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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 20-047

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]**

#### **2. Form, Style and Placement in Administrative Code**

a. In s. DHS 75.02 (2), what is the intended effect of the phrase “per 42 CHR 2.11”? If the reference is merely informative, it could be described in a Note. Review and revise the proposed rule for other instances of similar phrases. See, e.g., s. DHS 75.05 (2) (b).

b. Section DHS 75.03 (6) (Note) should be modified to avoid incorporating substantive provisions into a definition. It appears the Note lists “similar placement criteria that may be approved by the department” referenced in the definition. Perhaps the Note could be incorporated into the definition itself.

c. Numerous definitions, including, for example, s. DHS 75.03 (17), (20), (26), (42), (46), (52), (56), (64), (70), and (116) appear to incorporate substantive provisions into a definition. Review s. DHS 75.03 in its entirety and modify the chapter such that substantive provisions do not appear within a definition. [s. 1.01 (7), Manual.]

d. Could the use of defined terms from s. DHS 75.03 (23), (31), (79), (102), and (105) be modified within the chapter so that only one term from each definition is used for consistency?

e. In s. DHS 75.03 (59), the reference to the effective date of the rule should conform to the style described in s. 1.01 (9) (b), Manual.

f. Review introductory material throughout the proposed rule to ensure that each subunit following an introduction should form a complete sentence when read with the introduction. See,

for example, ss. DHS 75.08 (1), 75.16 (3) (a) 3., 75.16 (5) (b) 2., 75.25 (2), 75.25 (14) (e), 75.25 (23), 75.42 (2), 75.44 (2), and 75.62 (6) (a). [s. 1.03 (3), Manual.]

g. In s. DHS 75.10 (3) (b), does the department intend to reference s. DHS 75.06? See, also, the reference in s. DHS 75.15 (1). The department should review the rule in its entirety for similar occurrences.

h. Section DHS 75.16 (1) appears to define an “intervention service”, even though that term is already defined in s. DHS 75.03 (54).

i. Section DHS 75.16 (2) appears to define an intoxicated driver service. Should this material be included in the definition section of the chapter?

j. Should s. DHS 75.16 (7) (a) 1. be further subdivided because it consists of a series of items?

k. Is s. DHS 75.19 (1) (a) necessary given the material in s. DHS 75.18 (1) (b)?

l. The proposed rule includes a number of similar requirements that use different terminology, suggesting differences in the requirements. See, for example, the different terms used relating to required personnel records in ss. DHS 75.16 (3) (c) and 75.20 (2). Review the proposed rule in its entirety and use consistent language to describe identical requirements.

m. Throughout the proposed rule, references to multiple rule provisions need only reference “DHS” prior to the first rule provision. Compare s. DHS 75.27 (1) and (3). Subsection (3) should be revised to reference “ss. DHS 75.30, 75.33, 75.34, 75.40, 75.41, 75.45, and 75.46”. Similarly, the proposed rule should be reviewed to ensure that such references are preceded by “s.” or “ss.”. [s. 1.07, Manual.]

n. Section DHS 75.29 creates definitions for use in subch. V, but it appears those terms do not appear in any other subchapter. Could those definitions be moved to s. DHS 75.03 instead?

o. In s. DHS 75.30 (2), the correct reference is to “sub. (1) (a) to (c)”.

p. In s. DHS 75.31 (1) and (2), the department should refer to “subchs. IX, X, and XI of ch. DHS 83”.

q. In s. DHS 75.39, does the department intend to adopt DEA standards as of a date certain? [See the Note in s. 2.08, Manual.]

r. In s. DHS 75.42, the department should refer to “ss. DHS 83.43 to 83.46”.

s. Titles to s. DHS 75.50 (1) and (2) should be formatted as described in s. 1.05 (2) (c), Manual.

t. Section DHS 75.54 (1) appears to define an “intensive outpatient treatment service”, but that term is already defined in s. DHS 75.03 (50). Restating the definition of the term in the chapter is redundant and should be modified.

