

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 to consider the promulgation of new rules to govern the licensing of Alcohol and Drug Abuse Residential Treatment Facilities for Children and Youth 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 and Executive Order Number 44 (February 23, 2007). 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 Tennessee Room on the Ground Floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, Tennessee at 1:00 p.m. Central Daylight Time on Tuesday, the 17th day of June, 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, Gwen Hamer, 5th Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, Tennessee, 37243, (615) 532-6510; 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:

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Substance of Proposed Rules

Chapter 0940-05-46
Alcohol and Drug Abuse Residential Treatment Facilities for Children and Youth

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0940-05-46-.01 Definition.

- (1) "Alcohol and Drug Abuse Residential Treatment Facilities for Children and Youth" means a residential program which offers twenty-four (24) hour treatment to persons under eighteen (18) years of age with the primary purpose of restoring the alcohol and/or drug dependent person to abstinence and levels of positive functioning appropriate to the individual. An important goal of these services is to move the service recipient into less intensive levels of care and/or reintegration in to the community. The program must provide, or arrange for an education component in compliance with the Rules, Regulations, and Minimum Standards of the Tennessee State Board of Education.

0940-05-46-.02 Application of Rules.

- (1) The governing body of a residential treatment program must comply with the following rules:
 - (a) Life Safety Licensure for Health Care, or Board and Care, or One- and Two-Family Dwellings Occupancy Classifications found in 0940-5-4;
 - (b) Adequacy of Facility Environment and Ancillary Services found in 0940-5-5;
 - (c) Minimum Program Requirements for All Facilities found in 0940-5-6;
 - (d) Minimum Program Requirements for Alcohol and Drug Abuse Residential Treatment Facilities for Children and Youth found in 0940-05-46; and
 - (e) Use of Isolation, Mechanical Restraint, and Physical Holding Restraint in Mental Health Residential Treatment Facilities found in 0940-3-9.

0940-05-46-.03 Policies and Procedures.

- (1) The facility must maintain a written policy and procedure manual which includes the following:
 - (a) The intake and assessment process;
 - (b) A description of its aftercare service;
 - (c) 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;
 - (d) A written policy ensuring that employees and volunteers practice infection control procedures and standard precautions that will protect the service recipient from infectious diseases;
 - (e) 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;
 - (f) Drug testing procedures if used by the facility;
 - (g) Eligibility criteria including exclusion criteria for persons not appropriate for the facility's services;

- (h) Policy and procedures which address the methods for managing disruptive behavior;
- (i) If restrictive procedures are used to manage disruptive behaviors, the written policies and procedures governing this use must comply with the Department of Mental Health and Developmental Disabilities rules in Chapter 0940-3-9 Use of Isolation, Mechanical Restraint, and Physical Holding Restraint in Mental Health Residential Treatment Facilities;
- (j) A procedure for notifying the Office of Licensure upon the eighteenth birthday of the service recipient with a plan that targets discharge within ninety (90) days. If the treatment extends beyond ninety (90) days past the service recipient's eighteenth birthday, a waiver must be sought from the Department; and
- (k) The facility shall provide to the service recipient, upon admission, a written statement outlining in simple, non-technical language all rights of service recipients under Title 33. These rights must include provisions to prohibit:
 - 1. A service recipient must not be denied adequate food, treatment/rehabilitation activities, religious activities, mail or other contacts with family 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.

0940-05-46-.04 Personnel and Staffing Requirements.

- (1) Direct treatment and/or rehabilitation services must be provided by qualified alcohol and drug abuse personnel.
- (2) A physician or a nurse with training and/or experience in child and adolescent development and addiction must be employed or retained by written agreement to serve as medical consultant to the program.
- (3) Specialized training will be provided to staff on symptoms of addiction, sexuality, reproductive health, and sexually transmitted diseases.
- (4) If the consulting physician is not a psychiatrist, then the facility must arrange for the regular, consultative, and emergency services of a licensed psychiatrist.
- (5) At least two (2) staff members must be on-duty at all times who are certified in Cardiopulmonary Resuscitation (CPR), First Aid, the Abdominal Thrust and Standard Precautions for handling blood spills.
- (6) The facility must provide annual training to all direct care staff on how to manage medical and psychiatric crises.
- (7) The facility must provide annual training to all direct care staff on issues pertinent to childhood and adolescence such as treatment approaches specific to adolescents and families, family dynamics and family therapy, adolescent growth and development, sexual and physical abuse, gender issues, mental health problems, different cultural and ethical

values, psychopharmacology, referral and community resources, cognitive impairments and legal matters.

