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Details: Health and Family Services Chapter 57 Rules Revisions

(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2005-06

(session year)

### Assembly

(Assembly, Senate or Joint)

### Committee on ... Children and Families (AC-CF)

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
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#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
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- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (May 2012)

**Matzen, David**

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**From:** Kestell, Steve  
**Sent:** Wednesday, April 27, 2005 11:52 AM  
**To:** Matzen, David  
**Subject:** FW: Committee on Children & Families

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**From:** Victoria Pryor [mailto:pryor@uwm.edu]  
**Sent:** Wednesday, April 27, 2005 11:42 AM  
**To:** Rep.Seidel; Rep.Sinicki; Rep.Grigsby; Rep.Vukmir; Rep.Jeskewitz; Rep.Albers; Rep.Vos; Rep.Kestell  
**Subject:** Committee on Children & Families

Dear Wisconsin State Assembly Committee on Children & Families:

It has recently been brought to my attention that you will be voting on a revision of the state's group home regulations on Thursday, April 28, 2005 at 9:30 a.m. I am concerned with the staffing changes for the runaway programs. This will significantly impact the programs financially. I am asking you to reconsider and waive the runaway programs, in order that they can continue to provide their services without being hit negatively. It would have a drastic effect on the programs and the clients that they serve. Unfortunately there is an increase in homeless and runaway youth and without these programs that would be detrimental.

So, again I hope you will waive the runaway programs.

Thank you for your time.

Victoria Pryor, Secretary  
Board of Director Member  
The Counseling Center of Milwaukee

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## COMMITTEE ON CHILDREN AND FAMILIES

### TESTIMONY REGARDING PROPOSED ADMINISTRATIVE RULE REVISIONS FOR GROUP HOMES:

THURSDAY, APRIL 28, 2005

I am presenting this testimony on behalf of the Wisconsin Association for Homeless and Runaway Services (WAHRS), a state-wide organization representing the issues and concerns of, and services for, runaway, homeless and other youth in crisis and their families, including homeless pregnant and parenting teens. Our Association has provided comments during the input phase of the proposed revisions of HFS 57. However, I am here today to draw attention to serious financial implications posed by these proposed revisions for group homes serving runaway and homeless youth that we believe have been minimized or overlooked. These could potentially lead to the closure of these homes, which typically serve a different youth population, with a different set of services, and are very differently funded than other group homes in the state in such a way that makes them particularly vulnerable to the new rulings.

There are two types of group home serving runaway and homeless youth, both of which would be affected:

1. Temporary emergency group home housing runaway, abandoned and homeless youth for a period up to two weeks. Because these are short term stays that can be as short as one night or as long as two weeks, this leads to a constant fluctuation in the population in the home from week to week, depending on the demand at any particular time. There are two such group homes in Milwaukee and one in Racine.
2. Transitional Living Program group home, providing longer-term housing and supportive services to single, older (16 and 17 year old) abandoned and homeless youth. Second Chance Homes provide similar services to homeless pregnant and parenting minor aged youth with their children. Overall, there are at least five group homes licensed in Wisconsin in this category, three in Milwaukee, and one each in Waukesha and Green Bay.

These programs rely heavily on federal grant funding. These include the basic runaway center grants and transitional living program grants of the Runaway and Homeless Youth Act, administered by the Department of Health and Human Services, and supportive housing grants through the Department of Housing and Urban Development. These grants typically have a maximum amount of \$200,000 annually, which is clearly insufficient to run a group home. Other private funds for these group homes must come from local fund-raising and individual and corporate philanthropy.

There are three issues in the proposed rules that will have a significant financial impact. The first, and largest, is the supervisory requirement of two paid staff for group homes with populations of six or more residents. The additional training demands under the new rules will also add a cost burden both in terms of paid time to pursue such training, paid staff time to cover the employees' shifts and of course the actual cost of the trainings themselves. Thirdly, our programs use volunteers extensively in our programming, and replacing them with paid staff will be very expensive. This is true not only for those assisting paid staff with supervision of residents, but also in the use of volunteers assisting with day-care in second chance homes.



Returning to the supervision rule, the department has estimated that the financial cost to a group home with six or more residents is potentially \$42,209 per new employee. Given that potentially one new full time employee would be needed for weekday evening shifts, another employee would need to be hired for Saturday and Sunday day time and evening shifts, and those weeks and months when youth are out of school would require an additional day- time employee during the week, it is clear that these supervision requirements would place a huge financial burden on these programs. For the emergency group homes, with a constantly fluctuating daily census, when a sixth youth could potentially be admitted 24 hours a day, there is also a practical issue of how to respond adequately to the supervision ruling.

