

March 10, 2008

**Rules, Regulations and Standards for Licensing  
Agencies Providing Services or Support to  
Adults with Developmental Disabilities in RI**

(RI General Laws Section 40.1-24-1 et seq.)

**March 4, 2008**

***FINAL REGULATIONS***

**State of Rhode Island and Providence Plantations**

**Department of Mental Health, Retardation and Hospitals  
(MHRH)**

**Division of Developmental Disabilities (DDD)**

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## **PREFACE**

These rules, regulations and standards have been designed with the needs of people uppermost in mind and are intended to be flexible and responsive enough to allow for innovative supports and services designed to assist people to take more control over their own lives and to participate in local communities like any other citizen.

These rules, regulations and standards promulgated by the Department of Mental Health, Retardation and Hospitals (MHRH) supersede any and all prior rules, regulations and standards relating to the licensing of facilities and programs for adults with mental retardation (MR) and developmental disabilities (DD). They are promulgated to ensure that agencies comply with the basic requirements in providing support and assistance to people with developmental disabilities.

In order to comply with these regulations an agency must present sufficient evidence that their overall philosophy, goals and services are consistent with the mission statement of the Department of Mental Health, Retardation and Hospitals, and are responsive to the needs of people with

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developmental disabilities and their families; that the agency's management structure has the capacity to administer the overall operation of the agency; the staff are appropriately qualified; minimum safeguards are established to protect the health and safety of people served; and the physical plant for programs meets fire and life safety standards.

Agencies which have demonstrated their capacity to meet these regulations will be issued a license to provide residential and/or day support services for people with developmental disabilities.

The issuance and maintenance of a license authorizes an agency to operate specific types of programs and services. Under no circumstance does such a license commit the Department of Mental Health, Retardation and Hospitals to funding an agency.

The issuance and maintenance of a license requires an agency to comply with these rules, regulations and standards and with such other rules, regulations and standards promulgated by the Department of Mental Health, Retardation and Hospitals.

No agency may offer services to adults with developmental disabilities without a license if such services require a license under state law.

Department of Mental Health, Retardation  
and Hospitals (MHRH)

**MISSION STATEMENT**

It is our mission to develop a community of relationships and resources, which provides everyone the opportunity to be included in the ordinary fabric of our society. MHRH is the means by which the people of Rhode Island translate respect and compassion for people with disabilities into responsible action. In pursuit of this vision for the department we affirm these values:

**DIGNITY** We recognize our common humanity. We affirm and protect each person's inherent right to respect, compassion, and privacy, no matter how severe their disability. We value each other's capacities and contributions. Dignity characterizes our interactions with consumers, families and fellow employees.

**INDIVIDUALITY** We recognize and appreciate personal uniqueness and cultural diversity. We offer personalized assistance that builds upon individual strengths and abilities. We empower individuals to exercise choice and take charge of their lives.

**SERVICE** We offer prompt, professional and result oriented service for every Rhode Islander who needs it. We provide services and support in the most natural and beneficial environment. Together with the consumer we plan the nature of service no matter how much, what kind, or how long.

**COMMUNITY** We believe the Rhode Island community includes all people of our state. It is our role to enable people with disabilities to experience valued status and full membership in this community. It is our responsibility to build collaborative relationships within MHRH and throughout Rhode Island.

**LEADERSHIP** We meet the highest standards of personal integrity and clinical practice and are at the forefront of innovation. We combine efficiency with effectiveness and quality. We advocate publicly for the needs and rights of the people we serve to whom we are ultimately accountable.

## AGENCY REQUIREMENTS

### STATUTORY AUTHORITY FOR LICENSING

Authority for these rules, regulations and standards is found in RI Gen. Laws Section 40.1-24-1 et seq. and these rules and regulations.

### AGENCIES OR PROGRAMS TO WHICH THESE LICENSURE STANDARDS DO NOT APPLY

The provisions of these rules, regulations, and standards do not apply to any of the Health Care Facilities licensed by RI Department of Health pursuant to R.I. Gen. Laws Section 23-17-1 et seq. or to residential care and assisted living facilities licensed by the RI Department of Health pursuant to RI Gen. Laws Section 23-17.4-1, et seq. or to facilities and programs licensed by the RI Department of Children, Youth and Families pursuant to R.I. Gen. Laws Section 42-72.1-1 et seq. or to any facility or program licensed or certified by any other appropriate state agency.

### NONDISCRIMINATION AND CIVIL RIGHTS POLICY

All agencies shall be responsible for maintaining a policy of non-discrimination in the provision of supports and services for people with developmental disabilities and shall employ persons without regard to race, color, creed, national origin, sex, sexual orientation, age or disability in accordance with State and Federal laws.

### POWER OF ENFORCEMENT

The Director of the Rhode Island Department of Mental Health, Retardation and Hospitals has the power to enforce the provisions of these rules, regulation and standards (R.I. Gen. Laws Section 40.1-24-17).

### DEFINITIONS

1. "Abuse" means any of the following:
  - A. Physical Abuse: any assault or acts including but not limited to hitting, kicking, pinching, punching, slapping or pulling hair.
  - B. Sexual Abuse: any sexual activity such as oral/genital contact, sexual penetration or fondling and any other assault as defined in RI Gen. Laws Section 11-37-1 et seq.
  - C. Sexual Exploitation: any sexual contact between an employee, consultant or volunteer of the agency with a person with developmental disabilities.

- D. Psychological Abuse: intentionally engaging in a pattern of harassing conduct which causes or is likely to cause emotional or psychological harm, including but not limited to ridiculing or demeaning a person, making derogatory remarks, swearing, or threatening to inflict physical or emotional harm.
  - E. Material Abuse: the illegal or improper use or exploitation of the individual and his/her funds, personal property or other resources.
2. "Advocate" means a (1) legal guardian, or (2) an individual acting on behalf of a person with developmental disabilities in a manner clearly consistent with the interests of the person with developmental disabilities and includes a family member, friend or professional advocate.
  3. "Agency" means any organization that has been established for the purpose of providing either residential and/or day support services for adults with developmental disabilities in Rhode Island, and which is licensed by the Department of Mental Health, Retardation and Hospitals pursuant to 40.1-24-1 et. seq.
  4. "Aversive" means a procedure which is unpleasant to the individual and results in a reduction of problem behavior.
  5. "Board" means the Board of Directors of the agency.
  6. "Behavioral Treatment" means any intervention or treatment to develop and strengthen adaptive appropriate behaviors through the application of behavioral interventions, and to simultaneously reduce the frequency of maladaptive or inappropriate behaviors. Behavioral interventions encompass behavioral analysis, psychotropic medication, or other similar interventions which refer to purposeful, clinical manipulation of behavior.
  7. "Chief of Licensure and Standards" means the Administrator, Office of Facilities & Program Standards and Licensure, MHRH.
  8. "Community Residence" means any facility which operates twenty-four (24) hours a day to provide room, board, supervision and supportive services to three (3) or more people with developmental disabilities. Homes owned by people with disabilities are not considered to be community residences.
  9. "Consumer" means a person who has a developmental disability.
  10. "Day Support Services" means any organized daily activities provided by an agency for a person with developmental disabilities as described in his/her Individualized Plan which provide an individualized complement of natural, generic and specialized services, programs and assistance designed to support the person in various environments and to enhance or maintain the person's health, adaptive capacity, community experience and opportunities for

growth and development in those settings. This includes programs/support which include skill development in any of the following areas: activities of daily living; communication; mobility; transportation; adult development; health and life education; job training; supported employment; socialization or other activities to assist a person to be more independent or integrated within their local community.

11. "Department" means the Department of Mental Health, Retardation and Hospitals.
12. "Developmental Disability" means a severe, chronic disability, other than mental illness, which:
  - A. is attributable to a cognitive or physical impairment or combination of cognitive and physical impairments;
  - B. is manifested before the person attains age (22);
  - C. is likely to continue indefinitely;
  - D. results in substantial functional limitations in three or more of the following areas of major life activity; (i) self care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, (vii) economic self-sufficiency; and,
  - E. reflects the person's need for a combination and sequence of special, inter-disciplinary, generic care or other services which are of life-long or extended duration.
13. "DDD" means the Division of Developmental Disabilities within the Department of Mental Health, Retardation and Hospitals.
14. "Executive Director" means the highest-ranking administrator or executive employed by the agency seeking to be licensed.
15. "Human Rights Committee" means any duly constituted group of people with developmental disabilities, advocates, volunteers, and professionals who have training or experience in the area of behavioral treatment, and other citizens who have been appointed to an agency's human rights committee for the purposes of (1) promoting human rights, (2) reviewing, approving and monitoring individuals' plans designed to modify behavior which utilize aversive techniques or impair the participant's liberty, or other plans and procedures that involve risks to the person's protection and rights, and (3) participating in the agency's consumer grievance procedures.
16. "Individualized Plan" means the personalized document which describes specific supports for a person with developmental disabilities in such areas as vocational, social, medical, and

supportive living, and includes long term goals and objectives responsive to the individual needs of the person.

