

DHS 35 and DHS 75 Outpatient Services Overview

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WISCONSIN DEPARTMENT
of **HEALTH SERVICES**

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**WISCONSIN DEPARTMENT
of HEALTH SERVICES**

Revised DHS 75 Questions, F-02897 (10/2021)

The Department of Health Services (DHS) welcomes your questions on the implementation of the revised Wis. Admin. Code ch. DHS 75 (Community Substance Use Services Standards). Please use this form to submit your question.

1. Please enter your name *

2. Please enter your email address
(NOTE: Nearly all questions will not receive a direct response. Themes in the questions submitted will be addressed on the DHS website, virtual meetings, and other technical assistance opportunities. If a direct response is necessary, your email address will be used only for the purpose of responding to your question.) *

3. Please select your county or tribe

4. Please select the option that best describes who you are representing

www.dhs.wisconsin.gov/dhs75

Objectives

- Provide an overview of some of the differences with DHS 35 outpatient mental health services and DHS 75.49 and DHS 75.50 outpatient services.
- Provide information to assist providers in obtaining DHS 75 certification if applicable to their service.

DHS 35 mental health provider questions

- Outpatient mental health clinics with DHS 35 certification providing substance use disorder services are required to be certified under Wis. Admin. Code ch. DHS 75 as a substance use service provider [Wis. Stat. § 51.45 (8)(c)].
- Under the revised DHS 75, providers have two options for substance use services certification.
 - DHS 75.49 (outpatient substance use treatment service) in combination with DHS 35
 - DHS 75.50 (outpatient integrated behavioral health treatment service). A DHS 75.50 certification allows providers to operate under one certification to provide mental health, substance use, or co-occurring services and have one set of policies and procedures.

Process for DHS 35 providers to apply for DHS 75 certification

- DHS is extending certification of DHS 35 providers for 120 days (four months) for certificates up for renewal between October 1, 2022, and January 31, 2023. A certificate with the revised certification date will be sent to agencies.
- DHS understands that providers will need to go through a transition to meet the requirements and will work with providers to provide flexibility and support.
- Submit your questions or concerns about obtaining a DHS 75 certification through the online form on the Revised DHS 75 Implementation page on the DHS website.

DHS 75 outpatient services – levels of care

- DHS 75.49 - Outpatient substance use treatment service
- DHS 75.50 - Outpatient integrated behavioral health treatment service (New)
- DHS 75.51 - Intensive outpatient treatment service (New)
- DHS 75.52 - Day treatment or partial hospitalization treatment service

DHS 35 outpatient mental health clinics (DHS 35.01 - DHS 35.25)

DHS 75.49 outpatient substance use treatment services – service description

This is a non-residential treatment service totaling less than nine hours of treatment services per patient per week for adults and less than six hours of treatment services per patient per week for minors, in which substance use treatment personnel provide screening, assessment, and treatment for substance use disorders. Outpatient substance use treatment services may include intake, evaluation and diagnosis, medication management, nursing services, case management, drug testing, counseling, individual therapy, group therapy, family therapy, psychoeducation, vocational services, peer support services, recovery coaching, outreach activities, and recovery support services to ameliorate symptoms and restore effective functioning.

DHS 75.50 outpatient integrated behavioral health treatment service – service description

This is a non-residential treatment service totaling less than nine hours of treatment services per patient per week for adults, and less than six hours of treatment services per patient per week for minors, in which substance use and mental health treatment personnel provide screening, assessment, and treatment for substance use and mental health disorders. Patients in this setting may receive treatment services for a substance use disorder, a mental health disorder, or both. Outpatient integrated behavioral health treatment services may include intake, evaluation and diagnosis, medication management, nursing services, case management, drug testing, counseling, individual therapy, group therapy, family therapy, psychoeducation, vocational services, peer support services, recovery coaching, outreach activities, and recovery support services to ameliorate symptoms and restore effective functioning.

DHS 75.50 outpatient integrated behavioral health treatment service

- This is a new level of care.
- It promotes integrated services for substance use and mental health.
- It is less than nine hours of treatment services per adult patient per week.
- It is less than six hours of treatment services per minor patient per week.
- It requires a mental health professional to be available during hours of operation of clinical services.
- There is no medical director requirement.

