

**RULES
OF
TENNESSEE DEPARTMENT OF MENTAL HEALTH
AND DEVELOPMENTAL DISABILITIES
OFFICE OF LICENSURE**

**CHAPTER 0940-5-24
MINIMUM PROGRAM REQUIREMENTS FOR MENTAL RETARDATION
RESIDENTIAL HABILITATION FACILITIES**

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0940-5-24-.01 HEALTH, SAFETY AND WELFARE SAFEGUARDS IN RESIDENTIAL HABILITATION FACILITIES.

- (1) The facility must provide or procure assistance for service recipients in locating qualified dental, medical, nursing and pharmaceutical care including care for emergencies.
- (2) The facility must ensure that each service recipient receives an annual physical examination (unless less often is indicated by the service recipient's physician) which includes routine screenings (such as vision and hearing) and laboratory examinations (such as Pap smear, mammogram, prostate screening, and blood work) as determined necessary by the physician and special studies where the index of suspicion is high.
- (3) The facility must ensure that each service recipient receives dental examinations and treatment as prescribed by the service recipient's physician.
- (4) The facility must require that a service recipient receive immunizations as required by the Department of Health unless contraindicated by a doctor's written orders.
- (5) The facility must ensure that each service recipient has a physical examination within the twelve (12) months prior to admission or within thirty (30) days after admission.
- (6) The facility must ensure that employees practice infection control procedures that will protect service recipients from infectious diseases.
- (7) The facility must enable the service recipient/legal representative to choose a personal physician for routine services.
- (8) The facility must insure that appropriate corrective actions have been taken in response to substantiated abuse or neglect.

(Rule 0940-5-24-.01, continued)

Authority: T.C.A. §§4-4-103, 4-5-202, 4-5-204, 33-1-101, 33-1-302, 33-1-305, 33-1-309, 33-2-301, and 33-2-302.
Administrative History: Original rule filed May 26, 1988; effective July 11, 1988. Repeal and new rule filed April 29, 2004; effective July 13, 2004.

0940-5-24-.02 PERSONNEL AND STAFFING REQUIREMENTS FOR RESIDENTIAL HABILITATION FACILITIES.

- (1) The facility must provide one (1) direct services staff member for every ten (10) service recipients present in the facility.
- (2) All employees must be screened for tuberculosis according to the procedures of the Tennessee Department of Health or receive a tuberculosis skin test or chest x-ray before working directly with service recipients. Documentation must be maintained in the employee's personnel file.
- (3) The facility must document that the Hepatitis B vaccine is made available to direct service staff.
- (4) Employees must be provided with a basic orientation in the specific needs of a service recipient prior to being assigned to work with him/her.
- (5) The facility must provide at all times at least one (1) on-duty staff member who is certified in First Aid, Cardiopulmonary Resuscitation (CPR), and the Heimlich maneuver.
- (6) All employees must receive training in detection, reporting and prevention of abuse. This training must be documented in the employee record.
- (7) All professional services must be provided by persons duly licensed or certified to practice their profession in the State of Tennessee.
- (8) Service recipients must never be left unattended unless otherwise specified in the individual support plan. Approval by appropriate staff must be documented in the service recipient's record.

Authority: T.C.A. §§4-4-103, 4-5-202, 4-5-204, 33-1-101, 33-1-302, 33-1-305, 33-1-309, 33-2-301, and 33-2-302.
Administrative History: Original rule filed May 26, 1988; effective July 11, 1988. Repeal and new rule filed April 29, 2004; effective July 13, 2004.

0940-5-24-.03 SERVICE RECIPIENT RECORD REQUIREMENTS FOR RESIDENTIAL HABILITATION FACILITIES.

