

STATEMENT OF SCOPE
WISCONSIN DEPARTMENT OF HEALTH SERVICES

CHAPTERS: DHS 10, 34, 35, 36, 40, 60, 61, 62, 63, 73, 75, 92, 94, 96, 97, 101, 103, 104, 105, 107, 109, 118, 124, 127, 129, 133, 134, 163, 252, and 254
RELATING TO: 2023 Biennial review of administrative rules under s. 227.29, Stats.
RULE TYPE: Permanent
SCOPE TYPE: Original

SUMMARY

1. Description of rule objectives

This Statement of Scope seeks to repeal obsolete rules that the Wisconsin Department of Health Services (“the Department”) identified as in need of revision throughout the review process required under s. 227.29, Stats., and to make other corrections based upon information provided to the Department by the Legislative Reference Bureau. An overview of proposed changes is provided below.

2. Existing policies relevant to the rule and policies proposed to be included in the rule

DHS 10 – relating to family care:

- DHS 10.13 (40m), DHS 10.21 (3) (b), and 10.42 (3) (a) and (6) (b) refer to s. 46.2825, Stats., which was repealed. These provisions should be amended or repealed to remove references to the repealed statute.
- DHS 10.33 (3) (c) 1. and 10.42 (2) cite to s. 46.27, Stats., which was repealed. These provisions should be amended or repealed to remove references to the repealed statute.
- DHS 10.73 includes references to ss. 50.034 (5p), 50.035 (4p), and 50.04 (2i), all of which were repealed. This section should be amended to remove references to the repealed statute.

DHS 34 – relating to emergency mental health service programs:

- DHS 34.02 (14) references an out-of-date edition of the Diagnostic and Statistical Manual of Mental Disorders (“DSM”). This provision should be amended to refer to the most recent edition of the DSM.
- DHS 34.21(3) (b) 18. conflicts with MA rules because it does not include peer specialists, parent peer specialists, and recovery coaches in the list of program staff qualified to provide mental health crisis services. This provision should be updated for consistency with MA rules.

DHS 35 – relating to outpatient mental health clinics:

- DHS 35.03 (1m) refers to the “the Wisconsin Uniform Placement Criteria,” which the Department no longer uses. This reference is obsolete and should be removed from the subsection.
- DHS 35.03 (5) (a) is obsolete because it includes clinical supervision requirements which are inconsistent with the Department of Safety and Professional Services (“DSPS”) rules for clinical supervision.

DHS 36 – relating to comprehensive community services for persons with mental disorders and substance-use disorders.

- DHS 36.03 (8) references to an out-of-date edition of the Diagnostic and Statistical Manual of Mental Disorders (“DSM”). This provision should be amended to refer to the most recent edition of the DSM.
 - DHS 36.03 (15) references an out-of-date edition of the Diagnostic and Statistical Manual of Mental Disorders (“DSM”). This provision should be amended to refer to the most recent edition of the DSM.
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- DHS 36.03 (30) uses the phrase “substance abuse professional,” which is inconsistent with recently amended DHS 75, which uses the phrase “substance use professional.” Citations to DHS 75 are also outdated. This subsection should be amended for consistency with DHS 75.
- DHS 36.03(31) references an out-of-date edition of the Diagnostic and Statistical Manual of Mental Disorders (“DSM”). This provision should be amended to refer to the most recent edition of the DSM.
- DHS 36.10 (2) (e) 4. is inconsistent with other rules because it does not allow a graduate student completing their practicum—which is reimbursable under s. DHS 36.10 (2) (g) 22.—to serve as a service facilitator. This subdivision should be amended to permit individuals who meet the qualifications in s. DHS 36.10 (2) (g) 22. to serve as service facilitators.
- DHS 36.10 (2) (g) 7. is obsolete because it refers to outdated accrediting bodies and standards for nurse practitioners. This subdivision should be revised to refer to statute and national accrediting bodies.
- DHS 36.10 (2) (g) 8. a. is obsolete because it refers to outdated accrediting bodies and standards for advanced practice nurse prescribers. The subdivision paragraph needs to be revised to refer to statute, DSPS code, and national accrediting bodies.
- DHS 36.10 (2) (g) 9. conflicts with ss. 457.11 and 457.13, Stats., and Medicaid Policy (Topic #17237) because it does not include licensed professional counselors in-training or licensed marriage and family therapists in-training as personnel who may work at comprehensive community services programs. This subdivision should be updated accordingly.
- DHS 36.10 (2) (g) 20. is outdated because it only includes certified peer specialists. The Department also certifies parent peer specialists, who may also work in comprehensive community services programs. This provision should be amended to include parent peer specialists.
- DHS 36.10 (2) (g) 22. conflicts with s. DHS 107.01(2), which requires clinical students to be graduate students working during their practicum for services be reimbursable. The rule as written simply states that a clinical student should be “working toward a degree,” and that provision should be amended to specify that a master’s degree is necessary to render services.
- DHS 36.14 is obsolete and needs to be amended to reflect the requirement for initial and annual functional screens. Comprehensive community service programs are Medicaid-funded and functional screens are necessary to determine eligibility for the program and that individuals in the program remain eligible. The current rule does not expressly require initial or annual functional screens.
- DHS 36.16 contains assessment procedures that are outdated and inconsistent with best practices—namely that assessments and service plans be reviewed and updated at least every six months. This section should be updated to reflect best practices.
- DHS 36.17 and 36.19 contain references to fair hearings that are inconsistent with DHS 104.01 (5), as these references appear to apply to clinical decisions to discharge an individual from comprehensive community service programs, but the fair hearing process is not intended for recipients who wish to lodge complaints against providers concerning quality of services received or discharge from a program. *See s. DHS 104.01 (5) (b)*. These provisions should be updated accordingly.
- DHS 36.17 (5) (am) is obsolete and needs to be amended to reflect discharge from the Comprehensive Community Services (“CCS”) program and steps required by the program to provide to the consumer. In addition, another note should be added about the fair hearing process. The purpose of the fair hearing is to allow a recipient to appeal Department actions which result in the denial, discontinuation, termination, suspension, or reduction of the recipient’s MA benefits. The fair hearing process is not intended for recipients who wish to lodge complaints against providers concerning quality of services received or discharge from a program. The Division of Care and Treatment Services (“DCTS”) is attempting to clarify the rule on the process of an appeal to DCTS if they disagree with a CCS discharge. A fair hearing based on DHS 104.01(5) would not be relevant in these cases and therefore this language should be removed.
- DHS 36.18 (3) (f) 7m. is obsolete because it refers to a Department approved drug administration course, and there is no Department-approved training.

