

Department of Mental Health and Developmental Disabilities
Notice of Rulemaking Hearing
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 new 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 Tennessee-B Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 10:00 a.m., Central Daylight Time on the 20th day of September, 2005.

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, Joe Swinford, 3rd Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, Tennessee 37243. Mr. Swinford's telephone number is (615) 532-6700; 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, Fifth Floor, Cordell Hull Building, Nashville, TN 37243-1010, (615) 532-6590.

Substance of Proposed Rules

New Rules

Chapter 0940-5-21

Minimum Program Requirements for Early Intervention Services and Facilities

Chapter 0940-5-32

Minimum Program Requirements for Mental Retardation Supported Living Services

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0940-5-21-.01 Definition: Early Intervention Services and Facilities – A non-residential service or facility that offer a program of training to infant and toddlers with developmental delays and their families. Early intervention services are designed to promote the development of the child and enhance the knowledge and understanding of the child by the family. Early intervention services may be provided in a variety of community settings, including the child's home or in a facility for early intervention services.

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

0940-5-21-.02 Application of Rules.

- (1) The licensee of an early intervention service or facility must comply with the following rules:
 - (a) Applicable life safety rules for Day Care, or Business, or Educational Occupancy Classifications;
 - (b) Adequacy of Program Environment and Ancillary Services Rules when applicable;
 - (c) Minimum Program Requirements for all Program Rules, and
 - (d) Minimum Program Requirements for Early Intervention Services and Facilities.

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

0940-5-21-.03 Health, Safety and Welfare Safeguards in Early Intervention Services and Facilities.

- (1) The licensee must offer assistance to the child's family or guardian in locating qualified dental, medical, nursing, and pharmaceutical care.
- (2) The licensee must ensure that each child has a physical examination within twelve (12) months prior to admission.
- (3) The licensee must ensure that each child receives an annual physical examination (unless less often is indicated by the child's physician) which includes routine screenings (such as vision and hearing) and laboratory examinations (such as blood work) as determined necessary by the physician and special studies where the index of suspicion is high.
- (4) The licensee develops safety and emergency plans that are specific to its facilities, services provided, transportation services and major equipment used.
- (5) The licensee develops emergency arrangements that are specific to the needs of the child.
- (6) Prior to admission, the licensee must secure proof of current immunization status.

- (7) The program must require that each child receive immunizations as required by the Department of Health unless contraindicated by a doctor's written orders.
- (8) The licensee must ensure that employees follow universal precautions that will protect the child from infectious disease.
- (9) The licensee will assist the child's family or guardian in linking with the appropriate local medical resources.
- (10) Special diets and mealtime practices as recommended by practitioners are implemented.
- (11) The licensee will assist children in assessing adaptive equipment identified in the IFSP to facilitate proper seating and alignment, body control and functional participation in home, leisure and community activities.
- (12) Equipment is monitored to determine proper fit, working order and need for repair.
- (13) Equipment storage is available to ensure adequate space for instruction to take place unobstructed by equipment that is not in use.

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

0940-5-21-.04 Personnel and Staffing Requirements for Early Intervention Services.

- (1) The licensee must provide one (1) direct service staff member for every six (6) children present in a facility-based program.
- (2) All employees must be screened for tuberculosis according to procedures of the Tennessee Department of Health, or receive a tuberculosis skin test or chest x-ray prior to working with children. Documentation must be maintained in the employee's personnel file.
- (3) The licensee must document that the Hepatitis B vaccine is made available to all direct service employees.
- (4) Direct service employees must be provided an orientation and training regimen that includes information specific to the needs of a child prior to working with him/her.

- (5) The licensee must provide, during operating hours, at least one (1) staff member who is certified in First Aid, infant/child CPR, and the Heimlich maneuver in a center-based program.
- (6) All staff working with children must receive training in detection, reporting, and prevention of child abuse. This training must be documented in the staff record.
- (7) All professional services must be provided by persons duly licensed or certified to practice their profession in the State of Tennessee.