- (1) Each service recipient's record must contain the following information:
 - (a) A recent photograph and a description of the service recipient;
 - (b) The service recipient's social security number;
 - (c) The service recipient's legal competency status, including name of guardian/conservator, if applicable;
 - (d) The service recipient's sources of financial support, including social security, veteran's benefits and insurance;
 - (e) The sources of coverage for medical care costs;
 - (f) The name, address and telephone number of the physician or health agency providing medical services;

(Rule 0940-5-24-.03, continued)

- (g) Documentation of all drugs prescribed or administered by the facility which indicates date prescribed, type, dosage, frequency, amount, reason, and side effects;
- (h) Documentation of medical problems, accidents, seizures and illnesses and treatments for such medical problems, accidents, seizures and illnesses while the service recipient is in the care of the facility;
- (i) Documentation of significant behavior incidents and of actions taken while the service recipient is in the care of the facility;
- (j) Documentation of the use of restrictive behavior-management techniques while the service recipient is in the care of the facility;
- (k) A list of each individual article of each personal property valued at one hundred dollars (\$100) or more including its disposition, if no longer in use; and
- (l) Written accounts of all monies received and disbursed on behalf of the service recipient;
- (m) A discharge summary, which states the date of discharge, reasons for discharge, and referral for other services, if appropriate.

Authority: T.C.A. §§4-4-103, 4-5-202, 4-5-204, 33-1-101, 33-1-302, 33-1-305, 33-1-309, 33-2-301, and 33-2-302.
Administrative History: Original rule filed May 26, 1988; effective July 11, 1988. Repeal and new rule filed April 29, 2004; effective July 13, 2004.

0940-5-24-.04 MEDICATION ADMINISTRATION IN RESIDENTIAL HABILITATION FACILITIES.

- (1) The level of supervision during the administration of medication is commensurate with the service recipient's capability.
- (2) The facility must ensure that if service recipients are not capable of self-administration, medication will only be administered by personnel who are licensed or certified to administer medication in the State of Tennessee.
- (3) The facility must ensure that prescription medications are taken only by service recipients for whom they are prescribed, and in accordance with the directions of a physician.
- (4) The facility must assist with procuring and taking of prescription and non-prescription medications.
- (5) Drugs must be stored in a locked container, which ensures proper conditions of security and sanitation and prevents accessibility to any unauthorized person.
- (6) Discontinued and outdated drugs and containers with worn, illegible, or missing labels must be disposed.
- (7) All medication errors, drug reactions, or suspected over medications must be reported to the practitioner who prescribed the drug.
- (8) Evidence of the current prescription of each medication taken by a service recipient must be maintained by the facility.

(Rule 0940-5-24-.04, continued)

Authority: T.C.A. §§4-4-103, 4-5-202, 4-5-204, 33-1-101, 33-1-302, 33-1-305, 33-1-309, 33-2-301, and 33-2-302.
Administrative History: Original rule filed May 26, 1988; effective July 11, 1988. Repeal and new rule filed April 29, 2004; effective July 13, 2004.

0940-5-24-.05 SUPPORTS AND SERVICES IN RESIDENTIAL HABILITATION FACILITIES.

- (1) The facility must provide supports and services that comply with the following:
 - (a) Activities available to service recipients throughout the day must be based on each service recipient's preferences and interests.
 - (b) Activities have an identifiable purpose and are of meaningful activity.
 - (c) The physical and nutritional needs of service recipients are addressed.
 - (d) Service recipients who have eating/swallowing problems are identified and identified problems are addressed.
 - (e) Special diets and mealtime practices are implemented as needed.
 - (f) Service recipients must have access to prescribed adapted equipment and/or assistive technology.
 - (g) Equipment is monitored to determine proper fit, working order and need for repair.
 - (h) Equipment storage is available if needed.
 - (i) Service recipients must be provided assistance in the use and protection of money.

Authority: T.C.A. §§4-4-103, 4-5-202, 4-5-204, 33-1-101, 33-1-302, 33-1-305, 33-1-309, 33-2-301, and 33-2-302.
Administrative History: Original rule filed May 26, 1988; effective July 11, 1988. Repeal and new rule filed April 29, 2004; effective July 13, 2004.

0940-5-24-.06 PERSONAL SUPPORT AND ASSISTANCE IN RESIDENTIAL HABILITATION FACILITIES.

