

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

December 21, 1995

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 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

APPLICABILITY

The rules, regulations and standards contained herein apply to all agencies in Rhode Island, which serve adults with developmental disabilities. All references within these rules and regulations to other departmental rules and regulations are incorporated by reference and have the same force and affect as if promulgated herein. Questions regarding applicability of these rules and regulations to particular agencies should be addressed to the Director, Department of Mental Health, Retardation and Hospitals.

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.

LICENSE REQUIRED

No person or agency shall establish, operate or administer services as defined in these rules, regulations and standards in this state without a license.

APPLICATION FOR A LICENSE

An application for a license shall be made to the Licensing Office upon forms provided by the Office and shall contain such information as the Licensing Office requires. Included shall be affirmative evidence of ability to comply with the rules, regulations and standards as are lawfully prescribed hereunder (RI Gen. Laws Section 40.1-24-4), a written statement of philosophy; eligibility criteria; a request for a license to operate residential and/or day support services; a description of the supports, services and goals of the agency and other information as required by the Licensing Office. Any substantial changes thereafter shall be submitted in writing to and approved by the Executive Director of the agency, and he/she shall send a written description of the changes to the Licensing Office for approval. Each community residential facility operated by the agency must have documentation of compliance with life safety requirements. Each day support site serving twenty-five (25) or more people with developmental disabilities shall be inspected by the Fire Marshall's Office.

ISSUANCE OF A LICENSE AND TRANSFER OF LICENSE

Upon receipt of an application for a license, the Licensing Office shall issue a license if the applicant meets the requirements established under the RI Gen. Laws Section 40.1-24-1 et seq. and these rules and regulations. If all the requirements under this chapter are not met the Licensing Office may issue a provisional license for a period not to exceed six (6) months if such issuance will not result in undue hazard to people with

developmental disabilities as determined by the Director, MHRH. A license issued hereunder shall be the property of the state and loaned to such licensee. The license shall be kept in an accessible place at all times on the licensed premises. Each license shall be issued only for the agency and for the operation of specific programs and shall not be transferable or assignable except with the written approval of the Director of the Department (RI Gen. Laws Section 40.1-24-5).

EXPIRATION AND RENEWAL OF LICENSE

The license, other than a provisional license, unless sooner suspended or revoked, shall expire two years from the date of issuance and may be renewed upon reapplication and inspection and approval by the Department. The license will stay in effect until the Department takes action to revoke it and the agency has had due process. The reapplication shall be made to the Licensing Office at least sixty (60) days prior to the expiration of the license. The reapplication shall contain information in such form as the Licensing Office shall prescribe (RI Gen. Laws Section 40.1-24-6).

INSPECTIONS AND INVESTIGATIONS

The Licensing Office shall make or cause to be made such inspections and investigations as it deems necessary. The Chief of Licensure and Standards, or his/her designees, employees of the Department or other persons authorized by the Department, shall have the right of entrance as necessary and appropriate to all facilities and the right to inspect and have prompt access to all records for the purpose of ascertaining the quality of services being rendered. Inspections or authorizations may also include a review of human rights violations, health, sanitation, nursing care, dietary, behavioral intervention and any other condition affecting people receiving services from the agency. Other authorized persons will be determined by the Chief of Licensure and Standards or the Executive Director, DDD, or his/her designee. Such persons will have appropriate identification. The Chief of Licensure, or his/her designee, and other authorized persons may interview people with developmental disabilities, employees of the agency, Board members and other interested parties as part of an inspection or investigation of the agency.

PLAN OF CORRECTION

The Licensing Office, after any inspection or investigation, shall notify the agency in writing of any deficiencies. Upon notification, the agency shall be required to submit a written plan of correction to the Licensing Office for all significant deficiencies within fifteen (15) days. If the Plan is not acceptable, the Department will take appropriate action.

