

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: 08-38-11
Rule ID(s): 5001
File Date: 08/15/2011
Effective Date: 01/29/2012

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Tennessee Department of Mental Health
Division:	Office of Licensure and Review
Contact Person:	Kurt Hippel
Address:	425 Fifth Avenue North 3 rd Floor, Cordell Hull Building Nashville, TN
Zip:	37243
Phone:	615-532-9439
Email:	Kurt.Hippel@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0940-05-34	Mental Health Vocational Programs
Rule Number	Rule Title
0940-05-34-.01	Definitions
0940-05-34-.02	Application of Rules for Mental Health Vocational Program
0940-05-34-.03	Personnel Requirements
0940-05-34-.04	Individual Assessment Requirements
0940-05-34-.05	Individual Plan of Care Requirements
0940-05-34-.06	Individual Record Requirements
0940-05-34-.07	Additional Environmental Requirements

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 0940-05-34 Mental Health Vocational Programs is repealed in its entirety.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309; 33-2-301, 33-2-302, and 33-2-404.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Department of Mental Health on 07/26/11 (date as mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: July 26, 2011

Signature: [Handwritten Signature]

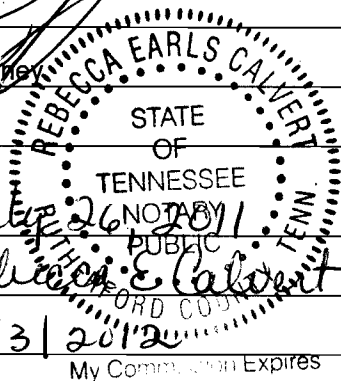
Name of Officer: E. Douglas Varney

Title of Officer: Commissioner

Subscribed and sworn to before me on: July 26, 2011

Notary Public Signature: Rebecca E. Calvert

My commission expires on: 6/3/2012
My Commission Expires



All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Handwritten Signature]
Robert E. Cooper, Jr.
Attorney General and Reporter

8-10-11
Date

Department of State Use Only

Filed with the Department of State on: 5/15/11

Effective on: 1/29/12

[Handwritten Signature]
Tre Hargett

Tre Hargett
Secretary of State

RECEIVED
 2011 AUG 15 PM 1:15
 SECRETARY OF STATE
 PREPARATIONS

Regulatory Flexibility Addendum

Pursuant to § T.C.A. 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

The repeal of Rules Chapter 0940-05-34 will not affect small businesses because no provider is currently licensed as a Mental Health Vocational Program.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

(Insert statement here)

The repeal of Rules Chapter 0940-05-34 is not projected to impact local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rules Chapter 0940-05-35 specifies minimum program requirements for facilities licensed as Mental Health Vocational Programs.
0940-05-34-.01 defines terms pertinent to Chapter 0940-05-35. The proposed rules repeal the rule in its entirety.
0940-05-34-.02 specifies rules in other rule chapters that apply to facilities licensed as a mental health vocational program. The proposed rules repeal the rule in its entirety.
0940-05-34-.03 describes personnel requirements for facilities licensed as mental health vocational programs. The proposed rules repeal the rule in its entirety.
0940-05-34-.04 details the assessment requirements for people receiving services from a facility licensed as a mental health vocational program. The proposed rules repeal the rule in its entirety.
0940-05-34-.05 describes the requirements for individualized plans of care for facilities licensed as a mental health vocational program. The proposed rules repeal the rule in its entirety.
0940-05-34-.06 describes the individual record requirements for facilities licensed as a mental health vocational program. The proposed rules repeal the rule in its entirety.
0940-05-34-.07 describes requirements for activity areas as well as equipment and supplies for facilities licensed as mental health vocational programs. The proposed rules repeal the rule in its entirety.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

No federal law or regulation or state law or regulation mandates the promulgation of Rules Chapter 0940-05-34 or establishes guidelines relevant to the chapter.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

There are no Tennessee facilities licensed under this category of service.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

There are no known opinions of the Attorney General and Reporter or judicial rules that directly relate to Chapter 0940-05-34.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The fiscal impact of repealing Rules Chapter 0940-05-34 is minimal.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Cynthia C. Tyler, Director, Office of Licensure and Review
Kurt Hippel, Rules Coordinator

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Zachary S. Griffith, General Counsel
Cynthia C. Tyler, Director, Office of Licensure and Review
Kurt Hippel, Rules Coordinator

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Zachary S. Griffith, General Counsel
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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

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Agency/Board/Commission:	Tennessee Department of Mental Health and Developmental Disabilities
Division:	Office of Licensure and Review
Contact Person:	Kurt Hippel
Address:	425 Fifth Avenue North 3 rd Floor, Cordell Hull Building Nashville, TN
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0940-05-34-01 Definitions.

- ~~(1) "Vocational Program" means a program whose primary purpose is to provide services or activities that facilitate an adult service recipient to work at a job or training site of their choice. These services can be facility based or non-facility based and include but are not limited to: supported employment, psychosocial rehabilitation, pre-vocational work units, vocational work assessments, job readiness training, and enclaves.~~
- ~~(2) "Supported Employment" means a range of services to assist consumers to prepare for, obtain, and maintain employment. This service also includes a variety of support services to the consumer, including side-by-side support on the job. These services may be integrated into a psychosocial rehabilitation center.~~
- ~~(3) "Enclave" means a work unit provided by a licensed vocational program consisting of two (2) or more service recipients with a severe and/or persistent mental illness working in normal, competitive work setting. The setting focuses on assessment, training and work experience with pay.~~

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

0940-05-34-02 Application of Rules for Mental Health Vocational Program.