DHS 35 staffing requirements

Each clinic shall have a clinic administrator who is responsible for clinic operations, including ensuring that the clinic is in compliance with this chapter and other applicable state and federal law. A clinic administrator may be a licensed treatment professional or mental health practitioner.

DHS 35 staffing requirements

In addition to the clinic administrator, the clinic shall have a sufficient number of qualified staff members available to provide outpatient mental health services to consumers admitted to care. Except as provided in s. [DHS 35.12 \(2m\)](#), the clinic shall implement any one of the following minimum staffing combinations to provide outpatient mental health services:

- Two or more licensed treatment professionals who combined are available to provide outpatient mental health services at least 60 hours per week.
- One or more licensed treatment professionals who combined are available to provide outpatient mental health services at least 30 hours per week and one or more mental health practitioners or recognized psychotherapy practitioners who combined are available to provide outpatient mental health services at least 30 hours per week.
- One or more licensed treatment professionals who combined are available to provide outpatient mental health services at least 37.5 hours per week, and at least one psychiatrist or advanced practice nurse prescriber who provides outpatient mental health services to consumers of the clinic at least 4 hours per month.

DHS 35 staffing requirements

- If a clinic has more than one office, both the clinic as a whole and its main office shall comply with the requirements of sub. [\(2\)](#).
- If a clinic provides services to persons 13 years old or younger, the clinic shall have staff qualified by training and experience to work with children and adolescents.
- A clinic that is certified before June 1, 2009 shall meet the requirements of subs. [\(1\)](#) and [\(3\)](#) upon June 1, 2009, but shall have until January 1, 2012 to meet the minimum staffing requirements under sub. [\(2\)](#).
- A person whose professional license is revoked, suspended, or voluntarily surrendered may not be employed or contracted with as a mental health professional, or a prescriber. A person whose professional license is limited or restricted, may not be employed or contracted with to practice in areas prohibited by the limitation or restriction.

DHS 75.18 general requirements for service staff: service director

- A service shall have a service director.
- The service director shall be responsible for all of the following:
 - Administration and overall operation of the service.
 - Ensuring that appropriate policies and procedures for the service are developed and carried out in compliance with this chapter.
 - Administrative oversight of the job performance and actions of service staff members.
 - Compliance with regulations governing the care and treatment of patients and the standards of practice for behavioral health professions.
- Unless otherwise specified for a specific level of care, the service director, or staff member designated by the director to be responsible for the operation of the service, shall be readily available, at all times the service is in operation. That person may provide direct counseling or other duties consistent with their scope of practice, in addition to being responsible for the service operation.

DHS 75.18 general requirements for service staff: clinical supervisor

- A service shall have a clinical supervisor, either on staff or through a contracted agreement, to provide clinical supervision or clinical consultation to clinical staff of a service, as required within this chapter, and consistent with applicable professional licensure and certification requirements.
- The clinical supervisor is responsible for professional development of clinical staff, and for ensuring delivery of appropriate clinical services to patients of a service.
- Any staff who provides clinical supervision shall be a clinical supervisor, as defined in s. [DHS 75.03 \(19\)](#). A clinical supervisor who is on staff of the service and meets the requirements of a substance abuse counselor or mental health professional may provide direct counseling services in addition to supervisory responsibilities.

DHS 75.18 general requirements for service staff: substance abuse counselors

A service shall have a substance abuse counselor, as defined in [DHS 75.03](#)

DHS 75.18 general requirements for service staff: prescribers

A service may have prescribers that provide medical services and clinical consultation services. The service shall ensure appropriate training and oversight of prescribers.

DHS 75.18 general requirements for service staff: nurses

A service may have nurses that provide nursing services to support mental health and substance use treatment. The service shall ensure appropriate training and oversight of nursing staff.

DHS 75.18 general requirements for service staff: mental health professionals

- A service may have mental health professionals or prescribers that deliver mental health treatment services. All staff who provide mental health treatment, except prescribers knowledgeable in psychiatry, shall meet the appropriate qualifications under Wis. Stat. chs. [455](#) or [457](#)
- For service levels of care in [DHS 75.49](#) to [DHS 75.59](#) that require a mental health professional, the role of substance abuse counselor and mental health professional may be occupied by the same individual with appropriate credentialing, and providing they are operating within the scope of their practice.

