

Chapter HSS 98

FIELD SUPERVISION OF CLIENTS

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Note: Chapter HSS 98 was created as an emergency rule effective December 15, 1991.

Subchapter I — General

HSS 98.01 Authority and purpose. This chapter is promulgated under the authority of ss. 51.37 (9), 971.17 (3) (e), 980.06 (2) (d) and 980.08 (6), Stats., to provide rules for supervision in communities of persons who are committed to the department and placed under its control after being found not guilty by reason of mental illness or defect of having committed a crime or after being found to be sexually violent persons. Supervision is intended to provide for the public's safety, promote social reintegration, reduce repetition of crime and carry out the statutory directives under s. 46.03 (1) and (5), Stats. The following goals and objectives are relevant for fulfillment of these purposes:

(1) To supervise and control offenders to the extent necessary to protect the public, staff and clients;

(2) To provide clients with opportunities for obtaining education, training, work experience, coping skills and other programs and services to enable them to live constructive lives;

(3) To provide access to community-based programs for persons on supervision for whom those programs are desirable and necessary;

(4) To establish necessary guidelines, procedures, and controls to maintain program, staff and fiscal accountability and to promote program efficiency and effectiveness;

(5) To cooperate with other public and private agencies in activities directed at preventing crime and mental illness and providing alternatives to institutionalization; and

(6) To protect the health and rights of all persons involved in the department's programs and activities.

History: Cr. Register, July, 1992, No. 439, eff. 8-1-92; emerg. am. (intro.) eff. 10-1-94; am. (intro.), Register, April, 1995, No. 472, eff. 5-1-95.

HSS 98.02 Applicability. This chapter applies to the department and to all persons under its custody and supervision who were committed to the department after being found:

(1) Not guilty by reason of mental disease or mental defect of a crime and for whom the commitment order specifies conditional release or who were conditionally transferred or discharged by the department to field supervision; or

(2) To be sexually violent and for whom the commitment order specifies supervised release or who were found by the court to be appropriate for supervised release.

History: Cr. Register, July, 1992, No. 439, eff. 8-1-92; emerg. r. and recr. eff. 10-1-94; r. and recr., Register, April, 1995, No. 472, eff. 5-1-95.

HSS 98.03 Definitions. In this chapter:

(1) "Absconding" means the failure of a client to make himself or herself available as directed by the agent.

(2) "Administrator" means the administrator of the department's division of care and treatment facilities or designee.

(3) "Agent" means the employe of the division or a person under contract to the division who may be assigned the responsibilities of an agent under this chapter.

(4) "Client" means a person who is committed to the custody of the department for treatment purposes and is under the department's field supervision.

(5) "Collateral" means a family member, friend, employer, teacher or any person who has contact with or information about a client.

(6) "Commitment term" or "term" means that period of time during which the client is under commitment to the department.

(7) "Conditionally transferred or released" means released from an institution to field supervision, in accordance with s. 51.37(9), Stats.

(8) "Conditions" means specific regulations imposed on the client by the court or the department.

(9) "Contacts" means communications between an agent and a client or collateral.

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

(11) "Department of corrections cashier" means the cashier whose services are provided to the department under contract for the purposes set out in s. HSS 98.07.

(12) "Discharge" means the successful completion of the term of supervision by a client.

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(13) "Division" means the department's division of care and treatment facilities or an organization under contract to the department to carry out responsibilities of the division under this chapter.

(14) "Field staff" or "staff" means the professional and paraprofessional workers of the department or under contract to the department assigned the responsibility for the control and supervision of clients and provision of program services to clients.

(15) "Field supervision" or "supervision" means the control and supervision of clients exercised by field staff.

(16) "Intoxicating substance" means anything which if taken into the body may alter or impair normal mental or physical functions, including lysergic acid diethylamide, cocaine, marijuana, alcohol or any controlled substance as defined in ch. 161, Stats.

(17) "Physical custody" means actual custody of the person in the absence of a court order granting custody to the physical custodian.

(18) "Referral" means the introduction of a client to an agency or service to obtain necessary or desired assistance.

(19) "Regional chief" means that employe of the department or person under contract to the department responsible for the administration of the program of field supervision under this chapter in a particular area of the state, or designee.

(20) "Reporting" means the required contact between the agent and client determined by the rules or conditions of supervision.

(21) "Revocation" means the removal of a client from supervision in accordance with s. 971.17 (3) (e) or 980.06 (2) (d), Stats.

