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# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

<b>Agency/Board/Commission:</b>	Tennessee Department of Mental Health and Developmental Disabilities
<b>Division:</b>	Division of Mental Health Services
<b>Contact Person:</b>	Karen Edwards, Rules Coordinator
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

<b>ADA Contact:</b>	Gwen Hamer
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**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	710 James Robertson Parkway		
Address 2:	First Floor, Andrew Johnson Tower		
City:	Nashville		
Zip:	37243		
Hearing Date :	11/20/2009		
Hearing Time:	9:30 AM	<input checked="" type="checkbox"/> CST	<input type="checkbox"/> EST

**Additional Hearing Information:**

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**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

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

Chapter Number	Chapter Title
0940-03-13	Admission to a Regional Mental Health Institute (RMHI)
Rule Number	Rule Title
0940-03-13-.01	Definitions

0940-03-13-02	General Admission Requirements
0940-03-13-03	Determination of Bed Capacity
0940-03-13-04	Determination of Geographic Catchment Areas
0940-03-13-05	Verification of Available Suitable Accommodations
0940-03-13-06	Policies and Procedures
0940-03-13-07	Waiting Lists
0940-03-13-08	Transportation to an RMHI

(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>)

0940-03-13-.01 Definitions.

- (1) "Available suitable accommodations" means that an RMHI has the capacity, as reasonably determined by the Commissioner in accordance with these rules, and the medical capability, equipment and staffing to provide an appropriate level of care, treatment and physical security to a service recipient in an unoccupied and unassigned bed.
- (2) "Certificate of need" means, for the purposes of this chapter, a certification of need for care and treatment for a service recipient with mental illness or serious emotional disturbance who meets the criteria for involuntary commitment under T.C.A. Title 33, Chapter 6, Part 4 or Part 5.
- (3) "Commissioner" means the Commissioner of the Department of Mental Health and Developmental Disabilities.
- (4) "Department" means the Tennessee Department of Mental Health and Developmental Disabilities.
- (5) "Forensic" means admission legal status resulting from a court order for admission under T.C.A. Title 33, Chapter 7, Part 3.
- (6) "Geographic Catchment Area" means those counties assigned to an RMHI by the Commissioner.
- (7) "Local RMHI" means the RMHI for an assigned catchment area.
- (8) "Mandatory Pre-screening Agent" means a person meeting criteria required by T.C.A. § 33-6-427 who is designated by the Commissioner to perform pre-screening of service recipients for emergency involuntary admission.
- (9) "Medical capability" means that an RMHI has the ability to treat a service recipient's medical needs onsite or that the service recipient's medical needs do not exceed the onsite capability of the RMHI to treat.
- (10) "Regional Mental Health Institute or RMHI" means a state owned or operated hospital for service recipients with mental illness or serious emotional disturbance.
- (11) "Service Recipient" means, for the purposes of this chapter, a person who is receiving service, has applied for service, or for whom someone has applied for or proposed service because the person has mental illness or a serious emotional disturbance.
- (12) "Transportation agent" means, for the purposes of this chapter:
  - (a) The sheriff in a county in which a service recipient with mental illness or serious emotional disturbance is detained;
  - (b) A secondary transportation agent under T.C.A. § 33-6-901;
  - (c) A municipal law enforcement agency that meets the requirements as a secondary transportation agent; or
  - (d) One or more friends, neighbors or other mental health professionals familiar with the service recipient, relatives of the service recipient, or a member of the clergy.
- (13) "Written Verification Statement" means a written statement verifying available suitable accommodations provided by a referral source who has contacted the RMHI about the availability of suitable accommodations. This statement shall include the name of the service recipient, the name of the RMHI with available suitable accommodations, a confirmation number from the

RMHI, and the name and phone number of the referral source or the referral source's designated contact person.

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

0940-03-13-.02 General Admission Requirements.