DHS 40 – relating to mental health day treatment services for children:

- DHS 40.03 (38) needs to be amended because it cites to a repealed statute, s. 448.01(6), when defining “physician assistant.” This subsection should be amended to cite to s. 448.971 (2), Stats.

DHS 60 – relating to traffic and conduct on state treatment institution property:

- DHS 60.01 (10), conduct on institution grounds, lacks a requirement that individuals comply with all posted signs on the property. The current rule is therefore obsolete as posted signs are approved by the administration and enforced by security staff. The rule should be amended to include this requirement.

DHS 61 – relating to community mental health and developmental disabilities:

- DHS 61.021 (5) (a), which provides that children may be placed in adult inpatient mental health services for limited periods of time, conflicts with other rules and best practices. Section DHS 61.79 outlines specific requirements for children and adolescent inpatient programs to ensure appropriate levels of supervision and care, and adult inpatient services do not comport with those requirements. Section DHS 61.021 (5) (a) also conflicts with best practices from the American Academy of Children and Adolescent Psychiatry, which state that children and adolescents should only be admitted to programs designed for children and adolescents.
- DHS 61.11 and 61.12 are obsolete and in conflict with client rights provisions in DHS 94. These sections should be updated for consistency with ch. DHS 94.

DHS 62 – relating to assessment of drivers with alcohol or controlled substance problems:

- DHS 62.03 (1), (12) (a), (17), (21), (22), (24), 62.05 (2) (a) 1. a. and b., 62.06 (1), (2) and (4), 62.07 (1) (h), (5) (a) 1. c., 2. c., (b) 1. to 3., (d) 2. and 3., and (6) (c) 2. (intro.) and a. include outdated citations to Ch. DHS 75, which has since been repealed and recreated by CR 20-047, which took effect on October 1, 2022. These citations need to be amended to include accurate citations to the new version of Ch. DHS 75.
- DHS 62.07 (5) (d) 1. provides that a driver safety plan may recommend involvement in a victim impact panel (“VIP”). This component of the driver safety plan is obsolete and economically burdensome. Only 15 to 20 percent of counties require attendance at VIPs, and VIPs add costs to a conviction that already includes significant costs and fees. Additionally, courts can still order VIPs. This subsection should be repealed.
- DHS 62.07 (5) (d) 3. contains an obsolete reference to “intensive supervision under s. DHS 75.16 (7).” CR 20-047 repealed and recreated Ch. DHS 75, and s. DHS 75.16 (7) no longer exists. There are no other provisions in statutes or rules that provide for intensive supervision for non-incarcerated adults, and this subsection should be repealed.

