

DRAFT

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF COMMUNITY AND HEALTH SYSTEMS

SUBSTANCE USE DISORDERS SERVICE PROGRAM

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of licensing and regulatory affairs by section 6234 of the public health code, 1978 PA 368, MCL 333.6234, and Executive Reorganization Order Nos. 1991-3, 1994-1, 1996-1, 1996-2, 1997-4, 2009-1, and 2011-4, MCL 333.26321, 333.26322, 330.3101, 445.2001, 333.26324, 333.26327, and 445.2030)

R 325.1301, etc of the Michigan Administrative Code is amended as follows:

November 5, 2021

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PART 1. DEFINITIONS

R 325.1301 Definitions.

Rule 1301. (1) As used in these rules:

(a) "Admission" means the point at which an individual is formally accepted into a substance use disorder services program and services are initiated.

(b) "Aftercare" means the process of providing recommendations to a recipient for continued support after discharge from the program.

(c) "Article 6" means 1978 PA 368, MCL 333.6101 to 333.6523.

(d) "Article 15" means 1978 PA 368, MCL 333.16101 to 333.18838.

(e) **"Branch office" means a state-approved location physically separate from the state licensed substance use disorder services program location. The state licensed program is considered the parent organization and provides supervision and administration of the branch location.**

(ef) “Certified counselor” means an individual **who is employed by or who volunteers to work engaged in providing** counseling of recipients in a substance use disorder services program **licensed by the department under part 62 of the public health code, MCL 333.6201 to 333.6251 and** who is certified as an alcohol and drug counselor by an organization approved ~~and~~ or recognized by the department. **A certified counselor may provide counseling as defined by these rules but not under any other circumstances unless otherwise provided by law.**

~~(f) “Community change, alternatives, information, and training” or “CAIT” means prevention services offered by a substance use disorder services program.~~

(g) “Complaint investigation” means a visit or an inspection of a licensee based upon a complaint with an allegation of noncompliance with or violation of the public health code, mental health code, or these rules.

(h) “Department” means the department of licensing and regulatory affairs.

(i) “Discharge” means the point at which the recipient's active involvement with a substance use disorder services program is terminated and the program has provided the necessary aftercare recommendations.

(j) “Evidence-based practice or services” means a practice or service offered by a licensee based on a national or international medical professional association, public health agency, or governmental body document and such documents available to the department upon request.

(jk) “Follow-up” means activities designed for a screening, assessment, referral, and follow up program to determine the present status of persons previously discharged by the program.

(kl) “Full-time” means employment of not less than 35 hours per week.

~~(lm)~~ “Individual” means that term as defined in section 1105(1) of the public health code, MCL 333.1105(1).

~~(m) “Inpatient” means a full range of substance use disorder rehabilitation and treatment services that are provided to recipients admitted to a hospital and under medical direction.~~

(n) “License” means a license issued by the department under article 6 of the public health code to establish, conduct, or maintain a substance use disorder services program. This term does not apply to a program located in ~~a correctional institution, a veteran’s facility operated by the state or federal government, or a facility owned and operated by~~ **this a local, state, or federal government even if the program is not owned or operated by a state or federal government.**

(o) “Licensed counselor” means an individual engaged in counseling of recipients in a substance use disorder services program who is licensed under part 181 of the public health code, MCL 333.18101 to 333.18838, and is providing services in compliance with the scope of his or her license.

(p) “Licensed Marriage and Family Therapist” or “LMFT” means an individual engaged in counseling of recipients in a substance use disorder services program who is licensed under part 169 of the public health code, MCL 333.16901 to 333.16915, and is providing services in compliance with the scope of his or her license.

~~(pq)~~ “Licensed master’s social worker” or “LMSW” means an individual engaged in counseling of recipients in a substance use disorder services program who is licensed

under part 185 of the public health code, MCL 333.18501 to 333.18518, and is providing services in compliance with the scope of his or her license.

(¶r) “Licensed psychologist” means an individual engaged in the practice of psychology of recipients in a substance use disorder services program who is licensed under part 182 of the public health code, MCL 333.18201 to 333.18237, and is providing services in compliance with the scope of his or her license.

(¶s) “Licensee” means a person, as defined by section 1106(4), MCL 333.1106, who holds the license issued under article 6 of the public health code to operate a substance use disorder services program. **A license is not transferable and shall state the persons, buildings, and properties to which it applies.** Unless otherwise specified in these rules, a licensee does not include a person individually licensed under article 15 of the public health code, to provide psychological, medical, or social services through the individual’s license and whose recipients are limited to those of the individual licensed professional maintaining and operating the office.

(¶t) “Licensure survey” means a ~~non-complaint related~~ visit or inspection to an applicant or licensee to evaluate compliance with the public health code, mental health code, or these rules.

(u) **“Limited Certified Counselor” means an individual who is employed by or who volunteers to work providing counseling of recipients in a substance use disorder services program licensed by the department under part 62 of the public health code, MCL 333.6201 to 333.6251, and who has completed a minimum set of state-approved requirements prior to completing the necessary prerequisites to become a certified alcohol and drug counselor by an organization approved or recognized by the department. A limited certified counselor may provide counseling as defined by these rules but not under any other circumstances unless otherwise provided by law.**

(¶v) “Medical director” means an individual licensed to engage in the practice of medicine or the practice of osteopathic medicine and surgery under part 170 or part 175 of the public health code, MCL 333.17001 to 333.17084 or 333.17501 to 333.17556.

~~(u) “Medication assisted treatment” or “MAT” means the use of FDA approved drugs— itamethadone, buprenorphine, or naltrexone in combination with counseling and behavioral therapy to provide treatment of substance use disorders.~~

(¶w) “Mental health code” means 1974 PA 258, MCL 330.1100 to 330.2106.

(x) **“Methadone Program” means a program engaged in opioid treatment of an individual with an opioid agonist treatment medication registered under 21 U.S.C 823(G)(1), methadone.**

(Y) **“Mobile unit” means a state-approved mobile unit assigned to a state licensed substance use disorder services program location. The state licensed program is considered the parent organization and provides supervision and administration of the mobile unit.**

(¶z) “Nurse” means a licensed practical nurse, registered professional nurse, or advanced practice registered nurse licensed under part 172 of the public health code, MCL 333.17201 to 333.17242.

(¶aa) **“Outpatient counseling program” means a non-residential program engaged in behavioral health counseling for substance used disorders provided by an identified health professional as defined in these rules. This term does not include**

services offered by other individuals, such as peer recovery coaches, case managers, or other individuals not defined in these rules. ~~scheduled, periodic care, including diagnosis and therapy, in a nonresidential setting.~~

(ybb) “Person” means that term as defined in section 1106(4) of the public health code, MCL 333.1106(4).

(zcc) “Pharmacist” means an individual licensed to engage in the practice of pharmacy under article 15 of the public health code.

(aadd) “Physician” means an individual licensed to engage in the practice of medicine or the practice of osteopathic medicine and surgery under article 15 of the public health code. **A physician that provides counseling may be counted as part of the counseling services requirement as long as the physician meets the applicable counseling related requirements in these rules.**

(bbe) “Physician’s assistant” means an individual who is licensed to practice as a physician’s assistant under part 170 of the public health code, MCL 333.17001 to 333.17084.

(eff) “Public health code” means 1978 PA 368, MCL 333.1101 to 333.25211.

(edgg) “Recipient” means an individual who receives services from a licensed substance use disorder services program in this state.

(fhh) “Regional entity” means ~~ana coordinating~~ agency designated by the state of Michigan to coordinate substance use disorder services in a specified region.

(ggii) “Residential **program**” means a ~~temporary or permanent live-in~~ residential setting that **is staffed and provides continuous substance use disorder treatment and-or rehabilitation services onsite.** ~~This term does not include recovery, transitional, or sober-housing that provides only a residential setting without offering treatment and rehabilitation services but may offer prevention services.~~

(gg) “Residential detoxification” means a residential, medically acute or subacute, systematic reduction of the amount of a drug in the body, or the elimination of a drug from the body concomitant.

(jj) “Residential withdrawal management program” means a residential setting offering either clinically managed or medically monitored withdrawal management services for the purposes of detoxification.

(hh) “Residential detoxification treatment positions” or “RDT positions” mean the number of recipients that can receive services at a residential program at the same time.

(ii) “Screening and assessment, referral, follow up” or “SARF” means the assessment of recipients through interviews, psychological tests, and other diagnostic or assessment tools, to diagnose substance use disorders and provide appropriate referrals for treatment and rehabilitative services, as necessary.

(jjkk) “Staff” means an individual who is not a recipient and who works, with or without remuneration, for a licensed substance use disorder services program.

(kll) “Substance use disorder services program” or “program” means a public or private person or entity offering or purporting to offer specific substance use disorder prevention, treatment, and rehabilitation services.

(Hmm) “Substance” means an agent or a chemical that upon entering a human body alters the body’s physical or psychological status, or both. This includes alcohol and other drugs.

(mmnn) “Supervision” means that term as defined in section 16109(2) of the code,

MCL 333.16109(2).

~~(moo)~~ “United States Food & Drug Administration” or “FDA” means the federal agency of the United States Department of Health and Human Services.

(2) A term defined in the public health code or the mental health code have the same meaning when used in these rules.

PART 2: STATE AGENCY REQUIREMENTS

SUBPART A: LICENSING

R 325.1303 Application; licensing requirement; review process; licensure.

Rule 1303. (1) As authorized in article 6 of the public health code and chapter 2a of the mental health code, MCL 330.1260 to 330.1287, an application for initial licensure or licensure change, including change in ownership, **change in business name**, relocation of the program, addition or deletion of service levels, ~~change in bed or RDT positions, or addition or deletion of a branch site or mobile unit~~, shall be made on the most recent applicable form authorized and provided by the department.

(2) A person offering substance use disorder services shall be licensed under article 6 of the public health code, except as provided in subrule (3) ~~or (4)~~ of this rule.