DHS 75.19 personnel requirements

Caregiver background check. At the time of hire, employment, or contract, and every 4 years after, the service shall conduct and document a caregiver background check following the procedures in [Wis. Stat. § 50.065](#) and Wis. Admin. Code ch. [DHS 12](#). A service shall not employ or contract the service if the person has been convicted of the crimes or offenses, or has a governmental finding of misconduct, found in [Wis. Stat. § 50.065](#) and Wis. Admin. Code ch. [DHS 12](#), unless the person has been approved under the department's rehabilitation process, as defined in Wis. Admin. Code ch. [DHS 12](#).

DHS 75.19 Personnel Requirements

Personnel records. Employee records shall be available upon request at the service for review by the department. A separate record for each employee shall be maintained, kept current, and at a minimum, include:

- A written job description including duties, responsibilities and qualifications required for the employee.
- Beginning date of employment.
- Qualifications based on education or experience.
- A completed caregiver background check following procedures under [Wis. Stat. § 50.065](#) and Wis. Admin. Code ch. [DHS 12](#).
- A copy of a signed statement regarding confidentiality of client information.
- Documentation of any required training.
- A copy of any required licenses or certifications.

DHS 75.19 Personnel Requirements

Clinical supervision. A service shall have written policies and procedures for the provision of clinical supervision to unlicensed staff, qualified treatment trainees, and recovery support staff. Clinical supervision for substance abuse counselors, mental health professionals in-training, and qualified treatment trainees shall be in accordance with requirements in Wis. Admin. Code chs. [SPS 162](#), chs. [MPSW 4](#), [12](#), and [16](#), and ch. [Psy 2](#). A record of clinical supervision shall be made available to the department upon request.

DHS 75.19 Personnel Requirements

Staff development

- a. A service shall have written policies and procedures for determining staff training needs, formulating individualized training plans, and documenting the progress and completion of staff development goals.
- b. The requirements in this subsection may be met through documentation on an employee's annual performance evaluation that addresses professional development goals.
- c. Minimum training requirements for clinical staff include all of the following:
 - Assessment and management of suicidal individuals.
 - Safety planning for behavioral health emergencies.
 - Assessment and treatment planning for co-occurring disorders.

DHS 75.19 Personnel Requirements

Staff development (continued)

- d. Documentation of training shall be made available to the department upon request.
- e. Documented training for areas identified in par. [\(c\)](#) shall occur within 2 months of hire for new clinical staff, unless the service is able to provide documentation of the staff member's previous training, professional education, or supervised experience addressing these areas.

DHS 75 requirements

- Staff must be trained in the policies and procedures of the clinic.
- Additional training requirements compared to DHS 35 include:
 - Staff development DHS 75.19 (4) (a-e).
 - Universal precautions DHS 75.19 (5).
 - Services for minors DHS 75.22 (5).
 - Opioid overdose reversal DHS 75.24 (5) (a-e).
 - Annual training DHS 75.49 (2)(d) and DHS 75.50 (3) (d).

DHS 75.22 (5) services for minors

Staff training. A service that delivers treatment services to minors shall provide training to clinical staff in the areas of adolescent development, family systems, child abuse and neglect, and involuntary treatment laws for minors, unless the service is able to provide documentation of the staff member's previous training, professional education, or supervised experience addressing these areas. A record of required training shall be documented in the personnel record.

Training: DHS 75.49 outpatient substance use treatment service

A service that provides outpatient substance use treatment services in the community shall provide annual training for all staff that deliver services in the community regarding in-home and community safety and avoiding sexual or other exploitative relationships with patients. A record of each training shall be available to the department upon request.

DHS 75 policies and procedures

- Subchapter I-General Provisions
 - DHS 75.02 Applicability
 - DHS 75.03 Definitions
- Subchapter II-Certification
 - DHS 75.04 Application requirements
 - DHS 75.05 Department action
 - DHS 75.06 Biennial forms and fees
 - DHS 75.07 Change of ownership
 - DHS 75.08 Agency closure
 - DHS 75.09 Ongoing compliance and enforcement actions
 - DHS 75.10 Investigation, notification and reporting requirements
 - DHS 75.11 General records and retention
 - DHS 75.12 Telehealth services
 - DHS 75.13 Waivers and variances

