

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 580 Department or Agency Mental Health

Rule No. Chapter 580-5-31

Rule Title: Program Administrative Standards

 New Amend X Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? NO

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

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Does the proposed rule have an economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Debbie Popwell

Date 2/23/12

Department of Mental Health

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Mental Health

RULE NO. & TITLE: Chapter 580-5-31 Program Administrative Standards

INTENDED ACTION: Repealed

SUBSTANCE OF PROPOSED ACTION:

Repealed because it is no longer necessary. The text appears in another Chapter.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

All interested persons may submit data, views, or arguments in writing to Debbie Popwell, Director, Office of Certification, Alabama Department of Mental Health, 100 North Union Street, Montgomery, Alabama 36130 by mail or in person between the hours of 8:00AM and 5:00PM, Monday through Friday, or by electronic means to debbie.popwell@mh.alabama.gov until and including May 4, 2012. Persons wishing to submit data, views, or arguments orally should contact Ms. Popwell by telephone at (334)353-2069 during this period to arrange for an appointment.

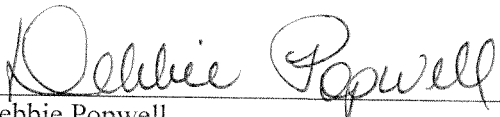
FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

May 4, 2012

CONTACT PERSON AT AGENCY:

Persons wishing a copy of the proposal may contact
Debbie Popwell
Department of Mental Health/Mental Retardation
100 North Union Street
Montgomery, Alabama 36130
(334)353-2069

A copy of the proposed change is available on the department's website at <http://mh.alabama.gov>



Debbie Popwell
Office of Certification

ALABAMA DEPARTMENT OF MENTAL HEALTH

DIVISION OF DEVELOPMENTAL DISABILITIES
ADMINISTRATIVE CODECHAPTER 580-5-31
PROGRAM ADMINISTRATIVE STANDARDS "Repealed"

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580-5-31-.01 Adoption by Reference. Regulations in this Chapter supplement regulations in Chapter 580-3-24 to meet requirements of state or federal law and/or the funding source for the provision of services and supports to individuals with intellectual disabilities.

Author: Division of Developmental Disabilities, (DMH)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: Repealed and New Rule: Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011; effective February 21, 2012.

580-5-31-.02 Policies and Procedures.

(1) The agency has policies and procedures in a manual form that are approved by the governing body at least annually.

(2) There is evidence that the policies and procedures required by the Alabama Administrative Code are followed by agency personnel.

(3) The provider shall implement written policies and procedures approved by the Board of Directors that prohibit creation after the fact, alteration, or falsification of original administrative or clinical documentation in order to make it appear that the documentation is original, factual, or occurred at some time other than it actually did to give the appearance of on-going compliance with these standards or other applicable regulations.

(4) The policy and procedure manual shall be available to all employees at each site.

(5) Policies and procedures must be available which address, at the very least, the following:

(a) All employees/volunteers/agents of the provider will have reference and background checks prior to employment. Policy and practice should include the following:

1. A description of the manner in which references and background checks and drug screening will be conducted and documented prior to employment/ engagement of all employees who directly provide supports to people.

2. Background checks must cover the employer's local vicinity, as well as statewide, and national checks are completed if applicable. Resources to assist in this process will include the Department of Public Safety, the Department of Public Health's Abuse Registry, the Department of Human Resources' Abuse Registry, as well as DMH/ID's Term-Trac database.

3. Urine drug testing is included as part of the employment screening process.

(b) No prospective employee will be hired who has been convicted of assaulting any person.

(c) The implementation of the Division of Developmental Disabilities Community Incident Prevention and Management System (IPMS).

1. Investigations follow minimum protocols as specified in DMH Community IPMS guidelines.

2. There is documentation that the agency conducts investigations in accordance with timelines established by the IPMS-Community guidelines.

3. There is documentation of the procedure for the reporting of incidents and injuries that is in accordance with all applicable laws and DMH requirements, including the ID's Community Incident Prevention and Management Plan.

4. There is documentation for the internal investigation/review and follow up action of all allegations of abuse/neglect, allegations of mistreatment or exploitation, alleged violations of the rights of persons served, and suspicious deaths must be included.

5. Investigation outcomes and recommended actions are implemented by the agency in accordance with the IPMS-Community guidelines.

(d) A comprehensive mortality review is completed and available, as applicable.

(e) Assurance of safety and sanitation.

(f) Protection of the financial interests of each person served.

(g) Affirmation and protection of each person's welfare, including their civil and legal rights as citizens of Alabama as guaranteed by State Laws, Federal Laws, and the U.S. Constitution. There must be written policies and procedures that protect each person's welfare, the manner in which the person is informed of these rights and protections, and the means by which these protections will be enforced.