17. "Licensing Office" means the Office of the Department of MHRH responsible for administering the licensing responsibility.
18. "Managed Care" means the acute and long-term care services and supports a person with developmental disabilities has determined he/she needs as described in their Individualized Plan and authorized by the Division of Developmental Disabilities within a specific authorization rate.
19. "Mistreatment" means the inappropriate use of medications, isolation or use of physical or chemical restraints as punishment, for staff convenience, or as a substitute for treatment or care in conflict with a physician's order, or in quantities which inhibit effective care or treatment, which harms or is likely to harm the person with developmental disabilities.
20. "Neglect" means the failure of a person to provide treatment, care, goods or services necessary to maintain the health and safety of the person with developmental disabilities; or the failure to report health problems of the person or changes in his/her health conditions to an immediate supervisor or nurse; or the lack of attention to the physical needs of the person for personal care, meals and safety; or the failure to carry out a plan of treatment or care prescribed by a physician.
21. "Office of Quality Assurance" means the Office of Quality Assurance within the Division of Developmental Disabilities.
22. "Perpetrator" means the individual who is suspected of violating a person's rights. The perpetrator can include a staff person, family member, friend, other person with a disability, or person from the community.
23. "Program/Peer Review Committee" means three or more clinicians with expertise in behavioral treatment and approved by the Executive Director, DDD.
24. "Residential Support Services" means any staff assistance or other support provided by an Agency for a person with developmental disabilities as described in their Individualized Plan to assist that person to live within their own home, community residence, group home, apartment or other residential setting and to learn various skills and responsibilities associated with community living.
25. "Serious Incident" means any situation involving a person with developmental disabilities in which the person has:
  - A. had an injury that requires medical care or treatment beyond routine first aid;

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- B. been involved in an unexplained absence and whose whereabouts are unknown to anyone;
  - C. died;
  - D. has been personally involved (is the alleged victim or perpetrator) in a serious criminal act;
  - E. has been subject of a serious or repeated medication error; or
  - F. had any of his/her civil or human rights violated.
26. "Violation of Human Rights" means any action or inaction which deprives the person with developmental disabilities of any of his or her legal rights, as articulated in law or in these regulations.
27. "Violation of Confidentiality" means the revealing of confidential information to unauthorized individuals or agencies.

## SECTION I – GENERAL REQUIREMENTS

### **DD 1 INCORPORATION**

DD 1.1 All privately-operated agencies shall be incorporated or shall be an entity of an incorporated facility.

### **DD 2 PHILOSOPHY AND PURPOSE**

DD 2.1 The agency shall have a written statement of philosophy which is consistent with the Department's mission statement.

DD 2.2 A major written goal for all agencies shall be to support people with developmental disabilities to increase their independence, productivity, integration, and inclusion within their local communities.

DD 2.3 The agency shall be responsible for providing services and support to people choosing their services as specified within their Individualized Plan.

### **DD 3 GOVERNANCE**

DD 3.1 The agency shall have a written policy and procedure manual which shall be implemented, reviewed and updated as necessary.

DD 3.2 The agency shall have an organized governing board or other legal authority responsible for the management, operation and control of the agency.

DD 3.3 The board shall include persons who represent the greater community, including consumer and family participation. At least twenty-five percent of the board shall be consumers. Efforts shall be made to recruit members who represent the cultural diversity population of the local community of the agency.

DD 3.4 The board shall develop and maintain written by-laws which describe lines and levels of authority for relationships among itself, the Executive Director and the community.

DD 3.5 There shall be a written statement of the specific responsibilities of the board.

DD 3.6 The board shall ensure the agency complies with all applicable components of the Americans with Disabilities Act (ADA).

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- DD 3.7 By-laws shall stipulate at least four (4) regular meetings of the board each year, and shall describe qualifications for membership, quorum requirements and require recording of minutes.
- DD 3.8 The board shall review and approve major program changes recommended by the Executive Director.
- DD 3.9 The board shall adopt an annual budget, approve policies and receive written reports of income and expenditures by program and receive a copy of the annual audit.
- DD 3.10 The board shall be responsible for annually evaluating the performance of the Executive Director of the agency.
- DD 3.11 The board shall be responsible for ensuring the agency complies with all requirements of the Department for managed care.

**DD 4 FISCAL MANAGEMENT**

- DD 4.1 Financial operations shall be based on the principles of managed care and upon sound financial planning and prudent management of capital and operating revenue and expenditures. The agency shall be required to show that it has reasonable assurance of the funds necessary to carry out the purpose for which the license is granted.
- DD 4.2 The agency shall maintain its financial records in accordance with generally accepted accounting and bookkeeping practices and in accordance with the Department's management information system.
- DD 4.3 The agency's financial status shall be audited annually by an independent Certified Public Accountant.
- DD 4.4 The agency shall secure insurance to protect the personal funds of consumers, to cover damage, injury or loss of life caused by fire, accident or any other dangers which might arise in the operation of the agency. All vehicles owned or leased by the agency shall be covered by liability insurance.

**DD 5 PERSONNEL**

- DD 5.1 The agency shall have qualified personnel to provide support services to meet the needs of persons choosing the services offered by the agency.
- DD 5.2 The agency shall maintain written personnel policies which are reviewed and updated as appropriate and distributed to staff. Such policies shall

include at least the following:

- A. Written job descriptions including, minimal qualifications for each position, major duties, responsibilities, reporting supervisors and positions supervised. Copies shall be available to the individual(s) employed.
- B. A procedure for conducting reference, employment and background checks from the Bureau of Criminal Investigation (BCI) within the Office of the Attorney General and procedures requiring staff persons to report any changes in their record to their supervisor.
- C. A provision excluding the employment of any person who has been convicted of child abuse or of a felony for sexual or physical assault.
- D. Provision for any fringe benefits provided to full time and part time employees and any reimbursement procedures to include volunteers as applicable and appropriate.
- E. An affirmative action plan as required by Rhode Island law and a description of the initial screening process for all applicants and procedures for hiring and promotion.
- F. Evidence of professional licensure or certification, including renewals, as applicable.
- G. The process for evaluating the job performance of each staff member at the end of his/her training probation period and annually thereafter. Information resulting from the evaluation shall be communicated to the evaluated staff member. There shall be a process that demonstrates that people served by the employee had input in this process to the extent possible.
- H. A policy requiring all personnel to participate and cooperate with all authorized persons conducting investigations involving any person receiving supports/services from the agency.
- I. Description of disciplinary procedures and grounds for dismissal

**DD 6            PHYSICAL ENVIRONMENT AND SAFETY**

DD 6.1            The agency shall ensure that their facilities are accessible to meet the needs of people receiving services from the agency and designed to protect the health and safety of people.

- DD 6.2 The agency shall develop an emergency plan designed to address emergencies or natural disasters that may result in a disruption in services to people served.
- DD 6.3 All facilities providing day and/or residential support shall have on site an appropriate fire extinguisher and smoke detectors.
- DD 6.4 Facilities licensed as community residences shall meet the fire code requirements for such facilities.
- DD 6.5 All facilities which provide residential support services other than community residences must be approved by the Division of Developmental Disabilities as an acceptable living arrangement.
- DD 6.6 The agency shall comply with all state governmental safety and sanitation regulations.
- DD 6.7 The premises of all the facilities of the agency shall be sanitary, in good repair, free from accumulation of combustible debris, waste material and free from offensive odors and insects.
- DD 6.8 All vehicles utilized by employees of the agency to transport people shall have a current Rhode Island vehicle inspection sticker.
- DD 6.9 The agency shall be responsible for ensuring that only properly licensed drivers operate agency vehicles or use their own personal vehicles to transport people with developmental disabilities

## SECTION II – PROGRAM REQUIREMENTS

### DD 7 HUMAN RIGHTS

DD 7.1 Agencies shall maintain a comprehensive statement of and program for safeguarding human rights. Agencies shall determine the most appropriate strategy for informing people with developmental disabilities of their human rights and ensuring that individuals understand their rights to the best of their ability to do so. Each person shall be informed of their rights annually and have their signed statement of human rights reviewed with them including the availability of free legal assistance. Each person shall be provided with the name and telephone number of the Chairperson of the Human Rights Committee. The statement of human rights shall include at least the following:

- A. entitlement to the same constitutional rights, benefits and privileges of any person living in the United States;
- B. the right to be protected from abuse, neglect, mistreatment, financial exploitation, unnecessary restraint and any other human rights violations;
- C. the right to confidentiality regarding the person's records and involvement with the agency;
- D. the right of the person to access his/her records or his/her legal guardian's right to obtain a copy of the record;
- E. the right to design his/her own Individualized Plan, to choose people to assist in the development of the Plan, and the right to provide written informed consent to the implementation of the Plan, if competent, or to have an advocate provide informed consent;
- F. the right to make one's own choices regarding the supports and services needed and from which agencies;
- G. the right to be treated with dignity and respect;
- H. the right to a safe and supportive environment;
- I. the right to receive visitors of one's own choosing at reasonable hours;
- J. the right to access one's own money;

- K. the right to privacy;
- L. the right to have personal and sexual relationships;
- M. the right to file a grievance in accordance with DD 16;
- N. the right to access proper medical care;
- O. the right to religious freedom and practice;
- P. the right to provide informed consent to or refuse medical treatment if competent;
- Q. the right to provide input into the performance evaluations of employees who provide support or services to them;
- R. the right to access a Human Rights Committee;
- S. the right to communicate by sealed mail or otherwise with persons of one's own choosing;
- T. the right to have opportunities for physical exercise and outdoor recreation;
- U. the right to have reasonable prompt access to newspapers, magazines and TV programming;
- V. the right to have reasonable access to telephone communication; and,
- W. the right to file an appeal.

