

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 0940-05-43

Minimum Program Requirements for Alcohol and Drug Abuse Non-Residential Treatment Facilities

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0940-05-43-.01 Definitions:

- (1) "Alcohol and Drug Abuse Non-Residential Treatment Facility" means an outpatient facility which offers treatment services that can include but not be limited to assessment, referral, counseling, and education..

0940-05-43-.02 Policies and Procedures for Non-Residential Treatment Facilities.

- (1) The facility must maintain a written policy and procedure manual which includes the following:
 - (a) A description of its intake, assessment and treatment process;
 - (b) A description of its aftercare service;
 - (c) Exclusion criteria for persons not appropriate for the facility's 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 any, as used by the facility;
 - (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 client 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.

0940-05-43-.03 Personnel and Staffing Requirements for Non-residential 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 provide all direct care staff member with training in CPR, First Aid, and the Heimlich maneuver.
- (4) The facility must provide STD/HIV education to all direct care staff.
- (5) All new employees, including volunteers, who have routine contact with service recipients, must have a current tuberculosis test prior to direct contact with service recipients.
- (6) Employees must have a tuberculin skin test annually and at the time of exposure to active TB and three (3) months after exposure.
- (7) 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.

0940-05-43-.04 Service Recipient Assessment Requirements for Non-residential 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;
 - (c) Documentation of a screening for tuberculin, 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;
 - (d) 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 the service recipients substance abuse in each area; and
 - (e) 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.

0940-5-.43-.05 Individual Program Plan Requirements for Non-Residential Treatment Facilities.

- (1) An Individual Program Plan (IPP) which meets the following requirements must be developed and documented for each client:
 - (a) Developed within thirty (30) days of admission or by the end of the third face-to-face treatment contact with qualified alcohol and drug abuse personnel, whichever occurs first;
 - (b) Includes the service recipients 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; ASAM PPC-2.
 - (e) Includes specified service recipient problems which are to be addressed within the particular service/program component;
 - (f) Includes service recipient 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 the service recipients' participation in the treatment planning process.

0940-5--43-.06 Individual Program Plan Monitoring and Review Requirements for Non-Residential Treatment Facilities.

- (1) Progress notes which include written documentation of progress or changes occurring within the IPP must be made in the individual client record for each treatment contact.
- (2) The facility must review and, if indicated, revise the IPP at least every one hundred eighty (180) days. The revision shall document any of the following which apply:
 - (a) Change in goals and objectives based upon service recipients documented progress or identification of any new problems;
 - (b) Change in primary counselor assignment;
 - (c) Change in frequency and types of services provided; and
 - (d) A statement documenting review and explanation if no changes are made in the IPP.

0940-5-.43-.07 Service Recipient Record Requirements for Non-Residential Treatment Facilities.

- (1) The individual service recipient record must include the following:
 - (a) Documentation of all drugs prescribed or administered to the service recipient as part of the plan of care indicating the date prescribed, type, dosage, frequency, amount, and reason;

- (b) A discharge summary which states the date of discharge, reasons for discharge, and referral for other services, if appropriate;
- (c) 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 admitted for further alcohol and drug treatment services; and
- (d) Documentation of any instance of restraint or restriction with documented justification and authorization.

0940-5-.43-.08 Professional Services In Non-Residential Treatment Facilities.

- (1) The facility must provide a continuum of services 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 recipients must be documented in the service recipient record.

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 02-33-08; DBID 833)