

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH
Statutory Authority: 16 Delaware Code, Chapter 51 (16 Del.C. Ch. 51)

PROPOSED

PUBLIC NOTICE

6002 Credentialing Mental Health Screeners and Payment for Voluntary Admissions

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 16 of the Delaware Code, Chapter 51, Delaware Health and Social Services (DHSS) / Division of Substance Abuse and Mental Health is proposing regulations for credentialing mental health screeners and paying for voluntary admissions to privately operated psychiatric hospitals.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Susan C. Sargent, USDOJ Settlement Project Director, Division of Substance Abuse and Mental Health, 1901 North DuPont Highway, New Castle, Delaware 19720 or by fax to (302) 255-4428 by December 31, 2012.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSAL

The proposed regulations described below implement provisions within 16 Del.C. §5122(m), as amended by HS 1 for House Bill 311 and provide guidelines within the Division of Substance Abuse and Mental Health (DSAMH) for credentialing mental health screeners and paying for voluntary admissions of adults whose admissions are eligible for payment by the State. The Division of Substance Abuse and Mental Health (DSAMH) is amending and removing regulations relating to the admission, maintenance and discharge of patients with mental conditions that are no longer applicable.

Statutory Authority:

16 Del.C. § 5122(m)

Background

Title 16 Ch. 51, Subchapter II now requires an assessment by a credentialed mental health screener before an individual is detained on a 24-hour psychiatric hold, thereby helping to ensure that detainment and hospitalization only occur when it is clinically necessary and that the individual is afforded appropriate access to the less-restrictive alternatives being developed across the state in accordance with the United States Department of Justice and State of Delaware Settlement Agreement. The regulations proposed below set forth the qualifications, licensure, supervision, and training required for professionals to be credentialed as mental health screeners.

Previously, if an individual were detained for evaluation and required hospitalization, reimbursement to psychiatric facilities with state funds were linked to involuntary hospitalization. The amendments allow individuals in need of hospitalization the choice of being admitted voluntarily. The proposed regulations ensure that the treating facilities can be reimbursed with state funds pending the results of an independent review and confirmation that the admission represents the most appropriate and least restrictive treatment for the client in crisis, that the duration of stay for the admitted client is reviewed and deemed appropriate, and that the State is the payer of last resort.

Summary of Proposed Changes

With the issuance of these regulations, Delaware clients in crisis will be evaluated by a trained and credentialed mental health screener and afforded alternatives to detainment and involuntary hospitalizations.

6002 Credentialing Mental Health Screeners and Payment for Voluntary Admissions

1.0 Mental Health Screener Credentialing

Title 16, Chapter 51 of the Delaware Code states that only psychiatrists and people credentialed by the Delaware Department of Health & Social Services (DHSS) as a Mental Health Screener (MH Screener) have the authority to detain or abrogate a detainment of a person involuntarily for a psychiatric evaluation. No person shall hold himself or herself out to the public as a credentialed mental health screener unless the

person is credentialed in accordance with this chapter. The Division of Substance Abuse and Mental Health (DSAMH) is the DHSS Division responsible for implementing and enforcing this law.

2.0 Definitions

As used in this subchapter:

“Credentialed Mental Health Screener” means an individual who has applied for and been approved to be credentialed as a mental health screener under Chapter 51 by the DSAMH or their designee.

“Crisis experience in a mental health setting” means a crisis experience in a mental health setting is defined as direct experience providing acute crisis services to people with mental health disorders in settings that include, but are not limited to, psychiatric assessment centers, hospital emergency rooms, crisis walk in settings, admission departments of psychiatric or general service hospitals, mobile crisis departments, drop in centers and certain settings found in the Department of Corrections.

“Licensed Mental Health Professionals” means individuals who are licensed by the State of Delaware and who are otherwise eligible to be credentialed as a mental health screener under Chapter 51 include licensed physicians (MD/DO) whose practice specialty is other than psychiatry; licensed registered nurses with a bachelor’s degree in nursing (BSN); licensed advanced practice registered nurses (APN); licensed physician assistants (PA-C); licensed clinical psychologists (PhD/Psy.D); licensed clinical social workers (LCSW); licensed mental health counselors (LMHC); and licensed marriage and family therapists (LMFT).