(22) "Rules" means those written departmental regulations applicable to a specific client under supervision.

(23) "Secretary" means the secretary of the department.

(23g) "Sexually violent person" has the meaning prescribed in s. 980.01 (7), Stats.

(23m) "Supervised release" means the status of a person found by a court or a jury under s. 980.05 (5), Stats., to be a sexually violent person and ordered by the court under s. 980.06, Stats., to be committed to the department for control, care and treatment but with the control, care and treatment provided in the community rather than in a secure mental health unit or facility.

(24) "Supervisor" means an employe of the department or a person under contract to the department responsible for the supervision of agents.

(25) "Transfer" means the change of a client assignment to a new agent in accordance with this chapter.

(26) "Waiver" means the written relinquishment of known rights by a client.

(27) "Working day" means any day, Monday through Friday, except a legal holiday.

History: Cr. Register, July, 1992, No. 439, eff. 8-1-92; emerg. am. (21) eff. 10-1-94; emerg. cr. (23g); (23m) eff. 10-1-94; am. (21), cr. (23g), (23m), Register, April, 1995, No. 472, eff. 5-1-95.

Subchapter II — Client under Supervision

HSS 98.04 Field supervision. (1) **GENERAL.** Supervision is a mechanism of control and an attempt to guide clients into socially appropriate ways of living. Field staff are to provide individualized supervision of clients in a manner consistent with the goals and objectives of this chapter. Specifically, field staff are to attempt to help clients be successfully reassimilated into the community, help clients adjust to and cope with community living, reduce crime, and protect the public.

(2) **AGENT RESPONSIBILITIES.** An agent shall abide by this chapter. An agent's responsibilities upon receiving a client for control and supervision shall include:

(a) Obtaining information necessary for appropriate supervision and control of the client;

(b) Evaluating the client's needs and security risk and classifying the client's supervision as intensive, maximum, medium or minimum in accordance with sub. (4);

(c) Determining the short-term and long-term goals and objectives of the client's overall supervision consistent with the court order;

(d) Establishing written rules of supervision that supplement existing court-imposed conditions, and providing the client with a copy of them;

(e) Informing the client of the possible consequences of not abiding by the rules and conditions of supervision;

(f) Explaining the conditions and rules of supervision and the reporting requirements immediately upon the client's reception to field supervision in a manner the client can understand;

(g) Informing the client of the client complaint process under s. HSS 98.10;

(h) As necessary, providing individualized counseling designed to foster growth and development of the client;

(i) Informing the client of local law enforcement registration requirements that apply to the client;

(j) Monitoring the client's compliance with the conditions and rules of supervision to ensure that the client is appropriately controlled and the public is protected;

(k) Periodically reassessing the client's needs and risks, and reevaluating the client's supervision in light of meeting those needs;

(l) Making appropriate referrals to other agencies for client services;

(m) Maintaining complete and accurate case records for each client under supervision in accordance with s. HSS 98.27;

(n) Monitoring the client's progress where services are provided by another agency and evaluating the need for continuation of the services;

(o) Recommending transfer, discharge, revocation and any other appropriate actions under this chapter or otherwise, for the necessary care and control of the client and the protection of the public consistent with the purposes, goals and objectives under this chapter;

(p) Supervising persons committed under ss. 971.14, 971.17 and 980.06, Stats., who are conditionally released by the court or conditionally transferred by the department or who are on supervised release, in accordance with the agreement between the department and the department of corrections;

(q) Conducting periodic institution contacts with institutionalized clients when necessary;

(r) Reporting child abuse cases under s. 48.981, Stats., to the appropriate authority;

(s) Reporting to a supervisor as directed on the status of all clients under supervision;

(t) Maintaining an effective and cooperative working relationship with public and private client service agencies;

(u) Reporting all violations of the criminal law by clients to a supervisor or appropriate law enforcement authority; and

(v) Assisting in the development of release plans in accordance with s. HSS 98.05.

