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FORM 2

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CLEARINGHOUSE REPORT TO AGENCY

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

CLEARINGHOUSE RULE 00-148

AN ORDER to create chapter 36, relating to standards for community-based psychosocial services for persons with mental illness and children with emotional disturbance.

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

10-23-00 RECEIVED BY LEGISLATIVE COUNCIL.

11-17-00 REPORT SENT TO AGENCY.

RNS:LR:jal;ksm

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

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

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

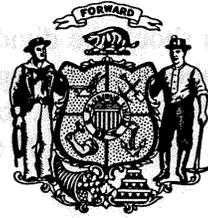
Comment Attached YES NO

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CLEARINGHOUSE RULE 00-148

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. In two instances, the terms defined in s. HFS 36.03 are out of alphabetical order. Subsections (5) and (6) should be reversed, as should subs. (27) and (28).
- b. The second sentence of s. HFS 36.03 (5) is not definitional. It could be included in a note.
- c. In s. HFS 36.04 (intro.), the phrase "individual receiving services from the CCS" should be replaced with the defined term "consumer."
- d. In s. HFS 36.07 (3) (b) 2. (intro.), "all of the following" should be inserted before the colon. A similar change is needed in subd. 7. (intro.).
- e. In s. HFS 36.07 (3) (b) 18., the reference to par. (b) 3. should be to subd. 3. However, it may be clearer merely to repeat the language of subd. 3 in subd. 18., rather than cross-reference it.
- f. Section HFS 36.07 (4) (c) (intro.) is not correctly drafted as introductory material. It should be redrafted as subd. 1. and the subsequent subdivisions should be renumbered as subs. 2. and 3.

g. In s. HFS 36.07 (4) (c) 2., the use of “either” with “and” is confusing. Should “either” be deleted?

h. In s. HFS 36.07 (7), par. (a) should be divided into two separate paragraphs and the remaining paragraphs should be renumbered accordingly. The first paragraph should describe what the training plan entails [s. HFS 86.07 (7) (a) 1. to 3.]; the second paragraph should set out what staff should know and understand. [s. HFS 86.07 (7) (a) 4. to 8.]

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

a. The analysis cites s. 51.421 (3) (a), Stats. This is a reference to community support programs. However, under s. 49.45 (30e) (a) 3., Stats., comprehensive community services for persons with mental illness, are “less than the services provided by a community support program.” Accordingly, this statutory reference should be deleted.

b. In s. HFS 36.02 (2), is a “county consortium” intended to be the same as a multicounty department of human services under s. 46.23, Stats.? If so, that statute should be referenced.

c. In s. HFS 36.03 (9), the authority in ch. 155, Stats., should be cited as authority for a power of attorney for health care (referred to as an “advanced directive” in the rule).

d. In s. HFS 36.03 (14) (c), the reference should be to federal regulations rather than rules. Also see sub. (17).

e. Section HFS 36.05 (14) (b) refers to “(a)cts that result in conviction for a criminal offense related to services provided under s. 632.89, Stats.” However, that statute relates to mandatory insurance coverage, not to criminal offenses. It is not clear what is intended.

f. The department should review s. HFS 36.07 (1) for consistency with s. 111.321, Stats. The rule does not include all of the bases for employment nondiscrimination that are included in the statute.

g. Section HFS 36.07 (3) (c) 5. is awkwardly drafted. It is also not clear how ch. N 4, which relates to nurse-midwives, affects licensed practical nurses.

h. In s. HFS 36.11, where the prescriptive authority for advanced practice nurses is referenced, a cross-reference to N 6, Wis. Adm. Code, should be included.

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

a. In s. HFS 36.03 (1), persons 17 years of age are defined as “adults” for certain purposes. Is this permissible under state law?

b. In s. HFS 36.03 (15), the phrase “mental health problems” should be replaced by “mental illness.”

c. The definition of “mental illness” in s. HFS 36.03 (16) is different from the definition in s. 51.01 (13) (a), Stats. Similarly, the definition of serious mental illness in s. HFS 36.03 (25) is different than the definition of chronic mental illness in s. 51.01 (3) (g), Stats. It is not clear why these two definitions in the rule are different from the statutory definitions.

d. The definition of “psychotropic medication” in s. HFS 36.03 (23) is different from four statutory definitions--ss. 48.599 (2), 50.035 (5) (a) 2., 50.04 (2t) (a) 2. and 51.64 (1) (b), Stats. It is not clear why the statutory definitions are not followed.

e. In s. HFS 36.05 (1) (a) 6., this subdivision should be rephrased as follows: “A description of how services are coordinated and delivered when a program provides CCS in conjunction with substance abuse services, protective services, or any other service, including school services.”

f. Section HFS 36.05 (4) (c) states that the department may limit the initial certification of the comprehensive community services (CCS) to one year. What are the outside limits for the time period for initial certification? Section HFS 36.05 (7) specifies that renewals can be for up to three years. Does the same time limit hold true for initial certifications?

g. Section HFS 36.05 (7) (a) implies that certification periods may be for varying lengths of time, with three years as the outside limit. Is it workable to have variation in the length of certification periods?

h. In s. HFS 36.05 (13) (c), the phrase “and appeals” should be inserted after the word “hearings.”

i. In s. HFS 36.07 (1) (b), should “a written” replace “written a”?

j. In s. HFS 36.07 (3) (b) 16., the word “demonstrated” should be replaced by “who demonstrates.”

k. In s. HFS 36.07 (7) (f) (intro.), is the reference to the maintenance of written administrative records intended to include electronic records?

l. In s. HFS 36.10 (1) (c) 21., “agency’s” should be “agencies.”

m. In s. HFS 36.10 (2) (a) 2., “participate” should replace “participates.”

n. In s. HFS 36.11 (5) (a) (intro.) and elsewhere in the rule, “physician assistant” should replace “physician’s assistant.”

o. Section HFS 36.11 (5) (e) provides that CCS staff other than psychiatrists, physicians, physician assistants, advanced practice nurses, registered nurses or licensed practical nurses must be responsible for observing the consumer taking medication. Under what circumstances is this permissible, as opposed to having the previously listed health care professionals responsible for medication administration?

p. In s. HFS 36.11 (5) (f) 2., Note, the words "compliance monitoring" should be inserted after the first word "medication."

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

To create chapter HFS 36, relating to standards for Community-Based Psychosocial Services for persons with mental illness and children with emotional disturbance.

Analysis Prepared by the Department of Health and Family Services

Section 49.45 (30e) (b), Stats., as created by 1997 Wisconsin Act 27, directs the Department to promulgate rules for community-based psychosocial service for the purpose of allowing a qualified service provider to be reimbursed through the Wisconsin Medical Assistance Program for psychosocial services provided to Medical Assistance recipients. These rules establish standards for determining program eligibility, identify the services that may be provided, and specify requirements for program certification. Section 49.46 (2) (b) 6. Lm., Stats., as created by 1997 Wisconsin Act 27, added psychosocial services provided by staff of a community-based psychosocial service to the list of covered benefits under the Wisconsin Medical Assistance Program.

Section 51.42 (7) (b), Stats., authorizes the Department to promulgate administrative rules necessary to administer mental health programs. Currently, no rules establish individuals' eligibility for psychosocial service benefits, nor specify the type, quantity and quality of psychosocial services. The specification of standards, structures and requirements for the Department to certify mental health programs is a responsibility of the Department. Therefore, the Department proposes these rules to permit Medical Assistance funding for psychosocial services as specified in s. 49.45 (30e) (b), Stats.

The Department's authority to create these rules is found in ss. 51.42 (7) (b), 51.421 (3) (a) and 227.11 (2) (a), Stats. The rules interpret ss. 49.45 (30e) (b), 51.04, and 51.42 (7) (b), Stats.

SECTION 1. Chapter HFS 36 is created to read:

HFS 36

**COMPREHENSIVE COMMUNITY SERVICES FOR
PERSONS WITH MENTAL ILLNESS**

- HFS 36.01 Authority and purpose.
- HFS 36.02 Applicability.
- HFS 36.03 Definitions.
- HFS 36.04 Objectives of CCS.
- HFS 36.05 Certification requirements.
- HFS 36.06 Waivers.
- HFS 36.07 Personnel.
- HFS 36.08 Criteria for admission.
- HFS 36.09 Admission procedures.
- HFS 36.10 Comprehensive assessment and service planning.
- HFS 36.11 Required service components.
- HFS 36.12 Consumer service records.
- HFS 36.13 Consumer rights.