- (1) All admissions or transfers to an RMHI shall be subject to available suitable accommodations.
- (2) Verification of available suitable accommodations does not guarantee admission into an RMHI. Admissions for service recipients under T.C.A. Title 33, Chapter 6, Part 2 or 4 are dependent on the service recipient meeting admission criteria as determined by the receiving RMHI.
- (3) Priority for admission shall be given to persons referred for an emergency admission.
- (4) All admissions or transfers to an RMHI shall be subject to specific geographic catchment areas defined by the Commissioner or designee, unless the Commissioner or designee determines otherwise.
- (5) Before referring a service recipient to an RMHI, the referral source shall contact the RMHI's Admission Office to determine whether there are available suitable accommodations.
- (6) If the RMHI has available suitable accommodations, the RMHI shall provide a verification of available suitable accommodations with a confirmation number to the referral source or designee.
- (7) The RMHI shall provide written verification of available suitable accommodations with a confirmation number to the referral source or designee by fax or email when possible. When it is not possible to provide written verification of available suitable accommodations, the RMHI may provide verification with a confirmation number by telephone to the referral source or the referral source's designated contact person.
- (8) If a local RMHI does not have available suitable accommodations, the local RMHI shall offer to contact the other RMHIs to determine if there are available suitable accommodations in an alternate RMHI and to provide contact information for the RMHI with available suitable accommodations.
- (9) The referral source may decide to place a service recipient on a waiting list at a local RMHI if:
  - (a) The local RMHI has no available suitable accommodations and the referral source declines a referral to an alternate RMHI; or
  - (b) None of the RMHIs have available suitable accommodations.
- (10) If a service recipient is placed on a waiting list of a local RMHI, the RMHI shall check at least daily with other RMHIs until available suitable accommodations are located or the referral source requests that the service recipient be removed from the waiting list.
- (11) If a service recipient arrives at an RMHI without a written verification statement with a confirmation number from the referral source or designee, a bed may not be available in the RMHI.
- (12) If during the evaluation for admission, it is determined that the service recipient has a physical disorder that requires immediate medical care that the RMHI cannot appropriately provide, the service recipient shall be sent for treatment of the medical condition prior to being admitted to the RMHI. Any service recipient diverted for medical treatment with a valid confirmation number may be transported back to the RMHI for an evaluation for admission.
- (13) The RMHI may cancel a confirmation number when it is reasonable to do so. Prior to canceling a confirmation number, the RMHI shall contact the referral source or designee. When a service

recipient's confirmation number is canceled, that service recipient may be placed on a waiting list for possible future admission.

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

0940-03-13-.03 Determination of Bed Capacity.

- (1) The Commissioner or designee shall at least annually establish the bed capacity for each RMHI no later than 30 days after the beginning of the fiscal year.
- (2) The Commissioner or designee may consider bed utilization trends and the geographic distribution of admissions to determine bed capacity.
- (3) The Commissioner or designee may, at his or her discretion, change the bed capacity at any RMHI based on the following considerations:
  - (a) The need to provide an appropriate level of care, treatment and physical security;
  - (b) The need to reduce admission delays;
  - (c) The ability of facilities to meet the needs of special populations;
  - (d) The ability of facilities to respond to unusual events or disasters;
  - (e) Contractual relationships with health plans; and/or
  - (f) The need to respond to other factors that may arise.
- (4) The Department shall maintain information concerning the bed capacity of each RMHI that shall be available to the public.
- (5) The bed capacity for the following special populations within an RMHI may be calculated as follows:
  - (a) The number of beds at the Forensic Services Program at Middle Tennessee Mental Health Institute shall be calculated separately from other beds at the RMHI.
  - (b) The number of forensic beds shall be calculated separately from the other adult beds at the RMHI.
  - (c) The number of children and youth beds within an RMHI shall be calculated separately from the adult beds at the RMHI.

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

0940-03-13-.04 Determination of Geographic Catchment Areas.

- (1) The Commissioner or designee shall establish, at least annually, the geographic catchment area for each RMHI no later than 30 days after the beginning of the fiscal year.
- (2) The Commissioner or designee may consider bed utilization trends and the geographic distribution of admissions to determine geographic catchment areas.
- (3) The Commissioner or designee may, at his or her discretion, change the geographic catchment area at any RMHI based on the following considerations:
  - (a) The need to provide an appropriate level of care, treatment and physical security;
  - (b) The need to reduce admission delays;

- (c) The ability of facilities to meet the needs of special populations;
  - (d) The ability of facilities to respond to unusual events or disasters;
  - (e) Contractual relationships with health plans; and/or
  - (f) The need to respond to other factors that may arise.
- (4) The Department shall inform courts, law enforcement and major referral sources such as crisis response providers, emergency departments of general hospitals, and mental health and substance abuse providers of changes in the geographic catchment areas.
  - (5) The Department shall maintain information concerning the geographic catchment area of each RMHI that will be available to the public.
  - (6) The geographic catchment area for the following special populations within an RMHI may be determined as follows:
    - (a) The geographic catchment area for the Forensic Services Program at Middle Tennessee Mental Health Institute beds shall be determined separately from the other beds at the RMHI.
    - (b) The geographic catchment area for forensic beds may be determined separately from the other adult beds at an RMHI.
    - (c) The geographic catchment area for children and youth beds within an RMHI may be determined separately from the adult beds at an RMHI.