“Supervision of unlicensed mental health professionals by a psychiatrist” means an unlicensed mental health professionals who need to work under a psychiatrist licensed to practice medicine will perform this work under their agency's by-laws and the requirements that the credentialed mental health screener discuss the individual in care's issues on the phone or through telepsychiatry with the supervising psychiatrist at the time of the detainment decision and assure that this psychiatrist agrees and countersigns the decision made. A faxed or original detainment form with the supervising psychiatrist’s signature will need to be placed in the client’s medical record at the facility or site where the detainment occurred within 24 hours.

“Unlicensed mental health professional” means an individual who works under the direct supervision of a psychiatrist but does not hold a professional license issued by the State of Delaware.

3.0 Qualifications of Applicants for Credentialed Mental Health Screener

3.1 Psychiatrists

3.1.1 The psychiatrist must supply evidence that he or she is licensed to practice medicine in Delaware.

3.1.2 No mental health screener credentialing is required.

3.2 Board Certified Emergency Physicians

3.2.1 Each physician applicant must submit qualifications; and

3.2.2 Each physician must supply evidence that such person is licensed to practice medicine in Delaware and is Board Certified by the American Board of Emergency Medicine.

3.2.3 Each physician will be required to receive and review an information packet on statewide resources for clients in crisis.

3.3 Physicians

3.3.1 Each physician applicant must submit qualifications; and

3.3.2 Each physician must supply evidence that such person is licensed to practice medicine in Delaware.

3.3.3 Each physician will be required to attend four hours of training to be credentialed as a MH Screener.

3.4 Licensed Non-Physician Mental Health Professionals

3.4.1 Each applicant must submit qualifications and supply evidence that:

3.4.1.1 If employed by DSAMH or a self-employed professional not affiliated with any Delaware health care facility, the applicant has five (5) years’ experience in mental health clinical and/or crisis settings as an employed or as a contracted professional.

3.4.1.2 If employed or contracted by any Delaware health care facility, the applicant has at least two (2) years experience in mental health clinical and/or crisis settings as an employed or as a contracted professional, and that that non-state health care facility will take responsibility for the years of experience required for their staff to be credentialed.

3.4.2 Licensed Non-Physician Mental Health Professionals must meet the following qualifications:

3.4.2.1 Registered Nurse. Each applicant shall document that they are licensed in the State of Delaware as a Registered Nurse with a BSN degree and in good standing, as set forth in 24 Del.C. Ch. 19, relating to Professions and Occupations.

- 3.4.2.2 Advanced Practice Nurse. Each applicant shall document that such person is licensed in the State of Delaware as an Advanced Practice Nurse in good standing, as set forth in Title 24 Del.C. Ch. 19 relating to Professions and Occupations and is working under a formal protocol with a Delaware licensed physician
- 3.4.2.3 Licensed Psychologist. Each applicant shall document that such person is licensed in the State of Delaware as a Licensed Clinical Psychologist in good standing, as set forth in 24 Del.C. Ch. 35 relating to Professions and Occupations.
- 3.4.2.4 Licensed Clinical Social Worker
 - 3.4.2.4.1 Each applicant shall document that such person is licensed in the State of Delaware as a Licensed Clinical Social Worker in good standing, as set forth in 24 Del.C. Ch. 39 relating to Professions and Occupations.
 - 3.4.2.4.2 Each applicant shall document that such person has passed the American Association of State Social Work Boards.
- 3.4.2.5 Licensed Professional Counselor of Mental Health
 - 3.4.2.5.1 Each applicant shall document that such person is licensed in the State of Delaware as a Licensed Professional Counselor of Mental Health in good standing, as set forth in 24 Del.C. Ch. 30 relating to Professions and Occupations.
 - 3.4.2.5.2 Each applicant shall document that such person is certified by the National Board for Certified Counselors, Inc. (NBCC), or the Academy of Clinical Mental Health Counselors (ACMHC), or other national mental health specialty certifying organization acceptable to the Board.
- 3.4.2.6 Licensed Marriage and Family Therapist
 - 3.4.2.6.1 Each applicant shall document that such person is licensed in the State of Delaware as a Licensed Marriage and Family Therapist in good standing, as set forth in 24 Del.C. Ch. 30 relating to Professions and Occupations.
 - 3.4.2.6.2 Each applicant shall document that such person has passed the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) standardized examination or other examination acceptable to the Board.
- 3.4.2.7 Licensed Physician Assistant.
 - 3.4.2.7.1 Each applicant shall document that such person is licensed in the State of Delaware as a Physician Assistant in good standing, as set forth in 24 Del.C. Ch. 17 relating to Professions and Occupations and is working under the delegated authority of a licensed physician.

