

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES**  
**DIVISION OF LONG TERM CARE RESIDENTS PROTECTION**  
Statutory Authority: 16 Delaware Code, Section 1101 (16 Del.C. §1101)

**PROPOSED**

**3310 Neighborhood Homes for Persons with Developmental Disabilities**

**PUBLIC NOTICE**

The Division of Long Term Care Residents Protection (DLTCRP) in conjunction with the Division of Developmental Disability Services (DDDS) propose a revision of Regulation 3310, Neighborhood Homes for Persons with Developmental Disabilities.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Deborah Gottschalk, Chief Policy Advisor, Office of the Secretary, Main Admin Building, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4429 by Tuesday, January 31, 2012.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

**SUMMARY OF PROPOSED CHANGES**

**Background**

DLTCRP and DDDS identified the need to revise the regulations to promote person centered care in these residential settings. Additionally, the revision establishes performance standards that are definitive and that can be used across providers to measure their performance.

**Summary of Proposal**

This regulatory proposal essentially re-writes the regulations in particular; Provider Performance Standards; Person's Services and Supports; Staff Stability and Competency; and Safety and Sanitation. The extent of changes also required extensive revisions to the Definitions.

The proposed changes affect the following policy sections:

3310, Neighborhood Homes for Persons with Developmental Disabilities

**Statutory Authority**

29 Del.C. §7903(10), Powers, duties and functions of the Secretary.

**3310 Neighborhood Homes for Persons with Developmental Disabilities**

**1.0 Purpose**

~~The following regulations are designed specifically for Neighborhood Homes, for five or fewer persons with developmental disabilities, which are licensed by the Division of Long Term Care Residents Protection. These homes are distinct from Rest (Family care) Homes where three or fewer persons live in a home with care and supervision provided by persons who also reside on the premises.~~

~~These regulations address the minimum acceptable level of living conditions and supports for persons in Neighborhood Homes. The purpose of these regulations is to provide a sequence of expectations for services rendered by the Neighborhood Home provider and a system for Neighborhood Home providers to be accountable to the Division of Long Term Care Residents Protection (DLTRCP) and the Division of Developmental Disabilities Services (DDDS).~~

**2.0 Definitions**

~~“**Action Plan**” The portion of the Essential Lifestyle Plan (ELP) that lists, and is used to track, those desired outcomes which are important to a person.~~

~~“**Annual Conference**” The yearly interdisciplinary team meeting held with the person served and his/her family to develop or update the ELP after a review of the various assessments done on the person and discussion with the individual as to his/her aspirations and desires. The annual conference must be held within~~

30 days of the initiation of DDDS funded residential services and be held no more than 365 days from the previous annual conference.

**“Assessment”** The process of gathering information to describe what has been learned about a person, and what others need to know or to do to support the person in attaining a healthy, safe and meaningful life.

**“Behavior Support Plan” or “Mental Health Plan”** A multi-dimensional, systematic, assessment-based plan that details how staff should implement the identified behavior and/or mental health supports.

**“Behavior Support Review Committee”** A committee assigned to review behavior intervention strategies and behavior support plans containing support procedures.

**“Choice”** The process by which people make selections from an array of options which are within the context of Division of Developmental Disabilities Services (DDDS) policies and all applicable state and federal laws and regulations intended to safeguard the person and the rights of others.

**“Emergency Behavior Interventions”** A set of DDDS sanctioned procedures available to manage an unanticipated event such as severe aggression or severe property destruction that places the individual or others in imminent danger of physical harm.

**“Essential Lifestyle Plan (ELP)”** The type of individualized support plan used by the Division of Developmental Disabilities Services. A result of a system of person centered planning, the ELP outlines how a person wants to live, service related issues which need to be addressed as well as a plan of action for achieving expressed lifestyle choices and adequately addressing service related issues.

**“Evaluation”** An assessment process performed by professionals, according to standardized procedures, that incorporates the use, when possible, of standardized tests and measures in addition to informal and observational measures.

**“Goals”** Desired outcomes that provide the framework upon which service and support actions are based.

**“Human Rights Committee (HRC)”** A body of individuals composed of impartial members with no direct affiliation with the Division of Developmental Disabilities Services (DDDS), and whose role is to serve as a monitoring agent to safeguard the rights and personal dignity of persons served by DDDS.

**“Incident”** An occurrence or event, a record of which must be maintained in provider’s files, that results or might result in harm to a resident. Incident includes alleged abuse, neglect, mistreatment and financial exploitation; incidents of unknown source which might be attributable to abuse, neglect or mistreatment; all deaths; falls; and errors and omissions in medication/treatment. (Also see Reportable Incident)

**“Individual Records”** Those records pertaining to a person served which are essential for effective individual planning, plan implementation, establishing and maintaining a personal history of the person, and for protecting legal rights of the person, the agency and the agency staff.

**“Interdisciplinary Team”** Also known as **“Treatment Team”** or **“Team,”** this is a group consisting of those who are knowledgeable about the person served, whose participation is required to identify the supports the person wants and/or needs so as to help him/her achieve a healthy, safe and meaningful life.

**“Intrusive”** The unwanted or uninvited introduction of procedures or other people/staff into the lives or daily routines of persons served which is found bothersome by the person and which causes a perceived interference with the life and/or daily routines of the person.

**“Least Restrictive”** Descriptive of services and treatments that are delivered with a minimum of limitation, intrusion, disruption or departure from commonly accepted patterns of living in the community.

**“Neighborhood Home”** A single unit house providing residential and support services to five or fewer people and licensed pursuant to **16 Del.C. §1101**. This definition does not include ICF/MR programs.

**“Neighborhood Home Provider”** An individual or organization responsible for the operation of the Neighborhood Home.

**“Outcomes”** The major expectations and desired achievements for people’s lives. The accompanying supports that are developed should reflect what people expect from the services and assistance they receive in order to reach their desired outcomes.

**“Person/People/Individual/Resident”** Terms used throughout these regulations that identify someone receiving services and supports in a Neighborhood Home.

**“Physical Environment”** Those locations in which the individual lives, works, recreates or receives services.

**“Physical Restraint”** Approved manual methods that restrict the movement of the individual or the normal functioning of an individual’s body or portion of the body.

**“Reportable Incident”** An occurrence or event which must be reported at once to the Division of Developmental Disabilities Services (DDDS) and for which there is reasonable cause to believe that a resident has been abused, neglected, mistreated or subjected to financial exploitation. Reportable incident also includes an incident of unknown source which might be attributable to abuse, neglect or mistreatment; all

deaths; falls with injuries; and significant errors or omissions in medication/treatment which cause the resident discomfort or jeopardize the resident's health and safety. DDDS will forward the report to the Division of Long Term Care Residents Protection (DLTCRP). (Also see Incident.)

~~“Rights Restriction”~~ The limitation, disruption or constraint of a person's freedom to engage in activities generally allowed to others in society. Such is permissible only on a case-by-case basis and when there has been due process, official approval received and the need for such documented.

~~“Safety”~~ The absence of recognizable hazards in the design, construction and maintenance of any component of the physical environment including equipment and the establishment of procedures to evaluate and to reduce risks of physical harm.

~~“Sanitation”~~ The promotion of hygiene and prevention of disease by the maintenance of uncontaminated conditions.

~~“Screening”~~ The initial part of the assessment process which is of limited scope and intensity and is designed to determine whether further evaluation or other intervention is indicated.

~~“Self-Limiting Behavior”~~ Any behavior that significantly interferes with a person's ability to acquire meaningful life skills, form and maintain interpersonal relationships, and/or successfully live in his/her community. A behavior in and of itself is not self-limiting; rather, it may be viewed contextually relative to the impact it has on the quality of life of both the person who is displaying the behavior and on others in the environment who are affected by the behavior.

~~“Supplemental Plans”~~ Detailed instructions or preparations needed to support an outcome or opportunity. Types of such plans include learning, motivating, achieving a personal goal and gaining a new opportunity. Supplemental plans are used to outline a course of action in an effort to accomplish an outcome or provide an opportunity which has been identified in the action plan.

~~“Support”~~ A broad term used to refer to those methods designed to help an individual achieve a meaningful life and to function to his/her fullest capacity.

~~“Support Coordinator”~~ The staff person responsible for monitoring and coordinating all activities in implementing the person's plan.

~~“Transfer”~~ Movement of a person from one program, service or residence to another within DDDS.

### **3.0 Licensing and General Requirements**

- 3.1 When a Neighborhood Home pursuant to these regulations plans any structural alteration, one copy of properly prepared plans and specifications for the entire home shall be submitted to the Division of Long Term Care Residents Protection (DLTCRP). The Neighborhood Home shall receive written approval of the plans before any work is begun.
- 3.2 Separate licenses are required for separate homes, regardless of their proximity, even though operated by the same Neighborhood Home provider.  
A license shall not be transferred from one provider to another or from one location to another.
- 3.3 The license shall be conspicuously posted in the Neighborhood Home.
- 3.4 All applications for renewal of licenses shall be filed with DLTCRP at least thirty days prior to expiration. Licenses shall be issued by DLTCRP for a period not to exceed one year (12 months) from the date they are issued.
- 3.5 All required records maintained by the Neighborhood Home shall be open to inspection by the authorized representatives of DLTCRP and DDDS.
- 3.6 The term “Neighborhood Home” shall not be used as part of the name of any program in this State unless the home is licensed under these regulations.
- 3.7 No Neighborhood Home provider shall adopt rules that conflict with these regulations.
- 3.8 DLTCRP shall be notified in writing of any changes in the ownership or management of a Neighborhood Home.
- 3.9 Each Neighborhood Home provider shall provide with the admission agreement, to all persons or their family member/guardian, a complete statement enumerating all charges for services, materials and equipment which shall, or may be, furnished to the person during the period of residency.
- 3.10 Each Neighborhood Home provider shall make known, in writing, the refund and prepayment policy at the time of admission, and in the case of third-party payment, an exact statement of responsibility in the event of retroactive denial.
- 3.11 Each Neighborhood Home provider shall cooperate fully with the state protection and advocacy agency, as defined in 16 Del.C. §1102(7), in fulfilling functions authorized by Title 16, Chapter 11.

