment, in the development of the treatment plan, and the client's, or parent's or guardian's approval of the plan shall be documented.

(4) PROGRESS NOTES. (a) Clinic staff providing treatment and services for a client shall use a systematic method for maintaining the client's case record which describes the services provided to the client and the client's progress toward the treatment goals.

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(b) Progress notes shall be entered into the client's treatment record as soon as possible following each client contact and shall be signed and dated by the person making the entry.

(5) CLIENT PARTICIPATION. (a) A staff person providing services to a client shall review the course of treatment with the client and the client's guardian or parent, where the consent of the parent or guardian is required for treatment, on a regular basis, depending on the frequency and intensity of services, but at least once for every 12 visits or 6 months, whichever occurs first. During the review, the staff person shall ask the client all of the following:

1. Whether the client believes the services being provided are addressing the concerns which brought the client to the clinic.

2. To what degree the client feels that he or she is approaching the outcomes which were chosen at the beginning of service provision.

3. Whether the nature or severity of the client's concerns or the outcomes being sought by the client have changed and, if so, how.

4. Whether the client has any request, suggestion or objection related to the treatment plan.

(b) Staff providing services to a client shall document any client views expressed during review meetings and indicate the responses made by the clinic.

(c) The clinical coordinator or the staff person providing clinical supervision of the person providing primary mental health services for a client shall meet with the client at the client's request or at the request of the staff person providing the services to resolve issues arising during treatment.

(6) CLINICAL REVIEW. (a) 1. The clinical coordinator shall establish a process for clinical review of treatment plans.

2. The process may provide for different review intervals, depending on the nature or severity of a client's treatment needs. However, a client's treatment plan shall at all times reflect the current needs and goals of the client as indicated by assessments and progress notes.

3. Treatment plans for all active clients of the clinic shall be reviewed at least once each year.

(b) The clinical coordinator or a designee qualified under s. HFS 35.07 (3) (b) 1. to 8., shall review the progress of each client in relation to the client's treatment plan and the ongoing appropriateness of the assessment and diagnosis made at intake in conjunction with the mental health professional who is providing primary mental health services for the client and, where applicable, the person who is providing clinical supervision for the person providing primary mental health services for the client.

(c) Results of review of a client's treatment plan shall be documented in the client's record. Documentation shall include all of the following:

1. The date of the review and the names of the persons participating in the review.
2. The degree to which the goals of treatment have been met.
3. Any significant changes suggested or required in the treatment plan.
4. Any services identified in the treatment plan that were not provided, with an explanation for each omission.
5. Whether any additional assessment or evaluation is recommended as a result of information received or observations made during the course of treatment.

(7) TREATMENT PLANS THAT INCLUDE MEDICATIONS. (a) *Prescriptions.* Any medication prescribed for a client through the clinic as part of a treatment plan under this chapter shall be prescribed by a practitioner who shall do all of the following:

1. Conduct an assessment of the client's behavior and symptoms of mental disorder, if any.
2. Document in the client's treatment record the medication prescribed, its dosage, method of administration and any subsequent changes in medication.
3. Review and document any changes in the client's symptoms of mental disorder or behavior in response to the medication.
4. Monitor, treat and document any side effects to the medication.

5. Any changes in medication shall be reported to staff providing mental health services to the client.

Report to staff providing
Sydney (5)

OT's ~~shall~~ be
nurses (and in some only
some are qualified
to do it.)

(b) *Administration of medications.* If medication is administered or delivered by clinic staff, the following requirements apply:

1. 'Administration from multi-dose containers or by injection.' Staff qualified under s. HFS 35.07 (3) (b) 1., 2., 6. or 11. may administer medication orally from a multidose container or by injection at the direction of the practitioner who prescribes the medication.

2. 'Administration by other staff.' Staff other than those identified in subd. 1. may deliver for self-administration only single unit oral medication doses that have been dispensed and labeled by a psychiatrist, another physician, a licensed pharmacist or a registered nurse acting under the direction of a psychiatrist or another physician.

③
at all times
under
Ch. 4 - 1, and
S.W. - 1
WIS Adm
Code

(c) *Monitoring client response to medications.* Clinic staff providing primary mental health (S)(c) services to a client shall monitor and document their observations of the client's behavior in response to a medication and shall monitor the client for possible side effects induced by the medication and report any observed side effects to the person prescribing the medication or the person administering the medication under par. (b) 1.

③
primary? see 34.11

(under par. (a)) ③

(d) *Reporting and recording observations of client response to medications.* A person administering medication under par. (b) 1. shall report observations noted under par. (c) to the person prescribing the medication and the person providing primary mental health services to the client shall document in the client's chart any reported or observed adverse drug reactions and any potential medication conflicts when drugs are prescribed by more than one person.