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

0940-5-21-.05 Records Requirements for Early Intervention Services and Facilities. Each child shall have a running record from the time of referral until the child exits the program that includes:

- (1) A recent photograph and identifying information;
- (2) The name, address, and telephone number of the child's primary caregiver;
- (3) The sources of coverage for medical care;
- (4) The names, address, and telephone number of the physician or health agency providing medical services; and
- (5) Report of medical problems, accidents, seizures, and illnesses and treatments rendered for such medical problems, accidents, seizures and illnesses while the child is in the care of the licensee.

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

0940-5-21-.06 Personal Support Provisions in Early Intervention Services and Facilities. Staff must be responsible for the implementation of the orders of a physician concerning recuperative procedures subsequent to a child's illness or injury once a child has been released to return for services and the provider determines that the placement continues to be appropriate.

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

0940-5-21-.07 Assessment Requirements in Early Intervention Services.

- (1) The following assessments must be completed prior to the development of the Individual Family Service Plan (IFSP):
 - (a) An approved assessment of the individual's current abilities, needs, and resources (currently approved by the Department of Education); and
 - (b) An appropriate eligibility statement on file with documentation of completed evaluations and assessments.
- (2) The physical and nutritional needs of the child are addressed, as needed.
- (3) Children who have eating/swallowing problems are identified and supported.

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

0940-5-21-.08 Individual Family Service Plan Requirements for Early Intervention Services and Facilities. The licensee must ensure that a written individual plan is provided and implemented for each child. The plan must:

- (1) be developed within forty-five (45) days of the child's initial referral for Part C-eligible children as set forth in Rule 0520-1-10-.01 of the Rules of the State Board of Education, or within forty-five (45) days of admission;
- (2) be developed by relevant persons, including the parent(s)/guardian(s);
- (3) identify supports and services to be provided;
- (4) have written approval by the parent(s)/guardian(s); and
- (5) contain a Transition Plan to Part B or other appropriate services developed no later than the child's second birthday or immediately after admission for a child older than two years.

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

0940-5-21-.09 Individual Family Service Plan Monitoring for Early Intervention Services and Facilities.

- (1) Progress notes which are shared with the parents that detail progress or changes occurring with the Individual Family Service Plan (IFSP) must be documented monthly.

- (2) The individual family service plan must be reviewed every six months and revised as needed.

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

0940-5-21-.10 Requirements for Positive Behavior Interventions in Early Intervention Services.

- (1) Licensee should utilize positive methods for supporting a child's social and emotional development. Praise and encouragement of good behavior must be used instead of focusing upon unacceptable behavior only.
- (2) Licensee should utilize developmentally appropriate behavior practices that are reasonable and appropriate and in terms the child can understand. Techniques that are shaming, humiliating, frightening or injurious to children must not be used.
- (3) Caregivers must provide activities and have behavioral expectations that are consistent with the child's age, attention span and skill level.
- (4) Behavior interventions may only be employed as an integral part of the Individual Family Service Plan (IFSP) and with the review of the IFSP team.

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

0940-5-32-.01 Definition: Mental Retardation Supported Living Services - A service entity which provides support and assistance to individuals with mental retardation who live in their own homes or apartments but require such staff support and assistance to reside in such housing situations. Service entity staff provides support and assistance on a regular basis in accordance with the needs of the individual(s) living in the home. No more than three (3) persons receiving services shall reside in the home. The service entity delivering the support is licensed rather than the home of the individuals receiving the support.

Authority: T.C.A. §§ 4-4-103; 4-5-202 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.02 Application of Rules.

- (1) The licensee for Supported Living Services must comply with the following rules:
 - (a) Applicable life safety rules for Business Occupancy Classification;

- (b) Minimum Program Requirements for All Program Rules;
- (c) Minimum Program Requirements for Mental Retardation Supported Living Services;
- (d) Applicable rules for services provided to (1) one or more mobile, non-ambulatory person(s).

Authority: T.C.A. §§ 4-4-103; 4-5-202 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.03 Health, Safety And Welfare Safeguards for Supported Living Services.

