

# DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH & THEIR FAMILIES

## DIVISION OF PREVENTION AND BEHAVIORAL HEALTH SERVICES

Statutory Authority: 16 Delaware Code, Section 5001(11) (16 Del.C. §5001(11))

9 DE Admin. Code 701

### PROPOSED

### PUBLIC NOTICE

#### 701 Qualifications for Juvenile Mental Health Screeners

##### Summary of Proposal

The purpose of this action is to amend Regulation 701 to allow additional professionals to be eligible to become credentialed juvenile mental health screeners. Title 16, Chapter 50 of the Delaware Code states that only Juvenile Mental Health Screeners, credentialed by the Department of Services for Children, Youth & Their Families (DSCYF), may authorize an emergency detention of an individual under the age of 18, pending a psychiatric evaluation.

This regulation is being amended to expand the definition of "eligible entity" to include Delaware licensed medical hospitals and to allow unlicensed mental health professionals, who are employed by the Division of Prevention and Behavioral Health's contracted Mobile Response and Stabilization Service (MRSS), to become credentialed juvenile mental health screeners and authorize detentions under the direct supervision of a psychiatrist. The amendment also makes other minor changes and technical updates.

##### Statutory Authority

16 Del. C. § 5001(11)

##### Written Comments

A copy of the proposed amendment is being published in the October 1, 2022 edition of the Delaware Register of Regulations. A copy is also on file in the DSCYF administrative building located at 1825 Faulkland Road, Wilmington, Delaware 19805.

Interested parties may offer written comments on the proposed amendment by October 31, 2022. Any person who wishes to make written comments or suggestions concerning the proposal must submit them to Meredith Seitz by email to [Meredith.Seitz@delaware.gov](mailto:Meredith.Seitz@delaware.gov), or by mail to the address listed above.

#### 701 Qualifications for Juvenile Mental Health Screeners

##### 1.0 Juvenile Mental Health Screener Credentialing

Title 16, Chapter 50 of the **Delaware Code** states that only Juvenile Mental Health Screeners, authorized by the Department of Services for Children, Youth and Their Families (DSCYF), ~~have the authority to detain or abrogate~~ may authorize a detention of an individual under the age of 18 for emergency detention, pending a psychiatric evaluation. No person shall hold himself out to the public as a juvenile mental health screener unless the person is credentialed in accordance with this chapter, and acting in the capacity of their employment or contract relationship through which they have been granted juvenile mental health screener status. The Division of Prevention and Behavioral Health Services (DPBHS) is the DSCYF Division responsible for implementing and enforcing this law.

##### 2.0 Definitions

As used in this regulation:

**"Crisis services"** means services provided by the staff or contractors of ~~the DPBHS Child Priority Response~~ Mobile Response and Stabilization Services (MRSS) program or a psychiatric hospital contracted by the DSCYF, in the course of their employment.

**"Department"** and **"DSCYF"** means the Department of Services for Children Youth and Their Families.

**"Division"** and **"DPBHS"** means the Division of Prevention and Behavioral Health Services.

**"DSAMH"** means the Division of Substance Abuse and Mental Health of the Department of Health and Social Services.

**"Eligible entity"** means a facility operated by the DSCYF, DSCYF crisis services provider, ~~or~~ a Delaware licensed mental health hospital under contract with the DSCYF, or a Delaware licensed medical hospital.

"Emergency detention" and "~~emergently detained~~" "detainment" mean the process whereby a minor who appears to have a mental condition, and whose mental condition causes the person to be dangerous to self or dangerous to others, and whose parent or legal guardian is unwilling, or unavailable, to have the minor admitted to a facility voluntarily for assessment or care, is involuntarily detained for such evaluation and treatment for 24 hours unless the parent or legal guardian is unavailable to the Department during that 24 hour period; in such instances the time period may be extended to 72 hours.

"Juvenile Mental Health Screener" means an individual who has applied for and been approved to be credentialed as a Juvenile Mental Health Screener under Chapter 50, by the DPBHS.

"Psychiatric Facility" means a Delaware licensed mental health hospital under contract with the DSCYF.

"Secretary" means the Secretary of the Department of Services for Children Youth and Their Families.

### 3.0 Qualifications of Applicants for Credentialed Mental Health Screener

#### 3.1 Psychiatrists, Board Certified Emergency Physicians, and Physicians.

3.1.1 Psychiatrists, board certified emergency physicians and physicians who meet the criteria of subsections 3.1 through 3.3 of 16 DE Admin. Code §§6002.3.1—6002.3.3 6002 Credentialed Mental Health Screeners and Payment for Voluntary Admissions may ~~detain or abrogate a~~ authorize detainment for a psychiatric evaluation of any person, over or under age 18 as detailed in 16 **DE Admin. Code §6002 6002**.

#### 3.2 Licensed Non-Physician Mental Health Professionals

3.2.1 A credentialed Licensed Non-Physician Mental Health Professional, who meets the qualifications enumerated in this regulation, may ~~detain or abrogate a~~ authorize detainment for a psychiatric evaluation of a person under the age of 18.

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

3.2.2.1 Registered Nurse. Each applicant shall document current licensure by 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;

3.2.2.2 Advanced Practice Nurse. Each applicant shall document current licensure by the State of Delaware as an Advanced Practice Nurse in good standing, as set forth in 24 **Del.C.** Ch. 19;

3.2.2.3 Licensed Clinical Social Worker. Each applicant shall document current licensure in the State of Delaware as a Licensed Clinical Social Worker in good standing, as set forth in 24 **Del.C.** Ch. 39 and have at least 2 years/4000 hours of post masters clinical experience;

3.2.2.4 Licensed Professional Counselor of Mental Health. Each applicant shall document current licensure by the State of Delaware as a Licensed Professional Counselor of Mental Health in good standing, as set forth in 24 **Del.C.** Ch. 30 and have at least 2 years/4000 hours of post masters clinical experience;

3.2.2.5 Licensed Psychologist. Each applicant shall document current licensure by in the State of Delaware as a Licensed Clinical Psychologist in good standing, as set forth in 24 **Del.C.** Ch. 35;

3.2.2.6 Licensed Physician Assistant. Each applicant shall document current licensure by the State of Delaware as a Licensed Physician Assistant in good standing, as set forth in 24 Del.C. Ch. 17, and employment under the delegated authority of a licensed physician.

~~3.2.2.6~~ 3.2.2.7 Other Licensed Behavioral Health Professional. The Secretary of the ~~Division~~ Department of Services for Children Youth and Their Families may designate other behavioral or mental health professionals, who are licensed under Delaware Law, and the Secretary may set requirements for their qualifications to serve as juvenile mental health screeners.

#### 3.2.3 Additional requirements; Licensed Non-Physician Mental Health Professionals

3.2.3.1 Licensed Non-Physician Mental Health Professionals must complete DPBHS's juvenile mental health screener training, or the Division of Substance Abuse and Mental Health mental health screener training, in order to be authorized to act as a juvenile mental health screener.

3.2.3.2 Current employment or contract relationship required with one of the following: DSCYF operated facility, DSCYF crisis services, a Delaware licensed medical hospital, or a Delaware licensed mental health hospital under contract with DSCYF. A credentialed Licensed Non-Physician Mental Health Professional will no longer be considered a Juvenile Mental Health Screener, and his authority to ~~detain or abrogate~~ authorize detainments will end, when the professional is no longer employed by the DSCYF operated facility, or employed by or under contract with the DSCYF to perform crisis services, or is no longer employed by or under contract with a Delaware licensed medical hospital or a Delaware licensed mental health hospital under contract with the DSCYF.

3.2.3.3 ~~For non-physician juvenile mental health screeners, consultation with another juvenile mental health screener is required. If both juvenile mental health screeners are non-physicians, they must~~

concur with the detainment. A physician with juvenile mental health screener status may override the detainment determination of a non-physician juvenile mental health screener.

~~3.2.3.4~~ 3.2.3.3 Each applicant under this section must be approved or credentialed by the DPBHS.

### 3.3 Unlicensed Non-Physician Mental Health Professionals under Direct Supervision of a Psychiatrist

3.3.1 A credentialed Unlicensed Non-Physician Mental Health Professional, who meets the qualifications enumerated in this regulation, may authorize detainment for the psychiatric evaluation of a person under the age of 18, if they meet the following qualifications:

3.3.1.1 Current employment or contract relationship with the DPBHS Mobile Response and Stabilization Service Program;

3.3.1.2 At least a master's degree in a mental health related field;

3.3.1.3 At least two years of clinical or crisis experience.

3.3.2. An unlicensed non-physician mental health professional who is a credentialed juvenile mental health screener under this section, working under their organization's practice standards and guidelines, is required to discuss the minor's condition on the phone or through telepsychiatry with a supervising psychiatrist when the detainment decision is being made. The detainment can only occur if the supervising psychiatrist agrees with and countersigns the decision to authorize the detainment. Within 24 hours of the detainment, the original emergency detention form with the supervising psychiatrist's signature, or an electronic copy of the form, must be placed in the minor's medical record at the facility or site where the detainment occurred.

## **4.0 Applications Process**

4.1 Application for credentialing.

4.1.1 Physicians, psychiatrists, and Board Certified Emergency Physicians, and Board Certified Pediatric Emergency Physicians.

4.1.1.1 Physicians, including ~~psychiatrists and~~ psychiatrists, Board Certified Emergency Physicians, and Board Certified Pediatric Emergency Physicians not currently credentialed by DSAMH shall submit to the Division a resume, verification of current employment, and all contact information, Delaware license numbers and titles, and such other credentials or proof of certification as may be necessary to meet requirements set forth in Section 3.0 ~~above~~.

4.1.1.2 Physicians, psychiatrists, and Board Certified Emergency Physicians, and Board Certified Pediatric Emergency Physicians who hold current Mental Health Screener status, through the Division of Substance Abuse and Mental Health, are exempt from this requirement. However, documentation of DSAMH screener credentialing must be submitted to DPBHS to become credentialed as a juvenile screener.

4.1.1.3 If required to complete training by 16 DE Admin Code ~~§6002~~ 6002, that training must be completed prior to acting as a Juvenile Mental Health Screener.

4.1.2 Licensed Non-Physician Mental Health Professionals.

4.1.2.1 A licensed non-physician mental health professional who wishes to be credentialed as a Juvenile Mental Health Screener under Chapter 51 must obtain a recommendation from the Chief Executive Officer or Director or Officer, Director, or Program Manager of the eligible entity the licensed non-physician mental health professional is employed by or contracted with.

4.1.2.2 The applicant or the eligible entity the applicant is employed by or contracted with, must submit the juvenile mental health screener application to DPBHS.

4.1.2.3 The application shall include the Chief Executive Officer or Director's recommendation, a resume, verification of current employment, and all contact information, Delaware license numbers and titles, such other credentials or proof of certification as may be necessary to meet requirements set forth in Section 3.0 ~~above~~.

4.1.2.4 After the application and supporting materials are received by the DPBHS, the Division will accept or decline the recommendation that the applicant enter the juvenile mental health screener class.

4.1.2.5 The applicant must complete the training required in Section 5.0 prior to acting as a Juvenile Mental Health Screener.

4.1.3 Unlicensed Non-Physician Mental Health Professionals under Direct Supervision of a Psychiatrist

4.1.3.1 An Unlicensed Non-Physician Mental Health Professional employed or contracted by the DPBHS Mobile Response and Stabilization Services Program shall include with their application:

4.1.3.1.1 The MRSS Program Manager's recommendation for credentialing;

4.1.3.1.2 A resume;

- 4.1.3.1.3 Verification of current employment and all contact information;
- 4.1.3.1.4 Job titles, if applicable; and
- 4.1.3.1.5 Other such credentials or proof of certification as may be necessary to meet the requirements in Section 3.0.

4.1.3.2 After the application and supporting materials are received by the DPBHS, the Division will accept or decline the application and notify the applicant. If the application is accepted, the applicant must complete the training required in Section 5.0 prior to acting as a Juvenile Mental Health Screener.

#### 4.2 Application for Re-credentialing

4.2.1 All Delaware credentialed juvenile mental health screeners except as noted in subsection 4.2.1.2 ~~below~~ will be required to re-apply every two (2) years, 60 days prior to the second anniversary date of the issued credential, for renewal of the credential to DPBHS.

4.2.1.1 The application for renewal shall require proof of continuing licensure, credentials or certification as may be necessary to meet the requirements set forth in Section 3.0 ~~above~~ to be re-credentialed.

4.2.1.2 ~~Psychiatrists and Psychiatrists, Board Certified Emergency Physicians, and Board Certified Pediatric Emergency Physicians~~ are the only professionals not required to undergo this re-credentialing process. All other ~~physicians~~ physicians, as well as licensed and unlicensed non-physician mental health professionals, must comply with either this re-credentialing process, or the re-credentialing process of the Division of Substance Abuse and Mental Health.

4.2.2 DPBHS will provide eligible entities any updated information or changes to the policies, procedures, regulations, or laws that would impact juvenile mental health screeners. Eligible entities shall be ~~responsive~~ responsible for distributing this information to their affiliated juvenile mental health screeners.

4.2.3 Eligible entities are responsible for monitoring their affiliated juvenile mental health screeners, to ensure that screeners are complying with the re-credentialing process and maintaining current licensure or other requirements to practice in their profession as required in Section 3.0.

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

5.1 Training. The following standards will apply to the credentialing and re-credentialing of Juvenile Mental Health Screeners and sets forth the minimum qualifications and training requirements. Psychiatrists, Board Certified Emergency Room Physicians, and Board Certified Pediatric Emergency Physicians are exempt from the training requirement.

5.1.1 For licensed physicians, ~~other than psychiatrists and Board Certified Emergency Room Physicians,~~ training guidelines for applicants will include content that may change over time and is up to DPBHS to direct.

5.1.1.1 Compliance with qualifications specified in Section 3.0 ~~above~~;

5.1.1.2 Compliance with training guidelines, including completion of 4 hours of training by either the DPBHS or DSAMH; and

5.1.1.3 Satisfactory score on either the DPBHS or DSAMH credentialing examination.

5.1.2 Licensed and Unlicensed Non-Physician Mental Health Professionals

5.1.2.1 Compliance with qualifications specified in Section 3.0 ~~above~~;

5.1.2.2 Compliance with training guidelines as specified in subsection 5.1 ~~above~~, including completion of either DSAMH mental health screener 40 hour training or 4 hours of juvenile mental health screener training by DPBHS; and

5.1.2.3 Satisfactory score on either the DPBHS or DSAMH credentialing examination.

#### ~~5.3~~ 5.2 Re-Credentialing

~~5.3.1~~ 5.2.1 Licensed Physicians other than ~~psychiatrists and psychiatrists~~, Board Certified Emergency Physicians, and Board Certified Pediatric Emergency Physicians must comply with this section:

~~5.3.1.1~~ 5.2.1.1 Compliance with qualifications specified in Section 3.0 ~~above~~; and

~~5.3.1.2~~ 5.2.1.2 Compliance with training guidelines as specified in subsection 5.1 ~~above~~, including completion of 4 hours of training by DSAMH or DPBHS every two years.

~~5.3.2~~ 5.2.2 Licensed and Unlicensed Non-Physician Mental Health Professionals

~~5.3.2.1~~ 5.2.2.1 Compliance with qualifications specified ~~above~~ in subsection 3.1.1; and

~~5.3.2.2~~ 5.2.2.2 Compliance with training guidelines as specified in subsection 5.1 ~~above~~, including completion of 4 hours of training by DPBHS or DSAMH every two years.

## 6.0 Credentialed Juvenile Mental Health Screener Performance

### 6.1 Conflict of interest ~~statement:~~ statement

6.1.1 The intent of the law is to ensure that no person is detained for any reason other than experiencing symptoms associated with a mental condition that may result in danger to self or ~~others, and that any others.~~ others.

6.1.2 Any potential or apparent conflicts of interest as set forth in 16 Del.C. §5004 are to be disclosed on the DPBHS Emergency Detainment Request Form within 24 hours of signature of the detention order.

6.1.3 Potential or apparent conflicts of interest may include, but are not limited to, to:

- ~~employment~~ Employment by a privately operated psychiatric ~~facility, facility;~~
- ~~a~~ A personal relationship with the individual being detained or committed ~~involuntarily, involuntarily;~~
- ~~a~~ A relationship with family or significant others of the individual being detained or committed ~~involuntarily, involuntarily;~~ or
- ~~being~~ Being the victim of a crime by the person being detained or committed involuntarily.

6.1.4 An Emergency Detainment Request Form must be completed for every youth under 18 detained under this regulation. This form must be maintained in the client's records as described in subsection 6.2.

6.2 Record Keeping, Forms and Documentation. The following standards will apply to the Forms and Documentation required monitoring and reporting on the performance of juvenile mental health screeners, including performance as it pertains to compliance with conflict of interest disclosure in actions to detain, or undo a detainment, of an individual under this statute.

6.2.1 Credentialed juvenile mental health screeners will be required to complete a DPBHS Emergency Detainment Request 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.

6.2.2 For youths whose detainments are paid in whole or in part by DPBHS, or who are otherwise currently in DPBHS services: the DPBHS Emergency Detainment Request Form must be sent to DPBHS as soon as possible and within 24 hours by the admitting psychiatric facility. DPBHS will collect and monitor all DPBHS Emergency Detention Forms performed by juvenile mental health screeners, whether a conflict of interest is disclosed or not, for purposes of ensuring that the intent of this law is met and that detainments are appropriate.

6.2.3 For all youths, including youths not presently involved with DPBHS, DPBHS will collect aggregate data from psychiatric facilities in the form of a monthly report. This report will include: number of detainments per Juvenile Mental Health Screener, number of incidents where a screener determined a detainment was not necessary, admitting facility, the client patient number, the date of detainment, demographic information (age, race, sex, and zip code) of the child's primary residence, and other factors deemed necessary by DPBHS), screener name and number, presenting problem, and the reason the detainment was necessary. Psychiatric facilities will be responsible for including such data for patients detained by the eligible entity's Juvenile Mental Health Screeners, as well as Juvenile Mental Health Screeners not employed by or contracted with the eligible entity.

6.2.4 If DPBHS deems it necessary to review specific or aggregate detainments in cases of youths who are not DPBHS involved, DPBHS shall, within 24 hours of request, be provided a redacted copy of the Emergency Detainment Request Form by the Juvenile Mental Health Screener ~~and/or~~ or the eligible entity.

6.3 Data Review and Reporting. The Juvenile Mental Health Screeners ~~and/or~~ and eligible entities are responsible for record keeping and making available to DPBHS as required by this regulation, DPBHS Emergency Detainment Request Forms and associated records. DPBHS will periodically monitor these records for compliance. The Juvenile Mental Health Screeners ~~and/or~~ and their associated eligible entity will also be responsible for maintaining a database in a format that is approved by DPBHS and that will be reported to DPBHS as set forth in subsection 6.2.3 of this regulation, so that DPBHS may review aggregate data. This database will include administrative information, such as the admitting facility, the client patient number, the date of detainment, demographic information (age, race, sex, zip code) of the child's primary residence, and other factors deemed necessary by DPBHS), screener name and number, presenting problem, and the reason the detainment was necessary.

6.3.1 DPBHS will collect aggregate data of juvenile mental health screener detentions, which will be available to the public.

6.3.2 Detainment data will be reviewed to monitor for anomalies in detainment rates to assure juvenile mental health screener performance improvement and compliance with this regulation, the authorizing statutes, and principals of least restrictive environment and community integration.

## **7.0 Suspension or Revocation of Juvenile Mental Health Screener**

- 7.1 The following outlines circumstances under which a credential may be suspended or revoked. DPBHS will monitor individuals and general facilities performing juvenile mental health screenings and detaining individuals for 24 – 72 hours under this regulation as specified in Section 6.0. Nothing in Section 6.0 relieves juvenile mental health screeners of the requirement to keep their own records on their work to detain or not detain individuals that they assess. Copies of the Emergency Detainment Request Form are sufficient documentation if the individual juvenile 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 Juvenile Mental Health Screener.
- 7.1.1 Failure of any credentialed Juvenile Mental Health Screeners to be aware of, and operate in compliance with, the federal and state laws pertaining to protection of health records. Failure to comply with this requirement will result in immediate suspension of the Juvenile Mental Health Screener credential.
  - 7.1.2 Suspension or revocation of a professional license will result in the immediate revocation of the Juvenile Mental Health Screener credential.
  - 7.1.3 For licensed and unlicensed non-physician mental health professionals, loss of a current contract or employment relationship with a DSCYF operated facility, DSCYF crisis services, Delaware licensed medical hospital, or a Delaware licensed mental health hospital under contract with the DSCYF.
  - 7.1.4 Failure to comply with the conflict of interest provisions of 14 **Del.C.** §5004.
  - 7.1.5 Due to concerns with performance, which can include inappropriate overuse of emergency detentions or failure to identify minors in need of detainment, as identified by the DSCYF reviewing psychiatrist or an Emergency Detention of Juveniles Review Board designated by the Secretary, which are uncorrected after written warning from the DSCYF.
  - 7.1.6 Due to concerns with performance identified by a complaint or appeal submitted to DPBHS's Quality Assurance Department. The DPBHS Quality Assurance Department will refer any such complaints or appeals to DPBHS's reviewing psychiatrist for evaluation.
- 7.2 Compliance with notification of this revocation is the responsibility of the individual who has been credentialed as a Juvenile Mental Health Screener and, in the case of non-physicians, the eligible entity with whom the individual is affiliated.
- 7.3 Reinstatement of Juvenile Mental Health Screener status of an individual for whom a credential has been suspended or revoked will be at the discretion of DPBHS, in light of circumstances surrounding the original suspension or revocation.

## **8.0 Appeal Process**

Any individual or eligible entity affiliated with an individual who has been denied status as a juvenile mental health screener or who has had a screening credential suspended or revoked can appeal this decision by writing to the DPBHS Director. Such an appeal, based on knowledge and facts of this event, must be made within twenty (20) days of the denial, suspension, or revocation. A response by the DPBHS Director will be forthcoming within thirty (30) days of DPBHS receiving the appeal.

## **9.0 Consent for Voluntary Admissions**

In the case of voluntary admission to a designated psychiatric treatment facility or hospital, consent to treatment of a minor shall be given only by a parent or legal guardian, or in the case of a child in Division of Family Services (DFS) custody, the DFS Director or DFS Deputy Director. The request for admission to the designated psychiatric treatment facility or hospital shall be signed by either the applicant's parent or legal guardian, or the DFS Director or DFS Deputy Director if applicable.

## **10.0 Payment for Voluntary and Involuntary Admissions**

Payment to hospitals for voluntary and involuntary admissions of clients in crisis will be in accordance with the provisions of 16 **Del.C.** §§5019, 5020, and 29 **Del.C.** §9019.

**19 DE Reg. 778 (02/01/16)**

**26 DE Reg. 305 (10/01/22) (Prop.)**