(8) **SUICIDE PREVENTION AND RESPONSE.** (a) *Identification of clients with suicidal tendencies.* A clinic shall have written policies and procedures for staff monitoring of clients who were found upon admission under s. HFS 35.09 (6) to be at risk of committing suicide and for staff monitoring of other clients to identify those at risk of committing suicide.

(b) *Preventing client suicide.* A clinic shall have written procedures for preventing and managing possible suicide attempts once a client has been identified as being suicidal. Procedures shall include all of the following:

1. Procedures to assess and assign levels of risk for clients with suicidal tendencies, and the qualifications or training necessary for staff who are assigned to conduct these assessments.

2. Procedures for continued assessment of a client determined to have a moderate or severe level of risk for suicide. These procedures shall result in written additions to the client's treatment plan that identify all of the following:

a. How often the client will be seen by staff for assessment and review.

b. Which staff will be responsible for making these contacts with the client.

- c. What treatment and services will be provided as long as the risk of suicide continues.
3. Procedures for coordinating the program's response to a client's suicidal tendencies with that of other programs in which the client is participating as well as with the client's family or other persons who have frequent contact with the client.
 4. Procedures for responding if the client is determined to need treatment or services which are not currently available in the program. These may include:
 - a. Consulting with additional specialists in the client's particular area of need.
 - b. Obtaining additional resources to improve the program's ability to respond to the client's level of need, such as increasing staff or staffing levels to permit better management and supervision.
 - c. Making arrangements for transferring the client to a program or facility better able to respond to the person's needs.
 5. Procedures that describe the criteria under which it will be determined whether or not relevant people in the community will be informed that a person in treatment presents a significant risk of harm to self or others and how and when that notification will be made, including all of the following:
 - a. The way in which staff are to respond if an individual who is at risk of suicide leaves or attempts to leave the clinic against staff advice.
 - b. How the applicable provisions of s. 51.61, Stats., will be applied in these circumstances.
 - c. How and when a director's hold under s. 51.15 (10), Stats., will be used.
 - d. When warnings will be issued to persons in the community who may be at risk.
- (c) *Reporting and review.* 1. Each clinic shall establish policies and procedures for all of the following:
- a. Reporting suicide attempts and suicides by clients, as required under ss. 48.60(5), 50.02(5), 50.035(5), 51.03(2) and 51.64., Stats, to the department. *act*
 - b. Reviewing the clinic's current practices for identifying and managing suicidal individuals in light of experience with clients who attempted suicide or succeeded in committing suicide.
 - c. In the event that a client commits suicide, debriefing staff, including the treating psychiatrist, as well as providing support to family members and other concerned persons and

determining (5)
finding out what they know and their views about why the person committed suicide and what more the clinic could have done to prevent it or could do differently to prevent other clients from taking that action. (5) *community suicide*

2. a. Each clinic shall establish a process for the conduct of a quality assurance review if a death by suicide occurs.

b. A quality assurance review shall include a careful and thorough analysis of the circumstances surrounding the death, documentation of contributing factors and recommendations for any changes in practice based on the results of the review.

c. The review shall be carried out by a team which includes at least 2 mental health professionals qualified under s. HFS 35.07 (3) (b) 1. to 8. and one qualified under s. HFS 35.07 (3) (b) 1. as well as a representative of the family, if available and willing to participate, and a representative of a group advocating for persons who are consumers of mental health services.

d. A majority of team members shall be persons who do not provide services within the program, unless it is documented in writing that, despite reasonable efforts by the clinical director, sufficient qualified staff from outside the program cannot be assembled for the team.

e. The results of the review shall be set out in a written report which identifies team members, persons interviewed, issues addressed, data collected, conclusions drawn and recommendations, if any.

f. If the client was receiving services from more than one mental health service program, all programs in which the individual was involved shall be asked to participate in the quality assurance review.

(9) EARLY TERMINATION OF SERVICES. (a) A clinic may terminate services to a client before the client reaches the goals set out in the client's treatment plan for either of the following reasons:

1. At the request of the client or at the request of the client's parent or guardian if the consent of the parent or guardian was required for treatment.

2. Upon recommendation of the staff person providing primary mental health services to the client or upon recommendation of the supervising clinician, for one of the following reasons:

To point out (5) complacencies be temporary?
a. The client has reached an apparent plateau in treatment and further services are likely to have little or no benefit for the client.

b. The client has repeatedly failed to attend treatment sessions or is unable to attend further sessions.

(b) When clinic staff recommend early termination of services, the clinic shall provide the client or the client's parent or guardian, if the current address of the client or the client's parent

or guardian is known, and other agencies providing services to the client pursuant to the treatment plan, with at least 7 days prior written notice of the intent to end services.

