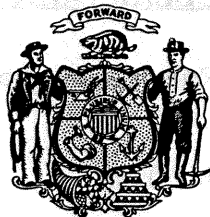


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**CLEARINGHOUSE REPORT TO AGENCY**


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[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 99-142**

AN ORDER to repeal HFS 61.70 to 61.72; and to create chapter HFS 32, relating to community mental health inpatient treatment programs.

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

10-08-99 RECEIVED BY LEGISLATIVE COUNCIL.

11-05-99 REPORT SENT TO AGENCY.

RNS:PS:rv;jal

**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)]

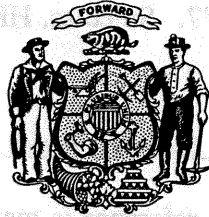
Comment Attached YES  NO

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## CLEARINGHOUSE RULE 99-142

### 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. This rule defines the term "service," in s. HFS 32.03 (21), as a part of a hospital where patients receive inpatient mental health treatment. Therefore, it is unnecessary to continually repeat the entire phrase "an inpatient mental health service." Rather, the term "a service" could be used alone. See, for example, s. HFS 32.04 (1). The entire rule should be reviewed for occurrences of this problem.

b. Section HFS 32.04 (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."

### 3. Conflict With or Duplication of Existing Rules

This rule proposes to repeal ss. HFS 61.70, 61.71 and 61.72, all of which pertain to community inpatient mental health services. The rule analysis in the transmittal letter to the Rules Clearinghouse states that for ch. HFS 32, "we are pulling the standards out of ch. HFS 61 . . . ." However, there is no proposed repeal of s. HFS 61.79, which pertains to standards and requirements relating to community inpatient mental health services for children and adolescents. This provision should be thoroughly reviewed to determine how it relates to the provisions in proposed ss. HFS 32.06 (5) (c) and 32.07 (3), which sets forth additional requirements for inpatient services treating children and adolescents. If it is the department's intent that s. HFS 61.79 be retained, an explanation should be provided in the analysis as to how

it fits in with the language in proposed ch. HFS 32 on the same subject. If s. HFS 61.78 pertains to *inpatient* services treating children and adolescents, the same comments pertain. Also, it should be noted that s. HFS 61.78 (1) (intro.) contains a reference to these standards being in addition to ss. HFS 61.70 through 61.77. Since ss. HFS 61.70 through 61.72 are proposed for repeal, this reference must be changed.

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

In s. HFS 32.07 (3) (d) (intro.), reference is made to procedural requirements for the use of seclusion, isolation and restraint in s. HFS 32.11 (4). However, there is no sub. (4) in the cited provision. The reference should be to sub. (3) instead.

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

a. The rule analysis states that inpatient mental health treatment programs are operated by hospitals, usually as a service or unit which is a part of a hospital. That information is repeated in the note following s. HFS 32.01. Further, s. HFS 32.02 (1) (b) states that this chapter only applies to the inpatient mental health service within a hospital. Therefore, it is rather confusing to read, in s. HFS 32.04 (1), that a "county department" or a "private organization" seeking certification of any inpatient mental health service must apply to the department. Does this mean a county department or private organization that operates a hospital? This should be clarified.

b. In the note following s. HFS 32.01, it is suggested that the words "program" and "service" on line 3 be placed in quotation marks.

c. In s. HFS 32.02 (1) (a), the second "to" on line 2 could be changed to "with." Also, this provision states that ch. HFS 32 applies to all hospitals that are under contract with or operated by county departments under s. 46.23, 51.42 or 51.437, Stats., to provide inpatient mental health treatment. Does this mean that the chapter does *not* apply to hospitals that are *not* under contract with or operated by a county department?

d. In s. HFS 32.02 (2) (b), it is suggested that the phrase "under par. (a)" be inserted after the word "certification" on line 1.

e. Section HFS 32.03 (8) defines "inpatient mental health services" to mean medically oriented treatment, psychotherapy and other services *provided in a residential setting* on a 24-hour per day basis. Since s. HFS 32.02 (1) (b) states that this chapter applies only to the inpatient mental health services within a hospital, would it be more appropriate to state in the definition that these are services provided in a *hospital* setting? The term "residential" might be construed to refer to a person's residence or another nonhospital setting.

f. Section HFS 32.04 (1) states that a "county department" or a "private organization" seeking certification of a service must apply to the department for certification. Previously, the reference to "county department" in s. HFS 32.02 (1) included the qualifier "established under s. 46.23, 51.42 or 51.437, Stats." Perhaps a definition of the term "county department" should be

provided, to clarify the meaning of the term and avoid repeating the qualifying language. Also, it is suggested that the term "private organization" be defined, as it is unclear what types of organizations may seek certification of a service.

g. In s. HFS 32.04 (2) (b) (intro.), it is suggested that the phrase "In conducting the on-site inspection," be inserted at the beginning of the sentence. Also, in sub. (2) (b) 1., what is the representative supposed to interview a representative sample of patients about?

h. In s. HFS 32.04 (2) (c) 1., it appears that a comma should be inserted after the word "agent" on line 1.

i. In s. HFS 32.04 (2) (c) 4., (d) and (e), it is suggested that a consistent phrase be used to refer to the person who is the "department's designated representative." Note that sub. (2) (b) (intro.) uses that phrase.

j. In s. HFS 32.04 (5) (a), it is suggested that the first "that" on line 2 be replaced by the phrase "on which." Also, in sub. (5) (b), it is suggested that the phrase "on which" be inserted after the word "date" on line 3.

k. Section HFS 32.04 (7) states that the department shall establish fees for certification. Will these fees be set forth in administrative rules?

l. In s. HFS 32.04 (8) (b), the word "a" on line 1 should be replaced with "an."

m. Section HFS 32.04 (8) (b) 3. permits the department to terminate, suspend or refuse to renew the certification of a service if the department finds that a staff member of the service "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 patient." Does there have to be *proof* or a finding of guilt that the person has engaged in that conduct? How does the department "find" this information?

n. In s. HFS 32.04 (8) (b) 6., the word "under" should be inserted after the word "or" on line 4.

o. Should s. HFS 32.04 (9) (b) pertain to the conduct of both "an individual staff member" *and* the conduct of more than one staff member?

p. In s. HFS 32.04 (12), is there a form to request a hearing? If so, that information should be included in the note following par. (b). In par. (a), "If" should replace "In the event that."

q. In s. HFS 32.04 (13), it is suggested that the phrase "after a hearing" be inserted after the word "denied" on line 1 if that is the intent.

r. In s. HFS 32.05 (3) (b), why is reference made to 60 *calendar* days in the provision, while in other provisions with time limits, reference is made to a number of *working days* or just to a number of days, without qualification? Should these provisions all be consistent? See, for example, s. HFS 32.04 (12) (b) for a reference to "working days" and "day" and s. HFS 32.04

(11) (c) for a reference to "days." The use of both "working days" and "days" in s. HFS 32.04 (12) (b) is especially confusing. In s. HFS 32.08 (5) (c) 3., the use of "working days" and "excluding weekends and holidays" is redundant.

s. The language in s. HFS 32.06 (2) (a) requiring that a service ensure that staff members who have patient contact "have never been convicted of an action that may place patients at risk of being harmed" is vague. Which specific convictions are intended to apply here? How does this relate to the offenses cited in s. HFS 32.04 (8) (b) 3.?

t. In s. HFS 32.06 (2) (b), it is suggested that the phrase "contact content" on line 5 be replaced by the phrase "the content of the contact."

u. In s. HFS 32.06 (6) (b), what is meant by "patient staffing" in the language "clinical supervision shall be accomplished by . . . patient staffings"?

v. In s. HFS 32.06 (6) (e) 2., it is unclear what is meant by the requirement that certain staff members "shall participate in a minimum of one hour of peer clinical consultation per month or for every 120 clock hours of face-to-face mental health services he or she provides, whichever is greater." What is meant by "clock hours"? Are they different from "hours"? What is meant by "greater"? This requirement should be restated in a more comprehensible manner.

w. In s. HFS 32.06 (7) (a) 4., it appears that the word "given" on line 1 should be replaced by the phrase "depending on." Also, a comma should be inserted after the word "hospital" on line 2.

x. Section HFS 32.07 (2) (intro.) states that a service shall provide or make readily available at least the following services "for each patient who has a treatment plan." Do all patients not have either an initial treatment plan prepared under s. HFS 32.08 (5) (c) 5. or an ongoing plan prepared under s. HFS 32.09 (2)?

y. In s. HFS 32.07 (3) (intro.), the word "SERVICE" could be deleted from the title. Also, in par. (a) 2., why is the phrase "emergency detention or an order of detention" inserted after the statutory citation on line 2?

z. In s. HFS 32.07 (3) (b) 2., the word "if" on line 3 should not be underscored.

aa. It is suggested that the language in s. HFS 32.07 (4), relating to hours of operation of a service, be moved to follow sub. (2), which deals with minimum hours of service per patient. That way, the provisions dealing with all patients are grouped together, and are followed by a subsection [currently sub. (3), which would be renumbered sub. (4)], which deals with **additional** requirements for services treating children and adolescents.

ab. Section HFS 32.08 (1) provides that a person may be admitted to a service only by written referral "from a physician" or a psychologist qualified under s. HFS 32.06 (3) (b) 3., with certain exceptions. May the referral from a "physician" be from any type of physician or must it be from a psychiatrist? The term is not defined in the rule.