(3) A ~~substance use disorder services program~~ license is not required for an individual licensed under article 15 of the public health code to provide psychological, medical, or social services if all of the following are met:

(a) ~~An~~**The** individual is offering psychological, medical, or social services within the scope of his or her individual professional license and not under a group or organization offering substance use disorder services, ~~unless exempt under subdivision (c) of this subrule.~~

(b) ~~An~~**The** individual is offering psychological or medical services and not providing methadone treatment. ~~Methadone treatment requires a license under article 6 of the public health code, for the group or organization, not for the individual licensed under article 15 of the public health code.~~

~~(c) An individual, or individuals in a group practice, is offering psychological or medical services and does not provide buprenorphine or naltrexone treatment to more than 100 individuals at any 1 time at a specific property. As a result of not meeting subdivision (c) of this subrule, a license shall be maintained until the licensee can demonstrate to the satisfaction of the department that the specific property will only provide treatment equal to or less than 100 unique recipients at any 1 time for each of the next 2 consecutive calendar years.~~

~~(4) A substance use disorder services program license is not required for an individual who is licensed as a pharmacist and is administering buprenorphine or naltrexone treatment at a licensed pharmacy location under the written direct delegation of an individual licensed under article 15 of the public health code and functioning within applicable scope of practice.~~

~~(5)~~ If the application is incomplete and requires additional information, the department shall notify an applicant in writing within 30 days of receipt of application. An application is not deemed complete by the department until both of the following are received:

- (a) The application form and required attachments.
- (b) The application or licensing fee, as applicable.
- (65) The department shall conduct a precicensure survey **and make a determination on an application** within 3 months of an application being deemed complete ~~for the initiation of a residential, residential detoxification, MAT, or inpatient substance use disorder services program.~~
- (76) Upon determination of compliance with the public health code, mental health code, and these rules, the department shall issue a license that identifies all of the following:
 - (a) Name of the licensee.
 - (b) Business name of the substance use disorder services program.
 - (c) Physical address of the substance use disorder services program.
 - (d) ~~Any of the following~~ **The program** service categories authorized:
 - ~~(i) Prevention service—CAIT.~~
 - ~~(ii) Treatment and rehabilitation services including 1 or more of the following:~~
 - ~~(A) SARF.~~
 - ~~(B) Outpatient counseling program.~~
 - ~~(C) MAT/Methadone program.~~
 - ~~(D) Residential program.~~
 - ~~(E) Residential detoxification—withdrawal management program.~~
 - ~~(F) Inpatient.~~
 - ~~(e) Number of beds for residential or inpatient service categories.~~
 - ~~(f) Number of RDT positions for residential detoxification service category.~~
- (87) The department shall conduct a post licensure survey within 3 months of the initial license being issued.
- (98) A licensee shall post the license and the hours of operation of the program in a conspicuous public area of the program.
- ~~(109)~~ A new license shall be issued by the department prior to the transfer of a license to a different owner of a program through a change of ownership application, or from 1 physical location to another physical location through an application to relocate the program.

R 325.1304 Application for branch office or mobile unit; requirements; review process; approval.

Rule 1304. (1) Prior to operation of a branch location or mobile unit, a licensee must submit an application for review and approval on the most recent applicable form authorized and provided by the department.

(2) If an application is incomplete and requires additional information, the department shall notify the licensee in writing within 45 days of receipt of application.

(3) The licensee submitting an application for a branch location or mobile unit has been licensed for a minimum of 2 years and currently in compliance with the public health code, mental health code, and these rules.

(4) A branch location shall meet all of the following:

(a) The parent organization provides outpatient counseling services and is

proposing to offer outpatient counseling services at the branch office.

(b) The branch office is open to recipients no more than 20 hours per week.

(c) The branch office offers no more than 40 staff hours a week of outpatient counseling services.

(d) The branch office has applicable policies and procedures required for outpatient counseling services.

(e) The branch office is located within 35 miles from the parent location.

(f) The total number of branch offices does not exceed 3 locations for the parent organization.

(g) The branch office shall post the hours of operation of the location in a conspicuous area for public view.

(5) A mobile unit shall meet all of the following:

(a) The parent organization provides the treatment or rehabilitation service to be offered in the mobile unit.

(b) The mobile unit does not serve an area greater than 75 miles from the parent location.

(c) The total number of mobile units does not exceed 3 for the parent organization.

(6) A licensee shall post the branch office or mobile unit license in a conspicuous area for public view.

R 325.1305 License renewal process.

Rule 1305. (1) Renewal of a license shall be completed through an electronic web-based system authorized and provided by the department.

(2) A license is renewed and valid only upon electronic payment of the applicable renewal fee.

(3) A license must be renewed before August 1 of each calendar year, unless otherwise specified on the license.

(4) The department may require changes or corrections to a license prior to renewal.

(5) If a license is not renewed within 30 days after the expiration date, the department may take any enforcement action authorized by section 6243 of the code, MCL 333.6243.

R 325.1307 Licensure survey and complaint investigation process.

Rule 1307. (1) A prelicensure survey shall be scheduled and announced ~~for residential, residential detoxification, MAT, and inpatient service categories.~~

(2) All other licensure surveys and complaint investigations shall be unannounced.

(3) A licensure survey or complaint investigation may be conducted by the department during any hours of operation of the program.

(4) A licensure survey or complaint investigation may use information not collected from an applicant or licensee during its review. If this information is used, an applicant or licensee shall be notified of this information.

(5) An applicant or licensee shall grant access to the program and cooperate during a licensure survey or complaint investigation for the department to determine compliance with applicable statutory and regulatory requirements. The department shall determine

lack of access or cooperation as evidence of noncompliance.

R 325.1309 Waiver from licensure survey.

Rule 1309. (1) The department shall provide and make publicly available a procedure for when a licensee may be eligible for a waiver from a licensure survey. The procedure must include maintaining a list of approved accrediting bodies for programs.

(2) On or before October 1 of each year, the department shall publish a list of programs to receive a licensure survey in the next calendar year.

(3) An eligible licensee may request a waiver from licensure survey on or before November 1 of each year. A waiver request shall be submitted on a form authorized by the department.

(4) On or before January 1 of the survey year, the department shall provide in writing an approval or denial of the waiver from licensure survey to the licensee.

(5) Denial of a waiver from licensure survey is not subject to appeal and will result in a licensure survey during the survey year.

(6) An approved waiver from licensure survey shall not prohibit the department from conducting an onsite licensure survey at any point in the future to protect the health, safety, and welfare of individuals receiving care and services.

SUBPART B: PROGRAM COMPLAINT AND COMPLAINT INVESTIGATION

R 325.1311 Program complaint.

Rule 1311. (1) A program complaint filed with the department shall be limited to allegations that the program did not comply with the public health code, mental health code, other state laws, or these rules.

(2) A complainant shall provide enough information to identify the specific program where the alleged conduct or incident took place. This information includes, but is not limited to, the name and address of the program.

(3) A program complaint may be filed anonymously.

(4) When a program complaint is filed by an individual with the department, it must be filed within 12 months of the violation. If it is not filed within 12 months of the violation, the department may investigate the program complaint if the complainant shows good cause for delayed filing of the program complaint, such as lack of knowledge of the violation within the 12-month period.

(5) A program complaint shall be submitted using the department's hotline or in writing using the United States Postal Service, email, the department's online complaint form, facsimile, or other method provided for on the department's website, www.michigan.gov/lara.

(6) A program complaint must be understandable and limited to matters involving an alleged violation of an applicable law or rule affecting the complainant, the recipient or, in the case of a public interest group, affecting the public or a portion of the public.

(7) The department shall receive, evaluate, and, if warranted, investigate a filed program complaint. The department shall not investigate a program complaint that, as alleged, does not violate a law or rule regulated by the department. The department shall send a letter of acknowledgement to each complainant upon evaluation of the program

complaint, except when a program complaint is submitted anonymously.

(8) The department shall notify the licensee of the nature of the program complaint no earlier than the initial visit to the licensee to investigate the program complaint.

(9) The department shall provide the complainant with the written findings of the program complaint investigation, or instructions for how to obtain the written findings, no later than 30 days after the conclusion of the program complaint process. The department shall inform the complainant of the department's actions if the program does not correct areas of noncompliance, when applicable. This subrule does not apply when a program complaint is filed anonymously.

R 325.1313 Complaint investigation of program complaint.

Rule 1313. (1) An employee assigned by the department may conduct a complaint investigation of a program complaint to ensure compliance with state law or rule.

(2) Complaint investigations pursuant to these rules may include, but are not limited to, all of the following:

(a) Observation of the operation of the program.

(b) Assessment and copying of relevant books, records, recipient records, videos, and other documents maintained by a program.

(c) Collection of other information, including otherwise privileged or confidential information, from any person who may have information bearing on an applicant's or licensee's compliance or ability to comply with the requirements for licensure.

(3) To perform the duties listed in subrule (2) of this rule, an employee assigned by the department may use pictures, audio recordings, video recordings, and other acceptable technology in a manner authorized for use by the department.

(4) The department shall provide a program with its written findings no later than 30 days after the conclusion of the regulatory activity described in subrule (1) of this rule.

(5) A licensee shall cooperate with the investigation and provide truthful information to the department.

(6) A complainant shall be informed of the department findings within 15 days of the completion of the complaint investigation. The complaint investigation findings are not subject to appeal.

(7) Within 45 days of the completion of the complaint investigation, a complainant may submit a request for an administrative review by the department with specific allegations that the complaint investigation was not conducted in accordance with these rules.

SUBPART C: ENFORCEMENT AND HEARING

R 325.1315 Denial of application; revocation of license.

Rule 1315. An application or license may be denied or revoked for 1 or more of the following reasons:

(a) Violation of the public health code, mental health code, or these rules.

(b) Submission of false information to the department that is related and material to the requirements of applying for or holding a license.

(c) Denial, revocation, suspension, or failure to renew a federal registration to

distribute or dispense methadone, ~~other MAT medications, or other controlled substances.~~

(d) Disciplinary action, suspension, or revocation of the license issued under article 15 of the public health code for the medical director of the program, or any other health professional who is directly responsible for the care of a recipient.

(e) Failure of an applicant or licensee to cooperate with the department in connection with a licensure survey, complaint investigation, or any other investigation or inquiry.

(f) Failure to provide information necessary to conduct a thorough assessment of an applicant, an application, a licensee, a license, complainants, or a complaint investigation.

R 325.1317 License suspension.

Rule 1317. A license may be subject to a summary suspension for any violation of the public health code, mental health code, or these rules that may, according to the determination of the department, pose a risk to the public health, safety, or welfare of recipients and where remedial action has not been taken by the provider, pursuant to section 92 (2) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292(2).

R 325.1319 Refusal by department to issue or renew license.