(10) DISCHARGE SUMMARY. (a) Within 30 days following the conclusion of treatment or within 90 days after the last scheduled client contact, the staff person who was primarily responsible for providing mental health services for the client shall prepare a discharge summary and enter it into the client's treatment record. The discharge summary shall include all of the following:

1. A description of the reasons for discharge.
2. A summary of the treatment and services provided by the clinic, including any medications.
3. A final evaluation of the client's progress toward the goals of the treatment plan.
4. Any remaining client needs upon discharge and a plan for meeting those needs.
5. The names and addresses of any facilities, persons or programs to which the client was referred for additional services following discharge.
6. The first and last dates of treatment.

(b) The discharge summary shall be signed and dated by the person who has been primarily responsible for providing services to the client and the person, if any, providing clinical supervision of that staff person under s. HFS 35.07 (6) (d).

(11) REPORTING OF DEATHS. A clinic shall have written policies and procedures for reporting to the department all deaths of clients due to suicide or related to the use of physical restraints or psychotropic medication, as required by s. 51.64 (2), Stats. Reports shall be made on a form prescribed by the department.

check
Note: Copies of the form for reporting these deaths can be obtained from any of the Department's Division of Supportive Living regional offices. Those offices are located in Eau Claire, Green Bay, Madison, Milwaukee, Rhinelander and Waukesha.

HFS 35.11 Client records. (1) INDIVIDUAL TREATMENT RECORDS. A clinic shall maintain a treatment record for each person accepted for treatment. The treatment record shall include accurate documentation of all staff services, activities and interventions with or on behalf of the client and the improvement, regression or other change shown by the client, and shall include but is not limited to all of the following:

- (a) Initial referral materials.

(b) Results of all examinations, tests and other assessment information, and any necessary releases or authorizations for acquiring and using reports and evaluations prepared outside the clinic.

(c) The individual treatment plan for the client and the signed approval of the treatment plan and any changes made in the plan.

(d) Written documentation of services provided to the client and client progress.

(e) Written reviews of the client's treatment plan.

(f) Following discharge of the client, a copy of the discharge summary.

(g) If clinic staff prescribe, administer or dispense medication to the client, medication records, including documentation of both over-the-counter and prescription medications dispensed to the client. Medication records shall contain documentation of ongoing monitoring of the administration of medications and any detection of adverse drug reactions. All medication orders in the client treatment record shall specify the name, type and purpose of the medication, dose, route of administration, frequency of administration, the name of the person administering the medication and the name of the practitioner who prescribed the medication.

(h) Records of referrals of the client to outside resources.

(i) Reports on the client from outside sources.

(j) Authorizations for release of information.

(k) Records of any grievance lodged by the client or his or her parent or guardian or any other person regarding the client's treatment, and of the clinic's response to the grievance.

(L) Case conference, case supervision and consultation notes.

(m) Forms consenting to treatment.

(2) MAINTENANCE AND SECURITY. (a) The clinic administrator is responsible for the maintenance and security of client treatment records.

(b) Client clinical records shall be retained as required by s. HFS 92.12. } *check*

(c) Upon written request of a client or former client or, if required, that person's parent or guardian, the clinic shall transfer to another program or facility the clinical information necessary for the other program or facility to provide further treatment to the client or former client.

(3) LOCATION AND FORMAT. (a) A clinic shall keep a client's treatment record in a central place that is not accessible to other clients at the clinic, shall maintain it in a safe and secure manner and shall manage it in accordance with standard professional practices for the

(5) *to first shell
copies to all*

maintenance of client mental health records and arrange it in a format which provides for consistent recordkeeping within the clinic and which facilitates accurate and efficient retrieval of record information.

(b) A clinic shall at any time be able to retrieve within 24 hours the record of an active client.

(4) **CONFIDENTIALITY.** Client treatment records shall be kept confidential and safeguarded as required under s. 51.30, Stats., and ch. HFS 92.

(5) **DISPOSITION WHEN A STAFF MEMBER LEAVES.** (a) Prior to the time that a staff member leaves a clinic, the clinic shall offer clients who had been served by that staff member options for ongoing services, including continuing treatment at the clinic with a different staff member, referral to another clinic or agency, termination of services or continuation of treatment with the staff member if he or she will be providing services through a different clinic or agency.

(b) Upon termination of a staff member, the client treatment records for which he or she was responsible shall remain in the custody of the clinic where the clients were receiving services. A clinic shall, upon request of an affected client, provide copies of the client's treatment records to the client for transmittal to subsequent treatment providers.

(6) **DISPOSITION UPON CLINIC CLOSING.** A clinic shall have a plan for maintenance and disposition of client treatment records in the event that the clinic closes. The plan shall include a written agreement with a health care facility or with another appropriate organization approved by the department to act as a repository and custodian of the client records for the required retention period. The plan shall further state that the department and clients and former clients shall be notified in writing of the location of the records.

HFS 35.12 Client rights. (1) **POLICIES AND PROCEDURES.** A clinic shall have written policies and procedures consistent with s. 51.61 Stats., and ch. HFS 94 to protect the rights of clients.

