

Alabama Department of Mental Health

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Mental Health

RULE NO. & TITLE: CHAPTER 580-1-1-.19 Organization and Method of Operation.
Management Steering Committee.

INTENDED ACTION: Repeal

SUBSTANCE OF PROPOSED ACTION:

This rule is for the Management Steering Committee practices and polices in the State of Alabama.

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 until and including February 3, 2014. 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.

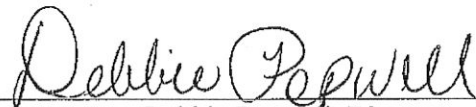
FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

February 3, 2014

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 Commissioner's Office and then Certification Administration to find code with changes.



Debbie Popwell, Director
Office of Certification Administration

CHAPTER 580-1-1 ORGANIZATION AND METHOD OF OPERATION

TABLE OF CONTENTS

580-1-1-.01 Department Of Mental Health And Mental Retardation

580-1-1-.02 Rule Defined

580-1-1-.03 Definitions

580-1-1-.04 Agency Head

580-1-1-.05 Department Of Mental Health And Mental Retardation

580-1-1-.06 Authority Of Commissioner

580-1-1-.07 Statutory Authority

580-1-1-.08 Organization

580-1-1-.09 Location Of Offices

580-1-1-.10 Availability Of Forms And Records

580-1-1-.11 Public Information

580-1-1-.12 Rulemaking Proceedings

580-1-1-.13 Declaratory Rulings

580-1-1-.14 Contested Cases

580-1-1-.15 Petition For Adoption

580-1-1-.16 Certification

580-1-1-.17 Agency Secretary

580-1-1-.18 Collection Of Fees

~~580-1-1-.19 Management Steering Committee "Repealed"~~

580-1-1-.20 Reserved

580-1-1-.01 Department Of Mental Health And Mental Retardation. The Department of Mental Health and Mental Retardation is a department of state government as provided by Code of Ala. 1975, §22-50-2, and is composed of the state mental health and mental retardation commissioner and such divisions and administrative sections as the mental health and mental retardation commissioner may direct.
Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-2.
History: Filed September 5, 1984. **Repealed and Replaced:** Filed November 5, 1992.

580-1-1-.02 Rule Defined. The term rule is defined to be any rule, policy, regulation or order establishing standards for the admission, diagnosis, care and treatment of persons receiving mental health or mental retardation services.
Author: Division of Mental Retardation, DMR/MR
Statutory Authority: Code of Ala. 1975, 22-50-1.

History: Filed September 5, 1984. **Repealed and Replaced:**
Filed November 5, 1992.

580-1-1-.03 Definitions.

(1) Patients. Those persons afflicted with mental or emotional illness and residing in a state operated hospital or residential facilities operated by the Mental Illness Division.

(2) Residents. Individuals residing in a 24 hour-a-day residential facility, who are afflicted with mental, emotional illness, substance abuse/dependency or mental retardation.

(3) Clients. Those individuals seen on an outpatient basis and/or those persons identified as receiving or needing services for mental retardation or substance abuse/dependency.

(4) Department. The Alabama Department of Mental Health and Mental Retardation.

(5) Mental Retardation Services. Evaluation for, amelioration of, habilitation for, prevention of, and research into the causes of mental retardation.

(6) Board. Board of Trustees for the Department of Mental Health and Mental Retardation.

(7) Mental Health Services. Diagnosis of, treatment of, rehabilitation for, follow-up care of, prevention of and research into the causes of all forms of mental or emotional illness.

(8) Substance Abuse/Dependency Services. Assessment of, diagnosis of, treatment of, rehabilitation for, follow-up care of, prevention of and research into the causes of substance abuse/dependency.

Author: Division of Mental Retardation, DMH/MR

Statutory Authority: Code of Ala. 1975, §20-50-2.

History: Filed September 5, 1984. **Repealed and Replaced:**
Filed November 5, 1992.

580-1-1-.04 Agency Head.

(1) The Mental Health and Mental Retardation Commissioner is the agency head of the department.

