

---

---

**Rules of**  
**Department of Mental Health**  
**Division 40–Licensing Rules**  
**Chapter 3–Rules for Residential Facilities**  
**Licensed by the Division of Aging**  
**Serving People Who Are Mentally Ill,**  
**Mentally Disordered, Mentally Retarded or**  
**Developmentally Disabled**

<b>Title</b>	<b>Page</b>
<b>9 CSR 40-3.010</b> Physical Plant (Rescinded January 15, 1984).....	3
<b>9 CSR 40-3.030</b> General Medical and Health Care (Rescinded January 15, 1984) .....	3
<b>9 CSR 40-3.050</b> Food Services (Rescinded January 15, 1984).....	3
<b>9 CSR 40-3.070</b> Adequate Staff (Rescinded January 15, 1984).....	3
<b>9 CSR 40-3.115</b> Admission Criteria .....	3
<b>9 CSR 40-3.135</b> Care, Treatment, Habilitation and Rehabilitation .....	4

**Title 9—DEPARTMENT OF  
MENTAL HEALTH**

**Division 40—Licensing Rules  
Chapter 3—Rules for Residential  
Facilities Licensed by the Division of  
Aging Serving People Who Are Mentally  
Ill, Mentally Disordered, Mentally  
Retarded or Developmentally Disabled**

**9 CSR 40-3.010 Physical Plant**  
(Rescinded January 15, 1984)

**9 CSR 40-3.030 General Medical and  
Health Care**  
(Rescinded January 15, 1984)

**9 CSR 40-3.050 Food Services**  
(Rescinded January 15, 1984)

**9 CSR 40-3.070 Adequate Staff**  
(Rescinded January 15, 1984)

**9 CSR 40-3.115 Admission Criteria**

*PURPOSE: This rule prescribes criteria for admission in all community residential facilities as required by section 630.710, RSMo.*

(1) Either prior to admission or within thirty (30) days of admission and annually after that, each resident shall have a medical evaluation and an individualized habilitation or treatment plan.

(2) The medical evaluation for all residents who are mentally retarded or developmentally disabled shall include a screening for hepatitis B unless the resident has been immunized or by previous screening has been found to be immune.

(3) The medical evaluation for all department clients shall include a complete blood count, tuberculin control test and urinalysis; special studies when the index of suspicion is high; vision and hearing tests and routine screening laboratory examinations as recommended by a physician and, at the discretion of the physician, female residents shall have an annual pelvic examination.

(4) The facility shall follow its written policies and procedures as approved by the department for the admission of residents. The facility shall describe how its program is especially designed to meet the needs of the residents it admits.

(5) The facility shall not admit more residents than its licensed capacity.

(6) The facility shall not admit, nor keep in residence, any person whose special needs exceed the facility's provisions for medical care or for adequate programming as described in the resident's individualized habilitation or treatment plan.

(7) The facility shall not admit any resident unless the facility has adequate fencing around swimming pools, ponds, sewage lagoons, liquefied petroleum gas (LPG) tanks and other potentially hazardous areas.

(8) The head of a facility licensed by the Department of Social Services as a residential care facility I shall not admit nor keep in residence any resident unless the facility has evidence supporting the following:

(A) The resident can evacuate the facility without human or mechanical assistance in case of an emergency. In psychiatric group homes, residents needing human or mechanical assistance to evacuate may be placed on the first floor;

(B) The resident has skills in use of hot water above one hundred fifteen degrees Fahrenheit (115°F), use of toxic chemicals and self-administration of medication, which are adequate in consideration of the facility's policies, procedures and staffing to assure the safety of the resident.

1. If the record does not document that a resident can use toxic chemicals, or at least will respect the danger of toxic chemicals, their use and storage is such that residents never have access to them. Procedures require that toxins are always kept locked unless in use. Procedures must include precautions to be utilized when toxins are in use.

2. If the record does not document that the resident can safely use hot water, hot water at all taps accessible to the resident must be kept below one hundred fifteen degrees Fahrenheit (115°F). Use of hot water includes the ability to know hot faucets from cold faucets, to manipulate faucets and to call for help in emergencies.

