OFFERYNNAU STATUDOL CYMRU

WELSH STATUTORY INSTRUMENTS

2012 Rhif 1305 (Cy.166)

IECHYD MEDDWL, CYMRU

Rheoliadau Iechyd Meddwl (Atgyfeiriadau Gofal Sylfaenol a Chymhwystra i Gynnal Asesiadau Iechyd Meddwl Sylfaenol) (Cymru) 2012

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn cynnwys darpariaethau a wnaed o dan y pwerau sydd yn adrannau 7(6)(a) a 47(1) o Fesur Iechyd Meddwl (Cymru) 2010 ("y Mesur").

Mae adran 6 o'r Mesur yn galluogi ymarferwyr cyffredinol i atgyfeirio cleifion sydd wedi eu cofrestru gyda hwy i bartner iechyd meddwl lleol ar gyfer yr ardal lle y mae'r claf yn preswylio fel arfer ar gyfer asesiad iechyd meddwl sylfaenol.

Mae adran 7(6)(a) o'r Mesur yn rhoi'r pŵer i Weinidogion Cymru bennu categorïau pellach o unigolion y caniateir i ddarparwyr gofal sylfaenol eu hatgyfeirio i gael asesiad iechyd meddwl sylfaenol.

Gan ddibynnu ar y pŵer sydd yn adran 7(6)(a) o'r Mesur, mae rheoliad 3(1) yn darparu y caniateir i ddarparydd gofal sylfaenol atgyfeirio unrhyw berson sydd â'r hawl i gael gwasanaethau meddygol sylfaenol a ddarperir o dan Ran 4 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 i gael asesiad iechyd meddwl sylfaenol os yw'n ymddangos bod angen asesiad o'r fath ar y person hwnnw. Yr unig eithriad a geir yw ar gyfer y categorïau o unigolyn sy'n dod o fewn y disgrifiadau a nodwyd yn adran 8(1) o'r Mesur sy'n cynnwys unigolion sy'n agored i gael eu cadw'n gaeth o dan Ddeddf Iechyd Meddwl 1983 ac unigolion sy'n cael gwasanaethau iechyd meddwl eilaidd.

Mae rheoliad 3(2) yn darparu bod rhaid i'r darparydd gofal sylfaenol, os yw'n gwneud atgyfeiriad ar gyfer

2012 No. 1305 (W.166)

MENTAL HEALTH, WALES

The Mental Health (Primary Care Referrals and Eligibility to Conduct Primary Mental Health Assessments) (Wales) Regulations 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations contain provisions made under powers contained in sections 7(6)(a) and 47(1) of the Mental Health (Wales) Measure 2010 ("the Measure").

Section 6 of the Measure enables general practitioners to refer patients who are registered with them to a local mental health partner for the area where the patient is usually resident for a primary mental health assessment.

Section 7(6)(a) of the Measure gives Welsh Ministers the power to specify further categories of individual whom primary care providers may refer for a primary mental health assessment.

In reliance upon the power contained in section 7(6)(a) of the Measure, regulation 3(1) provides that a primary care provider may refer any person who is entitled to primary medical services provided under Part 4 of the National Health Service (Wales) Act 2006 for a primary mental health assessment if that person appears to be in need of such an assessment. The only exception to this is for categories of individual who fall within the descriptions set out in section 8(1) of the Measure which includes individuals liable to be detained under the Mental Health Act 1983 and individuals receiving secondary mental health services.

Regulation 3(2) provides that the primary care provider must, if it makes a referral for a primary

asesiad iechyd meddwl sylfaenol, wneud yr atgyfeiriad i'r Bwrdd Iechyd Lleol neu'r Awdurdod Lleol ar gyfer yr ardal awdurdod lleol lle y mae'r darparydd gofal sylfaenol yn cynnal y rhan fwyaf o'i fusnes neu ei weithgareddau.

Mae rheoliad 3(1) wedi ei ddrafftio'n eang er mwyn galluogi darparydd gofal sylfaenol i wneud atgyfeiriad mewn cysylltiad ag unrhyw berson yr ymddengys fod angen asesiad iechyd meddwl sylfaenol arno. Byddai'r personau y gallai'r darparydd gofal sylfaenol eu hatgyfeirio yn unol â rheoliad 3(1) yn cynnwys personau o grwpiau agored i niwed megis ceiswyr lloches, personau digartref; sipsiwn a theithwyr; carcharorion; gweithwyr mudol a myfyrwyr. Mae rheoliad 3(1) hefyd yn galluogi darparydd gofal sylfaenol i atgyfeirio personau nad ydynt wedi eu cofrestru gyda'i bractis neu i atgyfeirio personau sydd wedi eu cofrestru gyda darparydd gwasanaethau meddygol sylfaenol arall (neu wasanaethau cyfatebol) p'un ai yng Nghymru neu yn rhywle arall.

