

Notice of Rulemaking Hearing

Department of Mental Health and Developmental Disabilities Office of Licensure

There will be a hearing before the Tennessee Department of Mental Health and Developmental Disabilities, Office of Licensure, to consider the promulgation of amended rules and repeal of rules pursuant to T.C.A. §§ 4-4-103, 4-5-202, and 204, and 33-1-302, 305, and 309, 33-2-301 and 302, and 33-2-404. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Commissioner's Large Conference Room on the 3rd Floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, Tennessee at 10:00 a.m. Central Daylight Time on the 16th day of April, 2008.

Individuals with disabilities who wish to participate in these proceedings or review these filings should contact the Tennessee Department of Mental Health and Developmental Disabilities, to discuss any auxiliary aids or services needed to facilitate such participation or review. Such contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to the scheduled meeting date or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Mental Health and Developmental Disabilities ADA Coordinator, Courtney White, 5th Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, Tennessee, 37243, (615) 253-8376; the Department's TDD is (615) 532-6612. Copies of the notice are available from the Tennessee Department of Mental Health and Developmental Disabilities in alternative format upon request.

For a copy of the entire text of this notice of rulemaking hearing contact:

Glenda Rogers, Office of Licensure, Department of Mental Health and Developmental Disabilities, 425 Fifth Avenue North, 5th Floor, Cordell Hull Building, Nashville, Tennessee 37243, (615)532-6590.

Substance of Proposed Rules

Amendments

Chapter 0940-05-45 Minimum Program Requirements for Alcohol and Drug Abuse Residential Rehabilitation Treatment Facilities

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0940-05-45-.01 Definition:

- (1) "Residential Treatment Center" means a residential program for service recipients at least eighteen (18) years of age, which offers highly structured services to service recipients with the primary purpose of restoring the alcohol and/or drug dependent person to levels of positive functioning and abstinence appropriate to the individual. A primary goal of these services is to move the individuals into less intensive levels of care and/or reintegration into the community as appropriate. Services include counseling contacts, lectures/seminars, and other services necessary to meet the service recipients assessed needs.

0940-05-45-.02 Policies and Procedures for Residential Rehabilitation Treatment Facilities.

- (1) The facility must maintain a written policy and procedure manual which includes the following:
 - (a) A description of the intake, assessment and treatment process;
 - (b) A description of its aftercare service;
 - (c) Exclusion and inclusion criteria for persons seeking facility services;
 - (d) Requirements that each employee or volunteer comply with procedures for detection, prevention, and reporting of communicable diseases according to procedures of the Tennessee Department of Health;
 - (e) A written policy ensuring that employees and volunteers practice infection control procedures and universal precautions that will protect the service recipient from infectious diseases;
 - (f) A quality assurance procedure which assesses the quality of care at the facility. This procedure must ensure appropriate treatment has been delivered according to clinical practice;
 - (g) Drug testing procedures if used by the facility;
 - (i) The facility must establish and implement appropriate protocols which guide delivery of treatment and support across a continuum of residential services that reflect the varying severity of illnesses treated and the intensity of services required.
 - (h) Policy and procedures which address the methods for managing disruptive behavior;
 - (i) If restrictive procedures are used to manage disruptive behaviors, written policies and procedures must govern their use and must minimally ensure the following:
 1. Any restrictive procedure must be used by the facility only after all less-restrictive alternatives for dealing with the problem behavior have been systematically tried or considered and have been determined to be inappropriate or ineffective;

2. The service recipient must have given written consent to any restrictive measures taken with him/her by the staff;
 3. The restrictive procedure(s) must be documented in the individual program plan, be justifiable as part of the plan, and meet all requirements that govern the development and review of the plan;
 4. Only qualified personnel may use restrictive procedures and must be adequately trained in their use; and
 5. The adaptive or desirable behavior must be taught to the service recipient in conjunction with the implementation of the restrictive procedures.
- (j) A policy which states physical holding must be implemented in such a way as to minimize any physical harm to the service recipient and may only be used when the service recipient poses an immediate threat under the following conditions:
1. The service recipient poses an immediate danger to self or others; and/or
 2. To prevent the service recipient from causing substantial property damage.

