

HEALTH AND SOCIAL SERVICES

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Chapter HSS 61

**COMMUNITY MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES AND
ALCOHOLISM AND OTHER DRUG ABUSE
SERVICES**

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Subchapter I

General Provisions

HSS 61.01 Introduction. These are standards for a minimum level of services. They are intended to establish a basis to assure adequate services provided by 51.42/51.437 boards and services provided by agencies under contract with the boards.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80.

HSS 61.02 Definitions. The following definitions apply to all standards for community mental health, developmental disabilities, and alcoholism and other drug abuse services.

Note: For ease of reference, the definitions are categorized under general definitions, program element definitions and disability related definitions.

General Definitions

(1) "Board" means a board of directors established under ss. 51.42/51.437, or 46.23, Stats.

(2) "Consultation" means providing assistance to a wide variety of local agencies and individuals. It includes indirect case consultation: the responding to specific requests of consultees to help resolve an individual case management problem or to improve the work function of the consultee. It includes problem related consultation: the providing of assistance to other human service agencies for educational purposes rather than individual case resolution. Consultation includes administrative and program consultation: the providing of assistance to local programs and government agencies in incorporating specific mental health, developmental disabilities and alcohol and other drug abuse principles into their programs.

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

(4) "Education" means the provision of planned, structured learning experiences about a disability, its prevention, and work skills in the field. Education programs should be specifically designed to increase knowledge and to change attitudes and behavior. It includes public education and continuing education.

(a) Public education is the provision of planned learning experiences for specific lay or consumer groups and the general public. The learning experiences may be characterized by careful organization that includes development of appropriate goals and objectives. Public education may be accomplished through using generally accepted educational methods and materials.

(b) Continuing education is individual or group learning activities designed to meet the unique needs of board members, agency staffs, and providers in the community-based human service system. Learning activities may also be directed towards the educational goals of related care providers such as health care, social service, public school and law enforcement personnel. The purpose may be to develop personal or occupational potential by acquiring new skills and knowledge as well as heightened sensitivity to human service needs.

(5) "Employee or position, full-time," means as defined by the employing board or agency.

(6) "Public information" means information for public consumption provided through the use of mass media methods about services, programs, and the nature of the disability for which the services and programs are provided. It consists of such activities as writing news releases, news letters, brochures, speaking to civic groups or other assemblies, and use of local radio and television programs. Public information programs should be specifically planned and designed to inform.

Program Element Definitions

(7) "Day services, medical and non-medical," means non-residential comprehensive coordinated services to enhance maturation and social development and alleviate a person's problem related to mental illness,

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(h) Description of the proposed program evaluation procedures to be employed;

(i) Description and comments of other area agencies and programs that have been consulted in regard to the impact, need and usefulness of the proposed services;

(j) Assurance of compliance with all federal, state and local licenses, codes, restrictions, etc.; and

(k) Assurance of compliance with confidentiality regulations.

(2) **RENEWAL OF CONDITIONAL APPROVAL.** Conditional approval shall be renewed at least annually on a timetable to be determined by the program certification unit. The program certification unit shall also specify what reports shall be submitted and the timetable for such reports as may be required.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82.

Subchapter V

Outpatient Psychotherapy Clinic Standards

HSS 61.91 Scope. (1) This subchapter applies to psychotherapy clinics providing psychotherapy and related outpatient services and receiving payments through the Wisconsin Medical Assistance Program and mandatory benefits required by s. 632.89, Stats., (Insurance Code).

(2) This subchapter is not applicable to outpatient programs providing services to only persons with alcohol and drug abuse problems governed by s. PW-MH 61.03, Wis. Adm. Code, or clinics operated by local community boards authorized by ch. 46 or 51, Stats.

History: Cr. Register, May, 1981, No. 305, eff. 6-1-81.

HSS 61.92 Statutory authority. This subchapter is promulgated pursuant to ss. 49.45 (10), 51.04, 51.42 (5) (b) to (d), 51.42 (12), 227.014 and 632.89, Stats.

History: Cr. Register, May, 1981, No. 305, eff. 6-1-81.

HSS 61.93 Purpose. (1) This subchapter is established to provide uniform standards for outpatient services provided by clinics requesting payments from the Wisconsin Medical Assistance Program and mandatory benefits required in s. 632.89 (1) (a), Stats.