- (1) The facility must provide service recipients with the level of support and assistance needed in a private and dignified manner.
- (2) The facility must provide service recipients with the level of support and assistance needed in the use of dental appliances, eyeglasses and hearing aids.
- (3) The facility must be responsible for the implementation of all physician orders.
- (4) The facility must assist each service recipient in securing an adequate amount of personally owned, clean and seasonal clothes that are of correct size.
- (5) Each service recipient must be provided the level of support and assistance needed to purchase and select his/her own clothes.

Authority: T.C.A. §§4-4-103, 4-5-202, 4-5-204, 33-1-101, 33-1-302, 33-1-305, 33-1-309, 33-2-301, and 33-2-302.
Administrative History: Original rule filed May 26, 1988; effective July 11, 1988. Repeal and new rule filed April 29, 2004; effective July 13, 2004.

0940-5-24-07 RECREATIONAL ACTIVITIES IN RESIDENTIAL HABILITATION FACILITIES.

- (1) The facility must ensure that opportunities are provided for recreational activities, which are appropriate and adapted to the needs, interests and ages of the service recipients. These activities should be community oriented and meaningful in nature.

Authority: T.C.A. §§4-4-103, 4-5-202, 4-5-204, 33-1-101, 33-1-302, 33-1-305, 33-1-309, 33-2-301, and 33-2-302.

Administrative History: Original rule filed May 26, 1988; effective July 11, 1988. Repeal and new rule filed April 29, 2004; effective July 13, 2004.

0940-5-24-08 DAY ACTIVITIES IN RESIDENTIAL HABILITATION FACILITIES.

- (1) The facility must ensure that day activities are available. Such day activities must take into account the age, interests, abilities and needed supports of the service recipients and be provided in accordance with the Individual Support Plan.
- (2) If the service recipient attends a school or day program provided outside of the facility, the facility's staff must participate with the school personnel in developing an individual education plan or with the day program staff in developing an individual support plan, as appropriate.

Authority: T.C.A. §§4-4-103, 4-5-202, 4-5-204, 33-1-101, 33-1-302, 33-1-305, 33-1-309, 33-2-301, and 33-2-302.

Administrative History: Original rule filed May 26, 1988; effective July 11, 1988. Repeal and new rule filed April 29, 2004; effective July 13, 2004.

0940-5-24-09 ASSESSMENT REQUIREMENTS FOR RESIDENTIAL HABILITATION FACILITIES.

- (1) The following assessments must be completed prior to developing the Individual Support Plan:
 - (a) An assessment of current functioning in such areas as adaptive behavior and independent living skills;
 - (b) A basic medical history and information and determination of the necessity of a medical evaluation and a copy, where applicable, of the results of the medical evaluation;
 - (c) A six-month history of prescription, and non-prescription drugs, and an alcohol and substance abuse history.
 - (d) An existing psychological assessment on file which is updated as recommended.

Authority: T.C.A. §§4-4-103, 4-5-202, 4-5-204, 33-1-101, 33-1-302, 33-1-305, 33-1-309, 33-2-301, and 33-2-302.

Administrative History: Original rule filed May 26, 1988; effective July 11, 1988. Repeal and new rule filed April 29, 2004; effective July 13, 2004.

0940-5-24-10 INDIVIDUAL SUPPORT PLAN REQUIREMENTS IN RESIDENTIAL HABILITATION FACILITIES.

- (1) The facility must ensure that a written, Individual Support Plan (ISP) is provided and implemented for each service recipient within thirty (30) days of enrollment. The ISP must include the following:
 - (a) The service recipient's name;
 - (b) The date of plan development;
 - (c) Goals and objectives which are related to the specific needs and preferences which are to be addressed;

(Rule 0940-5-24-.10, continued)

- (d) Interventions that address specific goals and objectives, identify staff responsible for interventions and planned frequency of contacts;
- (e) The facility must maintain documentation that supports the implementation and results of the service recipient's plan;
- (f) Signature(s) of staff who develop the plan and the primary staff responsible for its implementation; and
- (g) Signature of the service recipient (and/or conservator, legal custodian, or attorney in-fact) or documentation of reasons for refusal to sign and/or inability to participate in Individual Support Plan development.