Rule 1319. A person, representative, director, or officer of a licensee, an agency, a firm, a corporation, an association, or an organization who has had a license revoked or a renewal denied may be refused a license for a period of not less than 3 years after the revocation or renewal denial. The department may accept an application from a person, an applicant, or licensee or anyone connected directly or indirectly with a licensee who has had a license revoked or a renewal denied. The department may reject the application on its face without taking further action after notifying an applicant of the rejection and the reason for the rejection. The rejection is not subject to appeal.

R 325.1321 Notification of denial of application.

Rule 1321. When the department determines that an application shall be denied for any of the reasons specified in R 325.1315, or for any other reason afforded under the public health code, the mental health code, or these rules, an applicant shall be notified in writing of this final agency decision. The denial of an application is not subject to appeal.

R 325.1323 Notification of revocation of license or nonrenewal of license; compliance conference; opportunity to appeal.

Rule 1323. (1) When the department determines that a licensee has committed an act or engaged in conduct or practices that warrants the revocation of a license or the denial to renew a license, the department shall issue a notice of intent that includes all of the following:

(a) The reason or reasons for the revocation of a license or the denial to renew a license.

(b) The date, time, and location for a compliance conference. The compliance conference shall take place at least 45 days from the date of the notice of intent.

(c) Guidance to the licensee that a written appeal of the notice of intent must be submitted to the department within 30 days from the date of the notice of intent for the compliance conference to occur.

(2) The department shall send the notice of intent to the licensee by certified mail with return receipt requested.

(3) If a licensee does not submit a written appeal of the notice of intent within 30 days from the date of notice of intent, the department may revoke or not renew the license. This action on the license shall be final and is not subject to administrative appeal.

(4) If a licensee submits a timely appeal of the notice of intent, the department shall hold the compliance conference as indicated in the notice of intent. The licensee shall be afforded an opportunity to show compliance to all lawful requirements for a license.

(5) If a licensee does not demonstrate compliance at the compliance conference or the parties are unable to resolve the issues at the conference, the department shall request a formal hearing pursuant to sections 71 to 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.292, and Part 1 of the Michigan administrative hearing system administrative hearing rules, R 792.10101 to R 792.10137.

R 325.1325 Order of summary suspension.

Rule 1325. (1) When the department determines that a licensee has committed an act or engaged in conduct or practices that justify an order for summary suspension of the license because it may pose a risk to the public health, safety, or welfare, the department shall notify the licensee, either by personal service or certified mail with return receipt requested, of the order to summarily suspend the license. The order shall contain the name and license number of the licensee, the allegations of risk or harm prompting the summary suspension, and the specific date and time the licensee shall cease operations. The order may also contain specific actions the licensee must take to address referral of recipients, disposition of existing supplies, and recipient records.

(2) Upon issuance of the order for summary suspension, the department shall promptly request a formal hearing pursuant to section 92(2), MCL 24.292(2) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292 (2).

R 325.1327 Applicability.

Rule 1327. (1) The procedures set forth in R 325.1315 to R 325.1325 apply to the hearings and penalties related to violations outlined in article 6 of the public health code.

(2) Unless otherwise provided by article 6 of the public health code, chapter 2a of the mental health code, MCL 330.1260 to 330.1287, or these rules, the procedures for a hearing shall comply with sections 71 to 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.292, and Part 1 of the Michigan administrative hearing system administrative hearing rules, R 792.10101 to R 792.10137.

PART 3: SUBSTANCE USE DISORDER SERVICES PROGRAM REQUIREMENTS

SUBPART A: ADMINISTRATION

R 325.1329 Ownership; licensee.

Rule 1329. (1) An applicant or licensee shall disclose ownership of a program to the department on the license application. An applicant or licensee is the individual or entity applying to the department to establish, conduct, or maintain a substance use disorder services program.

(2) An applicant or licensee shall be the legal authority and responsible for the management of the program, the provision of all services, and its fiscal operations.

(3) An applicant or licensee shall establish policies and procedures for the management, operation, and evaluation of the program.

(4) Acceptance of a license means the licensee shall comply with the public health code, mental health code, and these rules.

R 325.1331 Policies and procedures.

Rule 1331. (1) An applicant or licensee shall have policies and procedures for the services offered. A licensee shall review and update the policies and procedures triennially or as necessary, whichever is sooner. Reviews shall be documented through date and signature on the policy and procedure or by meeting minutes that list the specific policies and procedures reviewed.

(2) Policies and procedures ~~for all programs~~ shall include all of the following:

(a) Confidentiality.

~~(b) Chart outlining the organization structure.~~

(be) Recipient rights.

~~(c)~~ **Referral, including access to medication-assisted treatment. The policy and procedure shall facilitate access to medication-assisted treatment if desired by the recipient.**

~~(3) Policies and procedures for a program offering treatment and rehabilitation services shall include all of the following:~~

~~(ad)~~ **Admissions. The policy and procedure shall include a consent for treatment that outlines the benefits and ~~drawbacks~~ risks of each treatment and rehabilitative service offered by the program, as well as other FDA treatments not offered by the program, other FDA-approved treatments not offered by the program, and the risk of no treatment consistent with current clinical standards supported by national guidelines for evidence-based practices.**

~~(be)~~ **Discharge, including aftercare. The policy and procedure may not permit discharge of a recipient due to a return to use so long as the recipient reengages in treatment and complies with program policies and treatment protocol prospectively.**

(f) Naloxone access. The policy and procedures shall include protocol to offer a naloxone kit to, at a minimum, all recipients with a history of opioid use or who are otherwise determined to be at risk for overdose.

~~(eg)~~ Follow-up.

~~(dh)~~ Intake.

~~(4) Policies and procedures, when the following services are offered, shall include the~~

following, as applicable:

~~(a) Prescribing of treatment medications. The policy and procedure shall include the delegation of those duties in accordance with article 15 of the public health code.~~

~~(b) Dosing of treatment medications. The policy and procedure shall include the delegation of those duties in accordance with article 15 of the public health code.~~

(e) Telehealth, Ttelemedicine or other communication modalities. The policy and procedure shall conform with applicable state and federal regulations on the use of electronic information and telecommunication technologies to support or promote long-distance clinical health care, patient and professional health-related education, public health, or health administration. ~~The policy and procedure shall assure that the use of telemedicine or other communication modalities are in accordance with applicable laws and these rules, including the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.~~

R 325.1333 Complaint filed with program; policy and procedure for initiation, investigation, and resolution.

Rule 1333. (1) An applicant or licensee shall adopt written policies and procedures for the initiation, investigation, and resolution of complaints filed with the program. These policies and procedures shall be provided by the applicant or licensee to each recipient at the time of admission to the program and upon request. Program complaint policies and procedures shall contain, at a minimum, all of the following:

(a) A statement that a recipient, or the recipient's legal guardian or designated representative when that person has standing, may file a complaint to the program, the department, or both; and a statement that the person need not cite a specific violation of law or rule.

(b) A complainant's contact information, unless the complainant wants to remain anonymous.

(c) A process for filing a complaint with the program about potential violations of law or rule, including a process to assist the complainant with writing a complaint when an oral complaint is not resolved to the complainant's satisfaction.

(d) A process to document when oral complaints are resolved and when investigation activities are discontinued.

(e) If a standard complaint form is used, a copy of the form must be provided to each person at the time of admission or treatment and upon request.

(f) The name, title, location, and contact information of the individual who is responsible for receiving complaints and conducting complaint investigations for the program, as well as the process for communicating with that individual.

(g) A requirement that all program complaint investigations be started within 72 hours of receipt of a complaint or discovery of the allegation or allegations, whichever occurs first.

(h) A requirement that all program complaint investigations be completed within 15 days of receipt of the complaint or discovery of the allegation or allegations, whichever occurs first.

(i) A requirement that the program shall deliver to the complainant within 30 days of receipt of the program complaint or discovery of the allegation or allegations, whichever

occurs first, the written results of the investigation or a written status report indicating when the written results of the investigation may be expected. The written results shall inform the complainant that the complainant may file a program complaint with the department and include the department's contact information. This subdivision does not apply to a complaint that is filed anonymously.

(2) A program shall maintain for 2 years any program complaints filed under its complaint procedure, and all program complaint investigation reports and correspondence delivered to each complainant. Such records shall be available to the department upon request.

R 325.1335 Program assessment and evaluation.

Rule 1335. (1) An applicant or licensee shall develop written goals and objectives to assess the needs and evaluate the effectiveness of the program and services offered.

(2) An assessment shall identify the staffing needs, supplies, and other necessary components to ensure the effectiveness of the delivery of services.

(3) A licensee shall review and document the evaluation of the program and services offered. The evaluation shall be completed annually or when there is a change in services or the needs assessment of the recipients, whichever is sooner.

(4) A licensee shall make the reports available to the department upon request and during **any licensure** survey or complaint investigation.

R 325.1337 Data reporting; informal advisory group.

Rule 1337. (1) The department may collect information and aggregated data from licensees, including but not limited to, any of the following:

- (a) Availability of services.
- (b) Hours of operation.
- (c) Demographic data.
- (d) Morbidity and mortality data.
- (e) Volume of care provided to ~~patients~~**recipients** from all payor sources.

(2) Prior to any data collection under this rule, the department shall establish an informal advisory group, with representation from providers of substance use disorder services programs, to determine the data elements to be collected.

(3) The licensee shall provide the required data on an individual basis for each licensed site in a format and media designated by the department.

(4) The department may elect to verify the data through onsite review of appropriate records.

R 325.1339 Emergency preparedness plan.

Rule 1339. An applicant or licensee shall have an all-hazard emergency preparedness plan to meet the health and safety needs of its recipient population and personnel. The emergency preparedness plan shall provide guidance on how to respond to emergency situations that could impact the operation of the program, such as natural, man-made disasters or other emergent situations. The emergency preparedness plan shall include all

of the following components:

- (1a) A risk assessment.
- (2b) A written emergency response plan.
- (3c) Written policies and procedures that support the successful execution of the emergency response plan.
- (4d) A written communication plan.
- (5e) A written training and testing plan.

R 325.1341 Proposed program closure.

Rule 1341. (1) At least 30 days prior to the proposed closure date of a substance use disorder services program, a licensee shall notify the department in writing and identify all of the following:

- (a) The name and address of the program.
- (b) The proposed closure date.
- (c) The number of recipients in treatment at the time of notification.
- (d) The name, title, telephone number, and email address of the individual who is designated to serve as the contact person for the closure process.

