

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 580 Department or Agency Mental Health
Rule No. Chapter 580-9-45
Rule Title: Treatment and Rehabilitation Service Specific
 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

.....
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 J. Popwell
Date 10/14/11

Alabama Department of Mental Health

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Mental Health

RULE NO. & TITLE: Chapter 580-9-45 Treatment and Rehabilitation Service Specific
"Repealed"

INTENDED ACTION: Repeal

SUBSTANCE OF PROPOSED ACTION:
Replaced by proposed new chapter 580-9-44, Program Operation

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, 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 Dec 5, 2011. 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:
Dec. 5, 2011

CONTACT PERSON AT AGENCY:
Persons wishing a copy of the proposal may contact
Debbie Popwell
Department of Mental Health
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>
Click on Commissioner's Office and then Certification Administrative to find code with changes.



Debbie Popwell, Director
Office of Certification

ALABAMA DEPARTMENT OF MENTAL HEALTH

AND MENTAL RETARDATION

SUBSTANCE ABUSE SERVICES

ADMINISTRATIVE CODE

CHAPTER 580-9-45 TREATMENT AND REHABILITATION SERVICE
SPECIFIC "Repealed"

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580-9-45-.01 All Treatment And Rehabilitation Services. The standards specific to each service are listed under the heading for that service. The following standards apply to all treatment services:

(1) All service programs operated by the service provider organization must operate as described in the program description;

(2) Programs serving adolescents must provide client education on key adolescent development issues;

(3) Each program must demonstrate that it maintains referral linkages with primary health care providers for the care of program's clients;

(4) Each program must demonstrate that it provides each client HIV risk education including prevention information;

(5) Programs shall demonstrate that persons exposed to or appearing to be affected by a contagious disease are treated by a competent medical staff person from that agency or referred to an outside agency for treatment.

(6) The service provider organization must demonstrate that all medical care aspects of its programs are performed or supervised by a physician licensed to practice in the State of Alabama;

(7) The service provider organization must have written criteria to indicate when a medical examination is required for a client;

(8) The medical examination must be included in the client's diagnostic data base when indicated, however, programs are not required to provide uncompensated medical care.

Author: Substance Abuse Services Division

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

History: New Rule: Filed July 22, 1992. **Extended:** September 30, 1992. **Extended:** December 31, 1992. **Certified:** March 30, 1993; effective May 5, 1993. **Repealed and New Rule:** Filed November 19, 2003; effective December 24, 2003.

580-9-45-.02 Emergency Services. All treatment service providers must provide or arrange for emergency services for enrolled clients.

Author: Substance Abuse Services Division

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

History: New Rule: Filed July 22, 1992. **Extended:** September 30, 1992. **Extended:** December 31, 1992. **Certified:** March 30, 1993; effective May 5, 1993. **Repealed and New Rule:** Filed November 19, 2003; effective December 24, 2003.

580-9-45-.03 Intensive Outpatient Service Characteristics.

(1) Setting: Outpatient

(2) Availability: The service provider organization must have the capacity to provide the following minimum continuum of care.

(a) Assessment services;

(b) Random or selective drug screening of clients in the program;

(c) Capacity to refer clients to other needed services including residential treatment;

(d) Initial intensive phase of treatment to include a minimum of 100 hours of treatment service activities conducted within six (6) months from date of admission;

(e) Capacity to serve the client for up to twelve (12) months.

(3) Attendance

(a) Attendance records for each client shall be maintained which documents the hours attended.

(b) Attendance shall be required on a regular basis for the scheduled series of treatment services.

(c) The minimum treatment service that a client may attend and remain an active client is one (1) hour of treatment per month.

(d) Actual frequency of attendance required will be determined by clinical judgment based upon client's progress and other client issues. Clients may advance or regress to more or less intensive requirements as deemed clinically necessary for client's recovery.

(4) Core functions: Intensive outpatient programs shall consist of two-thirds (66.66%) service delivery time spent on providing direct treatment care services and one-third (33.34%) of the service delivery time spent providing support services.

(a) Direct treatment care services:

1. Psychosocial assessment;

2. Group therapy (process);
3. Individual therapy;
4. Family therapy;
5. Therapeutic recreational activities for adolescents/adventure-based therapy.

(b) Supportive care services

1. Supportive counseling
2. Substance abuse evaluation (didactic group)
3. Family education

Author: Substances Abuse Services Division

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

History: New Rule: Filed November 19, 2003; effective December 24, 2003.

580-9-45-.04 Outpatient And Opiate Replacement Treatment Program Characteristics.

(1) Setting: Outpatient

(2) Availability: Service provider organization will make available as financial resources allow and depending upon client needs.

(3) Attendance: Attendance records for each client will be maintained which documents the hours attended. Actual frequency of attendance required or needed will be determined by clinical judgment based upon client's progress and other client issues.