Authority: T.C.A. §§4-4-103, 4-5-202, 4-5-204, 33-1-101, 33-1-302, 33-1-305, 33-1-309, 33-2-301, and 33-2-302.
Administrative History: Original rule filed May 26, 1988; effective July 11, 1988. Repeal and new rule filed April 29, 2004; effective July 13, 2004.

0940-5-24-.11 INDIVIDUAL SUPPORT PLAN MONITORING IN RESIDENTIAL HABILITATION FACILITIES.

- (1) A review of the service recipient's response to the plan in achieving goals and meeting his/her needs must be documented monthly.
- (2) The Individual Support Plan must be reviewed annually and revised as indicated.

Authority: T.C.A. §§4-4-103, 4-5-202, 4-5-204, 33-1-101, 33-1-302, 33-1-305, 33-1-309, 33-2-301, and 33-2-302.
Administrative History: Original rule filed May 26, 1988; effective July 11, 1988. Repeal and new rule filed April 29, 2004; effective July 13, 2004.

0940-5-24-.12 REQUIREMENTS FOR THE USE OF RESTRICTED BEHAVIOR INTERVENTIONS IN RESIDENTIAL HABILITATION FACILITIES.

- (1) The facility must ensure that restricted behavior interventions are not provided until unrestricted interventions have been systematically tried or considered and have been determined to be inappropriate or otherwise contraindicated.
- (2) The facility must ensure that restricted behavior interventions are only provided through an approved written intervention plan.
- (3) If restricted interventions are provided, the written intervention plan must:
 - (a) be based upon a functional assessment;
 - (b) utilize the least intrusive effective intervention that supports the service recipient in developing alternative behaviors;
 - (c) include procedures to reinforce the service recipient for interacting in more adaptive, effective ways so that the need for the challenging behavior is reduced;
 - (d) include information on the functional assessment, treatment rationale, procedures, generalization and maintenance strategies, data collection, and schedule for progress review;
 - (e) include measurable criteria for fading or removing the restricted intervention based on progress;

(Rule 0940-5-24-.12, continued)

- (f) clearly define all responsibilities for implementing components of the plan;
 - (g) clearly describe for staff: the description of the behavior, situations in which the behavior is likely to occur, signs and signals that occur prior to the behavior and what staff should do to reduce the likelihood of the behavior occurring, how staff should respond when the behavior occurs, what staff should do to encourage appropriate responses, what information staff should document, and crisis intervention or emergency procedures, as applicable.
- (4) The facility must ensure that the written intervention plan is reviewed and approved by appropriately constituted Behavior Support and Human Rights Committees prior to its implementation.
 - (5) The facility must ensure that staff who implement the written intervention plan are trained to competency on implementing the plan.
 - (6) The facility must ensure that staff implementation of the plan is monitored regularly and reported as part of progress notes at least monthly.
 - (7) The facility must ensure that in the provision of behavior services, restraint or protective equipment is used only to protect the service recipient or others from harm and when other less intrusive methods have been ineffective or are contraindicated.
 - (8) The facility must ensure that in the provision of behavior services, the programmatic restraint or protective equipment is used only as part of any approved intervention plan for which consent has been obtained.
 - (9) The facility does not employ the following devices or practices in the provision of behavior services:
 - (a) restraint vests, camisoles, body wraps;
 - (b) devices that are used to tie or secure a wrist or ankle to prevent movement;
 - (c) restraint chairs or chairs with devices that prevent movement;
 - (d) removal of a service recipient's mobility aids such as a wheelchair or walker;
 - (e) protective equipment that restricts or prevents movement or the normal use/functioning of the body or body part to which it is applied;
 - (f) protective equipment that impairs or inhibits visual or auditory capabilities or prevents or impairs speech or other communication modalities;
 - (g) any actions, including isolation or restraints imposed as a means of coercion, discipline, convenience or retaliation;
 - (h) corporal punishment, denial of a nutritionally balanced diet or any other procedures that may result in physical or emotional harm to the service recipient;
 - (i) restraint rooms; and
 - (j) aversive stimuli.