3.5 Unlicensed Mental Health Professionals under Direct Supervision of a Psychiatrist

- 3.5.1 Each unlicensed mental health professional who is applying to become credentialed as a mental health screener must submit qualifications, pay the application fee, pay the credentialing fee, and supply evidence that:
 - 3.5.1.1 Such person has had two years of clinical and/or crisis experience if working as a State employee or contractor;
 - 3.5.1.2 Such person has at least two (2) years of clinical and/or crisis experience if working with a Delaware Health Care Facility as an employee or contracted staff member;
 - 3.5.1.3 Such person has at least a bachelors or masters degree in a mental health related field if working as a State employee or contractor;
 - 3.5.1.4 Such person has a master's degree in a mental health related field if working with a Delaware Health Care Facility as an employee or contracted staff member; and
 - 3.5.1.5 Such person has committed to completing forty (40) hours of crisis services in an employed position under direct supervision of a psychiatrist or credentialed mental health screener following completion of the mental health screener training and satisfactory score on the mental health screener credentialing exam.

4.0 Applications Process

Definitions

“Application for Credentialing” means individuals who wish to be credentialed as a credentialed MH Screener to be able to perform detainments under Chapter 51 will need to fill out an application that includes their resume, school transcripts, current work history including experience in working with people in mental health crises, current employment, and all contact information including Delaware license numbers and titles.

“Application for Re-credentialing” means all Delaware credentialed mental health screeners will be required to re-apply every two years to DSAMH or their designee and to send in their applicable CEU's to be re-

credentialed. The only professionals that will not be required to do this re-credentialing process are licensed physicians whose specialty is psychiatry and physicians who are Board Certified Emergency Physicians. DSAMH will provide any changes in state mental health or associated resources to this group in a timely manner and when these services become available or are changed in any way.

5.0 Training, Credentialing and Re-credentialing Requirements for Licensed and Unlicensed Mental Health Professionals

5.1 Definitions

“Training Guidelines for credential mental health screener, licensed physicians other than psychiatrists” means training guidelines for applicants who are licensed physicians other than psychiatrists will include content that may change over time and is up to DSAMH to direct.

“Training Guidelines for credentialed mental health screener, licensed applicants” means training guidelines for applicants who are licensed professionals will include content that may change over time and is up to DSAMH to direct.

“Training Guidelines for credentialed mental health screener, unlicensed applicants” means unlicensed applicants will be trained under the same guidelines as for applicants who are licensed plus applicants will be required to participate in 40 hours of supervised crisis internship in a mental health setting. This content may change over time and is up to DSAMH to direct.

5.2 Credentialing

5.2.1 Board Certified Emergency Physicians.

5.2.1.1 Compliance with qualifications specific above;

5.2.2 Licensed physicians other than psychiatrists and Board Certified Emergency Physicians:

5.2.2.1 Compliance with qualifications specified above;

5.2.2.2 Completion of 4 hours of training by the DHSS Division of Substance Abuse and Mental Health; and

5.2.2.3 Satisfactory score on the credentialing examination.

5.2.3 Licensed Mental Health Professionals

5.2.3.1 Compliance with qualifications specified above;

5.2.3.2 Completion of 40 hours of training by DSAMH; and

5.2.3.3 Satisfactory score on the credentialing examination.

5.2.4 Unlicensed Mental Health Professionals

5.2.4.1 Compliance with qualifications specified above;

5.2.4.2 Completion of 40 hours of mental health screener training by DSAMH;

5.2.4.3 Satisfactory score on the credentialing examination; and

5.2.4.4 Completion of 40 hours of crisis services under direct supervision of a psychiatrist or credentialed mental health screener.