- (1) The licensee must ensure that individuals are assisted in locating qualified dental, medical, nursing and pharmaceutical care including care for emergencies.
- (2) The licensee 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 licensee must ensure that employees practice infection control procedures that will protect individuals from infectious diseases.
- (4) The licensee must ensure that appropriate corrective actions have been taken in response to substantiated abuse or neglect.
- (5) The licensee must ensure that support staff in each dwelling comply with the following:
 - (a) All staff must be trained to assist each individual in evacuation from the home in three (3) minutes or less. Training must be according to the needs of the individual being assisted;
 - (b) Evacuation procedures must be sufficient so that it is not necessary for a staff person to re-enter the building after once leaving;
 - (c) A risk assessment must be completed for each individual within thirty (30) days of enrollment or moving into the home;

- (d) The risk assessment must be repeated when the individual's circumstances change;
 - (e) Ambulatory individuals who cannot evacuate independently within three (3) minutes must receive training needed to improve his or her ability to evacuate the home more independently. Individuals with a documented inability to respond to training need not receive such training; and,
 - (f) Document fire-safety drills, which must be conducted under varying conditions, and each shift, when applicable, must hold one (1) per quarter.
- (6) The licensee must ensure that the home of each individual receiving support complies with the following requirements:
- (a) Provide at least two hundred (200) square feet, gross, of occupiable space per individual, with eighty (80) square feet per individual bedroom space for single occupancy or sixty (60) square feet per individual bedroom space for multiple occupancy;
 - (b) Maintain proper storage and safeguards for all flammable materials;
 - (c) Unvented gas heaters or portable electric heaters must not be used;
 - (d) Use extension cords only on a limited basis and under emergency conditions;
 - (e) Provide at least one smoke detector in the home that is hardwired into the home's electrical system;
 - (f) Provide operable, type 2A-10B, C multipurpose fire extinguishers in a fixed location and readily accessible for use in the home, and document that all fire extinguishers are properly maintained and services;
 - (g) Provide two (2) alternative means of escape in each dwelling e.g. front door and bedroom window;
 - (h) Bedrooms with windows that are operable from the inside without the use of special keys, tools or knowledge;
 - (i) Bedroom windows must provide a clear opening of not less than twenty (20) inches in width, twenty-four (24) inches in height, and

five and seven-tenths (5.7) square feet in area, and the bottom of the opening is not more than forty-four (44) inches from the floor;

- (j) Specify areas where smoking is permitted; smoking in bedrooms must not be allowed;
- (k) Individuals who use ambulation aids cannot be located above or below the ground floor.

Authority: T.C.A. §§ 4-4-103; 4-5-202 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.04 General Environmental Requirements for Homes Receiving Supported Living Services.

- (1) The licensee must ensure that the home of each individual receiving support complies with the following requirements:
 - (a) Each home must be maintained in a safe manner and a continuing effort made to eliminate potential hazards.
 - (b) Each home must be maintained in a sanitary and clean condition, free from all accumulation of dirt and rubbish, well vented, and free from foul, stale or musty odors.
 - (c) Each home must be kept free of rats and other rodents.
 - (d) Support staff must ensure that housekeeping practices and standards are maintained which will ensure the eradication of flies, roaches, and other vermin.
 - (e) All interior and exterior stairs and steps must be equipped with security and safely installed handrails when there is more than three (3) stair steps in a row.
 - (f) All interior and exterior stairways, halls, porches, walkways and all other means of egress and areas of exit discharge must be maintained free of any obstacles, including furniture or other stored items.
 - (g) A heating system must be provided which is capable of maintaining a minimum of sixty-eight (68) degrees Fahrenheit and a comfortable humidity level at all times within the home.
 - (h) A cooling, natural ventilation or air conditioning system must be provided which is capable of maintaining a maximum temperature

of eighty (80) degrees Fahrenheit and a comfortable humidity level at all times within the home.

