

**"CHAPTER 431M
MENTAL HEALTH AND ALCOHOL AND SUBSTANCE USE DISORDER
TREATMENT INSURANCE BENEFITS**

Section

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Note

Chapter heading amended by L 2015, c 63, §24.

" **§431M-1 Definitions.** Whenever used in this chapter, unless the context otherwise requires:

"Advanced practice registered nurse" means a person licensed pursuant to chapter 457.

"Alcohol dependence" means any use of alcohol which produces a pattern of pathological use causing impairment in social or occupational functioning or produces physiological dependency evidenced by physical tolerance or withdrawal.

"Alcohol or drug dependence outpatient services" means alcohol or drug dependence nonresidential treatment provided on an ambulatory basis to patients with alcohol or drug dependence problems that includes interventions prescribed and performed by qualified physicians, psychologists, licensed clinical social workers, licensed marriage and family therapists, licensed mental health [counselors], or advanced practice registered nurses. This definition shall not imply a broadening of the scope of or granting of prescriptive authority privileges, except as otherwise allowed pursuant to chapter 457.

"Certified substance abuse counselor" means a person who is certified pursuant to section 321-193.

"Day treatment services" means treatment services provided by a hospital, mental health outpatient facility, or nonhospital facility to patients who, because of their conditions, require more than periodic hourly service. Day treatment services shall be prescribed by a physician, psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse, and carried out under the supervision of a physician, psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse. Day treatment services require less than twenty-four hours of care and a minimum of three hours in any one day.

"Detoxification services" means the process whereby a person intoxicated by alcohol, drugs, or both, or a person who is dependent upon alcohol, drugs, or both, is assisted through the period of time necessary to eliminate, by metabolic or other means, the intoxicating alcohol or drug dependency factors, as determined by a physician or advanced practice registered nurse, while keeping the physiological risk to the person at a minimum.

"Drug dependence" means any pattern of pathological use of drugs causing impairment in social or occupational functioning

and producing psychological or physiological dependency or both, evidenced by physical tolerance or withdrawal.

"Hospital" means a facility licensed as a hospital by the department of health and accredited by the Joint Commission on Accreditation of Health Care Organizations.

"In-hospital services" means the provision of medical, nursing, or therapeutic services twenty-four hours a day in a hospital.

"Licensed clinical social worker" means a person who is a licensed clinical social worker pursuant to chapter 467E.

"Licensed dietitian" means a person who uses the title of licensed dietitian or dietitian and has been licensed to practice dietetics under chapter 448B.

"Licensed marriage and family therapist" means a person licensed in marriage and family therapy practice pursuant to chapter 451J.

"Licensed mental health counselor" means a person:

- (1) Who engages in the practice of [mental] health counseling and uses the title of licensed mental health counselor;
- (2) Who is licensed in mental health counseling practice pursuant to chapter 453D; and
- (3) Whose license is in effect and not revoked or suspended.

"Mental health outpatient services" means mental health nonresidential treatment provided on an ambulatory basis to patients with mental illness that includes interventions prescribed and performed by a physician, psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse.

"Mental illness" means a syndrome of clinically significant psychological, biological, or behavioral abnormalities that results in personal distress or suffering, impairment of capacity for functioning, or both. For the purposes of this chapter, the terms "mental disorder" and "mental illness" shall be used interchangeably and shall include the definitions identified in the most recent publications of the Diagnostic and Statistical Manual of the American Psychiatric Association or International Classification of Disease. Epilepsy, senility, intellectual disability, or other developmental disabilities and addiction to or abuse of intoxicating substances do not in and of themselves constitute a mental disorder.

"Nonhospital facility" means a facility for the care or treatment of alcohol dependent, drug dependent, or mentally ill persons, which has been accredited by the Joint Commission on Accreditation of Health Care Organizations or the Commission on

Accreditation of Rehabilitation Facilities or certified by the department of health and, if residential, has been licensed as a special treatment facility by the department of health.

"Nonhospital residential services" means the provision of medical, psychological, nursing, counseling, or therapeutic services to patients suffering from alcohol dependence, drug dependence, or mental illness by a nonhospital residential facility, according to individualized treatment plans.

"Partial hospitalization" means treatment services, including in-hospital treatment services or benefits, provided by a hospital or mental health outpatient facility to patients who, because of their conditions, require more than periodic hourly service. Partial hospitalization shall be prescribed by a physician or psychologist, and may be prescribed by a licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse in consultation with a physician or psychologist. Partial hospitalization requires less than twenty-four hours of care and a minimum of three hours in any one day.