(2) On May 1, 1984, a bill was signed into law which renamed the Department of Mental Health to the Department of Mental Health and Mental Retardation. Additional provisions of the newly enacted law had the effect of abolishing the Mental Health Board and creating a Board of trustees to be composed of sixteen (16) members as follows:

(a) The governor, the commissioner of mental health and mental retardation, the lieutenant governor and the speaker of the house of representatives shall be ex-officio members of such board of trustees. The remaining twelve (12) members shall be appointed by the governor, one (1) from each of the congressional districts and the remainder from the state at large. One of the state at large positions shall be selected from nominations offered by the Association for Retarded Citizens of Alabama and one (1) of the state at large positions shall be selected from nominations offered by the Mental Health Association of Alabama. All appointed trustees shall have demonstrated a concern for the programs and services provided by the Department of Mental Health and Mental Retardation and should represent a balance of primary interest areas or expertise.

(b) The governor shall be chairman of the board of trustees and the commissioner of mental health and mental retardation shall be the secretary. The board shall meet quarterly at a place to be designated by the chairman and may meet more frequently upon the call of the chairman, or a majority of the members.

(c) The governor shall appoint, as the initial board of trustees, four (4) members for a term of one (1) year; four (4) members for a term of two (2) years; four (4) members for a term of three (3) years; all trustees shall take office effective upon appointment. No trustee shall serve more than three consecutive three year terms; provided, however, that trustees shall continue to serve until their successors have been appointed. Subsequent appointments shall be made for a period of three (3) years except that vacancies shall be filled by the governor for the unexpired term only.

(d) The trustees shall receive \$100.00 per day and mileage expenses while attending meetings of the board of trustees or while engaged in other official duties at the request of the governor or board of trustees.

Author: Division of Mental Retardation, DMH/MR

Statutory Authority: Code of Ala. 1975, □22-50-5, 22-50-6, 22-50-8, 22-50-16. **History:** Filed September 5, 1984.

Repealed and Replaced: Filed November 5, 1992.

580-1-1-.05 Department Of Mental Health And Mental

Retardation. The governor and the commissioner of mental health and mental retardation are constituted by law as a public corporation to be known as the Department of Mental Health and Mental Retardation.

Author: Division of Mental Retardation, DMH/MR

Statutory Authority: Code of Ala. 1975, □22-50-4.

History: Filed September 5, 1984. **Repealed and Replaced:** Filed November 5, 1992.

580-1-1-.06 Authority Of Commissioner. The authority of the department, and its commissioner, is set forth in Code of Ala. 1975, □22-50-9 and □22-50-11 and includes but is not limited to the following:

(1) The Department of Mental Health and Mental Retardation through its commissioner is hereby authorized to act in any prudent way to provide mental health, substance abuse services and mental retardation services for the people of Alabama.

(2) To authorize and set up state plans to control and treat any and all forms of mental and emotional illness and any and all forms of mental retardation.

(3) To supervise, coordinate, and establish standards for all operations and activities of the state related to mental health and mental retardation and the providing of mental health services and mental retardation services; and it is authorized to receive and administer any funds available from any source for the purpose of acquiring building sites for, constructing, equipping, maintaining or operating mental health centers, and community retardation programs or facilities or institutions for the purpose of providing mental health services and mental retardation services.

(4) The single state agency of the state to receive and administer, through its commissioner, any and all funds available from any source for purposes of training, research and education in regard to all forms of mental and emotional illness and all forms of mental retardation through its commissioner.

(5) To enter into contracts.

(6) To develop programs for the aged.

(7) To appoint advisory councils.

(8) The Mental Health and Mental Retardation Department is authorized to establish and promulgate reasonable rules, policies, orders and regulations providing details of carrying out its duties and responsibilities, including bylaws for its own organization, government and procedures.

(9) To purchase or lease land or property.

(10) To determine reasonable fees for services rendered to the public.

(11) To establish and promulgate reasonable minimum standards for the construction and operation of its facilities.

