
Rules of Department of Mental Health

Division 40–Licensing Rules

Chapter 2–Rules for All Day Programs and Community Residential Facilities

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**Title 9—DEPARTMENT OF
MENTAL HEALTH**

Division 40—Licensing Rules

**Chapter 2—Rules for All Day Programs
and Community Residential Facilities**

9 CSR 40-2.010 Resident Rights

(Rescinded January 15, 1984)

AUTHORITY: sections 630.135 and 630.705, RSMo 1982. Original rule filed Feb. 9, 1983, effective July 11, 1983. Rescinded: Filed Oct. 13, 1983, effective Jan. 15, 1984.

9 CSR 40-2.015 Resident and Client Rights

PURPOSE: This rule prescribes limited and unlimited rights of consumers of all community residential facilities or day programs as required by section 630.705, RSMo.

(1) Under Title VI of the Civil Rights Act of 1964, (P.L. 88-352), and the Americans with Disabilities Act of 1990 (ADA, P.L. 101-336), no consumer shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination on the grounds of race, color, national origin or disability.

(2) As set out in section 630.115, RSMo, each resident or client shall be entitled to the following rights without limitations:

(A) To humane care and treatment;

(B) To the extent that the facilities, day programs, equipment and personnel are available, to medical care and treatment in accordance with the highest standards accepted in medical practice;

(C) To safe and sanitary housing;

(D) To not participate in nontherapeutic labor;

(E) To attend or not to attend religious services;

(F) To receive prompt evaluation and care, treatment and habilitation about which s/he is informed insofar as s/he is capable of understanding;

(G) To be treated with dignity as a human being;

(H) To not be the subject of experimental research without his/her prior written and informed consent or that of his/her parent, if a minor, or his/her guardian;

(I) To have access to consultation with a private physician at his/her own expense;

(J) To be evaluated, treated or habilitated in the least restrictive environment;

(K) To not be subjected to any hazardous treatment or surgical procedure unless s/he, his/her parent, if s/he is a minor, or his/her

guardian consents; or unless this treatment or surgical procedure is ordered by a court of competent jurisdiction;

(L) In the case of hazardous treatment or irreversible surgical procedures, to have, upon request, an impartial review prior to implementation, except in case of emergency procedures required for the preservation of his/her life;

(M) To a nourishing, well-balanced and varied diet;

(N) To be free from verbal and physical abuse; and

(O) To an impartial review of alleged violations of rights.

(3) As set out in section 630.110, RSMo, each resident or client shall be entitled to the following rights except if the head of the facility or program determines that it is inconsistent with the resident's and client's therapeutic care, treatment, habilitation or rehabilitation:

(A) To wear his/her own clothes and to keep and use his/her own personal possessions;

(B) To keep and be allowed to spend a reasonable sum of his/her own money;

(C) To communicate by sealed mail or otherwise with persons including agencies inside or outside the facility or day program;

(D) To receive visitors of his/her own choosing at reasonable times;

(E) To have reasonable access to a telephone both to make and receive confidential calls;

(F) To have access to his/her mental and medical records;

(G) To have opportunities for physical exercise and outdoor recreation; and

(H) To have reasonable, prompt access to current newspaper, magazines and radio and television programming.

(4) Any limitation imposed by the head of the facility or day program or his/her designee on the exercise of the rights enumerated in section (3) of this rule by a resident or client and the reasons for these limitations shall be documented on his/her record.

(5) Married residents or clients shall be assured privacy for visits by a spouse. If both a husband and wife are residents or clients of a facility or day program, they shall be permitted to share a room. This right may be limited to the extent that the head of the facility or day program finds it inconsistent with the residents' or clients' care, treatment and habilitation.

(6) Each resident or client shall have an absolute right to receive visits, in private at

reasonable times, from his/her attorney, physician, clergyman or department case manager.

(7) Notwithstanding any limitations authorized under this section on the right of communication, every resident or client shall be entitled to communicate by sealed mail with the department, his/her legal counsel and with the court, if any, which has jurisdiction over the person.

(8) As set out in section 630.120, RSMo, no resident or client, either voluntary or involuntary, shall be presumed to be incompetent, to forfeit any legal right, responsibility or obligation or to suffer any legal disability as a citizen, unless otherwise prescribed by law, as a consequence of receiving evaluation, care, treatment, habilitation or rehabilitation for a mental disorder, mental illness, mental retardation or developmental disability.