Unlike other group homes which operate under a fee for service basis (where a daily or monthly rate is set annually for the group home by the state, and the purchaser then pays according to these rates), every additional dollar for runaway and homeless group homes will have to come from local fund-raising. (We assume that the state is unwilling to fund this mandate.) This places a huge burden on our programs which are already struggling to meet current budget demands.

The supervision standard proposed in the rulings may also be inappropriate for group homes serving runaway and homeless youth, because their issues and needs are often different from youth in the child welfare or juvenile justice systems. Indeed, they are a population that invoke special treatment in the statutes (48.227). These young people are typically in crisis as a result of problems within the home, often related to physical or sexual abuse or abandonment, which lead to their runaway or homeless situations. They are typically youth who have not come to the attention of child welfare or juvenile justice authorities. **They are not severely emotionally disturbed, nor are they alcohol or drug dependent.** Youth with a history of assault or other violent acting out are not appropriate for our programs and are screened out.

As a result, supervision of these youth may be held to a different standard than other group homes serving more troubled youth populations. The federal Runaway and Homeless Youth Act has standards in place for operating runaway and homeless youth programs, and Wisconsin programs meet the supervision standards that are required (and checked through periodic federal on-site visits).

In summary, temporary emergency group homes, transitional living programs and second chance homes serving runaway and homeless youth are unique in their funding base. Because the new requirements will significantly increase group home budgets, especially in the area of paid staff supervision, there is a very real risk that these programs may be forced to close.

We know that closing down programs is not the intent of these proposed rulings, and there is much in the proposed revisions that we do support. However, **it is essential that you understand the harm that could be done under the supervisory requirement alone, and we request that you allow group homes serving runaway and homeless youth and their children to maintain a supervisory ratio of at least one paid staff member for up to eight youth.** While it may be argued that an administrative rule can be amended through an individual request for exemption between a group home and the state licensing authority, there are too many group homes with this same issue. Also, under the current proposals, our members tell us that there are many other areas that will pose licensing problems for our programs unless exemptions are approved. It is critical, therefore, that we ensure both the presence of fair and manageable regulations and the survival of these desperately needed programs in their communities.

Andre Olton, Ph.D. Treasurer, Wisconsin Association for Runaway and Homeless Services; and  
Executive Director, Walker's Point Youth and Family Center (operating both a temporary emergency group home and transitional living group home for runaway and homeless youth in Milwaukee)



**Comments on the Proposed Order of the  
Department of Health and Family Services  
Repealing and Recreating Rules Chapter HFS 57, Appendices A – D and  
Analysis Prepared by the Department of Health and Family Services**

Less than two dozen of the 400 runaway and homeless youth programs in the United States claim a longer history than the SAFE Haven Youth Shelter in Racine, Wisconsin. In a typical year, well over 100 youth will live in the turn of the century Victorian era house. However, most stays are only three to five days, making it literally impossible for this and other Wisconsin Runaway Homes to meet a number of the rules proposed in HFS 57.

According to federal standards<sup>1</sup>, youth cannot stay in residence for more than two weeks, yet Wisconsin programs are licensed under State rules designed around a length of stay that typically spans months or even years. A haphazard patchwork of exceptions and accommodations have been required over the program's nearly 30 year history to get these state and federal regulations to mesh.

Although children who are abandoned, homeless, physically abused and sexually molested are among the most needy and vulnerable of all populations, the federal Runaway and Homeless Youth Program began with a much more modest motivation—to save money. Throughout the past three decades, these programs have provided services at costs much, much lower than the mental health and juvenile justice systems that they were designed to bridge. Runaway Homes as referenced in Ch. 48.227 comprise a relatively small proportion of the 120 or so homes covered by HFS 57, but nonetheless, they provide unduplicated services to an extremely vulnerable population, and bring thousands of dollars in federal funding to the State. *However, unlike other Wisconsin group homes, Runaway Homes can not charge a per diem and have no means to meet proposed cost increases.*

SAFE Haven of Racine, Inc. supports efforts to improve services, and has a history of seeking to obtain and maintain best practice standards in the operation of all its programs and services. The agency prides itself on transparency and most strongly encourages any interested party to learn more at <http://www.safehavenofracine.org>, <http://www.211racine.info>, but most particularly at the agency's extranet site: <http://www.safehavenofracine.org/agencyindex.htm> where there is extraordinarily detailed information available in rosters, calendars, monthly and annual program and fiscal reports, and detailed policy and procedure manuals.

SAFE Haven is also proud of its membership in the Wisconsin Association for Homeless and Runaway Services (WAHRS), a state association that took a leadership role in the country in regards to promulgating program standards, establishing a peer review process, and creating a revenue sharing agreement that has resulted in runaway services being available in all but 10 Wisconsin counties.