u. Section DHS 75.59 uses parentheses, which should be avoided. [s. 1.01 (6), Manual.] Review the proposed rule in its entirety and modify material to remove parentheses as needed.

v. Section DHS 75.59 (1) appears to define a “residential withdrawal management service”, but that term is already defined in s. DHS 75.03 (101). Restating the definition of the term in the chapter is redundant and should be modified.

w. Section DHS 75.61 (1) appears to define an “adult residential integrated behavioral health stabilization service”, but that term is already defined in s. DHS 75.03 (2). Restating the definition of the term in the chapter is redundant and should be modified.

x. Section DHS 75.61 is placed out of order, and should appear after s. DHS 75.60 instead of after s. DHS 75.58.

y. Section DHS 75.62 (1) appears to define an “opioid treatment program”, but that term is already defined in s. DHS 75.03 (75). Restating the definition of the term in the chapter is redundant and should be modified.

z. Section DHS 75.62 (3) creates definitions for use in that section, but it appears many of those terms do not appear in any other section. Could those definitions be moved to s. DHS 75.03 instead? Additionally, the definition in s. DHS 75.62 (3) (m) is already defined in s. DHS 75.03.

aa. Section DHS 75.63 (1) appears to define an “office-based opioid treatment”, but that term is already defined in s. DHS 75.03 (74). Restating the definition of the term in the chapter is redundant and should be modified.

bb. Section DHS 75.63 (3) creates definitions for use in that section, but it appears those terms do not appear in any other section. Could those definitions be moved to s. DHS 75.03 instead?

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

a. Section DHS 75.04 (2) should identify the required fees by referencing the relevant statutes or code sections.

b. Sections DHS 75.03 (39) and (44) seem very similar. Should s. DHS 75.03 (44) be modified to indicate that an “entity owner” designates a “governing authority”?

c. Should s. DHS 75.06 (3) more specifically reference the provisions of ch. 51, Stats., that allow the department to suspend or revoke certification?

d. Section DHS 75.07 describes “certification continuing fees” without any other specific reference to identify what those fees may be.

e. Should s. DHS 75.08 (2) (d) more specifically reference the provisions of ch. 51, Stats., relating to the requirements for transferring financial responsibility?

f. Are the citations to the code of federal regulations in ss. DHS 75.12 (2) and 75.22 accurate?

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. The first use of the word “were” in the second sentence of the summary of factual data and analytical methodologies section of the rule summary should be deleted.

b. Throughout the proposed rule, use of hyphens should be reviewed for consistency in terms such as “24 hour” and “7 days a week”.

c. Section DHS 75.03 (9) should end in a period.

d. The last sentence of s. DHS 75.03 (19) is redundant as the definition makes clear that only staff of a service that deliver screening, assessment, or treatment services are clinical staff. The last sentence should be deleted.

e. The proposed rule should be reviewed for consistent use of acronyms, including references relating to tuberculosis, human immunodeficiency virus, and state opioid treatment authority.

f. Section DHS 75.03 (89) refers to content areas that professionals working in substance use prevention “should” be knowledgeable in. Should the “should” be changed to “must”? What if the professional is not knowledgeable in an identified area?

g. Should s. DHS 75.02 (125) be split into three different definitions?

h. Section DHS 75.16 (3) (c) 1.to 4. should end in a period.

i. Section DHS 75.16 (7) (b) 1. a. and 2. a. and b. should end in a period.

j. Section DHS 75.25 (9) (a) 4. e. should end in a period.

k. Section DHS 75.25 (22) (a) 2. should end in a period.

l. The word “is” in the last sentence of s. DHS 75.51 (2) should be replaced with “in”.

m. Numerous items within Tables DHS 75.51 (1), (2), and (3) should end in a period.

n. In s. DHS 75.62 (6) (i) 3., “sud.” should be replaced with “sub.”.

o. Section DHS 75.62 (8) (b) (title) should end in a period.