(12) To inspect any institution or facility providing any kind of treatment or care for those suffering from mental or emotional illness or mental retardation, and to certify any such institution or facility which meets its minimum standards.

(13) To establish and collect reasonable fees for necessary inspection services.

(14) To provide hearings for those claiming to be damaged by decisions of its employees.

(15) To file and prosecute suits.

(16) To accept gifts, trusts, bequests, etc.

(17) To receive moneys by way of fees for its services.

Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, □□22-50-9, 22-50-11. **History:** Filed September 5, 1984. **Repealed and Replaced:** Filed November 5, 1992.

580-1-1-.07 Statutory Authority. The State Department of Mental Health and Mental Retardation operates under the provisions set forth in the Code of Ala. 1975, Title 22, Chapter 50.

Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, □□22-50-9, 22-50-11. **History:** Filed September 5, 1984. **Repealed and Replaced:** Filed November 5, 1992.

580-1-1-.08 Organization. Department of Mental Health and Mental Retardation is under the direction, supervision, and the control of the Commissioner, who is appointed by the Governor.

(1) The structural organization within the Department of Mental Health and Mental Retardation complies with the Code of Ala. 1975, □22-50-2, in that the Department is to be composed of the Alabama mental health and mental retardation commissioner and such divisions, bureaus, offices and administrative sections as the mental health and mental retardation commissioner may direct.

(2) The State Department of Mental Health and Mental Retardation is composed of the following primary organizational components:

(a) Commissioner. The Mental Health and Mental Retardation Commissioner is the designated supervisory official for the Mental Health and Mental Retardation Department which is the designated coordinating and supervisory agency for mental health, substance abuse/dependency and mental retardation services throughout the State of Alabama. The Commissioner's office is concerned with maintaining basic management coordination to deal with administrative services of the department and is the chief decision maker and strategist to insure maximum mental health services for the mentally ill, substance abuse and/or mental retardation patients/clients/residents. The Commissioner's office also maintains appropriate public relations contact with client and advocacy groups and other citizens interested in mental health, substance abuse/ dependency and mental retardation

services. The Commissioner has the authority to contract for the Department of Mental Health and Mental Retardation and enters into various contracts for services and programs.

(b) The Division of Administration and Personnel. The Division of Administration and Personnel is responsible for the overall central office administrative functions of the Department of Mental Health and Mental Retardation as well as personnel matters.

(c) The Division of Mental Illness. The Division of Mental Illness is responsible for the State Mental Illness facilities and the mental illness services provided through the community services delivery system.

(d) The Division of Mental Retardation. The Division of Mental Retardation is responsible for state mental retardation facilities and the mental retardation services provided through the community services delivery system.

(e) Division of Substance Abuse Services. The Division of Substance Abuse Services is responsible for the development and support of all treatment programs for the state's varied client population needing substance abuse services. The division is responsible for the development of standards pertaining to and the certification of all substance abuse treatment and prevention programs. It is also responsible for the provision of treatment and prevention services.

Author: Division of Mental Retardation DMR/MR

Statutory Authority: Code Of Ala. 1975, □22-50-11.

History: Filed September 5, 1984. **Repealed and Replaced:** Filed November 5, 1992. **Amended:** Filed November 26, 1996; effective December 31, 1996.

580-1-1-.09 Location Of Offices.

(1) The central office of the Alabama Department of Mental Health and Mental Retardation is located at 100 N. Union Street, Montgomery, AL 36130-1410.

Author: Division of Mental Retardation, DMR/MR

Statutory Authority: Code of Ala. 1975, □□22-50-9, 22-50-11. **History:** Filed September 5, 1984. **Repealed and**

Replaced: Filed November 5, 1992. **Amended:** Filed November 26, 1996; effective December 31, 1996.

580-1-1-.10 Availability Of Forms And Records.

(1) Any form or publication used by the Department of Mental Health and Mental Retardation during the course of its operation and dealings with the public may be obtained by contacting the office of the Commissioner of Mental Health, 100 N. Union Street, Montgomery, AL 36130-1410.