3. If residents self-administer medications, authorization to do so shall be included in the doctor's orders and approved by those persons participating in the development of the individualized habilitation plan (IHP) or individualized treatment plan (ITP). If the required authorization is not documented in each resident's record or if, despite the documentation, a facility chooses to distribute or administer medications to residents, the following guidelines apply:

A. The record has doctor's orders for all medications being administered except for nonprescription topical medications;

B. The same person who prepares the medication shall also administer it and chart it at the time it is administered; and

C. Doctor's orders shall be reviewed every ninety (90) days;

(C) The resident is ready for training or has required adequate self-care skills including, but not limited to, personal hygiene, grooming, eating skills, telephone use and money management;

(D) The resident is capable of competitive employment, employment in a sheltered workshop, a job-training program or training in self-help skills or, if elderly, is capable of participating in leisure time activities and programs;

(E) The resident can function safely within the physical environment of the facility; and

(F) The resident is at least eighteen (18) years of age or, in psychiatric group homes, seventeen (17) years of age.

(9) The head of a facility licensed by the Department of Social Services as a residential care facility II shall not admit nor keep in residence any resident unless the facility has evidence supporting the following:

(A) The resident can evacuate the facility unassisted or with assistive devices;

(B) The resident has skills in the use of hot water above one hundred fifteen degrees Fahrenheit (115°F), use of toxic chemicals and self-administration of medication, which are adequate in consideration of the facility's policies, procedures and staffing to assure the safety of the resident.

1. If the record does not document that a resident can use toxic chemicals, or at least will respect the danger of toxic chemicals, their use and storage is such that residents never have access to them. Procedures require that toxins are always kept locked unless in use. Procedures must include precautions to be utilized when toxins are in use.

2. If the record does not document that the resident can safely use hot water, hot water at all taps accessible to the resident must be kept below one hundred fifteen degrees Fahrenheit (115°F). Use of hot water includes the ability to know hot faucets from cold faucets, to manipulate faucets and to call for help in emergencies.

3. If residents self-administer medications, authorization to do so must be included in the doctor's orders and approved by those persons participating in the development of the IHP or ITP. If the required authorization is not documented in each resident's

record or if, despite the documentation, a facility chooses to distribute or administer medications to residents, the following guidelines apply:

A. The record has doctor's orders for all medications being administered except for nonprescription topical medications;

B. The same person who prepares the medication shall also administer it and charts it at the time it is administered; and

C. Doctor's orders shall be reviewed every ninety (90) days;

(C) The resident is capable of providing self-care with assistance. Self-care skills shall include, but not be limited to, personal hygiene, grooming, eating and telephone use;

(D) The resident is capable of competitive employment, employment in a sheltered workshop, a job-training program or training in self-help skills or, if elderly, is capable of participating in leisure time activities and programs;

(E) The resident can function safely within the physical environment of the facility; and

(F) The resident is at least eighteen (18) years of age.

(10) The head of a facility licensed by the Department of Social Services as an intermediate care facility (ICF) or skilled nursing facility (SNF) shall not admit nor keep in residence any residents unless—

(A) The facility controls the temperature of hot water at all taps accessible to residents by the use of thermostatic mixing valves or by other means, to keep the temperature from exceeding one hundred fifteen degrees Fahrenheit (115°F);

(B) The facility stores and uses toxic compounds so as not to constitute a hazard to residents; and

(C) The resident is at least eighteen (18) years of age.

(11) All staff administering medications in a facility licensed by the Department of Social Services as a residential care facility I, residential care facility II, intermediate care facility or skilled nursing facility shall have successfully completed a course on medication administration. This training shall be updated every two (2) years. The initial training and biennial update shall—

(A) Be approved by the regional center or placement office;

(B) Be offered by an instructor who is a licensed practical nurse (LPN) certified by the Division of Aging as an instructor, a registered nurse (RN), a pharmacist or a physician;

(C) Not apply to LPNs, RNs or certified medication technicians with lifetime certificates; and

(D) Be documented in the recipient's personnel file.

(12) The course to update training in medication administration shall address at least the following:

(A) Review of basics.

1. Medication ordering and storage.

2. Medication administration.

A. Use of generic drugs.

B. How to pour, chart, administer and document.

C. Information and techniques specific to the following: inhalers, eye drops, topical medications, insulin injections and suppositories.

D. Infection control.

3. Individual rights and refusal of medications and treatment;

(B) Issues specific to the facility/program as indicated by the needs of the residents, and the medications and treatments currently being administered.

1. Emergency response.

2. Medication allergies.

3. Corrective actions based on problems identified by the staff, the trainees or issues identified by regulatory and accrediting bodies, professional consultants or by any other authoritative source; and

(C) Updates on new medications or new procedures.