ac. Section HFS 32.08 (2) provides that a program may not discriminate against a person seeking or referred for treatment based solely on the person's age, race, creed, color, gender or handicap. This provision should be compared to the prohibited bases of discrimination contained in s. 106.04 (9), Stats., relating to discrimination in a public place of accommodation.

ad. The note following s. HFS 32.08 (2) (f) states that persons not meeting the selection criteria for admission to a service should be referred to appropriate services. It is unclear why this note is included here, since sub. (5) (a) 2., which follows shortly, **requires** that a service have written policies and procedures governing, among other things, the procedures to be followed for referral to another service program when a decision is made not to admit a person. If the note is included at all, it should refer to that requirement.

ae. Section HFS 32.08 (3) states that to be admitted to a service, the person "shall be in need of inpatient mental health treatment . . . ." Who determines whether the person is in such need, the physician or psychologist referring the person under sub. (1) or the service staff person reviewing the referral request?

af. Currently there are two subs. (4) in s. HFS 32.08. The second one should be renumbered sub. (5), which will result in the renumbering of subs. (5) to (7) to become subs. (6) to (8). This will also necessitate a change in the reference in s. HFS 32.09 (1) (intro.). The entire rule should be reviewed for other necessary citation revisions.

ag. Section HFS 32.08 (5), relating to intake and assessment, states in par. (a) 1. that a service must have written policies and procedures governing intake and assessment, including the type of information to be obtained from or about a person "seeking or referred for admission." *[Note that references in this report to subsections in s. HFS 32.08 are to the subsections as currently numbered, before the renumbering discussed in the previous comment.]* Is it not the case that, under sub. (1), a person may be admitted **only by written referral**? If so, why is there a reference to a person *seeking or* referred for admission? Also, with regard to sub. (5), no reference is made in par. (a) or (b) as to who must conduct the intake and assessment, including the explanation of procedures required in par. (b). It is only in par. (c) 1. that reference is first made to an assessment of the patient at admission, to be conducted by a registered nurse or staff person qualified under s. HFS 32.06 (3) (b) 1. to 8. In par. (c) 1., it is suggested that a period be placed after the word "condition" on line 4, and that the phrase "which is to" should be replaced by the phrase "The assessment shall." Also, the "of" on line 5 should be deleted.

ah. Section HFS 32.08 (5) (c) 4., refers to the "attending psychiatrist" completing a comprehensive assessment of the patient's psychiatric status within 60 hours after admission, excluding weekends and holidays. This is the first mention of an attending psychiatrist. Is this person, or could this person be, the same as the clinical director? Will there always be an attending psychiatrist available to complete such an assessment? If so, where is the requirement stated that an attending psychiatrist is to be available at all times? Is every patient assigned an attending psychiatrist?

ai. In s. HFS 32.08 (6) (b), it is suggested that the phrase "that likelihood" be moved to follow the word "identifying."

aj. Section HFS 32.08 (7) (a) and (b) (intro.) both refer to explaining or asking the patient "or the patient's parent or guardian, if required . . ." Would the parent or guardian only be required to receive the explanation or give the acknowledgement if the patient is a minor? If so, it might be helpful to replace the word "required" in both instances with the phrase "the patient is a minor." If there are other circumstances in which a patient's parent or guardian would have to receive the explanation or sign the acknowledgement, those circumstances should be spelled out.

ak. Section HFS 32.09 (4) pertains to administering medications. However, it is unclear whether it applies only to *psychotropic* medications, as certain provisions imply, or whether it applies to a broader category of medications. Note, for example, that subs. 1. and 2. refer just to "medication," while subd. 3. refers to psychotropic medications. Further on in the subsection, there are more references to psychotropic medication. The entire subsection should be reviewed and clarified as to whether it pertains just to psychotropic medications or to others as well. If the provision is intended to apply to just psychotropic medication, the term "medication" could be defined to be "psychotropic medications," obviating the need for continuously repeating the entire phrase. If it applies to both psychotropic and other medications that should be clarified and any additional procedures required for the administration of psychotropic medications is clearly identified.

al. In s. HFS 32.09 (4) (c) 4., reference is made to a patient not taking a prescribed psychotropic medication "due to absence." Could there be any other reason why a person would not take the medication; for example, illness? Also, it is suggested for clarification in subd. 5. that the phrase "the patient's" be inserted before "physician" on line 2. In subd. 7., it is suggested that the word "Need" on line 1 be replaced by the phrase "A requirement."

am. In s. HFS 32.09 (6) (b) 6., the word "patients" should be singular. In sub. (6) (c), the word "it" on line 2 should be replaced by the phrase "the plan." Also, in sub. (6) (d), what is meant by an attempted "elopement"? Does this mean an attempted "departure" from the facility?

an. In s. HFS 32.10 (2), reference is made in par. (a) to patient *treatment* records and in par. (b) to patient *clinical* records. Are these the same type of record? If not, how do they differ?

ao. Section HFS 32.10 (5) requires that a hospital establish a plan for maintenance and disposition of records in event of the hospital closing. No reference is made to what the service within the hospital must do in that event. Is it strictly the hospital's responsibility?

ap. The note following s. HFS 32.11 (3) is unnecessary. Also, in sub. (3) (c), what is meant by the phrase "(PRN)" orders? Parentheses should not be used in rules and if acronyms are used, they should be defined.

aq. Section HFS 32.11 (3) (f) 1. states that when a patient is placed in restraints, isolation or seclusion, a staff person specifically trained to understand and respond to the needs of patients in restraints, isolation or seclusion shall be present. Does this mean present at all times? Also, in subd. 2., the word "isolation" on line 4 is misspelled. In subd. 5., who is the "authorized



professional person" referenced to on lines 2 and 3? Also, is the language in subd. 10. requiring patients to be constantly monitored inconsistent with the language in subd. 3., which requires that staff shall observe a patient in restraints, isolation or seclusion *every 15 minutes*?

ar. Section HFS 32.12 (3) refers to the "certification survey" under s. HFS 32.04 (6). Is this the certification *inspection* referenced in that provision?

Analysis prepared by the Department of Health and Family Services

This is a general review, renumbering and considerable expansion of the Department's rules for certification of community mental health treatment programs. The current rules, as HFS 87.10 to 87.12, date from 1974 and have never been updated. All standards for certification of community mental health programs now included in subd. 10 of HFS 87.10 are being revised and renumbered. Separate standards have recently been published for emergency (short-term) (HFS 34) and long-term (HFS 35) treatment programs. These will also be revised and renumbered for this rule. Subd. 10 (3) and (4) are being revised and renumbered (HFS 32) and will be included in this rule.

An inpatient mental health treatment program may be certified by the Department if it meets the program to receive funding for services provided to a Medical Assistance recipient under 63.49 (2) (b) 1. Inpatient community care funding from counties under 63.49 (2) (b) 2 or a program provided as managed care coverage under 63.58 (2) (a).

Inpatient mental health treatment programs are operated by hospitals, usually as a service on the hospital campus, or by a hospital. A hospital's inpatient mental health services are provided to the hospital's inpatient units. The term "inpatient" is used throughout the rule to refer to inpatient mental health services.

The rule requires that inpatient mental health treatment programs be operated by hospitals, usually as a service on the hospital campus, or by a hospital. A hospital's inpatient mental health services are provided to the hospital's inpatient units. The term "inpatient" is used throughout the rule to refer to inpatient mental health services. The rule requires that inpatient mental health treatment programs be operated by hospitals, usually as a service on the hospital campus, or by a hospital. A hospital's inpatient mental health services are provided to the hospital's inpatient units. The term "inpatient" is used throughout the rule to refer to inpatient mental health services.

The Department will conduct a certification survey of inpatient mental health treatment programs. The survey will be conducted by a certified surveyor. The surveyor will review the program's policies and procedures, and will observe the program's operations. The surveyor will also interview staff and patients. The surveyor will report the results of the survey to the Department. The Department will then decide whether to certify the program.

The Department will conduct a certification survey of inpatient mental health treatment programs. The survey will be conducted by a certified surveyor. The surveyor will review the program's policies and procedures, and will observe the program's operations. The surveyor will also interview staff and patients. The surveyor will report the results of the survey to the Department. The Department will then decide whether to certify the program.

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

To repeal HFS 61.70 to 61.72 and to create chapter HFS 32, relating to community mental health inpatient treatment programs.

Analysis Prepared by the Department of Health and Family Services

This is a general revision, renumbering and considerable expansion of the Department's rules for certification of community mental health inpatient treatment programs. The current rules, ss.HFS 61.70 to 61.72, date from 1974 and have never been updated. All standards for certification of community mental health programs now included in subch. IV of ch. HFS 61 are being revised and renumbered. Separate chapters have recently been published for emergency (crisis) services (HFS 34) and child day treatment (HFS 40). Eventually there will also be separate chapters for inpatient services (HFS 32), adult day treatment (HFS 33), outpatient services (HFS 35) and child in-home services (HFS 41).

An inpatient mental health treatment program must be certified by the Department in order for the program to receive funds for services provided to a Medical Assistance recipient under s. 49.46 (2) (b) 6. f., Stats., community aids funding from counties under s. 51.423 (2), Stats., or payments provided as mandated insurance coverage under s. 632.89, Stats.

Inpatient mental health treatment programs are operated by hospitals, usually as a service or unit which is a part of a hospital. A hospital's inpatient mental health service is where patients receive inpatient mental health services. The term "service" is used throughout the rules in place of "program".