(2) **COMPLAINTS.** (a) A clinic shall have specific procedures for receiving reports of and investigating allegations of unethical, illegal or negligent acts by staff members, including failure to comply with applicable statutory reporting requirements as well as violations of the clinic's written policies and procedures.

(b) A clinic shall document the receipt of a report under par. (a), the results of the ensuing investigation and any disciplinary or corrective action taken in response to a substantiated report.

(3) **CONFLICT RESOLUTION.** (a) A clinic shall inform each client and the client's parents or guardian, if any, of client rights and that the client has the option of using either a formal or an informal procedure for resolving a complaint or disagreement.

(b) A clinic shall establish a process for informal management of concerns raised by a client or the client's family or by another agency involved in the client's care and treatment. The process shall include an option for mediation of disagreements.

(c) A clinic shall establish a formal system for receiving and processing client grievances which cannot be managed informally. This system shall comply with the requirements of s. 51.61 Stats., and s. HFS 94.29 and shall be posted and made available at the time of admission.

HFS 35.13 Client satisfaction. (1) Each clinic shall have a process for collecting and recording indications of client satisfaction with the outcomes and quality of services received. The process may include but is not limited to the following:

(a) Brief in-person interviews with clients while services are being provided or at the time of discharge.

(b) Evaluation forms to be completed and returned by clients and former clients.

(c) Follow-up phone interviews with former clients following discharge.

(2) Information about client satisfaction shall be collected in a standardized format which allows collation and comparison of responses, but which protects the confidentiality of clients, former clients and their families.

(3) Prior to the recertification inspection under s. HFS 35.05 (6), the clinic administrator shall prepare a report for the department which summarizes client and former client responses to client satisfaction inquiries and indicates any changes in clinic policies or operations which have been made as a result of these evaluations as well as any suggestions for changes in requirements under this chapter which would allow clinics to better meet the needs of clients.

SECTION 2. Subchapter V of chapter HFS 61 is repealed.

The repeal and rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2), Stats.

Wisconsin Department of Health and
Family Services

Dated:

By:

Joseph Leraan
Secretary

SEAL:

TRANSMITTAL TO LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

PROPOSED RULES OF THE DEPARTMENT OF HEALTH AND FAMILY SERVICE

HFS 35, Wis. Adm. Code

Subject OUTPATIENT MENTAL HEALTH CLINICS

Statutory Authority Section 51.42 (7) (b), Stats.

Analysis: Reason for Rules, Intended Effects, Requirements

This order renumbers and updates the Department's rules for certification of outpatient mental health clinics which in the current rules are called outpatient psychotherapy clinics. There are 851 certified clinics in Wisconsin. The current rules are ss. HFS 61.91 to 61.98. They date from 1984. General provisions in HFS 61.01 to 61.23 also currently apply to the clinics.

The new rules for clinics make the certification process and enforcement provisions similar to those in new rules for other community mental health certified programs. Some sections and other rule parts, including Waivers, Client Satisfaction, suicide monitoring and prevention and reporting of certain deaths are standard or mostly standard in all new community mental health program rules.

The revised rules give greater flexibility to clinics by permitting a clinic to meet standards of one of 2 specified national accrediting organizations in lieu of the standards in the rules and permitting Master's-level mental health clinicians to offer one of 4 national professional listings in place of the requirement for 3000 hours of supervised clinical experience.

The revised rules also add orientation and inservice training requirements, but without specifying the number of hours; require compliance with new statutes and rules on performing uniform background checks on applicants for employment and reporting instances of staff misconduct toward clients; and require assignment of responsibility for clinic operations and the treatment program, without thereby affecting the minimum required professional staffing of a clinic.


Forms (Copies attached when available)

DCS-336 OUTPATIENT PSYCHOTHERAPY CLINIC APPLICATION (HFS 35.05(1))
[to be revised by the effective date of the new rules]

Agency Procedure for Promulgation

Public hearings under ss. 227.16, 227.17 and 227.18, Stats.; approval of rules in final draft form by DHFS Secretary; and legislative standing committee review under s. 227.19, Stats.

Names and Phone Numbers of Agency Contacts

Dennis Bobo, Division of Supportive Living, 

Date Sent to LC Clearinghouse

September 21, 1999



cc Rev of Stats, DOA

FISCAL ESTIMATE

DOA-2048 N(R10/96)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject

OUTPATIENT MENTAL HEALTH CLINICS

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

- | | | |
|--|---|---|
| <p>1. <input type="checkbox"/> Increase Costs
 <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> | <p>3. <input type="checkbox"/> Increase Revenues
 <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> | <p>5. Types of Local Governmental Units Affected:
 <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities
 <input type="checkbox"/> Counties <input type="checkbox"/> Others _____
 <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts</p> |
| <p>2. <input type="checkbox"/> Decrease Costs
 <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> | <p>4. <input type="checkbox"/> Decrease Revenues
 <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> | |

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

These are rules for the 851 (10/98) outpatient mental health clinics in the state that are certified by the Department under s. 51.42 (7) (b), Stats. The order rennumbers and updates current rules found in ss. HFS 61.91 to 61.98 that were last revised in 1984.