#### 4.0 ~~Neighborhood Home Provider Performance Standards~~

- 4.1 ~~The Neighborhood Home provider shall have a written statement of its mission, values and goals which defines the agency's proactive commitment to helping people live the lifestyle they choose and fosters the least restrictive alternatives of supports and services.~~
- 4.2 ~~The Neighborhood Home provider shall have written policies and procedures that delineate how the civil rights of the people served are to be ensured.~~
- 4.3 ~~The Neighborhood Home provider shall have a written procedure to handle appeals of decisions made by the provider from people receiving services, their advocates, legal guardians and families. The procedures shall include the use of the Appeal to DDDS Decisions policy.~~
- 4.4 ~~The Neighborhood Home provider shall have a written policy that defines and prohibits abuse, neglect, mistreatment, misappropriation of property and significant injury of persons served and a procedure for initiating intervention in all such cases whether the alleged incident occurred within or outside of the Neighborhood Home. The provider shall comply with the provisions of Department of Health and Social Services (DHSS) Policy Memorandum #46 by reporting all instances of abuse, neglect, mistreatment, misappropriation of property or significant injury and the requirements for other reportable incidents. (See **Reportable Incident**)~~
- 4.5 ~~The Neighborhood Home provider shall have a written policy and procedures for protecting the financial interests of people served.~~
- 4.6 ~~The Neighborhood Home provider shall review its written policies and procedures at least annually to ensure that they are in compliance with the requirements of the applicable laws and regulations. Copies of all relevant policies and procedures shall be made available to persons served or their families at any time and be available to any party upon request.~~
- 4.7 ~~The Neighborhood Home provider shall maintain a current table of organization identifying its operational elements and programs and administrative personnel and illustrating lines of authority, responsibility and communication. This document shall be shared with provider staff.~~
- 4.8 ~~The Neighborhood Home provider's chief executive officer shall designate an employee to assume management responsibility during his or her absence. All employees shall be informed of who has such responsibility at any given time and who is to be contacted in the event of an emergency.~~
- 4.9 ~~The Neighborhood Home provider shall comply with the policies of the Department of Health and Social Services (DHSS) Human Subjects Review Board with regard to conducting research involving people served.~~
- 4.10 ~~In all provider activities and references, including name, language of staff, internal documents and communication to the public, the language used shall reflect the Neighborhood Home provider's program, its purposes and promote respect and a positive image of the people served and the staff who support them.~~
- 4.11 ~~Services shall be provided to people who are otherwise eligible without regard to disability, gender, age, sexual orientation, race, religion, marital status or ability to pay.~~
- 4.12 ~~The Neighborhood Home provider shall not employ individuals under the age of 18.~~
- 4.13 ~~The Neighborhood Home provider shall obtain the results of each employment applicant's drug screening for the following drugs:~~
  - 4.13.1 ~~Marijuana/cannabis~~
  - 4.13.2 ~~Cocaine~~
  - 4.13.3 ~~Opiates including heroin~~
  - 4.13.4 ~~Phencyclidine (PCP)~~
  - 4.13.5 ~~Amphetamines~~
  - 4.13.6 ~~Barbiturates~~
  - 4.13.7 ~~Benzodiazepene~~
  - 4.13.8 ~~Methadone~~
  - 4.13.9 ~~Methaqualone~~
  - 4.13.10 ~~Propoxyphene~~
- 4.14 ~~The Neighborhood Home provider shall complete a state and federal criminal background check for each employment applicant through DLTCRP.~~
- 4.15 ~~The Neighborhood Home provider shall ensure that each employee is thoroughly familiar with assigned duties and responsibilities. Job descriptions with employees' individual responsibilities and duties shall be made available on site.~~
- 4.16 ~~Orientation and training shall be provided to all employees in accordance with the training policy of DDDS and shall be documented, continuously updated and made available for review upon request.~~

- 4.17 The Neighborhood Home provider shall ensure that staff training is relevant to the support needs of the people served and shall continuously evaluate ~~training effectiveness by assessing employees' demonstrated competencies and by modifying training programs accordingly.~~
- 4.18 The Neighborhood Home provider shall provide each person with an oral and written summary of his/her rights and an explanation of how to exercise those rights in easily understandable language. This review shall be documented in the person's record and shall occur at least annually. The rights of a person shall not be restricted without due process; any restrictions, including the need for guardianship, shall be reviewed at least annually. All investigation into alleged violations of individuals' rights and the actions taken to intervene in such situations shall be documented.
- 4.19 Each Neighborhood Home provider shall have its own human right committee or shall participate in a system-wide human rights committee. Each human rights committee shall be responsible for assuring that people's rights are supported and shall be approved by the Division of Developmental Disabilities Services. Human rights committees shall comply with DDDS minimum standards of operations of such committees, and their decisions concerning persons served by DDDS shall be subject to the review and approval of the DDDS human rights committee.
- 4.20 Each human rights committee member shall be provided with a written explanation and training in the committee's duties and responsibilities. Any member who has been involved in the development, review or approval of a matter before the committee shall be excluded from decision-making related to that matter.
- 4.21 The Neighborhood Home provider shall safeguard and maintain records regarding the funds of people receiving services and support their efforts towards independence/self-management of those funds. Requests to the contrary, other than from the person's legal guardian (of property), shall require a recommendation of the Interdisciplinary Team, accompanied by substitute safeguards, with approval from the Director of the DDDS Community Services or Special Populations program. Such actions shall be documented in the person's record. The financial records shall be available on request to the person, his/her legal guardian (of property) or other individuals or entities authorized by DDDS.
- 4.22 Funds for one person shall not be commingled with the funds of another person. People shall have community bank accounts in their own names unless otherwise indicated by them or their legal guardian of property.

## **5.0 Persons' Services and Supports**

- 5.1 The Neighborhood Home provider shall comply with the Patient's Bill of Rights set forth in **16 Del.C. §1121**. A copy of the Patient's Bill of Rights shall be conspicuously posted within the home.
- 5.2 To the greatest extent possible, the person chooses where and with whom he/she shall live.
- 5.3 With due regard to each individual's right to privacy and safety and as agreed upon by the person served, the person's family, guardian, advocates, spouse and friends shall be encouraged to visit the person in his/her Neighborhood Home. Visits shall occur at reasonable times and may be without prior notice.
- 5.4 The Neighborhood Home provider shall facilitate frequent informal visits by persons to the homes of their families and friends in accordance with each party's desire. 5.5 People shall be provided with opportunities and supports to develop and maintain social relationships, to perform different social roles and to participate in the life of their community, including attending and participating in religious activities of their choice. Wherever possible, supports shall be adapted to the cultural background, language and ethnic origin of the person.
- 5.6 People shall receive support and instruction as appropriate to exercise the rights and responsibilities of citizens such as voting, employment, consumer affairs, law enforcement, paying taxes or consulting an attorney.
- 5.7 People shall be supported in receiving advocacy and/or legal services as needed.
- 5.8 People shall receive support and instruction in recognizing and respecting the rights of others as reciprocal to their own.
- 5.9 If a person is represented by a legal guardian or a substitute decision maker (as defined in the DDDS Consent Policy), such shall be documented in the individual plan; and efforts shall be made to ensure that the person receives continued education, instruction and support to exercise his/her rights and make informed decisions.
- 5.10 People shall decide when and with whom they wish to share personal information. Prior to the release of information, including the person's name or photo, a written consent shall be signed by the person (unless legally adjudicated to need a guardian), a parent (if the person is a minor), or by a substitute decision maker in accordance with DDDS policy on confidentiality and release of information. The consent shall minimally include:
  - 5.10.1 The designation of time limit with a maximum of 365 days;
  - 5.10.2 The person to whom the information is to be released;
  - 5.10.3 The exact information to be released;

- 5.10.4 The stipulation that consent may be rescinded at any time.
- 5.11 People shall be supported to exercise choice, including but not limited to choice in the following:
  - 5.11.1 Clothing and personal possessions;
  - 5.11.2 Telephone use with privacy available;
  - 5.11.3 Time, space and opportunity for privacy;
  - 5.11.4 Opening mail addressed to them unless other arrangements are expressly made;
  - 5.11.5 Deciding when and where to go unless otherwise indicated in their plan;
  - 5.11.6 Deciding who will assist them with personal hygiene;
  - 5.11.7 Participation in household responsibilities.
- 5.12 People shall be supported to bathe with the maximum independence and privacy.
- 5.13 People who are incontinent shall be bathed or cleansed immediately upon voiding or soiling. All soiled items shall be changed immediately.
- 5.14 Each person shall have an Essential Lifestyle Plan written in terms that are understandable to all, where the person's goals, dreams and aspirations are stated and defined. The person, with the support of the team, shall determine when and how to measure success and attainment of his/her desired outcomes; and such criteria shall be defined in the Essential Lifestyle Plan, as applicable.
- 5.15 The person's plan shall include financial planning which takes into account the person's resources, assets and benefits in conjunction with his/her personal goals.
- 5.16 For each person, an interdisciplinary team including the support coordinator and specific people responsible for obtaining services and implementing the \_\_\_\_\_ support plan, shall be clearly defined. Staff of all Neighborhood Home providers providing any component of service or support shall take an active role in assuring effective communication and overall support coordination.
- 5.17 The support coordinator shall monitor, review, analyze, observe the implementation and document all components of a person's plan at least monthly.
- 5.18 If the monthly review determines the need for any action, such action shall be taken in a timely manner by the appropriate team member.
- 5.19 The support coordinator shall assist the person in locating and obtaining those services and supports identified by the team and shall assist the person in assuming management of those activities for which the person has demonstrated management capacity and/or expressed an interest.
- 5.20 The support coordinator shall elicit the person's preferences and respect those preferences when they are consistent with the rights and well-being of the person and of others.
- 5.21 The support coordinator shall facilitate the transfer of the person to another service, service location or service provider when the person desires such a transfer and such is consistent with the person's plan.
- 5.22 The initial plan and subsequent plans are developed, at the discretion of the person and/or the guardian, with the active participation of the following:
  - 5.22.1 The person;
  - 5.22.2 Support staff who know and care about the person;
  - 5.22.3 Professionals and others with the expertise to design and review elements of the plan, including those who provide supports or treatment.
  - 5.22.4 The person's family, guardian, advocate or friends.
- 5.23 The person's plan shall be reviewed by his/her team as often as the person decides, but at least yearly (365 days) in conjunction with the person's annual conference or when significant changes occur, to determine the need to continue, revise or terminate services and supports. Any applicable information, including previous plans, shall be reviewed for possible inclusion in the current plan.
- 5.24 Plans shall be implemented within 30 days of the development of an initial plan and within 30 days of each subsequent annual conference. The initial plan shall be revised within 60 days of initiation of Neighborhood Home services.
- 5.25 Supplemental plans shall be in place as required by the person's action plan, and shall be based on the person's learning styles.
- 5.26 Reassessments for those persons receiving services, including direct or indirect clinical services, shall be completed annually in preparation for the annual conference or when there is an indication of need. Reassessments shall be available in preparation for the person's annual conference.
- 5.27 Meetings concerning the person shall be scheduled at a date, time and location suitable for all team members, especially the person and his/her parents, guardian and/or advocate.

- ~~5.28 The Neighborhood Home provider's policies and practices relative to behavior supports, as evidenced in writing and in ongoing activities, shall be congruent with the policies and practices of DDDS and emphasize positive approaches and behavior interventions.~~
- ~~5.29 The Neighborhood Home provider shall have its own, or use the DDDS behavior support committee which shall include:~~
- ~~5.29.1 Persons qualified to evaluate published behavior support research studies and the technical adequacy of proposed behavior support interventions;~~
- ~~5.29.2 Medical and other professionals qualified to evaluate proposals for the use of interventions to manage behavior.~~
- ~~5.30 Prior to the use of behavior intervention strategies, and absent a crisis situation or psychiatric emergency requiring an immediate response, the following activities shall take place:~~
- ~~5.30.1 The physical and social environments shall be analyzed to determine their role in contributing to the self-limiting behavior;~~
- ~~5.30.2 The necessary modifications shall be made to the environment based on that analysis;~~
- ~~5.30.3 Medical treatment shall be obtained for any possible physiological cause of the behavior; and~~
- ~~5.30.4 The treatment team shall discuss and document the risk/benefits of the proposed procedure.~~
- ~~5.31 Prior to the use of behavior intervention strategies, persons who will implement behavior support procedures shall have been trained in the procedures specified in the person's plan.~~
- ~~5.32 People receiving services shall not discipline other people receiving services.~~
- ~~5.33 When food is used in a behavior support plan, good health and nutritionally adequate dietary practices shall be followed.~~
- ~~5.34 The behavior support plan shall be designed to replace self-limiting behaviors by understanding their purpose or function and by subsequently teaching functionally equivalent behaviors and promoting existing adaptive behaviors to serve the same function.~~
- ~~5.35 Procedures for altering behaviors shall not be implemented in the absence of self-limiting behaviors, in retribution, for the convenience of the staff, as a consequence of insufficient staff or in the absence of positive behavior support.~~
- ~~5.36 Emergency behavior interventions, in accordance with Division of Developmental Disabilities Services policies, shall only be used as a last resort to manage an unanticipated and already occurring event which is placing an individual or others in imminent danger of physical or emotional harm.~~
- ~~5.37 Prior to the implementation of a written behavior support plan incorporating the use of a restrictive or intrusive technique:~~
- ~~5.37.1 The Neighborhood Home provider shall document that acceptable informed consent has been obtained;~~
- ~~5.37.2 The behavior support plan has been reviewed and approved by a behavior support committee; and~~
- ~~5.37.3 The behavior support plan has been reviewed and approved by a human rights committee.~~
- ~~5.38 Restraint procedures shall be designed to use the minimum amount of restraint necessary to safely manage the person's behavior in order to avoid physical injury to a person and to minimize any possible physical or psychological discomfort.~~
- ~~5.39 Physical restraint shall be used only until the individual is no longer dangerous to him/herself or others and shall be ended immediately if a person begins to exhibit signs of medical distress.~~
- ~~5.40 Only devices specified in the written behavior intervention strategy shall be used to restrain the individual; and mechanical restraint devices shall be inspected before and after each use to ensure that they are clean and in good repair.~~
- ~~5.41 The monitoring requirement for the restraint procedure shall be specified in behavior support plan. The record shall document the time of the institution of the mechanical restraint, the time of release and the time interval that the person was in restraints, as indicated in the individual plan.~~
- ~~5.42 Each behavior support plan utilizing an intrusive intervention or drugs to manage behavior shall:~~
- ~~5.42.1 Include a risk/benefit analysis, in non-technical terms, which identifies the risks associated with not providing the intervention, the risks associated with providing the intervention, and the benefits of the proposed intervention;~~
- ~~5.42.2 Include a detailed plan of action the team intends to follow to reduce or eliminate the need for the intrusive intervention/drugs;~~
- ~~5.42.3 Specify provisions for at least a quarterly reevaluation for the need for continuation of the intervention/ drugs;~~
- ~~5.42.4 Include alternative supports; and~~

