October 18, 2017 – Introduced by COMMITTEE ON HEALTH. Referred to Committee on Health.

AN ACT relating to: changes to administrative rules for mental health services providers and mental health services provided in schools.

Analysis by the Legislative Reference Bureau

This bill makes various changes to the administrative rules for mental health services providers and mental health services provided in schools in order to conform those rules to the statutory requirements for the Medical Assistance program. Among other things, the bill changes the administrative rules to allow licensed clinical social workers, licensed marriage and family therapists, and licensed professional counselors to be certified as mental health service providers and requires coverage of mental health services by these providers, as well as mental health services by licensed physicians and psychologists, under the Medical Assistance program to the extent that the services are provided at a school. The bill also changes administrative rule provisions regarding reimbursement for outpatient psychotherapy services and alcohol and other drug abuse services under the Medical Assistance program to conform to statutory requirements, including allowing reimbursement for certain services by certified providers regardless of whether the school site is designated as a clinic office and regardless of whether the provider is employed by, a contractor of, or affiliated with a clinic.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:
SECTION 1. DHS 105.22 (1) (ad), (ae) and (af) of the administrative code are created to read:

DHS 105.22 (1) (ad) A clinical social worker licensed under ch. 457, Stats.;

(ae) A marriage and family therapist licensed under s. 457.10, Stats.;

(af) A professional counselor licensed under s. 457.12, Stats.;

SECTION 2. DHS 105.22 (1) (ak) of the administrative code is created to read:

DHS 105.22 (1) (ak) For outpatient mental health services provided in a school, a licensed treatment professional, as defined in s. DHS 35.03 (9g), who is not described in par. (a), (ad), (ae), (af), or (b).

SECTION 3. DHS 105.22 (1) (b) of the administrative code is amended to read:

DHS 105.22 (1) (b) A psychologist licensed under ch. 455, Stats., who is listed or eligible to be listed in the national register of health service providers in psychology;

SECTION 4. DHS 105.22 (3) of the administrative code is amended to read:

DHS 105.22 (3) REIMBURSEMENT FOR OUTPATIENT PSYCHOTHERAPY SERVICES. Reimbursement shall be made to any certified outpatient mental health clinic meeting the requirement under sub. (1) (c) for services rendered by any provider who meets the applicable requirements under ch. DHS 35 and working for that clinic, except that a provider certified under sub. (1) (a), (ad), (ae), (af), (b) or (bm) may be reimbursed directly. Except for services described in s. 49.45 (30e), Stats., psychotherapy services provided by providers certified under sub. (1) (ad), (ae), and (af) shall be reimbursed regardless of whether the services are provided under a certified program. Providers certified under sub. (1) (ad), (ae), and (af) may provide psychotherapy services that are not described in s. 49.45 (30e), Stats., without supervision by another health care provider. Reimbursement shall be made for
ASSEMBLY BILL 542

SECTION 4

mental health services provided by providers certified under sub. (1) (a), (ad), (ae),

(af), (ak), (b), or (bm) in a school regardless of whether the school site is designated

as a clinic office and regardless of whether the provider is employed by, a contractor

of, or affiliated with a clinic.

SECTION 5. DHS 105.23 (1) (c) of the administrative code is amended to read:

DHS 105.23 (1) (c) A provider certified under s. DHS 105.05 (1) or 105.22 (1)

(ad), (ae), (af), or (b).

SECTION 6. DHS 105.23 (1) (d) of the administrative code is created to read:

DHS 105.23 (1) (d) For AODA services provided at a school, a mental health

clinic or a provider certified under s. DHS 105.22 (1) (a), (ad), (ae), (af), (ak), (b), or

(bm).

SECTION 7. DHS 105.23 (2) (a) 1. and 2. of the administrative code are amended
to read:

DHS 105.23 (2) (a) 1. Meet the requirements in s. DHS 105.22 (1) (ad), (ae), (af)
or (b) or 105.05 (1); or

2. Be an AODA counselor certified by the Wisconsin alcoholism and drug abuse
counselor certification board and work under the supervision of a provider who is a
licensed physician or licensed psychologist and employed by the same facility, except

that a provider who meets the requirements in s. DHS 105.22 (1) (ad), (ae), or (af) may
provide services that are not described in s. 49.45 (30e), Stats., without supervision.

SECTION 8. DHS 105.23 (2) (c) of the administrative code is created to read:

DHS 105.23 (2) (c) A provider who meets the requirements in s. DHS 105.22
(1) (ad), (ae), (af), or (b) may provide AODA services that are not described under s.
49.45 (30e), Stats., without supervision by another health care provider.

SECTION 9. DHS 105.23 (3) (a) of the administrative code is amended to read:
DHS 105.23 (3) (a) For the services of any provider employed by or under contract to a certified AODA facility, reimbursement shall be made to the facility; and

SECTION 10. DHS 105.23 (3) (b) of the administrative code is amended to read:

DHS 105.23 (3) (b) For the services of any provider who is a physician or licensed psychologist defined under sub. (1) (c) in private practice, reimbursement shall be to the physician or psychologist individual provider. A provider who meets the requirements under s. DHS 105.22 (1) (ad), (ae), (af), or (b) shall be reimbursed for AODA services, except those services described in s. 49.45 (30e), Stats., regardless of whether the AODA services are provided through a certified program; and

SECTION 11. DHS 105.23 (3) (c) of the administrative code is created to read:

DHS 105.23 (3) (c) For AODA services provided at a school by a provider under sub. (1) (d), reimbursement shall be made to the individual provider.