DHS 63 – relating to community support programs (“CSP”) for chronically mentally ill persons:

- DHS 63.06 (2) (c) and (4) conflict with DSPS rules. Specifically, s. DHS 63.06 (2) (c) needs to be amended to include that a clinical coordinator shall be a psychiatrist, or a licensed mental health professional authorized to practice psychology, marriage and family therapy, professional counseling, or clinical social work, pursuant to ch. 455 or 457, Stats. Section DHS 63.06(4) should be amended to include peer support specialist, or recovery coach in addition to a mental health technician.
- DHS 63.06 (4) (a) 9. is obsolete and needs to be amended to include peer specialists or recovery coaches as qualified CSP staff. Peer specialists and recovery coaches are promoted as best practice by the Substance Abuse and Mental Health Services Administration and shown to help people become and stay engaged in the recovery process and reduce the likelihood of relapse, and current exclusion in the rule doesn’t reflect agency standards. Peer support is already a covered service in the state’s other psychosocial rehabilitation programs of Community Support Programs and Comprehensive Recovery Services and in Crisis Services.

DHS 73 – relating to selected fiscal management procedures and standards under the community options program and medical assistance home and community-based waiver services:

- DHS 73.07 (1) (a) cites to s. 880.01 (4), Stats., which was repealed. This paragraph should be amended to replace the outdated language and statutory citation.
- DHS 73 contains multiple references to s. 46.27, Stats., which was repealed. These references should be amended to replace the outdated language and statutory citation or repealed.

DHS 75 – relating to community substance use service standards:

- DHS 75.03 (33) references an out-of-date edition of the Diagnostic and Statistical Manual of Mental Disorders (“DSM”). This provision should be amended to refer to the most recent edition of the DSM.
- DHS 75.07 (2) (e) needs to be amended to correct a typographical error. Specifically, it should say a “client,” and not “clients.”
- DHS 75.14 (4) (b), 75.15 (5) (b), and 75.60 (6) (b) include citations to DHS 12 Appendix A, which was repealed by CR 10-091. These references should be removed.
- DHS 75.14 (6) (a) and (b) are economically burdensome and should be amended. As currently written, the rule appears to require that a prevention service implement all seven of the best practice strategies listed in par. (6) (b). The intention of rule was to require use at least one of the best practices, and it did not intend to require a provider to utilize all the best practices listed. Requiring all seven strategies increases costs for providers and creates a barrier to providing prevention services. These paragraphs should be amended and modified to require use of at least one, but not all, of the practices listed.
- DHS 75.24 (11) (d) 6. needs to be amended to correct a typo. Specifically, “of” should be replaced with “or.”
- DHS 75.48 (2) (j) (table) contains language that conflicts with other rules. In row (j) of the table, it provides that a physician in a DHS 75.54 medically monitored residential treatment service and a prescriber in a DHS 75.55 medically managed inpatient treatment service must co-sign assessments. However, the plan language of ss. DHS 75.54 and 75.55 only require a single signature, and the table should be amended to strike “co-” from the requirements.

DHS 90 – relating to early intervention services for children from birth to age 3 with developmental needs:

- DHS 90.11 (6) (a) 7. refers to s. 448.05 (5), which was repealed and replaced with ch. 448, subch. IX, Stats. This subdivision should be amended to remove outdated language, and to update the statutory citation.

DHS 92 – relating to confidentiality of treatment records:

- DHS 92.01 (1), 92.02 (7), (13), and (16), 92.03 (1) (g), 92.04 (11) (b) and (d), (15) (b) 1., 92.05 (1) (c), and 92.06 (2) and (Note) conflict with other rules and regulations. These provisions use outdated phrases like “alcohol and drug addiction/dependency/abuse” which have been replaced by “substance use” or “substance use disorder” in federal regulations and ch. DHS 75. These provisions should be amended to replace the outdated terminology.

DHS 94 – relating to patient rights and resolution of patient grievances:

- DHS 94.01 (1) and 94.02 (24), 94.04 (5) (Note), 94.05 (4) (b) (Note), 94.42 (5) (a), 94.43 (1) (b), and 94.44 (6) (b) 1. a. and b. contain obsolete terminology (such as “alcohol and drug addiction/dependency/abuse”) and outdated facility or division names. These provisions should be amended to include updated terminology and facility or division names.

DHS 96 – relating to waiver by forensic patients of good time or entitlement to mandatory release for individuals committed under ch. 975, Stats.:

- Section 975.01 (1), Stats., provides that no one may be committed under Chapter 975 after July 1, 1980. There is no one applicable or still alive to which the rule applies, and there will be no individuals in the future to whom this rule could apply as people are now committed under ch. 980, Stats. This entire rule chapter is obsolete and should therefore be repealed.