(2) Availability of Records. No employee of any of the facilities under the management, control, supervision or affiliated with the Alabama Mental Health and Mental Retardation Department shall be required to disclose any record, report, case history, memorandum or other information, oral or written, which may have been acquired, made or compiled in attending or treating any patient of said facilities in a professional character, when such information was necessary in order to evaluate or treat said patient or to do any act for him in a professional capacity, unless a court of competent jurisdiction shall order disclosure for the promotion of justice; provided, that where a person is a defendant in a criminal case and a mental examination of such defendant has been ordered by the court, the results or the report of such mental examination shall be forwarded to the clerk of said court and to the district attorney and to the attorney of record for the defendant.

(3) Applicable federal regulations limit disclosure of treatment records.

(4) Other records not subject to disclosure include:

(a) pending criminal investigations

(b) sensitive personnel records

(c) recorded information received in confidence by a public official or any individual

(5) Records of the Department that are not limited in their disclosure by statute or as set forth above are available in the office of the Alabama Department

of Mental Health and Mental Retardation located at 100 N. Union Street, Montgomery, AL 36130-1410.

Author: Division of Mental Retardation, DMR/MR

Statutory Authority: Code Of Ala. 1975, □22-50-62.

History: Filed September 5, 1984. **Repealed and Replaced:** Filed November 5, 1992.

580-1-1-.11 Public Information.

(1) Public information within the State Mental Health and Mental Retardation Department is designed to provide information for the general public and designed to work closely with advocacy and consumer groups and other concerned citizens where support is vital in fostering mental health and mental retardation services in the state. The Public Information function includes; annual reports, news releases, newsletters, speakers, magazines, brochures, coordination of special events, tours, photography and graphic assistance. An additional function is the recruitment, orientation and utilization of volunteers and sponsors.

(2) The public may obtain information or make submissions or requests by writing the Director, Office of Public Information and Community Relations who is located in the Commissioner's Office, 100 N. Union Street, Montgomery, AL 36130-1410.

Author: Division of Mental Retardation DMR/MR

Statutory Authority: Code of Ala. 1975, □22-50-62.

History: Filed September 5, 1984. **Repealed and Replaced:** Filed November 5, 1992. **Amended:** Filed November 26, 1996; effective December 31, 1996.

580-1-1-.12 Rulemaking Proceedings. The rulemaking proceedings of the Department of Mental Health and Mental Retardation shall be carried out in the manner prescribed by law in the Code of Ala. 1975, □22-50-11(8) which states that "The mental health and mental retardation department is hereby authorized and directed to establish and promulgate reasonable rules, policies, orders and regulations providing details of carrying out its duties and responsibilities." (Acts 1984, No. 346 □11.) The rulemaking proceedings of the Department will also comply with the rules published in the Alabama Administrative Code.

Author: Division of Mental Retardation, DMR/MR

Statutory Authority: Code Of Ala. 1975, □22-50-11.

History: Filed September 5, 1984. **Repealed and Replaced:** Filed November 5, 1992.

580-1-1-.13 Declaratory Rulings. The Department of Mental Health and Mental Retardation shall follow the rules of procedure for filing, consideration, and disposition of declaratory rulings under the provisions of the Code of Ala. 1975, Title 4, Chapter 22, in accordance with the rules published in the Alabama Administrative Code.

Author: Division of Mental Retardation DMR/MR

Statutory Authority: Code of Ala. 1975, □22-50-11.

History: Filed September 5, 1984. **Repealed and Replaced:** Filed November 5, 1992.

580-1-1-.14 Contested Cases. The manner in which proceedings in contested cases will be conducted by the Department of Mental Health shall be in accordance with the provisions of the Code of Ala. 1975, Title 4, Chapter 22, and the rules published in the Alabama Administrative Code.

Author: Division of Mental Retardation DMR/MR

Statutory Authority: Code Of Ala. 1975, □22-50-11.

History: Filed September 5, 1984. **Repealed and Replaced:** Filed November 5, 1992.

580-1-1-.15 Petition For Adoption.