(3) RULES AND CONDITIONS OF SUPERVISION. When supervision begins, an agent shall meet with a client to review or develop written rules and specific conditions of the client's supervision, or both. These rules shall require that the client:

(a) Avoid all conduct which is in violation of state statutes or municipal or county ordinances or which is not in the best interests of the public or the client's rehabilitation;

(b) Report all arrests and police contacts to an agent within 72 hours;

(c) Make every effort to accept the opportunities and counseling offered by supervision;

(d) Inform the agent of his or her whereabouts and activities as directed;

(e) Submit a written monthly report to the agent and any other relevant information as may be required;

(f) Secure advance approval from an agent for a change of residence or employment, except that in the event of a housing or employment emergency notify the agent of the change within 72 hours;

(g) Obtain advance permission from an agent to purchase, trade, sell or operate a motor vehicle;

(h) Secure advance approval from an agent to borrow money or purchase on credit;

(i) Obtain advance permission from an agent to purchase, possess, own or carry a firearm or other weapon. An agent may not grant a client permission to possess a firearm if the client is prohibited from possessing a firearm under s. 941.29, Stats., or federal law;

(j) Make himself or herself available for searches or tests ordered by the agent including but not limited to urinalysis, breathalyzer, and the taking of blood samples or search of residence or any other property under his or her control;

(k) May not live, work, travel or be trained or educated in another state, because persons committed to the department under s. 971.17 or 980.06, Stats., are not covered by the interstate compact under s. 304.13, Stats., or by s. 304.135, Stats.; and

(l) A client committed under s. 971.17 or 980.06, Stats., may have his or her conditional or supervised release revoked only by the releasing court.

(4) **LEVELS OF SUPERVISION.** Monitoring of a client by an agent shall be done through one of 3 levels of supervision, as follows, unless modified by the administrator of the department of corrections, division of probation and parole:

(a) *Maximum level of supervision.* Maximum supervision shall require a minimum of one face to face contact with the client by an agent every 14 days. A home visit shall be made at least once every 30 days unless this requirement is waived by a supervisor in writing, and collateral contacts shall be made by the agent as deemed appropriate. The client shall submit a monthly report to the agent personally which includes verification of the client's residence and employment.

(b) *Medium level of supervision.* Medium supervision shall require a minimum of at least one face to face contact with the client by an agent every 30 days. A home visit shall be made at least once every 60 days unless this requirement is waived by a supervisor, and collateral contacts by the agent shall be made as deemed appropriate. The client shall submit a monthly report to the agent personally which includes verification of the client's residence and employment as required.

(c) *Minimum level of supervision.* Minimum supervision shall require a minimum of one face to face contact with the client by an agent every 90 days. Home visits by the agent shall be made as deemed appropriate. The client shall submit a periodic report, and shall verify his or her residence and employment once every month. The monthly report may be mailed rather than submitted in person if a supervisor approves.

(5) **REASSESSMENT.** Any time after the client's most recent reassessment, the agent shall determine whether the client shall be placed in a different level of supervision consistent with the needs and risks of the client. The determination shall be based only upon the agent's assessment of the appropriate supervision necessary to provide for the proper care and control of the client and the protection of the public subject to the written approval of a supervisor.

(6) **ACTION IN THE EVENT OF NONCOMPLIANCE.** If a client fails to comply with the written conditions or rules of his or her supervision, that Register, April, 1995, No. 472

failure may result in modification of conditions or rules of supervision or revocation.

History: Cr. Register, July, 1992, No. 439, eff. 8-1-92; emerg. am. (2) (p) eff. 10-1-94; am. (2) (p), (3) (j), renum. (3) (k) to (3) (l) and am., cr. (3) (k), Register, April, 1995, No. 472, eff. 5-1-95.

HSS 98.05 Prerelease planning. The prerelease plan shall be prepared by the client and institution staff or by the department and the county department under s. 51.42, Stats., as appropriate. After the client and institution or the department and county department under s. 51.42, Stats., have prepared a proposed plan, the agent shall investigate the plan, comment as to its appropriateness and suggest modifications if necessary. The results of the investigation shall be reported to the institution or department promptly, so the results may be included in the institution's report to the committing court.

History: Cr. Register, July, 1992, No. 439, eff. 8-1-92.

HSS 98.06 Notice to law enforcement of client release to supervision. Before releasing a client to field supervision, the department shall notify the municipal police department and the county sheriff in the area where the individual will reside, unless the municipal police department or the county sheriff's office has submitted to the department a written statement waiving the right to be notified.

History: Cr. Register, July, 1992, No. 439, eff. 8-1-92.

