

DEPARTMENT OF COMMUNITY HEALTH
MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

(By authority conferred on the department of mental health by sections 1 to 4 of Act No. 80 of the Public Acts of 1905, as amended, section 33 of Act No. 306 of the Public Acts of 1969, as amended, and sections 114, 130, 136, 157, 206, 244, 498n, 498r, 842, 844, 908, and 1002a of Act No. 258 of the Public Acts of 1974, as amended, being sections 19.141 to 19.144, 24.233, 330.1114, 330.1130, 330.1136, 330.1206, 330.1244, 330.1498n, 330.1498r, 330.1842, 330.1844, 330.1908, and 330.2002a of the Michigan Compiled Laws)

PART 5. ADMINISTRATIVE ACTION FOR DEVELOPMENTALLY DISABLED PERSONS

SUBPART 1. DESIGNATED RESIDENTIAL FACILITIES

R 330.5005 Regional designation of residential facilities.

Rule 5005. (1) Acceptance of an application for a temporary or administrative admission shall be limited to a person having a domicile in the designated region of a facility. Except as otherwise provided in this rule, a probate court shall limit judicial admissions to persons who are located in counties which constitute a region for the facility. These facilities may admit an individual for preadmission examination with an application for temporary or administrative admission. Facility regional designation may be made by departmental policy or administrative rule.

(2) Facilities of the department or licensed or certified by the department are designated as regional diagnostic and treatment centers for the purposes of section 816 of Act No. 236 of the Public Acts of 1961, as amended, being S600.816 of the Michigan Compiled Laws. A facility so designated shall provide an area so that court hearings may be held in these quarters.

History: 1979 AC; 1986 AACS.

SUBPART 2. TRANSFER REQUIREMENTS

R 330.5015 Transfer under the interstate compact.

Rule 5015. (1) An individual shall be admitted to a residential facility from another state under the interstate compact only if that individual meets the criteria for admission as specified in the act.

(2) An individual under 18 years of age shall be transferred to a facility of another state under the interstate compact if the parents of that individual establish residence in that state.

History: 1979 AC.

SUBPART 3. ADMISSION CONDITIONS

R 330.5031 Temporary and administrative admission.

Rule 5031. (1) An application for temporary or administrative admission shall not be considered as lacking in voluntariness because an individual has agreed to the action as a result of a probate court direction.

(2) If a legally empowered person applies for temporary or administrative admission of an individual under 18 years of age and the facility director, or his or her designee, determines that the individual is suitable for admission, the facility shall admit the individual and shall include the application as part of the case record. A person is legally empowered to execute an application for temporary admission if he or she is a parent, a guardian, or in their absence, a person in loco parentis.

(3) An individual, 18 years or older, competent and deemed suitable by the director, shall be admitted as an administrative admittee upon application. A guardian shall execute the application if the individual is not competent.

(4) An individual under 18 years of age shall be admitted as an administrative admission if deemed suitable by the facility director upon the application of a parent, guardian, or in their absence, a person in loco parentis.

(5) For the purpose of determining who may execute an application for temporary or administrative admission or who may file written notice to leave a facility:

(a) "Guardian" means a court-appointed plenary guardian or guardian of the person of an individual deemed legally incompetent or a guardian appointed for a minor by a court.

(b) "Parent" means the natural or adoptive parent, whether married or not. A parent whose parental rights have been terminated by the probate court or who has been deprived of legal custody by the probate or circuit court, or the equivalent in another state, is barred from executing an admission application.

(c) "Person in loco parentis" means a person who assumes the rights, duties, and responsibilities of a parent as demonstrated by the fact that the person exercises parental functions, such as the care and supervision of the child. Determination of status as a person in loco parentis shall be made by the facility director or his or her designee. The director or his or her designee may consider, in addition to the criteria already mentioned in this subdivision, any of the following criteria:

(i) The person is the sibling, adopted sibling, stepsibling, grandparent, blood aunt or uncle, nephew, niece, or first cousin of the individual minor.

(ii) The minor was placed by a parent or guardian in the keeping of a person to whom the child is not related as can be documented by some written authorization executed by the parent or guardian or by the sworn affidavits of 2 other adult persons that the minor was left in that person's keeping by the parent or guardian.

(iii) The person is a member of the household in which the minor resides.

(iv) The person is responsible for the maintenance of the minor's home.

(v) A probate court, juvenile division, has found the minor to be within the jurisdiction of that court.

