

APA-1
Revised 4/2018

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 580 Department or Agency Alabama Department of Mental Health

Rule No. 580-2-20-.09

Rule Title: General Clinical Practice

New Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? YES

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 action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? NO

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 Services Agency.

Signature of certifying officer 

Date 10.14.22

(DATE FILED)
(STAMP)

APA-2

Alabama Department of Mental Health
Mental Health and Substance Abuse

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Mental Health

RULE NO. & TITLE: 580-2-20-.09 General Clinical Practice

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: We have created Chapter 580-2-20-.09 to eventually combine the current rules for Mental Illness in Chapter 580-2-9 and Substance Abuse in Chapter 580-9-44.

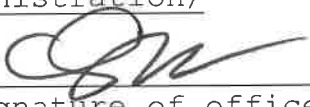
TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested persons may submit data, views, or arguments in writing to Altorvis (Allie) Ligon, Director, Office of Certification Administration, Alabama Department of Mental Health, 100 North Union Street, Suite 540, Montgomery, Alabama 36130 by mail or in person between the hours of 8:00AM and 5:00Pm, Monday through Friday, or by electronic means to contactoca.dmh@mh.alabama.gov until and including December 5, 2022. Persons wishing to submit data, views or arguments orally should contact Ms. Ligon by telephone at (334)353-2069 during this period to arrange for appointment.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
December 5, 2022

CONTACT PERSON AT AGENCY:

Persons wishing a copy of the proposal may contact:
Altorvis (Allie) Ligon
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 <https://mh.alabama.gov/division-of-administration/certification-administration/>



(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

DEPARTMENT OF MENTAL HEALTH
MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
ADMINISTRATIVE CODE

580-2-20
PROGRAM OPERATION

- 580-2-20-.01 Reserved
- 580-2-20-.02 Governing Body
- 580-2-20-.03 Personnel
- 580-2-20-.04 Recipient Protection
- 580-2-20-.05 Infection Control
- 580-2-20-.06 Incident Management
- 580-2-20-.07 Performance Improvement
- 580-2-20-.08 Recipient Records
- 580-2-20-.09 General Clinical Practice

580-2-20-.09 General Clinical Practice

(1) Any reference to "written" notification in these rules indicates that the recipient is entitled to receive information in their preferred language and in a manner understood by the recipient.

(2) A program description shall be maintained for each level of care or program provided by the agency. The program description shall include:

(a) The nature and scope of the program or the level of care.

(b) Service area for the program or level of care.

(c) Staffing pattern to include the number and credentials of staff assigned to the program or level of care as required by specific program standards.

(d) Admission criteria.

(e) Discharge/transfer criteria and procedures.

(3) Each recipient admitted for treatment must be assigned to an appropriately qualified staff member or clinical treatment team who has the primary responsibility for coordination/ implementation of the treatment/service plan.

(4) In accordance with all local, state and federal law(s), the provider must have written policies that protect the recipient against discrimination in the provision of services regardless of the recipient's age, race, creed, national origin, language of preference, sex, social status, disability status or length of residence in the service area except that specialized services/programs may be developed for specific target populations.

(5) The program shall make good faith efforts to follow up within a reasonable time for missed appointments for all high-risk recipients with clinical indicators such as but not limited to the following:

(a) Recipients who were discharged from psychiatric inpatient services (local or state) in the past year.

(b) Recipients who were decompensating on the last visit.

(c) Recipients who are considered to have intent to harm self or others.

(d) Substance Use Disorders Only: Pregnant women and individuals who inject drugs.

(6) Provider shall have and implement written policies and procedures to ensure recipients physical access to structures and individualized access to services that address the needs of recipients, family members or significant others.

(7) The provider shall have and implement written policies and procedures that prohibit creation after the fact, alteration, or falsification of original administrative or clinical documentation.

(8) The provider shall have and implement written policies and procedures to assure that recipients who are deaf or who have limited English proficiency are provided culturally and linguistically appropriate access to services to include but not limited to the following:

(a) Free language assistance shall be offered to recipients with limited English proficiency or who are deaf. All interpreters must be qualified as defined by state and federal law to work in the assigned setting with preference given to

Qualified Mental Health Interpreters as defined by Administrative Code 580-3-24.