DD 7.2 No person, other than volunteers, shall perform services for the benefit of the agency without reasonable compensation.

DD 7.3 Unless otherwise authorized by law, no information regarding the person or their involvement in the agency shall be required from or disclosed to another agency or individual without the person's (and/or legal guardian's or family member, if appropriate) written authorization. A completed Request for Release of Information form shall be used for this purpose, and shall contain:

- A. the person's name and date of birth,
- B. the name and address of the agency or individual releasing the information,

- C. the name and address of the agency or individual from whom the information is being requested and to whom the information is being released,
- D. exactly what information is being requested or released,
- E. the reason the information is being requested or released,
- F. date signed,
- G. the person's signature; and,
- H. a statement that the release may be withdrawn at any future time and is subject to written revocation.

DD 7.4 No person shall be required to participate in any experimental or research project. If he/she chooses to participate it must be with his/her full knowledge, understanding and written consent (and/or legal guardian, if appropriate).

**DD 8 PARTICIPATION IN SERVICES**

DD 8.1 The agency shall inform the person and/or his/her advocate that the Department and its authorized representatives have access to information and records relating to the person receiving support or services.

DD 8.2 Prior to participating in a program administered by the agency, the person, and/or his/her advocate, if appropriate, shall be informed of any charges or services.

DD 8.3 The person, and/or his/her advocate, if appropriate, shall be given written information about the supports and services offered by the agency.

DD 8.4 The agency shall at least annually inform the person, and/or his/her advocate, about the role and responsibilities of the Human Rights Committee in a manner consistent with the person's learning style.

DD 8.5 The enrollment procedure shall include collecting and recording at least the following information which shall be kept in the individual record of the person receiving support or services from the agency as a facesheet and updated as needed:

- A. name,
- B. address, telephone number, social security number,

- C. date of birth,
- D. date of application for services,
- E. sex, color of hair, color of eyes, and recent photograph,
- F. source of referral,
- G. name and address of next of kin, or legal guardian, or significant other,
- H. reason for referral,
- I. social history and personal and family information,
- J. marital status,
- K. legal status, when appropriate, including relevant legal document(s),
- L. pertinent ethnic, religious and cultural information,
- M. language spoken or understood and/or method of communication,
- N. health information including medical insurance; and,
- O. income and financial information.

**DD 9 INDIVIDUALIZED PLAN (IP)**

DD 9.1 Each agency shall be responsible for providing the services the consumer has chosen from that agency and as stated within his/her Individualized Plan.

DD 9.2 The IP shall:

- A. include an individualized profile of the person highlighting their capabilities, preferences and interests;
- B. include a personalized statement of the person's expectations for the future;
- C. address natural supports and connections for people with other citizens of the community;
- D. include a description of the needs of the person and who the person would like to meet those needs;

- E. state who will be responsible for providing the supports/services for the person;
- F. include a backup plan in the event of a health or personal emergency involving the person where staff/resources are not available on a 24 hour basis; and,
- G. include personal satisfaction indicators.

DD 9.3 The person shall determine who shall assist him/her in the development of his/her Plan and can include any individual he/she chooses.

DD 9.4 The IP shall document the names of any person who participated in the development of the plan.

**DD 10 HUMAN SEXUALITY AND HEALTH EDUCATION**

DD 10.1 Agencies shall develop policies which address the rights of persons with developmental disabilities to be free from verbal, sexual and/or physical abuse or sexual exploitation and treated with dignity and respect regarding issues of sexuality and privacy.

DD 10.2 Agencies shall develop human sexuality policies and health education policies which reflect the philosophy that people with developmental disabilities are people with sexual identities, feelings and needs.

DD 10.3 Agencies shall offer training in Human Sexuality and/or Health Education and educate people with disabilities to protect themselves from sexual abuse, sexual exploitation, pregnancy, sexually transmitted diseases and other areas pertaining to sexuality.

**DD 11 HUMAN RIGHTS COMMITTEES**

DD 11.1 Every agency shall establish or affiliate with a Human Rights Committee comprised of persons with developmental disabilities, family members, volunteers, advocates and people who have experience or training in behavioral treatment. Employees, their spouses or other persons with a potential for a conflict of interest shall not participate in that agency's human rights committee, as voting members.

DD 11.2 Every agency shall utilize the Human Rights Committee to develop strategies for promoting human rights and to review, approve and monitor the outcomes of interventions within individual plans which might impair the person with

developmental disabilities' liberty and other plans and procedures that involve risks to the person's protection and rights, including but not limited to use of psychotropic medications administered to control or modify behavior.

- DD 11.3 Every agency shall provide the Chair of their Human Rights Committee with copies of grievances filed by people with developmental disabilities or advocates. A member of the Committee shall be involved in the resolution of said grievance.
- DD 11.4 The Human Rights Committee shall have input on all of the agency's policies pertaining to human rights including staff interventions on behavioral programming.
- DD 11.5 Members of the Human Rights Committee shall receive training in the areas of human rights and their role as a committee member and the role and responsibilities of the Office of Quality Assurance and other state agencies with respect to monitoring or investigating human rights violations.
- DD 11.6 Agencies shall have written policies addressing procedures for informing the Human Rights Committee of any circumstances involving an alleged or possible violation of human rights of any person receiving support or services from the agency.
- DD 11.7 The Human Rights Committee shall be responsible for determining which types of incidents shall be reported to them by the agency. Agencies shall provide the Human Rights Committee with copies of all human rights violations and incident reports involving a person with disabilities receiving support or services from the agency.
- DD 11.8 The Human Rights Committee shall be informed of any investigation and shall receive copies of final investigation reports from the agency and/or DDD including notification of any administrative action taken by the agency regarding a human rights violation of a person receiving support or services from the agency.
- DD 11.9 The Human Rights Committee shall be responsible for establishing written guidelines describing the roles and responsibilities of the Committee that are in compliance with the Quality Assurance Plan of the DDD.
- DD 11.10 The Human Rights Committee shall develop procedures for selecting a Chair and Vice Chair of the Committee and procedures for appointing new members.
- DD 11.11 The Human Rights Committee shall meet at least bi-monthly and shall keep minutes for each meeting.

**DD 12 CONSUMER SATISFACTION**

- DD 12.1 All agencies shall have written policies and procedures for assessing consumer satisfaction with services and supports received, consumer choice regarding services received and consumer involvement in monitoring the provision of services.

**DD 13 STAFF TRAINING**

- DD 13.1 Agencies shall annually determine staff training needs and develop a written schedule of staff training.
- DD 13.2 Personnel files shall contain documentation of training programs staff have completed.
- DD 13.3 Agencies must have a written program for in-service and orientation of all new employees of the agency.
- DD 13.4 Agencies must have a written schedule of on-going training programs that will be offered by the agency for employees.
- DD 13.5 All staff of the agency must participate in training programs in at least the following areas:
1. Crisis prevention intervention techniques and other emergencies,
  2. Human rights and the roles of the Office of Quality Assurance and the agency's Human Rights Committee,
  3. Detection and prevention of abuse, neglect, mistreatment, financial exploitation and other human rights violations,
  4. Procedures for reporting allegations of abuse, neglect, mistreatment, or other human rights violations to the Office of Quality Assurance, various state agencies or other entities such as the police, Human Rights Committee, etc.,
  5. Confidentiality,
  6. Service quality and service accomplishments (choices, relationships, sharing places in the community, dignity/respect, and competencies),
  7. Overview of the Americans with Disabilities Act (ADA),
  8. Overview of Rhode Island's system of managed care for people with developmental disabilities,
  9. Teaching skills/strategies to assist people to learn the specific skills they need; and,
  10. Resources, services and supports provided by the agency.

11. Health care and medication administration training as described in Section HC 12.2

**DD 14 ABUSE, NEGLECT, MISTREATMENT, AND OTHER HUMAN RIGHTS VIOLATIONS**

- DD 14.1 The agency shall have written policies and procedures for assuring the health, safety and well-being of people with developmental disabilities participating in their programs.
- DD 14.2 The agency shall have a written policy which clearly prohibits abuse, neglect, mistreatment, or any other violation of a person's basic human rights. The policy shall:
- A. Include definitions of abuse, neglect, mistreatment, other human rights violation, and serious incidents,
  - B. Delineate the responsibilities of employees for conducting and/or participating in investigations that involve a violation of a person's rights or a serious incident; and,
  - C. Include provisions for administrative action, disciplinary action, and dismissal of employees involved with abuse, neglect, mistreatment or other human rights violations.
- DD 14.3 The agency shall take all necessary steps to prevent and protect a person who has been a victim of abuse, neglect, mistreatment, or other violation of his/her basic human rights from further abuse.
- DD 14.4 Agencies shall have written procedures for informing legal guardians and/or family members of any situation involving abuse, neglect, mistreatment, or human rights violations of their family member.