<sup>1</sup> United States Department of Health and Human Services Administration for Children, Youth and Families, Family Youth Services Bureau, Runaway and Homeless Youth Program

The HFS 57 Proposed Order Plain Language Analysis states on p. 1 that:

The children, youth and young adults residing in group foster homes are under juvenile court jurisdiction and have one or more of the following conditions: emotional or behavioral disorders; drug, alcohol or other substance abuse problems; difficulty acquiring life skills; or a developmental disability.

This is not entirely accurate for runaway programs. Although many runaway and homeless youth may meet some of these terms, they are not necessarily under juvenile court jurisdiction, and do not necessarily have any of the described conditions (*cf.* Ch. 48.227).

Also not fully accurate is the subsequent paragraph:

Placements into group foster homes occur from youth correctional facilities and institutions, county human service or social service agencies and via the interstate compact for placement of children under ss. 48.988 and 48.989, Stats., or are made by courts or parents.

Under Ch. 48.227 youth are not necessarily placed into a Runaway Home by any of the above.

However, these relatively minor issues pale in comparison to the significance of the costs associated with implementation of the proposed rules. It is *critical* that everyone involved completely understand the unique situation of runaway homes operating under federal RHYP restrictions: *they can not charge for services*. Any increase in operating costs imposed by implementation of HFS 57 *can not* be offset by an increase in a per diem rate for runaway programs. On p. 2, the document states:

The Department anticipates that there may be costs incurred by some group foster homes when these rules are implemented, but that the overall costs will not be significant.

For RHYP group homes, the overall costs will be *extremely* significant. In fact, if liberal exceptions are not allowed for a number of the proposed rules, in some circumstances, some of these homes *would be forced to close*.

The document continues:

The proposed rules establish increased educational requirements for staff. The costs associated with increasing the qualifications of group home staff are not anticipated to be significantly greater than the costs group homes are currently incurring.





As an example, SAFE Haven already struggles to recruit, train and maintain a qualified staff. It is important to remember that the agency has no means to generate increased income to meet the proposed increase in costs. The part-time Relief Staff currently earn \$7.50 per hour with no benefits. It is very difficult for the program (and other similar Runaway Homes) to compete with other types of group homes, residential treatment facilities and other entities that are allowed to charge a per diem.

Local funding sources such as the Untied Way are supporting the program in addition to the federal funds, as well as City of Racine HUD Emergency Shelter Grant funding. The agency also raised \$20,000 itself in the past year, but none of these will offset the proposed increased costs. If the State is to mandate changes estimated to cost \$42,209 per home per year, and continues to receive significant benefit from its Runaway Homes, then the State should fund this cost for each runaway home caught in this dilemma.

However, there are still other issues in addition to the unfunded mandates.

The proposed rules establish staff to child ratios and require awake overnight staff.

SAFE Haven has always required an awake overnight staff, and has always provided an option for a second staff person to be called in when ever there are *four* (not six) or more children in shelter. However, rather than being blindly mandated by administrative code, this decision has been left to staff and supervisors who meet HFS 57 qualification and training requirements. They make decisions based on the needs of the individual youth in shelter at the time—improving quality of service while reducing costs.

The proposed rules require that there be two bathrooms in co-ed facilities. A survey of existing group homes indicates that there are only 4 co-ed facilities that do not have two bathrooms. Therefore, this change is not anticipated to have a significant financial impact.

SAFE Haven must be one of the four facilities mentioned as not having two full bathrooms. Although the financial impact may not be significant statewide, it certainly could be for this particular program.

The ideal solution would be to write a code specific to runaway homes. Failing that, either the existing proposal must be revised, or numerous exceptions will have to be drafted and arranged on an individual basis by each affected program and each licensing agent each time a license is issued or renewed. This could conceivably result in each runaway program operating under a different set of rules at each renewal. To avoid this undesirable circumstance, specific recommendations are provided below to revise the proposed rules to minimize the number of exceptions required to meet state and federal standards. The time to enact these changes is now, as the rules go into effect. These specific recommendations are outlined below.

**HFS 57.13 Licensee reporting requirements.**

(2) DISCHARGE OF RESIDENTS FROM OUT-OF-STATE. At the end of each month, the licensee shall report in writing to the department's interstate compact office of each resident from out-of-state that is discharged from the group home that month. The report shall include all of the information specified in s. HFS 57.20 (1) (a) to (e).