0940-05-45-.03 Personnel and Staffing Requirements for Residential Rehabilitation Treatment Facilities.

- (1) Direct treatment and/or rehabilitation services must be provided by qualified alcohol and drug abuse personnel.
- (2) A physician must be employed or retained by written agreement to serve as medical consultant to the program.
- (3) The facility must train all direct care staff in CPR, First Aid, and the Heimlich maneuver and at least one (1) trained staff member must be on-duty at all times.
- (4) The facility must have a written weekly schedule of all program services and client activities for each day specifying the type of service/activities and scheduled times.
- (5) The facility must maintain an on duty/on site staff-to-client ratio of at least one (1) to twelve (12) at each building at all times.
- (6) The facility must provide STD/HIV education as it relates to service recipient care to all direct care staff.
- (7) All new employees, including volunteers, who have routine contact with service recipients, must have a current tuberculosis test prior to employment.
- (8) Employees must have a tuberculin skin test annually and at the time of exposure to active TB and three (3) months after exposure.
- (9) Employee records must include date and type of tuberculin skin test used and date of tuberculin skin test results, date and results of chest x-ray, and any drug treatment for tuberculosis.

0940-05-45-.04 Service Recipient Assessment Requirements for Residential Rehabilitation Treatment Facilities.

- (1) The facility must document that the following assessments are completed prior to development of the Individual Program Plan (IPP); re-admission assessments must document the following information from the date of last service:
 - (a) Assessment of current functioning according to presenting problem including history of the presenting problem;
 - (b) 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; as deemed necessary by the program physician. The medical evaluation will include documentation of a tuberculin skin test, the type of tuberculin skin test used, the results of the tuberculin skin test, and if applicable, the date and result of a chest x-ray and any drug treatment for tuberculosis;
 - (c) Assessment information must include employment/educational/ financial, emotional/psychological health, social/family/peer, physical health, legal, community living skills/housing information and the impact of substance abuse on each area of the service recipient's life functioning; and
 - (d) A six (6) month history of prescribed medications, frequently used over-the-counter medications, and alcohol or other drugs including patterns of specific usage for the past thirty (30) days.

0940-05-45-.05 Individual Program Plan Requirements for Residential Rehabilitation Treatment Facilities.

- (1) An Individual Program Plan (IPP) which meets the following requirements must be developed and documented for each client:
 - (a) Developed within seven (7) days of admission;
 - (b) Includes the service recipient's name;
 - (c) Includes the date of development;
 - (d) Standardized diagnostic formulation(s) including but not limited to the current Diagnostic and Statistical Manual (DSM) Axes I-V and/or ICD-9; and/or ASAM PPC-2R.
 - (e) Includes specified service recipients problems which are to be addressed within the particular service/program component;
 - (f) Includes service recipients' goals which are related to specified problems and which are to be addressed within the particular service/program component;
 - (g) Includes interventions addressing goals;
 - (h) Includes planned frequency of contact;
 - (i) Includes the signatures of appropriate staff; and