(b) While face-to-face interpreter services are preferable, procedures shall specify how services will be secured when face-to-face interpreters are not available. Procedures shall include the following:

1. For recipients needing spoken language assistance, telephonic or video remote interpreting services may be used.

2. Video remote interpreters may be used for deaf recipients using sign language.

3. Video relay services shall not be used for deaf recipients using sign language when providing treatment.

4. Video relay services may be used for making appointments.

(c) If qualified interpreters are offered and refused, refusal shall be documented on an approved ADMH Office of Deaf Services notification of free language assistance form in the recipient's file.

(d) If family members are used to interpret, this shall be documented on an approved ADMH Office of Deaf Services notification of free language assistance form.

(e) Individuals under the age of 18 shall not be utilized as interpreters.

(f) For recipients who are deaf, hard of hearing, or physically disabled, appropriate environmental and/or communication accommodations shall be provided on an individually assessed basis.

1. Treatment shall be modified to effectively serve recipients who are hard of hearing.

(g) Treatment for recipients who are deaf or who have limited English proficiency shall be offered by staff fluent in the language of the recipient's choice or by using qualified interpreters. This shall be documented on an approved ADMH Office of Deaf Services notification of free language assistance form.

1. Staff providing direct services to deaf recipients shall be fluent, defined as advanced or better on the Sign Language Proficiency Interview or an equivalent rating on an assessment approved by ADMH Office of Deaf Services, prior to providing services.

(h) Treatment will be modified to effectively serve recipients who are deaf as determined by a communication assessment conducted by the Office of Deaf Services or staff approved by the Office of Deaf Services. This communication assessment shall be filed in the recipient's record.

(9) Screening. The provider shall have and implement written policies and procedures for a screening process to briefly screen individuals prior to initiation of a behavioral health assessment or diagnostic interview examination. At a minimum, this process shall:

(a) Describe the screening process.

(b) Specify the instrument(s) or process utilized to conduct the screening process. Substance Use Disorder providers shall use the ADMH approved screening instrument(s). Mental Health providers shall use an ADMH approved screening instrument(s) when applicable.

(c) Describe the procedures followed when the screening process:

1. Identifies risk factors for mental health, substance use or co-occurring disorder(s).

2. Does not identify risk factors for a mental health, substance use or co-occurring disorder(s).

3. Identifies the need for crisis intervention.

4. Identifies special supports for recipients who have mobility challenges, hearing or vision loss, and/or Limited English proficiency.

(d) Specify the procedures for documenting the screening process and that the results of the screening were explained to the recipient and recipient's lawful representative as appropriate.

(10) Intake/Assessment. All providers seeking to have a recipient admitted to an ADMH certified level of care/service shall have and implement written policies and procedures to:

(a) Intake/assessment shall be a clinical interview with recipient, and may include family members, lawful representative, significant other, as appropriate.

(b) Substance Use Disorder Only:

1. Conduct or receive from an ADMH certified provider an ADMH approved placement assessment or receive an assessment from noncertified agency containing an evaluation of each recipient's level of functioning in the six (6) ASAM dimensions.

2. Scheduling a placement assessment and how this information is publicized.

3. Identify any additional tools the provider chooses to utilize in the assessment process.

4. Addressing request by other organizations to conduct a placement assessment.

5. Develop a level of care recommendation based upon the Placement Assessment, which shall describe the role of the recipient and significant others/lawful representative in this process.

6. Describe the procedure when the placed level of care is different from the assessed level of care.

(c) Mental Illness Only:

1. Conduct an assessment/intake, utilizing an ADMH approved assessment tool, if applicable, in developing service/treatment planning processes:

(i) Shall be completed prior to development of initial treatment plan and at discharge, if applicable.

(ii) Updates shall be conducted within other time limits specified under programs specific requirements.

(iii) Shall be placed in the recipient record, if applicable.

(iv) Case Management services do not require a clinical intake. However, case management does require an ADMH approved assessment tool to be completed.

2. Assignment of a diagnosis (most current DSM or ICD). The diagnosis must be signed by a licensed physician, a licensed psychologist, a licensed professional counselor, a licensed marriage and family therapist, a certified registered nurse practitioner, or licensed physician's assistant licensed under Alabama law and operating within licensee's scope of practice.