- ~~(1) The governing body of a vocational program must comply with the following rules:~~
 - ~~(a) Rule 0940-5-4-.02(2) Life Safety Business or Industrial Occupancy~~
 - ~~(b) Chapter 0940-5-5 Adequacy of Facility Environment and Ancillary Services~~
 - ~~(c) Chapter 0940-5-6 Minimum Program Requirements for All Mental Health Services (new rules to be files)~~
 - ~~(d) Chapter 0940-5-34 Minimum Program Requirements for Mental Health Vocational Program~~

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

0940-05-34-03 Personnel Requirements

- ~~(1) The program services must have on staff or have available on a consultative basis both a Tennessee licensed mental health professional and an individual with demonstrated skill in the vocational areas provided by the program.~~
- ~~(2) A facility based program must have sufficient staff persons on duty to provide adequate supervision of the scheduled activities with a minimum staff-to-service recipient ratio of 1:20. Staff persons counted in the staff-to-service recipient ratio may only be persons who are assigned to provide direct services as described by written job description. Support staff such as clerical, housekeeping, van and bus driver staff, students involved in an on-site practicum for academic credit, and volunteers, may not be counted in the staff-to-service recipient ratio.~~
- ~~(3) The facility must provide at least one on duty staff person trained in first aid and the Heimlich maneuver.~~
- ~~(4) All staff, within three (3) months of hire, must acquire knowledge and competency appropriate to groups served. Training topics must include but not be limited to the following:~~
 - ~~(a) Principles of job development, supported employment, and psychological rehabilitation~~

- ~~_____ (b) Vocational and work assessment~~
- ~~_____ (c) Value to work~~
- ~~_____ 1. Employer support~~
- ~~_____ 2. Assuming and utilizing natural support system at a work site~~
- ~~_____ 3. Work culture~~
- ~~_____ 4. Americans with Disability Act~~
- ~~_____ 5. Rights of service recipients with mental illness regarding work~~
- ~~_____ 6. Community support systems, community based services and systems of care, community resources and linkages with these resources~~
- ~~_____ 7. Cultural diversity~~
- ~~_____ 8. Behavioral characteristics of service recipients with mental illness~~
- ~~_____ 9. Stress management skills for vocational workers~~
- ~~_____ 10. Data management and record keeping~~
- ~~_____ 11. Agency policies and procedures~~
- ~~_____ 12. Psychiatric medications and their side effects~~
- ~~_____ 13. Fire safety~~

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

~~0940-05-34-04 Individual Assessment Requirements.~~

- ~~_____ (1) The program must ensure that the following assessments are completed prior to the development of the Plan of Care and are maintained in the service recipient's record.~~
 - ~~_____ (a) Living arrangements~~
 - ~~_____ (b) Vocational/Educational~~
 - ~~_____ (c) Social supports~~
 - ~~_____ (d) Financial~~
 - ~~_____ (e) Basic medical history and current health information~~
 - ~~_____ (f) Leisure/Recreational~~
 - ~~_____ (g) Emotional/Behavioral health~~
 - ~~_____ (h) Transportation~~
 - ~~_____ (i) Medications~~
 - ~~_____ (j) History of prior mental health and alcohol and drug treatment episodes~~

- ~~_____ (2) Assessments must be completed in face to face session(s) with the service recipient and~~

document how they effect the Plan of Care.

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

~~0940-05-34-05 Individual Plan of Care Requirements.~~

- ~~(1) A Plan of Care must be developed for each service recipient. The plan must be based on initial and on-going assessment of needs and strengths and must be completed within fourteen (14) days of admission into the vocational program. Documentation of the plan must be made in the service recipient's record and must include the following:
 - ~~(a) Service recipient's name.~~
 - ~~(b) Date of plan of care development.~~
 - ~~(c) Needs and strengths of the service recipient that are to be addressed within the particular service/program component.~~
 - ~~(d) Observable and measurable service recipient long and short term goals that are related to specific needs identified and which are to be addressed by the particular service/program component.~~
 - ~~(e) Interventions that address specific goals and objectives, identify staff responsible for interventions, and planned frequency of contact.~~
 - ~~(f) Signature(s) of the staff who develop the plan and the primary staff responsible for its implementation.~~
 - ~~(g) Signature of service recipient (and/or conservator, legal guardian, or attorney in fact). Reasons for refusal to sign and/or inability to participate in the Plan of Care development must be documented.~~~~
- ~~(2) The Plan of Care must be reviewed by program staff and the service recipient within three months of the initial development of the Plan of Care. The second review must take place within six months after the development of the Plan of Care, and every six months thereafter. The review must include the following documentation:
 - ~~(a) Dated signature(s) of appropriate staff; and~~
 - ~~(b) An assessment of progress toward each goal and/or objective with revisions as indicated.~~~~

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

~~0940-05-34-06 Individual Record Requirements.~~

- ~~(1) The service recipient record for each service recipient must contain the following information:
 - ~~(a) Record of attendance at program services;~~
 - ~~(b) Discharge summary which states, if appropriate, service recipient condition at the time of discharge and signature of staff person preparing the summary.~~
 - ~~(c) Progress notes which must include written documentation of progress and changes which have occurred within the Plan of Care and, at a minimum must be developed on a weekly basis. Progress notes must be dated and minimally include the signature, with title or degree, of the person preparing the note.~~~~

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

~~0940-05-34-.07 Additional Environmental Requirements.~~

- ~~(1) If different therapeutic and/or vocational/educational training activities are to be conducted at the same time, the facility must have separate areas for each activity.~~
- ~~(2) Each skills training area must contain and have readily available equipment and supplies which are appropriate and necessary to conducting skills training activities.~~

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

REDLINE