Department certification of a clinic is a condition for the purchase of clinic services by counties with state community services funds, for reimbursement of the clinic by the Medical Assistance program for the costs of providing outpatient mental health services to Medical Assistance recipients, and for reimbursement of the clinic by private insurers required under s. 632.89, Stats., to cover outpatient mental health services under group insurance policies that provide coverage for any outpatient treatment.

The revised rules give more flexibility to clinics by permitting a clinic to meet standards of one of 2 specified national accrediting organizations in lieu of the standards in the rules and permitting Masters-level clinicians on a clinic's staff to offer one of 4 national professional listings in place of the requirement for 3000 hours of supervised clinical experience. The revised rules also add orientation and inservice training requirements, but without specification of the number of hours; require compliance with new statutes and rules on performing uniform background checks on applicants for employment and reporting instances of staff abuse or neglect of a patient or misappropriation of a patient's property; require assignment of responsibility for clinic operations and the treatment program, without thereby affecting the minimum required professional staffing of a clinic; and make the certification process and enforcement provisions similar to those in new rules for other community mental health programs.

The revised rules will not affect the expenditures or revenues of state government or local governments. About 28 of the clinics are directly operated by county governments. The costs of purchased and reimbursed services should not be affected by the rule changes. Some of the changed requirements either represent economies and efficiencies for state government or are largely already in effect as good management practices in the clinics. Others are statute-made changes or are clarifications.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

H&FS/ Dennis Bobo, 267-7711

Authorized Signature/Telephone No.

John Kiesbow, 266-9622

Date

9-21-99

TO BE REVISED FOR NEW RULES

DEPARTMENT OF HEALTH AND FAMILY SERVICES
Division of Supportive Living
DCS-336 (12-91)

WISCONSIN

OUTPATIENT PSYCHOTHERAPY CLINIC APPLICATION
HSS 61.91

Completion of this form verifies compliance to
program standards as required by state statutes.

This application was completed by:

Facility Name and Address (include zip code)	

County _____	
Area Code/Telephone Number	Date Application Completed
_____	_____
Director	

I hereby swear or affirm that all statements made in this application and any attachments are correct to the best of my knowledge and that I will comply with all laws, rules and regulations governing outpatient psychotherapy clinic programs.

Director's Signature in Full

This application is to verify that the mental health outpatient program complies with Wisconsin Administrative codes HSS 61.91.

After review of the submitted application, a preliminary determination will be made as to the unit's eligibility for certification. If eligibility appears feasible, an on-site visit will be scheduled and certification status determined.

If no significant deficiencies are found by the site visit, a certificate will be issued. If significant deficiencies are identified, the applicant will be afforded an opportunity to develop a plan of correction to complete compliance.

TO PROGRAM PERSONNEL:

Read these instructions carefully before completing this questionnaire.

The relevant standard is printed immediately preceding the corresponding questionnaire item.

Respond to every item carefully. Please do not omit a response to any item.

Where "verification" is required in the questionnaire, list the type of document or materials that will be presented to verify the statement in question. DO NOT forward the actual documents or material with the questionnaire, but be sure they are available for review at the time of the on-site survey.

The space on the right of the questionnaire is for use only by the surveyor.

EFFECTIVE FEBRUARY 1, 1992
FEE SCHEDULE

1 Program	\$350.00
2 Programs	500.00
3 Programs	600.00
4 Programs	675.00
5 or more Programs	750.00

For outpatient facilities only, the branch office fee is \$200.00 per branch.

Please note that all fees are non-refundable.

OUTPATIENT PSYCHOTHERAPY CLINIC APPLICATION

TO PROGRAM PERSONNEL:

Please read these directions carefully before completing this application.

Respond to every item carefully. Do not omit any item. Do not forward policies or procedures with the application, but have them available for review at the time of the on site visit. Only the statements signed by your treatment staff verifying their time and the check for the appropriate amount should be enclosed with this application.

The plus (+) and minus (-) signs, followed by parentheses () in the column FOR SURVEYOR'S USE ONLY are to indicate compliance or non-compliance with the standards. This is to assist the surveyor in making a determination on certification.