Although the number of out of state youth that all runaway homes serve within a given month is relatively small (typically less than 1% for SAFE Haven), all programs are already required to enter voluminous amounts of data about every youth served in the federally mandated Runaway and Homeless Youth Management Information System (RHYMIS). HUD, which has initiated its own MIS requirements, has agreed to accept RHYMIS data to avoid unnecessary data duplication. Reports are also already submitted under contract by each runaway program to the State Department of Health and Family Services. It is recommended that Runaway Homes as referenced under Ch. 48.227 be exempted from HFS 57.13 (2), and/or provide RHY MIS data to DHFS.

**SUBCHAPTER III - ADMISSION AND DISCHARGE**  
**HFS 57.19 Admissions.**

(5) (a) Except as provided in par. (b), there shall be no more than 4 years difference in the ages of the children admitted to the group home as residents.

(b) The age difference limitation stated in par. (a) does not apply to children admitted to a group home licensed for respite care.

Due to the short lengths of stay, it is recommended that language similar to (b) be adopted for Ch. 48.227 Runaway Homes. Unless such language is adopted, or exceptions are routinely granted for each affected program, the number of youth served by such programs could decrease by approximately 25%. It is extremely unlikely that additional homes would be opened to serve clients varying in age by no more than four years. Currently, SAFE Haven has an exception to serve youth ages 10 to 17, inclusive.

(7) Each child admitted to a group home as a resident shall have had a health examination performed by an individual licensed to perform the examination no more than one year before being admitted to the group home or shall have the examination within 30 days after the date of admission if the consent required under s. HFS 57.25 (1) has been obtained. Documentation of the examination shall be maintained in the resident's record as required in s. HFS 57.38 (1) (i) 3.

By federal regulation, Runaway Homes are mandated to discharge residents within two weeks, and the typical length of stay is much less. Once again, if the language is not modified, or if an exception is not arranged for each affected program at every time a license is issued and/or renewed, it is unlikely that runaway programs will be able to consistently comply with the rule.

**HFS 57.21 Staff to resident ratios and supervision.** (1) In a shift-staffed group home, during hours other than sleep, there shall be at least one staff member on duty whenever 5 or fewer residents are present. At least 2 staff shall be on duty if there are 6 or more residents present. Whenever residents are asleep, at least one resident care staff or relief help shall be awake unless an alternate means of assuring the safety of residents is provided by the group home and approved by the department. The group home must assure that residents are responded to if needed. The number of resident care staff shall be increased as necessary to provide the care and services identified in the group home's program statement and plan of activities.

Due to the lack of funding resources cited above, this is one of the most onerous and burdensome provisions for those programs which routinely shelter more than 5 residents, in particular those located within large urban areas such as Milwaukee. As an increase in rates is not allowed by federal regulation, and as no alternative funding source has been proposed to cover these costs, the provision, as it stands, could result in dire consequences for these programs, which are those most needed. It is recommended that an exception for runaway homes be written into the rules (see below) or that runaway homes receive funding sufficient to offset the projected increased costs. Once again, note that runaway homes are not allowed to charge a per diem, and have no current means to offset these costs.

**HFS 57.23 Treatment planning and assessment.** (1) ASSESSMENT. (a) *Residents.*

Within 30 calendar days after the date a resident is admitted to the group home, a staff member shall perform a comprehensive written assessment of the resident for use in the development of a treatment plan. If the child is admitted to the group home under a voluntary agreement for respite care, the assessment shall be completed by the date of admission to the group home and shall include all of the following:

1. Information about the resident's developmental, behavioral, educational and medical history; family and significant relationships; legal history; substance abuse history and any past treatment.
2. A description of the resident's current status, including mental status, medical needs, current activities, educational status, any current and recent substance abuse usage and personal strengths.

By federal regulation, Runaway Homes are mandated to discharge residents within two weeks, and the typical length of stay is much less. All programs are already required to perform an assessment similar to the above via the federally mandated Runaway and Homeless Youth Management Information System (RHYMIS). HUD, which has initiated its own MIS requirements, has agreed to accept RHYMIS data to avoid unnecessary data duplication. Please see recommended language changes below, which reference the use of the federally mandated RHY MIS assessments.

(2) TREATMENT PLAN. (a) Upon completion of the assessment required under sub. (1), the program director shall develop a written treatment plan with the participation of the resident, a parent or guardian and the legal custodian, if available, and the persons who will provide the required services to the resident. A completed treatment plan for each resident shall be placed in the resident's record maintained by the group home under s. HFS 57.38, and shall include all of the following:

1. A description of the resident's strengths, needs, and preferences.
2. Treatment goals for the resident and the time frames for achieving those goals.
3. A description of behavior interventions to be utilized with the resident. The licensee shall ensure that methods of behavior intervention are positive, based on the resident's needs, stage of development and behavior and promote self control.
4. Specific services and supports to be provided to achieve the treatment goals, and names of persons, agencies or position titles responsible for providing services and implementing any of the treatment goals.
5. Permanency planning goals.
6. Goals related to independent living skills, if the resident is 15 years of age or older.
7. Specific indicators that treatment goals have been achieved.
8. Any court ordered conditions.
9. Projected length of stay and conditions for discharge.
10. Visits to the resident by parents and other family members with the approval of the placing agency and in accordance with clients' right standards to ensure that an appropriate relationship is maintained between the resident and family members.
11. Arrangements for public school attendance.
12. Consideration of the additional requirements for care of custodial parents and expectant mothers under s. HFS 57.36 and care for children under 6 years of age under s. HFS 57.37, as applicable.