(4) Core Functions: The services for general outpatient treatment and opiate replacement treatment shall include:

- (a) Psycho-social assessment;
- (b) Individual, group, and family counseling/ education;
- (c) Supportive counseling.

Author: Substance Abuse Services Division

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

History: New Rule: Filed July 22, 1992. **Extended:** September 30, 1992. **Extended:** December 31, 1992. **Certified:** March 30, 1993; effective May 5, 1993. **Amended:** Filed April 19, 1996; effective May 24, 1996. **Amended:** Filed October 1, 2001; effective November 5, 2001. **Repealed and New Rule:** Filed November 19, 2003; effective December 24, 2003.

Ed. Note: Rule was previously 580-9-45-.03, renumbered as per certification filed November 19, 2003; effective December 24, 2003.

580-9-45-.05 Residential Stabilization Program Characteristics.

- (1) Setting: Residential;
- (2) Availability: 24 hours, 7 days per week;
- (3) Staffing - Awake staff 24 hours a day, seven(7) days per week. On duty staff must provide client supervision 24 hours a day.
- (4) Program must document all staff are current in
 - (a) First aid
 - (b) CPR
 - (c) Crisis Intervention
 - (d) Program policies and procedures
- (5) Core Functions:
 - (a) All residential programs must provide the following.
 1. Full-time residential environment in a clean, comfortable setting meeting federal, state, and local fire and life safety codes;
 2. An alcohol and illicit drug-free environment;
 3. Emergency medical response capability and

procedures;

4. Referral for other needed services.

(b) Standard short term residential programs must also provide:

1. Three (3) balanced nutritional meals daily;
2. Case coordination;
3. Group, individual and family education/ counseling;
4. Supportive counseling;
5. Substance abuse education;
6. Continuing care planning;
7. Therapeutic recreational activities for adolescent clients;
8. Case coordination;
9. A minimum of 25 hours of treatment service is provided for each client each week. An appropriate mix of treatment services, including therapy and didactic/educational sessions, will be offered. Use of support/self help groups is encouraged but may not be considered as treatment.

(c) Residential Rehabilitation Programs must also provide:

1. Linkage with vocational rehabilitation;
2. Job Placement;
3. Social rehabilitation opportunities;
4. A written rehabilitation plan for each client;

(d) Short-term residential programs that have unbundled their services must also provide:

1. The treatment component through an intensive outpatient program which consists of a minimum of 25 hours;
2. Linkage with vocational rehabilitation;

3. Supervised therapeutic recreation designed to provide leisure and promote a spirit of teamwork and cooperation.

Author: Substance Abuse Services Division

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

History: New Rule: Filed July 22, 1992. **Extended:** September 30, 1992. **Extended:** December 31, 1992. **Certified:** March 30, 1993; effective May 5, 1993. **Repealed and New Rule:** Filed November 19, 2003; effective December 24, 2003.

Ed. Note: Rule was previously 580-9-45-.04, renumbered as per certification filed November 19, 2003; effective December 24, 2003.

580-9-45-.06 Case Management.

(1) Setting: Outpatient and mobile;

(2) Availability: Scheduled to meet client population needs.

(3) Core Functions:

(a) Human Service needs assessment;

(b) Case Planning;

(c) Linkage;

(d) Advocacy;

(e) Monitoring

(4) The Human Service Needs Assessment must include, but not be limited to:

(a) Key Elements:

1. Family Relationships;

2. Housing;

3. Vocational/Educational;

4. Recreational;

5. Transportation;
6. Mental Health;
7. Social Support;
8. Physical;
9. Financial; and
10. Spiritual.

(b) Summary of Significant Problems: A summary of significant problem(s) the client is experiencing, including those that are to be the focus of the case plan and shall be approved by the case management supervisor.

(5) The Human Service Needs Assessment must be:

(a) Updated whenever there are significant changes to the key elements.

(b) Reviewed with the client on the anniversary date of human service needs assessment and annually thereafter if no breaks in the delivery of service occur.

(6) Treatment programs must have a written case plan for each client that:

(a) Is completed within seven (7) days after completion of Human Service Needs Assessment;

(b) Defines each problem(s)/goal(s) to be addressed;

(c) Identifies interventions towards which the client and Case Manager will be working in the specific problems/goals;

(d) Includes referral as appropriate for needed services not provided by the agency;

(e) Be approved in writing by Case Management Supervisor; and

(f) The case plan shall document the client's participation in developing the plan as appropriate.

(7) Case Plans shall be reviewed and updated every ninety (90) days with a written assessment of client's progress, or lack there of, which are related to each of the problems/goals.

Author: Substance Abuse Services Division

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

History: New Rule: Filed July 22, 1992. **Extended:** September 30, 1992. **Extended:** December 31, 1992. **Certified:** March 30, 1993; effective May 5, 1993. **Amended:** Filed October 1, 2001; effective November 5, 2001. **Repealed and New Rule:** Filed November 19, 2003; effective December 24, 2003.