A. This is not CSP.

HFS 36.14 Discharge.

49.45 (30e) (b)?

HFS 36.01 Authority and purpose. This chapter is promulgated under the authority of ss. 51.42 (7) (b) and (c), 51.421 (3) (a) and 227.11 (2) (a), Stats., to establish standards for the certification of programs providing community-based psychosocial services for persons with mental disorders. These programs will be doing business as comprehensive community services.

HFS 36.02 Applicability. (1) This chapter applies to the department, to county departments or agencies that contract with a county department to provide comprehensive community services under this chapter and to certified service providers. This chapter does not apply to other mental health or human service programs.

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(2) The department may certify more than one organization or agency in a county or a county consortium operating a joint mental health system to provide comprehensive community services. Each county or consortium shall have only one comprehensive community mental health services plan that applies to all certified comprehensive community services providers in the county or county consortium.

(3) A service provider may apply for certification to provide comprehensive community services for adults, children or both, provided the application is consistent with the county or county consortium's comprehensive community mental health services plan.

(4) (a) 1. Except as provided in subd. 2., to apply for certification to provide comprehensive community services for adults with mental illness, the county or county consortium in the county in which the CCS intends to operate shall have a community support program certified under s. 51.421, Stats.

2. Counties having less than 10,000 population may request a waiver from the department to operate a comprehensive community services without first having a community support program certified under s. 51.421, Stats.

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(b) To apply for certification to provide comprehensive community services for children, the county or county consortium shall meet the statutory requirements of s. 46.56, Stats.

HFS 36.03 Definitions. In this chapter:

(1) "Adult" means a person 18 years of age or older and includes a person 17 years of age who, by assessment and diagnosis of a qualified professional, functions as an adult for mental health treatment purposes.

2. (b)

(2) "Assessment" means the process used to evaluate a consumer's presenting problems with an accompanying description of the reported or observed conditions that led to the classification or diagnosis of the consumer's mental illness.

(3) "Certification" means the approval by the department under this chapter of comprehensive community services.

(4) Except as provided in sub. (1), "child" means a person under the age of 18 years.

(5) "Comprehensive community services" or "CCS" means a community-based psychosocial service that provides or arranges for a flexible array of individualized services and natural supports developed to assure that a person with a mental disorder is able to live and function safely and effectively in the community. Comprehensive community services are intended to assist consumers who require more support than would be available through outpatient mental health treatment.

(6) "Comprehensive community mental health services plan" means a plan developed under s. HFS 36.05 (1) by representatives from the county department, mental health service providers, recipients of mental health services and their families, advocates and other community stakeholders and consumer groups.

(7) "Consumer" means an individual or, in the case of a child, may include a family who has been accepted for CCS by the administering agency designated to perform the screening function in the county or county consortium's comprehensive community mental health service.

(8) "County department" means a county department of community programs established under s. 51.42, Stats.

(9) "Crisis plan" means a plan prepared under s. HFS 34.23 (7) for an individual at high risk of experiencing a mental health crisis that provides staff responding to a crisis to have the information and resources needed to meet the person's individual service needs. The crisis plan development may include consideration of developing an advanced directive for mental health crisis services response.

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

(11) "Family," for the purpose of certifying a CCS to provide services, means the individual's parent, guardian or legal custodian, siblings and the individual's primary caregiver if the primary caregiver is other than the individual's parents, or the person to whom the individual most likely looks for support.

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

(13) "Legal custodian" means a person to whom legal custody of a child has been granted by a court in an action under ch. 48 or 767, Stats.

(14) "Major deficiency" means a determination by a representative of the department that an aspect of the operation of the program or the conduct of the program's personnel deviates from the requirements of this chapter in any of the following ways:

- (a) The delivery of effective treatment to clients is substantially interfered with.
- (b) A risk of harm to clients is created.
- (c) The rights of clients created by this chapter or through other state or federal statutes or rules are violated.

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(d) The nature, amount or expense of services delivered or offered, or the qualifications of personnel offering services to clients is misrepresented.

(e) The effective monitoring of the program by the department is impeded.

(15) "Mental health service providers" means individuals or agencies certified to provide mental health services to persons diagnosed with mental health problems. *mental health service providers (16)*

(16) "Mental illness" means a mental illness diagnosis listed in the American psychiatric association diagnostic and statistical manual of mental disorders. *4.51.01 (13)(c)?*

(17) "Minor deficiency" means a determination by a representative of the department that while an aspect of the operation of a program or the conduct of a program's personnel deviates from the requirements of this chapter, the deviation does not do any of the following:

(a) Substantially interfere with the delivery of effective treatment to clients.

(b) Create a risk of harm to clients.

(c) Violate the rights of clients created by this chapter or through other state or federal statutes or rules.

(d) Misrepresent the nature, amount or expense of services delivered or offered or the qualifications of the personnel offering those services.

(e) Impede effective monitoring of the program by the department.

(18) "Natural supports" means those techniques and aids performed by family, friends and others without the participation of professional caregivers that enable the individual to have a normal and productive life.

(19) "Outreach" means procedures for identifying and contacting persons with mental illness who are in need of case management services, including referral agreements with psychiatric inpatient units, outpatient treatment clinics, consumer operated programs and other community treatment and service providers.

(20) "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 who 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 persons whose parental rights have been terminated.

(21) "Practitioner" means any of the CCS staff members specified under s. HFS 36.07 (3) (b) and (4).

(22) "Primary care giver" means the person or persons who provide the majority of a person's day to day support, shelter, discipline, sustenance and nurturing.

(23) "Psychotropic medications" means medications used primarily to treat biologically

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based psychological disorders.

(24) "Recovery" means a personal, unique process of changing one's attitudes, values, feelings, goals, skills or roles to live a satisfying, hopeful and contributing life, even with limitations caused by illness.

(25) "Serious mental illness" means mental illness that substantially diminishes a person's ability to perform the primary aspects of daily living and cope with life's ordinary demands to the extent that the person is unable to function independently without long term care and support.

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(26) "Services" means the formal treatment provided by professionals through the CCS. Examples of services include therapy, medication monitoring, and symptom management.

(27) "Service facilitator" means a staff person meeting the qualifications identified in s. HFS 36.08 (3) (b) 1. to 13. A staff person meeting the qualifications specified in s. HFS 36.08 (3) (b) 14. to 19. may also qualify as a service facilitator if that person has 1500 hours of supervised clinical experience in mental health.

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(28) "Service facilitation" means the activities of the service facilitator which ensure that the consumer will receive services in an appropriate and timely manner including service plan, participation of the consumer's family, and ongoing monitoring of the treatment plan.

(29) "Service provider" means a county department or a contracted agency that provides one or more services under this chapter.

(30) "Symptom management" means the process used by the CCS to observe the ongoing reactions of the consumer in an attempt to identify and minimize or eliminate the symptoms of serious and persistent mental illness.

(31) "Treatment and recovery team" means the consumer, family, primary provider, formal and informal support persons who, with the consumer's permission, will actively participate in the assessment, treatment planning, services selection, provision of services, treatment, support and discharge planning of the individual receiving services from the CCS.

consumer 2

HFS 36.04 Objectives of CCS. The CCS, working with the consumer, shall promote recovery and improvement of the quality of life of the individual receiving services from the CCS. The long-term goal of the CCS is to develop natural strategies for the consumer to manage and overcome the symptoms of mental illness, assist the consumer in having a meaningful and productive life and reduce the consumer's dependence on formal services. To meet its long-term goals, each CCS shall do all of the following:

(1) Identify and assess the consumer's immediate need for mental health services to the extent possible and appropriate given the circumstances in which the contact with or referral to the program was made.

(2) Identify needed services for the consumer and how to best provide or arrange for those services based on the consumer's specific strengths, needs and preferences.