- (8) The facility must provide at least three (3) hours of training annually on ethics related to children and adolescents.
- (9) 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.
- (10) During normal waking hours the program must provide at least one (1) staff person on-duty and on-site for each ten (10) service recipients present. Staff persons counted in the staff-to-service recipient ratio may only be persons who are assigned to provide direct program services as described by written job description. During normal sleeping hours the program must provide two (2) awake direct care staff on site in each building, or physically separated unit of a building, in which service recipients are housed. Support staff, such as clerical, housekeeping, van and bus driver staff, or students involved in an onsite practicum for academic credit may not be counted in the staff-to-service recipient ratio.
- (11) Service recipients must be adequately supervised at all times based on environment, circumstance, the service recipient's treatment plan or other specific needs or risks.
- (12) The facility must provide STD/HIV education to all direct care staff.
- (13) All new employees, including volunteers, who have routine contact with service recipients, must have a current tuberculosis test prior to direct patient contact.
- (14) Employees must have a tuberculin skin test annually and at the time of exposure to active TB and three (3) months after exposure.
- (15) 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.

0940-05-46-.05 Assessment Requirements.

- (1) The facility must document that the following assessments have been 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 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 vocational, educational skills and academic performance; financial issues; socio-emotional, cognitive, and psychological issues; social, family, and peer interactions; physical health; legal; community living skills and housing information; and the impact of substance abuse on each area of the service recipient's life functioning and development.

- (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; and
- (e) Assessment of whether the service recipient is currently eligible for special education services in accordance with the State Board of Education Rules, Regulations and Minimum Standards.

0940-05-46-.06 Individual Program Plan (IPP) and Review Requirements.

- (1) An IPP which meets the following requirements must be developed and documented for each client within seven (7) days of admission:
 - (a) The service recipient's name;
 - (b) The date of development;
 - (c) Standardized diagnostic formulation(s) including but not limited to the current Diagnostic and Statistical Manual (DSM) and/or the International Statistical Classification of Diseases and Related Health Problems (ICD); and another appropriate measure for adolescent substance abuse;
 - (d) Specific service recipient and family problems (such as substance use, psychosocial, medical, sexual, reproductive, and possible psychiatric issues) to be addressed within the particular service/program component;
 - (e) Specific strengths and resources of the service recipient and family and ways to apply them to reach treatment goals;
 - (f) Service recipient's goals that are related to specific problems and that are to be addressed within the particular service/program component;
 - (g) Interventions addressing goals and help them recognize their involvement in substance use and acknowledge responsibility for the problems resulting from substance use; and the staff responsible for implementing the interventions;
 - (h) Planned frequency of contact;
 - (i) Signatures of appropriate staff;
 - (j) Documentation participation of service recipient and parent/guardian/legal custodian or conservator, where appropriate, in the treatment planning process; if any of the parties refuse to participate, reasons for refusal must be documented; and
 - (k) A plan for family member's involvement in the service recipient's treatment, if appropriate.
- (2) 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.
- (3) The facility must review and, if indicated, revise the IPP at least every thirty (30) days.

0940-05-46-.07 Record Requirements.