- 5.42.5 Be discussed with the person/guardian relative to the rationale for such treatment and the risks/benefits involved.
- 5.43 Each mental health plan utilizing psychotropic medications for the treatment of a diagnosed psychiatric illness shall:
  - 5.43.1 Include a risk/benefit analysis, in non-technical terms, which identifies the risks associated with not providing the intervention, the risks associated with providing the intervention, and the benefits of the proposed intervention;
  - 5.43.2 Specify provisions for ongoing reevaluation of the need for continuing the use of medication;
  - 5.43.3 Include alternative supports, as appropriate; and
  - 5.43.4 Be discussed with the person/guardian relative to the rationale for such treatment and the risks/benefits involved.

## **6.0 Environment**

- 6.1 Neighborhood Home providers shall ensure a home-like environment for each licensed home. Functional arrangement of rooms, furnishings, and decor shall be compatible with the need for accessibility.
- 6.2 Furniture and furnishings shall be safe, comfortable, and in good repair and shall resemble those in homes in the local community, to the extent compatible with persons' choice and the physical needs of the people living in the home. To the extent possible, personal furniture shall be chosen by individuals.
- 6.3 Heating apparatus shall not constitute a burn, smoke or carbon monoxide hazard to persons served or their support staff.
- 6.4 Temperature, humidity, ventilation, and light in all living and sleeping quarters shall be maintained to provide a comfortable atmosphere.
- 6.5 Homes serving persons with physical challenges shall be accessible to those persons with physical challenges according to the appropriate American National Standards Institute (ANSI) Standards and all other federal and state standards.
- 6.6 Protective or security features such as fences and security windows may be used only when justified on the basis of the needs of persons served and shall preserve as normal an appearance as possible.
- 6.7 Use of security or observational devices shall constitute a restrictive procedure and require consent and review by the human rights committee. The need for such devices shall be documented in the person's behavior support plan.
- 6.8 Homes shall be sanitary, free of offensive odors, insects and uncontrolled pests. Exterminator services shall be required upon evidence of any infestation.
- 6.9 Waste and garbage shall be stored, transferred, and disposed of in a manner that does not create a nuisance, or permit the transmission of disease. Litter shall not be permitted to accumulate on the premises.
- 6.10 Stairways, ramps, walkways and open-sided porches shall have adequate lighting and handrails for safety. Non-skid surfaces shall be used when slippery surfaces present a hazard.
- 6.11 All stairways, hallways, doorways and walkways shall be kept free and clear of obstructions at all times.
- 6.12 Mirrors shall be furnished in bedrooms and bathrooms, including mirrors that are accessible by persons who use wheelchairs.
- 6.13 Each home shall provide storage space for both in season and out of season clothing and storage space for personal items to include, minimally, closet space and four drawers in a chest of drawers.
- 6.14 Each home shall contain a clothes washer and dryer that are accessible to people unless people use commercial laundromats or are being supported to do so.
- 6.15 Basement space may be used for activities for people in the home if there is a minimum of two (2) fire exits.
- 6.16 If a bedroom is below grade level, it must have a window that
  - 6.16.1 Is usable as a second means of escape by the person(s) occupying the room; and
  - 6.16.2 Is no more than 36 inches (measured to the window sill) above the floor as required under the Health Care Occupancy Chapter of the Life Safety Code.

## **7.0 Mealtimes**

- 7.1 The home's meal and menu planning shall be supervised by a registered dietitian or nutritionist or by an experienced person who consults a registered dietitian or nutritionist as needed. Therapeutic diet orders, meal and menu planning shall be reviewed, monitored and updated as recommended by the nutritionist/dietitian with a minimum of an annual evaluation. Therapeutic diets shall require a physician's order.

- 7.2 ~~Nutritional intake of persons receiving a medically prescribed modified diet shall be followed, reviewed and monitored by a nurse, dietitian or other medical personnel as appropriate, as determined by the dietitian or physician.~~
- 7.3 ~~Persons shall be offered opportunities for choices in food selection and are actively involved in menu planning and food preparation as part of the daily meal routine.~~
- 7.4 ~~Menus and records of foods actually served shall be retained for a period of three months.~~
- 7.5 ~~Foods shall be provided in sufficient amounts for meals and snacks and in sufficient variety on a daily, weekly, monthly, and seasonal basis.~~
- 7.6 ~~The daily diet for each person shall include a minimum of three balanced meals a day with food from the four basic food groups.~~
- 7.7 ~~Meals shall be served so that they are flavorful, attractive in appearance, at appropriate serving temperature, and have preserved their nutritional value.~~
- 7.8 ~~Meals should be provided in locations which provide the opportunity for socialization, choice, sanitation, and also support the person's preference.~~
- 7.9 ~~Persons shall eat in an upright position or in a position that is medically indicated.~~
- 7.10 ~~There shall be at least one refrigerator and one freezing unit, in proper working order and capable of maintaining frozen foods in the frozen state and refrigerated foods at 41 degrees F. or below.~~
- 7.11 ~~Dry or staple food items shall be stored at least four inches above the floor in a ventilated room that is not subject to waste water back flow or to contamination by condensation or leakage.~~
- 7.12 ~~There shall be at least one four-burner range and one oven (or combination thereof), which is in proper working order.~~
- 7.13 ~~There shall be a dishwasher or facilities for performing dishwashing.~~
- 7.14 ~~There shall be at least one operable window or exhaust system for removal of smoke, odors, and fumes in the cooking area.~~
- 7.15 ~~There shall be three days supply of food in each home at all times as posted on the menus. Opened foods that are to be stored shall immediately be dated with the date that the foods were opened.~~

## **8.0 Medical and Health Care**

- 8.1 ~~Each person shall have a primary care physician and a dentist and shall receive an annual physical and dental examination unless otherwise recommended by the appropriate professional. Routine screening and laboratory examinations shall be obtained when such are determined warranted by the physician.~~
- 8.2 ~~Within 30 days after services are initiated by the agency, the following screenings shall be scheduled if the need for such is identified by the physician, person, advocate, guardian or team:~~
  - 8.2.1 ~~Nutritional;~~
  - 8.2.2 ~~Visual;~~
  - 8.2.3 ~~Auditory;~~
  - 8.2.4 ~~Speech and language;~~
  - 8.2.5 ~~Occupational therapy;~~
  - 8.2.6 ~~Physical therapy;~~
  - 8.2.7 ~~Assistive technology;~~
  - 8.2.8 ~~Other screenings as identified.~~
- 8.3 ~~When requested by the person, advocate, guardian or team or when indicated by the screening results, the person shall receive a comprehensive evaluation in the area(s) within 90 days.~~
- 8.4 ~~Each person shall have his/her own toothbrush which is used regularly and stored antiseptically.~~
- 8.5 ~~Persons shall be supported, to the extent possible, to attend to their own health care needs by making medical and dental appointments, cooperating in receiving medical and dental treatment and in self-administering their medications.~~
- 8.6 ~~The Neighborhood Home provider shall have policies and procedures for infection control as it pertains to persons, staff, and visitors. Upon confirmation of reportable disease, the appropriate County Health Officer of the Division of Public Health shall be notified.~~
- 8.7 ~~The Neighborhood Home provider shall have on file results of tuberculin tests:~~
  - 8.7.1 ~~Performed annually for all employees and volunteers, and~~
  - 8.7.2 ~~Performed on all newly admitted persons. The tuberculin test to be used is the Mantoux test containing 5 TU-PPD stabilized with Tween, injected intradermally, using a needle and syringe, usually on the volar~~

surface of the forearm. Persons found to have a significant reaction (defined as 10 mm of induration or greater) to tests shall be reported to the Division of Public Health and managed according to recommended medical practice. A tuberculin test as specified, done within the twelve months prior to employment or admission, or a chest x-ray showing no evidence of active tuberculosis shall satisfy this requirement.

- 8.8 Each person's health and immunization history shall be updated continuously.
- 8.9 Persons who require adaptations of the environment or who use adaptive, corrective, mobility, orthotic, prosthetic, communication or other assistive devices or supports shall receive instruction in their proper use and shall receive professional assessments annually, or as otherwise prescribed, to ascertain the continued applicability and fitness of those devices or supports.
- 8.10 Adaptive, corrective, mobility, orthotic and prosthetic equipment shall be available, kept clean and in good repair and used as appropriate.
- 8.11 If any of the above supports are needed or used, the person's plan shall specify:
  - 8.11.1 the reason for each support;
  - 8.11.2 the situations in which each is to be applied; and
  - 8.11.3 a schedule for the use of each support.

## **9.0 Medications**

- 9.1 Individuals receiving medication shall be instructed in self-administration to the limit of their understanding. The Neighborhood Home Provider shall also include instruction in the purpose, dosage and possible side effects of the prescribed medication to the limit of the person's understanding.
- 9.2 Individuals who administer their own medication shall:
  - 9.2.1 Understand the purpose of the medication, dosage times and possible side effects;
  - 9.2.2 Know what to do if a dosage is missed, extra medication is taken or an adverse reaction is experienced;
  - 9.2.3 Be educated in the maintenance of his/her own medication history and in the recording of information needed by the physician to determine medication and dosage effectiveness.
- 9.3 Medications shall be used only by the person for whom they were prescribed.
- 9.4 Injectable medication shall only be administered by licensed practical nurses, registered nurses or other licensed medical professionals.
- 9.5 Providers who have successfully completed a Board of Nursing approved Assistance with Self-Administration of Medication (AWSAM) training program may assist persons in the taking of medication, provided that the medication is in the original container and properly labeled. The medication shall be taken exactly as indicated on the label.
- 9.6 A medication record shall be maintained for each person. The record shall show the name and strength of each medication being taken by the person. Each dose administered shall be recorded by date, time and initials of person or persons assisting. Effectiveness shall be monitored by clinical support staff.
- 9.7 The Neighborhood Home Provider shall assist the person in reporting side effects to the physician who prescribed the medication. Suspected drug reactions shall be noted in the medication record and documented in the active file of the person.
- 9.8 All medication errors and corrective actions shall be documented and reported in accordance with provider written policy.
- 9.9 Serious medication errors and reactions to medication shall be reported immediately to the physician and to the Neighborhood Home provider's chief executive officer or to a person designated by written policy.
- 9.10 A three-day supply of medication shall be available at all times. All medication shall be stored in its original container either from the pharmacy, physician or manufacturer with the proper label and specific directions for assistance.
- 9.11 Medications to be applied externally shall be distinguishable from medications to be taken internally by means of packaging, labeling and segregation within storage areas.
- 9.12 Medication shall be stored and locked under proper conditions of temperature, light, humidity and ventilation. Room temperature acceptable for medication storage is between 59 and 86 degrees Fahrenheit.
- 9.13 Medications requiring refrigeration shall be kept in a separate locked box within the refrigerator. A temperature monitoring device shall be used and the temperature shall be maintained between 36 and 42 degrees Fahrenheit.