(3) Link the consumer receiving comprehensive mental health services with the natural

support systems and community services, including mental health services for ongoing treatment and support.

(4) Provide follow-up contacts, as appropriate and necessary, to determine whether needed services or linkages have been provided to the consumer or whether additional referrals are required.

(5) Review the consumer's progress and current status in meeting goals identified in the care coordination plan 6 months following the initiation of service.

(6) Develop a network of natural supports for each consumer.

(7) Provide services in a manner that recognizes and accommodates cultural and gender differences.

HFS 36.05 Certification requirements. (1) DEVELOPMENT AND REVIEW OF WRITTEN PLAN. (a) Each CCS shall prepare a written comprehensive community mental health services plan for providing coordinated mental health services within the county to all persons with serious mental illness. The plan shall include all of the following:

1. A description of how various levels of programming are used to provide services to children, adults and elderly in the county who have serious mental illness.

2. A description of the services the CCS offers, including the criteria and priorities the CCS applies in making decisions during the screening and assessment, and how consumers, families and other providers and agencies can obtain CCS services.

3. A description of the specific responsibilities, if any, that other key service providers in the county will have in providing comprehensive services, including work, housing and connection to schools and the criminal justice system.

4. Any formal or informal agreements with other providers and agencies to receive or provide backup coverage for CCS.

5. A process for including the CCS in planning to support persons who are being discharged from inpatient stay for psychiatric treatment or who will be living in the community under a ch. 51, Stats, commitment.

6. A description of how services are coordinated and delivered when a program provides CCS in conjunction with substance abuse services, protective services or any other care coordination service including schools.

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(b) Prior to applying for renewal of certification under sub. (2), a CCS shall review the continuing appropriateness of its comprehensive community services plan. The CCS shall adjust the plan based on the results of inspections under sub. (10) and consultation with and input received from staff, consumers, family members, other service providers and interested members of the public.

(2) APPLICATION. (a) A county department seeking to have its comprehensive community

services initially certified or re-certified under this chapter, or a private agency contracting with a county department to operate a CCS, shall submit a written application to the department.

(b) The application shall contain information and supporting documents that are required by the department, including previously approved waivers and their present status.

Note: For a copy of the application form, write to the Program Certification Unit, Division of Supportive Living, P.O. Box 7851, Madison, WI, 53707.

(3) CERTIFICATION PROCESS. (a) Upon receipt of an application for initial certification or renewal of certification, the department shall do all of the following:

1. Review the application.
2. Designate a representative to conduct an on-site survey of the CCS, including interviewing CCS staff.

(b) The department's designated representative shall do and retain documentation of having done all of the following:

1. Interview a representative sample of present consumers or individuals formerly served by the CCS who are willing to be interviewed. (5)

2. Review the results of any grievances filed against the CCS pursuant to s. HFS 94.27 during the preceding period of certification.

3. Review a randomly selected, representative sample of consumer service records.

4. Review CCS policies and operational records, including the coordinated community services plan developed under s. HFS 34.22 (1) (a) or amended under s. HFS 34.22 (1) (c), and interview CCS staff to a degree sufficient to ensure that staff have knowledge of the statutes, administrative rules and standards of practice that apply to the CCS and its participants.

(c) The department shall use the certification survey under par. (b) to determine whether the CCS complies with the standards specified in this chapter. The department shall base its certification decision on an assessment of the CCS using all of the following information:

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

2. Documentary evidence provided by the applicant.

3. Answers to questions concerning the understanding of CCS policies and procedures.

4. On-site observations by department surveyors.

5. Reports by consumers regarding the CCS's operations.

6. Information from grievances filed by persons served by the CCS's consumers.

(d) The applicant shall make available for review by the department's designated representative all documentation necessary to establish whether the CCS is in compliance with the standards in this chapter, including the written policies and procedures of the CCS, work schedules of staff, CCS appointment records, credentials of staff and service records.

(e) The designated representative of the department who reviews the documents under pars. (a) to (d) and who interviews participants under par. (b) 1. shall preserve the confidentiality of all participant information contained in service records reviewed during the certification process, in compliance with ch. HFS 92.

(4) ISSUANCE OF CERTIFICATION. (a) Within 60 days after receiving a completed application for initial certification or for renewal of certification, the department shall do one of the following:

1. Certify the CCS if the CCS meets all requirements for certification.
2. Provisionally certify the CCS under sub. (11) if the department finds six or fewer minor deficiencies in the application.
3. Deny certification if the department finds one or more major deficiencies, or more than 6 minor deficiencies.

(b) 1. If the department denies an application for certification, the department shall provide the applicant the reasons for the denial in writing and identify the unmet requirements for certification. A notice of denial shall state that the applicant has a right under sub. (13) to request a hearing on the decision and a right to submit a plan under subd. 2. to correct CCS deficiencies in order to begin or continue operation of the CCS.

2. a. Within 10 calendar days after receiving a notice of denial under subd. 1., an applicant may submit to the department a plan to correct CCS deficiencies.

b. The plan of correction shall indicate the date by which the applicant will have remedied the CCS deficiencies identified by the department. Within 60 days after the date stated in the plan of correction, the department shall determine whether the CCS has made the corrections. If the department determines that the corrections have been made, the department shall certify the CCS.

(c) The department may limit the initial certification of a CCS to one year.

(5) CONTENT OF CERTIFICATION. The department shall issue a certification only for the specific CCS named in the application. A CCS may not transfer or assign its certification to another entity. An applicant shall notify the department of all changes of administration, location, CCS name, services offered or any other change that may affect compliance with this section, no later than the effective date of the change.

(6) EFFECTIVE DATE OF CERTIFICATION. (a) The date of certification shall be the date that the department determines, through an on-site survey of the CCS, that an applicant complies with this chapter.

(b) The department may change the date of certification if the department has made an error in the certification process. A date of certification that is adjusted under this paragraph may not be earlier than the date the applicant submits the written application under sub. (2) to the department.

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(7) CERTIFICATION RENEWAL. (a) The department may renew a CCS's certification for up to 3 years provided the CCS has applied for renewal and the results of the certification survey the department completed under sub. (3) (b) are satisfactory. Certifications are subject to suspension or revocation provisions as specified in sub. (9).

(b) The department shall send written notice of the forthcoming expiration of certification and an application for renewal of certification to a certified CCS at least 30 days prior to expiration of the CCS's certification. If the department does not receive an application for renewal of certification before the expiration date, the CCS's certification shall terminate on the expiration date of the certification. A CCS whose certification has expired and desires certification shall reapply for certification.

(c) Upon receipt of an application for renewal of certification, the department shall conduct a survey as provided in sub.(3) (b) to determine the extent to which the CCS continues to comply with the requirements of this chapter.

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

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(9) ACTIONS AGAINST A CERTIFIED CCS. (a) The department may terminate, temporarily suspend or refuse to renew a CCS's certification after providing the CCS prior written notice of the proposed action. Each notice shall include the reason for the proposed action and notice of opportunity for a hearing under sub. (13), whenever the department finds that any of the following has occurred:

1. A CCS staff member has had sexual contact or intercourse, as defined in s. 940.225 (5) (b) or (c), Stats., with a consumer.

2. A CCS staff member of the CCS 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 or revoked, or has allowed his or her license or certificate to expire.

3. A CCS staff member has been convicted of a criminal offense related to the provision of or claiming reimbursement for services under 42 CFR 430 to 456, or under this state's or any other state's medical assistance program or any other third party payer. In this paragraph, "convicted" means that a federal, state or local court has entered a judgment of conviction, regardless of whether an appeal from that judgment is pending.

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4. A CCS staff member 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.

5. The CCS has submitted, or caused to be submitted, statements for purposes of obtaining certification under this chapter which the CCS knew or should have known to be false.

6. A license, certification or required local, state or federal approval of the CCS has been revoked or suspended or has expired.

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

8. A CCS staff member has signed a billing statement or other document that represents the CCS staff member as the provider of service when, in fact, the CCS staff member did not provide the service.

9. Consumer receipt of services for which a third party payer has been billed cannot be corroborated by documentary evidence in a CCS's service record for a consumer.