**DD 15 REPORTING REQUIREMENTS**

- DD 15.1 The agency shall establish written procedures to be utilized in reporting allegations of abuse, neglect, mistreatment, financial exploitation, other human rights violations, or serious incidents. The written procedures shall address the following requirements:
- A. Any employee or person who knows or suspects that a person with developmental disabilities has been a victim of abuse, neglect, mistreatment, financial exploitation, other human rights violation or a serious incident, shall immediately report the incident. That person or their supervisor shall report

all allegations regarding any violation of a person's rights or a serious incident to the Office of Quality Assurance, within the Division of Developmental Disabilities and to any other state agency or entity as required by law within 24 hours or by the end of the next business day. The report shall include:

1. The name, address, telephone number, occupation, employer's address, and the phone number of the person reporting;
  2. The name and address of the person who is believed to be the victim;
  3. The details, observations, and beliefs concerning the incident;
  4. Any statement regarding the incident made by the victim and to whom they were made;
  5. The date, time and place of the incident;
  6. The name of any individual(s) believed to have knowledge of the incident; and,
  7. The name of any individual(s) believed to have been responsible for the incident.
- B. The agency shall complete and maintain written incident reports documenting any abuse, neglect, mistreatment, violation of a person's human rights, or other serious incident.
- C. The agency shall have a written policy specifying employees who are responsible for taking action, including conducting investigations in the event of a serious incident or allegation of abuse, neglect, mistreatment, or any other human rights violations, and specifying the action or procedures the employee may take.
- D. All persons involved in incidents at the agency shall be interviewed immediately or as soon as possible after an incident. Interviews should be conducted in a private place in order to afford the person's dignity as well as safety.
- E. All persons involved in any allegation of a human rights violation or serious incident shall be responsible for immediately completing a written statement describing their knowledge of the incident.
- F. The agency shall have an Internal Incident Review Committee to at least quarterly review all incidents reported to DDD that have occurred involving

people receiving supports/services from the agency. The Committee shall review the procedures for how incidents were handled and recommend training programs, policy changes and/or procedural changes which appear warranted.

- G. Any person as required to make a report of a human rights violation or serious incident and who fails to do so may be guilty of a misdemeanor and be punished by a fine as specified in RI Gen. Laws Section 40.1-27-4.

**DD 16 GRIEVANCES**

- DD 16.1 The agency shall establish a written grievance procedure to be used to process complaints by people with disabilities or their advocates. The notice of grievance procedure shall include the names of organizations that provide free legal assistance.
- DD 16.2 The person with developmental disabilities, or his/her advocate, shall be entitled to initiate a grievance at all times and to this end, grievance forms shall be made available in a specified place.
- DD 16.3 The agency shall annually explain the grievance procedure to the person with disabilities, utilizing the most appropriate strategy for ensuring the consumer, or his/her advocate, understand what the grievance process entails. The agency may choose to explain this process using various approaches such as verbal communication, written or pictorial formats, audio or video cassette tapes, etc.
- DD 16.4 The Executive Director of the agency, or his/her designee, with the assistance of the Chair of the Human Rights Committee or his/her designee, shall investigate the grievance and issue a written decision to the person with developmental disabilities, or his/her advocate within five (5) business days of receipt of his/her grievance.

**DD 17 AGENCY EVALUATION**

- DD 17.1 The agency with the input of the Board of Directors shall initiate a planning/quality assurance mechanism for annually evaluating the effectiveness of the activities of the Board and of the supports/services provided to people served by the agency.
- DD 17.2 The plan shall measure the outcomes of support and services provided by the agency.
- DD 17.3 The evaluation shall include at least the following components:
  - A. major accomplishments/highlights,
  - B. identification of problem areas,

- C. effectiveness of the agency,
- D. satisfaction of people served by the agency; and,
- E. the review and appraisal of self-satisfaction statements of people.

DD 17.4 The agency shall develop a written report on the findings of the evaluation.

DD 17.5 The Board of Directors and administrative staff of the agency shall receive copies of the written report and shall review the information.

DD 17.6 The agency shall have the report or a summary of the report available to other interested persons.

**DD 18 PROCEDURAL SAFEGUARDS, ADMINISTRATIVE APPEALS AND HEARINGS**

DD 18.1 Any person who has a developmental disability, or his/her advocate, has a right to appeal an action or inaction of the Division of Developmental Disabilities in regard to eligibility, service assessment, capitation rate, funding or any other matter which may arise under these regulations using the Department's Administrative Procedures Policy.

## SECTION III - REGULATIONS FOR BEHAVIORAL INTERVENTIONS

### DDBI 19 APPLICABILITY

DDBI 19.1 This section applies to all agencies licensed by MHRH that provide behavioral treatment services to people with developmental disabilities

**Policy:** It is the policy of the Division of Developmental Disabilities (DDD) reflected in these behavioral intervention regulations to assure the dignity, health and safety of people with developmental disabilities. Many behavioral intervention techniques are widely accepted and utilized treatments which in many cases have enabled persons to grow and reach their maximum potential. It is the intent of these regulations that behavioral interventions encompass behavior modification, applied behavioral analysis, psychotropic medication or other similarly characterized titles which refer to purposeful, clinical manipulation of behavior. DDD also recognizes the fact that medication is utilized as a behavioral treatment to decrease the frequency of maladaptive behaviors. Behavioral intervention techniques emphasize the use of positive approaches, but in some cases involve the use of interventions which employ restrictions, intrusions, stimuli, or situations that individuals seek to avoid. It is DDD's expectation that particular procedures used to modify the behavior of people will not be unduly aversive. It is the policy of DDD that in individual cases the only procedures which may be used are those which have been determined to be the least aversive alternatives. In this context, it is recognized that there are individual variances in the intensity and composition of what is herein defined as aversive behavioral intervention. There are variations in individual hierarchies in what is considered to be a least to most intrusive restrictive intervention continuum.

Any behavioral intervention procedures which are aversive should be used only as a last resort, subject to the most extensive safeguards and monitoring.

It is DDD's policy that the use of such procedures in such exceptional circumstances must meet the heaviest burden of review among all treatments. The use of such procedures will be allowed for a particular person only after a review and approval by clinicians, families, guardians, Human Rights Committees and DDD. This process will insure that before the consumer can be subjected to this type of procedure, that clinicians have exhausted other less aversive procedures, and further, that the likely benefit of the procedure to the individual outweighs its apparent risk of aversiveness.

It is the policy of DDD that the application of an approved procedure must be strictly monitored by the agency as well as by DDD itself.

It is the purpose of these regulations to insure that behavioral intervention procedures are used to enhance the dignity, health and safety of people with developmental disabilities, and that procedures which pose a risk to such health, safety and dignity may only be used as a last resort, sanctioned by appropriate authority, and be subject to the strictest safeguard and monitoring.

**DDBI 20 GENERAL REQUIREMENTS**

DDBI 20.1 Behavioral Treatment Programs shall be generally designed to develop and strengthen adaptive, socially appropriate behaviors, and to facilitate communication, community integration, and social interactions. Behavioral Treatment Programs shall be implemented and supervised as part of a person's Individualized Plan.

In constructing an overall plan for reducing or eliminating inappropriate behaviors, the plan needs to address:

- A. Completing an appropriate functional analysis,
- B. Creating environments which provide for the safety of the person and others,
- C. Adjusting environments to decrease the probability of occurrence of the undesirable behavior; and,
- D. Training functional behavioral replacements for the behaviors targeted for reduction.

DDBI 20.2 **Scope:** This subsection establishes requirements for interventions that are used, or that are proposed for use, for Behavioral Intervention purposes.

- A. No Behavioral Interventions shall be approved in the absence of a determination, arrived at in accordance with all applicable requirements of these regulations, that the predictable risks as weighed against the benefits of the procedure would not pose an unreasonable degree of intrusion, restriction of movement, physical harm or psychological harm.
- B. All procedures designed to decrease inappropriate behaviors may be used only in conjunction with positive reinforcement programs.
- C. Aversive Behavioral Interventions may be used only to address extraordinarily difficult or dangerous behavioral problems that significantly interfere with appropriate behavior and/or the learning of appropriate and useful skills, and/or that have seriously harmed or are likely to seriously harm, the individual or others.

- D. No Behavioral Intervention may be administered to any person in the absence of a written Behavior Treatment Program.
- E. All Behavioral Intervention Plans shall be developed in accordance with these regulations, and in accordance with the Behavioral Intervention Policies and Procedures of the agency in which the plan is to be implemented.
- F. All Behavioral Intervention Plans shall conform to and abide by, the Rhode Island statute entitled “Rights of Persons with Developmental Disabilities” R. I. Gen. Laws Section 40. 1-26-1 et seq.

**DDBI 21 BEHAVIORAL TREATMENT PROGRAMS**

DDBI 21.1 Behavioral Treatment Programs shall be formalized and written to include the following:

- A. Specified, measurable target behaviors
- B. Specified, measurable baseline information
- C. Specified, measurable goals and objectives
- D. Specified, measurable intervention strategies and tactics
- E. Sufficient, qualified, trained staff to conduct the written treatment program
- F. Specified individuals responsible for the program
- G. Location(s) where the program intervention(s) as well as the devices, materials, and equipment needed to conduct the treatment program may/will be used
- H. Length of time of each program component or intervention
- I. Specific, measurable, objective documentation of the individual’s progress in the treatment program
- J. Specific methods, time frames and individuals responsible for program review, supervision, and monitoring
- K. A description of each of the interventions to be used, as well as a rationale based upon a comprehensive functional analysis of the antecedents and consequences of the targeted behavior.