- 9.14 A supply of over the counter medication shall be stocked at each home. However, the use of such medications must be authorized by the person's physician in writing, and their use documented in the medication record and in the person's active file.
- 9.15 Discontinued and outdated medications and containers with illegible or missing labels shall be promptly disposed of in a safe manner.

#### **10.0 Persons' Records**

- 10.1 A cumulative record containing all information and documents related to supporting and providing services to the person shall be maintained chronologically for each person
- 10.2 The record shall be readily accessible to those who require such access in order to provide services as described in the person's support plan.
- 10.3 All information concerning a person served, including information contained in an automated data bank, is confidential; and access shall be limited to staff \_\_\_\_\_ who need to see the record, or to persons specifically authorized by the person or legally qualified representatives.
- 10.4 Entries in a person's record referring to actions with another person shall be coded in such a way as to protect the confidentiality of the persons served.
- 10.5 The provider shall be responsible for the safekeeping of each person's record and for securing it against loss, destruction, or use by unauthorized persons as evidenced by policies and practices.
- 10.6 Incident reports, with adequate documentation, shall be complete dfor each incident. Adequate documentation shall consist of the name of the resident(s) involved; the date, time and place of the incident; a description of the incident; a list of other parties involved, including witnesses; the nature of any injuries; resident outcome; and follow-up action, including notification of the resident's family or guardian, attending physician and DDDS or law enforcement authorities when appropriate. Incident reports shall be kept on file by the provider. Reportable incidents shall be communicated immediately to the Division of Developmental Disabilities Services.

#### **11.0 Transportation**

- 11.1 The transportation system operated by, or under contract to, the home shall meet local and state licensing, inspection, insurance, and capacity requirements.
- 11.2 Vehicles used to transport persons shall be equipped with a seat belt for each person and a means of communication. Vehicles used to transport persons with physical impairments shall be adapted to their needs.
- 11.3 Drivers of vehicles shall have valid and appropriate driver's licenses.
- 11.4 Emergency transportation shall be available on a 24-hour basis.
- 11.5 The provider shall provide or arrange transportation for a person's routine medical and dental care.

#### **12.0 Safety and Sanitation**

- 12.1 The Neighborhood Home's program shall comply with all applicable provisions of federal, state and local laws, regulations and codes pertaining to health, safety, sanitation and plumbing.
- 12.2 The provider shall maintain records and reports of periodic fire safety, health, sanitation, and environmental inspections required by local and state laws and regulations. The provider shall document actions taken to correct deficiencies noted in these reports.
- 12.3 The provider shall prepare written policies that outline maintenance (including electrical maintenance) and cleaning procedures, storage of cleaning materials and/or pesticides and other toxic materials.
- 12.4 Hot water at shower, bathing and handwashing facilities shall not exceed 115 degrees F.
- 12.5 There shall be adequate, safe and separate areas of storage of:
  - 12.5.1 Food items;
  - 12.5.2 Cleaning agents, disinfectants and polishes;
  - 12.5.3 Poisons, chemicals and pesticides;
  - 12.5.4 Eating, serving and cooking utensils;
  - 12.5.5 Clean and dirty linen.
- 12.6 Firearms shall be prohibited on the premises of the Neighborhood Home.
- 12.7 Active attention shall be directed to avoiding hazards to the people supported, such as dangerous substances, sharp objects, unprotected electrical outlets, slippery floors or stairs, exposed heating devices, scalding water or broken glass. However, people shall be prepared for and progressively exposed to routine risks that are likely to be encountered in normal environments.

### **13.0 Bedrooms**

- 13.1 ~~Rooms or other areas of the Neighborhood Home that are not ordinarily sleeping rooms may not be used for sleeping purposes.~~
- 13.2 ~~Sleeping rooms shall have an outside window and must provide for quiet and privacy. Adequate electrical outlets shall be conveniently located in each room with at least one (1) light fixture switch at the entrance to the bedroom.~~
- 13.3 ~~Bedrooms shall have walls that extend from floor to ceiling, and shall accommodate no more than two persons.~~
- 13.4 ~~Multi-bed bedrooms shall provide at least 75 square feet per person.~~
- 13.5 ~~Single-bed bedrooms shall contain at least 100 square feet.~~
- 13.6 ~~Bedrooms shall contain space, as needed, for bedside assistance and to accommodate the use and storage of mobility devices and prosthetic equipment.~~
- 13.7 ~~Each person shall have a bed suitable for his or her physical statute and condition.~~
- 13.8 ~~Mattresses, bedding and pillows shall be clean and provide comfort and sufficient support and warmth.~~
- 13.9 ~~The use of hospital-type beds, plastic or other materials to keep beds and pillows dry, flat pillows or the absence of pillows or other departures from normalcy shall be justified in each case in the person's record and reviewed at least annually.~~
- 13.10 ~~There shall be a sturdy bedside stand, chair, a desk or table, and reading light for the person.~~
- 13.11 ~~Each bedroom window shall have a window treatment that closes for privacy.~~
- 13.12 ~~People shall be encouraged, and assisted as needed, to decorate their bedrooms as they choose.~~

### **14.0 Bathrooms**

- 14.1 ~~There shall be private toilet facilities with a shower or tub in good repair in each home. These facilities shall be accessible to the person according to his/her needs and shall facilitate maximum independence.~~
- 14.2 ~~Traffic to and from any room shall not be through a bedroom or bathroom except where a bathroom opens directly off the room it serves.~~
- 14.3 ~~There shall be at least one (1) window or mechanical ventilation to the outside of the bathroom.~~
- 14.4 ~~Toilets, bathing and toileting appliances shall be equipped for use by physically handicapped persons, as dictated by such persons' needs.~~
- 14.5 ~~There shall be at least one (1) toilet of appropriate size for each four (4) persons. Each toilet shall be equipped with a toilet seat and toilet tissue.~~
- 14.6 ~~There shall be at least one (1) wash basin for each four (4) persons.~~
- 14.7 ~~There shall be at least one (1) tub or shower for each four (4) persons.~~
- 14.8 ~~Wash basins shall be available in or immediately adjacent to bathrooms and/or toilet rooms.~~
- 14.9 ~~Shower and tub areas shall be equipped with substantial hand grip bars and slip resistant floor surfaces.~~

### **15.0 Emergencies and Disasters**

- 15.1 ~~Fire safety in Neighborhood Homes shall comply with the rules and regulations of the State Fire Prevention Commission or the appropriate local jurisdiction. All applications for a license or renewal of a license shall include a letter certifying compliance by the Fire Marshal with jurisdiction. Notification of non-compliance with the applicable rules and regulations shall be grounds for revocation of a license.~~
- 15.2 ~~The home shall have a minimum of two means of egress.~~
- 15.3 ~~The home shall have an adequate number of UL approved smoke detectors in working order.~~
  - 15.3.1 ~~In a single level home, a minimum of one smoke detector shall be placed between the bedroom area and the remainder of the home.~~
  - 15.3.2 ~~In a multi-story home, a minimum of one smoke detector shall be on each level. On levels which have bedrooms, the detector shall be placed between the bedroom area and the remainder of the home.~~
- 15.4 ~~There shall be at least one functional two and one-half to five pound ABC fire extinguisher on each floor of living space in the home that is readily accessible, visible and mounted on the wall. Inspections shall be completed by the service company or as regulated by the Fire Marshal. Each extinguisher shall be checked annually.~~
- 15.5 ~~The provider shall have written procedures for meeting all emergencies and disasters such as fire, severe weather, and missing persons; and such procedures shall be communicated to all staff.~~
- 15.6 ~~The procedures shall assign specific personnel to specific tasks and responsibilities.~~

- 15.7 The procedures shall contain instructions related to the use of alarm and signal systems. Provisions shall be made to alert persons living in the home according to their abilities, and these provisions shall be included in the procedures.
- 15.8 Evacuation routes and the location of fire fighting equipment shall be posted in areas used by the public as required by the applicable fire safety regulations. The number and placement of postings are otherwise dictated by building use and configuration and by the needs of persons and staff.
- 15.9 The provider shall maintain an adequate communication system to ensure that on and off-duty personnel and local fire and safety authorities are notified promptly in the event of an emergency or disaster.
- 15.10 The telephone numbers of the nearest poison control center and the nearest source of emergency medical services shall be posted.
- 15.11 Provisions shall be made for emergency auxiliary heat and lighting by means of alternate sources of electric power, alternate fuels, and stand-by equipment, or arrangements with neighbors, other agencies or community resources.

#### **16.0 Evacuation Drills**

- 16.1 Drills shall be held quarterly for each shift with one drill per calendar month. Evacuation drills shall be held on different days, at different times, including times when people are asleep.
- 16.2 The location of egress during these evacuation drills shall be varied, with window evacuation procedures discussed as an alternative, if not practiced.
- 16.3 During drills, persons shall be evacuated with staff assistance to the designated safe area outside of the home.
- 16.4 As evidenced by evacuation drill reports that are maintained by the Neighborhood Home, drills shall assure that all persons and staff are familiar with the evacuation requirements and procedures. Any problems persons have evacuating a building during a drill shall result in a written plan of specific corrective action(s) to be taken.
- 16.5 Persons who are unable to achieve the exit schedule prescribed by the Life/Safety Code with available assistance shall be either relocated or provided with additional assistance.

#### **17.0 Waivers of Standards**

- 17.1 Specific standards may be waived by the Division of Long Term Care Residents Protection provided that each of the following conditions is met:
  - 17.1.1 Strict enforcement of the standard would result in unreasonable hardship on the provider.
  - 17.1.2 The waiver is in accordance with the particular needs of the person.
  - 17.1.3 A waiver must not adversely affect the health, safety, welfare, or rights of any person.
  - 17.1.4 Residents may be informed of the waiver request and asked for input, as appropriate.
- 17.2 The request for a waiver must be made to the Division of Long Term Care Residents Protection in writing by the provider with substantial detail justifying the request. The Division of Long Term Care Residents Protection will inform the provider of its decision within 30 days of receipt of the written request.
- 17.3 A waiver granted by the Division of Long Term Care Residents Protection is not transferable to another Neighborhood Home provider in the event of a change in ownership.
- 17.4 A waiver shall be granted for a period up to the term of the license.

#### **18.0 Severability**

- 18.1 Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.

#### **1.0 Purpose**

The following regulations are designed specifically for Neighborhood Homes, for five or fewer individuals with developmental disabilities, which are licensed by the Division of Long Term Care Residents Protection. These homes are distinct from Rest (Family care) Homes where three or fewer persons live in a home with care and supervision provided by persons who also reside on the premises.

These regulations address the minimum acceptable level of living conditions and supports for individuals in Neighborhood Homes. The purpose of these regulations is to provide a sequence of expectations for services rendered by the Neighborhood Home provider and a system for Neighborhood Home providers to be accountable to the Division of Long Term Care Residents Protection (DLTRCP) and the Division of Developmental Disabilities Services (DDDS).

## 2.0 Definitions

**“Advocate”** - An advocate can include the guardian and/or the person who knows the individual best.

**“Assessment”** The process of gathering information to describe what has been learned about a person, and what others need to know or to do to support the person in attaining a healthy, safe and meaningful life.

**“Choice”** The process by which people make selections from an array of options which are within the context of Division of Developmental Disabilities Services (DDDS) policies and all applicable state and federal laws and regulations intended to safeguard the individual and the rights of others.

**“Co-mingling of funds”**- Co-mingling of individual funds are funds that are blended into a “pool” of other program participants and/or contacted provider agency funds.

**“Evaluation”** An assessment process performed by professionals, according to standardized procedures, that incorporates the use, when possible, of standardized tests and measures in addition to informal and observational measures.

**“Health Related Protection (HRP)”** – Any material or mechanical devise, or equipment used to restrict the normal movement of an individual so as to prevent a fall or injury. Examples of mechanical restraints, which may be used as a health related protection may include (but not be limited to): bed rails, seat belt, bed enclosure system, etc.