(b) A CCS shall have written policy and procedures that require immediate reporting of any conduct under par. (a) to the CCS director.

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

(b) In making inspections, the department shall minimize any disruption to the normal functioning of the CCS.

(c) If the department determines during an inspection that the CCS has one or more major deficiencies or that any of the conditions specified in sub. (9) (a) or (12) (a) exist, the department may suspend or terminate the CCS's certification.

(d) If the department terminates or suspends a CCS's certification, the department shall provide the CCS with a written notice of the reasons for the suspension or termination and inform the program of the CCS's right to a hearing on the suspension or termination as provided under sub. (13).

(11) PROVISIONAL CERTIFICATION PENDING IMPLEMENTATION OF A PLAN OF CORRECTION. (a) If the department determines that the CCS has minor deficiencies, the department shall issue a notice of deficiency to the CCS and offer the CCS provisional certification pending the CCS's correction of the identified deficiencies.

(b) If a CCS wishes to continue operation after the department's issuance of a notice of deficiency under an offer for provisional certification, the CCS shall, within 30 days of the receipt of the notice of deficiency, submit a plan of correction to the department. The plan of correction shall identify the specific steps the CCS will take to remedy the deficiencies and the timeline within which it will take these steps.

(c) If the department approves the plan of correction, it shall provisionally certify the CCS for up to 60 days of operation, pending the accomplishment of the goals stated in the plan of correction.

(d) Before a provisional certification expires, the department shall conduct an on-site

inspection of the CCS to determine whether the CCS has made the corrections the CCS proposed in its plan of correction.

(e) If, following the department's on-site inspection, the department determines that the CCS has accomplished the goals of the approved plan of correction, the department shall restore the CCS to full certification and withdraw the notice of deficiency.

(f) If the department finds that the CCS has not accomplished the goals of the plan of correction, the department may deny the application for renewal, suspend or terminate the CCS's certification or allow the CCS one extension of no more than 30 additional days to complete the plan of correction. If, after this extension, the CCS has not remedied the deficiencies identified by the department, the department shall deny the application for renewal, or suspend or terminate the certification.

(g) If the department denies the application for renewal or suspends or terminates the certification, the department shall provide the CCS with a written notice of the reasons for the action and inform the CCS of its right to a hearing under sub. (13).

(12) IMMEDIATE SUSPENSION. (a) The department may immediately suspend the certification of a CCS or bar from practice in a certified program any CCS staff member, pending a hearing under sub. (13), if any of the following has occurred:

1. Any of the licenses, certificates or required local, state or federal approvals of the CCS or CCS staff member have been revoked, suspended or expired.

2. The health or safety of a consumer is in imminent danger because of knowing failure of the CCS or a CCS staff member to comply with requirements of this chapter or any other applicable local, state or federal statute or regulation.

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

4. A staff member of the CCS has been convicted of consumer abuse under s. 940.285, 940.29 or 940.295, Stats.

(b) The department shall provide written notice to the CCS or CCS staff member of the nature of the immediate suspension, the acts or conditions on which the suspension is based, any additional remedies the department will be seeking and information regarding the right of the CCS or the person under the suspension to a hearing pursuant to sub. (13).

(13) ADVERSE ACTIONS AND HEARING RIGHTS. (a) If the department denies, terminates, suspends or refuses to renew a CCS's certification, the department shall provide a summary of its action to the CCS and the county department in the county in which the program is located.

(b) If the department denies, terminates, suspends or refuses to renew a CCS's certification, or gives prior notice of its intent to do any of the preceding, an applicant or CCS may request a hearing under ch. 227, Stats.

(c) 1. The applicant or CCS shall submit its ^{appeals (5)} request for a hearing in writing to the department of administration's office of administrative hearings within 30 days after the date on the notice required under sub. (4) (b) 1., (9), (10) (b), (11) (g) or (12).

2. An applicant or CCS shall forfeit its right to a hearing if the applicant's or CCS's request is received by the division of hearings and appeals more than 30 days after the notice required under sub. (4) (b) 1., (9), (10), (11) (g) or (12) was received or certification was suspended.

Note: The mailing address of the Department of Administration's Division of Hearings and Appeals is P.O. Box 7875, Madison, WI 53707. An appeal may be delivered in person to the Division at 5005 University Avenue, Room 201, Madison, WI.

(14) VIOLATION AND FUTURE CERTIFICATION. Any person having direct management responsibility for a CCS or any practitioner of a CCS who was knowingly involved in any of the following that served as a basis for immediate termination shall be barred from providing service in a certified CCS for a period not to exceed 5 years:

(a) Acts that result in termination of certification under s. HFS 106.06.

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

(c) Acts involving an individual staff member who has terminated affiliation with a CCS and who removes or destroys participant service records.

HFS 36.06 Waivers. (1) POLICY. (a) Except as provided in par. (b), the department may grant a waiver of any requirement in this chapter when the department determines that granting the waiver would not diminish the effectiveness of the services provided by the CCS, violate the purposes of the CCS or adversely affect consumers' health, safety or welfare, and any of the following applies:

1. Strict enforcement of a requirement would result in unreasonable hardship on the provider or on a participant. *no → not (5)*

2. An alternative to a rule, 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 participant care or CCS management.

(b) The department may not grant a waiver of consumer confidentiality or rights under this or other chapters of administrative rules, state statutes or federal regulations.

(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 to be waived.

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

(c) Any alternative action the CCS proposes.

(d) The reason for the request.

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

Note: Applications for a waiver should be addressed to the Program Certification Unit, Division of Supportive Living, P.O. Box 7851, Madison, WI, 53707.

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

(b) The department shall grant or deny in writing each CCS waiver request. The department's denial notice shall contain the reasons for denial. If the department does not issue a notice of a denial within 60 days after the receipt of a completed waiver request, the waiver shall be approved.

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

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

(e) No waiver may continue beyond the period of a CCS's certification without a specific renewal of the waiver by the department.

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

HFS 36.07 Personnel. (1) POLICIES. (a) A CCS shall have written personnel policies to ensure that the CCS's employment practices do not discriminate against any employee or applicant for employment based on the person's age, race, creed, color, gender or handicap. *← see memo.?*

(b) A CCS shall have written a policy to assure that its staff has adequate training, experience and abilities to carry out their duties.

(c) A CCS shall maintain written documentation of the requirements for each position in the CCS involving consumer contact and the specific qualifications of staff who have been retained to fill those positions.

(d) Documentation of staff qualifications shall be available for review by consumers, and by the parents or guardians of consumers where parental or guardian consent to treatment is required.

(e) 1. The CCS shall carry out a background check in the manner specified in ch. HFS 12 on each applicant before allowing that person to work for the service.

2. The CCS, in accordance with ch. HFS 12, shall undertake background checks at least every four years on persons employed by the service or providing service under contract to the program, 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.

(2) GENERAL STAFF QUALIFICATIONS. (a) Each staff person having consumer contact

shall have the professional and interpersonal skills necessary to carry out his or her assigned duties.

(b) The CCS shall do all of the following:

1. Obtain references from at least 2 people including previous employers, educators or post-secondary educational institutions attended where available, for applicants for positions.
2. Document references either by letter or verifications in the service record of verbal contact with the reference, including dates of contact, CCS representative making the contact, persons contacted and nature and content of the contact.
3. Confirm an applicant's current professional license or certification if that license or certification is a condition of employment.

(3) QUALIFICATIONS FOR SPECIFIC STAFF. (a) For the purposes of this subsection, "supervised clinical experience" means a minimum of one hour of on-site supervision per 40-hour work week by one of the mental health professionals listed in par. (b) 1. to 8., gained after the person receiving the supervision has obtained a master's degree.

(b) Professional staff retained under any of the following categories shall meet the qualifications listed for that category:

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

2. 'Psychologists.' A psychologist shall be: ^{all . . .}

a. Licensed under ch. 455, Stats.

b. 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 clients with mental disorders.

3. 'Psychology residents.' Psychology residents shall hold a doctoral degree in psychology under s. 455.04, Stats., and have completed 1500 hours of supervised clinical experience, the acceptable completion of which has been documented by the Wisconsin psychology examining board.