DHS 97 – relating to complaint procedures for inmates of the Wisconsin resource center:

- DHS 97.03 (2) (a) is obsolete and should be repealed because the defined term is not used in the rule chapter.
- DHS 97.04 (2) (a) conflicts with existing rules because it incorrectly refers to s. DOC 310.04 (2). It should be amended to include the correct citation, which should be s. DOC 310.04 (3).

- DHS 97.04 (2) (b) is obsolete and burdensome. It requires the corrections complaint examiner (“CCE”) to send a copy of his or her report on a complainant’s appeal to the DCTS administrator, but this is inconsistent with current practice, wherein the CCE only elevates specific complaints to the DCTS administrator based on professional judgement. It is burdensome because there are over 200 complaints received per year. The rule should be amended to permit—rather than require—that the CCE submit the report to the DCTS administrator.

DHS 101 – relating to Medical Assistance; introduction and definitions:

- DHS 101.03 contains numerous uses of the phrase “alcohol or drug abuse” or “AODA,” which is outdated and has been replaced by “substance use” or “substance use disorder” in federal regulations and ch. DHS 75. These provisions should be amended to replace the outdated terminology. “Substance use disorder” should be defined in this rule section.

DHS 103 - relating to Medical Assistance; eligibility:

- DHS 103.06 (4) (b) 1. contains a statement about aid to families with dependent children (“AFDC”) policy concerning assets which has been obsolete since 2008. This subdivision should be repealed. Section DHS 103.06 (4) (b) 2. should be condensed into the introductory clause, which should be amended and renumbered s. DHS 103.06 (4) (b).
- DHS 103.06 (7) (a) 4. contains a statement about AFDC policy concerning assets which has been obsolete since 2008. This subdivision should be repealed.
- DHS 103.063 refers to divestment policies prior to August 9, 1989 which have been obsolete for over 20 years. This section should be repealed.
- DHS 103.065 was rendered obsolete by amendments to s. 49.453, Stats., in 2007, and this section should be repealed.

DHS 104 – relating to Medical Assistance; recipient rights and duties:

- DHS 104.01 (12) (a) 1. is inconsistent with MA policy, and a new subdivision paragraph needs to be created to clarify that only home and community-based waiver recipients who pay monthly cost shares are exempt from co-payments for services.

DHS 105 – relating to Medical Assistance; provider certification:

- DHS 105.05 (2) conflicts with 2021 Wis. Act 23, which amended statute to allow physician assistants to bill for services. This subdivision should be amended accordingly.
- DHS 105.16 is inconsistent with 2021 Wis. Act 248, which changed statute to include services outside the home. This section should be amended to remove the requirement that home health agency services must be provided in the home.
- DHS 105.17 (1c) (c) cites to s. 46.27, which was repealed. This paragraph should be amended to remove citation to the repealed statute.
- DHS 105.22 (3) conflicts with s. 455.04 (2) because it does not include interim psychologists as billing providers. This subdivision should be amended to include interim psychologists as billing providers.
- DHS 105.23 (2) (a) is inconsistent with statutory changes created by 2017 Wis. Act 262 and 2021 Wis. Act 222, which expanded the substance use disorder provider pool in Wisconsin. The rule as written does not reflect amendments removing requirements for substance use certifications for master’s level DSPS licensed clinicians and physician supervision. The rule should be amended for consistency with these new statutes.
- DHS 105.23 and 105.25 use the phrase “alcohol or drug abuse” or “AODA,” which is outdated and has been replaced by “substance use” or “substance use disorder” in federal regulations and ch. DHS 75. These provisions should be amended to replace the outdated terminology.

DHS 107 – relating to Medical Assistance; covered services:

- DHS 107.02 (2m) (a), 107.11 (6), 107.08 (4) (a) 6., 107.09 (2) and (4), 107.10 (1) and (3), 107.11 (2) and (4)(e), 107.112 (1) (a), 107.113, 107.12 (1) (b) and (c), 107.13 (1) to (6), 107.16 (1) (a), 107.17 (1), 107.18 (1) (a), 107.19 (1), 107.21 (1) (a), 107.24 (2) (a) 1. and 2., (b), (3) (h) 1., and (4) (c) 3., and 107.25

- (1) and (2) are inconsistent with changes related to physician assistant and nurse practitioner prescribing authority created by 2017 Wis. Act 119, and these provisions should be amended accordingly.
- DHS 107.10 (1) is inconsistent with 2021 Wis. Act 23 because it does not allow physician assistants to bill. This provision should be updated for consistency with statute.
 - DHS 107.13 uses the phrase “alcohol or drug abuse” or “AODA,” which is outdated and has been replaced by “substance use” or “substance use disorder” in federal regulations and ch. DHS 75. These provisions should be amended to replace the outdated terminology.
 - DHS 107.13 (3m) (a) 1. is inconsistent with other rules, as it refers to an “initial assessment” under a version of ch. DHS 75 that was repealed and recreated by CR 20-047. This provision should be updated to include the correct terminology and citation to the new version of ch. DHS 75.
 - DHS 107.24 (1) (b) 2. contains an outdated reference to “a physician assistant licensed under subch. II of ch. 448, Stats.” Chapter 448 was amended, and physician assistant licensure is now addressed in subch. VIII of ch. 448. This reference should be removed from subd. 2, and a new subdivision should be created to refer to physician assistances licensed under ch. VIII of ch. 448, Stats.

