



Date: June 27, 2016

DQA Memo 16-007

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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Via: Crenear Mims, Director  
Bureau of Health Services

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**Variance Needed for Use of a Licensed Mental Health Professional to Approve  
Emergency Mental Health Crisis Plans and Response Plans**

This memo replaces DMHSAS-DQA Memo 2009-08 issued November 2, 2009, and repeals a formerly approved statewide variance of Wis. Admin Code § DHS 34.21(3)(b) to expand the list of qualified mental health professionals that may approve emergency mental health crisis plans and response plans to include individuals listed under (b) 1-7. The previous memo also extended the time frame for response plan approval from five days after the delivery of services required in § DHS 34.23(5) (b), to 14 days after the delivery of services.

Under the Medicaid Crisis Intervention service, the following licensed treatment professionals are allowed to approve the response plan and crisis plan as listed in Wis. Admin. Code § DHS 34.21(3) (b) 1-7. For the purpose of the variances, "licensed treatment professionals" means:

1. Psychiatrists. These shall be physicians licensed under Wis. Stat. Ch. 448 to practice medicine and surgery and shall have completed years of residency training in psychiatry or child psychiatry in a program approved by the accreditation council for graduate medical education and be either board-certified or eligible for certification by the American Board of Psychiatry and Neurology.

2. Psychologists. These shall be licensed under Wis. Stat. Ch. 455 and shall be listed or meet the requirements for listing with the National Register of Health Service Psychologists or have a minimum of one year of supervised post-doctoral clinical experience related directly to the assessment and treatment of persons with mental disorders.
3. Psychology residents. These shall hold a doctoral degree in psychology meeting the requirements of Wis. Stat. § 455.04(1) (c) and shall have successfully completed 1,500 hours of supervised clinical experience as documented by the Wisconsin Psychology Examining Board.
4. Psychiatric residents. These shall hold a doctoral degree in medicine as a medical doctor or doctor of osteopathy and shall have successfully completed 1,500 hours of supervised clinical experience as documented by the program director of a psychiatric residency program accredited by the Accreditation Council for Graduate Medical Education.
5. Certified independent clinical social workers\* shall meet the qualifications established in Wis. Stat. Ch. 457 and be certified by the Marriage & Family Therapy, Professional Counseling & Social Work Examining Board.
6. Psychiatric nurses shall be licensed under Wis. Stat. Ch. 441 as a registered nurse, have completed 3,000 hours of supervised clinical experience and hold a master's degree in psychiatric mental health nursing from a graduate school of nursing accredited by the National League for Nursing.
7. Professional counselors and marriage and family therapists\* shall meet the qualifications required and established in Wis. Stat. Ch. 457 and be certified by the Marriage & Family Therapy, Professional Counseling & Social Work Examining Board.

Providers must only provide services within their scope of practice.

**Note:** A licensed treatment professional does not include an individual whose license or certificate is suspended, revoked, or voluntarily surrendered, or whose license or certificate is limited or restricted, when practicing in areas prohibited by the limitation or restriction.

\* Only those treatment professionals who are licensed by the Department of Safety and Professional Services as a licensed marriage and family therapist, licensed professional counselor, or licensed clinical social worker are permitted to approve the crisis intervention response plan and crisis plan. Wisconsin Admin. Code Ch. DHS 34 was written prior to passage of 2001 Wisconsin Act 80, which provided licensure for these professional disciplines.

## **Request for a Variance**

If an emergency mental health services program wishes to request a variance of Wis. Admin Code § DHS 34.21(3)(b), please submit the request to: [DHSwebmailDQA@dhs.wisconsin.gov](mailto:DHSwebmailDQA@dhs.wisconsin.gov) or to DHS/DQA/Behavioral Health Certification Section, P.O. Box 2969 Madison Wisconsin 53701-2969.

The variance request must include the following information:

1. The requirement to be waived.
2. The time period for which the waiver is requested.
3. Any alternative action which the program proposes to demonstrate that:
  - a. Clinical staff has access to the backup and consultation that is necessary to help make the best decisions with regard to a safe disposition.
  - b. The clinical director is responsible for choosing competent designees and establishing decision guidelines and protocols for licensed clinicians to make best practice judgments and that the designee possesses demonstrated competence, training, experience, and judgment to provide consultation to crisis responders and other agencies providing direct crisis services.
  - c. The guidelines and protocols stress that licensed professionals must operate within the scope of their experience and have demonstrated clinical education and clinical experience in their

- practice area, including when it is reasonable to access consultation from the psychiatrist or psychologist.
- d. Guidelines establish the identification of clinical issues, including incidents that pose a significant risk of an adverse outcome for the consumer. If this level of consultation is not available by phone or on site, then it may be necessary to seek medical/psychiatric consultation at an ER/hospital, which may result in admitting the consumer.
  - e. When reviewing response plans and crisis plans, after service provision to the consumer, determine if proper protocols, guidelines, and procedures were followed. The reviews inform supervision, training topics, and policy changes.
4. The reason for the request.
  5. Assurances that the requested waiver would not diminish the effectiveness of the services provided by the program, violate the purposes of the program, or adversely affect the clients' health, safety, or welfare.

For additional information regarding submitting a request for a variance, please refer to DQA Memo 15-006: <https://www.dhs.wisconsin.gov/dqa/memos/15-006.pdf>.

### **Rescinding the Variance**

DHS 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 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 Division of Mental Health and Substance Abuse Services at 608-267-4867 or the DQA Behavioral Health Certification Section (BHCS) at 608-261-0656.

### **Memo Websites**

DQA Memos: <https://www.dhs.wisconsin.gov/dqa/memos/index.htm>

DQA Email Subscription Service: <https://www.dhs.wisconsin.gov/regulations/listserv-signup.htm>

The DQA Email Subscription Service provides you with the opportunity to sign up and receive electronic notification of information related to the more than 40 entities licensed and regulated by DQA.

DMHSAS Numbered Memos: <https://www.dhs.wisconsin.gov/dmhsas/memos/index.htm>

DMHSAS Email Subscription Service:

[https://public.govdelivery.com/accounts/WIDHS/subscriber/new?topic\\_id=WIDHS\\_35](https://public.govdelivery.com/accounts/WIDHS/subscriber/new?topic_id=WIDHS_35)

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