The revised rules cover certification of a service (program); actions the Department may take against a certified service for violating the rules; waivers of particular requirements; qualifications of staff; required staff; staff training; minimum hours of staff services per patient; the intake process after a person is admitted to the service; treatment plans; review of the ongoing treatment plan; medications administration; termination of treatment and preparation of the discharge summary; patient records; patient rights; and limitations on the use of seclusion, isolation and restraints.

By comparison with the current rules, the revised rules are more specific about the qualifications of clinical staff, and more detailed about the use of restraints, seclusion or other isolation and actions that may be taken against a certified service for violating the rules; include new sections on the process for certifying a service and on patient rights; and include new requirements concerning clinical supervision, orientation and inservice training for staff, criminal records checks on prospective new staff members, screening at admission, when treatment is provided to children, treatment plan review and reporting of certain deaths of patients.

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 and 51.42 (7), Stats.

*v. brief int.* *DHFS duties*  
SECTION 1. Chapter HFS 32 is created to read:

*Analysis shld explain why 61.70-61.72 being repealed & what that repeal leaves in ch HFS 61 regarding inpatient (namely 61.74) + how 61.74 relates to new ch 32*

CHAPTER HFS 32  
INPATIENT MENTAL HEALTH TREATMENT

- HFS 32.01 Authority and purpose
- HFS 32.02 Applicability
- HFS 32.03 Definitions
- HFS 32.04 Certification
- HFS 32.05 Waivers
- HFS 32.06 Personnel
- HFS 32.07 Treatment
- HFS 32.08 Admission
- HFS 32.09 Treatment planning and implementation
- HFS 32.10 Patient records
- HFS 32.11 Patient rights
- HFS 32.12 Patient satisfaction

**HFS 32.01 Authority and purpose.** This chapter is promulgated under the authority of s. 51.42 (7) (b), Stats., to establish standards for the operation of inpatient mental health treatment services, to support appropriate use of the services and to help ensure that treatment is readily available and is effective and that patients are protected from harm, and to establish a process for certification of inpatient mental health treatment services.

**Note:** Inpatient programs are operated by hospitals. A hospital will usually call the part of the hospital where the patients receive inpatient mental health treatment a service or unit. In this chapter, a "program," as the term is used in s. 51.42 (7), Stats., will be called a "service." xx

**HFS 32.02 Applicability.** (1) SCOPE. (a) <sup>with?</sup> Except as provided in sub. (2), this chapter applies to all hospitals that are under contract to or operated by county departments established under s. 46.23, 51.42 or 51.437, Stats., to provide inpatient mental health treatment. - what does hosp not include.

(b) This chapter applies only to the inpatient mental health service within a hospital.

(c) This chapter does not apply to inpatient services governed by ss. HFS 61.50 to 61.68 for persons with only alcohol or drug abuse related treatment needs.

(2) ALTERNATIVE CERTIFICATION. (a) A hospital accredited for its inpatient mental health service by the joint commission on accreditation of health care organizations (JCAHO) may ask the department to waive the requirement that the inpatient mental health service meet the standards contained in this chapter. To request a waiver, the hospital shall make available to the department the materials prepared for the survey of the inpatient service by JCAHO, and the department shall determine that the criteria applied by JCAHO are equivalent to or exceed those established in this chapter.

*under par (a)*

(b) An inpatient mental health service with approved alternative certification, shall verify continued accreditation by JCAHO every 2 years through the process in this chapter and abide by and protect confidentiality of patient records and patient rights under ss. 51.30 and 51.61, Stats., and chs. HFS 92 and HFS 94. State personnel responsible for certification under this chapter may investigate complaints of violations of operating standards in services that have approved alternative certification, and all provisions in this chapter relating to denial, suspension or termination of certification apply to these services.

**HFS 32.03 Definitions.** In this chapter:

(1) "Case coordinator" means the staff person of a service who has overall responsibility for seeing that a patient receives prescribed treatment services and for directly supervising the provision of those services.

(2) "Certification" means approval by the department under this chapter of a hospital to provide inpatient mental health services.

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

(4) "Division" means the department's division of supportive living.

(5) "Dually diagnosed" means that a patient is identified as having a combination of a mental disorder and either a developmental disability under s. 51.01 (5), Stats., or treatment needs resulting from alcohol or drug abuse, dependency or addiction.

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

(7) "Hospital" means a facility meeting the requirements of ss. 50.32 to 50.39, Stats., s. HFS 105.21 and ch. HFS 124 that operates or desires to operate an inpatient mental health service.

(8) "Inpatient mental health services" means medically oriented treatment, psychotherapy and other services provided in a residential setting on a 24-hour per day basis to enable a person with a mental disorder or a mental disorder in combination with other impairments to eventually function successfully without 24-hour per day services.

(9) "Isolation" means being physically or socially set apart by staff from others but does not include separation for the purpose of controlling a contagious disease.

(10) "Major deficiency" means that, as determined by a representative of the department, an aspect of the operation of the inpatient mental health service or the conduct of the personnel deviates from the requirements of this chapter in a way that substantially interferes with the delivery of effective treatment to patients, creates a risk of harm to patients, violates the rights of patients referenced in this chapter or included in other state or federal laws, misrepresents the nature, amount or expense of treatment delivered or offered or the

*# 5  
why not  
say in a  
hospital  
set up*

qualifications of the personnel offering treatment, or impedes effective monitoring of the service by the department.

(11) "Mechanical restraint" means a commercially manufactured device applied to a patient to restrain or impede the free movement of the patient's arms or legs.

(12) "Mental disorder" means a condition listed in the *Diagnostic and Statistical Manual of Mental Disorders*, 4th edition, published by the American psychiatric association, or 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.

(13) "Mental health treatment" means specific clinical services provided by qualified staff to assist a patient in meeting the goals of the patient's treatment plan, including but not limited to intake, assessment, planning, counseling, crisis care, medication management, case coordination and aftercare.

(14) "Minor deficiency" means that, as determined by a representative of the department, while an aspect of the operation of an inpatient mental health service or the conduct of the personnel deviates from the requirements of this chapter, the deviation does not substantially interfere with the delivery of effective treatment to patients, create a risk of harm to patients, violate the rights of patients referenced in this chapter or included in other state or federal laws, misrepresent the nature, amount or expense of treatment delivered or offered or the qualifications of the personnel offering treatment, or impede effective monitoring of the service by the department.

(15) "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.

(16) "Patient" means any person admitted for care to an inpatient mental health service, or being assessed pending a determination regarding admission.

(17) "Physical restraint" or "restraint" means any method of limiting the movement of a patient's limbs and body, including a mechanical restraint or the use of force, but does not include medications or a device used to protect a patient from injury due to physical weakness or neurological deficit.

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

(19) "Psychotropic medication" means an antipsychotic, an antidepressant, lithium carbonate or a tranquilizer or any other drug used to treat, manage or control psychiatric symptoms or disordered behavior.

**Note:** Examples of drugs other than an antipsychotic or antidepressant, lithium carbonate or tranquilizer used to treat, manage or control psychiatric symptoms or disordered

behavior include, but are not limited to, carbamazepine (Tegretol), which is typically used for control of seizures but may be used to treat a bi-polar disorder, and propranolol (Inderal), which is typically used to control high blood pressure but may be used to treat explosive behavior or anxiety states.

(20) "Seclusion" means that form of isolation in which a person is physically set apart by staff from others by being placed in a locked room.

(21) "Service" means a part of a hospital where patients receive inpatient mental health treatment.

**HFS 32.04 Certification.** (1) **APPLICATION.** A county department or a private organization seeking certification of an inpatient mental health service 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 service, including interviewing service staff.

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

1. Interview a representative sample of patients of the service who are willing to be interviewed.
2. Review the results of any grievances filed against the service pursuant to ch. HFS 94 during the preceding period of certification.
3. Review a randomly selected, representative sample of patient treatment records.
4. Review service policies and records and interview enough service staff to determine if staff generally have knowledge of the statutes, rules and standards of practice that apply to the service and its patients.

(c) The certification inspection under par. (b) shall be used to determine if the service is in compliance with the standards specified in this chapter. Certification decisions shall be based on inspection of the service. 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. ?? 5-

2. Documentary evidence.

3. Answers to questions concerning the implementation of service 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. 5

4. On-site observations by a representative of the department. *the dept's design. rep*

5. Reports by patients regarding the service operations.

6. Information from grievances filed concerning the service. *department's*

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

(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 patient information obtained during the certification process, in compliance with ch. HFS 92. *department's*

(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 service if all requirements for certification are met.

2. Provisionally certify the service 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 are found or more than 6 minor deficiencies are found.

(b) *Notice of denial.* 1. If the application for certification is denied, the department shall provide the applicant with reasons in writing for the denial and identify the requirements for certification which the service has not 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 deficiencies in order to begin or to continue operation of the service.

(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 service 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 service.

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

(4) **CONTENT OF CERTIFICATION.** Certification shall be issued only for the specific service named in an application and may not be transferred or assigned to any other service. An applicant shall notify the department of all changes of administrator, ownership, facility 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.

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(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. x 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. x 5

(6) **RENEWAL.** (a) Upon application and the successful completion of a certification inspection under sub. (2) (b), the department may renew the service'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) (d) at the time of approval.

(b) The department shall send written notice of expiration and an application for renewal of certification to a certified service 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 service's certification shall expire. If a service's certification expires, the service 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 inpatient service continues to comply with the requirements of this chapter.

