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DQA-DMHSAS Memo 09-008

To: Area Administrators/Assistant Administrators	01
Bureau Directors	01
County Departments of Human Services Directors	01
Tribal Chairpersons/Human Service Coordinators	01
Community Mental Health Providers	01

From: John Easterday, Administrator
Division of Mental Health and Substance Abuse Services

Otis Woods, Administrator
Division of Quality Assurance

Via: Mark Hale, Division of Quality Assurance
Behavioral Health Certification Section

Dan Zimmerman, Division of Mental Health and Substance Abuse Services
Bureau of Prevention Treatment and Recovery

DHS 35, the New Outpatient Mental Health Clinic Rule

The new standards for outpatient mental health clinics, ch. DHS 35, was adopted by the department and sent to the Legislative Reference Bureau (LRB) on January 29, 2009. The rule will likely be published sometime in May 2009. The anticipated effective date of the rule is June 1, 2009. A copy of the rule that was adopted by the department and sent to LRB may be found at <https://apps.dhfs.state.wi.us/admrules/public/Rmo?nRmoId=5251>; scroll to the bottom of the page and click on "Final Rulemaking Order Filed." The LRB will make technical revisions to the rule; for example, all references to HFS will be changed to DHS.

After the rule is published, a copy of the official published version of the rule may be found at <http://www.legis.state.wi.us/rsb/code/codtoc.html>. Scroll down to DHS (which may not be in alphabetical order), click on "Community Services" under DHS, and then click on "PDF" for DHS 35. The Adobe Acrobat version of the rule is much easier to read and use compared to the "NXT" version.

To help prepare providers for the changes in the regulations, Dan Zimmerman from the Division of Mental Health and Substance Abuse Services will hold a presentation/question and answer session in each of the regions to review the rule, the intent behind the rule, and to explain issues related to a clinic's compliance with the rules. It is important that you print and bring a copy of the version of the rule that was sent to the LRB to the training session. These training sessions will be held as follows:

Date	Time	Location
Monday, March 23	10 – 12 and 1 – 3	DHS Western Regional Office 610 Gibson Street, Room 123 Eau Claire, WI 54701-3687 (will seat approximately 40 - 45 persons)
Tuesday, March 24	10 – 12 and 1 – 3	North Central Health Care Facilities – Auditorium 1100 Lake View Drive Wausau, WI 54403 (will seat approximately 100 persons)
Wednesday, March 25	10 – 12 and 1 – 3	Fox Valley Technical College 1825 N. Bluemound Drive, Room E130 Appleton, WI 54912-2277 (will seat approximately 100 persons)
Monday, March 30	10 – 12 and 1 – 3	Zoofari Conference Center (at the Milwaukee Zoo) 10001 W. Bluemound Road Milwaukee, WI 53226 (will seat approximately 300 persons)
Monday, April 6	10 – 12 and 1 – 3	Department of Health Services 1 W. Wilson Street, Room 751 Madison, WI 53703 (will seat approximately 155 persons)

Based on prior conversations Mr. Zimmerman has had with providers about the rule and its implementation, it is likely that it will take all four hours to discuss the major issues, ideas for implementation, and address questions. However, it is assumed that some providers will only be able to come for the morning or the afternoon. To the extent possible, Mr. Zimmerman will provide a quick recap of major issues during the afternoon session for persons who were unable to attend the morning session. Please note that the session in Madison will be available via webcast. The webcast can be accessed at <http://media1.wi.gov/dhfs/catalog/>. Scroll down to “DHS 35, the new outpatient mental health clinic rule (AM SESSION)” and later “DHS 35, the new outpatient mental health clinic rule (PM SESSION)” and click on the link. Information regarding computer hardware/system requirements, Internet connection, streaming players, etc. that are necessary for viewing a webcast can be found at <http://dhs.wisconsin.gov/webcast/help.htm>.

The webcast will be archived and available at <http://media1.wi.gov/dhfs/catalog/>. So, those persons who are unable to attend one of the training sessions or the webcast will have access to the training information.

The Department understands that providers will need some time to fully comply with some aspects of the new rule. For example, there are requirements for the development and implementation of policies and procedures related to clinical supervision and clinical collaboration (DHS 35.14), emergency services (DHS 35.165), discharge policy (DHS 35.18 (1) (k)), treatment approaches and services (DHS 35.21), and retention and disposal of treatment records (HFS 35.23 (4)). It is understood that development of policies that meet the needs of the clinic, the clinic’s consumers, and the requirements in the rule, as well as complying with other aspects of the rule, will take time. The Department will not stringently enforce the requirements during the first year of its existence,

except for consumer rights and situations in which consumers experience an adverse outcome (e.g., death investigations).

Please note that all waivers and variances granted under DHS 61.91 to 61.98 will be null and void when DHS 35 becomes effective. The Department incorporated the concepts behind the statewide variance into the language of DHS 35 (e.g., clinical collaboration) and created areas of greater flexibility within the new rule (e.g., branch offices). It is likely that the need for a waiver or variance under DHS 61.91 to 61.98 will no longer exist under DHS 35.

The Department intends to collaborate with stakeholder representatives in the development of model policies and procedures, model forms, and specific training curricula (e.g., trauma informed treatment services). The Department will work primarily with the Wisconsin Coalition of Behavioral Health Providers, Inc. and the Wisconsin Association of Family & Children's Agencies (WAFCA) as the primary stakeholder representatives. These organizations/stakeholders have expressed an intention to invite other stakeholder representatives to join workgroups that will develop the work products. Please note that Department staff do not have the capacity to provide technical assistance to each of the 837 clinics (as of 01/29/2009) and to assist each clinic in the development of their policies/procedures, forms, and training curricula.

If you have questions about this memo, please contact Dan Zimmerman, Bureau of Prevention Treatment and Recovery at (608) 266-7072, or your Behavior Health Certification Section surveyor. [Contact phone numbers](#) are attached.

cc: Joyce Allen, Director, Bureau of Prevention Treatment and Recovery
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