Mae adran 47(1)(b) o'r Mesur yn rhoi'r pŵer i Weinidogion Cymru wneud rheoliadau sy'n gwneud darpariaeth am gymhwystra unigolion i gynnal asesiadau iechyd meddwl sylfaenol o dan adran 9 o'r Mesur.

Mae Rhan 3 o'r Rheoliadau yn gwneud darpariaeth am y gofynion cymhwystra y mae'n rhaid i berson eu bodloni cyn y caniateir i berson gynnal asesiad iechyd meddwl sylfaenol. Nodir y gofynion proffesiynol y mae'n rhaid i berson eu bodloni yn yr Atodlen.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar wneud Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, paratowyd Asesiad Effaith Rheoleiddiol o'r costau a'r buddiannau tebygol o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi gan yr Is-adran Grwpiau Iechyd Meddwl ac Agored i Niwed, Llywodraeth Cymru, Parc Cathays, CF10 3NQ.

mental health assessment, make the referral to the Local Health Board or the Local Authority for the local authority area where the primary care provider carries on the majority of its business or activities.

Regulation 3(1) is widely drafted to enable a primary care provider to make a referral in respect of any person who appears to be in need of a primary mental health assessment. Persons whom a primary care provider would be able to refer in accordance with regulation 3(1) would include persons from vulnerable groups such as asylum seekers, homeless persons; gypsies and travellers; prisoners; migrant workers and students. Regulation 3(1) also enables a primary care provider to refer persons who are not registered with his or her practice or to refer persons who are registered with another provider of primary medical services (or equivalent services) whether in Wales or elsewhere.

Section 47(1)(b) of the Measure gives Welsh Ministers the power to make regulations making provision about the eligibility of individuals to carry out primary mental health assessments under section 9 of the Measure.

Part 3 of the Regulations makes provision about the eligibility requirements that a person must meet before a person may carry out a primary mental health assessment. Professional requirements that a person must satisfy are set out in the Schedule.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result a Regulatory Impact Assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy may be obtained from the Mental Health and Vulnerable Groups Division, Welsh Government, Cathays Park, CF10 3NQ.

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IECHYD MEDDWL, CYMRU

Rheoliadau Iechyd Meddwl (Atgyfeiriadau Gofal Sylfaenol a Chymhwystra i Gynnal Asesiadau Iechyd Meddwl Sylfaenol) (Cymru) 2012

Gwnaed	*15 Mai 2012*
Yn dod i rym	*1 Hydref 2012*

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddwyd gan adrannau 7(6)(a), 47(1)(a) a (2), a 52(2) o Fesur Iechyd Meddwl (Cymru) 2010(**1**).

Cafodd drafft o'r offeryn hwn ei osod gerbron Cynulliad Cenedlaethol Cymru yn unol ag adran 52(5)(b) o'r Mesur, ac mae wedi ei gymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

RHAN 1 - CYFFREDINOL

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Iechyd Meddwl (Atgyfeiriadau Gofal Sylfaenol a Chymhwystra i Gynnal Asesiadau Iechyd Meddwl Sylfaenol) (Cymru) 2012 a deuant i rym ar 1 Hydref 2012.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

Dehongli

2. Yn y Rheoliadau hyn—

mae i'r ymadrodd "asesiad iechyd meddwl sylfaenol" ("*primary mental health assessment*") yr ystyr a roddir iddo yn adran 51(1) o'r Mesur;

(**1**) 2010 mccc 7.

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MENTAL HEALTH, WALES

The Mental Health (Primary Care Referrals and Eligibility to Conduct Primary Mental Health Assessments) (Wales) Regulations 2012

Made	*15 May 2012*
Coming into force	*1 October 2012*

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 7(6)(a), 47(1)(a) and (2), and 52(2) of the Mental Health (Wales) Measure 2010(**1**).

A draft of this instrument has been laid before the National Assembly for Wales in accordance with section 52(5)(b) of the Measure, and approved by resolution of the National Assembly for Wales.