1. TYPE OF ORGANIZATION MANAGING FACILITY

- a. Non Profit Corporation
- b. Profit Corporation
- c. Public
- d. Individual
- e. Partnership

2. MEDICAL ASSISTANCE PROVIDER # _____

3. 51.42 BOARD CONTACT

Does your agency have a contract with a 51.42 Board? YES NO

If "YES" - Indicate Facility Number(s): _____

- Indicate with which County(ies): _____

4. BRIEFLY DESCRIBE YOUR CLINICAL OPERATION

(CIRCLE APPROPRIATE RESPONSES)

HSS 61.97 SERVICE REQUIREMENTS. (1) The clinic shall ensure continuity of care for persons with nervous or mental disorders or alcohol and drug abuse problems by rendering or arranging for the provision of the following services and documenting in writing how the services shall be provided:

- (a) Diagnostic services to classify the patient's presenting problem.
- (b) Evaluation services to determine the extent to which the patient's problem interferes with normal functioning.
- (c) Initial assessment of new patients.
- (d) Outpatient services as defined in s. 632.89(1)(d), WI Stats.

1. Have you documented, in writing, what agencies provide the following services and how they are provided?

Diagnostic Services:	Yes	No
Evaluation Services:	Yes	No
Initial Assessment:	Yes	No
Outpatient Services:	Yes	No

(e) Residential facility placement for patients in need of a supervised living arrangement.

1. List the names of facilities where you have placed or would place patients in need of supervised living:

(f) Partial hospitalization to provide a therapeutic milieu or other care for non residential patients for only part of a 24 hour day.

1. List the name of a facility or two which provide(s) or would provide partial hospitalization for your patients.

FOR SURVEYOR'S USE ONLY

+ () - ()

+ () - ()

+ () - ()

FOR SURVEYOR'S USE ONLY

- (g) Pre-care prior to hospitalization to prepare the patient for admission.
- (h) Aftercare for continuing treatment in the community to help the patient maintain and improve adjustment following a period of treatment in a facility.
- (i) Emergency care for assisting patients believed to be in danger of injuring themselves or others.

1. Have you documented, in writing, what agencies provide the following services and how they are provided:

Pre-care:	Yes	No
Aftercare:	Yes	No
Emergency care:	Yes	No

- (j) Rehabilitation services to achieve adjustment and functioning, optional adjustment, and prevention of the patient's condition from relapsing.

1. List the name of a facility or two where your patients have obtained or could obtain rehabilitation services.

- (k) Habilitation services to achieve adjustment and functioning of a patient in spite of continuing existence of problems.

1. Name an agency where you would obtain vocational, educational, or social habilitation for developmentally disabled or brain damaged patients.

- (l) Supportive transitional services to provide a residential treatment milieu for adjustment to community living.

1. Name an agency(ies) where your patients have received or could receive transitional services.

+ () - ()

+ () - ()

+ () - ()

+ () - ()

FOR SURVEYOR'S USE ONLY

(m) Professional consultation to render written advice and services to a program or another professional upon request.

1. List a few agencies or professional persons to whom your staff has provided consultation on the past six months.

+ () - ()

AVERAGE WEEKLY HOURS OF PSYCHOTHERAPY PROVIDED BY YOUR CLINIC: _____

HSS 61.97(2) The clinic shall provide a minimum of two hours each of clinical treatment by a psychiatrist or psychologist and a social worker for each 40 hours of psychotherapy provided by the clinic.

+ () - ()

HSS 61.97(3) Personnel employed by a clinic as defined in HSS 61.96(1)(b) and (2) shall be under the supervision of a physician or licensed psychologist who meets the requirements of s. HSS 61.96(1).

+ () - ()

(a) There shall be a minimum of 30 minutes of supervision which shall be documented by notation in the master appointment book for each 40 hours of therapy rendered by each professional staff person.

+ () - ()

DOCUMENTATION OF STAFF FOLLOWS:

HSS 61.96 (1)(a) PSYCHIATRISTS - Name and Degree	HOURS PER WEEK		Wisconsin License Number	DCS SURVEYOR'S USE ONLY	
	Clinical Treatment	Supervision Provided			
				+ () - ()	
HSS 61.96 (1)(a) PSYCHOLOGISTS - Name and Degree					
				+ () - ()	
A copy of each psychiatrist's and/or psychologist's Wisconsin license must be available at the time of the on-site survey					
HSS 61.96 (1)(b) MSW SOCIAL WORKERS - Name and Degree	HOURS PER WEEK		Provider Number, If any	Compliance (see Note below)	DCS SURVEYOR'S USE ONLY
	Clinical Treatment	Supervision Received			
					+ () - ()

NOTE: Please have available for the on-site review: (1) a copy of each social worker's MSW diploma and (2) a reference who can verify the individual has had 3,000 hours (1 1/2 years) of supervised experience in clinical practice. (3) However, if the person is listed in one of the registers named in HSS 61.96(3), evidence shall be accepted of that fact instead of having to see the diploma and reference.