**DDBI 22      CONDITIONS FOR USE OF AVERSIVES**

DDBI 22.1 Behavioral Treatment techniques, programs, methodologies and applications which utilize any Aversive Behavioral Interventions shall be implemented only under the following conditions:

- A. Prior written approval shall be present in the person's record. Authorizing signatures shall be present, including:
  - 1. The person with a developmental disability, if competent
  - 2. Parent(s) or advocate or guardian (as appropriate)
  - 3. Executive Director or duly authorized representative
  - 4. Licensed physician
  - 5. DDD approved Program /Peer Review Committee (see B below)
  - 6. Chair or designee of the Human Rights Committee
  - 7. Supervising clinician
- B. A duly constituted Program/Peer Review Committee shall be composed of three or more clinicians (including at least one person who has a Master's degree in psychology) with expertise in the care and treatment of individuals with needs similar to those served by the agency, expertise in behavior treatment, and familiarity with the use of psychotropic medications. The Program/Peer Review Committee shall be approved by the Executive Director of DDD or his/her designee.

For this purpose, a Human Rights Committee may serve this function if its membership meets the above criteria regarding composition.

Any clinician serving as a treating clinician within the agency proposing to use Aversive Behavior Interventions shall not be a member of the Program/Peer Review Committee.

This committee shall review all Aversive Behavioral Interventions Plans to ascertain if they conform to the requirements for appropriate treatment established by these regulations.

- C. In lieu of having the human rights, and/or program/peer review functions specified above performed by committees appointed by the same agency that is proposing to use Aversive Behavioral Interventions, the director of such an

agency may request the Executive Director of DDD, or his/her designee to provide for the performance of such reviews by Human Rights Committees and/or Program/Peer Review. The Executive Director of DDD, or his/her designee may provide for such reviews in response to such a request in the event that he/she determines that the agency is unable to provide for such reviews itself or that the purposes of these regulations will be served by the provision of such reviews by committees established by the Executive Director of DDD or his/her designee.

- D. Written documentation in the record of the person with developmental disabilities shall include data and narrative data summaries which demonstrate that current or earlier positive reinforcement methods, and/or less aversive procedures have not adequately alleviated the individual's problem behaviors.
- E. Written procedures designed to develop competing behaviors shall be present in the consumer record. Procedures shall include safeguards to be implemented (e.g. medical supervision, proposed and expected duration, frequency, and precautions to prevent injury).
- F. A statement of possible risk, possible side effects, benefits, cautions, and precautions shall be documented, and shall be described to and discussed with the consumer and/or parents, guardian or advocate, prior to gaining their authorization signatures.
- G. Treatment applications shall be applied as prescribed in the individual written behavioral treatment program, and by staff who are trained and well versed in the treatment techniques being conducted.
- H. When exclusionary time out treatment programs are utilized, a staff person shall continually visually observe the consumer, and record such surveillance. If a door to a time out room is locked, the locking mechanism must have a self release unlocking device. When a time out room is identified, or one is going to be constructed, it shall be inspected and approved by a Human Rights Committee, and/or Program/Peer Review Committee.
- I. If the person with developmental disabilities shows symptoms of physical injury or distress during the use of any behavioral treatment procedure, the physical injury or distress shall be alleviated. Staff and the person's responses shall be documented.
- J. All people receiving behavioral treatment shall have their health monitored by a physician or registered nurse over the course of behavioral treatment, as medically dictated. The physician or registered nurse shall document their monitoring activity.

- K. All behavior treatment programs shall be reviewed on a regular basis by a Human Rights Committee, and/or a DDD approved Program/Peer Review Committee.
- L. Individual records pertaining to the use of aversive behavioral interventions shall be kept and made available for review by the Executive Director of the agency, representatives of DDD, the Human Rights Committee, the person and/or parent, advocate or guardian (as appropriate) and a DDD approved Program/Peer Review Committee.
- M. At the time of initial approval of any aversive behavioral interventions, the DDD approved Program/Peer Review Committee and the Human Rights Committee shall determine how often the specific procedure shall be reviewed and reauthorized. The span of time between reauthorizations shall be determined by the specific procedure used. Reauthorizations, however, shall be performed at least annually. Signatures required for reauthorization shall include:
  - 1. Person with developmental disabilities, if competent;
  - 2. Parent(s), advocate, or guardian;
  - 3. Licensed physician;
  - 4. Executive Director or authorized representative;
  - 5. DDD approved Program/Peer Review Committee;
  - 6. Chair or designee of the Human Rights Committee; and,
  - 7. Supervising Clinician.
- N. Any alterations in the use of aversive behavioral techniques incorporated into an operating individual behavioral treatment program (e.g., approved technique of time out) shall have prior authorization from the individuals or groups named in Section M above. However, changes in programs which result in reduction or elimination of aversive techniques shall not be required to have prior authorization from the individuals or groups in Section M.
- O. The Executive Director, DDD, or his/her designee, shall have the right to review, inspect and/or revoke the use of any specified behavior treatment procedure at any time if the health and safety of the individual is at risk.

**DDBI 23      PROHIBITED AVERSIVE PROCEDURES**

- DDBI 23.1    The following procedures are specifically prohibited from use under any circumstances:
1. Contingent or non-contingent emetics for anything other than medical purposes,
  2. Contingent or non-contingent application of cold showers,
  3. Contingent or non-contingent corporal punishment,
  4. Contingent or non-contingent electric shock,
  5. Unobserved time out,
  6. Liquid spray mist in a person's face,
  7. Shouting, screaming, using a loud, sharp, harsh voice to frighten or threaten, or use of obscene language,
  8. Withholding and/or denial of meals or other basic necessities of life (e.g., toilet, clothing, shelter, etc.). This is not intended to prohibit use of meal or other "modification" behavioral interventions which are part of a comprehensive individual plan.
  9. Permanent removal of an individual's personal property,
  10. Pinching, hitting, slapping, kicking or punching,
  11. Withholding or denial of visitation, as a punishment; and,
  12. Any form of humiliation.

**DDBI 24      BEHAVIOR INTERVENTION POLICY AND PROCEDURE MANUALS**

- DDBI 24.1    Each agency which intends to use any aversive Behavioral Intervention is required to submit their "Behavioral Intervention Policy and Procedure Manual" to the office of the Executive Director, DDD for inspection, review and approval thereof.
- DDBI 24.2    If such "Behavioral Intervention Policy and Procedure Manual" does not comply with the standards set within these "Regulations for Behavior Interventions", then the agency will not be authorized by DDD to conduct any aversive Behavioral Interventions.

- DDBI 24.3 As part of the manual, all aversive behavioral interventions with specific definitions approved for use within the agency must be provided in addition to the requirements as specifically incorporated herein by reference.
- DDBI 24.4 Revisions to the “Behavioral Intervention Policy and Procedure Manual” that involve additions to “C” above must be submitted to DDD within thirty (30) days prior to implementation for inspection, review and approval.
- DDBI 24.5 At least annually, each agency must verify to DDD that the agency’s “Behavior Intervention Policy and Procedure Manual” in the possession of DDD is current.
- DDBI 24.6 Any agency may request the Executive Director of DDD, or his/her designee, to provide an advisory opinion regarding the contents of an agency “Behavioral Intervention Policy and Procedure Manual”.

**DDBI 25 EMERGENCY BEHAVIORAL CRISIS PREVENTION/INTERVENTION**

- DDBI 25.1 Definition and methods of dealing with behavioral crisis within the agency must be provided. Exact definitions of all emergency behavioral crisis prevention and intervention procedures, including any provision for individualized techniques or methods, are to be provided.
- DDBI 25.2 Documentation of all physical/mechanical behavioral interventions, both behavior treatment and crisis, is to be provided, including but not limited to:
1. Signs and symptoms of physical condition during all behavioral interventions; and,
  2. Specific outcomes of behavioral interventions.
- DDBI 25.3 Description of the application of all agency-approved physical and/or mechanical restraints and holds, both generic and individualized, must be detailed in writing. The following procedural stipulations must be strictly adhered to and specifically stated:
1. One person must be designated the lead person on site for each and every hold situation, with primary responsibility for directing any other person(s) who is (are) involved in the hold.
  2. No staff can lay across the back of a person in a hold.
  3. One person should have responsibility for observing the person involved in the hold to watch for any problems that may be a signal of a life-threatening situation. The lead person should determine who shall have this responsibility.

4. In the event only one staff person is available during a restraint or a hold, that individual is responsible to act as both the lead person as well as the observer.

DDBI 25.4 All agency approved physical and/or mechanical restraints and holds are to be videotaped and made available for review by the Executive Director, DDD, or his/her designee.

**DDBI 26 WRITTEN DOCUMENTATION**

DDBI 26.1 There shall be written documentation available in each agency for inspection and review for the following requirements:

**A. Staff Qualifications**

1. A description of the specific training (type, content, number of hours, frequency) required of all staff in order to assure that staff are competent to apply each behavioral treatment procedure used, and to apply the agency emergency behavioral crisis prevention and intervention procedures.
2. Names of all staff members who are qualified to administer behavioral treatment, and the agency emergency behavioral crisis prevention and intervention procedures.
3. Assurance that all instructors of agency staff who teach Behavioral Intervention procedures and techniques as well as emergency behavioral crisis prevention and intervention are qualified.
4. Method to assess staff competency in behavioral intervention and crisis prevention procedures.