(2) A licensee shall submit a closure plan to the department and the closure plan shall include all of the following:

- (a) A timeline for closure.
- (b) A method to ensure adequate staffing throughout the closure process.
- (c) Provisions for the maintenance, storage, safekeeping, or destruction of recipient records and, if applicable, by including the name of the organization, the address, and the contact information where medical records will be stored.
- (d) Provisions for notifying all affected state, federal, and local governmental authorities of the proposed closure.
- (e) A method to identify a program or other appropriate location for each recipient that includes both of the following:
 - (i) Assessment of recipient needs.
 - (ii) Provision of information to recipients and families about other programs based on recipient's assessment.

R 325.1343 Compliance with other federal, state, and local statutes and regulations.

Rule 1343. (1) In addition to the requirements of the public health code, mental health code, and these rules, an applicant and licensee shall comply with other federal, state, or local statutes, rules, and regulations that may directly impact the delivery of substance use disorder services, such as compliance with all state pharmacy laws related to controlled substances, licenses, health occupational requirements under article 15 of the public health code, and local governmental requirements for residential settings.

(2) The department may take action against a licensee for noncompliance with other federal, state, or local statutes, rules and regulations that may directly impact the delivery of substance use disorder services. The department may act at its discretion upon referral and final determination of noncompliance by other federal, state, or local authorities against a licensee.

SUBPART B: STAFFING

R 325.1345 Personnel management.

Rule 1345. (1) An applicant or licensee shall have written personnel policies and procedures.

(2) An applicant or licensee shall have a written job description for each staff position that identifies all of the following:

- (a) Job title.
- (b) Tasks and responsibilities.
- (c) Education and experience.
- (d) Skills, knowledge, and training.
- (e) Licensure or credentialing, as applicable.
- (f) Any supervisory roles and responsibilities for other staff members, including of individuals with a limited or temporary license.

(3) Personnel policies, procedures, and job descriptions shall be reviewed and documented annually by the program director and updated as necessary.

(4) An applicant or licensee shall establish an orientation program for staff.

(5) An applicant or licensee shall maintain personnel records for each staff member.

R 325.1347 Program director.

Rule 1347. An applicant or licensee shall designate a program director who is responsible for all phases of the operation of the program, selection of staff, and quality of care provided in the program. Any delegation of duties by a program director to another staff person shall be in writing and shall not be for more than 1 year. The written delegation shall clearly identify the specific task being delegated. Delegation of duties by the program director shall be assigned only to a qualified designee and the qualifications shall be identified in the delegation. An applicant or licensee may assign a different title to this position.

R 325.1349 Staffing assessment.

Rule 1349. (1) An applicant or licensee shall conduct an assessment of services offered by the program to identify additional staffing levels beyond minimum licensing requirements. The assessment shall identify the services offered by the program, the staff required to provide those services, licensing and credentialing requirements for the staff identified, and the level of staffing needed. The assessment shall be completed and documented by the applicant or licensee annually or when there is a change in services or the needs assessment of the recipients, whichever is sooner.

(2) The licensee shall maintain staffing levels according to the requirements of these rules and the assessment completed by the program outlined in subrule (1) of this rule, except in documented short-term instances less than 2 weeks in length due to an illness, a vacation, and other leave. This subdivision does not preclude the licensee from the appropriate use of other staff or professions not identified in these rules. If these other staff or professions are not identified in these rules, then these individuals cannot be used to meet the minimum staffing requirements set forth in these rules.

~~(3) Upon the effective date of these rules, an individual to be counted for counseling services staffing requirements that does not possess an applicable license, as specified by these rules, but is enrolled in a certification program approved by the department, will have 12 months to obtain the applicable certification.~~

~~(4)~~ **(3)** A program that is licensed for residential and residential ~~detoxification~~ **withdrawal management** at a single licensed site may share a licensed counselor, LMSW, or licensed psychologist, if other staffing requirements are maintained.

~~(5) A program that is licensed for residential detoxification and inpatient at a single licensed site may share a medical director.~~

R 325.1351 Staff development and training.

Rule 1351. (1) An applicant or licensee shall establish a staff development and training program to include all of the following:

- (a) Orientation for staff.
- (b) On-the-job training.
- (c) In-service education.
- (d) Opportunity for continuing job-related education.

(2) In-service education of staff at orientation and at regular intervals, thereafter, as determined by the program director for outpatient counseling and residential programs and the medical director for all other programs, include at minimum the following:

- (a) First aid and cardiopulmonary resuscitation (CPR).**
- (b) Training to identify signs and symptoms of medical emergency.**
- (c) Training on potential medical risk associated with withdrawal from substances and combinations of substances and appropriate acute interventions.**
- (d) Naloxone administration.**
- (e) Cultural competency and diversity.**
- (f) State and federal rules and regulations regarding confidentiality.**
- (g) Mandated reporting of suspected abuse and neglect.**
- (h) Assessment and management of intention to harm oneself or others.**
- (i) Individualized treatment.**
- (j) Recipient rights.**

~~(23)~~ An applicant or licensee shall maintain training records for each staff person.

R 325.1353 Medical director.

Rule 1353. (1) An applicant or licensee for ~~MAT, methadone or residential detoxification~~ **withdrawal management**, or inpatient service categories shall have a physician as the medical director. The medical director shall oversee all medical services performed by the program. For a program where there is only 1 physician, that physician is considered as the medical director for purposes of these rules.

(2) The medical director shall comply with either of the following:

- (a) Be certified in addiction psychiatry or addiction medicine by a recognized board of the American Board of Medical Specialties, including the American Board of Psychiatry and Neurology or the American Board of Preventive Medicine or have held a prior

certification by the American Board of Addiction Medicine.

(b) ~~Be trained~~ **Receive 30 hours of continuing medical education and training accredited by the Accrediting Council for Continuing Medical Education within one year of the date of hire** in addiction psychiatry or addiction medicine through continuing medical education pursuant to ~~subrule (4) of this rule~~ offered by the American Board of Medical Specialties, American Board of ~~Addiction~~ **Preventative** Medicine, American Society of Addiction Medicine, American Academy of Addiction Psychiatry, American Association for Treatment of Opioid Dependence, American Association of Osteopathic Addiction Medicine, the Michigan counterparts of these organizations, or other national or state programs acknowledged and accepted by the department.

~~(3) Upon the effective date of these rules, a medical director of a program will have 1 year to achieve certification or training to comply with subrule (2).~~

(43) The medical director shall demonstrate ongoing accredited education related to substance use disorders comprised of 30 hours every 3 years.

(54) The medical director shall be responsible for all of the following activities as outlined in written policy and procedures or the position description for the medical director:

- (a) Developing admission criteria.
 - (b) Developing treatment protocols.
 - (c) Ensuring adequacy of individual treatment prescriptions developed with the participation of professional staff, to include notations of contraindications and precautions.
 - (d) Providing or arranging for daily medical coverage to meet recipient needs.
 - (e) Determining the credentials of other physicians working under the medical director.
 - (f) Determining the credentials of clinicians who may prescribe pharma-therapies.
- (65) The medical director shall provide oversight of all program physicians, physician's assistants, or advanced practice registered nurses.

R 325.1355 Medical staffing.

Rule 1355. (1) An individual physician, physician's assistant, or advanced practice registered nurse is responsible for all of the following:

- (a) Ensuring completeness of a recipient record upon admission to the program.
- (b) Reviewing and signing a recipient's ~~treatment~~ **service** plan.
- (c) Signing or countersigning standing and verbal medical orders as required by federal or state law and as follows:
 - (i) Documenting verbal orders in a recipient's record and signed by the individual taking the verbal order and countersigned within 72 hours by the licensed health professional that gave the verbal order.
 - (ii) Documenting standing orders in a recipient's record and signed by the licensed health professional that gave the standing order.
 - (iii) Ensuring that justification is recorded in a recipient's record when the frequency of treatment is changed.

(2) Compliance with applicable state requirements for the delivery of controlled substances including, but not limited to, possessing a drug control license and a drug

treatment program prescribers license.

SUBPART C: SERVICES

R 325.1357 Program services.

Rule 1357. (1) A licensee shall provide all of the following information to the recipient upon admission:

- (a) Services to be offered and the role of the licensee.
- (b) Services available through referral.
- (c) Costs associated with services, including any costs to be paid by recipient.
- (d) Recipient rights and responsibilities.
- (e) Hours during which services will be available.
- (f) General overview of treatment and rehabilitation services to be offered based upon recipient records.

(g) Copy of complaint process.

(h) Copy of the recipients rights process.

(i) Make available for viewing all policies and procedures referenced in R 1331 upon request.

(2) A licensee shall update the recipient prior to any changes to the requirements set forth in subrule (1) of this rule.

R 325.1359 Support and referral services.

Rule 1359. (1) A licensee shall offer support services, either onsite, **via telehealth**, or by referral, based upon its assessment of the service categories offered and recipient needs. The assessment shall address all of the following support services:

(a) Medication-assisted treatment if not offered on site.

~~(a)~~ Support and rehabilitation services, including social, educational, and recreational.

~~(b)~~ Job development and placement.

~~(c)~~ Financial counseling.

~~(d)~~ Legal counseling.

~~(e)~~ Nutritional education and counseling.

(2) A licensee shall maintain a current list of support services available onsite or by referral. A licensee shall review the list with each recipient as part of the admission procedure and as part of ongoing treatment planning, management, and coordination.

SUBPART D: RECIPIENT AND ADMINISTRATIVE RECORDS

R 325.1361 Recipient records, ~~excluding CAIT and SARF.~~

Rule 1361. (1) A licensee of a treatment and rehabilitation program shall keep and maintain a record for each recipient, including all of the following:

(a) Recipient identification, including name, address, and birth date.

(b) Recipient history of substance use, including all of the following:

(i) Past substance use, including prescribed drugs.

