

The Connecticut General Assembly

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Memorandum

To: Legislative Regulation Review Committee
From: Legislative Commissioners' Office
Committee Meeting Date: June 26, 2012

Regulation No:	2012-13
Agency:	Department of Mental Health and Addiction Services
Subject Matter:	Fair Hearing Process
Statutory Authority: (copy attached)	17a-451

	Yes or No
Mandatory	Y
Federal Requirement	N
Permissive	N

For the Committee's Information:

Substantive Concerns:

Technical Corrections:

1. Throughout the regulations, in the first line of each page, "Section 17a-451" should be deleted, for proper format.
2. Throughout the regulations, a section number should be changed by bracketing the full section number and inserting the new, underscored section number as follows: "[Sec. 17a-451 (t)-2] Sec. 17a-451 (t)-3," for proper form. Note that section numbers referenced in this report follow the bracketing format used by the department, rather than making this technical correction, for ease of reference.
3. Throughout the regulations, new punctuation should be inserted before bracketed language or punctuation, for proper form.
4. On page 1, in the first sentence of the introductory language, "Sections 17a-451 (t)-1 to 17a-451(t)-15 of the Regulations of Connecticut State Agencies" should be "Section 1. Sections 17a-451 (t)-1 to 17a-451 (t)-15, inclusive, of the Regulations of Connecticut State Agencies", for proper form.
5. On page 1, in section 17a-451 (t) -1(2), the semicolon should be underscored, for proper form.
6. On page 2, in the third line of section 17a-451 (t) -1[6](9), the semicolon should be a comma for proper form.
7. On page 2, in section 17a-451 (t) -1[9](11), the underscored new language should not be in boldface type, for proper form.
8. On page 3, in the last lines of sections 17a-451 (t) -1[9](11) and (12), "excluding" should be "excludes", for consistency.
9. On page 3, in section 17a-451 (t)-1(12), "Substance use disorder services" should be "Substance use disorder service", for consistency.
10. On page 3, in the first sentence of section 17a-451 (t) -2, "Connecticut Regulations of State Agencies" should be "Regulations of Connecticut State Agencies", for accuracy.
11. On page 4, at the end of the second sentence of section 17a-451 (t)-4, "actions" should be "action", for consistency.
12. On page 4, in the first sentence of section 17a-451 (t) -[3]5(a), "client rights officer designated by the covered service provider" should be "client rights officer", for consistency with the definition of the term in section 17a-451 (t)-1(2).
13. On page 5, in the first new sentence of section 17a-451 (t) -[3]5(d), "their choice" and "their grievance" should be "his or her choice" and "the grievance", respectively, and, on

page 6, in the last sentence of the subsection, "their grievance" and "their selection" should be "the grievance" and "the client's selection", for consistency and clarity.

14. On page 6, in the second sentence of section 17a-451 (t) - [4]6(a), "another staff member" should be "another member of the covered service provider's staff, for clarity, "shall be the client rights officer's" should be "shall be that of the client rights officer", for clarity and the third sentence of the same section should begin on the same line as the end of the second sentence, for proper form.

15. On page 7, in the fourth sentence of section 17a-451 (t) - [4]6[(b)](c), "further grievance review" should be "[further] review", for clarity and consistency with the defined term.

16. On page 7, in the last sentence of section 17a-451 (t) - [4]6[(b)](c), "client rights officer deferred its review" should be "client rights officer deferred his or her review", for accuracy.

17. On page 8, in the last sentence of section 17a-451 (t) - [4]6[(b)](c), "in concluded" should be "is concluded", for accuracy.

18. On page 8, in the fifth sentence of section 17a-451(t) - [4]6[(c)](e), "in which to accept in whole or in part and sign the written proposed informal resolution [proposal]" should be "in which to accept the proposed informal resolution, in whole or in part, and sign the written proposal", for consistency, and "of the covered service provider" should be "by the covered service provider", for clarity.

19. On page 9, in the first sentence of section 17a-451 (t)-7(a), "thirty calendar days or less" should be "not more than thirty calendar days", for proper form.

20. On page 10, in section 17a-451 (t)-7(b), "such designee authorizes additional increments of five business days with the written consent of the client or a person authorized by law to act on the client's behalf" should be "such designee authorizes, and the client or a person authorized by law to act on the client's behalf consents in writing, to additional time for completion, in increments of not more than five business days.", for clarity.

21. On page 10, in the first sentence of section 17a-451 (t)-8(a), "such designee" should be "the covered service provider's designee", for clarity, and "the offer of modified mental health" should be "an offer of modified mental health", for clarity.