**“Human Rights Committee (HRC)”** A body of individuals composed of impartial members with no direct affiliation with the Division of Developmental Disabilities Services (DDDS), and whose role is to serve as a monitoring agent to safeguard the rights and personal dignity of persons served by DDDS.

**“Incident”** An occurrence or event, a record of which must be maintained in provider’s files, that results or might result in harm to a resident. Incident includes alleged abuse, neglect, mistreatment and financial exploitation; incidents of unknown source which might be attributable to abuse, neglect or mistreatment; all deaths; falls; and errors and omissions in medication/treatment. (Also see Reportable Incident)

**“Individual”**- Term used throughout these regulations that identify someone receiving services and supports through the DDDS.

**“Individual Outcome and Support Assessment (IOSA)”**- The DDDS assessment tool utilized to identify an individual’s preferences, needs for and satisfaction with services regarding: Living Options, Community Membership, Relationships/Social Network, Work, Health, Safety, and Organizational Support.

**“Neighborhood Home”** A stand alone house providing residential and support services to 5 or fewer individuals in a single-family home setting. These homes are licensed by the Division of Long Term Care Residents Protection pursuant to 16 Del.C. §1101 and must meet minimum acceptable standards for living conditions and supports.

**“Outcomes”** The results and/or goals of the services and supports that people receive. A major emphasis of outcome based service provision is the facilitation of individual choice in defining success and satisfaction.

**“Plan of Care (POC)”** - A comprehensive document that specifies the individual’s needs, goals, and preferences, and identifies the strategies to address each. Through the Plan of Care, the individual exercises choice and control over services and supports through which risks are assessed and planned for. The Plan of Care identifies the services and supports that an individual needs in order to live successfully in the community.

**“Peer Review of Behavioral Intervention Strategies (PROBIS)”**– The DDDS approved peer review committee charged with the review of Behavior and/or Mental Health Support Strategies, excluding positive behavior supports.

**“Physical Environment”** Those locations in which the individual lives, works, recreates or receives services.

**“Reportable Incident”** An occurrence or event which must be reported at once to the Division of Developmental Disabilities Services (DDDS) and for which there is reasonable cause to believe that a resident has been abused, neglected, mistreated or subjected to financial exploitation. Reportable incident also includes an incident of unknown source which might be attributable to abuse, neglect or mistreatment; all deaths; falls with injuries; and significant errors or omissions in medication/treatment which cause the resident discomfort or jeopardize the resident’s health and safety. DDDS will forward the report to the Division of Long Term Care Residents Protection (DLTCRP). (Also see Incident.)

**“Rights Restriction”** The limitation, disruption or constraint of a person’s freedom to engage in activities generally allowed to others in society. Such is permissible only on a case-by-case basis and when there has been due process, official approval received and the need for such documented.

**“Safety”** The absence of recognizable hazards in the design, construction and maintenance of any component of the physical environment including equipment and the establishment of procedures to evaluate and to reduce risks of physical harm.

**“Sanitation”** The promotion of hygiene and prevention of disease by the maintenance of uncontaminated conditions.

“Screening” The initial part of the assessment process which is of limited scope and intensity and is designed to determine whether further evaluation or other intervention is indicated.

“Service provider” - A person or organization contracted with the DDDS, which is responsible for the provision of specific selected services and supports for the individual.

“Support” A broad term used to refer to those methods designed to help an individual achieve a meaningful life and to function to his/her fullest capacity.

### **3.0 Licensing and General Requirements**

- 3.1 When a Neighborhood Home pursuant to these regulations plans any structural alteration, one copy of properly prepared plans and specifications for the entire home shall be submitted to the Division of Long Term Care Residents Protection (DLTCRP). The Neighborhood Home shall receive written approval of the plans before any work is begun.
- 3.2 Separate licenses are required for separate homes, regardless of their proximity, even though operated by the same Neighborhood Home provider.  
A license shall not be transferred from one provider to another or from one location to another.
- 3.3 The license shall be conspicuously posted in the Neighborhood Home.
- 3.4 All applications for renewal of licenses shall be filed with DLTCRP at least thirty days prior to expiration. Licenses shall be issued by DLTCRP for a period not to exceed one year (12 months) from the date they are issued.
- 3.5 All required records maintained by the Neighborhood Home shall be open to inspection by the authorized representatives of DLTCRP and DDDS.
- 3.6 The term “Neighborhood Home” shall not be used as part of the name of any program in this State unless the home is licensed under these regulations.
- 3.7 No Neighborhood Home provider shall adopt rules that conflict with these regulations.
- 3.8 DLTCRP shall be notified in writing of any changes in the ownership or management of a Neighborhood Home.
- 3.9 Each Neighborhood Home provider shall provide with the admission agreement, to all persons or their family member/guardian, a complete statement enumerating all charges for services, materials and equipment which shall, or may be, furnished to the person during the period of residency.
- 3.10 Each Neighborhood Home provider shall make known, in writing, the refund and prepayment policy at the time of admission, and in the case of third-party payment, an exact statement of responsibility in the event of retroactive denial.
- 3.11 Each Neighborhood Home provider shall cooperate fully with the state protection and advocacy agency, as defined in 16 Del.C. §1102(7), in fulfilling functions authorized by Title 16, Chapter 11.

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### **4.0 Individual Process to Support Outcomes and Provider Performance Expectations**

#### **Part I- Individual Process to Support Outcomes**

- 4.1 Choice
  - 4.1.1 Choice is the opportunity to select from a variety of options. Some choices are basic like what to eat, when to go to bed, or what to do for fun; while others are major life choices such as where and with whom to live, where to work and how to express one’s faith. All of these choices are important and belong to the individual. Individual’s choices often change over time. The choices and decisions we make about our lives are shaped by opportunities, experiences, and personal priorities.
  - 4.1.2 Service providers must take the time to really listen to individuals. Not everyone can easily express their choices in words. Some individuals communicate in other ways, such as gestures, expressions, or through their actions. Service providers may need to help individuals understand their options and the consequences of their choices and decisions. Some individuals are reluctant to make choices and look to their friends, family, and support providers to decide. They may need support and experience to feel more comfortable making their own choices.
  - 4.1.3 The Plan of Care contains documentation that the individual was supported to make informed choice about his/her service providers.
    - 4.1.3.1 The individual/family/advocate indicates that opportunities were given regarding choice of providers.
    - 4.1.3.2 Documentation is present to indicate that the individual was informed of his/her right to choose among authorized service providers.

4.1.3.3 If the individual expresses a need for a change in services, documentation is present that efforts are being made to support the individual in making an informed choice of a new service provider.

4.1.3 The individual's lifestyle, personal activities, routines and programming is based on personal choice.

4.1.3.1 The individual is supported to make choices in all areas of his/her life.

4.1.3.2 Individual/family/advocate reports that the plan reflects what is important to the individual.

## 4.2 Rights, Respect, and Freedom From Harm

4.2.1 Citizens of the United States have legal rights. Some of these rights are protected by our nation's Bill of Rights. Examples of these rights include: freedom of speech, due process, freedom of religion, and the right to privacy, among others. Individuals also have basic liberties. Individuals can move about freely, have private time and space, and keep their own personal possessions. Individuals can choose when and with whom they share personal information. Sometimes individuals need support to enjoy their freedom and exercise their rights.

4.2.2 All individuals deserve to be treated with respect and dignity. Every individual matters and should be valued. Individual differences should be recognized and valued.

4.2.3 All individuals should be free from abuse and neglect. Individuals who have experienced abuse or neglect may feel the effects of physical and emotional harm for a long time. Individuals should also be safe in their environments and have the needed supports in place to ensure personal safety.

4.2.4 Through a thorough planning process, individuals should be supported to understand and exercise their rights and responsibilities as citizens. Supports should be crafted to:

4.2.4.1 protect individual's rights.

4.2.4.2 help individuals identify areas in which they are vulnerable, and

4.2.4.3 identify where they would like to further explore the exercise of their rights, as they wish.

4.2.5 Service providers are required to support specific policies and procedures established to facilitate people's exercise of their rights, and to also endeavor to protect the individual's rights from either violation or restriction without due process.

4.2.6 The individual is treated as a valued and respected individual

4.2.6.1 The individual is treated in a respectful and dignified manner.

4.2.6.2 If the individual/family/advocate has a complaint, the service provider addresses the concern in a timely manner.

4.2.6.3 The individual decides when and with whom to share personal information.

4.2.6.4 The individual is free from unnecessary restraints/restrictions.

4.2.6.5 The individual has access to all areas of his/her environment.

4.2.7 The individual is free from physical and emotional harm.

4.2.7.1 The individual's incidents and accidents are reported and followed up as appropriate.

4.2.7.2 The Policy Memorandum 46 (PM46) policy for reporting abuse, assault, attempted suicide, mistreatment, neglect, financial exploitation and significant injury is followed.

4.2.8 The individual is supported to exercise his/her rights and responsibilities.

4.2.8.1 The individual's rights and responsibilities are reviewed with the individual/guardian at least annually.

4.2.8.2 If the individual has a rights restriction, DDDS policy and procedures are followed.

4.2.8.3 The Individual Rights Complaint Policy is posted within the residence and the individual/family/advocate has access to the Individual Rights Complaint form.

4.2.8.4 The Patient's Bill of Rights (Title 16) is posted within the residence.

4.2.9 The service provider completes all required documentation per the DDDS Behavioral/Mental Health/Health Related Protection policies.

4.2.9.1 Peer Review of Behavior Intervention Strategies (PROBIS), Human Rights Committee (HRC), and Health Related Protection (HRP) reviews are completed per policy.

4.2.9.2 Consents are obtained annually, as otherwise specified, or whenever a change occurs.

4.2.9.3 The Individual's Rights Restriction form is completed and reviewed at least annually by HRC or whenever additional rights are restricted.

4.2.10 The service provider safeguards and maintains records regarding the funds of individuals receiving services, follows the DDDS Individual Funds policy, and supports the individual's efforts towards independence/self-management of those funds.

4.2.10.1 The individual has access to his/her funds.

- 4.2.10.2 The individual is supported to manage his/her funds to the greatest extent possible.
- 4.2.10.3 The individual's Personal Spending Record (PSR) is reviewed as outlined by DDDS policy to ensure that the individual's money is safeguarded.
- 4.2.10.4 Authorizations for expenditures are present as required by policy.
- 4.2.10.5 Documentation is present for expenditures as required by policy.
- 4.2.10.6 Discrepancies in the individual's funds are addressed in a timely manner.
- 4.2.10.7 The individual's funds are not co-mingled.
- 4.2.10.8 The individual's funds are kept in a secure manner.
- 4.2.10.9 Resource and personal spending issues effecting eligibility for services are handled immediately.