(9) The facility or day program shall prominently post a list of resident or client rights in activity areas.

(10) Facilities or programs having a licensed capacity of ten (10) or more residents or clients shall appoint a resident or client rights committee whose function shall be to review existing and planned programs with the administration ensuring that legal rights of residents or clients are upheld, including the right to habilitation, right to education, right to treatment, right to communication, right to protection from harm and abuse and the right to adequate programming for individual needs.

(11) As set out in section 630.760, RSMo, in addition to rights provided for residents or clients of community residential facilities or day programs licensed by the department, residents or clients in community residential facilities or day programs licensed by the department shall have the same rights as residents or clients, as defined in Chapter 198, RSMo, have under section 198.088, RSMo.

*AUTHORITY: sections 630.050, 630.135, 630.168 and 630.705, RSMo 1994. * Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed March 14, 1984, effective Aug. 15, 1984. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996.*

**Original authority: 630.050 and 630.135, RSMo 1980; 630.168, RSMo 1980, amended 1987; and 630.705, RSMo 1980, amended, 1982, 1984, 1985, 1990.*

9 CSR 40-2.030 Report of Complaints of Abuse and Neglect

(Rescinded January 15, 1984)

AUTHORITY: sections 630.050, 630.135 and 630.705, RSMo Supp. 1982. Original rule filed Feb. 9, 1983, effective July 11, 1983. Rescinded: Filed Oct. 13, 1983, effective Jan. 15, 1984.

9 CSR 40-2.035 Report of Complaints of Abuse and Neglect

(Rescinded May 30, 1999)

*AUTHORITY: sections 630.050, 630.135, 630.168 and 630.705, RSMo 1994. * Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed July 15, 1985, effective Feb. 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed Jan. 31, 1991, effective July 8, 1991. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed Oct. 29, 1998, effective May 30, 1999.*

9 CSR 40-2.050 Research Protection

(Rescinded January 15, 1984)

AUTHORITY: sections 630.050, 630.135 and 630.705, RSMo Supp. 1982. Original rule filed Feb. 9, 1983, effective July 11, 1983. Rescinded: Filed Oct. 13, 1983, effective Jan. 15, 1984.

9 CSR 40-2.055 Research Protection

(Rescinded March 30, 1996)

AUTHORITY: sections 630.050, RSMo 1986 and 630.705, RSMo Supp. 1990. Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Rescinded: Filed July 17, 1995, effective March 30, 1996.

9 CSR 40-2.070 Administrative Policies and Procedures

(Rescinded January 15, 1984)

AUTHORITY: sections 630.050 and 630.705, RSMo Supp. 1982. Original rule filed Feb. 9, 1983, effective July 11, 1983. Rescinded: Filed Oct. 13, 1983, effective Jan. 15, 1984.

9 CSR 40-2.075 Administrative Policies and Procedures

PURPOSE: This rule prescribes requirements for policies and procedures governing the operation of all community residential facili-

ties and day programs as required by section 630.710, RSMo.

(1) Each facility or program shall have a written description of its goals, programs, philosophy, purpose, services and cost. The number, characteristics and special needs of the residents or clients to be served must be clearly described.

(2) Each facility or program shall have written policies and procedures approved by the department regarding the following:

(A) Admissions, discharges and transfers which assure the following:

1. Residents or clients are not excluded on the basis of disability, religion or ethnic origin;

2. Only residents or clients are admitted whose needs can be met directly by the facility or program or indirectly in cooperation with community resources and supports;

3. At the time of admission, each resident or client is provided with written information setting forth the following in lay language:

A. A description of the facility or program, its services and costs;

B. Information as to how to seek release or discharge;

C. A statement of rights assured by law;

D. Grievance procedures; and

E. Control and discipline; and

4. Unless a resident or client can read and understand the information presented to him/her, it shall be explained to him/her or to his/her parent or guardian. This information shall be reviewed at least annually with the resident or client, parent or guardian or other responsible party;

(B) Emergency policies and procedures (including instruction for staff, residents and clients) for the following situations:

1. Medical emergencies (for example, food poisoning, epidemic);

2. Natural disasters such as fire, severe storm, tornado or flood;

3. Missing or runaway residents or clients;

4. Behavioral crises;

5. Death of a resident or client;

6. Abuse and neglect of a resident or client;

7. Layoff from job or day program;

8. Arrest or detention of a resident or client; and

9. Infectious or contagious disease;

(C) Personnel policies and procedures;

(D) The use of tobacco; and

(E) Confidentiality of clients' records and information.