- (i) A telephone system must be provided which is capable of ensuring prompt notification in case of emergencies and which is capable of meeting the needs of service recipients.
 - (j) Emergency telephone numbers must be available for the most local available agencies for fire protection, police or sheriff, ambulance, or medical intervention, poison control, and person(s) providing support.
 - (k) Drinking water must be provided from a source approved by the Tennessee Department of Health.
 - (l) A system for disposal of sewage must be provided which is connected to a public sewage system or which is connected to a private sewage system (septic tank and field system) which has the approval of the local public health agency having jurisdiction.
- (2) The licensee must ensure that each individual is provided with the following:
- (a) A bed with mattress, and springs, in good repair, intended for the individual's convenience and comfort;
 - (b) Bedding such as blankets, linens, and pillows based on the individual's choice or health reasons, which are clean and in good repair.
 - (c) Adequate space for clothing for each individual residing in the home i.e.: dresser or chest of drawers;
 - (d) Closet or wardrobe space which is adequate for hanging storage;
 - (e) Access to a mirror;
 - (f) Each bedroom must have window coverings for privacy, according to the individual's choice;
 - (g) Bathroom(s) must be provided within each home which are equipped with private toilet(s), lavatory with hot water, private tub or shower with hot water, and tub and shower floor surface equipped to be slip-resistant.

- (h) Sanitary soap and towels provided at each lavatory; and sanitary toilet paper provided at each toilet, unless a person's individual support plan (ISP) states otherwise.
- (i) A dining area and living area in each home which are appropriately furnished in good repair, and sufficient for meeting the needs of the individuals.

Authority: T.C.A. §§ 4-4-103; -5-202 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.05 Food Services And Nutrition Requirements For Supported Living Services.

- (1) The licensee must ensure that support staff in each dwelling comply with the following:
 - (a) Food and nutrition must be provided in as normal a fashion as possible.
 - (b) Food must be served in sufficient quantity, at correct temperatures, and in a form consistent with United States Dietary Standards or in accordance with special requirements noted in ISP.
 - (c) Individuals, including those with physical handicaps, must be allowed to eat meals at a table in a dining area unless contraindicated for medical reasons. Provisions must be made for following special diets for when such diets are prescribed for medical or health reasons, and encouragement given to individuals to follow such special diets.
 - (d) Provide appropriate equipment and utensils for cooking food and serving meals. Such equipment and utensils must be in good repair, washed after each use.
 - (e) Food requiring cold storage must be maintained at a temperature of forty-five (45) degrees Fahrenheit or below and food requiring frozen storage must be maintained at a temperature of ten (10) degrees Fahrenheit or below.
 - (f) Store all dry food and goods in a manner to prevent possible contamination, and stored a minimum of six (6) inches above the floor.

- (g) Store garbage (food waste) in secure containers with tight-fitting lids and liner. Garbage (food waste) containers must be emptied from the home into secure containers located outside the home.

Authority: T.C.A. §§ 4-4-103; 4-5-202 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.06 Transportation Services for Individuals In Supported Living Services.

- (1) All staff providing transportation must possess an appropriate driver's license from the Tennessee Department of Safety, and documentation of such license must be maintained in the agency's records.;
- (2) All agency-owned and staff-owned vehicles used to transport individuals must be adequately covered by vehicle liability insurance for personal injury to occupants of the vehicle, and documentation of such insurance must be maintained in the agency's records.
- (3) Appropriate safety restraints must be used as required by state and federal law.

Authority: T.C.A. §§ 4-4-103; 4-5-202 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.07 Special Requirement for Homes With Individuals with Vision Loss. The licensee must ensure the design and placement of furnishings are consistent, free of special hazards, and made known to the service recipient especially when changes occur in the home's design or placement of furnishings.

Authority: T.C.A. §§ 4-4-103; 4-5-202 and 204; and 33-1-302,305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.08 Personnel and Staffing Requirements for Supported Living Services.