PART 1 - GENERAL

Title, commencement and application

1.—(1) The title of these Regulations is The Mental Health (Primary Care Referrals and Eligibility to Conduct Primary Mental Health Assessments) (Wales) Regulations 2012 and they come into force on 1 October 2012.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

"local mental health partners" ("*partneriaid iechyd meddwl lleol*") has the meaning provided in section 1 of the Measure;

(**1**) 2010 nawm 7.

ystyr "cynllun" ("*scheme*") yw cynllun y mae'n rhaid i bartneriaid iechyd meddwl lleol gymryd pob cam rhesymol i gytuno arno yn unol ag adran 2 o'r Mesur;

mae i'r ymadrodd "darparydd gofal sylfaenol" ("*primary care provider*") yr ystyr a roddir iddo yn adran 51(1) o'r Mesur;

ystyr "Deddf 2006" ("*the 2006 Act*") yw Deddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006(**1**);

mae i'r ymadrodd "gwasanaethau cymorth iechyd meddwl sylfaenol lleol" ("*local primary mental health support services*") yr ystyr a roddir iddo yn adran 5 o'r Mesur;

ystyr "gwasanaethau meddygol sylfaenol" ("*primary medical services*") yw—

(a) gwasanaethau meddygol a ddarperir o dan Ran 4 o Ddeddf 2006 p'un ai gan—

(i) contractiwr y gwnaeth Bwrdd Iechyd Lleol gontract gwasanaethau meddygol cyffredinol ag ef o dan adran 42 o'r Ddeddf honno;

(ii) person y gwnaeth Bwrdd Iechyd Lleol drefniadau ag ef o dan adran 50 o'r Ddeddf honno;

(iii) ymarferydd meddygol cofrestredig a gyflogir at ddibenion adran 41(2)(a) o'r Ddeddf honno gan Fwrdd Iechyd Lleol; neu

(iv) ymarferydd meddygol cofrestredig y gwnaeth Bwrdd Iechyd Lleol drefniadau ag ef o dan adran 41(2)(b) o'r Ddeddf honno; neu

(b) gwasanaethau meddygol a ddarperir gan—

(i) ymarferydd meddygol cofrestredig o dan drefniadau a wnaed rhwng ymarferydd meddygol cofrestredig a pherson sy'n gyfrifol am ddarparu neu redeg carchar sydd wedi ei gontractio allan (o fewn ystyr adran 84(4) o Ddeddf Cyfiawnder Troseddol 1991(**2**)) yng Nghymru; neu

(ii) ymarferydd meddygol cofrestredig a gyflogir gan Wasanaeth Carchardai ei Mawrhydi yng Nghymru;

ystyr "y Mesur" ("*the Measure*") yw Mesur Iechyd Meddwl (Cymru) 2010(**3**);

ystyr "partner iechyd meddwl lleol perthnasol" ("*relevant local mental health partner*") yw'r partner iechyd meddwl lleol sy'n gyfrifol am ddarparu'r rhan fwyaf o'r gwasanaethau cymorth

(**1**) 2006 p.42.

(**2**) 1991 p.53.

(**3**) 2010 mccc 7.

"local primary mental health support services" ("*gwasanaethau cymorth iechyd meddwl sylfaenol lleol*") has the meaning provided in section 5 of the Measure;

"primary care provider" ("*darparydd gofal sylfaenol*") has the meaning provided in section 51(1) of the Measure;

"primary medical services" ("*gwasanaethau meddygol sylfaenol*") means—

(a) medical services provided under Part 4 of the 2006 Act whether by—

(i) a contractor with whom a general medical services contract has been entered into with a Local Health Board under section 42 of that Act;

(ii) a person with whom arrangements have been made under section 50 of that Act by a Local Health Board;

(iii) a registered medical practitioner employed for the purposes of section 41(2)(a) of that Act by a Local Health Board; or

(iv) a registered medical practitioner with whom a Local Health Board has made arrangements under section 41(2)(b) of that Act; or

(b) medical services provided by—

(i) a registered medical practitioner under arrangements made between a registered medical practitioner and a person responsible for the provision or running of a contracted out prison (within the meaning of section 84(4) of the Criminal Justice Act 1991(**1**)) in Wales; or

(ii) a registered medical practitioner employed by Her Majesty's Prison Service in Wales;

"primary mental health assessment" ("*asesiad iechyd meddwl sylfaenol*") has the meaning provided in section 51(1) of the Measure;

"relevant local mental health partner" ("*partner iechyd meddwl lleol perthnasol*") means the local mental health partner that is responsible for providing the majority of the local primary mental health support services under the Scheme agreed

(**1**) 1991 c.53.

iechyd meddwl sylfaenol lleol o dan y Cynllun y cytunwyd arno o dan adran 2 o'r Mesur. Os na chytunir ar Gynllun o dan adran 2 o'r Mesur, y partner iechyd meddwl lleol perthnasol yw'r Bwrdd Iechyd Lleol ar gyfer yr ardal awdurdod lleol o dan sylw;

mae i'r ymadrodd "partneriaid iechyd meddwl lleol" ("*local mental health partners*") yr ystyr a roddir iddo yn adran 1 o'r Mesur.