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

(8) **ACTIONS AGAINST A CERTIFIED PROGRAM.** (a) In this subsection, "suspension" means a temporary withdrawal of certification. *What cert  
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(b) The department may terminate, suspend or refuse to renew the certification of an inpatient mental health service after providing the service with prior written notice of the proposed action, which shall include the reason for the proposed action and notice of x 5



opportunity for a hearing under sub. (11), whenever the department finds that any of the following has occurred:

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

2. A staff member of the service 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 service 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 patient.

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

5. A staff member of the service 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 service 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 paragraph, "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.

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

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

(9) IMMEDIATE SUSPENSION. (a) Pending a hearing on the matter under sub. (12), the department may immediately suspend the certification of a service if it determines that the health or safety of a patient 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 service director or other supervisory staff or the good faith response by the service when the conduct became known shall be an affirmative defense in response to an action against the service by the department.

(c) The department shall provide written notice to the service 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 service under the suspension to a hearing pursuant to sub. (12).

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

(b) An inspection shall minimize any disruption to the normal functioning of the service.

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

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

(e) If the department terminates or suspends the certification of a service under sub. (8), the department shall provide the service with written reasons for the suspension or termination and inform the service 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 service and offer the service a provisional certificate pending correction of the deficiencies.

(b) If a service wishes to continue operation after the issuance of a notice of deficiency under an offer for provisional certification, the service 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 service 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.

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

2. If the department determines that the proposed corrections have been made, the department shall restore the service 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 service's certification or allow the service 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 service 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 service with a written notice of the reasons for the action and inform the service of its right to a hearing under sub. (12).

(12) RIGHT TO A HEARING. (a) <sup>if</sup> 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 service 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 of the notice required under sub. (3), (8), (10) or (11) or the date the service'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. *Is there a form?*

(13) REAPPLICATION. If an application for certification is denied, the service may not reapply for certification for 2 years following the date on which certification was denied. *after a hearing?*

(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 programs and to the county department under s. 46.23 or 51.42, Stats., in the county in which the service is located.

**HFS 32.05 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 service, violate the purposes of the service or adversely affect patient 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 service or on a patient.

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 patient care or management of the service.

(b) The department may not grant a waiver of patient confidentiality or rights under this chapter, ch. HFS 92 or 94 or any other administrative rule or state statute or federal statute or regulation, or a requirement related to admission criteria under s. HFS 32.08 (3).

(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 service 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 service before acting on the service'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. 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 32.06 Personnel.** (1) POLICIES. (a) An inpatient mental health service shall have written personnel policies and procedures.

(b) A service shall maintain written documentation of the necessary requirements for each position involving patient contact and the specific qualifications of staff who have been retained to fill those positions.

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(c) Evidence of staff qualifications shall be available for review by patients and by the parents or guardians of patients where parent or guardian consent to treatment is required, excluding personnel information unrelated to staff qualifications.

(2) GENERAL QUALIFICATIONS. (a) A service shall ensure that all staff members who have patient contact have the professional and interpersonal skills to carry out their assigned duties and have never been convicted of an action that may place patients at risk of being harmed.

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(b) For each applicant for a professional position, the service shall obtain professional references from at least 2 people and references from previous employers or educators, if available. References shall be documented either by letter or by a record of verbal contact which identifies the date of the contact, the person making the contact, the person contacted and contact content.

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(c) The service shall carry out a background check in the manner specified in ch. HFS 12 on each applicant for a position with the service and on the service director.

(d) The service in accordance with ch. HFS 12 shall undertake background checks at least every 4 years on persons employed by the service or providing services under contract to the service, and in accordance with ch. HFS 13 shall report to the department all allegations of caregiver abuse or neglect of a patient or misappropriation of a patient's property.

(3) QUALIFICATIONS OF CLINICAL STAFF. (a) In this subsection, "supervised clinical experience" means a minimum of one hour per week of face-to-face supervision by a mental health professional qualified under par. (b) 1. to 8.

(b) Professional staff retained under any of the following categories shall meet the following minimum qualifications:

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 or child psychiatry in a program approved by the accreditation council for graduate medical education and be either board-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 as documented by the program director of a psychiatric residency program accredited by the accreditation council for graduate medical education.

3. Psychologists shall be licensed under ch. 455, Stats., and shall be listed or meet the requirements for listing with the national register of health service providers in psychology or have a minimum of one year of supervised post-doctoral clinical experience related directly to the assessment and treatment of persons 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 the first 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 under ch. 441, Stats., as a registered nurse, 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 have received certification 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 coursework in areas directly related to providing mental health treatment, 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. Registered nurses shall be licensed as registered nurses under ch. 441, Stats., and shall have had training in psychiatric nursing and at least one year of experience working in a clinical mental health facility.

10. Physician assistants shall be certified and registered pursuant to ss. 448.05 and 448.07, Stats., and chs. Med 8 and 14.

11. Occupational therapists shall have obtained a bachelor degree and shall meet the requirements of s. HFS 105.28 (1).

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. Other qualified mental health professionals shall have at least a bachelor's degree in a relevant area of education or human services, or work experience and training equivalent to a bachelor's degree including a minimum of 4 years of work experience providing mental health services.

14. Specialists in specific areas of therapeutic assistance, such as recreational therapists 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 the governing body regulating their profession.

15. Certified occupational therapy assistants shall meet the requirements of s. HFS 105.28 (2).

16. Licensed practical nurses shall be licensed under s. 441.10, Stats.

17. Mental health technicians shall be paraprofessionals who are employed on the basis of personal aptitude and life experience which suggests that they are able to provide effective treatment for patients with mental health disorders. A mental health technician shall have a specified period of orientation and in-service training and shall work under the supervision of a hospital staff person qualified under subds. 1. to 10.

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

19. Clinical students shall be students currently enrolled in an academic institution and working toward a degree in a professional area identified in this paragraph who are providing treatment for the service under the supervision of a staff member who meets the qualifications under this paragraph for that professional area.

(4) **REQUIRED STAFF.** (a) *Service administrator.* The hospital shall designate a mental health service administrator, or equivalently titled person, who shall have overall responsibility for the operation of the service and for ensuring that the service complies with this chapter.

(b) *Clinical director.* 1. The inpatient mental health service shall designate a clinical director or similarly titled person meeting the qualifications identified in sub. (3) (b) 1. or 3. who shall have responsibility for the treatment provided by the service.

2. Either the clinical director or another person qualified under sub. (3) (b) 1. or 3. who has been delegated authority by the clinical director shall be available for consultation in person or by phone at all times the service is in operation.

(c) *Other staff.* 1. An inpatient mental health service shall have sufficient staff qualified under sub. (3) (b) to meet the specific needs identified in each patient's treatment plan.

2. Notwithstanding the requirements of s. HFS 32.07 (2), at all times that one or more patients are present on the inpatient mental health service, at least 2 staff persons shall be present. At least one of the staff persons shall be qualified under sub. (3) (b) 9.

(5) **ADDITIONAL STAFF REQUIRED.** (a) *Patients with alcohol and drug abuse treatment needs.* If the inpatient mental health service serves patients who are dually diagnosed

with both mental health and alcohol or other drug abuse treatment needs, the service shall make available a certified alcohol and other drug abuse counselor to provide direct therapy for those patients as well as ongoing consultation with other staff who are providing direct treatment to those patients.

(b) *Patients with developmental disabilities.* If the inpatient mental health service treats patients who are dually diagnosed with both mental health and developmental disability treatment needs, the service shall have on staff or available for consultation a mental health professional qualified under sub. (3) (b) 1. to 7. who has had at least one year of supervised experience providing mental health services to persons with developmental disabilities. Each patient with a developmental disability shall have a staff person meeting those requirements on his or her treatment team to provide direct therapy for the patient as well as ongoing consultation with other staff providing direct treatment to the patient.

(c) *Inpatient mental health services treating children and adolescents.* 1. 'Clinical director.' In an inpatient mental health service treating children and adolescents, except for a service providing only short-term assessment and crisis stabilization, the clinical director shall be board-certified or eligible for board certification in child psychiatry. If a hospital can demonstrate that no board-certified child psychiatrist or physician eligible for board certification in child psychiatry is available, the clinical director shall have had a minimum of 2 years clinical experience with child or adolescent patients or the service shall have a specific plan for the person to begin acquiring specific training and skills in the area of child and adolescent psychiatry within 3 months after employment.

2. 'Other professional staff.' a. Except as provided in this subd. 2. b., other clinical personnel retained to fill positions identified under sub. (3) (b) 1. to 8. shall have had a minimum of 2 years of direct experience providing mental health treatment to children or adolescents, and other hospital staff working directly with children or adolescents shall have had at least one year of direct experience with children who have mental or emotional disorders.

b. If staff with the required experience are not available, the service shall have a specific plan for the persons retained to begin acquiring training in children's mental health services within 3 months after employment.

(6) **CLINICAL SUPERVISION.** (a) Each inpatient mental health service shall develop and implement a written policy, consistent with this subsection, for clinical supervision of all staff who provide mental health treatment and for providing consultation to staff.

(b) Clinical supervision shall include direct clinical review and assessment of each staff person's performance in providing mental health services to patients in the service and letting the staff member know how well he or she is doing and what improvements are needed. Clinical supervision shall be accomplished by face-to-face case reviews, direct observation of treatment provision or patient staffings.