(1) Any interested person may petition the Department requesting the adoption, amendment or repeal of a rule. The petition shall be in writing and shall include:

(a) The name and address of the petitioner.

(b) An exact statement of the proposed rule or amendment or identification of the rule to be repealed.

(c) The pertinent facts, data, opinions or arguments in support of the petitioner's position.

(2) Within sixty days after submission of a petition, the Department shall initiate rulemaking proceedings or shall deny the petition in writing on the merits, stating its reasons for the denial.

(3) A petition requesting adoption, amendment, or repeal of a rule shall not be considered by the Department if the subject of the petition is the same or similar to the subject presented in another petition

considered by the Department within the previous twelve months.

Author: Division of Mental Retardation, DMR/MR

Statutory Authority: Code Of Ala. 1975, □41-22-8.

History: Filed September 5, 1984. **Repealed and Replaced:** Filed November 5, 1992.

580-1-1-.16 Certification. No person, partnership, corporation, or association of persons shall operate a facility or institution for the care or treatment of any kind of mental or emotional illness or service to the mentally retarded as defined in Code of Ala. 1975, without being certified by the department and licensed by the State Board of Health.

Author: Division of Mental Retardation DMR/MR

Statutory Authority: Code of Ala. 1975, Acts 1984, No. 346,

□17. **History:** Filed September 5, 1984. **Repealed and Replaced:** Filed November 5, 1992.

580-1-1-.17 Agency Secretary.

(1) A staff member of the Department of Mental Health and Mental Retardation, located at 100 N. Union Street, Montgomery, AL 36130-1410 will serve as the Department Secretary.

(2) The duties of the Department Secretary include the following:

(a) File certified copies of all rules with the Legislative Reference Service.

(b) Receive, docket and maintain an updated file on all rules, amendments or repeal of rules.

(c) Keep a permanent register of all rules for public inspection and copying.

(d) Establish and maintain the Department of Mental Health and Mental Retardation Administrative Code.

Author: Division of Mental Retardation, DMR/MR

Statutory Authority: Code of Ala. 1975, □41-22-6.

History: Filed September 5, 1984. **Repealed and Replaced:** Filed November 5, 1992. **Amended:** Filed November 26, 1996; effective December 31, 1996.

580-1-1-.18 Collection Of Fees. The Department will on an annual basis establish reasonable fees for services made available to the public and shall collect such fees unless, upon investigation it is determined that the person receiving such services is unable to pay the established fee, and in such case such amount as the person is able to pay shall be collected.

Author: Division of Mental Retardation, DMR/MR

Statutory Authority: Code of Ala. 1975, \square 22-50-11.

History: Filed September 5, 1984. **Repealed and replaced:** Filed November 5, 1992.

~~580-1-1-.19 Management Steering Committee.~~ Repealed

~~(1) Sections 22-50-1, et seq. and 22-51-1, et seq., Code of Ala. 1975, established the Alabama Department of Mental Health and Mental Retardation, and the Regional Mental Health Boards, respectively, as the recognized public entities responsible for administering state appropriated funds, and as responsible for state and local planning. However, it is also recognized that both of these entities may discharge their planning and service delivery functions by contracting with, and/or sanctioning other entities to conduct all or part of these functions.~~

~~(a) The Department of Mental Health and Mental Retardation shall provide for systematic long range and operational planning processes which recognize the statutory authority of both the Department established under \square 22-50-1, et seq. (Act 881) to set up state plans, and the Regional Mental Health Boards under \square 22-51-1, et seq. (Act 310) to conduct local planning. Both entities recognize the necessity and the value of comprehensive service planning by stakeholders in the process. However, nothing in this section shall be construed to circumvent the statutory authority established in either Act 881 or Act 310, nor shall it be construed to exclude affected populations in the planning process.~~

~~(b) It will be necessary and is expected that coordination of facility and community planning and budgeting will be a function of this process with the approval of the Commissioner. However, it is not the intent of this rule to establish a new administrative mechanism to micro-manage the department or its public facilities.~~