4. 'Certified independent clinical social workers.' 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.

5. 'Clinical nurse specialists.' Clinical nurse specialists shall hold a current certificate of registration under ch. 441, Stats., have completed 3000 hours of supervised clinical experience and hold a master's degree in mental health nursing from a graduate school of nursing accredited by the national league for nursing.

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

7. 'Master's level clinicians.' Master's level clinicians shall:

a. Have master's degrees and course work in areas directly related to providing mental health services, including clinical psychology, psychology, school or educational psychology, rehabilitation psychology, counseling and guidance, counseling psychology or social work.

b. Have 3,000 hours of supervised clinical experience.

8. 'Registered nurses.' Registered nurses shall be licensed under s. 441.06, Stats., and have at least one of the following:

a. Previous training in psychiatric nursing.

b. A specific plan for acquiring training and skills in psychiatric nursing within three months after employment.

9. 'Physicians' assistants.' Physicians' assistants shall be certified and registered pursuant to ss. 448.05 and 448.07, Stats., and chs. Med 8 and 14.

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

11. 'Certified social workers and advance practice social workers.' Certified social workers and advance practice social workers shall meet the qualifications established in ch. 457, Stats., and have received certification by the examining board of social workers, marriage and family therapists and professional counselors.

12. 'Other qualified mental health professionals.' Other qualified mental health professionals shall have at least a bachelor's level 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.

13. 'Specialists in specific areas of therapeutic assistance.' Specialists in specific areas of therapeutic assistance, including recreational and music therapists, shall have complied with the appropriate certification or registration procedures for their profession as required by state statute or administrative rule or the governing body regulating their profession.

14. 'Certified occupational therapy assistants.' Certified occupational therapy assistants shall meet the requirements specified in s. HFS 105.28 (2).

15. 'Licensed practical nurses.' Licensed practical nurses shall hold a current license under s. 441.10, Stats.

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16. 'Mental health technicians.' Mental health technicians shall be paraprofessionals who are employed on the basis of personal aptitude and life experience ^{who demonstrate} demonstrated by references and recommendations an ability to provide positive and effective services for consumers with mental health disorders. (5)

17. 'Alcohol and other drug abuse counselors.' Alcohol and drug abuse counselors shall meet the requirements specified in s. HFS 105.23 (2) (a) 2. *edit*

18. 'Post-master's level clinician residents.' Post-master's level clinician residents shall have master's degrees as specified in subd. 7. and have completed 1500 hours of supervised clinical experience, as specified and documented in par. (b) 3. *repeat here subd.*

19. 'Clinical students.' Clinical students shall be all of the following:

- a. Currently enrolled in an academic institution.
- b. Working toward a degree in a professional area listed in this subsection.
- c. Providing services to the CCS under the supervision of a staff member who meets professional qualifications appropriate to the degree the student is pursuing.

(4) REQUIRED STAFF. A CCS shall employ all of the following staff:

(a) A CCS director, or equivalently titled person, who shall have overall responsibility for the CCS and the compliance of the CCS with these rules. The CCS director shall meet the qualifications for any of the CCS staff listed under sub. (3) (b) 1. to 7.

(b) A psychiatrist or psychologist who shall meet the qualifications specified under sub. (3) (b) 1. or 2.

inter { (c) A clinical supervisor who shall have overall responsibility for and provide direct supervision of the CCS's consumer treatment services and supervision of CCS clinical staff listed in sub. (3) (b) 1. and 2. and 4. to 7.

1. Either the clinical supervisor or a person delegated by the clinical supervisor shall be available for consultation in person or by telephone during the hours the CCS is in operation.

2. Staff acting as delegates of the clinical supervisor shall meet the qualifications in either sub. (3) (b) 1. and 2. and 4. to 7.

(5) CLINICAL SUPERVISION. (a) Each CCS shall develop and implement a written policy for clinical supervision of all staff that provide treatment, rehabilitation and support services to CCS consumers to assure that all of the following occur:

1. The mental health services being provided by the CCS are being delivered in the manner most likely to result in positive therapeutic outcomes for the consumers being served.

2. The professionals delivering mental health services have all of the following:

a. The training and experience needed to carry out their duties.

b. The ongoing support, supervision and consultation needed to provide effective services to consumers.

3. Professional staff meet requirements for maintaining their credentials or certification under ch. 455., Stats., and other requirements promulgated by the state, federal government or professional associations.

(b) The clinical supervisor shall be accountable for the quality of the mental health services provided to consumers and for maintaining appropriate staff supervision and consultation.

(c) Clinical supervision of individual CCS staff shall include direct review, assessment and feedback regarding each staff person's delivery of mental health services.

(d) 1. Staff providing mental health services who have not had 3,000 hours of supervised clinical experience, or who do not meet the qualifications of sub. (3) (b) 1. and 2. and 4. to 7., shall receive a minimum of one hour of supervision for every 30 clock hours of face-to-face mental health services they provide.

2. Staff who have completed 3,000 hours of supervised clinical experience and who meet the qualifications of sub. (3) (b) 1. to 7. shall participate in a minimum of one hour of clinical consultation per month or for every 120 clock hours of face-to-face mental health services they provide, whichever is greater.

(e) Mental health professionals who meet the qualifications under sub. (3) (b) 1. to 7. Shall provide day-to-day clinical supervision and consultation for individual CCS staff.

(f) Clinical supervision, including direct clinical review, assessment and feedback of the staff person's delivery of mental health services to consumers in the CCS, shall be accomplished by any of the following means:

1. Regular individual, or group face-to-face meetings.

2. Regular individual side-by-side sessions in which the supervisor is present while the staff person provides CCS for a consumer from which the supervisor assesses, teaches and gives advice regarding the staff member's performance with the particular consumer.

3. Regular meetings to review and assess staff performance and provide staff direction regarding specific case situations.

4. Other forms of professionally recognized methods of supervision designed to provide sufficient guidance to assure the delivery of effective services to the CCS consumers by the staff person. The form of supervision shall be described in the written policies of the CCS, and the persons and time spent in supervision shall be clearly documented in the CCS appointment book.

(g) Clinical consultation may be provided through in-person or telephone contacts between professionals, joint sessions with consumers, or other forms of professionally recognized methods

of support and consultation documented in the CCS appointment book.

(h) The clinical supervisor may direct a staff person to participate in additional hours of supervision or consultation beyond the minimum identified in this section to assure that consumers of the CCS services receive appropriate mental health services.

(6) VOLUNTEERS. A CCS may use volunteers to support the activities of the CCS. The CCS shall have written procedures for the selection, orientation and in-service training of volunteers. A CCS staff member whose professional qualifications meet any of those identified in sub. (3) (b) 1. to 14. shall supervise volunteers who work directly with consumers of the CCS or their families.

(7) ORIENTATION AND TRAINING. (a) Each CCS shall develop and implement a staff training plan that entails and ensures that staff know and understand the following:

1. Using staff meeting time for training.
2. Presentations by community resource staff from other agencies including consumer-operated CCS.
3. Attendance at conferences and workshops.
4. Discussion and presentation of current principles and age-appropriate treatment, rehabilitation and support services for persons with mental illness.
5. Any applicable parts of chs. 48, 51, 55 and 115, Stats., given the nature of the consumers to be served by the CCS and the rules for implementing those chapters.
6. Cultural competency in mental health services.
7. The concepts of treatment and recovery in mental health services.
8. The basic provisions of civil rights laws including the Americans with disabilities act of 1990 and the civil rights act of 1964 as the laws apply to staff providing services to persons with disabilities.

(b) Newly hired staff members meeting the criteria in sub. (3) (b) 10. to 17. with one year or more of prior experience providing mental health services shall participate in a minimum of 16 hours of documented orientation and training within 3 months of beginning work at the CCS.

(c) Each volunteer shall receive at least 40 hours of orientation and training before working independently with consumers.

(d) Staff providing more than 300 hours of direct comprehensive services annually through the CCS shall annually receive at least 8 hours of in-service training and staff providing 300 or fewer hours of service per year shall annually receive at least 4 hours of in-service training on all of the following topics:

1. Mental health services, rules and procedures relevant to the operation of the CCS.

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2. Compliance with state and federal regulations.