22. On page 10, in sections 17a-451 (t)-8(a) and (b), "an official designated by the Commissioner", "the official designated by the Commissioner" and "the Commissioner's designee" should be "The Commissioner or the Commissioner's designee" or "the Commissioner or the Commissioner's designee", as appropriate, for consistency.

23. On page 10, in sections 17a-451 (t)-8(a) and (b), "not [more] later" should be "not later", for proper form since it is all new language in the section.

24. On page 11, sections 17a-451 (t)-8(c)(5) and (6) should not be indented, for consistency.
25. On page 11, in section 17a-451 (t)-[5]9, "the Commissioner's designee or "the Commissioner's designee" should be "the Commissioner or the Commissioner's designee", for consistency.
26. On page 11, in the first sentence of section 17a-451 (t)-[5]9(a), "the decision" should be "the covered service provider's decision", for clarity.
27. On page 12, in the first sentence of section 17a-451 (t)-[5]9(b), "twenty one" should be "twenty-one", for consistency and proper form.
28. On page 14, in section 17a-451(t)-[9]13(a), "hearing shall be disposed of [only] pursuant to section 4-177 of the Connecticut General Statutes" should be "hearing shall be [disposed of only] resolved pursuant to section 4-177 of the Connecticut General Statutes", for consistency.

Recommendation:

<input checked="" type="checkbox"/> Approval in whole
<input checked="" type="checkbox"/> with technical corrections
<input checked="" type="checkbox"/> with deletions
<input type="checkbox"/> with substitute pages
<input type="checkbox"/> Disapproval in whole or in part
<input type="checkbox"/> Rejection without prejudice

Reviewed by: Heather Bannister / Anne Brennan Carroll

Date: June 13, 2012

From 2012 Supplement

Sec. 17a-451. (Formerly Sec. 17-210a). Commissioner of Mental Health and Addiction Services. Duties. Regulations re fair hearing process. Memorandum of understanding. (a) The Commissioner of Mental Health and Addiction Services shall be a qualified person with a masters degree or higher in a health-related field and at least ten years' experience in hospital, health, mental health or substance abuse administration.

(b) The commissioner shall be the executive head of the Department of Mental Health and Addiction Services.

(c) The commissioner shall prepare and issue regulations for the administration and operation of the Department of Mental Health and Addiction Services, and all state-operated facilities and community programs providing care for persons with psychiatric disabilities or persons with substance use disorders, or both.

(d) The commissioner shall coordinate the community programs receiving state funds with programs of state-operated facilities for the treatment of persons with psychiatric disabilities or persons with substance use disorders, or both. In the event of the death of a person with psychiatric disabilities, who is receiving inpatient behavioral health care services from a Department of Mental Health and Addiction Services operated facility, the commissioner shall report such death to the director of the Office of Protection and Advocacy for Persons with Disabilities not later than thirty days after the date of the death of such person.

(e) The commissioner shall collaborate and cooperate with other state agencies providing services for mentally disordered children and adults with psychiatric disabilities or persons with substance use disorders, or both, and shall coordinate the activities of the Department of Mental Health and Addiction Services with the activities of said agencies.

(f) (1) The commissioner shall establish and enforce standards and policies for the care and treatment of persons with psychiatric disabilities or persons with substance use disorders, or both, in public and private facilities that are consistent with other health care standards and may make any inquiry, investigation or examination of records of such facilities as may be necessary for the purpose of investigating the occurrence of any serious injury or unexpected death involving

any person who has within one year of such occurrence received services for the care and treatment of such disabilities from a state-operated facility or a community program receiving state funds. (2) The findings of any such inquiry, investigation or examination of records conducted pursuant to this subsection shall not be subject to disclosure pursuant to section 1-210, nor shall such findings be subject to discovery or introduction into evidence in any civil action arising out of such serious injury or unexpected death. (3) Except as to the finding provided in subdivision (2) of this subsection, nothing in this subsection shall be construed as restricting disclosure of the confidential communications or records upon which such findings are based, where such disclosure is otherwise provided for by law.

(g) The commissioner shall establish and direct research, training, and evaluation programs.

(h) The commissioner shall develop a state-wide plan for the development of mental health services which identifies needs and outlines procedures for meeting these needs.

(i) The commissioner shall be responsible for the coordination of all activities in the state relating to substance use disorders and treatment, including activities of the Departments of Children and Families, Correction, Public Health, Social Services and Veterans' Affairs, the Judicial Branch and any other department or entity providing services to persons with substance use disorders.