(c) The clinical director is responsible for the quality of the mental health treatment provided to patients by the service, for maintaining appropriate supervision of staff and for providing appropriate consultation to staff.



(d) Mental health professionals qualified under sub. (3) (b) 1. to 9., shall provide day-to-day clinical supervision and consultation for individual service staff.

(e) 1. A service staff member providing mental health treatment who has not had 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 treatment he or she provides.

2. A service staff member who has had 3,000 hours of supervised clinical experience and who is not qualified under sub. (3) (b) 1. to 8. shall participate in a minimum of one hour of peer clinical consultation per month or for every 120 clock hours of face-to-face mental health services he or she provides, whichever is greater. *What is meant by clock hours*

(f) A person who provides clinical supervision for individual service staff shall document that supervision in a regularly maintained inpatient mental health service record. *x*

(7) ORIENTATION AND ONGOING TRAINING. (a) *Orientation program.* Each hospital shall develop and implement an orientation program which all new staff and regularly scheduled volunteers of the service shall complete. The orientation shall be designed to ensure that service staff and volunteers know and understand all of the following:

1. Pertinent parts of this chapter.
2. The service's policies and procedures.
3. Job responsibilities for staff persons working regularly with patients receiving inpatient mental health services.
4. Any applicable parts of chs. 48, 51, 55 and 115, Stats., *dependent on* given the nature of the patients to be served by the hospital, and the administrative rules for implementing those statutes. *x*
5. Basic mental health treatment concepts applicable to providing inpatient psychotherapy.
6. Cultural factors that need to be taken into consideration in mental health treatment.
7. The provisions of s. 51.61, Stats., and ch. HFS 94 regarding patient rights, including the procedures established by the hospital for investigating and resolving patient complaints and 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 patients, including verbal de-escalation, methods for obtaining backup and acceptable methods for self-protection and protection of the patient and others in emergency situations.

10. The basic provisions of the civil rights laws, including the Americans with Disabilities Act 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.

(b) *Ongoing training program.* Each hospital shall develop and implement an ongoing training program for all staff of the service who do not participate in regular, annual continuing education training to maintain their professional certification or license, which may include any of the following:

1. Time set aside for in-service training.
2. Presentations by community resource staff from other agencies.
3. Attendance at conferences and workshops.
4. Discussion and presentation of current principles and methods of treatment for persons with mental disorders.

(c) *Training requirements.* 1. Each newly hired staff member qualified under sub. (3) (b) 10. to 16., who has not had at least one year of experience providing mental health services shall participate in a minimum of 40 hours of documented orientation training within 3 months after beginning work.

2. Each newly hired staff member qualified under sub. (3) (b) 10. to 16. with one year or more of experience providing mental health services shall participate in a minimum of 16 hours of documented orientation training within 3 months after beginning work.

3. Each volunteer shall receive at least 40 hours of orientation training before working directly with patients.

4. Each professional staff person shall participate in at least the required number of hours of annual documented training necessary to retain certification or licensure.

5. Staff who provide more than 300 hours of direct inpatient treatment annually through the inpatient mental health service shall receive at least 8 hours per year of inservice training on mental health treatment, rules and procedures relevant to the operation of the service, compliance with state and federal regulations, cultural competency in mental health treatment and current issues in patient rights.

6. Staff who provide 300 or fewer hours of direct inpatient treatment annually shall receive at least 4 hours of inservice training per year.

7. A staff member who is shared with other community mental health programs may apply ongoing training hours received in those programs toward the requirement under subd. 5. or 6.

(d) *Training records.* A hospital operating a service shall maintain in its central administrative records updated, written copies of the orientation policies for the service, evidence of current licensure and certification of professional staff and documentation of orientation and ongoing training received by all inpatient mental health service personnel.

**HFS 32.07 Treatment.** (1) **SUFFICIENCY OF TREATMENT.** (a) Each inpatient mental health service certified under this chapter shall provide or contract for sufficient mental health treatment to meet the needs of the patients admitted by the service, including all of the following:

1. Diagnostic and assessment procedures to identify and classify the presenting problem or problems of a person seeking or referred for treatment, to determine the appropriateness of inpatient treatment for that person and to identify immediate care needs related to development of a plan of care.

2. Development of a plan of care designed to restore a patient to a level of functioning where inpatient treatment is no longer necessary.

3. Inpatient mental health treatment that adequately and appropriately implements a patient's individualized treatment plan.

4. Emergency care and crisis intervention to assist patients believed to be in immediate danger of injuring themselves or others. Crisis services shall be an immediate, in-person clinical response available on-site 24 hours per day, 7 days per week.

(b) If any treatment provided by an inpatient mental health service is obtained by contract, the service shall maintain written documentation of the specific persons or organizations agreeing to provide the treatment and of the formal agreements for treatment delivery.

(2) **MINIMUM HOURS OF SERVICE PER PATIENT.** A service shall provide or make readily available at least the following services for each patient who has a treatment plan:

(a) At least .8 hours of psychiatric services per patient per week.

(b) At least .32 hours of nursing services per patient per day on the day shift and .16 hours per patient per day on the evening and night shifts, subject to the requirement in s. HFS 32.06 (4) (c) 2. that at least one registered nurse be on duty in the service at all times that patients are present.

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(c) At least 3.0 hours of social services per patient per week by a person qualified under s. HFS 32.06 (3) (b) 3., 8., 12. or 13. Social services may include, but are not limited to, case management, community liaison, family contacts and interagency communication.

(d) At least 2.0 hours of activity therapy per patient per week, subject to the requirement of s. HFS 32.06 (4) (c) 3. that the service employs at least one full-time person qualified under s. HFS 32.06 (3) (b) 11. and one full-time person qualified under s. HFS 32.06 (3) (b) 15.

(e) At least .8 hours of psychological services per patient per week by a person qualified under s. HFS 32.06 (3) (b) 3.

(f) At least 3 hours per week by a person qualified under s. HFS 32.06 (3) (b) 1. to 14. or 18. for every patient admitted to the inpatient mental health service.

(3) **ADDITIONAL SERVICE REQUIREMENTS FOR SERVICES TREATING CHILDREN AND ADOLESCENTS.** The following requirements apply to all services treating children and adolescents except that requirements under pars. (a) to (c) do not apply to services that provide only short term assessment and crisis stabilization up to 72 hours:

(a) *Educational services.* 1. Each service serving school-age children shall employ or contract or otherwise arrange for the on-site services of a teacher or teachers certified by the Wisconsin department of public instruction to provide special education services to children who have severe emotional disorders.

2. For each school-aged patient whose admission extends beyond 10 days, not including weekends and holidays, or 17 days under s. 51.15, Stats., emergency detention or an order of detention, not including weekends or holidays, an educational program shall be developed which is compatible with the classes and goals of the educational program the patient was participating in at the time of admission or the program the patient will enter upon discharge, whichever is more appropriate.

3. A patient's educational program shall be in writing and included as part of the patient's ongoing treatment plan.

4. Each school-aged patient shall have one teacher from the service assigned to coordinate educational services provided in the hospital with those in the school the student attended prior to admission or the school the student will attend upon discharge.

5. Each school-aged patient shall receive a minimum of 5 hours per week of direct instruction by a certified teacher, unless the attending psychiatrist notes in the patient's treatment record by signature and date that this level of instruction is contraindicated by the patient's current condition. A decision to provide a reduced level of instruction shall be reviewed weekly.

(b) *Family involvement.* 1. The treatment plan for a patient under age 18 shall include a family component. The family component of the treatment plan shall identify the patient's primary legal and emotional family bonds.

2. Each child's treatment team shall include to the extent possible and appropriate the child's parents or parent substitutes and the person with guardianship or legal custody of the child if that person is not the primary adult caregiver.

3. The treatment plan shall include family counseling or therapy designed to assist the child's parents and primary caretaker in responding to, managing or remediating the mental disorder which resulted in the child's hospitalization and in meeting the child's needs upon discharge.

4. If a child is admitted who is without a primary physical caretaker with whom the child would be able to live upon discharge, the treatment plan shall include a section outlining steps the case coordinator for the child will undertake to refer the child for services to assist in reuniting the child with the child's parent or guardian or in obtaining a primary physical caretaker through a county social services or human services department or other appropriate agency.

(c) *Expanded nursing services.* Notwithstanding sub. (2), an inpatient mental health service serving children shall provide .64 hours of services by a person qualified under s. HFS 32.06 (3) (b) 9. per patient per day on the day shift and .32 hours per patient per day on the evening and night shifts, subject to the requirement in s. HFS 32.06 (4) (c) 2.

(d) *Use of seclusion, isolation and restraint.* In addition to the procedural requirements for the use of seclusion, isolation and restraint in s. HFS 32.11 (4), the following limitations apply to the use of these interventions with minor patients:

1. A patient under the age of 18 who is placed in locked seclusion, other isolation or mechanical restraints shall be under the full-time observation of staff trained in the proper application and safe management of these interventions as well as in alternative methods for patient control and de-escalation.

2. The circulation of a patient under the age of 18 in mechanical restraints shall be checked every 10 minutes and restraints shall be loosened for at least 10 minutes per limb every hour.

3. The treatment team shall review any use of mechanical restraints, seclusion or other isolation for more than one hour in any 24-hour period within 48 hours after application to determine whether a modification of the treatment plan is possible to prevent further use of the intervention.