(Rule 0940-5-24-.12, continued)

Authority: T.C.A. §§4-4-103, 4-5-202, 4-5-204, 33-1-101, 33-1-302, 33-1-305, 33-1-309, 33-2-301, and 33-2-302.
Administrative History: Original rule filed May 26, 1988; effective July 11, 1988. Repeal and new rule filed April 29, 2004; effective July 13, 2004.

0940-5-24-.13 USE OF PSYCHOTROPIC MEDICATIONS IN RESIDENTIAL HABILITATION FACILITIES.

- (1) The facility must obtain the following when psychotropic medications are used:
 - (a) a diagnosis that is based on a comprehensive psychiatric assessment;
 - (b) reasons for prescribing medications
- (2) The facility must ensure that there is informed consent from the service recipient and/or the guardian/conservator prior to utilizing psychotropic medications.

Authority: T.C.A. §§4-4-103, 4-5-202, 4-5-204, 33-1-101, 33-1-302, 33-1-305, 33-1-309, 33-2-301, and 33-2-302.
Administrative History: Original rule filed May 26, 1988; effective July 11, 1988. Repeal and new rule filed April 29, 2004; effective July 13, 2004.

0940-5-24-.14 REQUIREMENTS FOR THE USE OF RESTRICTIVE BEHAVIOR MANAGEMENT IN RESIDENTIAL HABILITATION FACILITIES.

- (1) Corporal punishment must not be used.
- (2) Behavior-management programs must not employ techniques that may result in denial of a nutritionally adequate diet.
- (3) Physical restraint, drugs for behavior management, time-out rooms, aversive stimuli, or other techniques with similar degrees of restriction or intrusion must not be employed except as an integral part of an Individual Program Plan that is designed by the client's Individual Program Plan team to lead to a less restrictive way of managing, and ultimately to the elimination of, the behavior.
- (4) Restrictive or intrusive behavior-management procedures must not be used until after less-restrictive alternatives for dealing with the problem behavior have been systematically tried or considered and have been determined to be inappropriate or ineffective.
- (5) Prior to the implementation of a written program incorporating the use of a highly restrictive or intrusive technique, the facility must document that the program has been reviewed and approved by the client or the client's legal guardian and the facility must appoint a Human Rights Committee to review and approve the written program.
- (6) Emergency procedures used to prevent a client from inflicting bodily harm may not be repeated more than three (3) times within six (6) months without being incorporated into a written behavior-management program that is part of an Individual Program Plan designed by the client's Individual Program Plan team.
- (7) Behavior-management drugs may be used only when authorized in writing by a physician for a specific period of time.
- (8) Chemical restraint may be used only when authorized and supervised by a physician in attendance.
- (9) A client placed in chemical restraint must be under continuous staff observation.

(Rule 0940-5-24-.14, continued)

- (10) If the use of chemical restraint is necessary beyond twenty-four (24) hours, the situation, must be re-evaluated, authorized and supervised by a physician in attendance.
- (11) The program for the use of a mechanical restraint must specify the extent and frequency of the monitoring according to the type and design of the device and the condition of the client.
- (12) A client placed in mechanical restraint must be released for a minimum of ten (10) minutes at least every two (2) hours and provided with an opportunity for motion, exercise, liquid intake and toileting.
- (13) Personal restraint/physical holding may be used only until the client is calm.
- (14) If the use of personal restraint/physical holding is necessary beyond sixty (60) minutes, the situation must be re-evaluated and authorized by a mental retardation specialist.
- (15) The client placed in a time-out room must be released after a period of not more than sixty (60) minutes.
- (16) The ability of a client to exit a time-out room must not be prevented by means of keyed or other locks; and time-out rooms must allow for the immediate entry to staff.
- (17) Aversive stimuli may be used only when the behavior of a client is likely to cause irreparable harm to himself or others, the behavior precludes his or her development and less negative procedures have, in the immediate past, been documented to be ineffective in reducing or eliminating this particular behavior.

Authority: T.C.A. §33-2-504. **Administrative History:** Original rule filed May 26, 1988; effective July 11, 1988.