DENIAL, SUSPENSION OR REVOCATION OF LICENSE

The Licensing Office, after notice and opportunity for a hearing to the applicant or licensee, is authorized to deny, suspend or revoke a license in any case in which it finds that there has been a substantial failure to comply with these Rules, Regulations and Standards. Such notice shall be effected by registered or certified mail or by personal

service, setting forth the particular reasons for the proposed action and fixing a date not less than thirty (30) days from the date of such mailing or service, at which time the applicant or licensee is given the opportunity for a prompt and fair hearing. On the basis of any such hearing, or upon default of the applicant or licensee, the Department shall make a determination specifying its findings of fact and conclusions of law. A copy of the determination shall be sent by registered or certified mail, or served personally upon the applicant or licensee. The decision denying, suspending, or revoking the license or application shall become final thirty (30) days after it is so mailed or served unless the applicant or licensee within such a thirty (30) day period, appeals the decision to Superior Court, pursuant to RI Gen. Laws Section 40.1-24-8. The procedure governing hearings authorized by this section will be in accordance with rules promulgated by the Department.

REVIEW OF LICENSE ACTION

Any applicant or licensee or the State acting through the Attorney General, aggrieved by the decision of the Licensing Office after a hearing may within 30 days after the mailing or serving of a notice of the determination, as provided above in the section entitled “Denial, Suspension or Revocation of License”, file a notice of appeal in the Superior Court of the county in which the agency is located and serve a copy of the notice of appeal upon the Department (R.I. Gen. Laws Section 40.1-24-8).

INJUNCTION TO RESTRAIN OPERATION WITHOUT LICENSE

Notwithstanding the existence or pursuit of any other remedy, the Licensing Office may in a manner provided by law, upon the advice of the Attorney General, who shall represent the Department in the proceedings, maintain an action in the name of the state for injunction or other process against any person, agency or governmental unit to restrain or prevent the establishment, conduct, management or operation of an agency as defined in these rules and regulations (R.I. Gen. Laws Section 40.1-24-15).

OPERATION OF UNLICENSED AGENCY

Any person establishing, conducting, managing or operating any agency as defined by these rules, regulations and standards without a license shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six (6) months or both at the discretion of the court for each offense (R.I. Gen. Laws Section 40.1-24-14).

PROGRAM VARIANCE PROCESS

The licensing standards for agencies are designed so that substantial compliance is required in order for a license to be granted. It is recognized, however, that there will be a need from time to time for an agency to request an exemption from complying with a specific standard. This factor has been taken into consideration and the following procedure is to be used when an agency’s Executive Director feels the need for a variance:

1. Application for a variance request must be completed by the Executive Director of the agency and submitted to the Chief of Licensure and Standards of the Department for review by the Variance Review Committee consisting of representatives from the MHRH Legal Office, the Division of Developmental Disabilities, and the Licensing Office.
2. Upon receipt of a request for a variance, acknowledgement will be made to the petitioning agency's Executive Director in writing.
3. Within ten (10) working days of the receipt of the variance request, the Variance Review Committee will review the application and return a decision, in writing, to the applicant.
4. If the applicant is dissatisfied with the decision of the Variance Review Committee, an appeal may be made through the process outlined in the section on "denial, suspension or renewal of a license."

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.
 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;
 - 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.
- 28.

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).

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 All medications administered by agency personnel shall be:
 - A. Stored in a locked area,
 - B. Stored separately from non-medical items; and,
 - C. Stored under proper conditions of temperature, light, humidity and ventilation.

- DD 6.8 Prescription medication shall only be administered by trained or authorized persons.
- DD 6.9 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 6.10 All vehicles utilized by employees of the agency to transport people shall have a current Rhode Island vehicle inspection sticker.
- DD 6.11 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. Procedures for basic first aid, 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.

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 noncontingent emetics for anything other than medical purposes,
- 2. Contingent or noncontingent application of cold showers,
- 3. Contingent or noncontingent corporal punishment,
- 4. Contingent or noncontingent 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, is 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.