(b) Each treatment plan shall be reviewed at least once every 3 months. The review shall be conducted by all of the persons included in the initial development of the plan, if possible. All of the following shall be reviewed and documented:

1. Progress made toward achieving the goals established in the treatment plan and any barriers encountered in achieving the goals.
2. Any changes in the treatment plan, including any changes to specific indicators of revised goals, time frames for achievement of treatment goals, and service providers.

By federal regulation, Runaway Homes are mandated to discharge residents within two weeks, and the typical length of stay is much less. Although quite a few of these standards could be met for longer term residents, many of them will not be met for shorter term residents. The three month review cited under (b) is obviated by the mandated two week discharge limit. All programs are already required to perform a similar assessment and treatment plan via the federally mandated Runaway and Homeless Youth Management Information System (RHYMIS). HUD, which has initiated its own MIS requirements, has agreed to accept RHYMIS data to avoid unnecessary data duplication. As suggested in specific language below, Ch. 48.227 Runaway Homes are recommended to be required to use the federally mandated RHY MIS assessment and treatment planning components.

**HFS 57.26 Dental care.** Within 30 days after admission to a group home, each resident over the age of 3 years old who is admitted to the group home for other than respite care shall receive a dental examination unless an examination has been performed within 6 months before the resident's admission. Subsequent dental examinations shall occur at intervals not exceeding 6 months after the last examination or completion of treatment.

By federal regulation, Runaway Homes are mandated to discharge residents within two weeks, and the typical length of stay is much less. Due to the time limits described in HFS 57.26, it is recommended that Ch. 48.227 Runaway Homes be exempted from this requirement.

**HFS 57.305 Spending money.** (1) Each resident shall be given a regular, base amount of spending money appropriate to his or her age and maturity. Older residents can be given opportunities to earn extra money above and beyond the base allowance.  
(2) A resident's spending money may not be withheld as a disciplinary action.

Due to the federal mandate for Ch. 48.227 Runaway Homes to discharge residents within two weeks, and a typical length of stay that is much less, it is recommended that such Homes be exempted from HFS 57.305.

Following are the specific proposed changes in language, designed to assist Ch. 48.227 Runaway Homes in meeting as many HFS 57 rules as possible, while attempting to minimize the number of exceptions that would have to be granted.

**HFS 57.13 Licensee reporting requirements.**

(2) DISCHARGE OF RESIDENTS FROM OUT-OF-STATE. At the end of each month, the licensee shall report in writing to the department's interstate compact office of each resident from out-of-state that is discharged from the group home that month. The report shall include all of the information specified in s. HFS 57.20 (1) (a) to (e). *Runaway Homes as defined in Ch. 48.227 shall report such discharges to the department via the Runaway and Homeless Youth Management Information System.*

**SUBCHAPTER III - ADMISSION AND DISCHARGE**

**HFS 57.19 Admissions.**

(5) (a) Except as provided in par. (b), there shall be no more than 4 years difference in the ages of the children admitted to the group home as residents.

(b) The age difference limitation stated in par. (a) does not apply to children admitted to a group home licensed for respite care, or for Runaway Homes referenced in Ch. 48.227.

(7) Each child admitted to a group home as a resident shall have had a health examination performed by an individual licensed to perform the examination no more than one year before being admitted to the group home or shall have the examination within 30 days after the date of admission if the consent required under s. HFS 57.25 (1) has been obtained. *Runaway Homes referenced in Ch. 48.227 must make a good faith effort to obtain documentation of the examination or arrange for one to be completed.* Documentation of the examination shall be maintained in the resident's record as required in s. HFS 57.38 (1) (i) 3.

**HFS 57.21 Staff to resident ratios and supervision.** (1) In a shift-staffed group home, during hours other than sleep, there shall be at least one staff member on duty whenever 5 or fewer residents are present. At least 2 staff shall be on duty if there are 6 or more residents present, *with the exception of Runaway Homes referenced in Ch. 48.227.* Whenever residents are asleep, at least one resident care staff or relief help shall be awake unless an alternate means of assuring the safety of residents is provided by the group home and approved by the department. The group home must assure that residents are responded to if needed. The number of resident care staff shall be increased as necessary to provide the care and services identified in the group home's program statement and plan of activities.