(6) Action shall not be taken on an application for temporary or administrative admission of an individual under 18 years of age which is executed by a person in loco parentis until the facility director, or his or her representative, determines the whereabouts and legal responsibility of the parent or guardian. If the whereabouts or legal responsibility of the parents or guardian cannot be determined after reasonable effort, the director may proceed to take action.

(7) A mentally retarded or developmentally disabled individual may be deemed suitable for admission as a temporary or administratively admitted resident. The facility director shall determine suitability and may utilize documentation, previous test results, or a physician's statements in establishing these conditions for a temporary admission. Suitability for an administrative admission shall be made with the assistance of a preadmission examination and in consultation with the community mental health agency serving the individual's county of residence or county of placement. A preadmission examination may be completed by a community mental health agency or private individual if the agency or individuals are under contract with the facility to provide this examination. An individual shall not be administratively admitted unless the director concludes on the basis of the preadmission examination, department admission policies, and other available information that admission is suitable for the following reasons:

(a) The facility is the least restrictive setting feasible for the individual.

(b) Services and programs in the community cannot provide necessary adequate habilitation program or special service required by the individual.

(c) The individual is either:

(i) A severely or profoundly retarded person or substantially developmentally disabled.

(ii) A mildly or moderately retarded person with either multihandicapping conditions or specific maladaptive behavior or behavior problems.

(8) An individual who does not meet the criteria in subrule (7) of this rule may be admitted on a temporary basis at the discretion of the director.

(9) An individual may not be administratively admitted unless a preadmission examination, including mental, physical, social, and educational evaluations, is completed. The facility director, in cooperation with the community mental health agency, shall designate a

professional person to supervise the examination and to prepare a report regarding the individual's suitability for admission and the most appropriate living arrangement.

(10) The facility director shall effect, at least annually, a reexamination of each administratively admitted resident for the purpose of determining whether he or she continues to meet the criteria for administrative admission.

(11) If an individual under 18 years of age, who was admitted on a temporary or administrative basis, becomes 18 years of age, he or she shall be released or shall be offered the opportunity to request administrative admission if competent. A guardian may execute the application if the individual is not competent.

History: 1979 AC; 1981 AACS.

R 330.5033 Respite care.

Rule 5033. Temporary admission of an individual to a state facility for respite care services shall not be accepted unless it is accompanied by both of the following:

(a) An authorization from the admitting person for emergency medical care to provide for the health, safety, and medical well-being of the admitted individual.

(b) Address and telephone number information on how to contact the admitting person or a person who could act in loco parentis.

History: 1983 AACS.

R 330.5039 Denial by director of administrative admission.

Rule 5039. (1) If the facility director or his designee does not deem an individual suitable for admission as a temporary or administrative admission, he shall deny the request. Reason for denial shall be made known to the applicant, and with consent, to the community mental health agency serving the county of the individual's residence and shall be documented in the record of the resident. A copy of the document shall be given to the applicant.

(2) If the director denies admission, he may offer partial admission on a day, night, or weekend basis if the service is available and the individual is deemed suitable for partial admission. The criteria for suitability for partial admission shall parallel that of other forms of temporary and administrative admission.

History: 1979 AC.

R 330.5043 Objection and appeal of an administrative admission of a minor.

Rule 5043. (1) A minor resident informing the facility of a desire to object to his admission shall be assisted by a person assigned by the facility director in properly submitting the objection to the court.

(2) An individual not less than 13 years of age shall be assisted in preparing a proper written objection for the court and shall be made aware of the appropriate time intervals at which objection shall be made. When the objection is complete, the facility director or his designee shall submit it to the probate court within 24 hours, excluding Saturdays, Sundays, and holidays.

(3) Upon notification of an objection by an individual under the age of 13, the facility director or his designee shall notify the probate court of the objection and request the probate court appoint a guardian ad litem for the individual.

History: 1979 AC.

SUBPART 4. PERIODIC REVIEW

R 330.5067 Periodic review of administratively admitted resident.

Rule 5067. A facility director shall evaluate not less than once every 12 months, each administratively admitted resident to determine whether he continues to meet the criteria for administrative admission. If the facility director determines that the resident does not meet the criteria, he shall discharge the resident. Results of this review shall be documented in the case record.

History: 1979 AC.

SUBPART 5. RELEASE AND DISCHARGE

R 330.5077 Discharge of administratively admitted residents.

Rule 5077. (1) An administratively admitted resident shall be discharged as soon as possible, but not later than 3 days after either of the following:

(a) A written notice of intent to terminate admission is given by the person who executed the application for administrative admission.

(b) The facility director deems that it would be clinically suitable.