580-9-45-.07 Opiate Replacement Treatment.

(1) Opiate replacement treatment programs must comply with all applicable federal regulations, particularly Federal Regulation 42 CFR Part 8, and all applicable portions of the Community Substance Abuse Program Standards. Physicians in private practice must be certified by DMH/MR, SASD to dispense methadone and other opiate replacement drugs as required by law and to operate a methadone treatment program.

(2) Medical Director: There shall be a medical director assigned who is physically present in the clinic two (2) hours per week per each fifty (50) clients and also:

(a) Assumes responsibility for the administration of all medical services;

(b) Shall be a licensed physician in the State of Alabama;

(c) Assumes medical responsibility for more than one opiate replacement treatment program only with written approval of DMH/MR, SASD;

(d) Attends weekly staff meetings with counselors or documents in the client record alternative and equivalent supervisory contact on a weekly basis;

(e) Works directly with other medical doctors in the area in cases where clients are on psychoactive and/or control medication prescribed by another doctor and documents in writing;

(f) Performs client physical examinations prior to dosing, with thorough documentation of the client's opiate addiction.

(g) Performs annual client physical examinations.

(h) Approves all doses and phase changes.

(3) Program Sponsor: The program sponsor shall:

(a) Be a licensed health care professional, licensed in the state of Alabama;

(b) Have at least two years supervised experience in a substance abuse program;

(c) Meet the qualifications of a staff member and be included in the listing of personnel authorized access to the medication unit where he/she has access to the medication unit.

(4) Pharmacist: There shall be a pharmacist assigned who:

(a) Shall be licensed as a pharmacist in the State of Alabama.

(b) Prepares all take-home medication.

(c) Conducts, at a minimum, an annual physical drug inventory.

(5) Special Limitations: Applicants who are under the age of eighteen (18) must document two (2) unsuccessful attempts at drug-free treatment prior to being considered for admission to opiate replacement treatment. A client under 18 years of age may not be administered LAAM.

(6) Minimum Testing or Analysis for Drugs: The person responsible for a program shall insure that:

(a) At least twelve (12) drug tests per year. All drug tests will screen for drugs as outlined in 580-9-45.07(5E).

(b) A positive urine drug screen for any drug other than the opiate replacement drug, or a urine drug screen that is negative for the opiate replacement drug, requires that the client with take-home privileges be placed on probation for

90 days, and receive twice-a-month urinalysis. A second positive urinalysis during that 90 days shall result in the client being placed back to Phase I, thus requiring compliance with Rule 580-9-45-07(10)(a). Once the client has met Rule 580-9-45-07(10)(a) and Rule 580-9-45-07(10)(b), he/she may be considered for reinstatement of original phase;

(c) The program must have a policy and procedure outlining protocols for disposition of cases where clients have multiple positive urine screens for illicit drugs or negative for opiate replacement drugs. Ultimately the decision for each such client is a medical/clinical judgment which must be adequately documented in the client record;

(d) Cut-off points for the immunoassay screening test must be:

1. Marijuana 100 ng/ml
2. Cocaine 300 ng/ml
3. Opiate 300 ng/ml
4. Amphetamine/methamphetamine 1000 ng/ml
5. Benzodiazepine 200 ng/ml
6. Propoxyphene 300 ng/ml
7. Methadone 300 ng/ml
8. Barbiturates 200 ng/ml
9. Alcohol .03 gm/dl

In cases where opiate replacement drugs other than methadone are being used, the clinic should contact the State Methadone Authority to determine the cut-off point on the immunoassay test.

(e) Immunoassay screening tests must be conducted by a laboratory certified by an independent, federally approved accreditation entity.

(7) Drug Testing Employees' Policy: Each program will have a drug screening test or analysis policy for all employees working in the opiate replacement program. As a minimum, the policy will stipulate that:

(a) Prior to employment new employees will be drug tested to assure they are drug-free;

(b) All employees are subject to drug testing any time there is evidence to suspect that the employee is no longer drug-free.

(8) All direct service staff must be trained in:

(a) CPR

(b) Program policies and procedures.

(9) Staffing Pattern: No more than thirty (30) clients under one year in treatment be assigned to a counselor. The ratio may be increased to 1:50 by adding twenty (20) clients to the case load for clients that have been in treatment in excess of one year. Clients who receive take home doses under hardship waivers shall be considered as per the earned phase for purposes of the counselor caseload.

(10) Take-Home Medication: Clients in Phase 1 will not receive any take-home doses, including Sundays. Clients on LAAM will follow the federal guidelines regarding take-home doses. In order to be approved for take home medication, the following must be accomplished and documented in the client record:

(a) Twice-a-month urine tests must be on file showing the client is free of all narcotic and non-narcotic drugs and positive for methadone for at least 90 consecutive days prior to being considered for take-home doses.

