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CLEARINGHOUSE RULE 97-030

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 October 1994.]

2. Form, Style and Placement in Administrative Code

a. In s. DOC 311.01, first sentence, “to be” should be inserted after “status” and “himself or herself” should be substituted for “self.” This latter change should be applied throughout the rule.

b. In s. DOC 311.02, “ss.” should be inserted before the list of cites in the last line and the comma after “302.08” should be deleted. This latter change should be applied throughout the rule (i.e., wherever there is a list of three or more statutes, persons or items connected by a final “and” or “or,” there should not be a comma before the “and” or “or”).

c. In s. DOC 311.03 (1), should “an administrator” be “the administrator”? Also, “his or her” should be inserted before “designee.” This latter change should be applied throughout the rule wherever “designee” appears without “his or her” in front of it. In sub. (3), the definition is repetitive; should it at least say “trained as a clinical psychologist” or something to that effect? The same comment applies to sub. (5); also, in that subsection, “appropriately trained” as what? This entire definition should be reworked and clarified. In sub. (12), “an” should be inserted before “institution.” Also, this definition and the definition in sub. (11) are repetitive (“Security director means the security director”) and should perhaps be reworked.

d. In s. DOC 311.04 (3) (c), the last part of the sentence should read “or a threat of this behavior.” In sub. (4) (c), what is a “psychological services associate”? This should be clarified. Also, in that paragraph, “person under par. (a)” could be substituted for “clinician, crisis intervention worker, or physician.” In sub. (5), “under sub. (4)” should be inserted after

“authorized to place an inmate in observation.” In sub. (6), is the person notified at some point in writing of the reasons for placement?

e. In s. DOC 311.05 (2), last line, “should” should be “shall.” In sub. (3), “orally” should be inserted after “advise the inmate” and “shall” should replace “will.” Also, should there be a maximum limit placed on the phrase “within a reasonable time” (e.g., “within a reasonable time, not to exceed ___ days”)? The current rule on this topic provides for written notification within 10 working days after the examination.

f. In s. DOC 311.06 (3) (intro.), “days” should be inserted after “working.” In par. (a), can a statutory cross-reference be inserted? In par. (b), reference should be made to s. DOC 311.06 (2); the same comment applies to sub. (3) (b).

g. In s. DOC 311.07 (1), “if there is” should be substituted for “with” and “under this section” should be inserted before the period. In sub. (2) (intro), “of his or her placement” should be inserted after “15th working day.” In par. (d), “the personal safety of the person providing the information” should be substituted for “personal safety.” In par. (e), “decision” by whom or about what? In par. (f) (intro.), “rights” should replace “right.” Subdivision 2. should specify what the allegation is. In subd. 7., “the decision” should be substituted for “it.” In sub. (4) (c), “medical evidence” relating to what? Subsection (5) (b) and (c) should read: “(b) Whether the standard for dangerousness has been met. (c) Whether the standard for mental illness has been met.” In sub. (7), should there be a time limit on when these reasons are provided to the inmate in writing?

h. In s. DOC 311.09 (1), “under s. DOC 311.____” should be inserted after “examination” (i.e., insert the appropriate cross-reference). In sub. (2), “institution” should replace “one.” In sub. (5) (intro.), “the advocate” should be “his or her advocate.” In sub. (6), what is the time period for giving the reasons to the inmate in writing? Subsection (7) should be written in the active voice: “___ shall conduct a review”

i. In s. DOC 311.10, it appears that sub. (2) (c) and (d) can be combined into one paragraph. In sub. (3), second sentence, is the intent that the reasons be stated in writing? If so, this should be included. Under sub. (4), is there a time when the inmate is to be notified of the reasons for placement in writing? If so, this should be specified here.

j. In s. DOC 311.11 (2), “by a person under s. DOC 311.10 (2)” should be substituted for the list of persons after the word “observation.” Also, should “should” be “shall”? If “shall” is not used, it may mean that there is no definite time limit on when the examination of the inmate is to take place. In sub. (3), second sentence, “the findings of” should be inserted before “the examination” and “shall” should replace “will.” Also, this sentence should be written in the active voice to specify who must provide the notification.

k. In s. DOC 311.12 (1), “as a physician determines that” should be inserted after “until such time”; the rest of the sentence should be reworded to reflect this insertion.

l. In s. DOC 311.13 (1) (a), “timely review” under what provision? An appropriate cross-reference should be added at the end of this provision. In sub. (2), it is not clear who is included in “appropriate staff”; this should be specified. In sub. (3), “within 5 working days” after what? This should be specified.

m. In s. DOC 311.14 (1) (intro.), “Conditions shall in insofar” should be replaced by “Conditions, including privileges and properties, shall, insofar.” In the third sentence, why is this limited to the “staff member who placed the inmate in observation”? Should others be able to change the inmate’s condition of confinement? In sub. (4), second sentence, should “may” be “shall”?

n. In s. DOC 311.15 (2), “involving the inmate” should be inserted after “incidents.”

o. There are several typographical errors in the Notes to the rule. In the first paragraph, “discouraging” should replace “discourages” and “news” should replace “new.” In the second line of the seventh paragraph, “is” should replace “in.” In the 16th paragraph, “Section” should replace “Subsection” in two places. Also, in the future, it would be helpful if the pages were numbered.