**B. Supervision**

1. Supervisory and training practices shall be designed to protect the person with developmental disabilities from the following:
  - a. the application of aversive behavioral techniques in a non-contingent manner,
  - b. the failure of a staff member to positively reward a competing, appropriate behavior which is incompatible with the undesired target behavior as prescribed,

- c. the application of behavioral treatment techniques or individualized emergency behavioral crisis prevention and intervention procedures which have not been formally approved for an individual,
- d. the failure to document the time at which a supervisor was notified of the application of Aversive Behavioral Procedures, per approved Behavior Treatment program specifications; and,
- e. physical abuse, neglect, mistreatment, and other human rights violations.

**C. Procedures**

Each day or residential site from which the agency conducts a given behavioral treatment procedure shall have readily accessible to all staff members an up-to-date procedural manual outlining the steps for each behavioral treatment used, as well as the MHRH Licensing Regulations and the Rhode Island Statute "Rights of Persons with Developmental Disabilities" RI Gen. Laws Section 40.1-26-1 et seq.

**D. Evaluations of Consumer Progress**

Up-to-date individual consumer records shall be maintained which supply adequate data to assess the progress of the behavioral treatment(s) in operation. Data shall be summarized and charted across days, weeks, and months to determine changes.

## **SECTION IV – REGULATIONS FOR HEALTH CARE**

### **APPLICABILITY**

The Health Care Regulations described herein are the minimum standard of care to which agencies are expected to adhere when providing health care services for an individual. As stated previously, it is the expectation of DDD that each person's array of supports and services be customized to meet the individual needs and desires in the least restrictive environment. To that end, the support an individual receives in the area of health care must also be individualized and may fall within a continuum of services. For some, these services will be extensive and managed in total by the chosen agency. Others may request minimal participation of the agency or opt not to receive any assistance with health care management. This range of service will be reviewed with the individual, his or her family or advocate, and representatives from the chosen agency prior to the commencement of service, and health care services will be made available as appropriate.

### **DEFINITIONS**

1. "Agency Health Care Manual" means an Agency's Health Care Manual is the repository for all agency policies and procedures relating to health care practices. These manuals are developed by the agency with the input of nursing and other clinical staff and are intended to serve as a guide for health care practice within the agency. Each manual shall be reviewed by and filed with the Department of MHRH to ensure alignment with the Health Care Standards.
  
2. "Assessment/Data Collection" means the Professional Nurse (R.N.) will conduct a nursing assessment which includes a deliberate and systematic collection of data to determine a person's current health status; including physical assessment, data analyses, problem identification, and development of a plan of care. The R.N. will complete a nursing assessment when nursing services are deemed appropriate and per the individual plan as determined by the RN based on the person's health care needs.
  
3. "Controlled Substance" means a drug, substance or immediate precursor in Schedules I - V of Chapter 21-28 of the Rhode Island General Laws, as amended
  
4. "Delegation" means the transferring to a competent individual the authority to perform a selected nursing activity in a selected situation. The nurse retains the accountability for the delegation.
  
5. "Evaluation" means the Professional Nurse (R.N.) will evaluate and document the person's response to the interventions outlined in the plan of care; revise the plan as necessary; and, identify the degree to which the expected outcomes have been achieved.

6. "Individualized Procedure" means a procedure which is necessitated by a specific medical need that an individual would do for his/her self but for his/her disability. The provision of such procedure requires specific training beyond the basic curriculum and is not transferable to another person. Each unlicensed person must demonstrate competency in the specific procedure for a specific person. Ongoing supervision by the RN is required of all individualized procedures.

7. "Intervention" means the Professional Nurse (R.N.) will intervene as guided by the nursing plan of care to implement nursing actions that promote, maintain, or restore wellness and prevent illness. The R.N. shall ensure the implementation of the plan of care and may delegate all or portions of the implementation to the Licensed Practical Nurse (L.P.N.) or to appropriately trained support staff. The L.P.N. may assist in the delegation process under the direction of the R.N. It is recognized that when the L.P.N. works in a team relationship with the R.N., the L.P.N. contributes significantly to each aspect of the nursing process. However, final responsibility for the nursing process and its application remains with the R.N.

8. "Legend Drug" means any drug so designated pursuant to the provisions of Section 21-31-15(k)(c)(3) of the Rhode Island General Laws, as amended, and said drug is labeled: "Caution: Federal Law Prohibits Dispensing Without a Prescription"

9. "Licensed Health Care Provider" means in reference to the Health Care Guidelines outlined herein, a licensed health care provider shall include: a duly licensed physician, dentist, advanced practice nurse, podiatrist, or other licensed health care providers authorized by law to prescribe.

10. "Medication Errors" means incidents involving medications which may or may not cause harm to a person's health and welfare. By way of example, and not in limitation, medication errors include:

- a) omission of a dosage(s) or failure to administer;
- b) incorrect dosage(s);
- c) incorrect medication(s);
- d) medication(s) given by incorrect administration route;
- e) medication(s) given by incorrect time;
- f) medication(s) given to wrong person;
- g) any inappropriate use of medications;
- h) failure to follow agency procedures for medication administration; and medication or treatment given without an order from a physician

11. “Non-Delegatable Task” means an individualized procedure which the professional nurse has determined requires nursing judgment and cannot be safely delegated to unlicensed personnel.

12. “Nursing Diagnosis” means nursing diagnoses are concise statements of conclusions derived from assessment data collected and include the presenting medical diagnoses and the person's unique nursing and health care needs. Nursing diagnoses are recorded in a manner that facilitates the nursing process.

13. “Nursing Process” means nursing intervention takes place within the context of the nursing process, The nursing process is comprised of the following essential elements: assessment/data collection; nursing diagnosis; planning; intervention; and evaluation.

14. “Planning” means the Professional Nurse (R.N.) will develop a nursing plan of care based upon the data obtained during the assessment. The elements of the plan of care will reflect data obtained as part of the person's initial health care screen as well as subsequent assessments, and shall be congruent with the person's unique health care needs. The plan of care provides guidance for support staff in the provision of health care activities. Nursing plans of care are recorded, communicated to others, and revised as necessary according to the agency's written policy and procedure.

15. “Practical Nursing” means Practical Nursing is practiced by Licensed Practical Nurses (L.P.N.'s). It is an integral part of nursing based on a skill level commensurate with education. It includes promotion, maintenance, and restoration of health and utilizes standardized procedures leading to predictable outcomes which are in accord with the professional nurse regimen under the direction of a professional nurse. In situations where professional nurses are not employed, the licensed practical nurse functions under the direction of a duly licensed physician, dentist, or podiatrist. Each L.P.N. is responsible for the nursing care rendered (Rhode Island General Law Chapter 5-34).

16. “Professional Nursing” means Professional Nursing is practiced by Registered Nurses (R.N.'s). The practice of professional nursing is a dynamic process of assessment of an individual's health status, identification of health care needs, determination of health care goals with the individual and/or family participation, and the development of a plan of nursing care to achieve these goals. Nursing actions, including teaching and counseling, are directed toward the promotion, maintenance, and restoration of health and evaluation of the individual's response to nursing actions and the medical

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regimen of care. The Professional Nurse provides care and support of individuals and families during periods of wellness and injury, and incorporates where appropriate, the medical plan of care as prescribed by a duly licensed physician, dentist or podiatrist or other licensed health care providers licensed to prescribe. Each R.N. is directly accountable and responsible to the consumer for the nursing care rendered (Rhode Island General Law Chapter 5-34)

17. "Supervision" means the provision of guidance by a Professional Nurse (RN) for the accomplishment of a nursing task or activity with initial direction of the task or activity and periodic inspection and documentation of the actual act of accomplishing the task or activity. Total nursing care of an individual remains the responsibility and accountability of the nurse.

18. "Support Staff" means trained, responsible individuals other than the licensed nurse who may function in a complimentary or assistive role to the licensed nurse in providing direct care to a person with developmental disabilities.

## HEALTH CARE REGULATIONS

- HC 1** Agencies shall maintain written health care and nursing policies and procedures in an "Agency Health Care Manual", that at minimum address all areas indicated and outlined in the MHRH Health Care Guideline. Such policies and procedures are subject to the approval of the Department of MHRH.
- HC 2** A current emergency fact sheet or other form for each individual receiving services shall be accessible and available in the agency files and any other relevant location as identified in the agency's policy and procedure. Information required includes, but is not limited to:
- a) Person's name, address, telephone number and date of birth;
  - b) Social Security number;
  - c) Medicaid number, Medicare number, and/or other insurance information;
  - d) Guardian and/or next of kin's name and telephone number;
  - e) Name and telephone number of the primary care physician, and other relevant health care providers/specialists;
  - f) Medical diagnosis
  - g) Date of last annual physical
  - h) Tetanus, TB, and Hepatitis B immunization status;
  - i) List of current medications and dosages; and,
  - j) List of any known allergies
- HC 3** Incident reports shall be maintained on serious incidents in accordance with the Office of Quality Assurance/DDD reporting requirements, as defined in the MHRH Licensing Regulations. Examples of these include, but are not limited to:
- a) an injury that requires medical care or treatment beyond routine first aid;
  - b) series of repeated medication errors;
  - c) neglect;
  - d) unplanned / unexpected admission to a hospital including psychiatric admissions;
  - e) death.
- HC 4** Influenza, pneumococcal, and other adult vaccination policies and protocols shall be developed and implemented by the agency in accordance with the most current recommendations of The Advisory Council on Immunization Practices (ACP) Guidelines for these vaccinations, and as recommended and ordered by the person's physician or other licensed health care provider.