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

0940-03-13-.05 Verification of Available Suitable Accommodations.

- (1) An RMHI shall provide verification of available suitable accommodations, including a confirmation number, if the following conditions occur:
  - (a) The RMHI can provide an appropriate level of care, treatment and physical security to an individual in an unoccupied and unassigned bed; and
  - (b) A referral for admission has been made through any of the following means:
    1. A certificate of need for emergency involuntary hospitalization for a service recipient under T.C.A. Title 33, Chapter 6, Part 4;
    2. An order from a court with proper jurisdiction under T.C.A. § 33-7-301(a);
    3. An order from a court with proper jurisdiction under T.C.A. § 33-7-301(b);
    4. An order from a court with proper jurisdiction under T.C.A. § 33-7-303(c);
    5. An order from a court with proper jurisdiction under T.C.A. § 37-1-128;
    6. An order from a court with proper jurisdiction under T.C.A. Title 33, Chapter 6, Part 5;
    7. An order from a court with proper jurisdiction for admission under T.C.A. § 33-3-607;
    8. An order from a court with proper jurisdiction for recommitment for failure or

inability to comply with a treatment plan under T.C.A. §§ 33-6-610 or 33-6-611;

9. A written statement from a qualified mental health professional that the service recipient meets the conditions for recommitment for failure or inability to comply with a treatment plan under T.C.A. §33-6-615;
10. A written report from a licensed physician or licensed psychologist designated as a health service provider that a service recipient in a youth development center meets the conditions for admission under T.C.A. §§ 33-3-401 or 33-3-412;
11. A written report from a licensed physician or licensed psychologist designated as a health service provider that a service recipient in an RMHI of the Department of Corrections meets the conditions for admission under T.C.A. §§ 33-3-402 or 33-3-403;
12. A letter from the Commissioner authorizing the transfer of the service recipient from another facility or from a state owned or operated developmental center under T.C.A. § 33-3-301;
13. A letter from the DMHDD Interstate Compact Coordinator indicating that the service recipient has been approved for interstate transfer under T.C.A. § 33-9-201;
14. Approval by the RMHI chief executive officer or designee for the transfer of a service recipient from a private facility under T.C.A. § 33-3-301; or
15. Application for voluntary admission under T.C.A. § 33-6-201.

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

0940-03-13-.06 Policies and Procedures.

- (1) Each RMHI shall have written policy and procedures approved by the Department to govern the determination of available suitable accommodations at the RMHI including, but not limited to, the following:
  - (a) A policy stating that a bed assigned to a service recipient is not available until that service recipient has been discharged;
  - (b) Procedures for managing service recipients who arrive at the RMHI without written verification of available suitable accommodations;
  - (c) Procedures for tracking and reporting data pertinent to this chapter; and
  - (d) Policies and procedures for maintaining waiting lists including, but not limited to, the following:
    1. Internal review and oversight of waiting lists at an RMHI; and
    2. Identifying available suitable accommodations at other facilities when a suitable accommodation is not available in the RMHI.
- (2) The Department shall review RMHI policies and procedures governing the determination of available suitable accommodations to ensure that the policies are as uniform as possible.

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

0940-03-13-.07 Waiting Lists.

- (1) Each RMHI shall establish waiting lists for service recipients referred for admission when:
  - (a) An RMHI has no available suitable accommodations and the referral source seeking a bed declines to accept a referral to an RMHI in another catchment area; or
  - (b) All RMHIs have no available suitable accommodations.
- (2) Each RMHI shall maintain waiting lists for service recipients referred from its catchment area and a service recipient shall not be placed on a waiting list for more than one RMHI unless approved by the Commissioner or designee.
- (3) Each RMHI shall work their waiting lists on a daily basis and continue to check for available suitable accommodations at the other RMHIs to minimize the length of time a service recipient waits for services.
- (4) Any referral source who decides to place a service recipient on a waiting list of a local RMHI shall provide the RMHI with:
  - (a) The service recipient's name; and
  - (b) The name and contact information for the referral source or designee.
- (5) The RMHI shall notify the referral source or designee as soon as a bed becomes available and provide verification of available suitable accommodations with a confirmation number.
- (6) As beds become available, they shall be offered to service recipients in the order in which they were placed on a waiting list based on the following priority order:
  - (a) Referrals for emergency involuntary admission;
  - (b) Referrals for non-emergency involuntary admission including forensic admission; and
  - (c) Referrals for voluntary admission.