~~(ii) Substance use within the last 48 hours.~~

- (~~iii~~) Preferred substances.
- (~~iv~~) Frequency of use.
- (~~v~~) History of overdose, withdrawal, or adverse drug or alcohol reactions.
- (~~vi~~) History of substance use disorder services received, including location and dates services were received.
- (~~vii~~) Year of first use of each substance.
- (c) Admission, including initiation of service date and signed consent for treatment, or reasons for denial of admission.
- (d) Physical disabilities, limitations, and ailments.
- (e) Information submitted by a referral source, if any.
- (f) Diagnosis.
- (g) Medical or clinical diagnostic test findings.
- (h) ~~Treatment~~ **Service** plans.
- (i) Progress notes.
- (j) Notes and observations by other personnel providing care.
- (k) Within 14 days of discharge from a program, record of discharge, discharge summary, transfer to another program, or death shall be documented within the recipient record.
- (l) Recipient emergency contact information including, but not limited to, guardian and durable power of attorney contact information.
- (m) Consent forms as required and appropriate.
- (2) The recipient record for residential service categories shall also include both of the following:
 - (a) Medical history and physical examination.
 - (b) Medication records.
- (3) The recipient record for ~~inpatient-residential detoxification~~ **withdrawal management or methadone, and MAT** shall also include all of the following:
 - (a) Medical history and physical examination.
 - (b) Physician, physician's assistant, or advanced practice registered nurse orders.
 - (c) Physician, physician's assistant, or advanced practice registered nurse progress notes.
 - (d) Nurse notes.
 - (e) Medication records.

R 325.1363 Service~~Treatment~~ plans, ~~excluding CAIT and SARF.~~

Rule 1363. (1) Based upon the assessments made of a recipient's needs, a written ~~servicetreatment~~ **service** plan, **which may include both medical and counseling services**, shall be developed and recorded in the recipient's record. A ~~treatment service~~ **service** plan shall be developed **by a licensed or certified professional as referenced in these rules and** as promptly after the recipient's admission as feasible, ~~but before the recipient is engaged in therapeutic activities.~~ **but no later than:**

- (a) **Two (2) weeks for outpatient counseling programs.**
- (b) **24 hours for methadone, residential, and residential withdrawal management programs.**
- (2) **A service plan must include the recipient's signature agreeing to the plan and**

when updates are made.

(23) The ~~treatment service~~ plan shall comply with all of the following:

(a) Be individualized based upon the assessment of the recipient's needs and, if applicable, the medical evaluation.

(b) Define the sequence, frequency, and duration of the services and therapeutic activities to be provided to the recipient, including required counseling from a licensed counselor, limited licensed counselor under the supervision of a licensed counselor, LMSW, limited LMSW under the supervision of a LMSW, licensed psychologist, limited licensed psychologist under the supervision of a licensed psychologist, temporary limited licensed psychologist under the supervision of a licensed psychologist, post-doctoral education limited licensed psychologist under the supervision of a licensed psychologist, **LMFT, limited LMFT under the supervision of an LMFT, or certified counselor, or limited certified counselor.** This subdivision does not preclude the use of other counseling services where licensing or certification is not required. Other counseling services shall not be used to meet the minimum counseling requirements set forth in these rules.

(c) Include referrals for services that are not available in the program.

(d) Contain objectives **that** the recipient will ~~be attempting~~ to achieve, together with a realistic time schedule for their achievement.

(24) Review of, and changes in, the ~~treatment service~~ plan shall be recorded in the recipient's record. The date of the review of change, together with the names of the individuals involved in the review, shall also be recorded. A ~~treatment service~~ plan shall be reviewed at least once every 120 days by **a licensed or certified professional as referenced in these rules** ~~the licensed counselor, LMSW, licensed psychologist, or certified counselor, or other licensed health professional.~~

R 325.1365 Controlled substances and medication records, excluding ~~CAIT, SARF,~~ and outpatient counseling programs.

Rule 1365. A licensee shall maintain controlled substance and medication records that include all of the following:

(a) Inventory of controlled substances that includes all of the following:

(i) Date and quantity received, including lot numbers.

(ii) Date and amount dispensed, including lot number, recipient name, method of dispensing, and signature of recipient and the dispensing licensed health professional.

(iii) Disposal record and signatures.

(b) Inventory of recipient medications.

R 325.1367 Administrative records; program requirements.

Rule 1367. A program shall maintain the following administrative records, as applicable:

(a) Daily census records that identify the specific number of recipients receiving ~~residential, residential detoxification, and inpatient~~ services.

(b) ~~Daily recipient register or registers that identify the specific number of recipients receiving outpatient and MAT services.~~

(eb) Incident records, including all instances of accidents, injuries, or deaths.

R 325.1369 Storage of records; requirements.

Rule 1369. (1) Recipient and administrative records shall be preserved and be readily available to ensure necessary and immediate access by appropriate health care staff to deliver needed care and services.

(2) Recipient records shall be secured to ensure confidentiality and protection from access by unauthorized persons.

(3) Recipient records that contain health care treatment and services shall be maintained for at least 7 years from the date of service and in accordance with the medical records act, 2004 PA 47, MCL 333.26261 to 333.26271.

(4) Administrative records shall be maintained for at least 3 years.

R 325.1371 Recipient and administrative records; confidentiality.

Rule 1371. (1) Recipient and administrative records shall be available for **licensure** survey and review of content at any time by authorized members of the department.

(2) Records shall be maintained as confidential documents with 1 or more of the following exceptions:

(a) Information required under these rules.

(b) Information required by law.

(c) Information authorized for disclosure by written release of the recipient or the recipient's designated representative.

SUBPART E: SUPPLIES AND PHYSICAL PLANT

R 325.1373 Physical plant, supplies, equipment, and furnishings.

Rule 1373. (1) An applicant or licensee shall provide space, supplies, equipment, and furnishings needed to offer the service categories specified in the license.

(2) An applicant or licensee who offers treatment and rehabilitation services shall maintain the space, supplies, equipment, and furnishings in a clean, sanitary, safe, and usable condition, as well as in compliance with applicable local and state fire, safety, and sanitation codes.

(3) For programs where recipients reside, an applicant or licensee shall maintain space that is properly identified and, where necessary, separated based upon license type, use, service categories, and other factors where distinct and separate space is necessary.

R 325.1375 Security of controlled substances, medications, and dispensing area.

Rule 1375. (1) An applicant or licensee offering treatment and rehabilitation services shall have a policy and procedure to maintain secured storage and dispensing areas for controlled substances and medications.

(2) The policy and procedure shall identify who and when authorized staff are allowed access to secured storage and dispensing areas and when recipients are allowed access to dispensing area.

(3) The policy and procedure shall be reviewed and documented annually by the program director and updated, as necessary.

PART 4: SPECIAL REQUIREMENTS BY SERVICE CATEGORIES

SUBPART A: PREVENTION SERVICES

~~R 325.1377 Community change, alternatives, information, and training (CAIT) services; requirements. **Rescinded.**~~

~~Rule 1377. A licensee shall maintain a prevention services log to document provided prevention services that includes all of the following information, depending on the type of service provided:~~

~~(a) For prevention services provided to a group, all of the following information:~~

~~(i) The group's name or descriptive title and number of service recipients.~~

~~(ii) The name, phone number, and address of a responsible member of the group.~~

~~(iii) The type of service provided.~~

~~(iv) The date of service delivery.~~

~~(v) The name of the staff member providing the service.~~

~~(b) For prevention services provided to an individual, all of the following information:~~

~~(i) A notation that an individual received services. The name of the individual is not required.~~

~~(ii) The type of service provided.~~

~~(iii) The date of service delivery.~~

~~(iv) The name of the staff member providing the service.~~

SUBPART B: TREATMENT AND REHABILITATION SERVICES

~~R 325.1379 Screening and assessment, referral, follow-up (SARF) services; requirements. **Rescinded.**~~

~~Rule 1379. (1) An applicant or licensee shall employ a licensed counselor, LMSW, licensed psychologist, or certified counselor.~~

~~(2) A licensee shall maintain recipient records containing all of the following information:~~

~~(a) Recipient identifier.~~

~~(b) Documentation of interviews, psychological tests, and other diagnostic tools used to assess the recipient.~~

~~(c) Date and method of referral.~~

~~(d) Substance use disorder diagnosis.~~

~~(e) Summary of referral, including the specific treatment and rehabilitative services suggested and treatment program options.~~

R 325.1381 Outpatient counseling services; program requirements.

Rule 1381. (1) Services must be based on a documented assessment of the recipient's needs and a subsequent agreement between recipient and provider about

the services to be offered.

(12) An applicant or licensee shall employ a licensed counselor, LMSW, ~~or~~ licensed psychologist, **or LMFT**.

(23) A licensee shall establish, maintain, and publicly post hours for counseling services.

(34) A licensed counselor~~;~~, limited licensed counselor under the supervision of a licensed counselor~~;~~, LMSW~~;~~, limited LMSW under the supervision of a LMSW~~;~~, licensed psychologist~~;~~, limited licensed psychologist under the supervision of a licensed psychologist~~;~~, temporary limited licensed psychologist under the supervision of a licensed psychologist~~;~~, post-doctoral education limited licensed psychologist under the supervision of a licensed psychologist~~;~~, **LMFT, limited LMFT under the supervision of an LMFT**, ~~or~~ certified counselor, **or limited certified counselor under the supervision of a licensed or certified individual listed in these rules shall be available to provide counseling services as required in a recipient service plan** ~~shall be onsite when counseling services are being offered.~~

(45) A licensee shall ensure that any licensed counselor~~;~~, limited licensed counselor under the supervision of a licensed counselor~~;~~, LMSW~~;~~, limited LMSW under the supervision of a LMSW~~;~~, licensed psychologist~~;~~, limited licensed psychologist under the supervision of a licensed psychologist~~;~~, temporary limited licensed psychologist under the supervision of a licensed psychologist~~;~~, post-doctoral education limited licensed psychologist under the supervision of a licensed psychologist~~;~~, **LMFT, limited LMFT**, or certified counselor is not responsible for more than 65 recipients.

(6) A licensee shall ensure that a limited certified counselor is not responsible for more than 32 recipients.

(37) Records for all recipients of outpatient services, whether delivered on site or in the community, shall be maintained **or accessible** at the licensee **licensed site** address identified in the application for licensure.

R 325.1383 Medication-assisted treatment (MAT) services; Methadone program requirements.

Rule 1383. (1) **Services must be based on a documented assessment of the recipient's needs and a subsequent agreement between recipient and provider about the services to be offered.**

(12) An applicant or licensee shall employ a licensed counselor, LMSW, ~~or~~ licensed psychologist, **or LMFT**.

(23) A licensee shall establish, maintain, and publicly post hours for counseling services.