*AUTHORITY: sections 630.050 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 April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, 1995, effective March 30, 1996.*

*\*Original authority: 630.050, RSMo (1980), amended 1993, 1995 and 630.705, RSMo (1980), amended 1982, 1984, 1985, 1990.*

**9 CSR 40-3.135 Care, Treatment, Habilitation and Rehabilitation**

*PURPOSE: This rule prescribes requirements for services and supports in all community residential facilities as required by section 630.710, RSMo.*

(1) Every resident of a licensed community residential facility shall have an individualized treatment plan (ITP) or an individualized habilitation plan (IHP). The plan shall be

reviewed at least quarterly and updated annually. The annual update and implementation of the plan shall occur within three hundred sixty-five (365) days after the implementation of the previous plan.

(2) The IHP or ITP shall be person-centered and shall address community membership and involvement, client choice and positive relationships with people who are not paid staff.

(3) The responsibility for the development, monthly or quarterly review and annual update of the ITP or IHP shall be as follows:

(A) The head of the facility is responsible for the plan with respect to residents who are not clients of the department; and

(B) The regional center, department facility or administrative agent shall be responsible for the plan with respect to residents who are clients of the department but the head of the facility shall participate in the development of the plan, the monthly or quarterly reviews and annual updates.

(4) The head of the facility shall assure that the resident participate in the development of the individualized treatment or habilitation plan.

(5) The person responsible for implementation of individual objectives of the ITP or IHP shall collect data on their implementation and shall prepare a monthly summary.

(6) Every resident shall participate in a full-time, department-approved day program, sheltered workshop, employment or competitive employment, outside the facility or outside the resident's residential unit. Participation in program activities within the residential unit meets these requirements if no other outside program is available or if the resident's IHP or ITP contraindicates his/her participation outside the residential unit. If the resident is not participating in any day-time program activities, the head of the facility shall document in the resident's record efforts that have been taken to involve the resident and why these efforts have failed.

(7) School-age residents shall be enrolled in the local public school, state school for the severely handicapped or private school approved by the Department of Elementary and Secondary Education, except as provided for in section (8).

(8) If a school-age resident is not enrolled in school, the head of the facility shall document in the resident's record efforts that have

been taken to involve the resident and why these efforts have failed.

(9) The facility shall assure every resident an adequate supply of neat, clean, suitable and seasonable clothing. Clothing shall be appropriate to the resident's age and to the occasion. Identification marks on clothing shall be unobtrusive.

(10) The facility shall provide each resident his/her own toothbrush, washcloth, towel, comb or hairbrush, or both. Toothbrushes shall be stored so that they will air dry and are not subject to contamination. Adult residents shall have individual shaving equipment as appropriate. Personal hygiene items shall be stored in such a way so as to maintain sanitary conditions and to prevent the transmission of communicable disease.

(11) The facility shall train residents in developmental and self-help skills to include training in dressing, grooming, toileting, bathing and hygiene.

(12) Every resident shall have a tub bath or shower at least once a week unless more frequent bathing is indicated.

(13) The facility shall provide training in eating skills and in the use of adaptive equipment where it serves the eating-skill developmental process.

(14) If a facility does not have trained staff or otherwise is capable of meeting sections (15)—(25) regarding seclusion, restraints or time-outs, the head of the facility shall arrange for the transfer of the resident to a state-operated facility or other appropriate facility.

(15) The facility shall not use seclusion or aversive stimuli.

(16) The facility shall not use physical restraint, mechanical restraint or chemical restraint for—

- (A) The convenience of staff;
- (B) Punishment;
- (C) A substitute for activities or programs; and
- (D) A degree or in a quantity that interferes with a resident's habilitation or treatment plan.

(17) The facility shall not use physical restraint, mechanical restraint, chemical restraint or protective devices unless—

- (A) It is necessary to protect the resident or others from serious physical injury;

(B) Less restrictive alternatives have failed;

(C) Authorization is obtained in accordance with section (18);

(D) It is applied by staff trained in the use of restraints; and

(E) It is applied in a way that will not cause physical injury, bodily discomfort or psychological trauma to the resident.

(18) The facility staff shall not use restraint or protective devices unless it has been authorized as follows:

(A) In emergency situations, physical restraint may be applied without prior authorization;

(B) Chemical restraint and mechanical restraint shall require a prior written order from the attending physician and the approval of the head of the facility. An authorization, including *pro re nata* (PRN) orders, shall be for a single application only. In an emergency, a physician may give or change an order by telephone but the order shall be signed by the physician within forty-eight (48) hours; and

(C) Protective devices shall have a prior order from the attending physician, the approval of the head of the facility and, except in emergencies, the approval of the interdisciplinary team. PRN orders shall be allowed if renewed every ninety (90) days and are in compliance with section (20).