- (j) Includes documentation of service recipients' participation in the treatment planning process.
- 0940-05-45-.06 Individual Program Plan Monitoring and Review Requirements for Residential Rehabilitation Treatment Facilities.
- (1) Progress notes which include written documentation of progress or changes occurring within the IPP must be made in the individual service recipient record for each treatment contact or on a weekly basis.
 - (2) The facility must review and, if indicated, revise the IPP at least every thirty (30) days.
- 0940-05-45-.07 Service Recipient Record Requirements For Residential Rehabilitation Treatment Facilities.
- (1) The individual service recipient record must include the following:
 - (a) All medication prescribed and/or self-administered documented by the facility which indicates date prescribed, type, dosage, frequency, amount, and reason;
 - (b) A list of each individual article of each client's personal property valued at \$100.00 or more including its disposition, if no longer in use;
 - (c) Written accounts of all monies received and disbursed on behalf of the service recipient;
 - (d) Reports of health history, past and current;
 - (e) Reports of aggressive and/or disruptive behavior incidents;
 - (f) Reports of any instance of physical holding or restriction with documented justification and authorization;
 - (g) A discharge summary which states the date of discharge, reasons for discharge, status of the service recipient at the time of discharge and referral for other services, if appropriate; and
 - (h) An aftercare plan which specifies the type of contact, planned frequency of contact, and responsible staff; or documentation that the service recipient was offered aftercare but decided not to participate; or documentation that the service recipient dropped out of treatment and is therefore not available for aftercare planning; or verification that the service recipient is referred for further alcohol and drug treatment services.
- 0940-05-45-.08 Professional Services In Residential Rehabilitation Treatment Facilities.
- (1) The facility must provide services, as available, to service recipients to address their needs as indicated in the assessment/history in the areas of social/family/peer, employment/educational/financial, emotional/ psychological health, physical health, legal, and community living skills/housing. Such services may be provided directly by the agency or indirectly by referral to other service providers. Referral agreements with frequently used providers must be documented. The provision of such services to individual service recipient must be documented in the service recipient record.

0940-05-45-.09 Service Recipient Medication Administration Requirements for Residential Rehabilitation Treatment Facilities.

- (1) When supervising the administration of medication, the facility must consider the service recipient's self-management skills and ability.
- (2) 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 qualified prescriber.
- (3) Discontinued and outdated drugs and containers with worn, illegible, or missing labels must be disposed.
- (4) All medication errors, drug reactions, or suspected inappropriate medication use must be reported to the Medical Director of the facility who will report to the prescriber, if known.
- (5) Evidence of the current prescription of each medication taken by a service recipient must be maintained by the facility.
- (6) All direct service staff must be trained about medications used by the service recipient. This training must include information about the purpose and function of the medications, their major side effects and contraindications, and ways to recognize signs that medication is not being taken as prescribed or is ineffective for its prescribed purpose.
- (7) Staff must have access to medications at all times.
- (8) For any service recipient incapable of self-administration, all medications must be administered by personnel licensed to administer medication.
- (9) Schedule II drugs must be stored within two (2) separately locked compartments at all times and be accessible only to staff in charge of administering medication.
- (10) All medications and other medical preparations intended for internal or external human use must be stored in sanitary and secure medicine cabinets or drug rooms. Such cabinet or drug rooms must be kept securely locked when not in use and the key must be in the possession of the supervising nurse or other authorized staff. Locks in doors to medicine cabinets and drug rooms must be such that they require an action on the part of staff to lock and unlock.
- (11) Staff must document each time a service recipient self-administers medication or refuses a medication. This documentation must include the date, time, medication name, and dosage, as well as over the counter medication. This documentation must be made on the medication log sheet in the service recipients' chart.

0940-05-45-.10 Health Provisions for Service Recipients in Residential Rehabilitation Treatment Facilities.

- (1) The facility must have provisions that address:
 - (a) Nutritional needs;
 - (b) Exercise;
 - (c) Weight Control;

(d) Adequate, uninterrupted sleep; and

(e) Designated smoking areas outside the building.

0940-05-45-.11 Service Recipients Health, Hygiene, and Grooming Provisions for Residential Rehabilitation Treatment Facilities.

- (1) The facility must assist service recipient in independent exercise of health, hygiene, and grooming practices.
- (2) The facility must encourage the use of dental appliances, eyeglasses, and hearing aids, if used by service recipient.
- (3) The facility must encourage each service recipient to maintain a well-groomed and clean appearance that is age and activity appropriate and within reason of current acceptable styles of grooming, dressing, and appearance.

0940-05-45-.12 Service Recipient Right Provisions for Residential Rehabilitation Treatment Facilities.

- (1) Service recipients must not be denied adequate food, treatment/rehabilitation activities, religious activities, mail or other contacts with families as punishment.
- (2) A service recipient must not be confined to his/her room or other place of isolation as punishment. This does not preclude requesting individuals to remove themselves from potentially harmful situations in order to regain self-control.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of February, 2008. (FS 02-32-08; DBID 832)