(34) A licensed counselor~~;~~, limited licensed counselor under the supervision of a licensed counselor~~;~~, LMSW~~;~~, limited LMSW under the supervision of a LMSW~~;~~, licensed psychologist~~;~~, limited licensed psychologist under the supervision of a licensed psychologist~~;~~, temporary limited licensed psychologist under the supervision of a licensed psychologist~~;~~, post-doctoral education limited licensed psychologist under the supervision of a licensed psychologist~~;~~, **LMFT, limited LMFT under the supervision of an LMFT**, ~~or~~ certified counselor, **or limited certified counselor under the supervision of a licensed or certified individual listed in these rules shall be available**

to provide counseling services as required in a recipient service plan shall be onsite when counseling services are being offered.

~~(45) A licensee shall ensure that any licensed counselor, limited licensed counselor under the supervision of a licensed counselor, LMSW, limited LMSW under the supervision of a LMSW, licensed psychologist, limited licensed psychologist under the supervision of a licensed psychologist, temporary limited licensed psychologist under the supervision of a licensed psychologist, post-doctoral education limited licensed psychologist under the supervision of a licensed psychologist, LMFT, limited LMFT, or certified counselor is not responsible for more than 65 recipients.~~

(6) A licensee shall ensure that a limited certified counselor is not responsible for more than 32 recipients.

~~(5) If a licensee does not provide methadone, the licensee may provide the required counseling services offsite through contractual services. Counseling through contractual services requires the licensee to comply with both of the following:~~

~~(a) Have access to the counseling records, either through electronic health records or a copy of the counseling records onsite.~~

~~(b) Identify the requirements set forth in subrules (1) and (4) of this rule in its contract with the contracted counseling service.~~

~~(67) An applicant or licensee shall employ a medical director. If the medical director is not onsite during all hours of operation, then the licensee shall establish specific timeframes in which the medical director is required to be onsite.~~

~~(78) During all hours that recipients are receiving medication, a licensee shall have onsite a physician, physician's assistant, advanced practice registered nurse, registered professional nurse, or licensed practical nurse under the supervision of a registered professional nurse or physician.~~

~~(89) The medical director, physician, physician's assistant, or advanced practice registered nurse shall document that the recipient has been diagnosed with a substance use disorder. For methadone treatment, the recipient shall be diagnosed with a substance use disorder and have documented opioid use disorder for 1 year or more.~~

~~(910) At the time of admission and prior to any medications being prescribed, the medical director, a physician, physician's assistant, or advanced practice registered nurse shall complete and document the medical and drug history, as well as and physical examination, of the recipient. In addition, any modification to medications or course of treatment must be documented in recipient record and ordered by a physician, physician's assistant, or advanced practice registered nurse.~~

~~(10) Prior to treatment, a licensee shall provide a recipient, or a person acting on the recipient's behalf, all available medical treatment options and FDA approved medications related to the recipient's assessment, including all FDA approved forms of MAT, as well as the risks and benefits of each treatment option. The recipient record must contain a written document that the recipient has been informed of the risks and benefits of all treatment options, and the option selected by the recipient.~~

~~(11) By days 30, 60, and 90 of treatment, and at least every 90 days thereafter, the medical director, a physician, physician's assistant, or advanced practice registered nurse shall meet with the recipient to review recipient's treatment service plan, including a review of the counseling services progress notes, drug tests, and document the medical necessity for continued treatment in the program and any recommended adjustments to~~

the ~~treatment service~~ plan.

(12) A licensee shall ~~have onsite at all times~~ **have always onsite** the appropriate licensed health professional, as identified in the program assessment as required in R 325.1349.

(13) A licensee shall **comply with all requirements set forth in 42 CFR § 8.**

(14) The licensee shall document in the service plan the phase the recipient is in short term withdrawal management, long withdrawal management or maintenance. ~~have a policy and procedure for testing to determine the status of recipient's drug use. Testing shall be conducted according to manufacturer's guidelines.~~

~~(14) A licensee shall perform and document the tests completed for opioids, benzodiazepine, methadone and methadone metabolites, buprenorphine and buprenorphine metabolites, barbiturates, amphetamines, cocaine, and other drugs on all recipients, according to all of the following:~~

~~(a) For a new recipient to a program, the test results must be documented in the recipient record prior to the initial dosing.~~

~~(b) Biweekly testing on a random collection schedule with results documented in the recipient record within 72 hours of collection, excluding weekends and holidays.~~

~~(c) For a recipient who has maintained biweekly drug free results for a period of 6 months, monthly testing on a random collection schedule with results documented in the recipient record within 72 hours of collection, excluding weekends and holidays.~~

~~(d) A positive test for drugs other than methadone and methadone metabolites, buprenorphine and buprenorphine metabolites, legally prescribed drugs, or medical marijuana, requires the licensee to perform weekly testing until 3 consecutive weekly drug free results are documented.~~

~~(e) A positive test for drugs other than methadone and methadone metabolites, buprenorphine and buprenorphine metabolites, legally prescribed drugs, or medical marijuana, requires the licensee to address and record all interventions in the recipient record.~~

~~(15) A licensee shall have have a policy and procedure to address when methadone take home medications are appropriate for recipients and the frequency of take home doses, including weekends and holidays. The policy and procedure shall address all of the following:-~~

~~(a) Eligibility to have take home medication based on all of the following:-~~

~~(i) Absence of recent drug use, including opioid, non narcotic, and alcohol.~~

~~(ii) Absence of recent criminal activity.~~

~~(iii) Absence of behavioral issues.~~

~~(iv) Regular attendance.~~

~~(v) That the rehabilitative benefit to the recipient derived from decreasing the frequency of clinic attendance outweighs the potential risks of diversion.~~

~~(vi) Assurance that take home medication will be safely stored within the recipient's home and in a secure, locked medication dispenser.~~

~~(b) If applicable, the number of allowed take home doses for methadone, according to all of the following:-~~

~~(i) One take home dose in a week for days 1 to 90 of treatment.~~

~~(ii) Up to 2 take home doses in a week for days 91 to 180 of treatment.~~

~~(iii) Up to 3 take home doses in a week for days 181 to 365 of treatment.~~

- ~~(iv) Up to 4 take-home doses in a week for days 366 to 730 of treatment.~~
- ~~(v) Up to 5 take-home doses in a week for days 731 to 1,095 of treatment.~~
- ~~(vi) Up to 6 take-home doses in a week for days 1,096 to 1,825 of treatment.~~
- ~~(vii) Up to 2, 13 take-home doses in a month after day 1,826 of treatment.~~
- ~~(e) Dispensing schedule and dosing procedure that identifies days that the program will be closed on the weekend and official state holidays.~~

~~(14)~~ A licensee shall have a policy and procedure for labeling take-home medications to include all of the following:

- (a) The name of the medication.
- (b) The program's name, address, and phone number.
- (c) Recipient name or code number.
- (d) Medical director's name.
- (e) Directions for use.
- (f) Date to be used **by**.
- (g) A cautionary statement that the drug should be kept out of the reach of children.

~~(15)~~ A licensee shall have a policy and procedure to address withdrawal of a recipient from the program that includes all of the following:

- (a) Criteria for decreasing levels of medication and frequency of counseling.
- (b) Criteria for ending treatment when medication and counseling are no longer necessary.
- (c) Criteria for when medication and counseling is still necessary and the treatment at the program is being ended either voluntarily or involuntarily, including both of the following:
 - (i) Documentation in recipient record of the reasons for voluntary or involuntary withdrawal from the program.
 - (ii) Referral options to continue treatment at another program.

R 325.1385 Residential program ~~services~~; requirements.

Rule 1385. **(1) Services must be based on a documented assessment of the recipient's needs and a subsequent agreement between recipient and provider about the services to be offered.**

~~(2)~~ An applicant or licensee shall employ a full-time licensed counselor, LMSW, ~~or~~ licensed psychologist, **or LMFT.**

(3) A licensed counselor, limited licensed counselor under the supervision of a licensed counselor, LMSW, limited LMSW under the supervision of a LMSW, licensed psychologist, limited licensed psychologist under the supervision of a licensed psychologist, temporary limited licensed psychologist under the supervision of a licensed psychologist, post-doctoral education limited licensed psychologist under the supervision of a licensed psychologist, LMFT, limited LMFT under the supervision of an LMFT, certified counselor, or limited certified counselor under the supervision of a licensed or certified individual listed in these rules shall be available to provide counseling services as required in recipient service plan.

~~(24)~~ A licensee shall ensure that any licensed counselor, limited licensed counselor ~~under the supervision of a licensed counselor~~, LMSW, limited LMSW ~~under the supervision of a LMSW~~, licensed psychologist, limited licensed psychologist ~~under the~~

~~supervision of a licensed psychologist; temporary limited licensed psychologist under the supervision of a licensed psychologist; post-doctoral education limited licensed psychologist under the supervision of a licensed psychologist; LMFT, Limited LMFT, or certified counselor is not responsible for more than 65 recipients.~~

(5) A licensee shall ensure that a limited certified counselor is not responsible for more than 10 recipients.

~~(36) A licensee shall have a trained staff member onsite during all hours of operation.~~

~~(47) An applicant or licensee shall have a policy and procedure for the safety of the recipients to address recipients that leave and return to the residence. The policy and procedure shall identify methods for searching recipients and their possessions upon their return to the residence.~~

(58) A licensee shall provide and ensure recipient participation in at least 15 hours per week of treatment and support and rehabilitation services to meet the needs of the recipients to take place days, evenings, and weekends. At least 310 of the 15 hours must be treatment in the form of treatment or rehabilitation evidence-based practice or services individual counseling, group counseling, social skills training, cognitive-behavioral therapy, motivational interviewing, couples counseling, or family counseling for each recipient. Participation shall be documented in the recipient record.

R 325.1387 Residential detoxification; requirements. Rescinded.

