

Document: Final Rule, **Register Page Number:** 26 IR 745
Source: December 1, 2002, Indiana Register, Volume 26, Number 3
Disclaimer: This document was created from the files used to produce the official CD-ROM Indiana Register .
However, this document is unofficial.

**TITLE 440 DIVISION OF MENTAL HEALTH
AND ADDICTION**

LSA Document #02-105(F)

DIGEST

Amends 440 IAC 5-1-1, 440 IAC 5-1-2, and 440 IAC 5-1-3.5 concerning community care for individuals who are discharged or transferred from state institutions administered by the division of mental health and addiction, to clarify the gatekeeper's role regarding an individual's entry into and discharge from a state institution. Effective 30 days after filing with the secretary of state.

440 IAC 5-1-1

440 IAC 5-1-2

440 IAC 5-1-3.5

SECTION 1. 440 IAC 5-1-1 IS AMENDED TO READ AS FOLLOWS:

440 IAC 5-1-1 Applicability

Authority: IC 12-8-8-4

Affected: IC 11-10-4; IC 12-7-2-61; IC 12-23-7; IC 12-23-8; 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 ~~and who is not civilly committed 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 and IC 12-23-8.~~

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

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

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

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

~~(10)~~ (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)

SECTION 2. 440 IAC 5-1-2 IS AMENDED TO READ AS FOLLOWS:

440 IAC 5-1-2 Definitions

Authority: IC 12-8-8-4

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 a **patient an adult or an individual 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; ~~or~~
 - (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) ~~A nonprofit corporation incorporated in another state.~~ **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)

SECTION 3. 440 IAC 5-1-3.5 IS ADDED TO READ AS FOLLOWS:

440 IAC 5-1-3.5 Gatekeeper's role during the time the individual is in the state-operated facility
Authority: IC 12-8-8-4

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)

LSA Document #02-105(F)

Notice of Intent Published: 25 IR 2545

Proposed Rule Published: July 1, 2002; 25 IR 3289

Hearing Held: July 24, 2002

Approved by Attorney General: October 17, 2002

Approved by Governor: October 31, 2002

Filed with Secretary of State: November 4, 2002, 12:09 p.m.

Incorporated Documents Filed with Secretary of State: None