3. Development of an initial treatment/service recommendations for subsequent treatment and/or evaluation.

(d) Initiate service delivery including referral(s), as appropriate, based upon the recipient's level of care or service recommendation, which shall identify the procedures followed when the placement assessment or intake identifies the need for:

1. An available level of care or service(s).

2. A level of care or service that is otherwise unavailable at assessing provider.

3. Crisis intervention.

(e) The entity shall submit placement assessment/intake data to the ADMH Management Information System according to the most recent edition of Data Reporting Guidelines established and published by ADMH.

(11) Referral Policies/Community Linkage. The provider shall have and implement written policies and procedures for referring recipients to outside services based on individual needs and receiving recipient referrals from other service providers.

(12) Admission Criteria. Each provider shall have and implement compliance with the following written criteria that shall, at a minimum:

(a) Specify the unique characteristics of the program's target population.

(b) Define the admission criteria for each level of care or program provided.

(c) Describe the process implemented when an individual is found to be ineligible for admission. This process shall include the following procedures, at a minimum:

1. Upon request, a written rationale that objectively states or describes the reasons for service denial shall be provided to recipients who have been determined ineligible for admission within five (5) working days.

2. Provide referrals appropriate to the prospective recipient's needs.

3. A description of the appeal policies and procedures for persons denied admission, which shall include the process in which recipients are informed of this right.

(d) Substance Use Disorder Only: Describe the process utilized for prioritizing admission requests and specify that priority access to admission for treatment will be given to the following groups in order of priority:

1. Individuals who are pregnant and have a substance use disorder(s) and whose route of administration is intravenous.

2. Individuals who are pregnant and have a substance use disorder(s).

3. Individuals who have a substance use disorder(s) and whose route of administration is intravenous.

4. Women with dependent children and have a substance use disorder(s).

5. Individuals who are HIV positive and have a substance use disorder(s).

6. All others with substance use disorders.

(13) Readmission Criteria. Each provider shall have and implement policies and procedures regarding criteria and process for readmission.

(14) Exclusionary Criteria. Each provider shall have and implement policies and procedures regarding criteria used to deny admission or readmission of recipients into the program.

Any program's exclusionary criteria shall comply with federal, state and local law. The provider's policies, procedures and practices shall not support admission denials based exclusively on:

- (a) Pregnancy status.
- (b) Educational achievement and literacy.
- (c) Income level and ability to pay. This shall not apply to certified substance use disorder treatment providers who do not have a contract with ADMH.
- (d) Need for or current use of medication assisted therapy.
- (e) Existence of a co-occurring mental illness and substance use disorder.
- (f) HIV status.
- (g) Previous admissions to the program.
- (h) Prior withdrawal from treatment against clinical advice.
- (i) Referral source.
- (j) Involvement with the criminal justice system.
- (k) Relapse.
- (l) Disability.
- (m) Language of preference.
- (15) Substance Use Disorder Only: Case Review. Each provider shall have and implement written policies and procedures that define a case review that shall, at a minimum, incorporate the following elements:
 - (a) Completed by recipient's primary counselor.
 - (b) Conducted at intervals as defined in level of care.
 - (c) Continuing Service/Transfer/ Discharge Criteria which consist of the following:

1. Making progress.
 2. Not yet making progress, but able to in the current level of care/program.
 3. New problems have been identified but these can be handled in the current level of care/program.
 4. Achieved goals set but requires chronic disease management at a less intensive level of care/program.
 5. Unable to resolve problems despite amendments to the treatment/service plan.
 6. Intensification or introduction of new problems that require a different level of care/program.
 7. Recipient preferences.
 8. Goals have been met to the extent that the services are no longer needed.
- (d) Narrative supporting the above choice.
- (e) Document the case review was discussed with the recipient and others designated by the recipient as active participants in the decision-making process.
- (16) Waiting List Maintenance. The provider shall establish a formal process to address requests for services when space is unavailable in the program/service. This process shall include, at a minimum:
- (a) Written procedures for management of the waiting list that shall include, at a minimum, provisions for:
1. Referral for emergency services.
 2. Maintaining contact with a recipient or referral source while awaiting space availability.
 3. Adding and removing a recipient from the waiting list.
 4. Substance Use Disorder Only: Recipient access to interim services while awaiting program admission shall be made

available no later than forty-eight (48) hours after the initial request for admission. At a minimum, interim services provided by the agency shall include:

- (i) Counseling and education about HIV and TB.
- (ii) Risk of needle sharing.
- (iii) Risks of transmission of HIV to sexual partners and infants.
- (iv) Steps that can be taken to ensure that HIV and TB transmission does not occur.
- (v) Referral for HIV or TB treatment, if necessary.
- (vi) Pregnant individuals with substance use disorders receive counseling on the effects of alcohol and drug use on the fetus.
- (vii) Pregnant individuals with substance use disorders are referred for pre-natal care, if not already receiving pre-natal care.

