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DQA Memo 15-012
DMHSAS Memo 2015-10

To: Area Administrators/Assistant Administrators
Bureau Directors
County Department of Human Services Directors
County Mental Health Coordinators
Tribal Chairpersons/Human Services Facilitators
Certified Outpatient [Mental Health](#) Clinics
Community [Substance Abuse](#) Service Providers
[Hospitals](#)

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**Variance Needed for Advanced Practice Nurse Prescriber
to Practice in Certified Programs**

This memo replaces DDES-BQA Memo 04-024 issued September 17, 2004 and repeals a formerly approved statewide variance of Wis. Admin Code §§ DHS 61.96 (1) (a) and DHS 63.06 (2) and DHS 63.06 (4) identifying required staff in community support programs (CSP) and outpatient mental health clinics. A certified program that wishes to use or continue to use an advanced practice nurse prescriber (APNP) to practice in their program must apply for a variance of the applicable code as described below.

Wis. Admin. Code ch. DHS 35 replaced ch. DHS 61.91. This rule recognizes prescribers, including the APNP under Wis. Admin. Code § DHS 35.03 (16). Wis. Admin. Code ch. DHS 63 of the Wisconsin Administrative Code does not list Advanced Practice Nurse Prescribers (APNP) as program personnel. Wis. Admin. Code ch. DHS 63 was promulgated before 1996, the year the Wisconsin Board of Nursing adopted Chapter N 8 of the Wisconsin Administrative Code, relating to certification of APNPs.

Request for a Variance

If a CSP wishes to request a variance of Wis. Admin Code §§ DHS 63.06 (2) and DHS 63.06 (4), please submit the request to:

DHS/DQA/Behavioral Health Certification Section
P.O. Box 2969
Madison Wisconsin 53701-2969

The variance request must include the following:

1. The rule from which the waiver is requested;
2. The time period for which the waiver is requested;
3. Any alternative action that includes the following:
 - APNPs are included as Program Personnel in Outpatient Mental Health Clinics, and will practice as allowed in N 8. APNPs in Certified Outpatient Mental Health Clinics and CSPs shall have Board Certification as an Advanced Practice Psychiatric-Mental Health Nurse. [Note: This provision will require Board Certification for any APNP working in this setting.]
 - APNPs will supplement existing psychiatry time available, not replace the psychiatrist in the provision of services. In CSPs, the psychiatrist will be responsible for the initial in-depth psychiatric assessment of all CSP clients, including the development of a working diagnosis and assuring the need for CSP services. The CSP psychiatrist will be responsible for assessing the need for further medical evaluation and for making the initial determination for medical/pharmacological treatment. The APNP may conduct the aforementioned activities in collaboration with a psychiatrist.
 - Collaboration must be documented, in keeping with the provisions of s. N8.10, and available for review, when requested, by DQA staff.
4. The reason for the request; and
5. Assurances that the waiver would not diminish the effectiveness of the program, violate the purposes of the program, or adversely affect clients' health and welfare.

For additional information regarding submitting a request for a variance, please refer to DQA Memo 15-006.

Providers electing to use an APNP in certified programs must demonstrate to the Division of Quality Assurance (DQA) surveyor during the site review that they have developed and implemented a written policy for using the APNP in these certified settings. Certified programs that intend to use the services of an APNP must notify their surveyor in writing to document the timetable for implementing APNP services.

APNPs Serving as a Psychotherapist in Mental Health Outpatient Clinics

APNPs who wish to provide psychotherapy services in mental health outpatient clinics must continue to meet the mental health professional requirements found in Wis. Admin. Code § DHS 35.03 (10).

Exception: APNPs who have been issued a license by the Wisconsin Department of Safety and Professional Services (DSPA) under Wis. Admin. Code chs. Chapter MPSW 3, Chapter MPSW 11, and

Chapter MPSW 16 for social workers, professional counselors, and marriage and family therapists need only send a copy of the license to DQA for approval as a mental health professional as the requirements are consistent with Wis. Admin. Code § DHS 35.03 (9g).

Rescinding the Variance

The Department may revoke any variance if it determines that patient needs are not being met or if the health, safety, or welfare of any patient is jeopardized.

Note: Granting this variance does not constitute granting a variance of a Medicaid (Title XIX or Medical Assistance) requirement. DQA does not have authority to grant waivers or variances for Medicaid rules.

Questions

If you have questions about this information, please contact the DQA Behavioral Health Certification Section at (608)261-0656 or via email at DHSDQAMentalHealthAODA@dhs.wisconsin.gov.

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