DHS 75 policies and procedures

Subchapter IV-Treatment Service General Requirements

- DHS 75.16 Applicability of treatment service general requirements
- DHS 75.17 Governing authority or entity owner requirements
- DHS 75.18 General requirements for service staff
- DHS 75.19 Personnel requirements
- DHS 75.20 Patient case records
- DHS 75.21 Confidentiality
- DHS 75.22 Services for minors
- DHS 75.23 Service levels of care
- DHS 75.24 Service operations

DHS 75.24 service operations

- DHS 75.24(1) Screening
- DHS 75.24(2) Emergency services
- DHS 75.24(3) After hours emergency response
- DHS 75.24(4) Safety planning
- DHS 75.24(5) Opioid overdose reversal
- DHS 75.24(6) Service delivery for intoxicated individuals
- DHS 75.24(7) Tobacco use disorder treatment and smoke-free facility
- DHS 75.24(8) Culturally and linguistically appropriate services
- DHS 75.24(9) Intake and admission
- DHS 75.24(10) First priority for services

DHS 75.24 service operations

- DHS 75.24(11) Clinical assessment
- DHS 75.24(12) Referral
- DHS 75.24(13) Treatment plan
- DHS 75.24(14) Clinical consultation
- DHS 75.24(15) Clinical staffing
- DHS 75.24(16) Progress notes
- DHS 75.24(17) Group counseling
- DHS 75.24(18) Family services
- DHS 75.24(19) Medical services
- DHS 75.24(20) Drug testing services

DHS 75.24 service operations

- DHS 75.24(21) Transfer
- DHS 75.24(22) Discharge
- DHS 75.24(23) Continuing care services

DHS 75.25 Outcome monitoring and quality improvement plan

DHS 75 policies and procedures

Subchapter VI-Additional Requirements for Treatment Service Levels of Care

- DHS 75.48 Service requirements by level of care tables
- DHS 75.49 Outpatient substance use treatment service
- DHS 75.50 Outpatient integrated behavioral health treatment service

DHS 75.48 (1) service requirements by level of care, outpatient

	DHS 75.49 Outpatient Substance Use Treatment Service	DHS 75.50 Outpatient Integrated Behavioral Health Treatment Service	DHS 75.51 Intensive Outpatient Treatment Service	DHS 75.52 Day Treatment or Partial Hospitalization Treatment Service
(a) Adult services frequency requirements	Is less than 9 hours of treatment services per patient per week.	Is less than 9 hours of treatment services per patient per week.	At least 9 hours of treatment services per patient per week.	<ol style="list-style-type: none"> 1. At least 15 hours of treatment services per patient per week. 2. At least one hour of individual counseling per week. 3. The maximum amount of time between clinical services shall not exceed 72 hours in any 7-day period.
(b) Minor services frequency requirements	Is less than 6 hours of treatment services per patient per week.	Is less than 6 hours of treatment services per patient per week.	At least 6 hours of treatment services per patient per week.	<ol style="list-style-type: none"> 1. At least 12 hours of treatment services per patient per week. 2. At least one hour of individual counseling per week. 3. The maximum amount of time between clinical services shall not exceed 72 hours in any 7-day period.

DHS 75.48 (1) service requirements by level of care, outpatient

	DHS 75.49 Outpatient Substance Use Treatment Service	DHS 75.50 Outpatient Integrated Behavioral Health Treatment Service	DHS 75.51 Intensive Outpatient Treatment Service	DHS 75.52 Day Treatment or Partial Hospitalization Treatment Service
(c) Service director requirements				Service director or an identified designee must be available on-site during the hours of operation of clinical services.
(d) Medical director requirements			Required either as an employee of the service or through a written agreement to provide medical oversight and consultation regarding clinical operations of the service.	Required either as an employee of the service or through a written agreement to provide medical oversight and consultation regarding clinical operations of the service.
(e) Substance abuse counselor requirements			Required to be available on-site during the hours of on-site operation of clinical services.	Required to be available on-site during the hours of on-site operation of clinical services.
(f) Mental health professional requirements		Required to be available during the hours of operation of clinical services.	Required either as an employee of the service or through a written agreement, to provide coordinated and concurrent services for the treatment of patients with co-occurring mental health disorders.	Required to be available during the hours of operation of clinical services.

