



State of Wisconsin
Department of Health Services

Tony Evers, Governor
Karen E. Timberlake, Secretary

TO: Senator Patrick Testin, Chair, Senate Committee on Health
Representative Jesse L. James, Chair, Assembly Committee on Substance Abuse and Prevention

FROM: HJ Waukau, Deputy Legislative Director, Department of Health Services

DATE: May 7, 2021

RE: Germane Modifications to Chapter DHS 75, CR 20-047

Dear Senator Testin and Representative James:

Pursuant to s. 227.19 (4) (b) 3., Stats., the Department of Health Services (“the Department”) is proposing additional germane modifications to Clearinghouse Rule 20-047, administrative rule chapter DHS 75, relating to community substance use services. The proposed modifications were made in response to additional stakeholder feedback received during the committee’s extended review period following the Department’s prior submission of germane modifications on April 23, 2021,¹ and to improve clarity and consistency with updated policies and guidance. These modifications are submitted in addition to the germane modifications submitted on April 9, 2021 and April 23, 2021, and are summarized below. The revised proposed rule orders (“PRO”) are attached including a version with the newly added germane changes noted, and a final clean copy in which all of the changes have been accepted without mark up.

The Department is proposing the following additional modifications to the rule:

1. Correcting the numbering throughout the rule to be in alignment with germane modifications.
2. Revising the Community Substance Use Service Standards Index page and s. DHS 75.48 table heading to reflect “Outpatient” to DHS 75.50 “Outpatient integrated behavioral health treatment service”
3. Revising definitions in s. DHS. 75.03 for clarity and increased flexibility:
 - a. In s. DHS 75.03 (50) (c), removing the DHS 75 citation in the definition of “licensed professional” and replacing it with the statutory citation, ch. 440.88, Stats.
 - b. In s. DHS 75.03 (51) (g), refining language in the definition of “medical director” for clarity.
 - c. In s. DHS 75.03 (70), revising language in the definition of “prescriber” to remove the information related to obtaining training and experience because it is no longer needed due to previous germane modifications.
 - d. In s. DHS 75.03 (75), removing “as applicable” because it is duplicative.

¹ Copies of the Department’s letter to the committee chairs and the modified proposed rule order are available at the Wisconsin State Legislature’s Clearing House Rule page for CR 20-047, https://docs.legis.wisconsin.gov/code/chr/all/cr_20_047.

- e. In s. DHS 75.03 (85) (d), adding “physician” as another type of provider allowed in the definition of “substance abuse counselor,” per Act 262 and ch. 448.
 - f. In s. DHS 75.03 (90), adding “or service” to clarify that transfers can be within the same service provider or to another service provider.
 - g. In s. DHS 75.03 (95), replacing “counselor” with “service” in the definition of “treatment plan” to allow for multiple clinical staff of a service to be involved in treatment planning.
4. Removing probationary certification references in s. DHS 75.05, per requests from the Department’s Division of Quality Assurance, as these are not utilized and the removal allows all certified programs to have the maximum certification time period.
 5. Clarifying the written notice provisions in s. DHS 75.08 to include by mail or electronic mail.
 6. Adding language to s. DHS 75.13 to indicate that the department will consider requests that increase patient access and support service efficiency.
 7. Modifying language to improve clarity in s. DHS 75.14 (2); 75.15(2) (c); 75.18 (2) (a), (b), and (c); 75.20 (1) (a) (5); 75.20 (1) (b) (14) and (15); 75.24 (16) (b) and (d); 75.24 (18) (b); 75.24 (19) (c); 75.32 (3); 75.42 (2) (a); 75.48 (2) (b) and (f); 75.50 (3) (b); 75.51 (2), 75.56 (1); 75.56 (2) (a) (5); 75.56 (2) (b); 75.57 (1); 75.59 (8) (e); 75.59 (10) (b); and in several areas of 75.60.
 8. Modifying language to increase flexibility related to telehealth in s. DHS 75.18 (1) (c).
 9. Amending language regarding “substance abuse counselors” to remove prescribers knowledgeable in addiction treatment, as upon further review of Act 262 and 440.88(3m) this role is limited to physicians and not all prescribers.
 10. Removing language requiring written policies and procedures to decrease documentation requirements in s. DHS 75.18 (4) and (5) respectively.
 11. Adding language to clarify the ability to arrange for services if the clinic is not providing services during after hour emergencies in s. DHS 75.24 (3).
 12. Adding language to clarify that a referral for services is not required if already receiving said services in s. DHS 75.24 (9) (b).
 13. Modifying language to indicate that a service shall promote best practices for assessments rather than requiring use of said practices, to reduce burden of documenting evidence of compliance in s. DHS 75.24 (11) (b).
 14. Modifying language to indicate the treatment plan is an agreement between the patient and the “service” to allow for the potential involvement of more than one clinician and modified to require signatures for only behavioral health clinicians in s. DHS 75.24 (13) (b), (d), and (j).
 15. Removing “physician” and adding “prescriber” for greater workforce flexibility in s. 75.24 (19) (g), 75.48 (2) (d) and (g), 75.53, 75.58 (2) (b) (3) and 75.60 (9) (c) and added prescriber in s. DHS 75.48(2) (g).
 16. Replacing “hospital bed” with “medical examination table,” and replaced “sterilization” with “cleaning” as less costly and more flexible options in s. 75.42 (2) (d) and (3) respectively.
 17. Clarifying that the requirement for being on-site is contingent on services being provided on-site, to eliminate the need to seek waivers if services are being provided remotely in s. DHS 75 48 (1) (c), (e) and 75.48 (2) (b) (e)
 18. Replacing “supervision” with “oversight” due to concerns of existence of varying definitions of supervision in the medical field in s. DHS 75.51 (1), DHS 75.52, DHS 75.53, DHS 75.54, 75.55, 75.56
 19. Reducing the service hours per week for minors receiving day treatment or partial hospitalization services from 15 to 12 hours in s. DHS 75.52.

20. Clarifying and reducing the required level of resources needed to respond to an acute medical or behavioral emergency in s. DHS 75.55.
21. Changing the applicability for office-based opioid treatment to exclude services providing medication for addiction to less than 30 patients to align with recently released federal guidance in s. DHS 75.60 (1), and to exclude settings not otherwise specified under the chapter.

Please contact me at 608-733-0529 if you have any questions regarding these modifications to CR 20-047.

Thank you.