

## ARTICLE 5. COMMUNITY CARE

### Rule 1.

Community Care for Transferred or Discharged Individuals

### **Rule 1. Community Care for Transferred or Discharged Individuals**

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#### **440 IAC 5-1-1 Applicability**

Authority: [IC 12-8-1.5-9](#); [IC 12-24-19-6](#)

Affected: [IC 11-10-4](#); [IC 12-7-2-61](#); [IC 12-24-19](#); [IC 12-26](#); [IC 35-36-2-4](#); [IC 35-36-3](#); [IC 35-41-1](#)

Sec. 1. (a) This rule applies only to a patient who is transferred or discharged from a state institution administered by the division of mental health after the effective date of this rule.

(b) This rule does not apply to any of the following:

(1) An individual who is admitted to a state institution only for evaluation purposes.

(2) An individual who is incompetent to stand trial under [IC 35-36-3](#).

(3) An individual who is found to be not guilty by reason of insanity under [IC 35-36-2-4](#) and is subject to a civil commitment under [IC 12-26](#).

(4) An individual who is immediately subject to a civil commitment upon the individual's release from incarceration in a facility administered by the department of correction or the Federal Bureau of Prisons, or upon being charged with or convicted of a forcible felony under [IC 35-41-1](#).

(5) An individual placed under the supervision of the division for addictions treatment under [IC 12-23-7](#) [[IC 12-23-7](#) was repealed by P.L.113-2014, SECTION 38, effective July 1, 2014.] and [IC 12-23-8](#) [[IC 12-23-8](#) was repealed by P.L.113-2014, SECTION 39, effective July 1, 2014.].

(6) An individual transferred from the department of correction under [IC 11-10-4](#).

(7) An individual who has a developmental disability as defined in [IC 12-7-2-61](#).

(8) An individual in an alcohol and drug services program who is not concurrently diagnosed as mentally ill.

(9) An individual who has escaped from the facility to which the individual was involuntarily committed.

(10) An individual who was admitted to a state institution for voluntary treatment and who has left the state institution against the advice of the attending physician.

*(Division of Mental Health and Addiction; 440 IAC 5-1-1; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2777; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Nov 4, 2002, 12:09 p.m.: 26 IR 745; readopted filed Apr 7, 2008, 3:40 p.m.: [20080507-IR-440070745RFA](#); readopted filed Aug 11, 2014, 11:21 a.m.: [20140910-IR-440140240RFA](#); readopted filed Nov 9, 2020, 3:09 p.m.: [20201209-IR-440200502RFA](#))*

#### **440 IAC 5-1-2 Definitions**

Authority: [IC 12-8-1.5-9](#); [IC 12-24-19-6](#)

Affected: [IC 12-21-2-3](#); [IC 12-21-2-7](#); [IC 12-24-19](#); [IC 12-26-6](#); [IC 12-26-7](#); [IC 23-17](#)

Sec. 2. The following definitions apply throughout this rule:

(1) "Consumer" means an adult or child who has been discharged or transferred from a state institution administered by the division of mental health and addiction to which the individual was admitted for voluntary treatment or was involuntarily committed.

(2) "Discharged from a state institution" means the final and complete release of an individual with mental illness from the care, treatment, training, or detention at a state facility operated by the division of mental health and addiction to which the individual was admitted for voluntary treatment or was involuntarily committed. The term does not include an individual whose commitment is transferred to another state institution.

(3) "Discharged from commitment" means that the court has entered an order terminating a commitment on an individual.

- (4) "Gatekeeper" means the following:
- (A) The community mental health center which facilitated the consumer's entry into the state institution after July 1, 1994.
  - (B) For consumers who entered the state institution before July 1, 1994, the community mental health center which would have been designated to facilitate the consumer's entry into the state institution if the consumer had entered the institution after July 1, 1994.
  - (C) The community mental health center or managed care provider that agrees to accept the gatekeeper function for a particular patient when the original gatekeeper agrees to transfer that function and, when doing so, it is in the best interest of the consumer.
- (5) "Managed care provider" means an organization:
- (A) that:
    - (i) for mental health services, is defined under 42 U.S.C. 300x-2c;
    - (ii) provides addiction services; or
    - (iii) provides children's mental health services;
  - (B) that has entered into a provider agreement with the division of mental health and addiction under [IC 12-21-2-7](#) to provide a continuum of care in the least restrictive, most appropriate setting; and
  - (C) that is operated by at least one (1) of the following:
    - (i) A city, town, county, or other political subdivision of Indiana.
    - (ii) An agency of Indiana or of the United States.
    - (iii) A political subdivision of another state.
    - (iv) A hospital owned or operated by:
      - (AA) a unit of government; or
      - (BB) a building authority that is organized for the purpose of constructing facilities to be leased to units of government.
    - (v) A corporation incorporated under [IC 23-7-1.1](#) (before its repeal August 1, 1991) or [IC 23-17](#).
    - (vi) An organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.
    - (vii) A university or college.
- (6) "State institution" means a state facility operated by the division of mental health and addiction.
- (7) "Transferred from a state institution" means the transfer of the commitment of an individual committed under [IC 12-26-6](#) or [IC 12-26-7](#) to a community mental health center or a health facility.