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

0940-03-13-.08 Transportation to an RMHI.

- (1) General Transportation Requirements. Transportation to an RMHI should only commence when the transporting person has been provided with:
  - (a) A written verification statement from the referral source or designee that the RMHI has been contacted and has verified available suitable accommodations with a confirmation number; and
  - (b) Evidence that the person in need of treatment meets criteria for referral. Evidence shall be one of the following:
    1. A certificate of need for emergency involuntary hospitalization for a service recipient under T.C.A. Title 33, Chapter 6, Part 4;
    2. An order from a court with proper jurisdiction under T.C.A. § 33-7-301(a);
    3. An order from a court with proper jurisdiction under T.C.A. §§ 33-7-301(b);
    4. An order from a court with proper jurisdiction under T.C.A. § 33-7-303(c);
    5. An order from a court with proper jurisdiction under T.C.A. § 37-1-128;



6. An order from a court with proper jurisdiction under T.C.A. Title 33, Chapter 6, Part 5;
  7. An order from a court with proper jurisdiction for admission under T.C.A. § 33-3-607;
  8. An order from a court with proper jurisdiction for recommitment for failure or inability to comply with a treatment plan under T.C.A. §§ 33-6-610 or 33-6-611;
  9. A written statement from a qualified mental health professional that the service recipient meets the conditions for recommitment for failure or inability to comply with a treatment plan under T.C.A. §33-6-615;
  10. A written report from a licensed physician or licensed psychologist designated as a health service provider that a service recipient in a youth development center meets the conditions for admission under T.C.A. §§ 33-3-401 or 33-3-412;
  11. A written report from a licensed physician or licensed psychologist designated as a health service provider that a service recipient in an RMHI of the Department of Corrections meets the conditions for admission under T.C.A. §§ 33-3-402 or 33-3-403;
  12. A letter from the Commissioner authorizing the transfer of the service recipient from another RMHI or from a state owned or operated developmental center under T.C.A. § 33-3-301;
  13. A letter from the Interstate Compact Coordinator of the Department of Mental Health and Developmental Disabilities indicating that the service recipient has been approved for interstate transfer under T.C.A. § 33-9-201; or
  14. Approval by the RMHI chief executive officer or designee for the transfer of a service recipient from a private facility under T.C.A. § 33-3-301.
- (2) Transportation to an RMHI by a Sheriff or Secondary Transportation Agent for Emergency Involuntary Hospitalization under T.C.A. Title 33, Chapter 6, Part 4.
- (a) If the certificate of need and the written statement verifying that the RMHI has available suitable accommodations is not provided, then the sheriff or secondary transportation agent is not required to take custody of the service recipient for transportation.
  - (b) Failure of the sheriff or secondary transportation agent to provide both a certificate of need and the written statement verifying that the RMHI has available suitable accommodations shall result in all costs of the service recipient's admission and treatment being assessed to the transporting county.

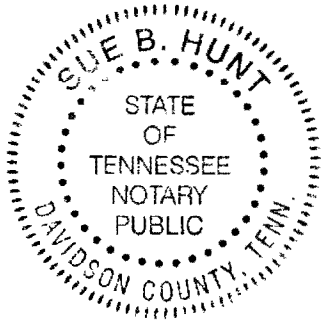
Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-305; 33-1-309; and 33-2-301.

#### 0940-03-13-.09 Reporting Requirement

- (1) The Department shall report quarterly to the House Health and Human Resources Committee, the Senate General Welfare, Health and Human Resources Committee, and the Finance, Ways and Means Committees of both the House and Senate the implementation and the impact of available suitable accommodations, including the number and length of any delayed admissions.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-305; 33-1-309; 33-2-301; and 33-6-101.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.



Date: 9-30-2009

Signature: [Handwritten Signature]

Name of Officer: Zachary S. Griffith

Title of Officer: General Counsel

Subscribed and sworn to before me on: Sept. 30, 2009

Notary Public Signature: Sue B. Hunt

My commission expires on: July 8, 2013

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Filed with the Department of State on: 9/30/09

[Handwritten Signature]

Tre Hargett  
Secretary of State

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