(2) The outpatient psychotherapy clinic standards have been developed to ensure that services of adequate quality are provided to Wisconsin citizens in need of treatment for nervous or mental disorders or alcohol and drug abuse problems. A continuum of treatment services shall be available to the patient, either through direct provision of services by the certified clinic or through written procedures which document how additional services from other service providers will be arranged to meet the overall treatment needs of the patient. The standards are designed to assist clinics in the organization and delivery of outpatient services.

History: Cr. Register, May, 1981, No. 305, eff. 6-1-81.

HSS 61.94 Definitions. (1) "Certification" means the approval of a clinic for a specific purpose.

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- (2) "Clinic" means an outpatient psychotherapy clinic.
- (3) "Department" means the department of health and social services.
- (4) "Division" means the division of community services which is the approving agency for certification under this subchapter.
- (5) "Employed" means working for a clinic and receiving compensation which is subject to state and federal income tax, or being under written contract to provide services to the clinic.
- (6) "Nervous or mental disorders" for the purpose of reimbursement under the provisions of this rule means a condition listed in the American Psychiatric Association Diagnostic and Statistical Manual (DSM-III) or the International Classification of Disease (ICD-9-CM) within a classification category and code as follows:
- (a) 291 — Alcohol psychoses,
 - (b) 292 — Drug psychoses,
 - (c) 295 — Schizophrenic psychoses,
 - (d) 296 — Affective psychoses,
 - (e) 297 — Paranoid states,
 - (f) 298 — Other non-organic psychoses,
 - (g) 300 — Neurotic disorders,
 - (h) 301 — Personality disorders,
 - (i) 302 — Sexual deviations and disorders,
 - (j) 306 — Physical conditions arising from mental factors,
 - (k) 307 — Special symptoms or syndromes not elsewhere classified,
 - (l) 308 — Acute reaction to stress,
 - (m) 313 — Disturbance of emotions specific to children and adolescence,
 - (n) 314 — Hyperkinetic syndrome of childhood,
 - (o) 315 — Specific delays in development.
- (7) "Outpatient psychotherapy clinic" means an outpatient treatment facility as defined in s. 632.89 (1) (a), Stats., and which meets the requirements of this rule or is eligible to request certification.
- (8) "Provide" means to render or to make available for use.
- (9) "Psychotherapy" has the meaning designated in s. HSS 101.03, Wis. Adm. Code.
- (10) "Supervision" means intermittent face to face contact between a supervisor and a staff member to review the work of the staff member.

History: Cr. Register, May, 1981, No. 305, eff. 6-1-81.

HSS 61.95 Procedures for approval. (1) **PRINCIPALS GOVERNING CERTIFICATION.** (a) The method by which a clinic is reviewed for approval by the department is set forth in this section. A certification survey is used to determine the extent of the compliance with all standards specified in this subchapter. Decisions shall be based on a reasonable assessment of each clinic. The extent to which compliance with standards is assessed shall include:

1. Statements of the clinic's designated agent, authorized administrator or staff member;
2. Documentary evidence provided by the clinic;
3. Answers to detailed questions concerning the implementation of procedures, or examples of implementation, that will assist the department to make a judgement of compliance with standards; and
4. Onsite observations by surveyors.

(b) The clinic shall make available for review by the designated representative of the department all documentation necessary to establish compliance with standards, including but not limited to policies and procedures of the clinic, work schedules of staff, master and individual appointment books, patient billing charts, credentials of staff and patient clinical records not elsewhere restricted by statute or administrative rules.

(2) **APPLICATION FOR CERTIFICATION.** The application for approval shall be in writing and shall contain such information as the department requires.

(3) **CERTIFICATION PROCESS.** The certification process shall include a review of the application and supporting documents, plus an interview and onsite observations by a designated representative of the department to determine if the requirements for certification are met.

(4) **ISSUANCE OF CERTIFICATION.** The department shall issue a certification if all requirements for certification are met.

(5) **UNANNOUNCED INSPECTIONS.** (a) The department may, during the certification period, make unannounced inspections of the clinic to verify continuing compliance with this subchapter.

(b) Unannounced inspections shall be made during normal working hours of the clinic and shall not disrupt the normal functioning of the clinic.

(6) **CONTENT OF CERTIFICATION.** The certification shall be issued only for the location and clinic named and shall not be transferable or assignable. The department shall be notified of changes of administration, ownership, location, clinic name, or program changes which may affect clinic compliance by no later than the effective date of the change.

(7) **DATE OF CERTIFICATION.** (a) The date of certification shall be the date when the onsite survey determines the clinic to be in compliance with this subchapter.