- (1) The licensee must ensure that appropriate support and assistance are provided in accordance with the needs of the individual(s) living in the home.
- (2) Support staff must be available on call to individuals living in the home on a twenty-four-(24) hour per day basis.
- (3) Support staff must be provided with a basic orientation in the proper management of individuals with seizures prior to being assigned to work with those individuals.

- (4) The licensee must ensure that support staff are trained in First Aid, Cardiopulmonary Resuscitation (CPR), and the Heimlich maneuver.

Authority: T.C.A. §§ 4-4-103; 4-5-202 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.09 Record Requirements for Supported Living Services.

- (1) The licensee must ensure that each individual's record contains the following information:
 - (a) A recent photograph of the individual and identifying information about the individual;
 - (b) The individual's social security number;
 - (c) The individual's legal competency status, including the name of the guardian/conservator, if applicable;
 - (d) The individual's source of financial support, including social security, veteran's benefit and insurance;
 - (e) The individual's source of coverage for medical care;
 - (f) The name, address and telephone number of the physician or health agency providing medical services;
 - (g) Documentation of the use of restrictive behavior-management techniques;
 - (h) Written accounts of all monies received and disbursed on behalf of the individual;
 - (i) Report of significant behavior incidents and of action taken;
 - (j) Reports of medical problems, accidents, seizures and illnesses and treatments rendered for such medical problems, accidents, seizures and illnesses as they occur;

Authority: T.C.A. §§ 4-4-103; 4-5-202 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.10 Medication Administration in Supported Living Services.

- (1) When medications are taken by individuals with the assistance of support staff, the licensee must ensure that:
 - (a) The individual's ability and training are considered;
 - (b) Ensure that if service recipients are not capable of self-administration of medication, the medication is only administered by personnel who are licensed or certified to administer medication in the State of Tennessee;
 - (c) Prescription medications are taken only by individual for whom they are prescribed; and in accordance with the directions of the physician;
 - (d) Provide storage for medications in a locked container that ensures proper conditions of security and sanitation and prevents accessibility by any unauthorized person;
 - (e) Discontinued and outdated medications and containers with worn, illegible or missing labels are disposal;
 - (f) All medication errors, reactions or suspected overmedication are report to the practitioner who prescribed the medication; and
 - (g) Maintain documentation of all prescription medications taken with assistant by each individual supported in the home, including the name of the medication, name of prescribing physician, date prescribed, purpose, dosage, frequency and side effects.

Authority: T.C.A. §§ 4-4-103; 4-5-202 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.11 Day Activity Provisions for Individuals Receiving Supported Living Services.

- (1) The licensee must ensure that daily activities are provided or procured in accordance with the age level, interests, and abilities of the individual as specified; in the individual support plan. Such daily activities may include, but are not limited to, part-time and full-time employment, attendance at a senior citizens program, and community habilitative activities.
- (2) If the individual attends a school or day program provided outside of the licensed service, the licensee must ensure that staff participate with the school personnel in developing an individual education plan or with the day programs staff in developing an individual plan, as appropriate.

Authority: T.C.A. §§ 4-4-103; 4-5-202 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.12 Assessment Requirements for Persons Receiving Supported Living Services. The following assessments must be completed prior to developing the individual support plan:

- (1) An assessment of current abilities and preferences; and
- (2) A review of relevant medical, medication, and health information.

Authority: T.C.A. §§ 4-4-103; 4-5-202 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.13 Individual Support Plan Requirements for Supported Living Services. The licensee must ensure that a written support plan is implemented for each individual. The individual support plan must meet all the following requirements:

- (1) Be developed within 30 days after the initiation of services;
- (2) Be developed by relevant persons, including the individual served;
- (3) Be approved by the individual or guardian;
- (4) Address abilities, needs and preferences; and
- (5) Identify supports that will be provided to the individual and the person or entity that will provide the supports.

Authority: T.C.A. §§ 4-4-103; 4-5-202 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.14 Individual Support Plan Monitoring for Supported Living Services.

- (1) Support summaries are documented at least quarterly; and
- (2) The individual support plan must be reviewed at least annually and revised as indicated.

