

## OUTPATIENT MENTAL HEALTH CLINIC CERTIFICATION WITHDRAWAL

### Purpose

This form is intended to assist mental health clinics certified under the authority of Chapter DHS 35, Wisconsin Administrative Code, to withdraw from certification and be compliant with Wisconsin State Statutes for the protection of consumer (patient) rights and treatment records.

### Background

The Department of Health Services (DHS) anticipates that some clinics may choose to voluntarily surrender certification due to the passage of 2009 Wisconsin Act 28. This act requires Medicaid and third-party insurance providers to directly reimburse licensed clinical social workers, licensed marriage and family therapists, and licensed professional counselors.

Mental health professionals are not exempt from state statutes or rules upon a voluntary decision to withdraw or terminate certification by DHS. Under DHS 35.09, **clinics are required to notify the department of changes in administration or program** and of any changes that may affect clinic compliance no later than the effective date of the change.

Chapter 51, Wis. Stats, and DHS Chapter 94, Wis. Admin. Code, mandate a consumer's right to continuity of care in the least restrictive setting available and establishes confidentiality requirements for care and treatment records. Chapter 51 and DHS 92 set requirements for maintenance and access to treatment records. If a clinic decides to withdraw or terminate certification or disband, provision must be taken in a timely manner for consumers to receive notification and counseling for transfer or referral to appropriate alternate care. Chapter 51 sets penalties for each instance of violation.

### Resources

Questions on patient rights may be directed to the DHS, Office of Client Rights at:  
[www.dhs.wisconsin.gov/clientrights/](http://www.dhs.wisconsin.gov/clientrights/)

To subscribe (or cancel your subscription) to email notices from DMHSAS and DQA, go to:  
[www.dhs.wisconsin.gov/aboutdhs/alerts](http://www.dhs.wisconsin.gov/aboutdhs/alerts)

Further assistance, including a **checklist of best practice steps for closing a certified clinic** and a list of applicable statutory and administrative code references, is available via e-mail through your surveyor or at: **DHSDQAMentalHealthAODA@dhs.wisconsin.gov**

### Instructions

Complete applicable items and mail this form to: DHS / Division of Quality Assurance  
Behavioral Health Certification Section  
P.O. Box 2969  
Madison, WI 53701-2969

Name – Clinic			Certificate Number	
Name – Entity / Owner / Administrator				
Address – Street		City	State	Zip Code
E-mail Address			Telephone Number	

### AFFIRMATION OF CLINIC WITHDRAWAL FROM CERTIFICATION

*The clinic voluntarily withdraws mental health outpatient certification under DHS Chapter 35, Wis. Admin. Code, from the Department of Health Services' Division of Quality Assurance on the effective date indicated below or agrees to terminate certification when the current certification period ends.*

Termination Effective Date		
SIGNATURE – Agency Designee	Date Signed	Name - Agency Designee (Print or type.)

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## IMPORTANT CLINIC RESPONSIBILITIES

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### Client Rights

Clinics remain responsible for protecting the rights of their consumers and safeguarding the confidentiality of the treatment records. There are penalties for failure to follow state statutes, administrative rules, and standards of practice. These rights include:

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**Informed Consent**

The clinic shall inform its clients / patients of the change in clinic status and of any changes in the cost of care or practices of clinical care, including complaint resolution procedures. Documentation shall be recorded in the case record.

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**Continuity of Care**

The clinic shall provide access to continued care in a new clinic or consultation and referral to an alternative provider. Referrals shall be individualized to the least restrictive setting appropriate to the client. Discharge summaries or documentation of clinical transition shall be completed when warranted and entered into the treatment record.

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**Grievance Procedures**

The clinic shall notify, in writing, each patient to whom the professional provides services of the procedures to follow to resolve a grievance.

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**The Maintenance and Confidentiality of Each Patient's Treatment Record**

The treatment records belong to the certified clinic, not its clinical practitioners nor its clients. The entity / owner of the certified clinic is responsible for safeguarding the patient treatment record. This includes:

1. Arranging for secure storage with procedures for confidential access to treatment records for the period specified in DHS 92.12 (typically 7 years) and for the eventual destruction of treatment records; and
  2. Establishing a consent process to access any patient's treatment record and for release to any subsequent entity or provider (including former clinic practitioners).
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**Record Storage**

**Identify where existing client treatment records will be stored and may be accessed.**

1. Name – Contact Person

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2. Address

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3. Telephone Number

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4. Other Descriptive Information

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Again, further assistance, including a **checklist of best practice steps for closing a certified clinic** and a list of applicable statutory and administrative code references, is available via e-mail through your surveyor or at:

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## APPLICABLE WISCONSIN STATE STATUTES, ADMINISTRATIVE CODES, AND PRACTICE CODE

### WISCONSIN STATE STATUTES

#### Chapter 51.61(5)(e)

A licensed mental health professional who is not affiliated with a county department or treatment clinic shall notify in writing each patient to whom the professional provides services of the procedure to follow to resolve a grievance. The notice shall provide an option that the professional makes available to the patient, as required under s. 457.04(8). Paragraphs (a) and (b) do not apply to this paragraph.

