

**TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION**

Control 580 Department or Agency Alabama Department of Mental Health  
Rule No. .05 Chapter 580-3-23  
Rule Title: Applicability.

\_\_\_\_\_ New X Amend \_\_\_\_\_ 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 \_\_\_\_\_

.....  
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: Donnie Popwell

Date 10/13/16

**Alabama Department of Mental Health**

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Mental Health

RULE NO. & TITLE: CHAPTER 580-3-23-.05 Applicability.

INTENDED ACTION: Amendment

SUBSTANCE OF PROPOSED ACTION:

This rule is to allow the Department of Mental Health Commissioner the authority to waive educational requirements in lieu of equivalent experience for executive directors of community programs.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

All interested persons may submit data, views, or arguments in writing to Debbie Popwell, Director, Office of Certification Administration, Alabama Department of Mental Health, 100 North Union Street, Suite 540, 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](mailto:debbie.popwell@mh.alabama.gov) until and including December 4, 2016. 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.

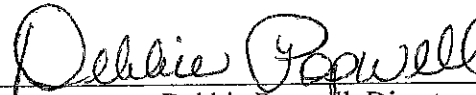
FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

December 4, 2016

CONTACT PERSON AT AGENCY:

Persons wishing a copy of the proposal may contact  
Debbie Popwell  
Department of Mental Health  
100 North Union Street, Suite 540  
Montgomery, Alabama 36130  
(334) 353-2069

A copy of the proposed change is available on the department's website at <http://mh.alabama.gov>  
Click on Administration and then Certification Administration to find code with changes.



Debbie Popwell, Director  
-Office of Certification Administration

580-3-23-.05 Applicability.

(1) The following entities which provide services to persons with mental illness, mental retardation, or substance abuse may be considered exempt from the certification requirements by the DMH/MR:

(a) General or psychiatric hospitals licensed as such by the Alabama Board of Health, unless the hospital requests to be a designated Mental Health Facility as certified by DMH/MR.

(b) Federal or state agencies.

(c) Public or private educational institutions.

(d) Qualified member of professions in their own private practice (such as licensed physicians, psychologists, psychiatrists, social workers, or Christian Science practitioners) as contemplated by the Code of Ala. 1975, Section 22-50-17.

(e) Voluntary self-help groups.

(f) Groups, organizations or persons that provide only incidental or shelter-type services, but do not hold themselves out as providing treatment or services to persons who have mental illness, mental retardation, or substance abuse services needs.

(g) Religious groups that operate non-treatment services solely for members of their church/organization, and do not hold themselves out as providing treatment services to persons who have mental illness, mental retardation, or substance abuse services needs.

(h) Private homes or services that do not hold themselves out as providing services to persons with mental illness, mental retardation, or substance abuse.

(i) Family member services, i.e. services provided by family members of the family related by blood or by marriage for which no remuneration is received.

(j) A "private residence" that meets both of the following criteria:

1. The home/apartment was chosen by the individual who owns it or resides there (it was not chosen by DMH/MR staff, or a certified or contracted entity); and

2. There are no monies flowing through DMH/MR that go towards the rent/lease/purchase of the residence.

(k) An entity that is funded and monitored under the Individuals with Disabilities Education Act (IDEA), Part C, Early Intervention Program.

(1) A provider certified as an ICF/MR by the State Department of Public Health.

(2) DMH/MR in its sole discretion may choose to accept wholly or partially a certificate/license/accreditation issued by any other state or national regulatory or other body for services and providers that would otherwise be reviewed through the DMH/MR certification process.

(3) Notwithstanding any other provision of this regulation, the DMH Commissioner may waive educational requirements for an executive director in lieu of equivalent experience, in his or her sole discretion, and not in violation of state or federal law.

**Author:** DMH/MR Office of Certification

**Authority:** Code of Ala. 1975, §22-50-11.

**History:** **New Rule:** Filed October 1, 2001; effective November 5, 2001. **Amended:** Filed August 13, 2002; effective September 17, 2002. **Amended:** Filed October 13, 2016;