(19) If a facility has a policy prohibiting the use of physical restraint, that policy shall be in writing and stipulate the following:

(A) The facility specifically states in writing that it will never use physical restraint under any circumstances;

(B) The policy prohibiting use of physical restraint is appropriate and realistic for residents being served;

(C) The admission criteria would prohibit admitting any resident who would likely need to be physically restrained; and

(D) The facility describes how explosive behavior will be managed without the use of physical restraint.

(20) The facility shall require orders for mechanical restraint, chemical restraint and protective devices to include:

(A) The name of the resident;

(B) The name and signature of the persons ordering the restraint or protective device;

(C) The reason for ordering the restraint or protective device including specific behavior and the frequency of behaviors that led to the order and what less restrictive alternatives had been attempted; and

(D) The type and duration of the restraint or protective device.

(21) The facility shall limit the duration of restraint as follows:

(A) An application of physical restraint shall end as soon as precipitating causes have ended;

(B) An application of mechanical restraint shall end as soon as precipitating causes have ended or be evaluated and reordered by the physician after two (2) hours; and

(C) An application of a protective device shall end as specified by a physician in a current order.

(22) The facility shall have residents under restraints checked periodically as follows:

(A) Residents under chemical restraint shall be checked as specified by the attending physician, but not to exceed two (2) hours, in terms of the effect of the medication. Checks shall be made by staff trained in the administration of medications; and

(B) Residents under mechanical restraints shall be checked every fifteen (15) minutes in terms of the resident's comfort, body adjustment and circulation. After one (1) hour, a resident in mechanical restraint shall be given an opportunity for motion and exercise.

(23) When behavior necessitating restraint recurs beyond the initial twenty-four (24)-hour period more than once within a week or twice within a month, the head of the facility and the interdisciplinary team shall immediately develop a plan to respond to the behavior in a systematic manner in order to reduce the likelihood of its recurrence. This plan shall be incorporated in the resident's individualized treatment or habilitation plan and shall include:

(A) Behavior to be eliminated;

(B) Less restrictive methods and medications used;

(C) Current method and medications to be used;

(D) Schedule for use of the method;

(E) Person responsible for the program; and

(F) Data to be collected to assess progress toward the objective.

(24) Temporary exclusion or removal of a resident as a behavior control method, but not as a formal behavior modification procedure, shall be governed by written policies regarding control and discipline, as required by 9 CSR 40-2.075(2)(A)3.E.

(25) The facility shall use time-out only as follows:





(A) A resident is placed in time-out only under conditions set out in a written behavior modification program incorporated in his/her individualized treatment or habilitation plan;

(B) The resident's ITP or IHP identifies the precise behavior which may precipitate time-out and identifies staff persons authorized to implement time-out procedures;

(C) A single time-out period does not exceed fifteen (15) minutes;

(D) The date, time and duration of each time-out period shall be documented in the resident's file; and

(E) The client is not placed alone in a locked room.

*1986. 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.*

*\*Original authority: 630.050, RSMo (1980), amended 1993, 1995 and 630.705, RSMo (1980), amended 1982, 1984, 1985, 1990.*

(26) Mechanical supports are not considered restraints.

(27) Mechanical supports shall be prescribed by a licensed physician designed and applied under the supervision of a registered occupational therapist, physical therapist, registered nurse or physician who shall issue an order indicating how often residents shall be checked for proper body alignment, circulation, position change and other bodily functions which might be affected by use of mechanical supports. These orders shall be reviewed at least quarterly by the physician, occupational therapist, physical therapist or registered nurse. Residents in mechanical supports shall be checked at a minimum of twice daily, upon application of the supports and upon their removal, unless more frequent checks are required by the order.

(28) A notation of all observations and checks of the resident placed under restraint, in time-out or in mechanical supports shall be entered in the resident's record.

(29) Staff shall be trained in the use of cardiopulmonary resuscitation (CPR) and first aid by the American Heart Association or the American Red Cross so that at least one (1) person with these skills is on duty at all times. Depending on the configuration of the building and the number of residents, more than one (1) trained staff person per shift may be required. The training and periodic review shall be in accordance with the guidelines of the American Red Cross, the American Heart Association, the National Safety Council, or other nationally recognized training organization.

*AUTHORITY: sections 630.050 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 July 15, 1985, effective Feb. 1,*