~~Rule 1387. (1) An applicant or licensee shall employ the equivalent of a full-time licensed counselor, LMSW, or licensed psychologist.~~

~~(2) A licensee shall ensure that any licensed counselor; limited licensed counselor under the supervision of a licensed counselor; LMSW; limited LMSW under the supervision of a LMSW; licensed psychologist; limited licensed psychologist under the supervision of a licensed psychologist; temporary limited licensed psychologist under the supervision of a licensed psychologist; post-doctoral education limited licensed psychologist under the supervision of a licensed psychologist; or certified counselor is not responsible for more than 20 recipients.~~

~~(3) An applicant or licensee shall employ a medical director.~~

~~(4) A licensee shall have onsite during all hours of operation a physician, physician's assistant, advanced practice registered nurse, registered professional nurse or licensed practical nurse under the supervision of a registered professional nurse or physician.~~

~~(5) A physician, physician's assistant, or advanced practice registered nurse shall review and assess each recipient every 72 hours after admission.~~

~~(6) A licensee shall have a policy and procedure for recipient drug test.~~

~~(7) A licensee shall perform an initial test for opioids, benzodiazepine, methadone and methadone metabolites, buprenorphine and buprenorphine metabolites, barbiturates, amphetamines, cocaine, and other drugs upon admission with results documented in the recipient record within 48 hours of collection.~~

~~(8) At the time of admission and prior to any medications being prescribed or services offered, the medical director, a physician, physician's assistant, or advanced practice registered nurse shall complete and document the medical and drug history, as well as a physical examination, of the recipient. In addition, any modification to medications or course of treatment must be documented in recipient record and ordered by a physician,~~

physician's assistant, or advanced practice registered nurse.

~~(9) Prior to treatment, a licensee shall provide a recipient, or a person acting on the individual's behalf, all available medical treatment options and FDA approved medications related to the recipient's assessment, including all FDA approved forms of MAT, as well as the risks and benefits of each treatment option. The recipient record must contain a written document that the recipient has been informed of the risks and benefits of all treatment options, and the option selected by the recipient.~~

R 325.1388 Residential Withdrawal management program requirements.

Rule 1388. (1) services must be based on a documented assessment of the recipient's needs and a subsequent agreement between recipient and provider about the services to be offered.

(2) A program offering clinically managed withdrawal management services offers peer and social support services only and not offer or administer schedule II-V controlled substances for the management of withdrawal, including methadone and buprenorphine.

(3) A program offering medically monitored withdrawal management services offers medical and nursing care and may administer medications for the management of withdrawal.

(4) A residential withdrawal management program shall meet the following requirements:

(a) An applicant or licensee shall employ a medical director.

(b) Prior to treatment, a licensee shall provide a recipient, or a person acting on the individual's behalf, information about all relevant, available medical treatment options related to the recipient's assessment, including relevant forms of medication assisted treatment, as well as the risks and benefits of each treatment option. The service plan must contain a written document that the recipient has been informed of the risks and benefits of all relevant treatment options, and identify the option selected by the recipient.

(c) A physician, physician's assistant, or advanced practice registered nurse shall review and assess upon admission each recipient to determine that the recipient is suitable for the services to be offered and every 72 hours thereafter. If a recipient is referred from a licensed acute care hospital or psychiatric unit/hospital directly to a licensed residential withdrawal management program, the transfer documentation, including the health assessment, from the transferring hospital may be used as the initial assessment for admission if all of the following are met:

(I) The transfer record shall be reviewed and signed by the program's physician, physician assistance, or advanced practice nurse and documented in the recipients record within 24 of admission.

(II) The transfer record must be accessible in the recipients record at the time of admission.

(III) The transfer record shall include that the recipient was referred directly to a licensed residential withdrawal management program.

(d) A licensee shall perform an initial test for opioids, benzodiazepine, methadone and methadone metabolites, buprenorphine and buprenorphine metabolites,

barbiturates, amphetamines, cocaine, and other drugs based on Recipient assessment and local drug use pattern and trends upon admission with results documented in the recipient service plan within 48 hours of collection.

(e) An applicant or licensee shall employ the equivalent of a full-time licensed counselor, LMSW, licensed psychologist, LMFT, or certified counselor.

(f) A licensed counselor, limited licensed counselor under the supervision of a licensed counselor, LMSW, limited LMSW under the supervision of a LMSW, licensed psychologist, limited licensed psychologist under the supervision of a licensed psychologist, temporary limited licensed psychologist under the supervision of a licensed psychologist, post-doctoral education limited licensed psychologist under the supervision of a licensed psychologist, LMFT, limited LMFT under the supervision of an LMFT, certified counselor, or limited certified counselor under the supervision of a licensed or certified individual listed in these rules shall be available to provide counseling services as required in recipient service plan.

(g) A licensee shall ensure that any licensed counselor, limited licensed counselor, LMSW, limited LMSW, licensed psychologist, limited licensed psychologist, temporary limited licensed psychologist, post-doctoral education limited licensed psychologist, LMFT, limited LMFT, or certified counselor is not responsible for more than 20 recipients.

(h) A licensee shall ensure that a limited certified counselor is not responsible for more than 10 recipients.

(i) A licensee shall have a trained staff on site during all hours of operation.

(j) A licensee shall have policies in place to ensure all staff are trained and can demonstrate competency in the following:

(I) Basic life support, including cpr.

(II) Medication administration and monitoring.

(III) Emergency response protocols, including medical, psychiatric, and safety emergencies.

(IV) Signs and symptoms of intoxication and withdrawal, including seizures.

(V) Vital sign measurement and interpretation.

(5) A residential withdrawal management program offering Clinically managed withdrawal management services shall also meet the following requirements:

(a) An applicant or licensee shall have a screening and referral protocol used by a physician, physician's assistant, or advanced practice registered nurse to identify and transfer to a medically monitored program or other appropriate setting an individual who meet any following:

(I) Are medically unstable.

(II) Have a history of seizure disorder.

(III) Have a history of alcohol, benzodiazepine, or other sedative withdrawal related complications.

(IV) Have a blood pressure measurement above or below the program's accepted range for the individual.

(V) Have current suicidal ideation or attempt in the past month.

(VI) Are pregnant.

(b) A licensee shall have on-call, during all hours of operations, a physician, physician's assistant, advanced practice registered nurse, registered professional

nurse, or licensed practical nurse under the supervision of a registered professional nurse or physician. The physician, physician's assistant, advanced practice registered nurse, registered professional nurse, or licensed practical nurse under the supervision of a registered professional nurse or physician shall be available to be onsite within 30 minutes.

(c) A licensee shall log all emergency transfers to another health facility along with the reason for transfer. These logs shall be made available to the department as requested during a survey or complaint investigation.

(6) A residential withdrawal management program offering medically monitored withdrawal management services shall also meet the following requirements:

(a) A licensee shall have a physician, physician's assistant, or advanced practice registered nurse complete and document the medical and drug history, as well as a physical examination, of the recipient prior to administering any medications. In addition, any modification to medications or course of treatment must be documented in recipient record and ordered by a physician, physician's assistant, or advanced practice registered nurse.

(b) A licensee shall have onsite during all hours of operations a physician, physician's assistant, advanced practice registered nurse, registered professional nurse, or licensed practical nurse under the supervision of a registered professional nurse or physician.

R 325.1389 Inpatient services; requirements. Rescinded.

~~Rule 1389. (1) An applicant or licensee shall employ the equivalent of a full-time licensed counselor, LMSW, or licensed psychologist.~~

~~(2) A licensee shall ensure that any licensed counselor; limited licensed counselor under the supervision of a licensed counselor; LMSW; limited LMSW under the supervision of a LMSW; licensed psychologist; limited licensed psychologist under the supervision of a licensed psychologist; temporary limited licensed psychologist under the supervision of a licensed psychologist; post-doctoral education limited licensed psychologist under the supervision of a licensed psychologist; or certified counselor is not responsible for more than 20 recipients.~~

~~(3) An applicant or licensee shall employ a medical director.~~

~~(4) A licensee shall have an appropriate licensed health professional, based on the services offered, onsite during all hours of operation.~~

~~(5) An inpatient program must be distinct and separate from other acute care units within the hospital.~~

~~(6) A licensee shall maintain nursing care and other necessary medical resources.~~

~~(7) A licensee shall conform to part 215 of the public health code, MCL 333.21501 to 333.21571, and the applicable administrative rules.~~

~~(8) Prior to treatment, a licensee shall provide a recipient, or a person acting on the individual's behalf, all available medical treatment options and FDA approved medications related to the recipient's assessment, including all FDA approved forms of MAT, as well as the risks and benefits of each treatment option. The recipient record must contain a written document that the recipient has been informed of the risks and benefits of all treatment options, and the option selected by the recipient.~~

PART 5: RECIPIENT RIGHTS

R 325.1391 Recipient rights.

Rule 1391. A recipient shall have all of the following rights:

(1a) The right to appropriate services regardless of race, color, national origin, religion, sex, age, mental or physical handicap, marital status, sexual preference, sexual identity, or political beliefs.

(2b) The right to services without being deprived of any rights, privileges, or benefits guaranteed by state or federal law or by the state or federal constitutions.

(3c) The right to file grievances, recommend changes in program policies or services to the program staff, to governmental officials, or to another person within or outside the program without program interference.

(4d) The right to review, copy, or receive a summary of his or her program records, unless, in the judgment of the program director, this action will be detrimental to the recipient or to others for either of the following reasons:

(ai) Granting the request for disclosure will cause substantial harm to the relationship between the recipient and the program or to the program's capacity to provide services in general.

(bii) Granting the request for disclosure will cause substantial harm to the recipient.

(5e) If the program director determines that this action will be detrimental, the recipient shall be allowed to review nondetrimental portions of the record or a summary of the nondetrimental portions of the record. If a recipient is denied the right to review all or part of his or her record, the reason for the denial shall be stated to the recipient. An explanation of what portions of the record are detrimental and for what reasons shall be stated in the recipient record and shall be signed by the program director.

(6f) The right to receive services free from physical or mental abuse or neglect or sexual abuse from staff, including any of the following:

(ai) An intentional act by a staff member that inflicts physical injury upon a recipient or results in sexual contact with a recipient that includes the intentional touching of the recipient's intimate parts such as primary genital area, groin, inner thigh, buttock, or female breast or the intentional touching of the clothing covering the immediate area of the recipient's intimate parts, and if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification.

(bii) A communication made by a staff member to a recipient, the purpose of which is to curse, vilify, intimidate, or degrade a recipient or to threaten a recipient with physical injury.

(eiii) A recipient suffers injury, temporarily or permanently, because the staff member or other person responsible for the recipient's health or welfare has been found negligent.

(7g) The right to review a written fee schedule in programs where recipients are charged for services. Policies on fees and any revisions of these policies shall be approved by the licensee and shall be recorded in the administrative record of the program.