DHS 109 – relating to senior care:

- DHS 109.31 (1) refers to ch. Med 8, which was repealed by 2021 Wis. Act 23. This subsection should be amended to remove references to ch. Med 8.

DHS 118 – relating to trauma care:

- DHS 118 Appendix A contains training references that do not align with the American College of Surgeons (“ACS”) standards. *See* s. 256.25 (2), Stats. (stating that rules developed in DHS 118 shall “be based on standards developed by the American College of Surgeons”). These requirements should be updated for consistency with ACS standards.
- DHS 118 Appendix A 2. (m), 7. (j), and 11. (z) contain duplicative standards regarding advanced trauma life support (“ATLS”) training for trauma care facilities. These duplicative standards can be burdensome for providers and should be condensed into a single training requirement.
- DHS 118 Appendix A 10. (b) (18) includes a requirement that a trauma care facility that stabilizes pediatric trauma care patients in an emergency department must have “Laryngeal mask airway: sizes 1.5, 2, 2.5, and 3.” This terminology is incorrect, as a laryngeal mask airway is a specific type of supraglottic airway, and this provision should be amended to refer to the umbrella term of supraglottic airway mask.
- DHS 118 Appendix A 11. (xm) provides a standard under which trauma care facilities must have “fresh frozen plasma available within 15 minutes.” This standard conflicts with the industry standard thaw times—which are closer to 20 minutes—and is burdensome for trauma care facilities. This standard should be updated to reflect traditional thaw times.

DHS 124 – relating to hospitals:

- DHS 124.06 is obsolete as the requirements are now contained in 42 CFR 485.614. This section should be amended to remove patient rights for critical access hospitals.

DHS 127 – relating to rural medical centers:

- DHS 127.02 (3) cites to s. 183.0202(5), Stats. Chapter 183 of the statutes was repealed and recreated by 2021 Wis. Act 258. This subsection should be amended for consistency with the updated ch. 183, Stats.

DHS 129 – relating to certification of programs for training and testing nurse aides, medication aides, and feeding assistants:

- DHS 129.03 (30) (a) 2. cites to DHS 129.03 (31), which no longer exists. This subdivision should be updated to remove the outdated citation.
 - DHS 129.03 (30m) cites to DHS 146.40 (3) or (3g), neither of which exists. It appears this is a typo, and the citation should be updated to “s. 146.40 (3) or (3g), Stats.”
 - DHS 129.04 (3) and 129.08 (4) contain nurse aide training program requirements that conflict with amendments made by Public Law 105-15, Section 1819 (f) (2) and Section 1919 (f) (2) of the Social
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Security Act, and 42 U.S.C. 1395i3 (f) (2) and 42 U.S.C. 1396r (f) (2). These subsections should be amended for consistency with federal law.

DHS 133 – relating to home health agencies:

- DHS 133.02 (9m) needs to be amended because it cites to Wis. Stat. § 448.01(6), which was repealed.
- DHS 133.05 and 133.07 (1) need to be amended for consistency with federal regulations regarding evaluations of programs.

DHS 134 – relating to facilities serving people with development disabilities:

- DHS 134.83 (7) (b) and 134.83 (8) (b) need to be amended because they include a reference to the department of industry, labor, and human relations. These paragraphs should be updated to the department of workforce development.

DHS 163 – relating to certification for the identification, removal, and reduction of lead-based paint hazards:

- DHS 163.10 (8) (c) 5. cites to DHS 163.10(8)(b)4., which was repealed by CR 19-110. This subdivision and its accompanying note should be repealed.
- DHS 163.12 (3) (a) 1. e. cites to DHS 163.12 (2) (d) 2., which was repealed by CR 19-110. This subdivision paragraph should be amended to remove the outdated reference.

DHS 252 – relating to electronic benefit transfer:

- The rule chapter contains numerous uses of the outdated term “food stamps,” which has been replaced by “food share” in federal and state law. Each instance where this outdated term appears should be amended.