RHAN 2 - ATGYFEIRIADAU GOFAL SYLFAENOL

Personau y caniateir i ddarparydd gofal sylfaenol eu hatgyfeirio i wasanaethau cymorth iechyd meddwl sylfaenol lleol

3.—(1) Yn ddarostyngedig i adran 8(1) o'r Mesur(**1**), caiff darparydd gofal sylfaenol atgyfeirio unrhyw berson—

(a) sydd â'r hawl i dderbyn gwasanaethau meddygol sylfaenol, a

(b) yr ymddengys fod angen asesiad iechyd meddwl sylfaenol arno,

i gael asesiad iechyd meddwl sylfaenol.

(2) Yn unol ag adran 7(5) o'r Mesur, rhaid i'r darparydd gofal sylfaenol, os yw'n penderfynu gwneud atgyfeiriad ar gyfer asesiad iechyd meddwl sylfaenol, wneud atgyfeiriad o'r fath i'r partner iechyd meddwl lleol ar gyfer yr ardal awdurdod lleol lle y mae'r darparydd gofal sylfaenol yn cynnal y rhan fwyaf o'i fusnes neu ei weithgareddau.

(**1**) Yn unol ag adran 7(1)(a) ni chaniateir i ddarparydd gofal sylfaenol atgyfeirio unigolyn sy'n dod o fewn unrhyw un o'r disgrifiadau a geir yn adran 8(1) o'r Mesur. Mae adran 8(1) yn gymwys i unigolion sy'n agored i gael eu cadw'n gaeth o dan Ddeddf Iechyd Meddwl 1983; unigolyn sy'n ddarostyngedig i warcheidiaeth o dan y Ddeddf honno; unigolyn sy'n glaf cymunedol o fewn ystyr "community patient" yn y Ddeddf honno ac unigolyn sy'n cael gwasanaethau iechyd meddwl eilaidd.

under section 2 of the Measure. If a Scheme is not agreed under section 2 of the Measure, the relevant local mental health partner is the Local Health Board for the local authority area in question;

"scheme" ("*cynllun*") means a scheme that local mental health partners must take all reasonable steps to agree in accordance with section 2 of the Measure;

"the 2006 Act" ("*Deddf 2006*") means the National Health Service (Wales) Act 2006(**1**);

"the Measure" ("*y Mesur*") means the Mental Health (Wales) Measure 2010(**2**).

PART 2 - PRIMARY CARE REFERRALS

Persons whom a primary care provider may refer to local primary mental health support services

3.—(1) Subject to section 8(1) of the Measure(**3**), a primary care provider may refer any person—

(a) who is entitled to receive primary medical services, and

(b) who appears to be in need of a primary mental health assessment,

for a primary mental health assessment.

(2) In accordance with section 7(5) of the Measure, the primary care provider must, if it determines to make a referral for a primary mental health assessment, make such a referral to the local mental health partner for the local authority area in which the primary care provider carries on the majority of its business or activities.

(**1**) 2006 c.42.

(**2**) 2010 nawm 7.

(**3**) In accordance with section 7(1)(a) a primary care provider may not refer an individual who falls within any of the descriptions in section 8(1) of the Measure. Section 8(1) applies to individuals who are liable to be detained under the Mental Health Act 1983; an individual who is subject to guardianship under that Act; an individual who is a community patient within the meaning of that Act and an individual who is receiving secondary mental health services.

RHAN 3 - GOFYNION CYMHWYSTRA AR GYFER PERSONAU Y CANIATEIR IDDYNT GYNNAL ASESIADAU IECHYD MEDDWL SYLFAENOL

Gofynion cymhwystra ar gyfer personau y caniateir iddynt gynnal asesiadau iechyd meddwl sylfaenol

4.—(1) Mae person yn gymwys i gyflawni swyddogaethau partner iechyd meddwl lleol i gynnal asesiad iechyd meddwl sylfaenol os yw'r person hwnnw—

(a) yn bodloni un neu fwy o'r gofynion proffesiynol yn yr Atodlen i'r Rheoliadau hyn; a

(b) wedi dangos er boddhad y partner iechyd meddwl lleol perthnasol fod ganddo brofiad, sgiliau neu hyfforddiant priodol, neu gyfuniad priodol o brofiad, sgiliau a hyfforddiant.