(4) **HOURS OF OPERATION.** The service shall be open 24 hours per day and 7 days per week while patients are present.

**HFS 32.08 Admission.** (1) **REFERRAL FOR ADMISSION.** A person may be admitted to a service only by written referral from a physician or a psychologist qualified under

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s. HFS 32.06 (3) (b) 3., except in the case of an emergency detention under s. 51.15, Stats., or an involuntary admission under s. 51.20, Stats.

(2) SCREENING FOR ADMISSION. A hospital offering inpatient mental health treatment may not discriminate against persons seeking or referred for treatment. based solely on the person's age, race, creed, color, gender or handicap. A hospital, however, may establish other criteria to be used for screening persons seeking treatment, which may include any of the following:

- (a) Sources from which referrals may be accepted.
- (b) Specific conditions or mental disorders for which the service will provide treatment.
- (c) Funding conditions such as availability of insurance, support for the placement from another person or agency, the patient's ability to pay or the patient's family's ability to pay.
- (d) The range of ages of patients whom the inpatient mental health service is designed to serve.
- (e) Diagnostic or behavioral requirements.
- (f) Patient characteristics which the inpatient mental health service has been specifically designed to treat, including the nature or severity of disorders which can be managed within the service.

**Note:** Persons not meeting the selection criteria for admission should be referred to appropriate services.

(3) CRITERIA FOR ADMISSION. To be admitted, the person shall be in need of inpatient mental health treatment and there shall be a reasonable likelihood that the person will benefit from the treatment being offered by the service, based upon the information and materials available at the time of referral.

(4) ADMISSION PRIORITIES. If the inpatient mental health service establishes priorities for persons to be served or waiting lists for persons seeking or referred for treatment but for whom space is not yet available, the priorities and the procedures for the operation of the waiting list shall be maintained in writing and applied fairly and uniformly.

(4) ADMISSION PROCEDURES. Voluntary and involuntary admissions shall be conducted pursuant to the procedures established in ch. 51, Stats.

(5) INTAKE AND ASSESSMENT. (a) *Written policies and procedures..* A service shall have written policies and procedures governing intake and assessment, which shall include all of the following:

1. The type of information to be obtained from or about a person seeking or referred for admission.

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note that (6)(a) 2 requires written intake p's & p'oc's to include mental procedures

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2. The procedures to be followed for referral to another service program when a decision is made not to admit a person.

3. The process for receiving, assessing and providing immediate care pending a decision regarding admission of a person brought to the hospital for emergency detention pursuant to s. 51.15, Stats.

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

(b) *Explanation of procedures.* The procedures for intake and assessment shall be clearly explained to the patient or the patient's parent or guardian, where required, in the person's primary language or form of communication or a language with which the person is fluent and comfortable.

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

1. At admission, an assessment of the patient, noting the patient's apparent presenting problems, legal status, medication history for both prescription and over-the-counter drugs and adverse drug reactions, if any, results of the assessment under sub. (7) of suicide risk and any other available and pertinent information about the patient's condition, which is to be conducted by a registered nurse or a staff person qualified under ~~of~~ s. HFS 32.06 (3) (b) 1. to 8., to determine immediate treatment and evaluation needs pending completion of further planning.

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2. Within 24 hours after admission, a medical history taken and physical examination completed by a physician, a physician assistant certified under ch. 448, Stats., or a nurse practitioner with clinical privileges at the hospital, which shall include all of the following:

a. A history of concurrent medical conditions and intake of both prescription and over-the-counter drugs, including the effects and side effects of previous psychotropic medication, allergies and adverse drug reactions.

b. Physical and laboratory examinations, including blood pressure, both standing and reclining, to uncover unsuspected physical conditions and establish a baseline for evaluating the side effects of drugs.

3. Within 3 working days after admission, excluding weekends and holidays, a case coordinator shall be designated from among staff qualified under s. HFS 32.06 (3) (b) 1. to 12. who shall be responsible for facilitating planning meetings and reviews, drafting and distributing the treatment plans, ensuring good communication among staff, the patient, family members and community agencies working with the patient and monitoring progress towards discharge.

*will there always be an attending psychiatrist if so, where else is it placed?*

*XJ*

4. Within 60 hours after admission, excluding weekends and holidays, completion by the attending psychiatrist of a comprehensive assessment of the patient's psychiatric status which shall include all of the following:

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a. Evaluation of the patient's psychiatric symptomatology and mental status, with an assessment of mood and suicide risk.

b. A description of psychosocial history and functional history which may include, if available, information from family and friends. The description may be prepared by a qualified staff person under the supervision of the attending psychiatrist.

c. A psychiatric diagnosis, based on information derived from the evaluation required under this subd.4.a.

5. Within 3 working days after admission, excluding weekends and holidays, an initial treatment planning conference bringing together the attending psychiatrist, a registered nurse, the patient's case coordinator and any other staff person necessary based on the needs and diagnosis of the patient, to develop and implement an initial treatment plan, including immediate treatment objectives and an initial discharge plan. The attending psychiatrist shall indicate by his or her signature whether or not the services identified in the treatment plan are approved and medically necessary.

**Note:** See s. HFS 32.09 (1) for a complete list of what the initial treatment plan must include.

6. Acquisition of prior and collateral treatment records, as needed. Staff of the service shall make a reasonable effort to ensure that all available information is collected and considered for development of the patient's ongoing treatment plan under s. HFS 32.09 (2) and for coordinating hospital treatment with other treatment the patient is receiving or may receive upon discharge.

7. Additional evaluations or assessments, as needed, based on the recommendations of the initial treatment planning conference.

~~6~~ (6) **ASSESSMENT OF SUICIDAL BEHAVIOR AND ITS MANAGEMENT.** The service shall have written policies and procedures to assess the likelihood that a patient will attempt suicide and to prevent suicide, including all of the following:

(a) A procedure for identifying at admission the likelihood that a patient will attempt suicide.

(b) A procedure for identifying during the course of treatment that likelihood.

(c) Procedures to assess, monitor, prevent and manage suicide attempts once a person has been identified as suicidal.



(d) Procedures for documenting whether the degree of suicide risk is mild, moderate or severe, monitoring of the patient, reassessment and treatment relevant to the risk of suicide and the patient's behavior in response to interventions.

(e) A procedure for determining when and how others in the community should be informed that the person is at risk of harming himself or herself.

(f) The procedure to be followed when a person identified as at-risk for harming himself or herself attempts to leave the unit against staff advice.

(g) The staff training requirements for assessing and treating suicidal patients. Training shall address assessment, treatment and management.

(h) The process for internal reporting of significant suicide attempts and for internal review of these reports.

(i) A procedure for debriefing staff, including the treating psychiatrist, and, as appropriate, family members and other persons close to a patient in the event a suicide occurs.

8 (7) PATIENT RIGHTS ACKNOWLEDGMENT. (a) The case coordinator or other staff assisting the patient during intake shall explain to the patient, or the patient's parent or guardian, if required, the patient's rights and the hospital grievance procedure, using the person's primary language or means of communication or other language in which the person is fluent and comfortable.

(b) During the intake and assessment process, service staff shall ask the patient or, if required, the patient's parent or guardian, to sign an acknowledgment indicating that he or she has been informed of and understands all of the following:

1. The rights of a patient receiving inpatient mental health services.
2. The process for reporting grievances with hospital practices or procedures.
3. The cost of any treatment which is to be billed to the patient.
4. If treatment is being provided on a voluntary basis, the nature and possible risks and benefits of the treatments proposed in the treatment plan, as well as the possible results of not receiving those treatments, and that he or she consents to the receipt of the treatment.

(c) If the patient or, if required, the patient's parent or guardian, is unwilling, unavailable or unable to sign an acknowledgment under par. (b), the physician or case coordinator shall note in the patient's chart the efforts made to explain the information to the patient or the patient's parent or guardian, and the case coordinator shall continue to attempt to explain these matters to the person and document these attempts in the patient's chart.

(d) If a patient has been prescribed medication by a psychiatrist or other physician as part of the treatment plan, unless the patient has been found incompetent to refuse medication

under s. 51.61 (1) (g), Stats., the case coordinator shall prepare a specific acknowledgment which the patient or, if required, the patient's parent or guardian, shall be asked to sign, indicating both of the following:

1. <sup>Treat</sup> The physician or psychiatrist has explained to the patient or, if required, the patient's parent or guardian, the nature, risks and benefits of the medication. x
2. <sup>Not</sup> The patient, parent or guardian understands the explanation and consents to the administration of the medication. x

(e) The service shall maintain signed and current acknowledgments and consents in the patient's treatment record.

### **HFS 32.09 Treatment planning and implementation. (1) INITIAL TREATMENT**

**PLAN.** The initial treatment plan prepared for a patient under s. HFS 32.08

✓ (b) (c) 5. shall include all of the following:

(a) The reasons for and legal status of the admission, including presenting problems and strengths and assets the patient and family bring to the treatment plan.

(b) The initial diagnostic impression.

(c) The treatment to be provided pending development of the ongoing treatment plan.

(d) Staff who will be providing treatment for the patient.

(e) The interim goals for treatment.

(f) Additional assessment or evaluation needed.

(g) Any services or providers from the community who will be in contact with the patient while he or she is on the service, including staff from any mental health, social services or educational program, and preliminary plans for coordination of services, if any.

(h) Identification of any medication the patient will be receiving, the name of the health care provider who prescribed the medication, the purpose for which it is prescribed and the plan for monitoring its administration and effects.