*(Division of Mental Health and Addiction; 440 IAC 5-1-2; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2777; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Nov 4, 2002, 12:09 p.m.: 26 IR 746; readopted filed Apr 7, 2008, 3:40 p.m.: [20080507-IR-440070745RFA](#); readopted filed Aug 11, 2014, 11:21 a.m.: [20140910-IR-440140240RFA](#); readopted filed Nov 9, 2020, 3:09 p.m.: [20201209-IR-440200502RFA](#))*

#### **440 IAC 5-1-3 Role of the gatekeeper**

Authority: [IC 12-8-1.5-9](#); [IC 12-24-19-6](#)

Affected: [IC 12-24-12](#); [IC 12-24-19](#)

Sec. 3. The gatekeeper's role is the following:

- (1) To facilitate the consumer's entry into a state institution.
- (2) To participate as a member of the treatment team.
- (3) To facilitate and plan, together with the consumer and the state institution, the consumer's transition to the least restrictive appropriate setting.

*(Division of Mental Health and Addiction; 440 IAC 5-1-3; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2778; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; readopted filed Apr 7, 2008, 3:40 p.m.: [20080507-IR-440070745RFA](#); readopted filed Aug 11, 2014, 11:21 a.m.: [20140910-IR-440140240RFA](#); readopted filed Nov 9, 2020, 3:09 p.m.: [20201209-IR-440200502RFA](#))*

**440 IAC 5-1-3.5 Gatekeeper's role during the time the individual is in the state-operated facility**

Authority: [IC 12-8-1.5-9](#); [IC 12-24-19-6](#)

Affected: [IC 12-24-12](#); [IC 12-24-19](#)

Sec. 3.5. After an adult or child is admitted to a state-operated facility, the gatekeeper shall do the following:

- (1) Have a face-to-face meeting with the individual within thirty (30) days of admission and at least every ninety (90) days thereafter, to evaluate treatment progress, and discuss discharge planning.
- (2) Communicate with the family or guardian of a child within thirty (30) days of admission and at least every ninety (90) days thereafter, to discuss the treatment plan, evaluate treatment progress, and discuss discharge planning.
- (3) Communicate with the treatment team at the state-operated facility within thirty (30) days of admission and at least every ninety (90) days thereafter, to discuss the treatment plan, evaluate treatment progress, and discuss discharge planning.
- (4) Provide notice of the date for the planned community placement to the treatment team and the individual at least two (2) weeks prior to the anticipated community placement.
- (5) Document face-to-face visits with the individual and contact with the treatment team at the state-operated facility and in the gatekeeper's record.

*(Division of Mental Health and Addiction; 440 IAC 5-1-3.5; filed Nov 4, 2002, 12:09 p.m.: 26 IR 747; readopted filed Apr 7, 2008, 3:40 p.m.: [20080507-IR-440070745RFA](#); readopted filed Aug 11, 2014, 11:21 a.m.: [20140910-IR-440140240RFA](#); readopted filed Nov 9, 2020, 3:09 p.m.: [20201209-IR-440200502RFA](#))*

**440 IAC 5-1-4 When patients shall be discharged or transferred**

Authority: [IC 12-8-1.5-9](#); [IC 12-24-19-6](#)

Affected: [IC 12-24-12](#); [IC 12-24-19](#)

Sec. 4. (a) A patient shall be discharged or transferred from a state institution when the gatekeeper and the state institution agree that the following conditions are met:

- (1) The discharge or transfer is appropriate to the consumer's unique needs.
- (2) The discharge or transfer is in accordance with:
  - (A) standards of professional practice; and
  - (B) applicable state and federal law.

(b) If the gatekeeper and the state institution cannot resolve an issue regarding the transfer or discharge of a patient, the gatekeeper or the state institution may appeal to the division of mental health. The director of the division of mental health shall decide the issue.

(c) It is recognized that each consumer will have unique needs, and the services provided shall address these unique needs and be consistent with the individualized treatment plan.

(d) The entity which is providing case management services to the consumer must monitor the service the consumer is receiving under [IC 12-24-12](#). *(Division of Mental Health and Addiction; 440 IAC 5-1-4; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2778; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; readopted filed Apr 7, 2008, 3:40 p.m.: [20080507-IR-440070745RFA](#); readopted filed Aug 11, 2014, 11:21 a.m.: [20140910-IR-440140240RFA](#); readopted filed Nov 9, 2020, 3:09 p.m.: [20201209-IR-440200502RFA](#))*

**440 IAC 5-1-5 Rights of consumers**

Authority: [IC 12-8-1.5-9](#); [IC 12-24-19-6](#)

Affected: [IC 12-24-12](#); [IC 12-24-19](#); [IC 12-27](#)

Sec. 5. (a) This rule does not affect the rights enumerated in [IC 12-27](#).

(b) The consumer who has been discharged from a commitment has the right to choose a nonstate funded provider of community care services.

(c) If the consumer chooses a provider who is not state funded, the consumer must pay for the consumer's own care.

(d) The consumer shall be requested to sign a release of information for the gatekeeper to obtain reports from the provider in accordance with [IC 12-24-12](#) to assure that the consumer is receiving community care. *(Division of Mental Health and Addiction; 440 IAC 5-1-5; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2778; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; readopted filed*

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