Authority: T.C.A. §§ 4-4-103; 4-5-202 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.15 Supportive Services for Individuals Receiving Supported Living Services. The licensee must ensure that the following support services are provided for individuals as needed:

- (1) Transportation or assistance with transportation for non-routine events and appointments;
- (2) Liaison for making appointments and obtaining consultation with professional services;
- (3) Assistance to individuals in the utilization of professional, social, and community services, and assistance in the referral process in making appointments for such services;
- (4) Assistance in the use and protection of money; and
- (5) Assistance in applying for financial benefits for which the individual may be eligible.

Authority: T.C.A. §§ 4-4-103; 4-5-202 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.16 Requirements for the Use of Restricted Behavior Interventions for Supported Living Services.

- (1) The licensee 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 licensee 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;
 - (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 licensee ensures that the written intervention plan is reviewed and approved by appropriately constituted Behavior Support and Human Rights Committees prior to its implementation.
 - (5) The licensee ensures that staff who implement the written intervention plan are trained to competency on implementing the plan.
 - (6) The licensee ensures that staff implementation of the plan is monitored regularly and reported as part of progress notes.
 - (7) The licensee ensures 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 licensee ensures 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 licensee 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; and
- (a) time out rooms.

Authority: T.C.A. §§ 4-4-103; 4-5-202 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

0940-5-32-.17 Use of Psychotropic Medications In Supported Living Services.

- (1) The licensee obtains the following when psychotropic medications are used:
 - (a) a diagnosis that is based on a comprehensive psychiatric assessment; and
 - (b) reasons for prescribing medications, a schedule of monitoring for side effect and adverse reactions.
- (2) The licensee ensures 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 and 204; and 33-1-302, 305, and 309 and 33-2-301 and 302 and 33-2-404.

Repeals

Rule 0940-5-21-.01 is repealed.
Rule 0940-5-21-.02 is repealed.
Rule 0940-5-21-.03 is repealed.
Rule 0940-5-21-.04 is repealed.
Rule 0940-5-21-.05 is repealed.
Rule 0940-5-21-.06 is repealed.
Rule 0940-5-21-.07 is repealed.

Rule 0940-5-21-.08 is repealed.
Rule 0940-5-21-.09 is repealed.
Rule 0940-5-21-.10 is repealed.
Rule 0940-5-21-.11 is repealed.
Rule 0940-5-32-.01 is repealed.
Rule 0940-5-32-.02 is repealed.
Rule 0940-5-32-.03 is repealed.
Rule 0940-5-32-.04 is repealed.
Rule 0940-5-32-.05 is repealed.
Rule 0940-5-32-.06 is repealed.
Rule 0940-5-32-.07 is repealed.
Rule 0940-5-32-.08 is repealed.
Rule 0940-5-32-.09 is repealed.
Rule 0940-5-32-.10 is repealed.
Rule 0940-5-32-.11 is repealed.

Authority: T.C.A. §§ 4-4-103, 4-5-202 and 204, 33-1-101, 33-1-302, 305, 309 and 33-2-301 and 302, and 33-2-404.

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Contact who can answer questions concerning this notice of rulemaking hearing, technical contact for disk acquisition, and person who will approve final copy for publication: Glenda Rogers, Office of Licensure, Department of Mental Health and Developmental Disabilities, 425 Fifth Avenue North, Fifth Floor, Cordell Hull Building, Nashville, TN 37243-1010, (615) 532-6590.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Department of Mental Health and Developmental Disabilities, Office of Licensure.

Virginia J Betts

Virginia Trotter Betts, MSN, JD, RN, FAAN, Commissioner
Department of Mental Health and Developmental Disabilities

Subscribed and sworn to before me this the 25th day of July, 2005.



Glenda F. Rogers
Notary Public

My Commission Expires JULY 19, 2008 My commission expires on the 19th day of July, 2008.

The notice of rulemaking set out herein was properly filed in the Department of State on the 26 day of July, 2005.

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Riley C. Darnell

Riley C. Darnell
Secretary of State

By: *[Signature]*