(b) Medical Director's determination of:

1. Absence of recent abuse of drugs (narcotic or non-narcotic), including alcohol;

2. Regularity of clinic attendance;

3. Absence of serious behavioral problems at the clinic;

4. Absence of known recent criminal activity, e.g., drug dealing;
5. Stability of the client's home environment and social relationships;
6. Length of time in treatment;
7. Assurance that take-home medication can be safely stored within the patient's home; and
8. Whether the rehabilitative benefit to the client derived from decreasing the frequency of clinic attendance outweighs the potential risks of diversion.

(c) The maximum number of take-home doses is six (6).

(d) Requests for hardship waivers of take-home dose limits must be approved in writing by the State Methadone Authority and when applicable by the appropriate federal agency. All conditions outlined in the approval shall be documented in the client file.

(11) Client Transfer: Upon proper notification and authorization of release of information, the transferring clinic must provide the following minimum information:

(a) Admission date.

(b) Original date of admission for current treatment episode (i.e., take-home eligibility time in treatment.)

(c) Current phase and date in phase.

(d) Urinalysis results for past year.

(e) Dose level, to be confirmed by nursing staff at transferring clinic and documented in client record.

(f) Most recent TB test results and date of test.

(g) Reason for transfer.

(h) Other information as specified on release of information.

(12) Guest Dosing:

(c) Treatment plans must indicate a specific level of counseling services needed by the client as part of the rehabilitative process.

(d) The treatment plan of a client in treatment for a short period of time (up to three months) must show that consideration was given to that client's need for more intensive counseling services.

(e) When appropriate, each client shall be enrolled in a education program, or be engaged in a vocational activity (vocational evaluation, education, or skill training) or make documented efforts to seek gainful employment. Deviations from compliance with these requirements shall be explained in the client's record.

(f) Each program shall take steps to ensure that a comprehensive range of rehabilitative services, including vocational, educational, legal, mental health, alcoholism and social services are made available to the clients who demonstrate a need for such services. The program can fulfill this responsibility by providing support services directly or by appropriate referral.

(g) Support services recommended and utilized shall be documented in the client record.

(h) The client record shall document that clients have been questioned about being pregnant, and informed about pregnancy and physiological implications with opiate replacement drugs. Pregnant clients shall not be dosed with LAAM.

(14) Registry System: To prevent simultaneous enrollment of a client in more than one methadone program, each program shall:

(a) Obtain written consent and photograph the applicant at the time of admission.

(b) Cooperate with the State Methadone Authority in maintaining a Central Registry by routinely providing client identifying information as determined by the SMA;

(c) Require that within thirty (30) days of admission all clients show proof of identification in the form of an

official state driver's license or a non-driver's license issued by the state's Department of Public Safety;

(d) Insure that the methadone program does not admit anyone who is reported by another program to be participating in another such program.

(15) The state authority for governing the treatment of narcotic addiction with a narcotic drug in Alabama is the Department of Mental Health/Mental Retardation, Substance Abuse Services Division (DMH/MR, SASD)

(16) Application to Operate an Opiate Replacement Treatment Program. The program shall submit to the Substance Abuse Services Division the following information:

(a) A Certificate of Need issued by the State Health Planning and Development Agency.

(b) Application for certification.

(c) Articles of Incorporation and Board By-laws.

(d) Organizational chart.

(e) Policy and Procedure manual.

(f) Program description.

(g) Description of the facility.

(h) Dispensing hours and program hours.

(i) Copy of the client rights.

(j) Copy of the program rules.

(k) Description of the primary geographic area to be served; the number of clients to be served; the daily charge to the client.

(l) Quality assurance plan.

(m) Job description for all personnel to include a copy of employment contract for the medical director and pharmacist. A resume with degree transcripts and/or copies of licenses for all personnel.

- (n) A blank client record.
- (o) Lab to be used for drug screens.
- (p) Copy of any other forms to be used by the program.
- (q) Copy of the U.S. Department of Justice, Drug Enforcement Administration license.
- (r) Copy of application to center for Substance Abuse Treatment for certificate.
- (s) Copy of license issued by the Alabama State Board of Pharmacy.
- (t) Copy of business license.

Author: Substance Abuse Services Division

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

History: New Rule: Filed July 22, 1992. **Extended:** September 30, 1992. **Extended:** December 31, 1992. **Certified:** March 30, 1993; effective May 5, 1993. **Amended:** Filed April 19, 1996; effective May 24, 1996. **Amended:** Filed July 13, 1998; effective August 17, 1998. **Amended:** Filed October 1, 2001; effective November 5, 2001. **Repealed and New Rule:** Filed November 19, 2003; effective December 24, 2003.