3. Cultural competency in mental health services.

4. Current issues in consumers' rights and services.

5. Suicide issues.

6. Techniques for assessment and responding to the needs of consumers who appear to have problems with substance abuse.

(e) Staff shared with other community mental health programs may apply in-service hours received in those programs toward the requirements specified in par. (d).

(f) The CCS shall maintain central, written, updated administrative records of all of the following:

1. The CCS's orientation policies.

2. Evidence of current licensure and certification of professional staff.

3. Orientation training and annual training received by all CCS personnel.

(8) ADMINISTRATION OF PSYCHOTROPIC MEDICATIONS. Comprehensive community services that dispense psychotropic medications as part of their treatment shall have policies that specify all of the following:

(a) How psychotropic medications are prescribed, obtained, safely stored, administered, disposed of and how the CCS monitors the administration of the medications.

(b) The experience, training requirements and credentials of staff who administer or monitor the administration of psychotropic medications.

(c) Procedures a staff member uses to monitor and report the effects of psychotropic medications on consumers to the staff member's immediate supervisor and the health care professional who prescribed the medications.

(d) The requirement that staff record consumer refusal or neglect to take a prescribed psychotropic medication, regardless of reason, and the proper procedure in that circumstance.

(e) Reporting a medication error, including specifying how, by when and to whom the error must be reported. The reporting policy shall specify that medication errors be reported to the staff person's immediate supervisor and the health care professional who prescribed the medication.

(f) Emergency procedures for responding to possible drug overdose or unanticipated drug reactions.

(g) How a comprehensive assessment under s. 36.10 (1) will be completed for a consumer

who is receiving or is expected to receive a psychotropic medication.

(h) How a treatment plan will be developed when psychotropic medications are included.

(i) Procedures for documenting the prescription of psychotropic medications when dosages will exceed or be less than the usual and customary dosages in the current psychiatric literature and physicians' desk reference.

(j) Procedures for obtaining and documenting the consent of the consumer or the consumer's guardian, if any, for administration of a psychotropic medication.

(k) Training of a parent or guardian for the administration and monitoring of psychotropic medications for their child when the child is being treated for severe emotional disturbance.

HFS 36.08 Criteria for admission. (1) CRITERIA. (a) A CCS shall limit admissions to consumers with both of the following:

1. A mental illness diagnosis listed in the American psychiatric association diagnostic and statistical manual of mental disorders (DSM-IV) that is associated with an impaired ability to function in the community.

2. Functional impairment in at least one of the areas listed in sub. (2).

(b) Clinical services provided to consumers shall be appropriate for the consumer's age.

(2) AREAS OF FUNCTIONAL IMPAIRMENT. The functional areas in which consumers admitted to a CCS may show impairment are any of the following:

(a) *Vocational, educational or homemaker functioning.* The inability to consistently perform age-appropriate tasks without assistance and to establish and pursue goals within a normal timeframe without extensive supports.

(b) *Social, interpersonal or community functioning.* Impairment in age-appropriate social or interpersonal functioning as manifested by any of the following:

1. A person's inability to develop or maintain social relationships or participate in social or recreational activities.

2. A person's exhibiting a pattern of significant community disruption.

3. A person's exhibiting severe impediments to securing basic needs and repeated inappropriate or inadequate social behavior.

4. A person's inability to behave appropriately or adequately unless extensive or consistent support is provided.

(c) *Self-care or independent living.* Impairment in self-care or independent living as manifested by an inability to consistently perform the range of practical daily living tasks without significant support or assistance.

HFS 36.09 Admission procedures. (1) A CCS may not deny admission to an applicant solely on the basis of the number of previous admissions to any CCS or service provider.

(2) A CCS shall have written policies and procedures governing the admissions process. The policies and procedures shall include all of the following:

(a) The criteria for admission.

(b) The types of information to be obtained on all applicants prior to admission.

(c) The procedures the CCS shall follow when accepting referrals from outside agencies including the timeframe for conveying admission decisions to the referring agency.

(d) The procedures the CCS shall follow in referring an applicant to other service providers when the applicant is found ineligible for admission. The reason for non-admission shall be recorded in CCS records.

(e) The policy for resolving disputes on denial of admission designating the agency or person responsible for the dispute settlement.

(f) The procedures an applicant must follow to appeal not being admitted to the CCS.

(3) During the admissions process, each applicant and parent, primary caregiver or guardian, if any, shall be informed of all of the following:

(a) The general nature and purpose of the CCS.

(b) CCS regulations governing consumer conduct, the types of infractions that may lead to corrective action or to discharge from the CCS and the process for review and appeal of CCS actions.

(c) The service costs that may be billed to the consumer, if any.

(d) The CCS's procedure for follow-up when a consumer is discharged.

(e) Consumer rights as provided under ch. HFS 94.

(f) Service options and the consumer's ability to choose services to meet his or her needs.

(4) The CCS shall ensure that no consumer is denied any benefits or services or is subjected to discrimination on the basis of age, race, religion, color, sexual orientation, marital status, arrest and conviction record, ancestry, creed, national origin, handicap, gender or physical condition.

(5) (a) If, following the CCS explanation of its services, the individual or their parent, guardian or primary caregiver, where appropriate, chooses to participate, they may sign a consent for services written in their primary language or a language in which they are fluent and comfortable, indicating that they have been informed of and understand all of the following:

1. The rights of a person receiving comprehensive community mental health services.
2. The nature of the CCS in which the consumer will be participating.
3. The cost of any services that may be billed to the consumer or the consumer's family.
4. How to use the CCS grievance procedure.
5. The means by which the consumer and his or her family may obtain crisis services, if needed, while they are participating in the CCS.

(b) The CCS shall comply with the provisions of ss. 51.14 and 51.61 (6), Stats., relating to consent for treatment.

(c) Consent of the parent or guardian is required for a child under the age of 14 to receive services.

(d) Consent of either the parent or guardian and the child is required for children age 14 to 17 to receive services.

(e) Consent of a guardian is required to provide medication for an adult who has been found to be incompetent to refuse medication under s. 51.61 (1) (g), Stats.

(f) The CCS shall maintain signed and dated consent forms in the service record of the child receiving service. The CCS shall provide a copy of the forms upon request of a parent, guardian or legal custodian.

HFS 36.10 Comprehensive assessment and service planning. (1) ASSESSMENT. (a) A CCS shall compile an intake summary at the time of the consumer's admission to the CCS .

(b) The comprehensive assessment shall:

1. Be clearly explained to the consumer and guardian, if any, and, when appropriate, to the consumer's family.

2. Include available relevant information on the consumer's family, formal and informal supports and the consumer's legal, social, vocational and educational history.

3. Be incorporated into review and revisions of the consumer's treatment and recovery plan.

(c) The comprehensive assessment shall be completed within one month after a consumer's admission into the CCS and shall include, to the extent possible and appropriate, each of the following elements for each case:

1. The consumer's strengths and assets.

2. The consumer's articulated treatment needs, desired outcomes and preferences on how to meet them.

3. Natural support systems available or needed by the consumer.
4. Interventions and natural supports that have been helpful to the consumer and treatment and recovery team in the past.
5. The consumer's medical, psychiatric and psychosocial history and current status of each.
6. The consumer's history of being a perpetrator or subject of abuse or trauma, including being a witness of violence.
7. The consumer's physical, nutritional and dental health status.
8. The consumer's medication regimen including over-the-counter and prescription drugs.
9. Skills the consumer needs to perform activities of daily living and decision-making.
10. Skills the consumer needs for developing social interaction skills and activities to improve or establish family and social relationships.
11. Recreational and leisure activities the consumer is involved in.
12. The consumer's cultural and spiritual involvement and expression.
13. A summary of the consumer's previous mental health treatment.
14. A description of the environment where the consumer lives.
15. The consumer's financial status and sources of economic support.
16. The consumer's housing, transportation, residential supports and need for adaptive equipment.
17. The consumer's vocational and educational status.
18. The consumer's legal status.
19. Access to community resources and services that the consumer needs or wants, including age-appropriate provider systems.
20. The extent of the consumer's use of alcohol, drugs and other substances.
21. Previous and current agencies' involvement with the consumer.