(j) The commissioner shall be responsible for developing and implementing the Connecticut comprehensive plan for prevention, treatment and reduction of alcohol and drug abuse problems to be known as the state substance abuse plan. Such plan shall include a mission statement, a vision statement and goals for providing treatment and recovery support services to adults with substance use disorders. The plan shall be developed by July 1, 2010, and thereafter shall be triennially updated by July first of the respective year. The commissioner shall develop such plan, mission statement, a vision statement and goals after consultation with: (1) The Connecticut Alcohol and Drug Policy Council established pursuant to section 17a-667; (2) the Criminal Justice Policy Advisory Commission established pursuant to section 18-87j; (3) the subregional planning and action councils established pursuant to section 17a-671; (4) clients and their families, including those involved with the criminal justice system; (5) treatment

providers; and (6) other interested stakeholders. The commissioner shall submit a final draft of the plan to the Connecticut Alcohol and Drug Policy Council for review and comment. The plan shall outline the action steps, time frames and resources needed to meet specified goals and shall minimally address: (A) Access to services, both prior to and following admission to treatment; (B) the provision of comprehensive assessments to those requesting treatment, including individuals with co-occurring conditions; (C) quality of treatment services and promotion of research-based and evidence-based best practices and models; (D) an appropriate array of treatment and recovery services along with a sustained continuum of care; (E) outcome measures of specific treatment and recovery services in the overall system of care; (F) department policies and guidelines concerning recovery oriented care; and (G) provisions of the community reentry strategy concerning substance abuse treatment and recovery services needed by the offender population as developed by the Criminal Justice Policy and Planning Division within the Office of Policy and Management. The plan shall define measures and set benchmarks for the overall treatment system and for each state-operated program. Measures and benchmarks specified in the plan shall include, but not be limited to, the time required to receive substance abuse assessments and treatment services either from state agencies directly or through the private provider network funded by state agencies, the percentage of clients who should receive a treatment episode of ninety days or greater, treatment provision rates with respect to those requesting treatment, connection to the appropriate level of care rates, treatment completion rates and treatment success rates as measured by improved client outcomes in the areas of substance use, employment, housing and involvement with the criminal justice system.

(k) The commissioner shall prepare a consolidated budget request for the operation of the Department of Mental Health and Addiction Services.

(l) The commissioner shall appoint professional, technical and other personnel necessary for the proper discharge of the commissioner's duties, subject to the provisions of chapter 67.

(m) The commissioner shall from time to time adjust the geographic territory to be served by the facilities and programs under the commissioner's jurisdiction.

(n) The commissioner shall specify uniform methods of keeping statistical information by public and private agencies, organizations and individuals,

including a client identifier system, and collect and make available relevant statistical information, including the number of persons treated, demographic and clinical information about such persons, frequency of admission and readmission, frequency and duration of treatment, level or levels of care provided and discharge and referral information. The commissioner shall also require all facilities that provide prevention or treatment of alcohol or drug abuse or dependence that are operated or funded by the state or licensed under sections 19a-490 to 19a-503, inclusive, to implement such methods. The commissioner shall report any licensed facility that fails to report to the licensing authority. The client identifier system shall be subject to the confidentiality requirements set forth in section 17a-688 and regulations adopted thereunder.

(o) The commissioner shall establish uniform policies and procedures for collecting, standardizing, managing and evaluating data related to substance use, abuse and addiction programs administered by state agencies, state-funded community-based programs and the Judicial Branch, including, but not limited to: (1) The use of prevention, education, treatment and criminal justice services related to substance use, abuse and addiction; (2) client demographic and substance use, abuse and addiction information; and (3) the quality and cost effectiveness of substance use, abuse and addiction services. The commissioner shall, in consultation with the Secretary of the Office of Policy and Management, ensure that the Judicial Branch, all state agencies and state-funded community-based programs with substance use, abuse and addiction programs or services comply with such policies and procedures. Notwithstanding any other provision of the general statutes concerning confidentiality, the commissioner, within available appropriations, shall establish and maintain a central repository for such substance use, abuse and addiction program and service data from the Judicial Branch, state agencies and state-funded community-based programs administering substance use, abuse and addiction programs and services. The central repository shall not disclose any data that reveals the personal identification of any individual. The Connecticut Alcohol and Drug Policy Council established pursuant to section 17a-667 shall have access to the central repository for aggregate analysis. The commissioner shall submit a biennial report to the General Assembly, the Office of Policy and Management and the Connecticut Alcohol and Drug Policy Council in accordance with the provisions of section 11-4a. The report shall include, but need not be limited to, a summary of: (A) Client and patient demographic information; (B) trends and risk factors associated with

alcohol and drug use, abuse and dependence; (C) effectiveness of services based on outcome measures; (D) progress made in achieving the measures, benchmarks and goals established in the state substance abuse plan, developed and implemented in accordance with subsection (j) of this section; and (E) a state-wide cost analysis.