- (1) The individual record for each service recipient must contain the following information:
 - (a) Documentation of the IPP and the Individualized Education Program (IEP), if required, and of their implementation;
 - (b) Progress notes must be recorded daily and must include written documentation of service recipient progress and changes which have occurred within the IPP. The progress notes must be dated and include the signature, title or degree of the person who provided the service;
 - (c) Documentation of all drugs prescribed and/or administered by the facility with date prescribed, type, dosage, frequency, amount, and reason;
 - (d) Narrative summary review at least every thirty (30) days of all medications prescribed which includes specific reasons for prescribing and continuation of each medication;
 - (e) Documentation of significant behavior and actions taken by staff;
 - (f) A list of each article of the service recipient's personal property valued at one hundred dollars (\$100.00) or more, and its disposition if no longer in use;
 - (g) Documentation of abuse, medical problems, accidents, seizures, and illnesses and treatment for such abuse, medical problems, accidents, seizures, and illnesses, and any reports generated as the result;
 - (h) Results of assessments required by this Rule;
 - (i) Discharge summary which states the date of discharge, reasons for discharge, service recipient's condition at the time of discharge, referral for other services, if appropriate, and signature of person preparing the summary;
 - (j) Documentation of an education plan developed for each service recipient that conforms to the Rules, Regulations, and Minimum Standards of the State Board of Education and the IEP test being developed by an appropriately constituted IEP-Team for all "qualified students with disabilities." The education plan may include education services provided either by the facility or by the local education agency;
 - (k) 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 declined 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;
 - (l) Appropriate authorizations for the release and obtaining of information about the service recipient; and
 - (m) Contact person and means of contact in case of emergency.

0940-05-46-.08 Professional Services.

- (1) In addition to the alcohol and drug abuse services provided, the facility must provide services to service recipients to address their needs as indicated in the assessment/history in the areas vocational, educational skills and academic performance; financial issues; cognitive, socio-emotional, and psychological issues; social, family, and peer interactions; physical health; legal; community living skills and housing information. 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 at the facility.

0940-05-46-.09 Emergency Services.

- (1) In case of medical or other type of emergency, the facility must secure emergency services and immediate access to relevant information for treatment in the service recipient's record.
- (2) The program must provide immediate notification to the parent, guardian, or legal custodian in case of emergency.
- (3) The program must secure emergency services for service recipients who pose an imminent physical danger to themselves or others as provided in T.C.A. § 33-6-401.

0940-05-46-.10 Medication Administration Requirements.

- (1) Medications must be administered by licensed medical or licensed nursing personnel or by other qualified personnel. Qualified personnel under these rules means a certified or registered respiratory therapist, a radiological technologist, or a certified physician assistant practicing under a protocol approved by medical staff. Such qualified personnel may only administer medication within the scope of an established protocol.
- (2) Qualified personnel must have access to medications at all times.
- (3) Evidence of the current prescription of each medication taken by a service recipient must be maintained by the facility.
- (4) 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.
- (5) All medication errors, medication reactions, or suspected inappropriate medication use must be reported to the Medical Director of the facility who will then report to the prescriber, if known.
- (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 or is ineffective.
- (7) Discontinued and outdated medications and containers with worn, illegible, or missing labels must be disposed of according to law.
- (8) Schedule II medications must be stored in two (2) separately locked compartments at all times and be accessible only to staff in charge of administering medication.

- (9) 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.

0940-05-46-.11 Recreational Activity.

- (1) The facility must provide opportunities for recreational activities appropriate to and adapted to the needs, interests, and ages of the service recipients.

0940-05-46-.12 Health, Hygiene, and Grooming Provisions for Service Recipients.

- (1) The facility must have provisions that address the following health issues while the service recipient is at the facility:
 - (a) Nutritional needs;
 - (b) Exercise;
 - (c) Weight control;
 - (d) Adequate, uninterrupted sleep; and
- (2) The facility must educate and encourage the independent exercise of health, hygiene, and grooming practices, as appropriate.
- (3) The facility must encourage the use of, including but not limited to, dental appliances, eyeglasses, and hearing aids, if used by service recipient.
- (4) The facility must encourage each service recipient to maintain a well-groomed and clean appearance that is age and activity appropriate.

Authority: T.C.A. §§ 4-4-103; 4-5-202; 33-1-302, 305, 309; and 33-2-301, and 302; and Executive Order Number 44 (February 23, 2007).

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of April, 2008. (FS 04-22-08; DBID 849)