(2) SERVICE PLANNING. (a) The service facilitator assigned to a consumer under par. (b) shall ensure that all of the following occur:

1. An initial written service plan, including a crisis plan if appropriate, is developed at the time of the consumer's admission to CCS.

2. The consumer and the consumer's family, if appropriate, actively participates in the development of the plan.

3. A comprehensive service plan is developed and written within one month after the consumer's admission.

(b) Each service plan shall do all of the following:

1. Identify the members and participants of the treatment and recovery team and specify how the members are contacted to participate in team meetings and other activities.

2. Specify service goals along with the treatment, rehabilitation and service actions necessary to accomplish the goals that could lead to recovery. The goals and outcomes shall be developed with both short-range and long-range expectations and shall be outcome-based and stated in measurable terms. Outcome-based goals, including employment and reduction of symptoms, are the positive results of treatment efforts.

3. Be based on the intake assessment required under sub. (1) and address consumer needs identified in the assessment. If a specific need is not addressed in the treatment plan, the plan shall include reasons and justification why it was not done.

4. Be developed by the service facilitator with the active participation of the consumer, the treatment and recovery team and, when appropriate, the family.

5. Identify all services provided or arranged for the consumer, including a crisis plan if appropriate, by staff or agencies responsible for providing the consumer's treatment, rehabilitation, and support services, including schedules of initiation and frequency of services that list the most appropriate means of the consumer's participation.

6. Build on the consumer's natural support system, and if this is not available, develop a natural support system.

7. Be reviewed, approved and signed by the CCS psychiatrist or psychologist and clinical supervisor and be included in the consumer's service record.

(c) Treatment or provision of services may begin before the service plan is completed based on the intake summary.

(d) The consumer's progress and current status in meeting the goals set forth in the service plan shall be reviewed every six months by the consumer, his or her family, if appropriate, and other natural supports and the treatment and recovery team at regularly scheduled case conferences. The CCS shall record the following items in the consumer's service record:

1. The date and results of the review and any changes in the service plan, including criteria for discharge.

2. The names of participants in the service plan conference.

3. Approval signature by the CCS psychiatrist or psychologist and clinical supervisor in the consumer service record.

(e) 1. Consumers of CCS services shall be active and full participants in all aspects of the CCS, including assessment, treatment planning, service selection and discharge planning to the extent that they are willing and able to do so. Consumers' participation shall include making decisions about service options and choices including advance directives to the extent possible in all phases of the recovery process.

2. With the consumer's permission, the CCS shall form a treatment and recovery team consisting of both formal and informal support persons. The team shall actively participate in all aspects of CCS including assessment, treatment planning, service selection and discharge planning.

(f) The service facilitator shall discuss the results of the review required under par. (b) 7. with the consumer or guardian, if any, and, if appropriate, the consumer's parent, and shall record the consumer or guardian's acknowledgement of any changes in the plan.

HFS 36.11 Required service components. A CCS shall provide or arrange for the provision of those services necessary in order to promote recovery and improvement of consumers admitted to the CCS. Services shall have an ongoing recovery focus by emphasizing the identification of the consumer's strengths, natural supports, finding and developing new strengths, and respecting consumer choices. Services shall include all of the following elements:

(1) Outreach services that actively attempt to directly engage and link with persons who appear to be in need of CCS services.

(2) Service facilitation, for maintaining a clinical treatment relationship with the consumer on a continuing basis.

(3) Symptom management, to enable the consumer to identify his or her symptoms of mental illness and alleviate and manage the symptoms.

(4) Supportive counseling, for the promotion of personal growth and recovery by assisting the consumer to adapt and cope with internal and external stresses.

(5) Medication prescription, administration, monitoring and documentation provided in the following manner:

(a) A psychiatrist, physician, physician's assistant or advanced practice nurse with prescriptive authority shall be responsible for all of the following:

1. Assessing the consumer's symptoms of mental illness and behavior and prescribing appropriate medication.

2. Regularly reviewing and documenting the consumer's symptoms of mental illness and behavioral response to the medication.

3. Monitoring and documenting any medication side effects and adjusting medication to

minimize negative side effects.

4. Reporting any changes in medication to staff providing mental health services to the consumer.

(b) A registered nurse shall be responsible for all of the following:

1. Administering medication from a multi-dose container or by injection at the direction of a psychiatrist, physician, physician's assistant or advanced practice nurse with prescriptive authority. *(4) as allowed under 71*

2. Reporting adverse drug reactions to the service psychiatrist and documenting the reactions in the service record.

(c) A licensed practical nurse shall be responsible for all of the following:

1. Administering medication from a multi-dose container or by injection at the direction of a psychiatrist, physician, physician's assistant or advanced practice nurse with prescriptive authority as allowed in ch. N 6.

2. Providing medication administration under the general supervision of a registered nurse in basic patient situations as defined in s. N 6.02 (2).

3. Performing delegated nursing or medical acts beyond basic nursing care under the direct supervision of a registered nurse or physician in complex patient situations as defined in s. N 6.02 (3). *check*

4. Monitoring and documenting when an administration is not allowed as specified in ch. N. 6. *check*

5. Monitoring and documentation services are those stated in ch. N 4. *and*

6. At the discretion of the clinical director, training the primary caregiver to administer and assist in the monitoring of the child's medication in the home.

(d) When a child is attending school, school personnel may dispense single doses of medication with the permission of the parent, guardian or primary caregiver.

(e) Staff of the CCS, other than those specified in pars. (a) to (c), shall be responsible for all of the following:

1. Observing the consumer taking medication. *(5) Under what circumstances diff from pars. (a) (c) 2*

2. Checking the supply of medications in the reminder box.

Note: A reminder box is a device used for persons to store their medications by day and time so they know when to take the medications and others can check to see if the person is taking the medications.

3. Watching for side effects of the medications in the consumer or signs of mental or

physical deterioration that may indicate the consumer is not taking the medication, and reporting those findings to a designated staff or other medical professional.

4. Ensuring that medications are adjusted to eliminate or alleviate negative side effects.

(f) A consumer's medication use shall be documented in the consumer's service record through assessments, plans and plan reviews and shall indicate all of the following:

1. That without medication compliance monitoring, the consumer will fail to take medication as directed, and that the consumer's failure to use medication is likely to lead to deterioration in functioning.

2. In the event medication compliance monitoring is necessary but not employed, the specific alternatives employed and the reason the alternative was deemed appropriate.

Note: Alternatives to medication ^{compliance monitoring (?) (5)} may include increased peer support, counseling, teaching techniques, use of injectables, and medication organizers.

3. Justification for the current frequency of medication compliance monitoring and how staff will evaluate the continued need for medication compliance monitoring.

4. The written protocol contained in the consumer's treatment plan that mental health technicians shall follow. The protocol shall describe all of the following:

a. Possible side effects of the medication and the seriousness of each of those side effects.

b. Signs of deterioration that suggest the consumer is not taking the medication.

c. How soon after discovering particular side effects or signs of deterioration the mental health technicians should report the side effects or signs of deterioration to designated staff or other medical professionals.

5. Documentation that a staff member in a position described in pars. (a) to (c) has reviewed the recipient's symptom status with the mental health technicians.

(6) Mental health services, including all of the following:

(a) Psychiatric evaluation by a psychiatrist.

(b) Psychological evaluation by a psychologist.

(c) Family, individual or group psychotherapy as indicated in the consumer's service plan, provided by mental health professionals having the qualifications specified under s. HFS 36.07.

(7) Rehabilitation services, including all of the following:

(a) Skill training in major life tasks to assess the effect of the consumer's mental illness on major life tasks. The CCS shall specify skill training in recognition of behaviors that interfere with the consumer's performance of major life tasks and shall identify how the interventions will alleviate

the problem behaviors.

Note: Examples of major life tasks include employment, schooling, housekeeping, volunteer work and support provided in community-based settings.

(b) Supportive services, as needed.

Note: Examples of supportive services are assistance with grooming and personal hygiene, securing appropriate clothing, wake-up calls, transportation, support and crisis assistance, and performance assessment and evaluation.