**HC 5** The agency shall have written policies to be followed for health care communication with family members and/or legal guardians regarding significant changes in medication and/or medical status of the person with developmental disabilities.

**HC 6 MEDICAL CARE**

- 6.1 A physical examination shall be obtained annually. Components of the physical exam shall include a review of prescribed medication, over-the-counter medication and herbal/homeopathic supplements, completion of accepted primary care screenings such as pap smears, mammography, prostate screening, and colon screening. If routine screening is deferred by the person's physician or other licensed health care provider, documentation as to the reason for the deferral must be included in the person's health care record.
- 6.2 Prescribed Nutritional Diets - Any physician, dietician, or other licensed health care provider's prescribed diet order shall be implemented and a copy of the diet is kept the person's health care record.
- 6.3 Dental examinations and cleanings shall be performed as recommended by the American Dental Association, unless otherwise determined by the individual's licensed health care provider.
- 6.4 Vision / Audiology / Speech consults and/or examinations shall be performed if indicated. Assistive equipment shall be provided as prescribed and kept in good repair. The individual shall receive support to utilize and maintain assistive equipment.
- 6.5 Orthopedic/PT/OT evaluation and/or services shall be performed if indicated. Assistive equipment shall be provided as prescribed and kept in good repair. The individual shall receive support to utilize and maintain assistive equipment.
- 6.6 Medical specialties – any other specialties shall be consulted if indicated to maximize health.
- 6.7 The Agency shall document an individual's refusal of tests, exams, procedures or other health care recommendations in the individual's plan. Necessity of said procedures will be periodically reviewed and ongoing efforts shall be made to achieve the desired health care goals(s). Documentation will be maintained in the individual's health care record.

6.7.1 When necessary, the agency shall refer to MHRH policy/procedure for substituted consent.

**HC 7.0 DOCUMENTATION STANDARDS AND MAINTENANCE OF HEALTH CARE RECORDS**

- 7.1 Health care records shall include all pertinent health care related documents including physician or health care provider assessments and orders.
- 7.2 Documentation and corrections in health care information shall be made by in accordance with standard nursing practice
- 7.3 All health care information shall be placed in the individual's record in reverse chronological order.
- 7.4 Health care records shall be kept for a minimum of seven years following the cessation of services.
- 7.5 The RN shall complete and document the findings of a nursing assessment on a minimum of an annual basis.

7.5.1 An assessment shall be completed and documented whenever there is a significant change in the individual's health status.

7.5.2 The Licensed Nurse shall complete nursing progress notes as determined by the nature and scope of the individual's health care needs, and the agency's policy and procedure for documentation.

**HC 8** Adaptive equipment (e.g., wheelchairs, braces, communication device) shall be obtained as needed and kept in good repair. Regular assessment for proper fit and usage shall also be completed.

**HC 9 OXYGEN (O<sub>2</sub>) THERAPY GUIDELINES**

- 9.1 The delivery of O<sub>2</sub> shall be administered according to orders written by the person's physician or other licensed health care provider. The order shall include, at minimum, the parameters for utilization of O<sub>2</sub> therapy.
- 9.2 Method of delivery of O<sub>2</sub> therapy in any residential and/or day program setting shall be determined by the licensed health care provider and/or licensed vendor of oxygen.

- 9.3 Agencies shall be required to maintain an appropriate backup source of O<sub>2</sub>.
- 9.4 Storage and/or transportation of O<sub>2</sub> must meet the requirements of the applicable National Fire Protection Association's protocols for O<sub>2</sub> storage.

## HC 10 MEDICATION ADMINISTRATION AND TREATMENT

- 10.1 The agency shall have written policy and procedure for medication administration, including protocols for documentation and contact with the agency nurse and/or licensed health care provider in the event of a medication error and/or medication reaction.
  - 10.1.1 The agency shall have a written policy and procedure describing medication safeguards and support protocols for people who self-administer their medications.
- 10.2 Medications shall only be administered by support staff who have:
  - a) Received documented training in medication administration by a licensed nurse
  - b) Displayed appropriate competency to carry out said procedure and competency has been documented by the RN.
  - c) Received annual training and competency assessment by the RN with appropriate documentation retained in the personnel file.
- 10.3 Medications and treatments shall be stored safely, securely and properly, following manufacturer's recommendations and the agency's written policy.
  - 10.3.1 The dispensing pharmacy shall dispense medications in containers that meet legal requirements. Medications shall be kept stored in those containers. An exemption from storage in original containers is permitted if using a pre-poured packaging distribution system (e.g., medi-set).
  - 10.3.2 A corrected label shall be provided by the pharmacist or noted to indicate change by the licensed nurse, correspond to the medication administration sheet, and shall be completed for any medication change orders.
  - 10.3.3 The following guidelines apply to individuals who reside in licensed residences and/or receive 24 hour supports unless otherwise outlined in the individual's health care plan:
    - a) medications shall be stored in a locked area;
    - b) medications shall be stored separately from non-medical items;
    - c) medications shall be stored under proper conditions of temperature, light, humidity, and ventilation;

- d) medications requiring refrigeration shall be stored in a locked container within the refrigerator; and,
  - e) internal and external medications shall be stored separately
  - f) Potentially harmful substances (e.g., urine test reagent tablets, cleaning supplies, disinfectants) shall be clearly labeled and stored in an area separate and apart from medications.
- 10.4 A licensed health care provider and/or nurse shall review the medication sheets on a monthly basis and shall sign and date the medication sheets at the time of the review. The medication record shall have a signature sheet of all staff authorized to administer medications, which includes the staff's signature and the initials he/she will be using on the medication sheet.
- 10.5 Medication sheets shall be maintained by the agency for all persons who do not self-administer their medications. Medication sheets will include:
- a) name of the person to whom the medication is being administered;
  - b) medication(s) name;
  - c) dosage;
  - d) frequency;
  - e) route of administration;
  - f) date of administration;
  - g) time of administration;
  - h) any known medication allergies or other undesirable reaction;
  - i) any special consideration in taking the medication, e.g., with food, before meals, etc.;
  - and,
  - j) the signature and initials of the person(s) administering the medication.
- 10.6 All prescriptions shall be reviewed and renewed annually at the time of the annual physical or as indicated by a physician or other licensed health care provider. Any and all medication changes require a new prescription.
- 10.7 PRN medications shall be specifically prescribed by a physician or other licensed health care provider and include specific parameters and rationale for use.
- 10.8 All PRN medications shall be documented on medication administration sheets. The documentation shall include:
- a) the name of the person to whom the medication is being administered;
  - b) the name, dosage, and route of the medication;
  - c) the date, time(s) and reason for administration;
  - d) the effect of the medication; and,
  - e) the initials of the person(s) administering the medication

- 10.9 The name and dosages of PRN medications administered for the purpose of behavioral intervention shall be documented according to the written policy and procedures of the agency and as part of an approved plan in accordance with the MHRH DDD Licensing Regulations (*Section III - Regulations for Behavioral Interventions*).
- 10.10 Medication checks for anyone taking psychotropic medications shall include contact on a regular basis between the person for whom the medications are prescribed and the physician, psychiatrist, or other licensed health care provider. The effectiveness of the medication shall be assessed on a regular basis by the multi-disciplinary clinical team.
- 10.10.1 AIM's testing shall be performed by the physician or other licensed health care provider as appropriate, and documented in the person's medical record.
- 10.11 Monitoring of Controlled Medications:
- 10.11.1 Medications listed in Schedules II, III, IV, and V shall be appropriately stored, documented, and accurately reconciled.
- 10.11.2 Schedule II medications shall be stored separately from other medications in a double locked drawer or compartment, or in a separate storage location which is locked, has additional security restrictions such as a combination lock, and has been designated solely for that purpose.
- 10.11.3 A controlled medication accountability record shall be completed when receiving a Schedule II, III, IV, or V medication. The following information shall be included:
- a) name of the person for whom the medication is prescribed;
  - b) name, dosage, and route of medication;
  - c) dispensing pharmacy;
  - d) date received from pharmacy;
  - e) quantity received;
  - f) name of person receiving delivery of the medication; and
- 10.11.4 Any and all controlled medications shall be counted and signed for at the end of each shift, or in accordance with the agency's written policy and procedure.
- 10.11.5 In independent living arrangements, the staff person shall comply with the agency's written policy and procedure for reconciliation of controlled medications.

Deleted: :

10.11.6 The agency shall maintain signed controlled medication accountability records for all persons to whom meds are administered by agency personnel.

10.12 Administration of Controlled Medications: When a controlled medication is administered, the person administering the medication shall immediately verify and/or enter all of the following information on the accountability record and/or the medication sheet:

- a) name of the person to whom the medication is being administered;
- b) name of the medication, dosage, and route of administration;
- c) amount used;
- d) amount remaining;
- e) date and time of administration;
- f) signature of the person administering the medication.