**HFS 57.23 Treatment planning and assessment.** (1) ASSESSMENT. (a) *Residents.* Within 30 calendar days after the date a resident is admitted to the group home, a staff member shall perform a comprehensive written assessment of the resident for use in the development of a treatment plan. If the child is admitted to the group home under a voluntary agreement for respite care, the assessment shall be completed by the date of admission to the group home and shall include all of the following:

1. Information about the resident's developmental, behavioral, educational and medical history; family and significant relationships; legal history; substance abuse history and any past treatment.
2. A description of the resident's current status, including mental status, medical needs, current activities, educational status, any current and recent substance abuse usage and personal strengths.

*Runaway Homes referenced in Ch. 48.227 shall perform the assessment via the federally mandated Runaway and Homeless Youth Management Information System (RHYMIS).*

(2) TREATMENT PLAN. (a) Upon completion of the assessment required under sub. (1), the program director shall develop a written treatment plan with the participation of the resident, a parent or guardian and the legal custodian, if available, and the persons who will provide the required services to the resident. A completed treatment plan for each resident shall be placed in the resident's record maintained by the group home under s. HFS 57.38, and shall include all of the following:

1. A description of the resident's strengths, needs, and preferences.
2. Treatment goals for the resident and the time frames for achieving those goals.
3. A description of behavior interventions to be utilized with the resident. The licensee shall ensure that methods of behavior intervention are positive, based on the resident's needs, stage of development and behavior and promote self control.
4. Specific services and supports to be provided to achieve the treatment goals, and names of persons, agencies or position titles responsible for providing services and implementing any of the treatment goals.
5. Permanency planning goals.
6. Goals related to independent living skills, if the resident is 15 years of age or older.
7. Specific indicators that treatment goals have been achieved.
8. Any court ordered conditions.
9. Projected length of stay and conditions for discharge.
10. Visits to the resident by parents and other family members with the approval of the placing agency and in accordance with clients' right standards to ensure that an appropriate relationship is maintained between the resident and family members.
11. Arrangements for public school attendance.
12. Consideration of the additional requirements for care of custodial parents and expectant mothers under s. HFS 57.36 and care for children under 6 years of age under s. HFS 57.37, as applicable.

(b) Each treatment plan shall be reviewed at least once every 3 months. The review shall be conducted by all of the persons included in the initial development of the plan, if possible. All of the following shall be reviewed and documented:

1. Progress made toward achieving the goals established in the treatment plan and any barriers encountered in achieving the goals.
2. Any changes in the treatment plan, including any changes to specific indicators of revised goals, time frames for achievement of treatment goals, and service providers.

*Runaway Homes referenced in Ch. 48.227 shall perform the written treatment plan via the federally mandated Runaway and Homeless Youth Management Information System (RHYMIS).*

**HFS 57.26 Dental care.** Within 30 days after admission to a group home, each resident over the age of 3 years old who is admitted to the group home for other than respite care or services provided in a Runaway Home referenced in Ch. 48.227 shall receive a dental examination unless an examination has been performed within 6 months before the resident's admission. Subsequent dental examinations shall occur at intervals not exceeding 6 months after the last examination or completion of treatment.

**HFS 57.305 Spending money.** (1) Each resident *except those receiving services provided in a Runaway Home referenced in Ch. 48.227* shall be given a regular, base amount of spending money appropriate to his or her age and maturity. Older residents can be given opportunities to earn extra money above and beyond the base allowance.  
(2) A resident's spending money may not be withheld as a disciplinary action.



**48.227 Runaway homes. (1)** Nothing contained in this section prohibits a home licensed under s. 48.48 or 48.75 from providing housing and services to a runaway child with the consent of the child and the consent of the child's parent, guardian or legal custodian, under the supervision of a county department, a child welfare agency or the department. When the parent, guardian or legal custodian and the child both consent to the provision of these services and the child has not been taken into custody, no hearing as described in this section is required.

**(2)** Any person who operates a home under sub. (1) and licensed under s. 48.48 or 48.75, when engaged in sheltering a runaway child without the consent of the child's parent, guardian or legal custodian, shall notify the intake worker of the presence of the child in the home within 12 hours. The intake worker shall notify the parent, guardian and legal custodian as soon as possible of the child's presence in that home. A hearing shall be held under sub. (4). The child shall not be removed from the home except with the approval of the court under sub. (4). This subsection does not prohibit the parent, guardian or legal custodian from conferring with the child or the person operating the home.