1. Each person is informed of his/her rights and responsibilities and procedures describe how the entity will comply with this policy.

2. Procedures for the initiation, review, and resolution of complaints and grievances.

3. Due process when it is proposed that a person's rights be restricted for any reason, including review by a Human Rights Committee.

4. The provision of services in a safe and humane environment.

5. Privacy, including the conducting of a search.
6. Confidentiality of all personal information.
7. Access to all information in his/her records.
8. Disclosure of services provided, any applicable charges for services and any limitation placed on the duration of the services.
9. Written informed consent prior to participation in any research or experimentation, including information presented in a non-threatening environment, in language and format appropriate to the person's ability to understand.
10. Freedom from physical, verbal, sexual, or psychological abuse, exploitation, coercion, reprisal, intimidation, or neglect. Policy prohibits and defines the aforementioned.
11. Access to and privacy of mail, telephone communications, and visitors.
12. Free exercise of religion.
13. Treatment which emphasizes dignity and respect for persons served on an individual basis.
14. Freedom to exercise rights without fear of reprisal.
15. Physical and chemical restraints used only in accordance with established standards of medical, social, and educational care, taking into consideration the health status of the person involved.
16. Adequate food and shelter when receiving residential supports.
17. Access to dental and medical care, including vision and hearing services.
18. Access to services in their community and local neighborhood and inclusion in the community with appropriate and adequate supports.

19. Participation in the political process in the United States and the State of Alabama, including the right to vote if over the age of 18.

20. Enforcement of rights in a court of competent jurisdiction or appropriate administrative proceeding.

21. Presumption of competence until a court of competent jurisdiction determines otherwise.

(h) Criteria for admission and discharge.

(i) Description of services offered, individualization of services, and types of supports provided to enhance each person's ability to function in society as independently as possible.

(j) The administration of medication, to include the handling of medication errors.

(k) Medical treatment and emergency medical services.

(l) Recruitment, training, and use of volunteers.

Author Division of Developmental Disabilities, (DMH)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: **Repealed and New Rule:** Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011; effective February 21, 2012.

580-5-31-.03 Personnel Qualifications. Employees who directly provide supports to people possess the education and licensing credentials required by the applicable funding source and state law.

(1) Case managers must complete a case management training program approved by DMH/DDD and the Alabama Medicaid Agency.

(2) Students (unpaid workers) who are completing a degree in psychology, counseling, social work, or psychiatric nursing may be used for direct services under the following conditions:

(a) The student is in a clinical practicum that is part of an officially sanctioned academic curriculum.

(b) The student receives a minimum of one hour per week direct clinical supervision from a licensed/certified

mental health professional having at least 2 years post-master's experience in a direct service functional area.

(c) The student's clinical notes are co-signed by the student's supervisor described above.

Author: Division of Developmental Disabilities, (DMH)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: Repealed and New Rule: Filed February 4, 2005; effective March 10, 2005. Amended: Filed October 19, 2011; effective February 21, 2012.

580-5-31-.04 Employee Training and Training Records.

(1) Employee Orientation. Agencies shall assure orientation/training for each employee. Documentation of all employees training is maintained by the agency on site. Training in specific topics must be completed and documented prior to a new employee's unsupervised contact with consumers.

a) Prior to assuming their assigned position, every direct contact employee receives training in at least the following areas: rights of people served, to include the recipient complaint/grievance procedure; abuse, neglect, mistreatment, and exploitation policy and procedures; overview of intellectual disabilities; infection control/universal precautions; severe weather preparedness; and fire safety. Medication assistance training is provided as applicable, and must be provided by a licensed practical or registered nurse and in compliance with the Nurse Practice Act and Administrative Code.

(b) Prior to working alone and within at least 90 days of employment, all employees who directly provide supports to people receive training in at least the following areas: CPR; first aid; medical emergencies; management of aggressive behavior, medication training; signs and symptoms of illness; incident identification/reporting, and other training specific to the characteristics of persons served (including but not limited to: seizure management, physical management techniques related to feeding and positioning, habilitation training programs, and behavior support programs) as applicable.

(c) Within ninety (90) days of employment, all employees who directly provide supports to people receive training in the following areas: Agency policy and

procedures, philosophy of self-determination, and person-centered supports and general behavioral principles emphasizing skill acquisition and behavior reduction techniques.

(2) Annual Training/Retraining. Annually, all employees receive refresher training in the following areas: Rights of people served, to include the recipient complaint/ grievance procedure; abuse, neglect, and mistreatment and exploitation policy and procedures; and infection control/universal precautions. Additionally, all employees who directly provide supports to people receive refresher training annually regarding management of aggressive behavior and side effects of medication.