(b) The date of certification may be adjusted in the case of an error by the department in the certification process.

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(c) In the event of a proven departmental error, the date of certification shall not be earlier than the date the written application is submitted.

(8) **RENEWAL.** (a) Certification is valid for a period of one year unless revoked or suspended sooner.

(b) The applicant shall submit an application for renewal 60 days prior to the expiration date of certification on such form as the department requires. If the application is approved, certification shall be renewed for an additional one year period beginning on the expiration date of the former certificate.

(c) If the application for renewal is not filed on time, the department shall issue a notice to the clinic within 30 days prior to the expiration date of certification. If the application is not received by the department prior to the expiration a new application shall be required for recertification.

(9) **RIGHT TO HEARING.** In the event that the department denies, revokes, suspends, or does not renew a certificate, the clinic has a right to request an administrative hearing under s. HSS 61.98 (4).

History: Cr. Register, May, 1981, No. 305, eff. 6-1-81.

HSS 61.96 Required personnel. (1) Staff of a certified clinic shall include:

(a) A physician who has completed a residency in psychiatry, or

(b) A licensed psychologist who is listed or eligible to be listed in the National Register of Health Services Providers in Psychology, and

(c) A social worker with a masters degree from a graduate school of social work accredited by the Council on Social Worker Education.

(2) Other mental health professionals with training and experience in mental health may be employed as necessary, including persons with masters degrees and course work in clinical psychology, psychology, school psychology, counseling and guidance, counseling psychology, or mental health nursing.

(3) Mental health professionals designated in subs. (1) (c) and (2) shall have 3,000 hours of supervised experience in clinical practice, which is a minimum of one hour per week of face to face supervision during the 3,000 hour period by another mental health professional meeting the minimum qualifications, or is listed in the National Registry of Health Care Providers in Clinical Social Work or National Association of Social Workers Register of Clinical Social Workers or National Academy of Certified Mental Health Counselors or the National Register of Health Services Providers in Psychology.

History: Cr. Register, May, 1981, No. 305, eff. 6-1-81.

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

- (a) Diagnostic services to classify the patients's presenting problem.
 - (b) Evaluation services to determine the extent to which the patient's problem interferes with normal functioning.
 - (c) Initial assessment of new patients.
 - (d) Outpatient services as defined in s. 632.89 (1) (d), Stats.
 - (e) Residential facility placement for patients in need of a supervised living environment.
 - (f) Partial hospitalization to provide a therapeutic milieu or other care for non-residential patients for only part of a 24-hour day.
 - (g) Pre-care prior to hospitalization to prepare the patient for admission.
 - (h) Aftercare for continuing treatment in the community to help the patient maintain and improve adjustment following a period of treatment in a facility.
 - (i) Emergency care for assisting patients believed to be in danger of injuring themselves or others.
 - (j) Rehabilitation services to achieve maximal functioning, optional adjustment, and prevention of the patient's condition from relapsing.
 - (k) Habilitation services to achieve adjustment and functioning of a patient in spite of continuing existence of problems.
 - (l) Supportive transitional services to provide a residential treatment milieu for adjustment to community living.
 - (m) Professional consultation to render written advice and services to a program or another professional on request.
- (2) The clinic shall provide a minimum of 2 hours each of clinical treatment by a psychiatrist or psychologist and a social worker for each 40 hours of psychotherapy provided by the clinic.
- (3) Personnel employed by a clinic as defined in s. HSS 61.96 (1) (c) and (2) shall be under the supervision of a physician or licensed psychologist who meets the requirements of s. HSS 61.96 (1) (a) or (b).
- (a) There shall be a minimum of 30 minutes of supervision which shall be documented by notation in the master appointment book for each 40 hours of therapy rendered by each professional staff person.
 - (b) Supervision and review of patient progress shall occur at intake and at least at 30 day intervals for patients receiving 2 or more therapy sessions per week and once every 90 days for patients receiving one or less therapy sessions per week.
- (4) The supervising physician or psychologist shall meet with the patient when necessary or at the request of the patient or staff person.
- (5) A physician must make written referrals of patients for psychotherapy when therapy is not provided by or under the clinical supervision of a physician. The referral shall include a written order for psycho-

therapy and include the date, name of the physician and patient, the diagnosis and signature of the physician.

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

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

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

(9) Group therapy sessions should not exceed 10 patients and 2 therapists.