(2) An administratively admitted resident under the age of 18 who has had an objection to admission sustained by a court shall be discharged immediately upon notification to the facility by the court.

(3) A person other than the resident may give written notice of an intention to terminate administrative admission if the person is the individual who executed the application for admission.

(4) If a guardian has been appointed for a resident subsequent to the execution of an application for administrative admission, only the guardian may give written notice of an intention to terminate an administrative admission.

(5) If a parent or guardian of a resident dies subsequent to execution of an application for administrative admission or otherwise loses legal custody of the resident, the surviving parent of a minor, if any, or guardian appointed by a court to replace the deceased or departed parents or guardian, may give written notice of an intention to terminate administrative admission.

(6) If an application for administrative admission of an individual under 18 years of age has been executed by a proper person, notice of intention to terminate administrative admission may be made by the resident upon his eighteenth birthday unless a guardian of the resident has been appointed.

History: 1979 AC.

R 330.5086 Objection to return to facility by administratively admitted resident.

Rule 5086. (1) An adult resident who is administratively admitted shall not be returned to a facility if he or she objects.

(2) If an adult, administratively admitted resident, who in the judgment of a facility director meets the criteria for judicial admission, leaves the facility without permission, the parent, guardian, or nearest relative shall be immediately notified. If the resident is not readily traceable and his or her whereabouts are unknown, the facility shall notify appropriate police authorities. If the resident is located and is unwilling to return to the facility, the facility director shall make application to an appropriate court for a determination as to whether the resident meets the criteria for a judicial admission. If judicial admission seems necessary and desirable, the facility shall continue admission status pending court hearing, after making application.

(3) A resident on authorized leave who was admitted to a facility on an application for administrative admission executed by someone other than himself or herself may be returned over his or her objection, unless the parent, guardian, or person in loco parentis objects.

(4) A resident who has been admitted upon the signed application of a parent, guardian, or person in loco parentis and who leaves the facility without permission shall be placed on unauthorized leave status until the facility director has secured from the parent, guardian, or person in loco parentis a written notice indicating a desire to withdraw the resident from the facility. After securing notice, the resident shall be discharged. A minor resident shall be permitted to re-enter the facility

upon the original application until discharged. The notification shall be given to the community mental health program which serves the county of the individual's residence. If the resident is not discharged, the facility shall take action pursuant to R 330.5043.

(5) A resident who objects to returning to the facility shall be subject to the administrative review procedures established by the department of mental health.

History: 1979 AC; 1981 AACs.

R 330.5089 Discharge of judicially admitted resident.

Rule 5089. (1) Discharge shall constitute release of a resident from jurisdiction of a facility, by action of the facility director or by court order, or if the court rejects an application or petition or fails to hold a hearing within the required time. A resident discharged may not be returned to the facility as a resident without a new order for admission or application for administrative admission.

(2) When a resident is discharged, the facility director shall report the change in status to the probate court which ordered admission and indicate in this report which of the following factors have brought about this discharge:

- (a) Resident legally transferred out of state.
- (b) Resident, in the opinion of the facility director, is not mentally retarded.
- (c) Resident not reasonably expected to seriously injure himself or others physically.
- (d) Death of resident.
- (e) Resident, on a court order, after 1 year of continuous leave.
- (f) Any other reason provided for in statutes or procedures of the department.

History: 1979 AC.

R 330.5091 Authorized leave of judicially admitted residents.

Rule 5091. (1) A leave for a visit constitutes a conditional and revocable release of a resident, granted for temporary purposes to provide a short-term experience outside the facility for an individual not yet thought to be capable of making a satisfactory adjustment on a long-term basis.

(2) Convalescent leave shall constitute a conditional and revocable release of a resident in his own custody or in the custody of another person, granted for purposes of continuing care and treatment by a facility while providing a longer term experience outside the facility for an individual not yet thought to be capable of making a satisfactory adjustment without this form of treatment. At the time a facility director determines the suitability of release for a judicially admitted resident, consideration for discharge shall have preference.

(3) A resident, while in the custody of a facility, shall not be permitted leave when in the judgment of the facility director it would be harmful to the resident or others.

(4) The department shall not be responsible for providing transportation for the return to a facility of a resident on convalescent leave. Exceptions to this may be made in special instances with the approval of the director of the department.

(5) Convalescent leave for a resident intending to go to another state shall not be granted without the approval of the director of the department.

(6) A facility shall not accept liability for expenses incurred by or for a resident on leave unless this expense is authorized in advance.

History: 1979 AC.