HSS 61.96(2)

OTHER TREATMENT STAFF - Name, Degree and Degree Name
(for whom services third party payment is desired)

CLINICAL
TREATMENT

Number of
Hours
per week

COMPLIANCE
(see Note
below)

DCS SURVEYOR'S USE ONLY

+ () - ()

NOTE: Please have available for the on-site survey: (1) a copy of the individual's diploma, and (2) a reference who can verify the individual has had 3,000 hours (1 1/2 years) of supervised experience in clinical practice. (3) However, if the person is listed in the "National Academy of Certified Mental Health Counselors" or the "National Register of Health Services Providers in Psychology," evidence of that fact shall be accepted instead of having to see the diploma and reference.

Continue Documentation of Staff:

NOTE: When returning this application, attach statements dated and signed by each treatment staff member who verifies his/her time at your clinic. When appropriate, two or more persons may sign the same statement. Statements should read as follows:

The undersigned is on site at the _____ Clinic weekly providing _____ hours per week of clinical treatment, and _____ hours per week of supervision.

Signature _____

Date Signed _____

During the on-site visit, the surveyor may also verify staff time by examining your master appointment book.

FOR SURVEYOR'S USE ONLY

(b) Supervising and review of patient progress shall occur at intake and at least at 30 day intervals for patients receiving two or more therapy sessions per week and once every 90 days for patients receiving one or less therapy sessions per week.

1. Do you have a written policy which meets or exceeds this standard? Yes No
2. Does the policy include a procedure to assure that patient progress is supervised and reviewed within the required time intervals? Yes No

HSS 61.97(4) The supervision physician or psychologist shall meet with the patient when necessary or at the request of the patient or staff person.

1. Do you have a written policy which states the intent of this standard? Yes No
2. Does the policy name the person who is responsible for informing both the patient and staff of this right? Yes No

HSS 61.97(5) A physician must make written referrals of patients for psychotherapy when therapy is not provided by or under the clinical supervision of a physician. The referral shall include a written order for psychotherapy and include the date, name of the physician and patient, the diagnosis and signature of the physician.

1. Is your agency's therapy provided by or under the supervision of a physician? Yes No
2. If not, is psychotherapy performed only after receiving a written order for psychotherapy by a physician? Yes No

+ () - ()

+ () - ()

+ () - ()

+ () - ()

+ () - ()

+ () - ()

FOR SURVEYOR'S USE ONLY

3. Do you have a written policy to that effect?
Yes No

+ () - ()

4. Do the written orders for psychotherapy include the date, name of physician and patient, the diagnosis and signature of the physician?

Yes No

+ () - ()

HSS 61.97(6) Emergency therapy shall be available for those patients who are determined to be in immediate danger of injuring themselves or other persons.

1. Do you have a written plan for emergency services?
Yes No

+ () - ()

If answered "yes" explain:

HSS 61.97(7) The patient receiving services may not be a bed patient of the clinic rendering services.

1. Do you ever provide outpatient services to a bed patient of your agency?
Yes No

+ () - ()

HSS 61.97(8) Outpatient services shall be provided at the office or branch offices recognized by the certification of the clinic except in instances where therapeutic reasons are documented to show an alternative location is necessary.

1. Do you have a written policy which states the intent of this standard?
Yes No

+ () - ()

If answered "yes", explain

2. Does staff ever provide services to patients anywhere except at addresses recognized by certification?
Yes No

+ () - ()

HSS 61.97(9) Group therapy sessions should not exceed ten patients and two therapists.

1. Does you agency provide group therapy?
Yes No

+ () - ()

2. If answered "yes", do you have a written policy which states the intent of this standard?

Yes No

+ () - ()

FOR SURVEYOR'S USE ONLY

HSS 61.97(10) A prospective patient shall be informed by clinic staff of the expected cost of treatment.

1. Do you have a written policy on this subject?
Yes No
2. Does the policy specify the person who is responsible for seeing that staff informs prospective patients of the expected cost?
Yes No

HSS 61.97(11) An initial assessment must be performed by staff to establish a diagnosis on which a preliminary treatment plan is based which shall include but in not limited to:

- (a) The patient's presenting problems including the onset and course of symptoms, past treatment response, and current manifestation of the presenting problem.
- (b) Preliminary diagnosis.
- (c) Personal and medical history.

1. Is an initial assessment written on each patient?
Yes No
2. Is a preliminary treatment plan developed on the basis of the initial assessment?
Yes No
3. Are these subjects included and entitled within the preliminary treatment plan?

Presenting problems:	Yes	No
Diagnosis:	Yes	No
Personal history:	Yes	No
Medical history:	Yes	No

HSS 61.97(12) A treatment plan shall be developed with the patient upon completion of the diagnosis and evaluation.

1. Is a treatment plan developed for each patient?
Yes No

HSS 61.97(13) Progress notes shall be written in the patient's clinical record.

- (a) The notes shall contain status and activity information about the patient that relates to the treatment plan.

+ () - ()

+ () - ()

+ () - ()

+ () - ()

+ () - ()

+ () - ()

FOR SURVEYOR'S USE ONLY

(b) Progress notes are to be completed and signed by the therapist performing the therapy session.

