

RULE REVIEW

Office of Mental Health

Pursuant to Section 207 of the State Administrative Procedure Act, notice is hereby provided of the continuation without modification of the following rules which were reviewed in 2010 by the Office of Mental Health. These rules had been adopted during the calendar years 2005 and 2000. Notice that a review of these regulations would be conducted and that public comment would be accepted until March 8, 2010 was published in the January 6, 2010 State Register. All Part and Section references are to Title 14 of the New York Codes, Rules and Regulations.

Section 584.5(e) - Operation of Residential Treatment Facilities for Children and Youth

Statutory Authority: Sections 7.09(b), 31.04(a)(2) and 31.26(b) of the Mental Hygiene Law

Justification: The Agency has determined that the continuation of this regulation without modification is necessary to continue the temporary increase in the capacity of certain residential treatment facilities (RTF) to serve the needs of emotionally disturbed children and youth. In 2000, the Office of Mental Health determined that an increase was needed in the existing RTF capacity serving seriously emotionally disturbed children and youth who reside in New York City. At that time, the regulations in effect specified RTF bed capacity serving primarily New York City residents could be temporarily increased until September 30, 2003, by up to ten additional beds over the maximum of 56 per facility otherwise allowed by the regulation. Due to development delays in the implementation of residential alternatives, the expiration date needed to be changed to September 30, 2004. Therefore, the amendment was required to permit the continued necessary increase in RTF capacity until September 30, 2004. The issue has been the subject of review over subsequent years and has resulted in several changes in the expiration date. The current amendment filed in 2007 extends the expiration date until September 30, 2010.

Assessment of Public Comment: None received.

Part 583 - Pre-Admission Certification for Residential Treatment Facilities for Children and Youth

Statutory Authority: Sections 7.09(b), 31.04(a)(2) and 31.26(b) of the Mental Hygiene Law

Justification: The Agency has determined that the continuation of this regulation without modification is necessary to facilitate operation of Pre-admission Certification Committees (PACC). The purpose of the PACC is to ensure uniform access to Residential Treatment Facilities (RTF) for children and youth, regardless of the current placement or source of referral of an individual child. The amendments to Part 583 improved the operation of the PACC by:

- Extending the period of time after which the PACC must reconfirm its determination of eligibility of a child awaiting admission to a RTF from 45 days to 60 days. The reconfirmation must include a request for an update of the child's status, including the child's clinical status, current placement and willingness and ability to be admitted if offered a placement. Further the PACC's decision must be unanimous, be made in writing, and include the physician's signature.

- Amending eligibility requirements for children who are temporarily unavailable. If a child, who had been found eligible for RTF placement became unavailable for such admission for a period of less than 30 days, then the child's eligibility is considered temporarily suspended. The child's status may then be restored to "eligible" on the date such temporary suspension ends.

- Setting forth the circumstances under which the PACC must decertify a child, who had been previously certified as eligible for placement, from that eligibility status and related notice requirements regarding this decision.

Assessment of Public Comment: None received.

Part 512 - Personalized Recovery-Oriented Services

Statutory Authority: Sections 7.09(b), 31.04(a), 41.05, 43.02(a), (b) and (c) of the Mental Hygiene Law; Sections 364(3) and 364a(1) of the Social Services Law

Justification: As this rule established a new licensed program category, the Agency has determined that continuation of this regulation without modification is necessary to maintain the "Personalized Recovery-Oriented Services (PROS) program.

Assessment of Public Comment: None received.

Part 587 - Operation of Outpatient Programs

Part 595 - Operation of Residential Programs for Adults

Statutory Authority: Sections 7.09 and 31.04 of the Mental Hygiene Law

Justification: The Agency has determined that the continuation of this regulation without modification is necessary to maintain the provisions of "Kendra's Law". Chapter 408 of the Laws of 1999, commonly known as Kendra's Law, established a system for assisted outpatient treatment (AOT), under which courts are authorized to issue orders requiring persons who meet the criteria for AOT to participate in treatment. The purpose of the regulatory amendments was to facilitate the implementation of Kendra's Law by requiring providers of service to give priority access to individuals enrolled in AOT programs and requiring providers of service to notify an individual's case manager and director of the AOT program of the discharge of an individual who is also enrolled in AOT.

Assessment of Public Comment: None received.