5. Substance Use Only: Specify that priority access to admission for treatment will be given to the priority population outlined in 580-2-20-.09 (12).

(b) The provider shall identify and designate staff position(s) who has responsibility for management of the waiting list(s).

(c) The provider shall comply with requests from ADMH for data reports relative to waiting list maintenance and management i.e., compliance with ADMH Data Management System(s).

(17) Drug Testing. The agency shall have and implement written policies and procedures addressing circumstances under which drug screening of recipients may be utilized and how recipients will be notified of drug testing procedures. If it is utilized at any point, the program shall:

(a) Identify circumstances under which drug testing of recipients will occur.

(b) Indicate specimens used for testing including breath, blood, urine, hair and saliva.

(c) Establish chain of custody procedures that protect against the falsification and/or contamination of any specimen.

(d) Demonstrate that the individual's privacy is protected each time a specimen is collected.

(e) Define method of observation.

(f) Location of where the specimen will be collected.

(g) Individualized drug screen procedures, which include:

1. Frequency of testing based on needs of the recipient or as identified in level of care/program.

2. Procedures used to ensure that drug test screening results are not used as the sole basis for treatment decisions or termination of treatment.

3. Procedures to ensure that drug testing is used as a treatment tool and is addressed with the recipient.

4. Procedures to review for false-negative and false-positive results.

(h) The provider shall establish a reasonable timeframe to discuss with the recipient and document all drug testing results, confirmation results and related follow-up therapeutic interventions in the recipient record.

(18) The provider shall have and implement written policies and procedures governing tobacco use at the provider's physical facility(ies) by the program's staff and recipients that includes compliance with federal, state, and local ordinances. Tobacco use includes, but is not limited to, cigarettes, smokeless tobacco, and e-cigarettes and other vaping products.

(a) Substance Use Only: Provide services that address tobacco use either directly or by referral for all recipients enrolled in each level of care who have requested these services.

(19) Transportation. When a provider provides transportation, the provider shall have and implement written

policies and procedures that govern recipient transportation and include, at a minimum, the following specifications:

(a) Document that vehicles operated by the provider to transport recipients shall have:

1. Properly operating seat belts or child restraint seats.

2. Provide for seasonal comfort with properly functioning heat and air conditioning.

3. Vehicles are in good repair and have regular maintenance inspections.

(b) The number of recipients permitted in any vehicle shall not exceed the number of seats, seat belts and age-appropriate child restraint seats.

(c) Vehicles operated by the provider shall carry proof of:

1. Accident and liability insurance.

2. The vehicle's current registration.

(d) Vehicles operated by the provider shall have an operational fire extinguisher and a first aid kit that are not expired.

(e) The driver of any vehicle used in recipient transportation shall carry, at all times, the name and telephone number of the program's staff to notify in case of a medical or other emergency.

(f) The driver of any vehicle used in recipient transportation shall be:

1. At least eighteen (18) years old and in possession of a valid driver's license.

2. Prohibited from the use of tobacco/vaping/e-cigarette and smokeless tobacco products, cellular phones or other mobile devices, or from eating while transporting recipients.

3. Prohibited from leaving a recipient unattended in the vehicle at any time.

4. Prohibited from making stops between authorized destinations, altering destinations, and taking recipients to unauthorized locations.

(g) The provider shall provide an adequate number of staff for supervision of recipients during transportation to ensure the safety of all passengers.

(h) Substance Use Only: All vehicles operated by the agency to transport recipients shall not be identifiable as a vehicle belonging to a substance use disorder treatment program.

Author: Division of Mental Health and Substance Abuse Services,
DMH Statutory Authority: Code of Ala. 1975, §22-50-11.

History: New Rule: Filed: October 19, 2022.