(8) Social interaction skill training and support to encourage the consumer's development of social relationships. The program shall specify skill training in recognition of behaviors that interfere with the consumer's social interaction activities and shall identify how the interventions will alleviate the problem behaviors.

(9) Supportive counseling to enable the consumer to identify and cope with symptoms of mental illness that affect social interaction activities.

(10) Support services to help the consumer assess and obtain community services, including all of the following:

(a) Physical health or dental health services.

(b) Legal services.

(c) Transportation services.

(d) Financial support and money management services.

(e) Living accommodations, including locating, financing and maintaining safe and appropriate living arrangements.

(f) Educational services.

(g) Self-help and peer support programs.

(11) Suicide prevention and response by identifying consumers with suicidal tendencies and developing specific crisis plans. A suicide prevention and response service shall include all of the following elements:

(a) Written policies and procedures for staff monitoring of consumers found, upon admission under s. HFS 36.09, to be at risk of committing suicide and for staff monitoring of other consumers to identify those at risk of committing suicide.

(b) A written crisis plan with procedures for preventing and managing possible suicide attempts once a consumer has been identified as being suicidal. The crisis plan procedures shall include all of the following:

1. Coordination of the CCS response to a consumer's suicidal tendencies with that of other programs in which the consumer is participating and with the consumer's family or other persons who have frequent contact with the consumer.

2. Description of the criteria under which the CCS will inform specific persons that a person in treatment presents a significant risk of harm to self or others, and how and when that notification will be made.

3. The policy and procedure for reporting deaths and suicides by consumers as required by s. 51.64, Stats.)⁰²

4. The process for conducting a quality assurance review of a death by suicide.

(12) Services for children admitted to the CCS and the children's families ^{which (5)} shall include all of the following elements:

(a) An assessment of strengths and needs of the treatment and support of the child.

(b) With the permission of the child's parents, forming, convening and coordinating a supportive team of individuals who know and care about the child and family and are willing to work together over time to help the family manage the challenges presented by the child's emotional and behavioral impairments. The supportive team may include any of the following persons:

1. Representatives of the various agencies or programs providing services for the child and family, including the child's school.

2. Volunteers from churches and community services groups.

3. Extended family members, neighbors or friends.

(c) Developing a plan of care that addresses the critical needs of both the child and the child's family.

(d) Direct, in-person supervision and support of the child at home and in the community to help the child's family or primary care providers manage the child's emotional and behavioral impairments. Support may include training and modeling of effective behavioral management strategies for children with severe emotional disorders.

(e) Referral to, and assistance with, the development of informal, voluntary forms of assistance for the child and family, such as those provided by community support agencies, churches, fraternal organizations and service clubs.

(f) Assistance and training to help develop and maintain effective natural forms of support for the child and family.

Note: Examples of natural forms of support include those provided by neighbors, voluntary adult and peer mentors, and extended family members and friends.

(g) Identification of and assistance to consumers in obtaining any of the following:

1. Financial assistance to enable the child and family to participate in therapeutically beneficial community activities.

2. Special transportation arrangements to enable the child and family to participate in the activities identified in the treatment plan.

3. Modification of the child's living environment to accommodate the child's emotional or behavioral impairments.

4. Other individualized supports designed to address unique needs of the child and family that cannot be met within the CCS current service array.

(13) A flexible operating schedule that permits CCS to provide ongoing services and supports for consumers and their families at those times when the services are most needed and can have the most beneficial effect, as identified in the services plan developed for each consumer and their family or primary sources of support.

(14) When comprehensive community services are provided for persons sixty years of age and older or to younger persons experiencing infirmities of aging, the use of approaches specifically designed to engage the consumers and meet the needs related to their support, including all of the following:

(a) Assertive community outreach to establish lasting relationships with older persons who are eligible for CCS.

(b) Age-specific assessments of the consumer's mental and physical condition and possible use or abuse of substances.

(c) The use of assessment service, service facilitation, treatment, and support staff who are trained in the special needs of older persons with mental health and substance abuse needs.

(d) Assistance to help the person link with other formal and informal sources of assistance to older persons.

(e) Collaboration with the aging network in the community where the person lives to insure coordination of the assistance the person is receiving.

(f) Collaboration with primary health care providers serving the person to assure accurate assessment of symptomatic and behavioral conditions that may be the result of interactions of medications and treatment specific for older adults.

(g) Adjustments in the plan of care and in the timing of planning, review and service contacts to respond to changes in the person's medical and mental health status, as well as the overall tempo of the person's life.

(h) The inclusion of or linkage with formal and informal community resources specifically designed to support older adults, including benefit specialist's services, meal services, connections

with senior center activities and volunteer opportunities.

(i) Regular communication with community protective services and law enforcement agencies that respond to issues of elder abuse and other situations of vulnerability of older adults, both regarding persons receiving CCS and those who may be eligible to participate.

HFS 36.12 Consumer service records. (1) A CCS shall maintain a service record for each consumer. The service record shall include information that is sufficiently detailed to enable a staff person unfamiliar with the consumer to identify the types of services the consumer has received.

(2) The CCS director is responsible for the maintenance and security of consumer service records.

(3) The CCS shall maintain consumer service records in a central location.

(4) The CCS shall maintain consumer service records in a confidential manner and safeguard the service records as required under s. 51.30, Stats., and ch. HFS 92.

(5) The CCS shall maintain service records in a consistent format that facilitates information retrieval of the service record. Service records shall include all of the following information:

(a) Results of CCS examinations, tests and other assessment information.

(b) Reports from referring sources.

(c) CCS service plans.

(d) When a physician prescribes medications from a CCS, documentation of ongoing monitoring of medication administration and detection of adverse drug reactions. All medication orders in the consumer service record shall specify the medication's name, dose, route of administration, frequency of administration, person administering the medication and name of the prescribing physician.

(e) The consumer's acknowledgement of his or her rights and the consumer's informed consent for medication administration and treatment.

(f) Records of referrals of the consumer to outside resources.

(g) Reports of treatment, or other activities from outside resources that may be influential in the CCS's treatment planning.

(h) Case conference and consultation notes.

(i) The consumer's signed consent forms for disclosure of information.

(j) The consumer's discharge documentation.

(6) The CCS shall maintain a policy governing the disposal of consumer service records consistent with applicable laws and regulations included in ch. HFS 92, and the disposition of

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consumer service records in the event of the CCS's closing.

HFS 36.13 Consumer rights. (1) POLICIES AND PROCEDURES. All CCSs shall comply with s. 51.61, Stats., and ch. HFS 94 regarding the rights of consumers.

(2) SERVICE FACILITATOR'S DUTIES. A service facilitator shall inform and assist the consumer and the consumer's parents or guardian, when appropriate, in understanding and asserting their rights.

(3) CONFLICT RESOLUTION. (a) The CCS shall establish a process for informally responding to grievances raised by consumers, family members and other agencies and shall inform consumers and their parents of the use of the CCS process for resolving grievances.

(b) The CCS shall establish a process for receiving and processing grievances that the CCS cannot manage informally. The process shall include the impartial review of grievances and an option for third party mediation of disagreements.

HFS 36.14 Discharge. (1) The CCS shall have written policies that contain specific criteria for discontinuing treatment services for each consumer.

(2) The decision to discharge a consumer from a CCS shall be made after consultation with the consumer, clinical supervisor and treatment staff.

(3) The consumer's service facilitator shall document the consumer's discharge from the CCS in the consumer's service record within thirty days of the consumer's discharge.

(4) Documentation of the consumer's discharge shall include all of the following:

(a) The criteria upon which the consumer's discharge is based, including the final decision of the clinical supervisor.

(b) The consumer's mental status and condition at discharge.

(c) A written final evaluation summary of the consumer's progress toward the goals specified in the service plan.

(d) A plan developed in conjunction with the consumer, for the consumer's care after discharge, including follow-up activities.

(e) Documentation of the criteria, as discussed with the consumer, that would suggest readmission of the consumer to the CCS.

(f) The signature of the service facilitator and clinical supervisor.

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

Wisconsin Department of Health and
Family Services

Dated:

By: _____
Joe Leean, Secretary

SEAL: