

PETITION TO REPEAL UNAUTHORIZED RULE

The Department of Health Services hereby petitions the Joint Committee for Review of Administrative Rules to use the process provided in s. 227.26 (4), Stats. The Department has determined that passage of 2017 WI Act 204 necessitates a revision to s. DHS 35.18 (2), which addresses consent for outpatient mental health services.

I. ANALYSIS

A. Statute/s that the proposed rule interprets

None.

B. Statute/s that authorizes promulgation

Section 227.26 (4), Stats.

C. Related statute/s

None.

D. Related rule/s

None.

E. Explanation of the agency's authority to promulgate the proposed rule

The proposed rule, which strikes language in s. DHS 35.18 (2), is authorized by s. 227.26 (4), Stats.

F. Brief summary of the proposed rule

2017 WI Act 204 created s. 51.138, Stats. This section provides a limited exception to the requirement for informed consent when providing emergency outpatient treatment to minors.

As currently stated, s. DHS 35.18 (2) however invariably requires informed consent prior to the provision of such treatment. The rule is therefore more restrictive than what is permitted under the statute. The department proposes to strike language in s. DHS 35.18 (2) in order to limit the requirement for obtaining informed consent in writing only to those instances where such consent for treatment is required.

G. Electronic mail address and telephone number of agency contact person

Davis Ciotola

davis.ciotola@wisconsin.gov

608 266-1279

II. PROPOSED RULE

SECTION 1. DHS 35.18 (2) is amended to read:

If a consumer wishes to receive services through the clinic, the consumer or the consumer's legal representative, where the consent of the legal representative is required for treatment, shall sign a clinic form to indicate the consumer's informed consent to receive outpatient mental health services.

SECTION 2. EFFECTIVE DATE: This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2), Stats.