



Date: March 10, 2016

DQA Memo 16-005

To: Area Administrators/Assistant Administrators
Tribal Chairpersons/Human Service Coordinators
County Departments of Human Service Directors
[Certified Mental Health/AODA Providers](#)
County Mental Health Coordinators

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**Provision of Complementary and Alternative Medicine Services within a
Certified Mental Health and Substance Abuse Treatment Program**

The purpose of this memo is providing guidance to outpatient clinics certified under Wis. Admin. Code chs. DHS 35 and/or DHS 75.13 utilizing complementary services and alternative treatment approaches.

Complementary and alternative medicine (CAM) is the term for medical products and practices that are not part of standard care. Standard care is what medical doctors, doctors of osteopathy, and allied health professionals, such as nurses, licensed mental health professional, and substance abuse counselors and other program staff, practice. Complementary medicine is used in conjunction with standard medical care. Alternative medicine is used in place of standard medical care. Complementary services and alternative treatment services approaches include such services as Reiki, energy and movement therapies, yoga, meditation, massage therapy, spiritual guidance, acupuncture, AccuDetox, equine assisted therapy, hypnotherapy, light and color therapies, homeopathy and dietary consultations.

Wellness products and supplements include such items as: books, relaxation CDs, t-shirts, handmade jewelry or woven items, aroma therapy, herbal essences, homeopathic medicine and dietary supplements such as vitamins.

Background

During the past few years, many Certified Mental Health and Substance Abuse Treatment Programs/ Services have indicated an interest and requested guidance in providing integrated complimentary services and alternative treatment approaches for their consumers. While the concept is worth considering, some programs have not examined the potential benefits and risks for consumers and potential liability for the program.

The Division of Mental Health and Substance Abuse Services (DMHSAS) and Division of Quality Assurance (DQA) staff have identified concerns during on-site surveys upon discovery of clinic use of complementary and alternative medicine services. The on-site provider certification visit findings have revealed potential Health Insurance Portability and Accountability Act (HIPAA) breaches, a lack of administrative oversight, supervision, policies and procedures; a lack of business associate agreements; unqualified personnel or staff practicing without a license.

Complementary services and alternative treatment approaches can be successfully implemented in accordance with applicable statutes and regulations, with appropriate thought and preparation. The DMHSAS and DQA strongly encourage programs, who wish to provide these services to consult with program's attorney and insurance provider, as well as the program's assigned DQA surveyor prior to the use of complementary services and alternative treatment approaches. DQA survey staff will consult with DMHSAS staff as necessary in reviewing these practices.

Guidance

- Develop policies addressing how complementary services, alternative treatment approaches and wellness products are rendered as part of the overall business plan to meet consumer needs and promote consumer well-being.
- Develop and implement policies and procedures that identify the selection of treatment approaches and services that are permitted for use by program staff. Staff qualifications are required for use of specific treatment approaches (e.g., certification in motivational interviewing) and the role of program oversight (i.e., clinical supervision and clinical collaboration) in treatment approaches. Ancillary services provided by a certified mental health or substance abuse treatment program should be integrated within the assessment and treatment plan.
- Clearly identify qualified staff members of the program on the staff roster. For example, if a massage or occupational therapist is not a staff member of the program, he/she should not lease space or have an established independent practice within the certified clinic setting. If someone is a staff member of the program, the program must ensure compliance with requirements related to orientation and training, clinical oversight, access to confidential treatment information, etc. DHS 35.14(1)(a) states, "The clinic administrator shall have responsibility for administrative oversight of the job performance and actions of each staff member and require each staff member to adhere to all laws and regulations governing the care and treatment of consumers and standards of practice for their individual professions." Clinic policy should describe how this is accomplished.
- Assure that existing clinic policies and procedures related to client records adequately address the 'need to know' confidentiality standard as it applies to complementary service providers. All client records developed as part of service delivery shall remain in possession of the clinic.
- Develop informed consent documents to address the potential benefits and risks of the complementary and alternative medicine services. Informed consent per Wis. Admin. Code ch. DHS 94 is an important client education opportunity. Offering products and services may imply that outcomes would be improved; however, this may not be evidenced based. Additionally, offering "supplements" to food or medication may be contraindicated due to side effects, allergies, and anaphylactic reaction or drug interactions. The program may expose itself to additional liability if

the consumer experiences adverse outcomes. DQA recommends that clinics consider whether CAM or other treatment approaches have been studied and demonstrated safe and effective. Is there evidence by published guidelines of governmental agencies, professional organizations or peer-reviewed journals prior to offering services or products to clients. If it has not been studied and demonstrated to be safe, it may be considered experimental (i.e., research) and will need to meet the requirements of DHS 94.14 and s. 51.61(1) (j), Stats. 45 CFR 46.

- Clinics should consider whether CAM services or sale of products place individuals at risk. Consumers may believe that by providing CAM, certified programs have ensured that these services or products are safe and effective. While most consumers are able to make competent decisions of purchases, some consumers may be an adult-at-risk as defined in Wis. Stats., §55.01 (1e): ‘Adult-at-risk’ means any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect or financial exploitation.
- Consumers should not be charged extra for any products necessary to meet treatment goals. Such costs shall be disclosed as part of the cost of treatment notification under DHS 94.04 (2).

Consumer Rights

A clinic shall implement written policies and procedures that are consistent with s. 51.61, Stats. and Ch. DHS 94 to protect the rights of consumers. No person may deprive a client of the ability to seek redress for alleged violations of his or her rights. Consumer complaints can be filed with the client rights specialist, DQA Behavioral Health Certification section or Office of Caregiver Quality, the Department of Safety and Professional Services (example; complaint of unprofessional conduct against a licensed individual), the U.S. Department of Health and Human Services Office of Civil Rights (OCR) for violations of confidentiality under HIPAA, or any other federal or state agency organization.

If you have questions or are considering implementing an ancillary/complementary service(s) or product sales within a certified clinic, please contact the regional Health Services Specialist staff assigned to your agency to discuss the business plan or contact the Behavioral Health Certification Section main office at (608) 261-0656 or email, DHSDQAMentalHealthAODA@dhs.wisconsin.gov

Additional Resources

MedlinePlus, a service of the U.S. National Library of Medicine offers additional information and guidance at <http://www.nlm.nih.gov/medlineplus/complementaryandalternativemedicine.html>.

Additional information on CAM, the National Center for Complementary and Integrative Health (NCCIH) can be accessed at <https://nccih.nih.gov/>

[Wisconsin Department of Revenue Publication 209 \(1/2014\)](#) provides guidance for necessary permits and sales tax and record keeping resulting from sale of dietary supplements.

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