(i) A preliminary discharge plan listing present barriers to moving to a less restrictive setting, expected living arrangements after discharge and any special considerations which may apply to discharge and aftercare planning.

(2) **REVIEW OF INITIAL TREATMENT PLAN AND DEVELOPMENT OF ONGOING PLAN.** (a) The clinical director of the service shall appoint a treatment team to meet in an ongoing treatment planning conference, facilitated by the patient's case coordinator, within 10 days after a person's admission to the service, to review the patient's initial treatment plan and observed progress under it and to develop an ongoing treatment plan which takes into

consideration the patient's progress and information collected and assessments completed since admission.

(b) The treatment team shall include, in addition to the attending psychiatrist and the patient's case coordinator, one or more representatives from each of the disciplines providing treatment to the patient, and shall also include the patient and his or her parent or guardian, where appropriate, unless the attending psychiatrist specifically determines that their participation is clinically contraindicated.

(c) If the patient or the patient's parent or guardian is not able or refuses to attend the ongoing treatment planning conference, or the attending psychiatrist has determined that the individual's participation is contraindicated, the case coordinator or the attending psychiatrist shall meet with the patient and the patient's parent or guardian and other family members, where appropriate, and review the ongoing treatment plan with them.

(d) At the ongoing treatment planning conference, the treatment team shall do all of the following:

1. Determine the treatments necessary to assist the patient to resolve each of his or her identified treatment needs.

2. Establish specific goals and measurable objectives for the resolution of those needs.

3. List each treatment the patient will be receiving and the primary staff person responsible for delivery.

4. Develop a preliminary time-line for movement toward achieving the treatment goals.

5. Update the discharge plan with more specific information about aftercare services which the patient is likely to need and any other residential, legal, financial or human services considerations which may apply to the patient's discharge.

6. Indicate the specific method of delivery and monitoring of any prescribed psychotropic medication. This includes monitoring for specific symptoms or behaviors, as well as monitoring for any side effects of the medication.

(e) If the patient will be receiving services related to his or her mental health treatment needs from other agencies, organizations or providers, the ongoing treatment plan shall describe the process by which hospital treatment will be coordinated with the additional services, including all of the following:

1. The persons or agencies that will be providing additional services to the patient and the nature of those services.

2. Treatment goals jointly shared among the agencies or organizations assisting the patient.

3. Any necessary releases of information for the persons and agencies participating in the coordinated treatment.

4. The name of the person who will coordinate communication among service providers, the patient and the patient's family.

(f) The extent of participation and approval by the patient or, if required, by the patient's parent or guardian shall be specifically noted in the treatment plan.

(3) APPROVAL OF THE TREATMENT PLAN. The ongoing treatment plan shall be reviewed by the attending psychiatrist who shall indicate by his or her signature whether or not the services identified in the treatment plan are approved and medically necessary. Services may be provided pending approval but shall be suspended if the plan is not approved.

(4) ADMINISTRATION OF MEDICATIONS. (a) *Definitions.* In this subsection:

1. "Medication administration" means the physical act of giving medication to a patient by the prescribed route. *is this just for psychotropic as subd. 3 impl. c. 2*

2. "Medication error" means any error in prescribing or administering a specific medication, including an error in writing or transcribing the prescription or in obtaining and administering the correct medication, in the correct form, at the correct time.

3. "Medication monitoring" means observation to determine beneficial effects and inadvertent or undesirable effects related to taking psychotropic medications.

(b) *Informed consent.* Informed consent of a patient or, if required, of the patient's parent or guardian, for psychotropic medications shall be clearly evident in the patient's treatment record for any psychotropic medication prescribed. Explanations to the patient or, if required, the patient's parent or guardian, shall be given in the person's primary language or mode of communication or in another language with which the person is comfortable and shall address the nature and possible negative and positive effects of any proposed medication.

(c) *Written policies.* An inpatient mental health service shall have written policies and procedures that specify all of the following:

1. How psychotropic medication will be prescribed, obtained, safely stored, administered, disposed of and its use monitored.

2. What experience, training and credentials staff must have who administer or monitor the administration of medication.

3. How a staff member *is to* monitor and report the effects and any side effects of the administration of a psychotropic medication to the staff member's immediate supervisor and the patient's attending psychiatrist or other physician. *shall*

4. That a record<sup>shall</sup> be made if a patient refuses to take a prescribed psychotropic medication or does not take a prescribed psychotropic medication due to absence, and the procedure to be followed in these situations. ✓

5. That a medication error<sup>shall</sup> be reported, specifying how, by when and to whom the error is to be reported, which shall include to the staff person's immediate supervisor and physician. ✓

6. Emergency measures for dealing with any drug overdose or unanticipated medication reaction. ✓

7. Need to document procedures for the prescription of psychotropic medications in dosages that exceed or are less than the usual and customary doses as defined in current psychiatric literature, the physicians' desk reference and current standards of practice within the community. ✓

(5) PROGRESS NOTES. (a) Staff providing treatment for a patient shall maintain progress notes in a uniform manner which describe the treatment provided to the patient and the patient's progress toward the treatment goals.

(b) Progress notes shall be entered into the patient's treatment record as soon as possible following each patient contact, shall be signed and dated by the person making the entry and shall include chronological documentation of all treatment provided to the patient.

(6) REVIEW OF THE TREATMENT PLAN. (a) At least once every 7 days after the date on which an ongoing treatment plan was approved, the treatment team shall meet to review the patient's treatment.

(b) The case coordinator shall facilitate the meeting and document all of the following in the patient's treatment record:

1. The date of the review and the names of participants.
2. The degree to which the goals of treatment are being met.
3. Any changes that should be made in the patient's treatment plan, and the reasons for the changes, including changes in medication.

4. Any treatment delays or complications, including side effects of medications, and the immediate actions taken or to be taken in response.

5. An updating of the discharge plan, with a discussion of available alternatives for discharge to a less restrictive setting and barriers to discharge.

6. Whether any additional assessments or evaluations of the patients<sup>are</sup> are needed given information which has been obtained or observations which have occurred during the course of treatment. ✓

(c) The attending psychiatrist shall review the updated treatment plan and indicate by his or her signature and date approval of it and the medical necessity for any changes in the course of treatment.

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(d) When any serious incident occurs involving a patient which indicates that the patient's clinical status or treatment needs have changed substantially, including violent behavior, attempted suicide, attempted elopement or a major change in the patient's symptoms, available staff shall review the patient's treatment within 24 hours after occurrence of the incident and make any recommendation for change to the treatment team.

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(7) REPORTING OF DEATHS. Each service shall have written policies and procedures for reporting to the department all deaths of patients due to suicide, psychotropic medications or use of physical restraints, as required by s. 51.64 (2), Stats. Reports shall be made on a form prescribed by the department.

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

(8) DISCHARGE FROM INPATIENT TREATMENT. Discharge from inpatient treatment shall be carried out in compliance with the requirements of s. 51.35 (4), Stats.

(9) DISCHARGE SUMMARY. (a) A discharge summary shall be entered in the patient's treatment record within 30 days after termination of treatment. The discharge summary shall include all of the following:

1. The reasons for discharge.
2. The patient's mental health and treatment status at the time of discharge.
3. A summary of the treatment, including medications, provided to the patient.
4. A final evaluation of the patient's progress toward the goals of the treatment plan.
5. Any remaining patient needs upon discharge and the plan for meeting those needs.
6. Any aftercare which will be available for the patient.
7. The names and addresses of any facility, person or program to which the patient was referred for additional services following discharge.
8. The patient's consent to follow-up contacts under s. HFS 32.12 to determine client satisfaction with treatment.

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(b) The discharge summary shall be dated and signed by the staff member who prepares it and the attending psychiatrist.

**HFS 32.10 Patient records. (1) INDIVIDUAL TREATMENT RECORDS.** The service shall maintain a treatment record for each patient accepted for treatment. The treatment record shall include accurate documentation of all staff services, activities and interventions with or on behalf of the patient and his or her family, and the improvement, regression or other changes exhibited by the patient and his or her family. A patient's treatment record shall include all of the following:

- (a) Initial referral materials.
- (b) Notes and reports made while screening the person for admission.
- (c) Documentation of the decision to admit the person.
- (d) Referrals to other providers if a person was not admitted for treatment.
- (e) Results of all examinations, tests and other assessment information available at the time of admission, and any necessary releases or authorizations for acquiring and using reports and evaluations prepared outside the hospital.
- (f) Results of additional evaluations and other assessments performed while the person is a patient in the hospital.
- (g) The initial and ongoing treatment plans for the patient, with the attending psychiatrist's signed approval.
- (h) Written documentation of treatment provided to the patient and the patient's progress.
- (i) Written reports of reviews of the patient's treatment plan.
- (j) Documentation of discharge planning.
- (k) Medication records, including documentation of both over-the-counter and prescription medications dispensed to the patient. Medication records shall document ongoing medication monitoring and any adverse drug reactions. All medication orders in the patient's treatment record shall specify the name, type and purpose of the medication, dose, route of administration, frequency of administration, person administering and name of the health care provider who prescribed the medication.
- (L) Records of any use of mechanical restraints, seclusion or other isolation, including authorizations, orders, examinations and reviews of the use of these interventions.
- (m) Records of any referrals of the patient and his or her family to outside resources.

(n) Reports on the patient from outside service providers.

(o) Consent for disclosure and authorization for release of information forms required under s. 51.30 (2), Stats., when needed and appropriate.