(a) The agency ensures that all employees who directly provide supports to people maintain current certification in CPR and First Aid.

(b) New staff who have direct contact (staff who provide direct hands-on services) with individuals served shall have a TB skin test with documented results, unless there is written evidence that such testing has previously been done or there is a medical contraindication for the procedure.

1. A one-step TB test will be conducted annually on each employee who has direct contact with individuals served.

2. The agency must prohibit employees with symptoms or signs of a communicable disease from direct contact with clients and their food.

Author: Division of Developmental Disabilities, (DMH)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: Repealed and New Rule: Filed February 4, 2005; effective March 10, 2005. Amended: Filed March 27, 2007; effective May 1, 2007. Amended: Filed October 19, 2011; effective February 21, 2012.

580-5-31-.05 Staffing Assignments/Ratios.

(1) Agencies shall ensure that staffing ratios meet the needs of persons served, as identified by their Support Team.

(2) Agencies shall ensure staff assignments and accountability are clearly documented.

Author: Division of Developmental Disabilities, (DMH)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-31-.06 Quality Enhancement.

(1) The Quality Enhancement Plan has been approved by the agency's board of directors and is available for review by designated DMR staff. There is evidence that the Regional Quality Enhancement (QE) staff review the QE plan, or attend the QE meeting during development.

(2) The Quality Enhancement Plan includes mechanisms for:

(a) Problem identification/opportunity for improvement (Indicators).

(b) Assessment/analysis of identified performance problems.

(c) Documentation of problem resolution/improvements.

(d) A follow-up assessment to evaluate corrective action.

(e) Specification of frequency of monitoring for each indicator and the period of time that monitoring will continue after goal attainment is achieved.

(3) The agency implements the Quality Enhancement Plan as written, including corrective action, improvement, and follow-up strategies based on analysis of data/information obtained through the quality enhancement process.

(4) Records and data are available that document quality enhancement activities.

(5) There is evidence that actions were taken, as appropriate, based on data obtained from quality enhancement monitoring and evaluation activities.

(6) Consumer Satisfaction Surveys. The agency utilizes consumer satisfaction surveys as a component of the Quality Enhancement Plan.

(a) Consumer satisfaction survey indicators are identified based on consumer's needs and expressed desires or concerns.

(b) Actions are taken as a result of completed consumer satisfaction surveys submitted to the agency.

(7) Incident/Injury Data. The agency utilizes incident/injury data and information as a component of the Quality Enhancement Plan to prevent the probability of future incidents and to ensure consumer safety.

(a) Incidents are documented and reported, minimally, in accordance with the Division's Community Incident Prevention and Management Plan.

(b) Analyses of individual incidents and aggregate incident data lead to actions to correct problems, actions to prevent future incidents, and actions to improve both specific and systemic issues for the overall improvements in services.

(8) Utilization Review. The agency employs a Utilization review process as a component of the Quality Enhancement Plan.

(a) Each person's eligibility for services/supports is reviewed/re-determined annually by designated DMH/ID staff in accordance with established eligibility criteria and DMH Policy, per Alabama Medicaid Agency regulations.

(b) The Case Manager's quarterly review, as applicable, of the support plan confirms whether the appropriate level of care and supports are actually being provided to the person.

(c) The entity follows established procedures for referring people to other entities and/or other generic community or state agencies when there are changes in the needs of the person's residential or other services.

Author: Division of Developmental Disabilities, (DMH)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: **New Rule:** Filed February 4, 2005; effective March 11, 2005.

580-5-31-.07 Incident Prevention and Management.

All certified agencies are required to implement a Community Incident Prevention and Management Plan (IPMS) as

required by the Department of Mental Health, Division of Developmental Disabilities, to protect individuals served from harm and to improve the agency's responsiveness to incidents for the purposes of prevention of harm and risk management.

(1) Each certified agency must notify DDD of all reportable incidents and take actions in accordance with the Community IPMS requirements, which include state law and funding source requirements.

(2) Each certified agency shall make changes/enhancements in the agency's QE Plan as required by DMH/DDD to incorporate innovative strategies for the prevention and management of incidents, to address incident trends, and to update requirements of state law.

Author: Division of Developmental Disabilities, (DMH)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: New Rule: Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011; effective February 21, 2012.

580-5-31-.08 Client Funds.

(1) The agency shall assure that policies outline under what conditions staff will be responsible for the money of the people it serves.

(2) The agency shall assure that appropriate consents are obtained for the agency's management of an individual's personal funds.

(3) The agency shall assure a full and complete accounting of the personal funds for the people that it serves. At least a quarterly report shall be made to the client or their guardian of revenues, expenditures, and the balance of the account(s).