~~(2) ———— Toward this end, the Department shall establish a Management Steering Committee to provide for the development and oversight of a planning process for the provision of mental illness, mental retardation, and substance abuse services. Composition shall include:~~

~~(a) ———— An equal representation of 4 or more persons appointed by the Commissioner of the Department of Mental Health and Mental Retardation and by the President of the Alabama Council of Community Mental Health Boards. Such appointments shall assure representation of the service areas of mental illness, mental retardation, and substance abuse for each entity.~~

~~(b) ———— One person, representing Boards organized under Act 310 to provide only mental retardation services shall be a member upon designation by a majority of said Boards.~~

~~(c) ———— A representative of Alabama Association for Retarded Citizens shall be appointed by the President of the Alabama Association for Retarded Citizens and shall be a member of the Management Steering Committee.~~

~~(d) ———— A representative of the Alabama Alliance for the Mentally Ill shall be appointed by the President of the Alabama Alliance for the Mentally Ill and shall be a member of the Management Steering Committee.~~

~~(e) ———— A representative appointed by the President of a mental health self-advocacy organization designated by the Commissioner shall be a member of the Management Steering Committee.~~

~~(f) ———— One person representing advocates for individuals with substance abuse problems shall be appointed by the Commissioner of the Department of Mental Health and Mental Retardation and shall be a member of the Management Steering Committee.~~

~~(g) ———— Two persons representing consumers of substance abuse services shall be appointed by the Commissioner of the Department of Mental Health and Mental Retardation and shall be members of the Management Steering Committee.~~

~~(h) — A representative of the Mental Health Association of Alabama shall be appointed by the Board of Directors of the Mental Health Association of Alabama and shall be a member of the Management Steering Committee.~~

~~(i) — A representative of People First of Alabama shall be appointed by the Board of Directors of People First of Alabama and shall be a member of the Management Steering Committee.~~

~~(j) — The Commissioner of the Department of Mental Health and Mental Retardation and the President of the Alabama Council of Community Mental Health Boards shall serve as ex-officio members of the Management Steering Committee.~~

~~(3) — In accordance with guidelines established by the Commissioner, the Management Steering Committee will be charged with the following responsibilities and functions:~~

~~(a) — Develop strategic direction for the provision of mental illness, mental retardation, and substance abuse services.~~

~~(b) — Develop the Departmental Legislative budget requests consistent with established priorities.~~

~~(c) — Develop budget allocations and major reallocations (e.g., proration, revenue changes, etc.) which impact the plan.~~

~~(d) — Review quarterly the progress on plan implementation.~~

~~(e) — Establish coordinating subcommittees to facilitate the development of plans for mental illness, mental retardation, and substance abuse services and to assure family members and primary consumer participation. These coordinating subcommittees will be responsible for integrating local and regional planning efforts with statewide planning, consistent with the strategic directions established by the Management Steering Committee.~~

~~(f) — As a part of the Coordinating Subcommittee process, establish a conflict-resolution procedure,~~

~~including criteria and guidelines under which issues shall be determined to be subject to such procedure.~~

~~(g) Establish a timetable as well as formats for planning and data collection within each service area.~~

~~(4) The P.L. 99-660 Planning Council shall continue to function as part of the planning process of the Mental Illness Division. Nothing contained in this section shall alter the present role of the P.L. 99-660 Planning Council.~~

~~(5) A committee shall be appointed by the Commissioner and the President of the Alabama Council of Community Mental Health Boards to address issues that relate to statutory responsibilities and duties arising out of Act 881 and Act 310.~~

~~**Author:** Division of Mental Retardation, DMR/MR~~

~~**Statutory Authority:** Code Of Ala. 1975, □22-50-1, et seq., □22-51-1, et seq. **History:** Filed September 5, 1984.~~

~~**Repealed and Replaced:** Filed November 5, 1992. **Amended:** Filed May 14, 1999; effective June 18, 1999. **Amended:** Filed November 19, 2003; effective December 24, 2003. **Amended:** Filed December 13, 2013;~~

580-1-1-.20 Reserved.