"Physician" means a person licensed in the practice of medicine or osteopathy pursuant to chapter 453.

"Psychologist" means a person licensed in the practice of psychology pursuant to chapter 465.

"Qualified" means:

- (1) Having skill in the diagnosis or treatment of substance use disorders, based on a practitioner's credentials, including but not limited to professional education, clinical training, licensure, board or other certification, clinical experience, letters of reference, other professional qualifications, and disciplinary action; or
- (2) Being a licensed physician, psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse, and certified pursuant to chapter 321.

"Substance abuse services" means the provision of medical, psychological, nursing, counseling, or therapeutic services in response to a treatment plan for alcohol or drug dependence or both which shall include, when appropriate, a combination of aftercare and individual, group, and family counseling services provided by qualified staff.

"Treatment episode" means one admission to an accredited hospital or nonhospital facility, or office of a qualified physician, psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health

counselor, or advanced practice registered nurse for treatment of alcohol or drug dependence, or both, as stipulated in a prescribed treatment plan and that would generally produce remission in those who complete the treatment. The prescribed treatment plan may include the provision of substance abuse services in more than one location and may include in-hospital, nonhospital residential, day treatment, or alcohol or drug dependence outpatient services, or any combination thereof. An admission for only detoxification services shall not constitute a treatment episode. [L 1988, c 202, pt of §1, §3; am L 1991, c 90, §1; am L 1994, c 111, §§1, 4; am L 1997, c 247, §1 and c 273, §1; am L 1998, c 78, §3; am L 1999, c 36, §1, c 121, §§1, 6, and c 215, §1; am L 2000, c 243, §8(2); am L 2001, c 111, §§1, 2, 4; am L 2002, c 167, §3 and c 239, §1; am L 2003, c 197, §§2, 3; am L 2005, c 140, §1; am L 2006, c 205, §2; am L 2007, c 38, §1; am L 2008, c 206, §2; am L 2009, c 11, §52; am L 2011, c 220, §12; am L 2015, c 35, §47 and c 63, §25; am L 2016, c 29, §2 and c 141, §12]

Note

Definition of:

- (1) "Marriage and family therapist" changed to "licensed marriage and family therapist". L 2016, c 29, §2; and
- (2) "Partial hospitalization services" changed to "partial hospitalization". L 2015, c 63, §25(1).

" **§431M-2 Policy coverage.** (a) All individual and group accident and health or sickness insurance policies issued in this State, individual or group hospital or medical service plan contracts, and nonprofit mutual benefit society, fraternal benefit society, and health maintenance organization health plan contracts shall include within their hospital and medical coverage the benefits of alcohol use disorder, substance use disorder, and mental health treatment services, including services for alcohol dependence and drug dependence, except that this section shall not apply to insurance policies that are issued solely for single diseases, or otherwise limited, specialized coverage.

(b) The policies and contracts set forth in subsection (a) shall not impose any financial requirements or treatment limitations on mental health or substance use disorder benefits that are more restrictive than the predominant financial requirements and treatment limitations, either quantitative or nonquantitative, imposed on medical and surgical benefits in accordance with the Mental Health Parity and Addiction Equity

Act of 2008. [L 1988, c 202, pt of §1, §3; am L 1994, c 111, §4; am L 1998, c 78, §3; am L 2002, c 239, §1; am L 2003, c 212, §120; am L 2004, c 122, §82; am L 2014, c 186, §10]

" **§431M-3 REPEALED.** L 2014, c 186, §18.

" **§431M-4 Mental illness, alcohol and drug dependence benefits.** (a) Alcohol and drug dependence benefits shall be as follows:

- (1) Detoxification services as a covered benefit under this chapter shall be provided either in a hospital or in a nonhospital facility that has a written affiliation agreement with a hospital for emergency, medical, and mental health support services. The following services shall be covered under detoxification services:
 - (A) Room and board;
 - (B) Diagnostic x-rays;
 - (C) Laboratory testing; and
 - (D) Drugs, equipment use, special therapies, and supplies.