(4) The agency shall require that an individual fiscal assessment be made before any limitation is placed on a person managing his/her personal funds. The following must be addressed:

(a) Procedures for persons to gain access to their personal funds when the agency is the representative payee or otherwise the custodian of the person's personal funds.

(b) Any limitations on the manner and frequency in which funds can be accessed.

(c) Any limitations on the amount of funds that can be kept in the person's personal possession.

(d) Requirements for the agency on the management, accounting, and reporting of personal funds.

(e) Requirements for obtaining the consent of the person or guardian for the entity to manage personal funds when the entity is not the representative payee, and

(f) Regular accounting to the person served and/or their legal guardian of all expenditures and credits.

(5) The record of persons who have a limitation placed on their ability to personally manage their funds shall document:

(a) That there was an assessment of the person's ability to manage their funds.

(b) The limitation was discussed with the person or their legal guardian.

(c) Any limitation is addressed in the persons' service plan identifying supports targeted to remove the limitation and enhance the persons' ability to be independent.

(d) The limitation is periodically reviewed and evaluated regarding its continued appropriateness by the individual's support team.

Author: Division of Developmental Disabilities, (DMH)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-31-.09 Individual Service Records. The agency shall maintain an individual record for each person served.

(1) Records include, but are not limited to: eligibility documentation, needs assessment, personalized program service plan, documentation of plan implementation and revisions, medical/health information, behavior support plans, other assessment information, and consents.

(2) Documentation and corrections in the individual's record comply with agency policy and legal requirements, and are signed and dated by the person completing it.

Author: Division of Developmental Disabilities, (DMH)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-31-.10 Safety and Sanitation.

(1) Agency assures safety is maintained and sanitation is adequate, meeting minimum standards for physical facilities, to keep individuals and employees safe.

(2) The agency must provide instructions for and practice the use of universal precautions as specified by the U.S. Department of Public Health Centers for Disease Control and Prevention.

(3) The agency must be prepared to respond to natural disasters.

(4) The agency assures that the building temperature is comfortable for persons served, according to weather conditions.

(5) The agency must be prepared to respond to extraordinary incidents such as workplace violence.

Author: Division of Developmental Disabilities, (DMH)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-31-.11 Human Rights Committee. (Repealed)

Author: Division of Developmental Disabilities, (DMH)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: Filed February 4, 2005; effective March 10, 2005.

Repealed: Filed March 27, 2007; effective May 1, 2007.

580-5-31-.12 Behavior Program Review Committee.

(1) Agencies shall access a Behavior Program Review Committee (BPRC) to serve in an advisory capacity to the agency's program director on best practices in the area of behavioral supports. Certified programs are responsible

for accessing the BPRC for issues with individuals who exhibit challenging behaviors in which a Behavior Support Plan (BSP) with restrictive procedures is proposed in an attempt to modify those behaviors. The BPRC reviews and approves all such programs prior to implementation (except in the event of an emergency situation in which the individual would harm self or others if the procedure was not immediately implemented. In this event, approval is immediately obtained afterwards from the designated agency professional).

(2) An agency may choose to develop its own BPRC. If so, the committee shall be appointed and serve at the pleasure of the agency's Director or designee and be comprised of at least one or more members who have expertise in the area of behavior analysis, and the majority of members have expertise in psychological principles of learning and program development and implementation. Members shall be a combination of program and non-program professional.

(3) The BPRC membership operations and activities are guided through policies and procedures established by the agency and approved by the Director or designee.

(a) Policies and procedures indicate the representation of the committee and terms of service.

(b) Policies and procedures indicate operational procedures to include minimally the following:

(i) frequency of meetings (at least quarterly)

(ii) frequency of review of individual's behavior support programs (e.g. at least annually and more often when the individual's behavior does not show progress)

(iii) obtaining and maintaining signed confidentiality statements from members preventing disclosure of any matters of committee business.

(c) Policies and procedures indicate the activities for which the committee is responsible to include minimally the following:

(i) reviewing and making recommendations for behavioral programs that provide quality treatment to individuals;

(ii) advising the Director or designee on the use of restrictive procedures within behavior support plans, to include the use of psychotropic medication(s);

(iii) reviewing and making recommendations for behavioral contingencies approved to be utilized by the program;

(iv) reviewing the consumer's Individual Program Plan (IPP) to ensure it contains objectives to replace maladaptive or otherwise socially undesirable behaviors.

(4) There is evidence/documentation of the outcome of each meeting of the agency's own or accessed Behavior Program Review Committee.

(5) There is evidence that the agency implements recommendations provided by the Behavior Program Review Committee as applicable.

Author: Division of Developmental Disabilities, (DMH)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: New Rule: Filed February 4, 2005; effective March 11, 2005.