HSS 98.07 Funds, property and loans. (1) In this section, "financial resources" means any special benefits the client is eligible for, e.g., benefits from the social security or veteran's administration or railroad retirement fund, any income earned by the client, any money in a savings or checking account controlled by the client, any unearned income given to

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violation of the client's rules or conditions of supervision has occurred. The client shall be issued a receipt for the item seized and the supervisor shall be notified in writing of the circumstances of the seizure. Property which is not contraband shall be returned to the owner, if feasible, and a receipt shall be obtained, or disposed of in accordance with this section and a report of the disposal kept.

(3) The supervisor shall dispose of seized contraband after all proceedings in which the contraband may be required have been completed. Disposition shall be as follows:

(a) All confiscated currency, whose true owner cannot be determined, shall be placed in the general fund.

(b) Checks and other negotiable instruments shall be returned to the maker. If it is not possible to determine an address for the maker of the check, the check shall be destroyed.

(c) U.S. bonds and other securities shall be held in the department of corrections cashier's office, and upon proof of ownership, the item shall be returned to the owner.

(d) Property shall be returned to the owner if the owner is known, or sent at the client's expense to another, in accordance with the nature of the property, unless the owner transferred the property in an unauthorized manner. Otherwise, items of inherent value shall be sold through the department of corrections purchasing officer and money received shall be placed in the state's general fund. Items of inconsequential value, that is, having a value of \$5.00 or less, shall be destroyed.

(e) Intoxicating substances, such as alcohol, narcotics or dangerous drugs, shall be disposed of by the client's agent after obtaining supervisory approval or given to a law enforcement agency for use as evidence or for disposal.

(f) Firearms not required for use as evidence shall be disposed of in accordance with s. 968.20, Stats.

(g) Any item originally assigned as property of the state shall be returned to service.

(4) If a client believes that property should be returned or sent out at his or her direction and a decision to dispose of it in a different manner has been made, the client may file a complaint under s. HSS 98.11. The property shall not be disposed of until the complaint is resolved.

History: Cr. Register, July, 1992, No. 439, eff. 8-1-92.

HSS 98.15 Discharge. The department shall inform a client of the individualized objectives and conditions of the client's supervision so that the client may be aware of the effort and achievement required of him or her, and to encourage discharge of the client at the earliest possible time consistent with the client's progress in satisfying the objectives and conditions and the protection of the public.

History: Cr. Register, July, 1992, No. 439, eff. 8-1-92.

HSS 98.16 Revocation. (1) A client committed under s. 971.17 or 980.06, Stats., may have his or her conditional or supervised release revoked only by the releasing court.

(2) A client released on conditional transfer under s. 51.37(9), Stats., may have his or her conditional transfer revoked only:

(a) On recommendation of the supervising agent who determines that the client presents a risk of physical harm to self or others or has failed to comply with the conditions of conditional transfer;

(b) Following return of the client to the institution for evaluation and detention; and

(c) Following an administrative hearing conducted by the department's office of administrative hearings to ascertain whether there is a preponderance of evidence to substantiate the necessity for rescinding the conditional transfer and ensuring that the action of the department is consistent with the client's treatment needs and the protection of the community.

History: Cr. Register, July, 1992, No. 439, eff. 8-1-92; am. (1), Register, April, 1995, No. 472, eff. 5-1-95.

Subchapter III — Use of Force and Related Matters

HSS 98.17 Definitions. In this subchapter:

(1) "Bodily injury" means physical pain or injury, illness, or any impairment of physical condition.

(2) "Deadly force" means force which the user reasonably believes will create a substantial risk of causing death or great bodily injury to another.

(3) "Force" means the exercise of strength or power to overcome resistance or to compel another to act or to refrain from acting in a particular way. It includes the use of mechanical and physical power or strength.

(4) "Great bodily injury" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ.

(5) "Non-deadly force" means force which the user reasonably believes will not create a substantial risk of causing death or great bodily injury to another.

(6) "Reasonably believes" means that the actor believes that a certain fact situation exists and such belief under the circumstances is reasonable even though it may be erroneous.

History: Cr. Register, July, 1992, No. 439, eff. 8-1-92.

HSS 98.18 Use of force. (1) Whenever feasible, field staff shall rely on law enforcement authorities to exercise force against clients when force is necessary. When that assistance is not practical, field staff may use force subject to this section. Only so much force may be used as is reasonably necessary to achieve the objective for which it is used.

(2) Corporal punishment of clients is forbidden. This prohibition allows no exceptions and applies to public and private programs.