#### 4.3 Health and Wellness

- 4.3.1 Health and wellness is important to everyone but may mean something different to each individual. Individuals need access to quality health care. Individuals need to see doctors and other health professionals when they are ill. Medical care is also necessary when people are healthy. Individuals need routine check-ups, medical screenings, and immunizations to stay in good health.
- 4.3.2 Individuals make many decisions that affect their health. Many decisions carry significant risks. Some decisions are about the type of medical treatment. Individuals must decide what medications to take or when to have surgery. Other decisions are about how to live – what to eat and how much – to exercise regularly – to smoke or not, etc. Individuals should know the risks and potential benefits of each decision. They should be supported to make informed decisions on these matters.
- 4.3.3 Service providers are expected to:
  - 4.3.3.1 Help individuals gather the facts necessary to make informed decisions.
  - 4.3.3.2 Help individuals to schedule and get to appointments.
  - 4.3.3.3 Know and understand individuals' medical issues, being sensitive to each individual's expression of symptoms. Individuals may need support to take their medicine or follow other prescribed treatments.
  - 4.3.3.4 Service providers need to promote the exercise of healthy lifestyles while still respecting choice and self-determination.
  - 4.3.3.5 Service providers need to document any obstacles to obtaining needed health care and actions that are being taken to address the concerns.
- 4.3.4 The individual receives routine medical/mental health care services, including preventative health screenings as indicated.
  - 4.3.4.1 Lab work is completed in a timely manner: as ordered or within 5 working days of receipt of order.
  - 4.3.4.2 Necessary screenings/appointments are scheduled within 5 working days of receipt of order or per doctor's order.
  - 4.3.4.3 The service provider advocates for any other screenings when indicated by the individual's needs.
  - 4.3.4.4 The individual receives all required medical and mental health care.
  - 4.3.4.5 If the individual is not receiving needed health care services, documentation is present that indicates what is being done by the service provider(s) to address the specific issue.
- 4.3.5 Each individual's health and immunization history shall be updated continuously.
  - 4.3.5.1 Documentation is present to indicate that the individual's current health and immunization history is updated on a continuous basis.
- 4.3.6 Individuals receive PPD screenings as mandated.
  - 4.3.6.1 Service Providers shall have on file the results of tuberculin testing performed on all individuals at the beginning of his/her service by DDDS (referenced as newly placed individuals) and following the discovery by the service provider of a new case.
  - 4.3.6.2 All newly placed individuals shall have a baseline two-step tuberculin skin test (TST) or single Interferon Gamma Release Assay (IGRA) or TB blood test such as Quanti FERON. The service provider shall provide employee documentation of their baseline test.
  - 4.3.6.3 For newly placed individuals with a negative TST or IGRA no annual evaluation is required unless the category of risk changes as determined by the Division of Public Health. Any required subsequent testing according to risk category shall be in accordance with the recommendations of the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services.
  - 4.3.6.4 If any of the baseline tests listed above are positive, the newly placed individual shall receive one chest x-ray to rule out active disease, be offered treatment for latent TB (LTBI) infection and shall

be evaluated annually for signs and symptoms of active TB if they cannot provide documentation of completion of treatment for LTBI.

4.3.6.5 Service Providers shall establish policies for TB risk assessment for any individual having a positive skin test but negative x-ray. The service provider has available an annual statement from a licensed health care professional that indicates the individual has exhibited no signs or symptoms of active TB.

4.3.7 The individual receives medication as ordered.

4.3.7.1 Annual/current orders are present for all medications.

4.3.7.2 Non-routine medications are obtained immediately upon receipt of Physician's order.

4.3.7.3 Medication labels and Medication Administration Records match the Physician's Orders for the medication.

4.3.7.4 A three-day supply of medications is available at all times.

4.3.7.5 PRN medications have protocols for how/when the medication should be given.

4.3.7.6 A supply of over-the-counter medication (SMOs) shall be stocked at each home. However, the use of such medications must be authorized by the individual's physician in writing, and their use documented in the medication record and in the individual's active file.

4.3.8 The individual's medication regimen is managed according to the DDDS Assistance with Self-Administration of Medication (AWSAM) curriculum.

4.3.8.1 Medication shall be taken exactly as indicated on the label.

4.3.8.2 A medication record shall be maintained for each individual. The record shall show the name and strength of each medication being taken by the individual.

4.3.8.3 Each dose administered shall be recorded by date, time and initials of person or persons assisting.

4.3.8.4 Medication errors are addressed immediately.

4.3.8.5 Accurately maintained count sheets are present for all controlled substances and other medications not secured in bubble packs. (Standard SMOs do not need to be counted.)

4.3.8.6 Side effects sheets are present for all medication the individual receives.

4.3.8.7 A count sheet for controlled substances shall be maintained for each shift.

4.3.9 Medication is stored and disposed of as required by State and Federal policies.

4.3.9.1 Medication is in the original container and properly labeled.

4.3.9.2 Medications to be applied externally shall be distinguishable from medications to be taken internally by means of packaging, labeling and segregation within storage areas.

4.3.9.3 Medication shall be stored and locked under proper conditions of temperature, light, humidity and ventilation. Room temperature acceptable for medication storage is between 59 and 86 degrees Fahrenheit.

4.3.9.4 Medications requiring refrigeration shall be kept in a separate locked box within the refrigerator. A temperature monitoring device shall be used and the temperature shall be maintained between 36 and 42 degrees Fahrenheit.

4.3.9.5 Discontinued and outdated medications and containers with illegible or missing labels shall be promptly disposed of in a safe manner.

4.3.9.6 Controlled substances shall be double locked.

4.3.10 Individuals are supported to participate in Assistance with Self-Administration or to self-medicate to the best of his/her ability and interest.

4.3.10.1 Individuals receiving medication shall be instructed in self-administration to the limit of their understanding. The service provider shall also include instruction in the purpose, dosage and possible side effects of the prescribed medication to the limit of the individual's understanding.

4.3.10.2 Assessments for self-medication are completed at least annually or more often, if needed, for individuals who desire to self-medicate.

4.3.11 The individual's nutritional needs are met.

4.3.11.1 The individual has a nutrition assessment completed upon initiation of services.

4.3.11.2 The individual has a nutritional re-assessment when deemed necessary.

4.3.11.3 Medically prescribed diets are monitored by nurse/dietitian.

4.3.11.4 Food is served in a manner that is medically indicated.

4.3.11.5 Individuals are offered a balanced diet, healthy choices, and are supported to participate in food selection and preparation across settings.

4.3.11.6 Records of food served are maintained by the service provider for three months.

#### 4.4 Relationships and Community Membership

4.4.1 Individuals living in the community should have access to a full array of community based services and supports. Their person-centered plan should reflect a thorough planning process that documents the services and supports needed for the individual to have an inclusive community life that does not rely solely on paid services. Such planning should also include consideration for mutual caring and emotional support. Services and supports designed to facilitate community access and inclusion helps individuals to:

- 4.4.1.1 cultivate relationships.
- 4.4.1.2 discover preferences.
- 4.4.1.3 engage in the pursuit of new interests.
- 4.4.1.4 learn new things.
- 4.4.1.5 make informed decisions.
- 4.4.1.6 develop valued social roles, and
- 4.4.1.7 meaningfully contribute to the life of their chosen communities.

4.4.2 The individual has relationships he or she chooses, is supported to maintain existing relationships, and experiences opportunities to develop new relationships as desired.

- 4.4.2.1 The individual indicates that he/she has valued relationships.
- 4.4.2.2 The service provider supports the individual in learning about, developing new, and/or maintaining existing relationships.

4.4.3 The individual has opportunities to participate in activities at home, at work, in the community and during leisure time that he/she chooses.

- 4.4.3.1 The individual indicates that he/she participates in activities of his/her choice.
- 4.4.3.2 Documentation indicates that the individual is participating in chosen activities.
- 4.4.3.3 Activities are offered at a frequency that the individual chooses.
- 4.4.3.4 The service provider addresses any of the individual's concerns regarding activities, relationships and community membership.

#### 4.5 Assistive Technology

4.5.1 According to the Federal Register (August 19, 1991, p. 41272) Assistive Technology means an item, piece of equipment or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

4.5.2 Such interventions may include an array of mechanical, electronic, and computer-based equipment, non-mechanical and non-electronic aids, specialized instructional materials, services, and strategies that individuals with disabilities can choose to use in order to:

- 4.5.2.1 Enhance independence.
- 4.5.2.2 Increase environmental access.
- 4.5.2.3 Support meaningful community participation.
- 4.5.2.4 Assist with learning.
- 4.5.2.5 Enable full and competitive employment possibilities.
- 4.5.2.6 Facilitate the attainment of personal outcomes, including an improved quality of life.

4.5.3 The individual has assistive technology to maximize independence.

- 4.5.3.1 Individuals who use adaptive, corrective, mobility, orthotic, prosthetic, communication or other assistive devices or supports shall receive instruction in their proper use and shall receive professional assessments annually or as otherwise prescribed, to ascertain the continued applicability and fitness of those devices or supports.
- 4.5.3.2 The individual has access to his/her equipment.
- 4.5.3.3 The individual is supported to be as independent as possible in the use of his/her equipment.
- 4.5.3.4 If the individual is not using ordered assistive technology, a documented plan is developed to facilitate resolution of the issue. A re-assessment and/or discontinue order shall be obtained if it is determined that the current device is no longer feasible for the individual.
- 4.5.3.5 When needed, interpreters are used to support the individual in communication.

4.5.4 The individual's adaptive or assistive devices or supports shall be clean and in good repair.

- 4.5.4.1 The individual's equipment is in good repair.
- 4.5.4.2 The individual's equipment is clean.

4.5.4.3 Alternative arrangements are in place in order to prevent the individual from going without needed supports during repair or cleaning.

#### 4.6 Individual Planning and Implementation

4.6.1 Developing a plan of care helps to create action steps designed to support an individual in attaining his/her hopes and dreams. The plan will establish the direction an individual wants to go, determine the supports needed to get there, and identify who will support the individuals to reach his or her dreams.

4.6.2 A good planning process helps to organize and use natural supports like family, friends, and trusted acquaintances. Identifying formal community supports and services to help the individuals achieve what is important to him or her may also be necessary. The plan may focus on developing personal competencies and skills, or identifying the supports needed for an individual to:

4.6.2.1 learn how to live on his/her own or live more independently,

4.6.2.2 find the right job,

4.6.2.3 make friends,

4.6.2.4 take the bus around town,

4.6.2.5 pursue a hobby or leisure interest, and create opportunities to experience a wider range of options from which to develop preferences.

4.6.3 When individuals receive a variety of experiences and opportunities to try new things, they get to increase their preferences, and develop enriched hopes and dreams. We all need to feel that we have a degree of control over, and are making progress towards our goals. Recognizing and celebrating our accomplishments give us the strength and determination to take risks and pursue new challenges.

4.6.4 The Division of Developmental Disabilities Services affirms that employment and meaningful participation in their communities is an important part of the lives of the individuals it serves. Further, the Division believes that employment in the community should be the first service option considered for individuals.

4.6.5 Following the development of the plan of care, each service provider is expected to routinely monitor, evaluate, and document the implementation of services/supports according to the criteria established within the Plan of Care. Examples of criteria for evaluating the success of supports/services include:

4.6.5.1 the individual's satisfaction with the supports/services,

4.6.5.2 progress towards the attainment of goals, determining whether the provision of supports/services are consistent with the individual's choices as documented in the plan of care.

4.6.6 Upon initiation of services, a Plan of Care that documents a individual's needs, preferences, and his/ her selected supports and services are developed for the individual.

4.6.6.1 The individual's profile with needed information to serve the individual is present at initiation of services.

4.6.6.2 Prior to the development of the Plan of Care (POC), documentation is present that needs and preferences indicated in the individual's profile are being addressed by the service provider.

4.6.6.3 An assessment of the individual's desired outcomes is completed within 30 days of initiation of services.

4.6.6.4 The POC meeting is held within 60 days of initiation of services.

4.6.6.5 The POC is implemented within 90 days of the initiation of services.

4.6.7 The Plan of Care is developed in accordance with DDDS policies and procedures.

4.6.7.1 The individual/family/advocate and personally selected stakeholders have the opportunity to participate in the development of the plan to the extent that the individual wishes.

4.6.7.2 Meetings to develop or update the POC are held at times and locations selected by the individual.

4.6.7.3 The POC includes all services and supports that the individual chooses and/or needs.

4.6.7.4 The POC has administrative/designee approval prior to implementation.

4.6.7.5 Responsibilities for the provision of services and supports are defined.

4.6.7.6 Upon development of the plan, documentation reflects that the plan was shared with all service providers and that they have reviewed the current plan.

4.6.8 The individual's services and supports provided are aligned with his/her needs as defined in the Plan of Care.

4.6.8.1 Services and/or supports to address the needs of the individual are clearly defined within the POC.

4.6.8.2 For individuals who use adaptive, corrective, mobility, orthotic, prosthetic, communication or other assistive devices or supports, the individual's POC shall specify the reason for each support, the situations in which each is to be applied, and a schedule for the use of each support.