(8h) The right to receive an explanation of his or her bill, regardless of the source of payment.

(9i) The right to information concerning any experimental or research procedure

proposed as a part of his or her treatment or prevention services, and the right to refuse to participate in the experiment or research without jeopardizing his or her continuing services. A program shall comply with state and federal rules and regulations concerning research that involves human subjects.

R 325.1393 ~~Treatment~~ Service plan; specific recipient rights.

Rule 1393. (1) A recipient shall be allowed to participate in the development of his or her ~~treatment~~ service plan.

(2) A recipient has the right to refuse treatment and to be informed of the consequences of that refusal. When a refusal of treatment prevents a program from providing services according to ethical and professional standards, the relationship with the recipient may be terminated by the licensee upon reasonable notice.

(3) Unless notified in writing prior to admission, a recipient may utilize medications as prescribed by a physician.

(34) A recipient shall be informed if a program has a policy for discharging recipients who fail to comply with program rules and shall receive, at admission and thereafter upon request, a notification form that includes written procedures that explain all of the following:

(a) The types of infractions that can lead to discharge.

(b) Who has the authority to discharge recipients.

(c) How and in what situations prior notification is to be given to the recipient who is being considered for discharge.

(d) The mechanism for review or appeal of a discharge decision.

(45) A copy of the notification form signed by the recipient shall be maintained in the recipient's case file.

(56) A recipient shall have the benefits, side effects, and risks associated with the use of any medications fully explained in language that is understood by the recipient.

(67) A recipient has the right to give prior informed consent, consistent with federal confidentiality regulations, for the use and future disposition of products of special observation and audiovisual techniques, such as 1-way vision mirrors, tape recorders, television, movies, or photographs.

R 325.1395 ~~Inpatient, residential,~~ Residential, and residential ~~detoxification~~ withdrawal management programs; specific recipient rights.

Rule 1395. (1) A recipient has the right to associate and have private communications and consultations with his or her licensed health professional, attorney, or person of his or her choice.

(2) A program shall post its policy concerning visitors in a public place.

(3) Unless contraindicated by program policy or individual ~~treatment~~ service plan, a recipient is allowed visits from family members, friends, and other persons of his or her choice at reasonable times, as determined by the program director or according to posted visiting hours. A recipient shall be informed in writing of visiting hours upon admission to the program.

(4) To protect the privacy of all other recipients, a program director shall ensure, to the

extent reasonable and possible, that the visitors of recipients will see or have contact with only the individual they have reason to visit.

(5) A recipient has the right to be free from physical and chemical restraints, except those authorized in writing by a physician, physician's assistant, or advanced practice registered nurse for a specified and limited time. Written policies and procedures that set forth the circumstances that require the use of restraints and designate the program personnel responsible for applying restraints shall be approved in writing by a physician, physician's assistant, or advanced practice registered nurse and shall be adopted by the licensee. Restraints may be applied in an emergency to protect the recipient from injury to self or others. The restraints shall be applied by designated staff. This action shall be reported immediately to a physician, physician's assistant, or advanced practice registered nurse and shall be reduced to writing in the recipient record within 24 hours.

(6) A recipient has the right to be free from doing work the program would otherwise employ someone else to do, unless the work and the rationale for its therapeutic benefit are included in program policy or in the ~~treatment~~-service plan for the recipient.

(7) A recipient has the right to a reasonable amount of personal storage space for clothing and other personal property. All of these items shall be returned to the recipient upon discharge from the program.

(8) A recipient has the right to deposit money, earnings, or income in his or her name in an account with a commercial financial institution. A recipient has the right to get money from the account and to spend it or use it as he or she chooses, unless restricted by program policy or by the ~~treatment~~-service plan for the recipient. A recipient has the right to receive all money or other belongings held for him or her by the program within 24 hours of discharge from the program.

R 325.1397 Program policy and procedures.

Rule 1397. (1) An applicant or licensee shall have a policy and procedure to ensure compliance with recipient rights requirements. The policy and procedures shall be reviewed and documented annually and updated as necessary. The policy must address all of the following:

(a) Identification of a staff member to function as the program's rights advisor. If the rights advisor has other duties assigned, the policies and procedures must address how complaints are filed and investigated using other trained staff. The rights advisor shall do all of the following:

(i) Attend training concerning recipient rights procedures.

(ii) Receive and investigate all recipient rights complaints.

(iii) Communicate directly with the regional entity employee designated for recipient rights when a complaint cannot be resolved at the program level.

(a) Outline the method of filling recipient requests to review, copy, or receive a summary of recipient treatment or prevention service case records.

(b) Provide simple mechanisms for notifying recipients of their rights, reporting apparent rights violations, determining whether in fact violations have occurred, and ensuring that firm, consistent, and fair remedial action is taken in the event of a violation of these rules.

(2) Copies of recipient rights policies and procedures shall be provided to staff. Each

staff member shall review the policies and procedures and shall sign a form that indicates that he or she understands and shall abide by the policies and procedures. A signed copy shall be maintained in the staff personnel file.

(3) A program may choose to restrict specific rights of a recipient based on the program policies and procedures. These restrictions are permissible only when there is a documented therapeutic purpose and timeframe in the recipient's record. A restriction shall not be for more than 30 days without being renewed in writing in the recipient record and shall be signed by a licensed health professional.

(4) As part of the admission procedure to a program, a recipient shall receive all of the following:

(a) If incapacitated, the procedures described in this subrule as soon as feasible, but not more than 72 hours after admission to an approved service program.

(b) A written description of the recipient rights.

(c) A written description of any restrictions of the rights based on program policy.

(d) An oral explanation of the rights in language that is understood by the recipient.

(e) A form that indicates that the recipient understands the rights and consents to specific restrictions of rights based on program policy. The recipient shall sign this form. A copy of the form shall be provided to the recipient and also become a part of the recipient's record.

(f) A recipient rights complaint violation form shall be provided to the recipient after completing the consent form.

(5) Rights of recipients shall be displayed on a poster provided by the department in a public area of all licensed programs. The poster shall indicate the program rights advisor's name and phone number.

R 325.1399 Recipient rights violations; complaints; procedures; remedies.

Rule 1399. (1) A complaint of a recipient rights violation shall be made on a form provided by the department and shall be distributed to the recipient by the program.

(2) When circumstances prevent completion of the procedures outlined in subrules (3) and (5) of this rule, the program rights advisor or the regional entity rights consultant shall submit a written report to the department stating the reasons for tardiness and the actions being taken to expedite completion of the procedures.

(3) An initial complaint of a recipient rights violation shall be investigated by the program rights advisor, except in instances where the recipient requests that the initial complaint be reviewed by the regional entity rights consultant. The investigation shall be initiated within 10 working days of receipt of the complaint by the program rights advisor or the regional entity rights consultant.

(4) A written report and recommended remedial actions, if any, shall be completed within 25 working days of receipt of the initial complaint. Copies of the report shall be submitted within 5 working days of completion to the complainant and the regional entity. This report shall serve as notice of the program rights advisor's final recommendation for resolution of the complaint.

(5) Recommended remedial action shall include time limits for implementation. The regional entity rights consultant shall monitor the implementation of remedial actions recommended by the program rights advisor and shall notify the program rights advisor

of situations where time limits appear unreasonably short or long or where unforeseen problems cause a delay in implementation of recommended remedial actions.

(6) If a complainant is not satisfied with the program rights advisor's findings, conclusions, recommended remedial action, or implementation of recommended remedial action, the complainant may appeal within 15 working days of receipt of the written report to the regional entity rights consultant on forms provided by the department and distributed to programs by the regional entity. Copies of these appeals shall be distributed to the complainant, the program, and the department within 5 working days of receipt of the appeal by the regional entity rights consultant.

(7) An appeal received by the regional entity shall be reviewed by the regional entity rights consultant within 10 working days of receipt, unless the time limitation is waived in writing by the complainant. The regional entity rights consultant may hold an informal conference involving the complainant and the program director to determine the basis of the complaint and the position of the program.

(8) If the regional entity rights consultant determines that the findings, conclusions, and recommended remedial action or implementation of recommended remedial action by the program resolves the problem that caused the complaint, this determination, including the rationale for the determination, shall be submitted in a written report to the complainant, the program, and the department within 15 working days of receipt of the appeal. This report shall serve as notice of the regional entity rights consultant's final recommendation for resolution of the complaint.

(9) If the regional entity rights consultant determines that the findings, conclusions, and recommended remedial action or implementation of recommended remedial action by the program do not appear to resolve the problem that caused the complaint, or if the regional entity rights consultant feels the issues cannot be satisfactorily resolved at an informal conference, then the regional entity rights consultant shall initiate an investigation of the case within 15 working days of receipt of the appeal.

(10) A written report and recommended remedial action to be implemented by the program director shall be completed by the regional entity rights consultant within 25 working days of receipt of the appeal at the regional entity. Copies of the report shall be submitted within 5 working days of completion to the complainant and the program. This report shall serve as notice of the regional entity rights consultant's final recommendation for resolution of the complaint.

(11) Any recommended remedial action shall include time limits for implementation and shall be evaluated by the regional entity rights consultant for its effectiveness in resolving the problem that caused the complaint.

(12) The complainant may appeal, within 15 working days of receipt of the written report, to the department on a form provided by the department and distributed by the regional entity. The department shall distribute copies of the appeal to the program and regional entity within 5 working days of receipt. The department shall review the appeal within 10 working days of the receipt of the appeal. The department may hold an informal conference of concerned parties to explore the issues.

(13) If the department concurs with the regional entity, the complainant shall be so notified within 15 working days of receipt of the appeal by the department. Such notification shall include the rationale for the decision. If the complainant is not satisfied with the decision of the department, the complainant shall also be informed that he or she

may subsequently request from the department director a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. This request may be made in a letter to the director from the complainant within 15 working days of receipt of the notification from the department.

(14) If the director decides to reinvestigate the case, the complainant shall be notified of this within 10 working days of receipt of the appeal. Copies of this notification shall be sent to the program rights advisor and to the regional entity rights consultant.

(15) A written report of the investigation procedures, findings, and administrative or licensing action recommended to the department director and resulting from the department's investigation shall be completed within 25 working days of receipt of the appeal and shall be submitted to the director. Copies shall be distributed to the regional entity rights consultant and to the program rights advisor. Findings and recommended action shall be submitted to the complainant within 30 working days of receipt of the appeal.