DHS 254 – relating to IM worker training:

- DHS 254.04 (1) (d) 2. refers to a “recipient,” which is outdated Medicaid contract language that has been replaced with “member. This subdivision should be updated accordingly.
- DHS 254.07 (1) includes a requirement that annual reports of IM worker training be submitted by February 1. This is inconsistent with current Medicaid contract language and should be updated.

3. Analysis of policy alternative

This Statement of Scope seeks authorization to repeal obsolete rule chapters that the Department identified throughout the rule review process required under s. 227.29, Stats., and to make other corrections based upon information provided to the Department by the Legislative Reference Bureau. No reasonable policy alternatives exist to promulgating the proposed rules.

4. Statutory authority for the rule

a. Explanation of authority to promulgate the proposed rule

DHS 10: The Department is authorized under ss. 46.281 (1n) (b) 1., 46.286 (4) to (7), 46.287 (2) (a) 1. (intro.), 46.288, 50.02 (2) (d), Stats. to implement a program called family care that is designed to help families arrange for appropriate long-term care services for older family members and for adults with physical or developmental disabilities.

DHS 34: The Department is authorized to establish standards and procedures for certification of county and multi-county emergency mental health service programs in accordance with s. 51.42 (7) (b), Stats.

DHS 35: The Department is authorized by ss. 49.45 (2) (a) 11., 51.04, and 51.42 (7) (b) to establish minimum standards for certification of outpatient mental health clinics that receive reimbursement for outpatient mental health services from the Wisconsin Medical Assistance and BadgerCare Plus programs or private insurance under

s. 632.89 (2) (d), Stats., or that utilize federal community mental health services block grant funds under 42 USC section 300x, et.seq., or receive state community aids funds under s. 51.423 (2), Stats.

DHS 36: The Department is authorized by ss. 49.45 (30e) (b) and 51.42 (7) (b), Stats., to establish the scope of psychosocial service programs, standards for certification and criteria for determining the need for psychosocial rehabilitation services, and other conditions of coverage of community based psychosocial services under the medical assistance program pursuant to ss. 49.45 (30e) and 49.46 (2) (b) 6. Lm., Stats.

DHS 40: The Department is authorized under s. 51.42 (7) (b), Stats., to regulate programs providing mental health day treatment services for youth.

DHS 60: The Department is authorized under s. 46.03, Stats., to establish rules controlling traffic and conduct on state treatment institution property to protect the clients, employees, facilities, property and grounds of the respective institutions.

DHS 61: The Department, as provided in s. 227.11 (2) (a), Stats., interprets ss. 51.42, 51.437, and 46.23 to effectuate the intent of those statutes by providing minimum levels of services provided by boards and agencies under contract with boards.

DHS 62: The Department is authorized under ss. 343.30 (1q) (c) 2. And 343.305 (10) (c) 2. to establish standards for assessment and driver safety plans for persons who operate a motor vehicle while under the influence of intoxicants or other drugs and who voluntarily, or by court order or by order of the Wisconsin department of transportation undergo an intoxicated driver assessment and complete a driver safety plan.

DHS 63: The Department is authorized under ss. 51.42 (7) (b), 51.421 (3) (a) and (c), Stats., to establish standards for community support programs under s. 51.421, Stats. These programs are for chronically mentally ill persons living in the community.

DHS 73: The Department is authorized under s 46.277 (5) (d) 1n. b. and (5r), Stats., to establish standards and procedures related to assessments, case plans, service agreements, participant payment of service providers and verification that services have been received for county administration of home and community-based services waivers from medical assistance requirements that the department receives from the secretary of the U.S. department of health and human services under 42 USC 1396n (c), to establish conditions of hardship under which the department may grant exceptions in individual cases to limits on spending by counties for care provided in community based residential facilities (“CBRF”) and to establish criteria for county agency determination of the infeasibility of in-home services as a condition for paying for services provided to a program participant residing in a CBRF.

DHS 75: The Department is authorized by ss. 46.973 (2) (c), 51.42 (7) (b), 51.4224, and 51.45 (8) and (9), Stats., to establish standards for community substance use prevention and treatment services under ss. 51.42 and 51.45, Stats. Sections 51.42 (1) and 51.45 (1) and (7), Stats., provide that a full continuum of substance use services be available to Wisconsin citizens.

DHS 90: The Department is authorized by s. 51.44 (5) (a), Stats., to implement a statewide program of services for children in the age group birth to 3 who are significantly delayed developmentally insofar as their cognitive development, physical development, including vision and hearing, communication development, social and emotional development or development of adaptive behavior and self-help skills is concerned, or are diagnosed as having a physical or mental condition which is likely to result in significantly delayed development.