(3) Each facility or program shall have written policies and procedures governing the use of restraints and time-out. These policies and procedures shall be at least as stringent as the licensing rules regulating restraint and time-out under 9 CSR 40-3, 9 CSR 40-4, 9 CSR 40-9 or 9 CSR 40-10. Issues addressed in the policies and procedures shall include, but not be limited to:

(A) Conditions under which each type of restraint and time-out will be used;

(B) Who is authorized to order, apply and monitor the use of restraints and time-out;

(C) Time limits of a restraint order;

(D) The duration of restraint and time-outs;

(E) Incorporation of restraint orders and time-out in the individualized habilitation plan (IHP) and individualized treatment plan (ITP);

(F) Charting and recordkeeping; and

(G) Review of use of restraints by the multidisciplinary team.

(4) The head of the facility or program shall review policies, procedures and resident or client rights with the resident's and client's parent or guardian at the time of admission and at least annually after that.

(5) The head of the facility or program shall permit no business activities on the premises other than those which are authorized by the department as consistent with the health, welfare and safety of the residents or clients and compatible with the integrity of the facility or program as a home or day program.

(6) No facility or day program administrator shall be guardian of the clients in the facility or day program as stipulated in section 475.055, RSMo.

(7) Each facility or day program shall have written policies and procedures relating to departures and absences. The policies shall establish a mechanism to alert staff when a client or resident is not present and is accounted for.

(8) In addition to the requirement of paragraph (2)(B)9. relating to emergency policies for infectious and contagious disease, each facility or day program shall have routine policies and procedures for the prevention and containment of infectious or contagious disease.

AUTHORITY: sections 630.050 and 630.705, RSMo 1994. Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed Aug. 4, 1987, effective Jan. 15, 1988. Amended: Filed Jan. 2, 1990, effective June

11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996.

1983, effective July 11, 1983. Rescinded: Filed Oct. 13, 1983, effective Jan. 15, 1984.

**Original authority: 630.050, RSMo 1980 and 630.705, RSMo 1980, amended 1982, 1984, 1985, 1990.*

9 CSR 40-2.090 Recordkeeping

(Rescinded January 15, 1984)

AUTHORITY: sections 630.050 and 630.705, RSMo Supp. 1982. Original rule filed Feb. 9, 1983, effective July 11, 1983. Rescinded: Filed Oct. 13, 1983, effective Jan. 15, 1984.

9 CSR 40-2.110 Admission Criteria

(Rescinded January 15, 1984)

AUTHORITY: sections 630.050 and 630.705, RSMo Supp. 1982. Original rule filed Feb. 9, 1983, effective July 11, 1983. Rescinded: Filed Oct. 13, 1983, effective Jan. 15, 1984.

9 CSR 40-2.120 Admission Criteria for the Mentally Disordered

Emergency rule filed Sept. 20, 1983, effective Oct. 1, 1983, expired Jan. 15, 1984.

9 CSR 40-2.130 Care and Habilitation

(Rescinded January 15, 1984)

AUTHORITY: sections 630.050 and 630.705, RSMo Supp. 1982. Original rule filed Feb. 9, 1983, effective July 11, 1983. Rescinded: Filed Oct. 13, 1983, effective Jan. 15, 1984.

9 CSR 40-2.135 Programming for the Mentally Disordered

Emergency rule filed Sept. 20, 1983, effective Oct. 1, 1983, expired Jan. 15, 1984.

9 CSR 40-2.140 Maintenance, Housekeeping and Laundry

(Rescinded January 15, 1984)

AUTHORITY: sections 630.050 and 630.705, RSMo Supp. 1982. Original rule filed Feb. 9, 1983, effective July 11, 1983. Rescinded: Filed Oct. 13, 1983, effective Jan. 15, 1984.

9 CSR 40-2.150 Fire Safety

(Rescinded January 15, 1984)

AUTHORITY: sections 630.050 and 630.705, RSMo Supp. 1982. Original rule filed Feb. 9,