- 4.6.9 The individual's services and supports provided are aligned with his/her preferences as defined in the Plan of Care.
  - 4.6.9.1 Services and/or supports to address the individual's preferences are clearly defined within the POC.
  - 4.6.9.2 Preferences which may take long-term planning shall be included within the POC and evidence present that the team is making efforts to support the individual in achieving his/her desires.
- 4.6.10 The Plan of Care addresses efforts to support the individual's advancement towards meaningful participation and/or employment in their communities.
  - 4.6.10.1 If the individual who has community employment indicates a desire to increase his hours of employment, the POC should reflect goals for increasing the number of hours of employment.
  - 4.6.10.2 If the individual is not working in a community setting and expresses a desire to work, the POC should reflect that efforts are being made to achieve employment.
  - 4.6.10.3 If an individual is not working in a community setting, a community based work assessment should be completed every three years to determine if employment within the community would be a viable option for the individual.
  - 4.6.10.4 If an individual expresses a desire not to work, the POC reflects that the individual is given opportunities for meaningful community participation.
- 4.6.11 The individual's Plan of Care is reviewed and revised before the annual review date.
  - 4.6.11.1 All necessary assessments, including an assessment of the individual's desired outcomes are completed prior to the annual POC meeting and assessable for purposes of program planning.
  - 4.6.11.2 The individual's POC meeting is held within at least 365 days of the previous meeting.
- 4.6.12 The Plan of Care indicates that services and supports are revised when an individual's needs and/or preferences change.
  - 4.6.12.1 All components of the POC are present for implementation within 30 days of the meeting.
  - 4.6.12.2 Documentation reflects ongoing revision as necessary.
- 4.6.13 Services are delivered in accordance with the service plan with regard to scope, amount and duration/frequency.
  - 4.6.13.1 Scope- All components of service delivery are specified in the plan.
  - 4.6.13.2 Amount- Number of units of services is specified in the plan (i.e. daily, hourly, ½ hour, etc.).
  - 4.6.13.3 Duration- How long services are to be delivered is specified in the plan (i.e. 1 month, 6 months, 1 year, etc.).
  - 4.6.13.4 Frequency- Services are being delivered as often as indicated in the plan (i.e. 3 times a day, 3 times a week, etc.).
- 4.6.14 The individual's State Case Manager visits the individual for the purpose of reviewing the POC on at least a monthly basis.
  - 4.6.14.1 Documentation is present that the State Case Manager has visited the individual at least monthly, has face to face communication, and reviewed the POC to ensure services are adequate and there are no changes in the individual's needs or status.
- 4.6.15 The individual's Residential Service Provider Program Coordinator completes at least monthly reviews of the implementation of the individual Plan of Care.
  - 4.6.15.1 Documentation is present that the Residential Service Provider Program Coordinator has visited the individual at least monthly, has face to face communication, and completed at least a monthly review of the implementation of all components of the individual's POC.
- 4.6.16 Each service provider shall monitor, review, analyze, and observe all components of the individual's Plan of Care where they provide service and document information on the individual's plan on a frequency indicated in the POC.
  - 4.6.16.1 The service provider's ongoing documentation reflects all areas where the service provider has responsibility.
  - 4.6.16.2 There is evidence that the applicable service provider has observed and monitored the implementation of the individual's plan on an ongoing basis.
- 4.6.17 Based on the ongoing monitoring of the plan, the service provider has taken any needed action, or is in the process of taking action on components of the plan where they have responsibility.
  - 4.6.17.1 The individual's concerns/issues with the plan have been addressed with the individual/family/guardian in a timely manner.

- 4.6.17.2 The applicable service provider has shared concerns with the individual's other service providers as necessary to ensure ongoing service provision.
- 4.6.17.3 Any needed action, based on ongoing monitoring of the plan, is taken by the service provider.

## **Part II - Provider Performance Expectations**

### **4.7 Qualified Service Providers**

- 4.7.1 Service Providers are entrusted with supporting people who are often vulnerable in society. They receive public funds to provide services and are expected to function well as both an agent of high quality service delivery and as a fiscally sound business. Service providers must have a strong infrastructure that incorporates a values-base consistent with DDDS, contemporary understanding of the field of developmental disabilities and an ability to translate that understanding into practice. Additionally, the service provider must adhere to sound business principles and be fiscally solvent.
- 4.7.2 The service provider is delivering services in accordance with the DDDS Contract and the individual's Plan of Care.
  - 4.7.2.1 The services that are provided by the service provider meet the operational definitions as outlined by DDDS.
  - 4.7.2.2 Any billing of services should accurately reflect the type, scope, duration and amount of service delivered by the service provider.
- 4.7.3 The service provider shall comply with all applicable DHSS and DDDS policies.
  - 4.7.3.1 Policies are available to service provider staff.
  - 4.7.3.2 The service provider follows DDDS and DHSS policies and procedures.
  - 4.7.3.3 Staff demonstrate knowledge of applicable policies and procedures.
- 4.7.4 The service provider supports growth and change to continually improve services to individuals.
  - 4.7.4.1 The service provider has polices that support self-determination principles and DDDS philosophy.
  - 4.7.4.2 The service provider actively solicits and uses input from individuals.
  - 4.7.4.3 The service provider has an internal quality management system and submits semi-annual agency performance reports to DDDS.
- 4.7.5 The service provider is in compliance with major environmental/safety standards.
  - 4.7.5.1 Accessible- accommodations are present to assure the individual's access to support and service environments.
  - 4.7.5.2 Safe- service and support environments are free of safety hazards.
  - 4.7.5.3 Sanitary- service and support areas are maintained in sanitary condition.
  - 4.7.5.4 Home like- service and support areas are personalized to display the choices and interests of the individual and create a comfortable home like environment.
  - 4.7.5.5 Food supplies are provided in adequate quantities- at least a three day supply of food is available in residential sites at all times.
  - 4.7.5.6 Food is stored in a safe and sanitary environment.
- 4.7.6 Service providers have adequate procedures and plans for emergencies, disaster-fire drills and evacuation needs.
  - 4.7.6.1 Emergency/Disaster Plans present/updated.
  - 4.7.6.2 Fire drills completed per site requirement (Residential- once per shift per quarter, Facility Based Day Services- once per quarter).
  - 4.7.6.3 Fire Suppression Equipment if present.
  - 4.7.6.4 Emergency numbers available.
  - 4.7.6.5 Staff demonstrate knowledge of emergency procedures.
  - 4.7.6.6 Evacuation/Relocation Plans present.
  - 4.7.6.7 Non-perishable food and capacity to store 1 gallon of potable water per person per day for at least a 72-hour period is present.
- 4.7.7 The individual has accessible, well-maintained transportation available.
  - 4.7.7.1 The transportation system operated by, or under contract to, the home shall meet local and state licensing, inspection, insurance, and capacity requirements.
  - 4.7.7.2 Vehicles used to transport service persons shall be equipped with a seat belt for each person and a means of communication. Vehicles used to transport individuals with physical impairments shall be adapted to their needs.

- 4.7.7.3 Emergency transportation shall be available on a 24-hour basis
- 4.7.7.4 The service provider shall provide or arrange transportation for a individual's routine medical and dental care.
- 4.7.7.5 Fire Suppression Equipment is present.
- 4.7.7.6 First Aid Supplies are present.
- 4.7.7.7 The vehicle is in good repair.
- 4.7.7.8 Emergency information is present.
- 4.7.7.9 Wheelchair lifts, ramps, etc. are safe and operate properly.

4.8 Staff Stability and Competency

- 4.8.1 Direct support professionals are the cornerstone of quality service delivery. Individuals and their families form relationships with these staff and often suffer when services are interrupted by frequent turnover or a lack of competency. Service providers that routinely perform well respect the role of direct support professionals and provide them with the necessary training and supports to do their jobs well. This in turn results in higher quality outcomes and a more active community life for people.
- 4.8.2 The service provider abides by all DHSS/DDDS background screening policies and applicable State of Delaware Laws.
  - 4.8.2.1 Federal and State Criminal background checks are completed per contract requirements on staff.
  - 4.8.2.2 Adult registry check is completed on staff, per contract requirements.
  - 4.8.2.3 Child registry check is completed on staff, per contract requirements.
- 4.8.3 Ten -step Drug testing is completed on staff (per service provider contract) that includes the following:
  - 4.8.3.1 Marijuana/cannabis
  - 4.8.3.2 Cocaine
  - 4.8.3.3 Opiates including heroin
  - 4.8.3.4 Phencyclidine (PCP)
  - 4.8.3.5 Amphetamines
  - 4.8.3.6 Barbiturates
  - 4.8.3.7 Benzodiazepine
  - 4.8.3.8 Methadone
  - 4.8.3.9 Methaqualone
  - 4.8.3.10 Propoxyphene
- 4.8.4 Drivers of vehicles shall have valid and appropriate driver's licenses.
- 4.8.5 All personnel required by Delaware State law to practice with a professional license have provided legal documentation of current, authorized licenses.
- 4.8.6 The service provider shall have policies and procedures for infection control as it pertains to individuals, staff, and visitors. Upon confirmation of reportable disease the Division of Public Health shall be notified.
- 4.8.7 Service providers shall comply with the following PPD screening requirements:
  - 4.8.7.1 All service providers shall have on file the results of tuberculin testing performed on all new employees and following the discovery of a new case.
  - 4.8.7.2 All employees on hire shall have a baseline two-step tuberculin skin test (TST) or single Interferon Gamma Release Assay (IGRA) or TB blood test such as Quanti FERON. The Service Provider shall provide employee documentation of their baseline test.
  - 4.8.7.3 For employees with a negative TST or IGRA no annual evaluation is required unless the category of risk changes as determined by the Division of Public Health. Any required subsequent testing according to risk category shall be in accordance with the recommendations of the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services.
  - 4.8.7.4 If any of the baseline tests listed above are positive, the employee shall receive one chest x-ray to rule out active disease, be offered treatment for latent TB (LTBI) infection and shall be evaluated annually for signs and symptoms of active TB if they cannot provide documentation of completion of treatment for LTBI.
  - 4.8.7.5 Service providers shall establish policies for TB risk assessment for any employee having a positive skin test but negative x-ray. The service provider has available an annual statement from a licensed health care professional that indicates the employee has exhibited no signs or symptoms of active TB.

4.8.8 Orientation and training shall be provided by providers to staff in accordance to the training policy of DDDS and shall be documented, continuously updated and made available upon request.

4.8.8.1 There is documentation that all staff have been trained according to the DDDS training policy.

4.8.8.2 Service providers who have successfully completed a Board of Nursing approved Assistance with Self-Administration of Medication (AWSAM) training program may assist individuals in the taking of medication.

4.8.8.2.1 Documentation is present to substantiate that each staff person assisting with medications has completed the required supervised medication assistance sessions prior to independently assisting individuals.

4.8.8.2.2 Staff are observed to assist the individual with medications according to the AWSAM curriculum.

4.8.8.2.3 Staff whose medication certification is expired shall not assist with medications.

4.8.9 There is documentation present that staff have other needed training to support the individual's health and wellness including specialized behavioral and health support plans.

4.8.9.1 Staff are provided specialized training according to the individual's needs.

4.8.9.2 Training is updated as needed.

4.8.10 Staff demonstrate competency and knowledge of the individual's programming.

4.8.10.1 Staff reflect knowledge of DDDS and DHSS policies and procedures as indicated by staff response to questions and observation.

4.8.10.2 Staff reflect knowledge of the individual's programming, needs and preferences as indicated by staff response to questions and observations related to the implementation of the individual's plan of care.

4.8.10.3 Staff treat the individual with dignity and respect.

4.8.10.4 The staff demonstrate an understanding of when the individual should use adaptive equipment.

#### 4.9 Individuals' Records

4.9.1 A cumulative record containing all information and documents related to supporting and providing services to the individual shall be maintained chronologically for each individual.

4.9.2 The record shall be readily accessible to those who require such access in order to provide services as described in the individual's support plan.

4.9.3 All information concerning an individual served, including information contained in an automated data bank, is confidential; and access shall be limited to staff who need to see the record, or to individuals specifically authorized by the individual or legally qualified representatives.

4.9.4 Entries in an individual's record referring to actions with another individual shall be coded in such a way as to protect the confidentiality of the individuals served.