**(3)** For runaway children who have been taken into custody and then released, the judge may, with the agreement of the persons operating the homes, designate homes licensed under ss. 48.48 and 48.75 as places for the temporary care and housing of such children. If the parent, guardian or legal custodian refuses to consent, the person taking the child into custody or the intake worker may release the child to one of the homes designated under this section; however, a hearing shall be held under sub. (4). The child shall not be removed from the home except with the approval of the court under sub. (4). This subsection does not prohibit the parent, guardian, or legal custodian from conferring with the child or the person operating the home.

**(4) (a)** If the child's parent, guardian or legal custodian does not consent to the temporary care and housing of the child at the runaway home as provided under sub. (2) or (3), a hearing shall be held on the issue by the judge or juvenile court commissioner within 24 hours of the time that the child entered the runaway home, excluding Saturdays, Sundays and legal holidays. The intake worker shall notify the child and the child's parent, guardian or legal custodian of the time, place and purpose of the hearing. **(b)** If, in addition to jurisdiction under par. (c), the court has jurisdiction over the child under ss. 48.13 to 48.14, excluding s. 48.14 (8), or under ss. 938.12 to 938.14, a hearing may be held under s. 48.21 or 938.21.

**(c)** For the purposes of this section, the court has jurisdiction over a runaway child only to the extent that it may hold the hearings and make the orders provided in this section. **(d)** At the hearing, the child, the child's parent, guardian or legal custodian and a representative of the runaway home may present evidence, cross-examine and confront witnesses and be represented by counsel or guardian ad litem. **(e)** At the conclusion of the hearing, the court may order: 1. That the child be released to his or her parent, guardian or legal custodian; or 2. That, with the consent of the child and the runaway home, the child remain in the care of the runaway home for a period of not more than 20 days. Without further proceedings, the child shall be released whenever the child indicates, either by statement or conduct, that he or she wishes to leave the home or whenever the runaway home withdraws its consent. During this time period not to exceed 20 days ordered by the court, the child's parent, guardian or legal custodian may not remove the child from the home but may confer with the child or with the person operating the home. If, at the conclusion of the time period ordered by the court the child has not left the home, and no petition concerning the child has been filed under s. 48.13, 48.133, 938.12 or 938.13, the child shall be released from the home. If a petition concerning the child has been filed under s. 48.13, 48.133, 938.12 or 938.13, the child may be held in temporary physical custody under ss. 48.20 to 48.21 or 938.20 to 938.21.

**(5)** No person operating an approved or licensed home in compliance with this section is subject to civil or criminal liability by virtue of false imprisonment.

**History:** 1977 c. 354; 1979 c. 300; 1985 a. 176; 1995 a. 77; 1997 a. 292.

**48.23 Right to counsel. (1) RIGHT OF CHILDREN TO LEGAL REPRESENTATION.** Children subject to proceedings under this chapter shall be afforded legal representation as follows: (a) Any child held in a secure detention facility shall be represented by counsel at all stages of the proceedings, but a child 15 years of age or older may waive counsel if the court is satisfied that the waiver is knowingly and voluntarily made and the court accepts the waiver. (b) 1. If a child is alleged to be in need of protection or services under s. 48.13, the child may be represented by counsel at the discretion of the court. Except as provided in subd. 2., a child 15 years of age or older may waive counsel if the court is satisfied such waiver is knowingly and voluntarily made and the court accepts the waiver. 2. If the petition is contested, the court may not place the child outside his or her home unless the child is represented by counsel at the fact-finding hearing and subsequent proceedings. If the petition is not contested, the court may not place the child outside his or her home unless the child is represented by counsel at the hearing at which the placement is made. For a child under 12 years of age, the judge may appoint a guardian ad litem instead of counsel. (c) Any child subject to the jurisdiction of the court under s. 48.14 (5) shall be represented by counsel. No waiver of counsel may be accepted by the court. (cm) Any minor who is subject to the jurisdiction of the circuit court under s. 48.16 and who is required to appear in court shall be represented by counsel.

**(2) RIGHT OF PARENTS TO COUNSEL.** Whenever a child is the subject of a proceeding involving a contested adoption or the involuntary termination of parental rights, any parent under 18 years of age who appears before the court shall be represented by counsel; but no such parent may waive counsel. A minor parent petitioning for the voluntary termination of parental rights shall be represented by a guardian ad litem. If a proceeding involves a contested adoption or the involuntary termination of parental rights, any parent 18 years old or older who appears before the court shall be represented by counsel; but the parent may waive counsel provided the court is satisfied such waiver is knowingly and voluntarily made.