DHS 92: The Department is authorized by s. 51.30 (12), Stats., which directs the Department to promulgate rules to implement s. 51.30, Stats.

DHS 94: The Department is authorized by s. 51.61 (5) (b) and (9), Stats., to implement s. 51.61, Stats., concerning the rights of patients receiving treatment for mental illness, a developmental disability, alcohol abuse or dependency or other drug abuse or dependency.

DHS 96: The Department is authorized by ss. 302.11 (8), Stats., to establish conditions and procedures for forensic patients who want to waive good time or mandatory release, and thereby remain longer at the institution, and contains the criteria which the department is to use in agreeing to waivers by patients.

DHS 97: The Department is authorized by s. 46.056 (1) to create procedures governing complaints by inmates pertaining to the Wisconsin Resource Center.

DHS 101 to 108: The Department is authorized under ss. 49.45 (10) and 49.665 (4) and (5), Stats., to promulgate rules for the purpose of administering the Medical Assistance program in Wisconsin to finance necessary health care services for qualified persons whose financial resources are inadequate to provide for their health care needs.

DHS 109: The Department is authorized under ss. 49.688, Stats., to implement a program called SeniorCare that is designed to provide prescription drug assistance for Wisconsin residents aged 65 years or older and who meet the program's eligibility criteria.

DHS 118: The Department is authorized by s. 256.25 (2), Stats., to promulgate rules to develop and implement a statewide trauma care system.

DHS 124: The Department is authorized by s. 50.36 (1) to promulgate rules for the construction, maintenance, and operation of facilities that meet the definition of "hospital" in s. 50.33 (2), Stats., to ensure that hospital patients receive safe and adequate care and treatment and that the health and safety of patients and employees are protected.

DHS 127: The Department is authorized under s. 50.51 (2), Stats., to establish standards for the construction, maintenance, and operation of rural medical centers.

DHS 129: The Department is authorized by ss. 146.40 (2m), (3), (3g), and (5), and 227.11 (2) (a), Stats., to provide conditions of approval for training programs and competency evaluation programs for persons who work as nurse aides, medication aides or feeding assistants in hospitals, nursing homes or facilities for the developmentally disabled, home health agencies or hospices certified under 42 USC 1395 to 1395ccc, and conditions for including persons in the department's registry of nurse aides.

DHS 133: The Department is authorized by s. 50.49 (2), Stats., to establish minimum standards for the care, treatment, health, safety, welfare, and comfort of patients by home health agencies and for the maintenance and operation of home health agencies which, in the light of advancing knowledge, will promote safe and adequate care and treatment of such patients by home health agencies.

DHS 134: The Department is authorized by s. 50.02 (2) and (3), Stats., to provide conditions of licensure for facilities that primarily serve people with developmental disabilities who require active treatment.

DHS 163: The Department is authorized under ss. 250.04 (7), 250.041, 254.115, 254.15, 254.167, 254.172, 254.176 (1) and (3), 254.178 (2), and 254.179, Stats., to promulgate rules that: (1) govern lead hazard reduction consistent with federal law; (2) establish certification requirements for any person who performs lead hazard reduction or lead management activity; (3) establish requirements for accrediting lead training courses and approval of lead instructors; and (4) establish standards for certifying dwellings as lead-safe or lead-free dwellings.

DHS 252: The Department is authorized by s. 49.797 (7), Stats., to administer an electronic benefit transfer system for delivery of food share benefits.

DHS 254: The Department is authorized by s. 49.78 (3), Stats., to ensure that each income maintenance worker employed by a county or tribal agency has successfully completed a training program to achieve acceptable IM worker job performance.

b. Statute/s that authorize/s the promulgation of the proposed rule

DHS 10: Sections 46.281 (1n) (b) 1., 46.286 (4) to (7), 46.287 (2) (a) 1. (intro.), 46.288, 50.02 (2) (d), and 227.11 (2), Stats.

DHS 34: Sections 51.42 (7) (b) and 227.11 (2), Stats.

DHS 35: Sections 49.45 (2) (a) 11., 51.04, 51.42 (7) (b), and 227.11 (2), Stats.

DHS 36: Sections 49.45 (30e) (b), 51.42 (7) (b), and 227.11 (2), Stats.

DHS 40: Section 51.42 (7) (b) and 227.11 (2), Stats.

DHS 60: Sections s. 46.03 and 227.11 (2), Stats.

DHS 61: Sections 51.42, 51.437, 46.23, and 227.11 (2), Stats.

DHS 62: Sections 343.30 (1q) (c) 2., 343.305 (10) (c) 2., and 227.11 (2), Stats.

DHS 63: Sections 51.42 (7) (b), 51.421 (3) (a) and (c), and 227.11 (2), Stats.