(p) The commissioner may contract for services to be provided for the department or by the department for the prevention of mental illness or substance abuse in persons, as well as other mental health or substance abuse services described in section 17a-478 and shall consult with providers of such services in developing methods of service delivery.

(q) (1) The commissioner may make available to municipalities, nonprofit community organizations or self help groups any services, premises and property under the control of the Department of Mental Health and Addiction Services but shall be under no obligation to continue to make such property available in the event the department permanently vacates a facility. Such services, premises and property may be utilized by such municipalities, nonprofit community organizations or self help groups in any manner not inconsistent with the intended purposes for such services, premises and property. The Commissioner of Mental Health and Addiction Services shall submit to the Commissioner of Administrative Services any agreement for provision of services by the Department of Mental Health and Addiction Services to municipalities, nonprofit community organizations or self help groups for approval of such agreement prior to the provision of services pursuant to this subsection.

(2) The municipality, nonprofit community organization or self help group using any premises and property of the department shall be liable for any damage or injury which occurs on the premises and property and shall furnish to the Commissioner of Mental Health and Addiction Services proof of financial responsibility to satisfy claims for damages on account of any physical injury or property damage which may be suffered while the municipality, nonprofit community organization or self help group is using the premises and property of the department in such amount as the commissioner determines to be necessary. The state of Connecticut shall not be liable for any damage or injury sustained on the premises and property of the department while the premises and property are being utilized by any municipality, nonprofit community organization or self help group.

(3) The Commissioner of Mental Health and Addiction Services may adopt regulations, in accordance with chapter 54, to carry out the provisions of this subsection. As used in this subsection, "self help group" means a group of volunteers, approved by the commissioner, who offer peer support to each other in recovering from an addiction.

(r) The commissioner shall prepare an annual report for the Governor.

(s) The commissioner shall perform all other duties which are necessary and proper for the operation of the department.

(t) The commissioner may direct clinical staff at Department of Mental Health and Addiction Services facilities or in crisis intervention programs funded by the department who are providing treatment to a patient to request disclosure, to the extent allowed under state and federal law, of the patient's record of previous treatment in order to accomplish the objectives of diagnosis, treatment or referral of the patient. If the clinical staff in possession of the requested record determines that disclosure would assist the accomplishment of the objectives of diagnosis, treatment or referral, the record may be disclosed, to the extent allowed under state and federal law, to the requesting clinical staff without patient consent. Records disclosed shall be limited to records maintained at department facilities or crisis intervention programs funded by the department. The Commissioner of Mental Health and Addiction Services shall adopt regulations in accordance with chapter 54 to administer the provisions of this subsection and to ensure maximum safeguards of patient confidentiality.

(u) The commissioner shall adopt regulations to establish a fair hearing process which provides the right to appeal final determinations of the Department of Mental Health and Addiction Services or of its grantee agencies as determined by the commissioner regarding: The nature of denial, involuntary reduction or termination of services. Such hearings shall be conducted in accordance with the provisions of chapter 54, after a person has exhausted the department's established grievance procedure. Any matter which falls within the jurisdiction of the Psychiatric Security Review Board under sections 17a-580 to 17a-603, inclusive, shall not be subject to the provisions of this section. Any person receiving services from a Department of Mental Health and Addiction Services facility or a grantee agency determined by the commissioner to be subject to this subsection and who is aggrieved by a violation of sections 17a-540 to 17a-549, inclusive, may elect to

either use the procedure specified in this subsection or file for remedies under section 17a-550.

(v) The commissioner may designate a deputy commissioner to sign any contract, agreement or settlement on behalf of the Department of Mental Health and Addiction Services.

(w) Notwithstanding the provisions of section 17b-90, chapter 899 and to the extent permitted by federal law, in order to monitor and improve the quality of targeted case management services provided by the Department of Mental Health and Addiction Services and funded by the Medicaid program, the Commissioner of Mental Health and Addiction Services may enter into a memorandum of understanding with the Commissioner of Social Services that allows for the sharing of information concerning admissions to short-term acute care general hospitals and receipt of inpatient services by clients of the Department of Mental Health and Addiction Services who reside and receive services in the community and who receive medical benefits under the Medicaid program.