4.9.5 The service provider shall be responsible for the safekeeping of each individual's record and for securing it against loss, destruction, or use by unauthorized persons as evidenced by policies and practices.

4.9.6 Incident reports, with adequate documentation, shall be completed for each incident. Adequate documentation shall consist of the name of the individuals involved; the date, time and place of the incident; a description of the incident; a list of other parties involved, including witnesses; the nature of any injuries; individual outcome; and follow-up action, including notification of the individual's family or guardian, attending physician and DDDS or law enforcement authorities when appropriate. Incident reports shall be kept on file by the service provider. Reportable incidents shall be communicated immediately to the Division of Developmental Disabilities Services.

## **5.0 Environment**

5.1 Neighborhood Home providers shall ensure a home-like environment for each licensed home. Functional arrangement of rooms, furnishings, and decor shall be compatible with the need for accessibility.

5.2 Furniture and furnishings shall be safe, comfortable, and in good repair and shall resemble those in homes in the local community, to the extent compatible with persons' choice and the physical needs of the people living in the home. To the extent possible, personal furniture shall be chosen by individuals.

5.3 Heating apparatus shall not constitute a burn, smoke or carbon monoxide hazard to persons served or their support staff.

5.4 Temperature, humidity, ventilation, and light in all living and sleeping quarters shall be maintained to provide a comfortable atmosphere.

- 5.5 Homes serving persons with physical challenges shall be accessible to those persons with physical challenges according to the appropriate American National Standards Institute (ANSI) Standards and all other federal and state standards.
- 5.6 Protective or security features such as fences and security windows may be used only when justified on the basis of the needs of persons served and shall preserve as normal an appearance as possible.
- 5.7 Use of security or observational devices shall constitute a restrictive procedure and require consent and review by the human rights committee. The need for such devices shall be documented in the person's behavior support plan.
- 5.8 Homes shall be sanitary, free of offensive odors, insects and uncontrolled pests. Exterminator services shall be required upon evidence of any infestation.
- 5.9 Waste and garbage shall be stored, transferred, and disposed of in a manner that does not create a nuisance, or permit the transmission of disease. Litter shall not be permitted to accumulate on the premises.
- 5.10 Stairways, ramps, walkways and open-sided porches shall have adequate lighting and handrails for safety. Non-skid surfaces shall be used when slippery surfaces present a hazard.
- 5.11 All stairways, hallways, doorways and walkways shall be kept free and clear of obstructions at all times.
- 5.12 Mirrors shall be furnished in bedrooms and bathrooms, including mirrors that are accessible by persons who use wheelchairs.
- 5.13 Each home shall provide storage space for both in season and out of season clothing and storage space for personal items to include, minimally, closet space and four drawers in a chest of drawers.
- 5.14 Each home shall contain a clothes washer and dryer that are accessible to people unless people use commercial laundromats or are being supported to do so.
- 5.15 Basement space may be used for activities for people in the home if there is a minimum of two (2) fire exits.
- 5.16 If a bedroom is below grade level, it must have a window that
  - 5.16.1 Is usable as a second means of escape by the person(s) occupying the room; and
  - 5.16.2 Is no more than 36 inches (measured to the window sill) above the floor as required under the Health Care Occupancy Chapter of the Life Safety Code.

## **6.0 Kitchen Facilities**

- 6.1 There shall be at least one refrigerator and one freezing unit, in proper working order and capable of maintaining frozen foods in the frozen state and refrigerated foods at 41 degrees F. or below.
- 6.2 Dry or staple food items shall be stored at least four inches above the floor in a ventilated room that is not subject to waste water back flow or to contamination by condensation or leakage.
- 6.3 There shall be at least one four-burner range and one oven (or combination thereof), which is in proper working order.
- 6.4 There shall be a dishwasher for performing dishwashing.
- 6.5 There shall be at least one operable window or exhaust system for removal of smoke, odors, and fumes in the cooking area.
- 6.6 There shall be three day supply of food in each home at all times as posted on the menus. Opened foods that are to be stored shall immediately be dated with the date that the foods were opened.

## **7.0 Safety and Sanitation**

- 7.1 The Neighborhood Home's program shall comply with all applicable provisions of federal, state and local laws, regulations and codes pertaining to health, safety, sanitation and plumbing.
- 7.2 The service provider shall maintain records and reports of periodic fire safety, health, sanitation, and environmental inspections required by local and state laws and regulations. The provider shall document actions taken to correct deficiencies noted in these reports.
- 7.3 The service provider shall prepare written policies that outline maintenance (including electrical maintenance) and cleaning procedures, storage of cleaning materials and/or pesticides and other toxic materials.
- 7.4 Hot water at shower, bathing and hand washing facilities shall not exceed 115 degrees F.
- 7.5 There shall be adequate, safe and separate areas of storage of:
  - 7.5.1 Food items;
  - 7.5.2 Cleaning agents, disinfectants and polishes;
  - 7.5.3 Poisons, chemicals and pesticides;
  - 7.5.4 Eating, serving and cooking utensils;

#### 7.5.5 Clean and dirty linen.

- 7.6 Firearms shall be prohibited on the premises of the Neighborhood Home.
- 7.7 Active attention shall be directed to avoiding hazards to the individuals supported, such as dangerous substances, sharp objects, unprotected electrical outlets, slippery floors or stairs, exposed heating devices, scalding water or broken glass. However, individuals shall be prepared for and progressively exposed to routine risks that are likely to be encountered in normal environments.

### **8.0 Bedrooms**

- 8.1 Rooms or other areas of the Neighborhood Home that are not ordinarily sleeping rooms may not be used for sleeping purposes.
- 8.2 Sleeping rooms shall have an outside window and must provide for quiet and privacy. Adequate electrical outlets shall be conveniently located in each room with at least one (1) light fixture switch at the entrance to the bedroom.
- 8.3 Bedrooms shall have walls that extend from floor to ceiling, and shall accommodate no more than two individuals.
- 8.4 Multi-bed bedrooms shall provide at least 75 square feet per individual.
- 8.5 Single-bed bedrooms shall contain at least 100 square feet.
- 8.6 Bedrooms shall contain space, as needed, for bedside assistance and to accommodate the use and storage of mobility devices and prosthetic equipment.
- 8.7 Each individual shall have a bed suitable for his or her physical statute and condition.
- 8.8 Mattresses, bedding and pillows shall be clean and provide comfort and sufficient support and warmth.
- 8.9 The use of hospital-type beds, plastic or other materials to keep beds and pillows dry, flat pillows or the absence of pillows or other departures from normalcy shall be justified in each case in the individual's record and reviewed at least annually.
- 8.10 There shall be a sturdy bedside stand, chair, a desk or table, and reading light for the individual.
- 8.11 Each bedroom window shall have a window treatment that closes for privacy.
- 8.12 Individuals shall be encouraged, and assisted as needed, to decorate their bedrooms as they choose.

### **9.0 Bathrooms**

- 9.1 There shall be private toilet facilities with a shower or tub in good repair in each home. These facilities shall be accessible to the individual according to his/her needs and shall facilitate maximum independence.
- 9.2 Traffic to and from any room shall not be through a bedroom or bathroom except where a bathroom opens directly off the room it serves.
- 9.3 There shall be at least one (1) window or mechanical ventilation to the outside of the bathroom.
- 9.4 Toilets, bathing and toileting appliances shall be equipped for use by physically handicapped individuals, as dictated by such individuals' needs.
- 9.5 There shall be at least one (1) toilet of appropriate size for each four (4) individuals. Each toilet shall be equipped with a toilet seat and toilet tissue.
- 9.6 There shall be at least one (1) wash basin for each four (4) individuals.
- 9.7 There shall be at least one (1) tub or shower for each four (4) individual.
- 9.8 Wash basins shall be available in or immediately adjacent to bathrooms and/or toilet rooms.
- 9.9 Shower and tub areas shall be equipped with substantial hand-grip bars and slip-resistant floor surfaces.

### **10.0 Emergencies and Disasters**

- 10.1 Fire safety in Neighborhood Homes shall comply with the rules and regulations of the State Fire Prevention Commission or the appropriate local jurisdiction. All applications for a license or renewal of a license shall include a letter certifying compliance by the Fire Marshal with jurisdiction. Notification of non-compliance with the applicable rules and regulations shall be grounds for revocation of a license.
- 10.2 The home shall have a minimum of two means of egress.
- 10.3 The home shall have an adequate number of UL approved smoke detectors in working order.
  - 10.3.1 In a single level home, a minimum of one smoke detector shall be placed between the bedroom area and the remainder of the home.
  - 10.3.2 In a multi-story home, a minimum of one smoke detector shall be on each level. On levels which have bedrooms, the detector shall be placed between the bedroom area and the remainder of the home.

- 10.4 There shall be at least one functional two and one-half to five pound ABC fire extinguisher on each floor of living space in the home that is readily accessible, visible and mounted on the wall. Inspections shall be completed by the service company or as regulated by the Fire Marshal. Each extinguisher shall be checked annually.
- 10.5 The service provider shall have written procedures for meeting all emergencies and disasters such as fire, severe weather, and missing individuals; and such procedures shall be communicated to all staff.
- 10.6 The procedures shall assign specific personnel to specific tasks and responsibilities.
- 10.7 The procedures shall contain instructions related to the use of alarm and signal systems. Provisions shall be made to alert individuals living in the home according to their abilities, and these provisions shall be included in the procedures.
- 10.8 Evacuation routes and the location of fire-fighting equipment shall be posted in areas used by the public as required by the applicable fire safety regulations. The number and placement of postings are otherwise dictated by building use and configuration and by the needs of individuals and staff.
- 10.9 The service provider shall maintain an adequate communication system to ensure that on and off-duty personnel and local fire and safety authorities are notified promptly in the event of an emergency or disaster.
- 10.10 The telephone numbers of the nearest poison control center and the nearest source of emergency medical services shall be posted.
- 10.11 Provisions shall be made for emergency auxiliary heat and lighting by means of alternate sources of electric power, alternate fuels, and stand-by equipment, or arrangements with neighbors, other agencies or community resources.

#### **11.0 Evacuation Drills**

- 11.1 Drills shall be held quarterly for each shift with one drill per calendar month. Evacuation drills shall be held on different days, at different times, including times when individuals are asleep.
- 11.2 The location of egress during these evacuation drills shall be varied, with window evacuation procedures discussed as an alternative, if not practiced.
- 11.3 During drills, individuals shall be evacuated with staff assistance to the designated safe area outside of the home.
- 11.4 As evidenced by evacuation drill reports that are maintained by the Neighborhood Home, drills shall assure that all individuals and staff are familiar with the evacuation requirements and procedures. Any problems individuals have evacuating a building during a drill shall result in a written plan of specific corrective action(s) to be taken.
- 11.5 Individuals who are unable to achieve the exit schedule prescribed by the Life/Safety Code with available assistance shall be either relocated or provided with additional assistance.

#### **12.0 Waivers of Standards**

- 12.1 Specific standards may be waived by the Division of Long Term Care Residents Protection provided that each of the following conditions is met:
  - 12.1.1 Strict enforcement of the standard would result in unreasonable hardship on the provider.
  - 12.1.2 The waiver is in accordance with the particular needs of the individual.
  - 12.1.3 A waiver must not adversely affect the health, safety, welfare, or rights of any individual.
  - 12.1.4 Individuals may be informed of the waiver request and asked for input, as appropriate.
- 12.2 The request for a waiver must be made to the Division of Long Term Care Residents Protection in writing by the service provider with substantial detail justifying the request. The Division of Long Term Care Residents Protection will inform the service provider of its decision within 30 days of receipt of the written request.
- 12.3 A waiver granted by the Division of Long Term Care Residents Protection is not transferable to another Neighborhood Home provider in the event of a change in ownership.
- 12.4 A waiver shall be granted for a period up to the term of the license.

#### **13.0 Severability**

Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.

7 DE Reg. 505 (10/1/03)

14 DE Reg. 1360 (06/01/11)

15 DE Reg. 968 (01/01/12) (Prop.)