1. Is a progress note written after each therapy session?
Yes No
2. Do the notes relate to the treatment plan?
Yes No
3. Are they signed by the therapist?
Yes No

+ () - ()

+ () - ()

+ () - ()

HSS 61.97(14) A discharge summary containing a synopsis of treatment given, progress and reasons for discharge shall be written in the patient's clinical record when services are terminated.

1. Is a discharge summary written and entitled in the clinical record of each patient for whom services are terminated?
Yes No
2. Does each discharge summary include:
A synopsis of treatment given? Yes No
A synopsis of the patient's progress? Yes No
The reason for discharge? Yes No

+ () - ()

+ () - ()

HSS 61.97(15) All patient clinical information received by the clinic shall be kept in the patient's clinical record.

1. Is all clinical information received by your clinic kept in the patient's clinical record?
Yes No

+ () - ()

If answered "No" explain:

(a) Patient clinic records shall be stored in a safe and secure manner.

1. Are your clinic records kept in metal files, metal desks, or other metal containers which are locked when not in use?
Yes No
2. Are the clinic records stored in the patient's waiting room?
Yes No

+ () - ()

+ () - ()

FOR SURVEYOR'S USE ONLY

(b) Policy shall be developed to determine the disposition of patient clinical records in the event of a clinic closing.

1. Do you have a written policy for the disposition of patient clinical records in the event your agency should close? Yes No

+ () - ()

(c) There shall be a written policy governing the disposal of patient clinical records.
(address where records will be stored)

+ () - ()

(d) Patient clinical records shall be kept at least seven years.

1. Do you have a written policy governing the disposal of patient clinical records? Yes No

+ () - ()

+ () - ()

(e) Upon termination of a staff member the patient clinical records for which he or she is responsible shall remain in the custody of the clinic where the patient was receiving services unless the patient requests in writing that the record be transferred.

1. Do you have a written policy which states that when a staff member terminates, his/her clinical records shall remain in the custody of your agency? Yes No

+ () - ()

+ () - ()

2. Does the policy specify who is responsible for informing staff of the policy and seeing that it is carried out? Yes No

+ () - ()

(f) Upon written request of the patient, the clinic shall transfer the clinical information required for further treatment as determined by the supervision physician or psychologist.

1. Do you have a written policy which provides for transfer of clinical information upon the written request of the patient? Yes No

+ () - ()

+ () - ()

2. Does the policy state that the supervising physician or psychologist shall determine what information will be transferred? Yes No

+ () - ()

DATE _____

REQUEST FOR BRANCH OFFICE OF A CERTIFIED CLINIC

BRANCH OFFICE: _____
Name Telephone
Street City Zip

Certified outpatient treatment facility which operates the above branch office:

Name: _____

Address: _____

MH _____ AODA _____ BOTH _____

(1) Indicate the days and the hours when this branch office is open for psychotherapy:

DAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
HOURS						

(2) List all staff who provide a psychotherapy service at this branch office:

NAME	DEGREE OR CERTIFICATION	HOURS AT BRANCH

(3) Do the named staff spend at least 60% of their time at the main site? YES NO

(4) When client records are used at this branch office, where are they stored at the end of the day?

Explain: _____

(5) Are support staff (clerical, etc.) located at the branch office? YES NO

(6) Are billing activities conducted at the branch office? YES NO

(7) What is the driving distance from the site office to this branch location? _____

I swear or affirm that all statements made on this request form are correct to the best of my knowledge.

Clinic Director's Signature in Full

Date

PROGRAM CERTIFICATION MANUAL
BRANCH OFFICE POLICY
EFFECTIVE 12/12/91

BRANCH OFFICE POLICY

In an effort to standardize the approach to branch offices, the following material will be utilized by the certification specialists attached to the Program Certification Unit. At the onset, it should be understood that the branch office concept is only applicable to facilities that have, or wish to have, certification status under either HSS 61.59 or HSS 61.91 or both. Put another way, branch offices can only be associated with outpatient clinics. A day service program or a hospital, for example, cannot have a branch office.

Branch offices have been used by outpatient facilities for a number of years simply for the convenience of their clients. In effect, a branch office is an extension of the main clinic. As such, branch offices are not individually certified. Certification is subsumed under the clinic site certificate.

A branch office is defined in the following manner: 1) the branch office is a location used for the convenience of the client; 2) a branch office shall be within a 40 mile radius of the site office; 3) each clinical staff person providing service at the branch location must provide at least 60% of their total service time at the site office; 4) client records are to be maintained only at the main site and are not to be transported to the branch office; (5) billing activities shall not be conducted at the branch office. In essence, in order to achieve the stated purpose of "for the convenience of the client," the main activity taking place in a branch office is the face-to-face psychotherapy. It is not defined in terms of convenience for the therapist. Any branch office not complying with the above criteria will be subject to separate certification.