SECTION 12. DHS 107.13 (2) (a) 3. a. of the administrative code is amended to read:

DHS 107.13 (2) (a) 3. a. A provider who is a licensed physician, licensed psychologist, or a licensed and certified advanced practice nurse prescriber, clinical social worker, marriage and family therapist, or professional counselor; who is individually certified under s. DHS 105.22 (1) (a), (ad), (ae), (af), (b), or (bm); and who is working in an outpatient mental health clinic certified under s. DHS 105.22 or in private practice.

SECTION 13. DHS 107.13 (2) (a) 3. c. of the administrative code is created to read:
DHS 107.13 (2) (a) 3. c. For mental health services provided at a school, a mental health clinic or a provider certified under s. DHS 105.22 (1) (a), (ad), (ae), (af), (ak), (b), or (bm).

**SECTION 14.** DHS 107.13 (2) (a) 4. e. of the administrative code is amended to read:

DHS 107.13 (2) (a) 4. e. A school, a mental health clinic or licensed treatment professional, as defined in s. DHS 35.03 (9g), is not required to designate the school site as a clinic office for mental health services provided at a school to be covered.

**SECTION 15.** DHS 107.13 (2) (a) 5. of the administrative code is amended to read:

DHS 107.13 (2) (a) 5. The Except for mental health services provided in a school, the provider who performs psychotherapy shall engage in face-to-face contact with the recipient for at least 5/6 of the time for which reimbursement is claimed under MA;

**SECTION 16.** DHS 107.13 (2) (b) 4m. of the administrative code is created to read:

DHS 107.13 (2) (b) 4m. Prior authorization is not required for mental health services provided in a school by a provider specified under s. DHS 105.23 (1) (d).

**SECTION 17.** DHS 107.13 (2) (c) 6. of the administrative code is amended to read:

DHS 107.13 (2) (c) 6. Professional psychotherapy services provided to hospital inpatients in general hospitals, other than group therapy and medication management, are not considered inpatient services. Reimbursement shall be made to the psychiatrist, clinical social worker, marriage and family therapist, professional counselor, psychologist, or advanced practice nurse prescriber billing providers certified under s. DHS 105.22 (1) (a), (ad), (ae), (af), (b), or (bm) who provide
mental health professional services to hospital inpatients in accordance with
requirements of this subsection.

SECTION 18. DHS 107.13 (2) (c) 7. of the administrative code is created to read:
DHS 107.13 (2) (c) 7. This paragraph does not apply to mental health services
provided in a school by a provider specified under s. DHS 105.23 (1) (d).

SECTION 19. DHS 107.13 (2) (c) 8. of the administrative code is created to read:
DHS 107.13 (2) (c) 8. A prescription from a physician or other health care
provider is not required for reimbursement for psychotherapy services provided by
a clinical social worker, marriage and family therapist, professional counselor, or
psychologist who is certified under s. DHS 105.22 (1) (ad), (ae), (af), or (b).

SECTION 20. DHS 107.13 (3) (a) (intro.), 2. and 3. of the administrative code are
amended to read:
DHS 107.13 (3) (a) (intro.) Outpatient Except as provided in par. (am),
outpatient alcohol and drug abuse treatment services shall be covered when
prescribed by a physician, provided by a provider who meets the requirements of s.
DHS 105.23, and when the following conditions are met:
2. Before being enrolled in an alcohol or drug abuse treatment program, the
recipient receives a complete medical evaluation, including diagnosis, summary of
present medical findings, medical history and, subject to par. (am), explicit
recommendations by the physician for participation in the alcohol or other drug
abuse treatment program. A medical evaluation performed for this purpose within
60 days prior to enrollment shall be valid for reenrollment;
3. The supervising physician or a psychologist, clinical social worker, marriage
and family therapist, or professional counselor develops a treatment plan which
relates to behavior and personality changes being sought and to the expected outcome of treatment;

SECTION 21. DHS 107.13 (3) (a) 5. of the administrative code is amended to read:

DHS 107.13 (3) (a) 5. AODA treatment services are performed only in the office of the provider, a hospital or hospital outpatient clinic, an outpatient facility, a nursing home, or a school. A mental health clinic or licensed treatment professional, as defined in s. DHS 35.03 (9g), is not required to designate the school site as a clinic office for mental health services provided at a school to be covered;

SECTION 22. DHS 107.13 (3) (am) of the administrative code is created to read:

DHS 107.13 (3) (am) Outpatient alcohol and other drug abuse treatment services provided by a provider who meets the requirements of s. DHS 105.23 and who is a clinical social worker, marriage and family therapist, professional counselor, or psychologist shall be covered regardless of whether the services are prescribed by a physician or other health care provider.

(END)