5.3 Re-Credentialing

5.3.1 Licensed Physicians other than psychiatrists and Board Certified Emergency Physicians:

5.3.1.1 Compliance with qualifications specified above; and

5.3.1.2 Completion of 4 hours of training by DSAMH every two years.

5.3.1.3 DSAMH will accept CEU's that are generally related to psychiatric or crisis work.

5.3.2 Licensed Mental Health Professionals

5.3.2.1 Compliance with qualifications specified above; and

5.3.2.2 Completion of 4 hours of training by DSAMH every two years

5.3.2.3 DSAMH will accept CEU's that are generally related to psychiatric or crisis work.

5.3.3 Unlicensed Mental Health Professionals

5.3.3.1 Compliance with qualifications specified above; and

5.3.3.2 Completion of 8 hours of training by DSAMH every two years

5.3.3.3 DSAMH will accept CEU's that are generally related to psychiatric or crisis work.

6.0 Data

6.1 Forms and Documentation required to detain, or undo a detainment, of an individual under this statute: Credentialed mental health screeners will be required to complete a DSAMH Crisis Intervention Assessment

Tool and 24-Hour Emergency Admission Form for the purpose of ensuring a standardized approach to assessing the needs of clients in crisis and documenting the decision premised upon that assessment. These forms will become part of the client's records as well as be submitted to DSAMH. Data will be required on all detainments and sent to DSAMH as soon as possible and within 24 hours by the credentialed MH Screener that signs the detainment order. These detainments will be reviewed on a case by case basis going forward.

6.2 Data that will be documented daily in relation to detainments: DSAMH, as part of DHSS, will record a number of variables into a database. This database will include administrative information, such as the client MCI number, the date of contact, where the contact occurred, what staff member was lead in this response by name, the nature of the crisis, what was done including alternatives to inpatient care, who signed the detainment order, where the individual went once the detainment order was signed, and who transported the client; and clinical information as collected on the DSAMH Crisis Intervention Assessment Tool and 24-Hour Emergency Admission Form. In addition, if a detainment order was not signed, this database needs to document where the client went, to whom for care, what the plans were for follow-up, and transportation. DSAMH will also require a permanent data base that can render information on detainments every month going forward by April 2013.

6.3 Reports that will be publicly generated monthly on Delaware detainments: Aggregated data reports will be generated on detainments.

7.0 Essential Conflict of Interest Statement:

The intent of the law is to ensure that no client is detained for any reason other than their having a mental condition that may result in danger to that person or others, and that any conflicts of interest as set forth in 16 Del.C. §5122 are disclosed on the 24-hour detention form filed with DSAMH within 24 hours of signature of the detention order. DSAMH will collect and monitor all assessments, detentions and non-detentions, whether a conflict of interest is disclosed or not, for purposes of ensuring that the intent of this law is met.

8.0 Suspension or Revocation of Mental Health Credential

8.1 DSAMH will monitor individuals and general facilities who perform credentialed mental health screenings and who detain individuals for 24 hours under this regulation. Credentialed mental health screeners are expected to keep their own records on their work to detain or not detain individuals that they assess. Copies of the screening form are sufficient documentation if the individual mental health screener or organization that supports these screeners keeps this information protected and confidential under federal law. Compliance with federal laws on this documentation is the responsibility of the individual who has been credentialed as a MH Screener. All credentialed MH Screeners need to be aware of the federal laws pertaining to protection of health records. Failure to comply with this requirement will result in immediate suspension of this credential.

8.2 If a professional license is revoked or suspended, the MH Screener credential is immediately revoked. For unlicensed mental health professionals who cease to work under the supervision of a psychiatrist licensed to practice medicine, the MH Screener credential is immediately revoked. Compliance with notification of this revocation is the responsibility of the individual who has been credentialed as a MH Screener. Reinstatement of an individual with a revoked credential will be at the discretion of DSAMH, in light of circumstances surrounding the original revocation.

9.0 Payment for Voluntary and Involuntary Admissions.

Payment to hospitals for voluntary and involuntary admissions of clients in crisis will be made pending approval by a psychiatrist designated by the Secretary of Health and Social Services following the conduct of an independent review and confirmation that the admission represents the most appropriate and least restrictive treatment for the client in crisis, that the duration of stay for the admitted client is reviewed and deemed appropriate, and that the State is the payer of last resort.

10.0 Appeal Process.

Any individual who has been denied credentialing as a mental health screener or who has had their screening credential suspended or revoked can appeal this decision by writing to the DSAMH Director with their appeal based on their knowledge and facts of this event within twenty (20) days of the denial. A response by the DSAMH Director will be forthcoming within thirty (30) days.