DHS 73: Sections 46.277 (5) (d) 1n. b. and (5r) and 227.11 (2), Stats.

DHS 75: Sections 46.973 (2) (c), 51.42 (7) (b), 51.4224, and 51.45 (8) and (9), and 227.11 (2), Stats.

DHS 90: Sections 51.44 (5) (a) and 227.11 (2), Stats.

DHS 92: Sections 51.30 (12) and 227.11 (2), Stats.

DHS 94: Sections 51.61 (5) (b) and (9) and 227.11 (2), Stats.

DHS 96: Sections 302.11 (8) and 227.11 (2), Stats.

DHS 97: Sections 46.056 (1) and 227.11 (2), Stats.

DHS 101 to 108: Sections 49.45 (10), 49.665 (4) and (5), and 227.11 (2).

DHS 109: Sections 49.688 and 227.11 (2), Stats.

DHS 118: Sections 256.25 (2) and 227.11 (2), Stats.

DHS 124: Section 50.36 (1), 50.33 (2), and 227.11 (2), Stats.

DHS 127: Sections 50.51 (2) and 227.11 (2), Stats.

DHS 129: Sections 146.40 (2m), (3), (3g), and (5), and 227.11 (2), Stats.

DHS 133: Sections 50.49 (2) and 227.11 (2), Stats.

DHS 134: Sections 50.02 (2) and (3), and 227.11 (2), Stats.

DHS 163: Sections 250.04 (7), 250.041, 254.115, 254.15, 254.167, 254.172, 254.176 (1) and (3), 254.178 (2), and 254.179, and 227.11 (2), Stats.

DHS 252: Sections 49.797 (7) and 227.11 (2), Stats.

DHS 254: Sections 49.78 (3) and 227.11 (2), Stats.

c. Statute/s or rule/s that will affect the proposed rule or be affected by it

None.

5. Estimates of the amount of time that state employees will spend to develop the rule and other necessary resources

The estimated amount of time for staff to develop the rule is 2,080 hours.

6. Description of all of the entities that may be affected by the rule, including any local governmental units, businesses, economic sectors, or public utility rate payers who may reasonably be anticipated to be affected by the rule

DHS 10: The Department, Family Care managed care organizations, Family Care members, and ombudsmen.

DHS 34: County and multi-county emergency mental health service programs and recipients of those service programs.

DHS 35: Outpatient mental health clinics and recipients of those services.

DHS 36: Community-based psychosocial services and recipients of those services.

DHS 40: Certified day treatment programs, including school-based and community-based programs; children with mental illness and their families.

DHS 60: State treatment facility clients, employees, and visitors.

DHS 61: Boards established under ss. 46.23, 51.42 or 51.437, Stats., or agencies under contract with those boards, and recipients of services.

DHS 62: Entities who provide assessment and driver safety plans, individuals subject intoxicated driver assessments and driver safety plans.

DHS 63: Community support programs, individuals receiving services.

DHS 73: Home and community-based service providers, service recipients.

DHS 75: Substance use disorder professionals, certified providers, county and tribal agencies, service recipients.

DHS 90: Birth-to-3 service providers, recipients of services and their families.

DHS 92: Treatment providers, and recipients of treatment services.

DHS 94: Treatment providers, and recipients of treatment services.

DHS 96: Individuals committed under ch. 975, Stats., institutions with custody of those individuals.

DHS 97: The Wisconsin Resource Center clients and employees.

DHS 101 to 108: the Department, Medicaid members, managed care organizations, health maintenance organizations, counties, and Medicaid providers including ambulatory surgical centers, durable medical equipment providers, home health providers, nurse anesthetists, occupational therapists, outpatient mental health and substance use disorder providers, personal care providers, physical therapists, physicians, portable x ray providers, private duty nurses, and rehabilitation agencies.

DHS 118: Emergency medical services providers and personnel, medical directors, ambulance service providers, hospitals, and health care professionals.

DHS 124: Hospital licensees and hospital patients.

DHS 127: Rural medical centers and patients.

DHS 129: nurse aide training programs, nursing homes, hospitals, home health agencies, hospices, and private programs.

DHS 133: Home health agencies, the Wisconsin Association for Home Health Care, Inc., physician assistants, and home health agency patients.

DHS 134: Facilities serving people with developmental disabilities and residents of facilities serving people with developmental disabilities.

DHS 252: The Department, counties, and members receiving EBT.

DHS 254: Counties, tribal agencies, income maintenance workers.

7. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule

There appear to be no existing or proposed federal regulations that address the activities to be regulated by the proposed rules.

8. Anticipated economic impact, locally or statewide

The proposed rules are not anticipated to have an economic impact.

9. Agency contacts

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