**(2m) RIGHT OF EXPECTANT MOTHER TO COUNSEL.** (a) When an unborn child is alleged to be in need of protection or services under s. 48.133, the expectant mother of the unborn child, if the expectant mother is a child, shall be represented by counsel and may not waive counsel. (b) If a petition under s. 48.133 is contested, no expectant mother may be placed outside of her home unless the expectant mother is represented by counsel at the fact-finding hearing and subsequent proceedings. If the petition is not contested, the expectant mother may not be placed outside of her home unless the expectant mother is represented by counsel at the hearing at which the placement is made. An adult expectant mother, however, may waive counsel if the court is satisfied that the waiver is knowingly and voluntarily made and the court may place the adult expectant mother outside of her home even though the adult expectant mother was not represented by counsel. (c) For an expectant mother under 12 years of age, the judge may appoint a guardian ad litem instead of counsel.

**(3) POWER OF THE COURT TO APPOINT COUNSEL.** Except in proceedings under s. 48.13, at any time, upon request or on its own motion, the court may appoint counsel for the child or any party, unless the child or the party has or wishes to retain counsel of his or her own choosing. The court may not appoint counsel for any party other than the child in a proceeding under s. 48.13.

**(3m) GUARDIANS AD LITEM OR COUNSEL FOR ABUSED OR NEGLECTED CHILDREN.** The court shall appoint counsel for any child alleged to be in need of protection or services under s. 48.13 (3), (3m), (10), (10m) and (11), except that if the child is less than 12 years of age the court may appoint a guardian ad litem instead of counsel. The guardian ad litem or counsel for the child shall not be the same as counsel for any party or any governmental or social agency involved.

**(4) PROVIDING COUNSEL.** In any situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court and counsel is not knowingly and voluntarily waived, the court shall refer the person to the state public defender and counsel shall be appointed by the state public defender under s. 977.08 without a determination of indigency. If the referral is of a person who has filed a petition under s. 48.375 (7), the state public defender shall appoint counsel within 24 hours after that referral. Any counsel appointed in a petition filed under s. 48.375 (7) shall continue to represent the child in any appeal brought under s. 809.105 unless the child requests substitution of counsel or extenuating circumstances make it impossible for counsel to continue to represent the child. In any situation under sub. (2) or (2m) in which a parent 18 years of age or over or an adult expectant mother is entitled to representation by counsel; counsel is not knowingly and voluntarily waived; and it appears that the parent or adult expectant mother is unable to afford counsel in full, or the parent or adult expectant mother so indicates; the court shall refer the parent or adult expectant mother to the authority for indigency determinations specified under s. 977.07 (1). In any other situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court, competent and independent counsel shall be provided and reimbursed in any manner suitable to the court regardless of the person's ability to pay, except that the court may not order a person who files a petition under s. 813.122 or 813.125 to reimburse counsel for the child who is named as the respondent in that petition.

**(5) COUNSEL OF OWN CHOOSING.** Regardless of any provision of this section, any party is entitled to retain counsel of his or her own choosing at his or her own expense in any proceeding under this chapter.

**(6) DEFINITION.** For the purposes of this section, "counsel" means an attorney acting as adversary counsel who shall advance and protect the legal rights of the party represented, and who may not act as guardian ad litem for any party in the same proceeding.

**History:** 1977 c. 354, 355, 447, 449; 1979 c. 300, 356; 1987 a. 27; 1987 a. 383; 1989 a. 31; Sup. Ct. Order, 151 W (2d) xxv (1989); 1989 a. 56, 107; 1991 a. 263; 1993 a. 377, 385, 395, 451, 491; 1995 a. 27, 77; 1997 a. 292.

**Cross-reference:** See s. 48.275 (2), concerning contribution toward legal expenses by parent or guardian. The court erred by failing to inform parents of their right to a jury trial and to representation by counsel. In re Termination of Parental Rights to M. A. M. 116 W (2d) 432, 342 NW (2d) 410 (1984). Neither a temporary custody order nor a custodial interrogation were proceedings under sub. (1) (a). State v. Woods, 117 W (2d) 701, 345 NW (2d) 457 (1984). When a party to a CHIPS action is represented by both adversary counsel and a GAL, adversary counsel must be allowed to zealously represent the client's expressed wishes even where the GAL holds an opposing view. In Interest of T.L. 151 W (2d) 725, 445 NW (2d) 729 (Ct. App. 1989). The right to be represented by counsel includes the right to effective counsel. In Interest of M.D.(S), 168 W (2d) 996, 485 NW (2d) 52 (1992). The prohibition in sub. (3) against appointing counsel for a party other than the child is unconstitutional. Joni B. v. State, 202 W (2d) 1, 549 NW (2d) 411 (1996).

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