DHS 75.48 (1) service requirements by level of care, outpatient

	DHS 75.49 Outpatient Substance Use Treatment Service	DHS 75.50 Outpatient Integrated Behavioral Health Treatment Service	DHS 75.51 Intensive Outpatient Treatment Service	DHS 75.52 Day Treatment or Partial Hospitalization Treatment Service
(g) Additional personnel requirements				Requires at least one full-time counselor for every 15 patients enrolled in the service.
(h) Assessment completion	Required by the third appointment.	Required by the third appointment.	Required by the third appointment.	Required by the third appointment.
(i) Use of prior assessment	For returning patients, an assessment update shall be completed if 90 days have passed since the initial assessment. If one year has passed, a new comprehensive assessment is required.	For returning patients, an assessment update shall be completed if 90 days have passed since the initial comprehensive assessment. If one year has passed, a new comprehensive assessment is required.	For returning patients, an assessment update shall be completed if 90 days have passed since the initial comprehensive assessment. If six months have passed, a new comprehensive assessment is required.	<ol style="list-style-type: none"> 1. A new assessment, less than 30 days old, is required for each admission. 2. If a comprehensive assessment has been conducted by a referring substance use treatment provider and is less than 30 days old, the assessment may be utilized.

DHS 75.48 (1) service requirements by level of care, outpatient

	DHS 75.49 Outpatient Substance Use Treatment Service	DHS 75.50 Outpatient Integrated Behavioral Health Treatment Service	DHS 75.51 Intensive Outpatient Treatment Service	DHS 75.52 Day Treatment or Partial Hospitalization Treatment Service
(j) Updated assessment, continuously enrolled patients	An assessment update shall be completed not less than once per year.	An assessment update shall be completed not less than once per year.	An assessment update shall be completed not less than once per year.	
(k) Intake completion	Required by the end of the session following the assessment.	Required by the end of the session following the assessment.	Required by the end of the session following the assessment.	Required by the end of the session following the assessment.
(L) Treatment plan completion	Required before the second session following the assessment.	Required before the second session following the assessment.	Required before the second session following the assessment.	Required before the second session following the assessment.
(m) Treatment plan review frequency	Required every 90 days or 6 treatment sessions, whichever is longer, unless there is a clinical reason to review more frequently.	Required every 90 days or 6 treatment sessions, whichever is longer, unless there is a clinical reason to review more frequently.	Required every 14 days, unless there is a clinical reason to review more frequently.	Required every 14 days, unless there is a clinical reason to review more frequently.
(n) Clinical staffing			Required every 14 days for each patient.	Required every 14 days for each patient.

Questions? Use online form.

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Revised DHS 75 Implementation

Revised DHS 75 Implementation

Building a better system of care for substance use services

The revised Wis. Admin. Code ch. DHS 75 took effect October 1, 2022. This administrative rule sets the minimum standards for substance use prevention, intervention, and treatment services delivered across a variety of settings and levels of care.

[View the text of the revised Wis. Admin. Code ch. DHS 75](#)

The revised Wis. Admin Code ch. DHS 75 is the product of years of partner and provider engagement and advocacy to ensure that DHS administrative rules reflect evidence-based practices and support advancement in patient care. This revised Wis. Admin. Code ch. DHS 75 puts the health and well-being of people receiving services for substance use first while easing provider requirements to support greater access to substance use services throughout the state.

DHS staff have been preparing providers for the revised regulations since October 2021. Staff continue to support providers to ensure continuity of services. Use [this online form](#) to submit a question or

Keep in touch
[Join our email list](#) to receive information about implementation of the revised Wis. Admin. Code ch. DHS 75.
If you have questions, [complete this online form](#).

Attention Division of Quality Assurance regulated entities
Providers certified under Wis. Admin. Code ch. DHS 75 are encouraged to [submit](#)

www.dhs.wisconsin.gov/dhs75

Links for additional information

- Revised DHS 75 implementation page on DHS website
<https://www.dhs.wisconsin.gov/rules/dhs75-implementation.htm>
- Online form for questions regarding the revised DHS 75
<https://www.surveygizmo.com/s3/6571672/DHS-75-Questions>
- Revised DHS 75:
https://docs.legis.wisconsin.gov/code/admin_code/dhs/030/75
- Mental Health: Provider Information page on DHS website
<https://www.dhs.wisconsin.gov/mh/index.htm>