Detoxification services shall be included as part of the covered in-hospital services;

- (2) Alcohol or drug dependence treatment through in-hospital, nonhospital residential, or day treatment substance abuse services as a covered benefit under this chapter shall be provided in a hospital or nonhospital facility. Before a person qualifies to receive benefits under this subsection, a qualified physician, psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse shall determine that the person suffers from alcohol or drug dependence, or both; provided that the substance abuse services covered under this paragraph shall include those services that are required for licensure and accreditation. Excluded from alcohol or drug dependence treatment under this subsection are detoxification services and educational programs to which drinking or drugged drivers are referred by the judicial system and services performed by mutual self-help groups;
- (3) Alcohol or drug dependence outpatient services as a covered benefit under this chapter shall be provided under an individualized treatment plan approved by a

- qualified physician, psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse and shall be services reasonably expected to produce remission of the patient's condition. An individualized treatment plan approved by a licensed marriage and family therapist, licensed mental health counselor, licensed clinical social worker, or an advanced practice registered nurse for a patient already under the care or treatment of a physician or psychologist shall be done in consultation with the physician or psychologist; and
- (4) Substance abuse assessments for alcohol or drug dependence as a covered benefit under this section for a child facing disciplinary action under section 302A-1134.6 shall be provided by a qualified physician, psychologist, licensed clinical social worker, advanced practice registered nurse, or certified substance abuse counselor. The certified substance abuse counselor shall be employed by a hospital or nonhospital facility providing substance abuse services. The substance abuse assessment shall evaluate the suitability for substance abuse treatment and placement in an appropriate treatment setting.
- (b) Mental illness benefits.
- (1) Covered benefits for mental health services set forth in this subsection shall be limited to coverage for diagnosis and treatment of mental disorders. All mental health services shall be provided under an individualized treatment plan approved by a physician, psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, advanced practice registered nurse, or licensed dietitian treating eating disorders, and must be reasonably expected to improve the patient's condition. An individualized treatment plan approved by a licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, advanced practice registered nurse, or a licensed dietitian treating eating disorders, for a patient already under the care or treatment of a physician or psychologist shall be done in consultation with the physician or psychologist;
- (2) In-hospital and nonhospital residential mental health services as a covered benefit under this chapter shall be provided in a hospital or a nonhospital residential facility. The services to be covered shall include

those services required for licensure and accreditation;

- (3) Mental health partial hospitalization as a covered benefit under this chapter shall be provided by a hospital or a mental health outpatient facility. The services to be covered under this paragraph shall include those services required for licensure and accreditation; and
- (4) Mental health outpatient services shall be a covered benefit under this chapter. [L 1988, c 202, pt of §1, §3; am L 1994, c 111, §§2, 4; am L 1997, c 247, §3 and c 273, §3; am L 1998, c 78, §§2, 3; am L 1999, c 121, §§2, 6; am L 2000, c 243, §8(2); am L 2001, c 111, §3; am L 2002, c 167, §5 and c 239, §1; am L 2003, c 197, §3; am L 2006, c 205, §3; am L 2007, c 38, §3; am L 2008, c 206, §4; am L 2014, c 186, §11; am L 2016, c 29, §3 and c 141, §13]

" **§431M-5 REPEALED.** L 2014, c 186, §19.

" **§431M-5.5 REPEALED.** L 2004, c 44, §33.

" **§431M-6 Rules.** The insurance commissioner, after consultation with all interested parties including the director of health, the Hawaii medical board, the board of psychology, and representatives of insurance carriers, nonprofit mutual benefit societies, health maintenance organizations, public and private providers, consumers, employers, and labor organizations shall adopt rules pursuant to chapter 91 as are deemed necessary for the effective implementation and operation of this chapter. The rules shall include criteria and guidelines to be used in determining the appropriateness and medical or psychological necessity of services covered under this chapter, including the appropriate level of care or place of treatment and the number or quantity of services, and shall include an appeals process.

The director of health shall also adopt rules pursuant to chapter 91 as are deemed necessary for the implementation and operation of this chapter. The rules shall provide certification standards that:

- (1) Reflect quality of care; and
- (2) Do not compromise the quality of care. [L 1988, c 202, pt of §1, §3; am L 1991, c 90, §2; am L 1994, c 111, §4; am L 1998, c 78, §3; am L 2002, c 239, §1; am L

2004, c 122, §83; am L 2008, c 9, §3; am L 2014, c 186, §12]

" **[\$431M-7] Preservation of certain benefits.** Nothing in this chapter shall serve to prevent the offering or acceptance of benefits required by this chapter. [L 1988, c 202, pt of §1, §3; am L 1994, c 111, §4; am L 1998, c 78, §3; am L 2002, c 239, §1]