10.13 Disposal of Medications

10.13.1 Disposal of Controlled Substances: Agencies shall have a written policy and procedure for the disposal of damaged, excess, discontinued and/or expired controlled substances. The policy and procedure shall outline the agency's protocol for the inventory and disposal of all such controlled medications in accordance with federal Drug Enforcement Administration (DEA) regulations and all other applicable federal, state, and local regulations.

10.13.2 Disposal of other Medications: Agencies shall have a written policy and procedure for the disposal of all non-controlled medications.

10.14 Transcription of Medication Orders

The agency shall have a written policy and procedure describing the conditions under which the support staff may copy a new written medication order from the pharmacy prescription label onto the appropriate documentation form. At a minimum, the procedure shall require the following:

- a. Identification of and training requirements for agency personnel who shall be permitted to copy the medication order from the pharmacy prescription label onto the appropriate documentation form.
- b. Safeguards for ensuring that the information has been accurately copied
- c. Protocols for verification by a Licensed Nurse according to agency policy.

## HC 11 INDIVIDUALIZED PROCEDURES

The Agency, in conjunction with the physician, the professional nurse, the individual and his or her family/advocate, shall develop the plan for supporting the individual in the event that they require an individualized procedure to maintain or improve their health status. This procedure is one that the individual would do for themselves but for their disability and is necessary for the health maintenance of the person. Appropriate training and documentation of competency in performing an individualized procedure shall be specific to the particular needs, risks and individual characteristics of the person and shall be completed before a support staff performs said task. The fact that a support staff may have been approved to perform an individualized procedure for one person does not create or imply approval for that support staff to perform similar procedures for another individual. When such a procedure is required the following standard for delegation of nursing activities shall apply.

- a. Prior to the implementation of an individualized procedure, the RN shall assess the individual's condition as to whether or not it is of a stable and predictable nature.
- b. All training of support staff on the individualized procedure shall be completed by a licensed nurse or licensed health care provider.
- c. The professional nurse shall assess support staff for their knowledge and demonstrated competency prior to delegating the particular task for that person to that support staff and communicate and document approval.
- d. The professional nurse shall reassess support staff's competency on an annual basis at a minimum or as the individualized procedures change.
- e. The licensed nurse shall provide ongoing monitoring of the individual's health care needs and of the support staff's skills.

**11.1** In the event that a professional nurse determines that a task or individualized procedure cannot be safely delegated she/he shall follow agency policy for communication and resolution while ensuring the health and safety of the individual.

## HC 12 SUPPORT STAFF TRAINING

**12.1** Agencies shall have written policies and procedures for ongoing health care training as outlined in the Agency Health Care Manual for all support staff. Specific health care related training shall be conducted or supervised by a licensed nurse or a qualified instructor as specified in the agency's policies. Nursing staff shall delegate tasks only to support staff that have received training commensurate with the agency's protocols and have demonstrated competencies in each area of training. Support staff shall be deemed competent upon documentation of satisfactory completion of training. Satisfactory completion and documentation of training shall include knowledge and demonstration of the delegated task. A competency training checklist shall be

completed by a professional nurse prior to the delegation of any health care task, including medication administration. The intent of the competency check is to ensure for the delegating nurse that the staff person has satisfactorily completed all required elements of the training program and has satisfactorily demonstrated skills and competencies in the designated areas.

**12.2** Support staff shall receive annual training and a competency evaluation in the following health care/health and life education areas:

12.2.1 Core Curriculum: The support staff will demonstrate a working knowledge of comprehensive health care principles and procedures and shall demonstrate the ability to assist individuals to more fully understand their health care needs. The Core Curriculum is intended to provide a standardized guideline of minimum expectations for staff training and shall be followed by agency specific policies, procedures and protocols.

12.2.1.1 Standard Precautions: The support staff shall demonstrate the ability to apply measures to prevent communicable diseases, to recognize and report the presence or onset of communicable disease, and to carry out the recommended procedures.

- a. Communicable Diseases
- b. Infection Control
- c. Exposure Control Plan (OSHA)

12.2.1.2 Wellness & Prevention of Illness: The support staff shall demonstrate an understanding of a comprehensive, wholistic approach to health care and positive, healthy behaviors which will enhance the individuals' overall physical and mental health.

- a. Nutrition/Food Handling
- b. Personal Hygiene
- c. Sexual & Reproductive Health
- d. Healthy Lifestyle

12.2.1.3 Signs & Symptoms of Illness & Injury: The support staff shall be able to recognize the signs and symptoms of illness and injury and take appropriate action.

12.2.1.4 Emergency Care: The support staff shall demonstrate an understanding of how to identify and respond to emergency situations and when to seek outside help.

- a. Basic First Aid
- b. Cardio-Pulmonary Resuscitation – all staff shall maintain current CPR Certification and documentation of such shall be maintained in the employee's personnel file.

12.2.1.5 Communication: The support staff shall understand and demonstrate the importance of clear communication and the compliance with agency policy regarding health care issues.

12.2.2 Medication Administration: The support staff shall safely administer, completely document and communicate appropriately on issues related to medication administration according to acceptable standards in accordance with Sect. HCG 10 Medication Administration and Treatment Guidelines

12.2.3 Agency Specific Policy, Procedures and Protocols: The support staff shall demonstrate a working knowledge of the agency's specific policies, procedures and protocols regarding healthcare

12.2.4 Individualized Procedures: The support staff shall demonstrate competency in the provision of any individualized procedure as detailed in Section HC 11 prior to implementing the procedure.

### **HC 13 PROFESSIONAL NURSING**

13.1 The Professional Nurse shall follow the Rules and Regulations for the Licensing of Nurses with regard to delegation to unlicensed personnel. Delegation of nursing activities shall comply with the following requirements and must not require the direct support staff to exercise nursing judgment:

- a. The professional nurse shall make an assessment of the person's nursing care needs prior to delegating the nursing activity. A Licensed Practical Nurse, acting within the scope of his/her practice, may delegate to unlicensed assistive personnel when the registered nurse's assessment allows such delegation to occur.
- b. The nursing activity shall be one that a reasonable and prudent nurse, utilizing sound judgment, would determine to be appropriate for delegation;
- c. The licensed nurse delegating the nursing activity shall be accountable for the quality of nursing care given to the individual through the process of delegation.

- 13.2 The following are nursing activities that are solely within the scope of nursing practice and cannot be delegated to support staff:
- 13.2.1 Any part of the nursing process, including nursing activities which require nursing assessment/data collection; nursing diagnosis; planning; intervention; and evaluation. Nursing activities, procedures, and interventions which require an understanding of nursing process or nursing assessment and judgment during implementation are licensed procedures.
  - 13.2.2 Physical, psychological, and social assessment which requires nursing judgment, intervention, referral or follow-up. However, in cases of accident, emergency or the acute onset of serious illness, support staff shall be authorized to call 911 or transport the person to the Emergency Room for evaluation and treatment, while following the agency's written policy and procedure for Emergency Room transport and notification of the agency nurse.
  - 13.2.3 Formulation of a nursing plan of care and evaluation of the person with developmental disabilities' response to the care provided.
  - 13.2.4 Receiving and transcribing verbal, telephone or faxed orders from physicians or other licensed health care providers.
  - 13.2.5 Wound care, including but not limited to:
    - a) complex sterile dressings beyond the parameters of simple wound care;
    - b) dressings to a central line; and,
    - c) irrigation, packing or sterile procedures such as cleansing or dressing penetrating wounds or deep burns.
  - 13.2.6 Any invasive procedures, including but not limited to:
    - a) insertion or re-insertion of a foley catheter, supra- pubic tube, or any other type of catheter or tube;
    - b) irrigation of a foley catheter, supra-pubic tube, or any other, type of catheter or tube;
    - c) re-insertion of a gastrostomy tube or tracheostomy tube; and/or,
    - d) removal of tubes or other foreign materials.
  - 13.2.7 Deep suctioning of a person with or without a tracheostomy.
  - 13.2.8 Injectables which require calculation of dose, are anti-coagulants, or are delivered I.M., with the exception of an Epi-pen.
  - 13.2.9 Intravenous (IV) therapy, including but not limited to:
    - a) starting or re-starting IV's;

- b) assessment and evaluation of the IV site;
- c) dressing changes to the site;
- d) administration of medications through the IV;
- e) hanging/changing the IV solution bag;
- f) removal of any portion of the IV set-up; and,
- g) phlebotomy

13.2.10 Assessment for Administration of Oxygen (O<sub>2</sub>) Therapy

The Professional Nurse (R.N.) shall perform an assessment of the person to be receiving O<sub>2</sub> therapy, and document the physician's or other licensed health care provider's O<sub>2</sub> order in the person's plan of care.

13.2.10.1 Interpretation of pulse oximetry for a person receiving Oxygen (O<sub>2</sub>) Therapy.

**HC 14** The Agency shall have written policy and procedures regarding nursing support protocols for evening, weekend, and holiday coverage.

**HC 15 VARIANCES**

Requests for variances to Clinical Requirements OR Procedural Requirements of the Health Care Guidelines may be made by the Agency. Requests for variances and the relevant documentation shall be submitted in writing to the Department of MHRH. Such requests and documentation shall also be maintained in the person's medical record.