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

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

(a) The patient's presenting problems with the onset and course of symptoms, past treatment response, and current manifestation of the presenting problems;

(b) Preliminary diagnosis;

(c) Personal and medical history.

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

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

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

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

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

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

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

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

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

(d) Patient clinical records shall be kept at least 5 years.

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

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

(16) Reimbursement under the Wisconsin Medical Assistance Program for any services listed in this section is governed by chs. HSS 101 to 106, Wis. Adm. Code.

History: Cr. Register, May, 1981, No. 305, eff. 6-1-81.

HSS 61.98 Involuntary termination, suspension or denial of certification. The department may terminate, suspend or deny certification of any clinic after prior written notice and summary of the basis for termination, suspension or denial.

(1) **TERMINATION OR SUSPENSION OF CERTIFICATION WITHOUT PRIOR HEARING.** Certification may be terminated or suspended without prior hearing whenever the department finds:

(a) Any of the clinic's licenses or required local, state or federal approvals have been revoked, suspended or have expired; or

(b) The health or safety of a patient is in imminent danger because of knowing failure of the clinic to comply with requirements of this rule or any other applicable local, state or federal law or regulation.

(2) **TERMINATION, SUSPENSION OR DENIAL OF CERTIFICATION AFTER PRIOR NOTICE AND REQUESTED HEARING.** Certification may be terminated, suspended or denied only after prior notice of proposed action and notice of opportunity for a hearing whenever the department finds:

(a) A staff member of a clinic has been convicted of a criminal offense related to the provision of or claiming reimbursement for services under Medicare (Title XVIII, Social Security Act), or under this or any other state's medical assistance program. For purposes of this section, "convicted" means that a judgment of conviction has been entered by a federal, state or local court, irrespective of whether an appeal from that judgment is pending.

(b) The clinic submitted or caused to be submitted false statements, for purposes of obtaining certification under these rules, which it knew, or should have known, to be false.

(c) The clinic failed to maintain compliance with standards for which it was certified.

(3) **EXPIRATION OF CERTIFICATION.** Clinics which allow certification to expire and do not initiate an application for renewal prior to the date of expiration will be terminated on the date of expiration without right to a hearing. Thereafter, a clinic must submit a new application in order to be certified.

(4) **CLINIC REQUEST FOR HEARING.** Any clinic which has been served notice of termination, suspension or denial of certification may submit a written request for a hearing pursuant to provisions under ch. 227,

Stats., within 10 days after receipt of the notice of termination, suspension or denial of certification.

(a) Upon receipt of a timely request for hearing, the department's office of administrative hearings shall schedule and mail a notice of hearing to the division and to the clinic. Such notice shall be mailed to the parties at least 10 working days before the scheduled hearing.

(b) The failure of the clinic to submit a timely request for hearing shall constitute a default. Accordingly, the findings of the department which served as the basis for the action shall be construed as being admitted by the provider, and the administrative remedy or relief sought by the department by means of the action may be effected.

(5) VIOLATION AND FUTURE CERTIFICATION. A person with direct management responsibility for a clinic and all employes of a clinic who were knowingly involved in any of the following acts which served as a basis for termination shall be barred from employment in a certified clinic for a period of not to exceed 5 years.

(a) Acts which result in termination of certification under s. HSS 106.06, Wis. Adm. Code.

(b) Acts which result in conviction for a criminal offense related to services provided under s. 632.89, Stats.

(6) TIME PERIOD FOR COMPLIANCE. All clinics approved as outpatient facilities pursuant to s. 632.89, Stats., must demonstrate compliance with this subchapter within 6 months after the effective date.

(7) FAILURE TO COMPLY. Failure to demonstrate compliance will cause termination of certification as provided in this section.

(8) STAFF QUALIFICATION GRACE PERIOD. A grace period of 3 years shall be granted for mental health professionals with bachelor degrees who have practiced in an approved outpatient facility prior to the effective date of this rule, to obtain the degree requirements set forth in s. HSS 61.96 with the following conditions:

(a) The person shall have had one year of experience as a fulltime psychotherapist;

(b) The person shall have completed 150 hours of professional training in the mental health field beyond the bachelor degree;

(c) The person shall document the requirements in (a) and (b) and notify the division within 90 days of the effective date of this subchapter of the intent to comply with the provisions of this section;

(d) The person shall submit annual reports of progress toward compliance to the division to demonstrate good faith effort.

History: Cr. Register, May, 1981, No. 305, eff. 6-1-81.