#### Chapter 51.62(3)(a)1.

The protection and advocacy agency may pursue legal, administrative and other appropriate remedies to ensure the protection of the rights of persons with developmental disabilities or mental illness and to provide information on and referral to programs and services addressing the needs of persons with developmental disabilities or mental illness.

### WISCONSIN ADMINISTRATIVE CODES

#### MPSW 20.02 Unprofessional Conduct

Unprofessional conduct related to the practice under a credential issued under Chapter 457, Wis. Stats., includes, but is not limited to, engaging in, attempting to engage in, or aiding or abetting the following conduct: (18) Failing to maintain adequate records relating to services provided to a client in the course of a professional assessment, a diagnosis, a treatment plan, progress notes, and a discharge summary. All clinical records shall be prepared in a timely fashion. Absent exceptional circumstances, clinical records shall be prepared not more than one week following client contact, and a discharge summary shall be prepared promptly following closure of the client's case. Clinical records shall be maintained for at least 7 years after the last service provided, unless otherwise provided by federal law.

#### DHS 35.22 Discharge Summary

- (1) Within 30 days after a consumer's date of discharge, the licensed treatment professional, mental health practitioner, or recognized psychotherapy practitioner who was primarily responsible for providing outpatient mental health services for the consumer shall prepare a discharge summary and enter it into the consumer's file. The discharge summary shall include all of the following:
  - (a) A description of the reasons for discharge.
  - (b) A summary of the outpatient mental health services provided by the clinic, including any medications.
  - (c) A final evaluation of the consumer's progress toward the goals of the treatment plan.
  - (d) Any remaining consumer needs at the time of discharge and the recommendations for meeting those needs, which may include the names and addresses of any facilities, persons or programs to which the consumer was referred for additional services following discharge.
- (2) The discharge summary shall be signed and dated by the licensed treatment professional, mental health practitioner, or recognized psychotherapy practitioner who was primarily responsible for providing services to the consumer.

#### DHS 35.23(1)(a)4 Consumer File. RECORDS REQUIRED

The clinic shall maintain a consumer file for each consumer who receives outpatient mental health services. Each consumer file shall be arranged in a format that provides for consistent record keeping that facilitates accurate and efficient retrieval of record information. All entries in the consumer file shall be factual, accurate, legible, permanently recorded, dated, and authenticated with the signature and license or title of the person making the entry. Treatment records contained in a consumer file are confidential to the extent required under s. 51.30, Wis. Stats. [in part]

#### DHS 35.23(2) Confidentiality

Treatment records shall be kept confidential as required under s. 51.30, Wis. Stats., ch. DHS 92, and 45 CFR Parts 160, 162 and 164, and 42 CFR Part 2 in a designated place in each clinic office at which records are stored that is not accessible to consumers or the public, but is accessible to appropriate staff members at all times.

#### DHS 35.23(3) Transferring Treatment Records

Upon written request of a consumer or former consumer or, if required, that person's legal representative, the clinic shall transfer to another licensed treatment professional, clinic or mental health program, or clinic the treatment records and all other information in the consumer file necessary for the other licensed treatment professional, clinic or mental health program, or clinic to provide further treatment to the consumer or former consumer.

#### DHS 35.23(4) Retention and Disposal

- (a) The clinic shall implement a written policy governing the retention of treatment records that is in accordance with s. DHS 92.12 and

any other applicable laws.

- (b) Upon termination of a staff member's association with the clinic, the treatment records for which the staff member was responsible shall remain in the custody of the clinic.

**DHS 92.03(1)(d) General Requirements**

The department and every board, treatment clinic, and service provider shall develop a notice describing the agency's treatment record access procedures. The notice shall be prominently displayed and made available for inspection and copying.

**DHS 92.03(3) Informed Consent**

Informed consent shall be in writing and shall comply with the requirements specified in s. 51.30(2), Wis. Stats., and this subsection.

**DHS 92.12 Retention Periods**

- (1) Treatment records shall be retained for at least 7 years after treatment has been completed, unless under this section they are to be retained for a longer period of time.
- (2) In the case of a minor, records shall be retained until the person becomes 19 years of age or until 7 years after treatment has been completed, whichever is longer.
- (3) Any record undergoing federal or state audit shall be maintained until completion of the audit.
- (4) Records relating to legal actions shall be maintained until completion of the legal action.
- (5) Records relating to billing or collections shall be maintained for periods of time specified in s. DHS 1.06.

**DHS 94.06(1) Assistance in the Exercise of Rights**

Each service provider shall assist patients in the exercise of all rights specified under ch. 51, Wis. Stats., and this chapter.

**DHS 94.09(5)(b) Medications and Other Treatments**

The treatment clinic shall counsel the patient and, when possible, refer the patient to another treatment resource prior to discharge.

**SELECTIONS OF 2009 WISCONSIN ACT 28 (the Budget Act) RELATED TO VENDORSHIP**

**Sections Amended**

51.30(1)(b) Treatment Records

51.30(8) Grievances

51.61(2) Patient Rights

**Sections Created**

49.45(30f) Psychotherapy and AODA Services

51.61(1)y

51.61(5)(e) Grievance Resolution