(2) Wrth benderfynu a yw person yn bodloni'r gofyniad penodi ym mharagraff (1)(b) rhaid rhoi sylw i'r safonau mewn unrhyw Godau Ymarfer a ddyroddwyd o dan adran 44 (codau ymarfer) o'r Mesur, ac unrhyw ganllawiau a ddyroddir o bryd i'w gilydd gan Weinidogion Cymru.

PART 3 - ELIGIBILITY REQUIREMENTS FOR PERSONS WHO MAY CONDUCT PRIMARY MENTAL HEALTH ASSESSMENTS

Eligibility requirements for persons who may conduct primary mental health assessments

4.—(1) A person is eligible to perform the functions of a local mental health partner to carry out a primary mental health assessment if that person—

(a) fulfils one or more of the professional requirements in the Schedule to these Regulations; and

(b) has demonstrated to the satisfaction of the relevant local mental health partner that he or she has appropriate experience, skills or training, or an appropriate combination of experience, skills and training.

(2) When determining whether a person satisfies the appointment requirement in paragraph (1)(b) regard must be had to standards in any Codes of Practice issued under section 44 (codes of practice) of the Measure, and any guidance that may from time to time be issued by the Welsh Ministers.

Lesley Griffiths

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol, un o Weinidogion Cymru

15 Mai 2012

Minister for Health and Social Services, one of the Welsh Ministers

15 May 2012

YR ATODLEN

Rheoliad 4(1)(a)

GOFYNION PROFFESIYNOL

1. Y gofynion proffesiynol yw bod rhaid i berson fod—

(a) yn weithiwr cymdeithasol cymwysedig a gofrestrwyd gyda Chyngor Gofal Cymru neu'r Cyngor Gofal Cymdeithasol Cyffredinol;

(b) yn nyrs lefel gyntaf neu'n nyrs ail lefel, a gofrestrwyd yn Is-Ran 1 neu yn Is-Ran 2 o'r Gofrestr a gedwir o dan erthygl 5 o Orchymyn Nyrsio a Bydwreigiaeth 2001(**1**), gan gynnwys cofnod sy'n dynodi mai nyrsio iechyd meddwl neu nyrsio anableddau dysgu yw ei maes ymarfer;

(c) yn therapydd galwedigaethol a gofrestrwyd yn Rhan 6 o'r Gofrestr a gedwir o dan erthygl 5 o Orchymyn Proffesiynau Iechyd 2001(**2**);

(d) yn seicolegydd ymarferol a gofrestrwyd yn Rhan 14 o'r Gofrestr a gedwir o dan erthygl 5 o Orchymyn Proffesiynau Iechyd 2001; neu

(e) yn ymarferydd meddygol cofrestredig.

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(**1**) O.S. 2002/253.

(**2**) O.S. 2002/254.

SCHEDULE

Regulation 4(1)(a)

PROFESSIONAL REQUIREMENTS

1. The professional requirements are that a person must be—

(a) a qualified social worker registered with the Care Council for Wales or the General Social Care Council;

(b) a first or second level nurse, registered in Sub-Part 1 or Sub-Part 2 of the Register maintained under article 5 of the Nursing and Midwifery Order 2001(**1**), with the inclusion of an entry indicating that his or her field of practice is mental health or learning disabilities nursing;

(c) an occupational therapist who is registered in Part 6 of the Register maintained under article 5 of the Health Professions Order 2001(**2**);

(d) a practitioner psychologist who is registered in Part 14 of the Register maintained under article 5 of the Health Professions Order 2001; or

(e) a registered medical practitioner.

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(**1**) S.I. 2002/253.

(**2**) S.I. 2002/254.

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IECHYD MEDDWL, CYMRU

Rheoliadau Iechyd Meddwl (Atgyfeiriadau Gofal Sylfaenol a Chymhwystra i Gynnal Asesiadau Iechyd Meddwl Sylfaenol) (Cymru) 2012

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MENTAL HEALTH, WALES

The Mental Health (Primary Care Referrals and Eligibility to Conduct Primary Mental Health Assessments) (Wales) Regulations 2012

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