(p) Case conference and consultation notes.

(q) The written acknowledgment signed by the patient or, if required, by the patient's parent or guardian, that the patient or the patient's parent or guardian has been informed of the patient's rights.

(r) The written acknowledgment signed by the patient or, if required, by the patient's parent or guardian, that the patient or the patient's parent or guardian has made an informed consent for the patient to receive the treatment identified in the treatment plan and any medication which may be prescribed as part of the treatment.

(2) MAINTENANCE AND SECURITY. (a) The hospital director is responsible for the maintenance and security of patient treatment records.

(b) Patient clinical records shall be maintained in conformity with s. HFS 92.12.

(c) Upon written request of a patient or, if required, the patient's parent or guardian, the hospital shall transfer the clinical information necessary for the patient to receive further treatment from another service or facility to that service or facility.

(3) LOCATION AND FORMAT. (a) Patient treatment records shall be kept in a central place not accessible to other patients at the hospital, be held in a safe and secure manner, be managed in accordance with standard professional practices for the maintenance of patient mental health records and be arranged in a format which provides for consistent recordkeeping within the hospital and which facilitates accurate recordkeeping and efficient record retrieval.

(b) When a patient is discharged or treatment is otherwise terminated, treatment records shall be kept in a central location.

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

(5) DISPOSITION UPON HOSPITAL CLOSING. A hospital shall establish a plan for maintenance and disposition of records in the event of the hospital closing. The policy shall include a written agreement with a health care facility which shall act as a repository and custodian of the patient records. The policy shall further state that the patient or patient's parent or guardian shall be notified in writing of the location of the records.

**HFS 32.11 Patient rights.** (1) POLICIES AND PROCEDURES. A service shall comply with s. 51.61, Stats., and ch. HFS 94, relating to the rights of patients and standards for grievance resolution procedures.

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(2) COMPLAINTS. (a) A service shall have written procedures for receiving and investigating reports of unethical, illegal or negligent acts by staff members, including compliance with applicable statutory reporting requirements.

(b) A service shall document 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) USE OF RESTRAINTS, ISOLATION OR SECLUSION. (a) *Policies and procedures.* Each service shall have written policies and procedures consistent with s. 51.61 (1) (i) 1., Stats., s. HFS 94.10 and the requirements of this chapter relating to the use of physical restraints, isolation and seclusion.

**Note:** The terms "physical restraint" or "restraint", "isolation" and "seclusion" are defined in s. HFS 32.03.

(b) *Trained staff.* Only staff who have been specifically trained in clinical techniques for defusing escalating behaviors and in the proper management and safe application of restraints, isolation or seclusion may place a patient under restraints, isolation or seclusion.

(c) *Prohibited uses and means of authorization.* Service staff may not place a patient in restraint, isolation or seclusion as a punishment or for the convenience of staff. None of these interventions may be authorized through as-needed (PRN) orders.

(d) *Conditions for use of mechanical restraints.* Mechanical restraints, except those used to assist a patient by providing anatomical support or by augmenting the movement of physically or neurologically impaired individuals, may be used only if all of the following conditions are met:

1. Use is necessary to prevent a patient from physically harming himself or herself or others or substantially damaging the physical surroundings in the service.
2. Use is authorized by the clinical director or his or her on-duty designee, given at the time that the use of restraints is believed to be required and documented by signature and date in the patient's record.
3. No less restrictive intervention will protect the patient or others who are at risk of being harmed or the physical surroundings in the service.

(e) *Conditions for use of seclusion or other isolation.* Seclusion or other isolation may be used only if both of the following conditions are met:

1. In an emergency situation, to prevent a patient from physically harming himself or herself or others or substantially damaging the physical surroundings in the service.
2. When no less restrictive intervention will protect the patient or others who are at risk of being harmed.

(f) *Requirements when a patient is in restraints, isolation or seclusion.* When a patient is placed in restraints, isolation or seclusion, all of the following are required:

1. A staff person specifically trained to understand and respond to the needs of patients in restraints, isolation or seclusion shall be present. x

2. As soon as possible and practicable after the intervention is initiated, the person who authorized the use of restraints, isolation or seclusion shall document in the patient's medical chart the specific behaviors that required the restraints, isolation or seclusion; criteria for release; nursing care and other attention the person will receive while in seclusion, isolation or physical restraints; and the method of assessment for release. sp

3. Staff shall observe the patient every 15 minutes, each time making and initialing a record of the patient's appearance, health and emotional status and progress toward meeting the criteria for release from the physical restraints, isolation or seclusion and shall give the patient access to liquids and to use of the toilet at any time.

4. An initial placement in restraints, isolation or seclusion for emergency purposes or in seclusion or isolation pursuant to an established treatment plan may continue for up to one hour. After one hour, placement may be continued only with written authorization by a physician following a physical examination of the patient, except that if a physician is not available to conduct the examination in person, the physician may provide authorization over the telephone if a registered nurse has examined the patient and provided information to the physician about the patient's condition. Signed and dated notations of the examination and the authorization shall be entered in the patient's treatment record.

5. If the patient is observed for 2 consecutive 15 minute periods as not posing a threat of injury to self, others or property, the assigned staff member shall notify the authorized professional person who shall assess the secluded or isolated patient's readiness for release or the physically restrained person's readiness for reduction of or release from physical restraints. If it is determined that the patient still requires seclusion, isolation or the same level of physical restraint, the authorized professional person shall, if practical, discuss all of the following with the patient: Who's  
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- a. The specific behaviors that require seclusion, isolation or physical restraint.
- b. How the patient's behavior continues to meet the criteria for restraint, isolation or seclusion.
- c. What behavior the patient must demonstrate in order to secure release from seclusion, isolation or release from or reduction of physical restraints.
- d. What the patient suggests the staff can do to assist the patient to gain release from seclusion, isolation or release or reduction from physical restraints.

6. Following the physical examination under subd. 4, an authorization for restraints, isolation or seclusion may be renewed for up to an additional one hour if the patient has not yet

met the criteria for release. Additional renewals for up to one hour each may be made following an updated physical examination of the patient by a physician, or by a registered nurse if a physician is unavailable, if the patient has not met the conditions for release and if the physician, or registered nurse finds that a continuation of seclusion or isolation poses no significant threat to the patient's health or well-being.

7. The maintenance of an adult in restraints, isolation or seclusion for more than 8 hours in a 24-hour period may take place only with written authorization of the clinical director or the person authorized to act on his or her behalf when the clinical director is absent.

8. Service staff shall provide relief periods for a patient in restraints for at least 10 minutes per limb every 2 hours, unless the patient is asleep.

9. A patient shall be released from restraints, isolation or seclusion as soon as possible and no later than one of the following, as appropriate:

a. When the authorization for the intervention has expired.

b. As soon as the patient reaches or fulfills the criteria for release established either in the patient's treatment plan or by the person who authorized the use of the restraints, isolation or seclusion.

10. While in restraints, isolation or seclusion, the patient shall be constantly monitored to ensure that personal dignity is protected, that the patient's health and safety are not jeopardized and that the patient's personal needs, including comfort, body alignment, food and fluid intake and use of the toilet are being met.

11. A physician shall evaluate the patient within 24 hours after release from restraints, isolation or seclusion and shall enter a signed and dated notation of the patient's condition in the patient's treatment record.

12. The patient's treatment team shall meet and review any use of restraints, isolation or seclusion within 3 working days after use to consider whether it may be possible to modify the patient's treatment plan to address the patient's needs without further use of the intervention.

13. Within 2 hours after a patient is released from seclusion, other isolation or physical restraint, an appropriate staff member of the service shall discuss with the patient in clear behavioral terms the situation that led to the seclusion, other isolation or physical restraint, the reasons for the duration of seclusion, other isolation or physical restraint and what the patient can do to avoid future episodes of seclusion, other isolation or physical restraint. The discussion shall encourage the patient to avoid behavior that results in seclusion, other isolation or physical restraints and shall be documented in the medical chart.

**HFS 32.12 Patient satisfaction.** (1) Each hospital operating a mental health inpatient service shall have a process for collecting and recording indications of patient satisfaction with the outcome and quality of the mental health treatment received from the service. The service shall make follow-up contacts with former patients at intervals of 3, 6 and 12 months following

discharge, with the consent of the patients. The process may include but is not limited to the following:

(a) Short in-person interviews with patients at the time of discharge.

(b) Evaluation forms to be completed and returned by former patients or their parents or guardians following discharge.

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

(2) Information about patient satisfaction shall be collected in a standardized format that permits collation and comparison of responses, and which protects the confidentiality of former patients and their families.

(3) Prior to the certification survey under s. HFS 32.04 (6), the administrator of the inpatient mental health service shall prepare and maintain on file a report summarizing patient views and documenting any changes in service policies or operations which have been made as a result of these evaluations as well as any suggestions for the department which would assist a service in better meeting the needs of its patients.

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SECTION 2. HFS 61.70 to 61.72 are repealed.

*Debra Lee - ref*

The repeals 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 Leean  
Secretary

SEAL:



*61.70 = inpatient program - inhos + dhs.*

*61.71 = inpatient program standards*

*61.72 = enforcement of inpatient program standards*

*note 61.79 deals w/ chs add. inpatient  
Svs - 35 how do they [ ] w/  
HFS 32.07 (3) add'l svcs.  
note for Svs treat ch & add'l.  
standard manual*