

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES**  
**DIVISION OF LONG TERM CARE RESIDENTS PROTECTION**  
Statutory Authority: 16 Delaware Code, Section 1101 (16 **Del.C.** §1101)  
16 **DE Admin. Code** 3310

**FINAL**

**ORDER**

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

**NATURE OF THE PROCEEDINGS:**

The Department of Health and Social Services ("Department") / Division of Long Term Care Residents Protection (DLTCRP) initiated proceedings to establish Regulation 3310 Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities.

The Department's proceedings to establish the regulation was initiated pursuant to 16 Delaware Code §1101 and its authority as prescribed by 29 **Del.C.** §7971.

The Department published its notice of proposed regulation changes pursuant to 29 Delaware Code Section 10115 in April, 2017 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by, May 1, 2017, at which time the Department would receive information, factual evidence and public comment to the said proposed regulations.

**SUMMARY OF FINAL AMENDMENT**

The proposal establishes Regulation 3310 Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities. The proposed change will establish the regulation as required by Title 16 **Del.C.** §3007A.

**Statutory Authority**

16 **Del.C.** §1101

29 **Del.C.** §7971(D)(1) Subchapter VI "Department of Health And Social Services, Division of Long-Term Care Residents Protection."

**Background**

DLCTRP is revising these regulations pursuant to 16 **Del.C.** §1101, 29 **Del.C.** Ch.79.

**Summary of Final Amendment**

The proposal establishes regulation which detail the Department of Health and Social Services' authority to promulgate rules and regulations related to the Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities. The comments we received did not result in substantive revisions to the published proposed regulation. Therefore, we are publishing these regulations as final.

**SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE AND EXPLANATION OF CHANGES**

The proposal establishes Regulation 3310 Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities. The final change will establish the regulation as required by 16 **Del.C.** §1101.

**Comment 1:** DHSS should consider joint promulgation of regulations by both the DLTCRP and DDDS. By statute, DDDS is authorized to promulgate regulations covering neighborhood homes. See 29 **Del.C.** §7909A(c)(1) and (e). In the past, the DLTCRP and DDDS jointly promulgated the neighborhood home regulations. See 15 DE Reg. 968 (January 1, 2012). Sole promulgation by DLTCRP may render the regulations vulnerable to question in any enforcement action.

**Response:** DLTCRP disagrees. We conferred with the Department of Justice (DOJ) and Delaware Division of Disabilities Services (DDDS) as regulations were being revised.

**Comment 2:** In §1.0, the definition of "authorized representative" merits revision. On the one hand, it appears to limit an "authorized representative" to someone acting on behalf of a resident lacking decision-making capacity in the first and last sentences. On the other hand, it includes someone appointed under a POA, AHCD, or supportive decision-making agreement - all of which require the resident to have capacity. This is confusing. The section should be revised to encompass anyone authorized by law to act on the resident's behalf. Also, since minors can be Neighborhood Home residents, the definition of "authorized representative" should preferably be expanded to cover a parent or guardian of a

minor.

**Response:** The Division disagrees. The regulation covers all situations in which an authorized representative may function. The DLTCRP licenses Neighborhood Homes for adults only (18 years and older).

**Comment 3:** In §1.0, definition of "person centered plan", the grammar in the second sentence is incorrect. The list inconsistently includes nouns (people; strategies) and verbs (uses; offers). Compare the attached §7.3 from the Delaware Administrative Code Drafting & Style Manual.

**Response:** DLTCRP agrees and the definition was revised.

**Comment 4:** In §3.2.1, insert "at least" prior to "annually". Otherwise, a licensee could argue that DHSS can only conduct one inspection annually, i.e., there is a regulatory "cap" of one inspection annually.

**Response:** The DLTCRP agrees and the term was added.

**Comment 5:** In §4.2.15, a total ban on firearms on the premises of a neighborhood home could be challenged under the Second Amendment and the Delaware Constitution. See attached March 14, 2014 *News Journal* article describing Delaware Supreme Court ruling that WHA cannot limit firearms in common areas. See also Title 16 **Del.C.** §1121(25) and (29). The DLTCRP may wish to seek guidance from the Attorney General's Office in this context.

**Response:** The provision was in the previous regulations, and there are no changes.

**Comment 6:** the Division should consider adding a subsection to §5.4 which currently contemplates submission of plans only to DHSS. Under certain circumstances, the premises would be subject to review by the State Architectural Accessibility Board. See Title 29 **Del.C.** §7303.

**Response:** The DLTCRP disagrees. According to the State AAB website, it pertains to only State of Delaware government owned or leased facilities, or facilities constructed or altered with State funding, either in total or in part. These standards are followed in combination with the local building code and with the guidelines established under the Americans with Disabilities Act (ADA).

**Comment 7:** the only accessibility references in Section 5.4 are in the context of ramps. See, e.g., §§5.4.6 and 5.4.6.2. This is highly under inclusive. For example, a ramp for ingress and egress is of little use if doorways are narrow or bathrooms are inaccessible. A general reference at §5.6 is rather cryptic. The CMS Rule contemplates that "the setting is physically accessible to the individual" overall. See 42 C.F.R. 441.710(a)(1)(B).

**Response:** The DLTCRP disagrees. 5.3 Already includes local and state building codes which incorporates ADA standards.

**Comment 8:** Section 5.4.6 only requires a ramp if accommodating individuals who regularly require wheelchairs. One problem with this approach is that providers have no incentive to have accessible sites and individuals using wheelchairs are disproportionately excluded from the neighborhood home network. A second problem with this approach is that visitors using wheelchairs cannot enter the home.

**Response:** The DLTCRP disagrees. 5.3 Already includes local and state building codes which incorporates ADA standards.

**Comment 9:** There is some "tension" between §5.9.5 (requiring doors to be capable of being opened from either side at all times) and §5.10.7 (requiring lockable doors). The CMS Community Rule promotes resident privacy, including doors "lockable by the individual, with only appropriate staff having keys to doors". See 42 C.F.R. 441.710(a)(1)(B).

**Response:** The DLTCRP agrees and 5.10.7 has been revised.

**Comment 10:** Section 5.10.12 limits bedrooms to no more than two (2) individuals. It would be prudent to include a subsection noting that residents have some choice in roommates. See Title 16 **Del.C.** §1121(28). The CMS Rule is even more affirmative: "Individuals sharing units have a choice of roommates in that setting." 42 C.F.R. 441.710(a)(1)(B).

**Response:** DLTCRP disagrees and 8.0 Residents Rights requires compliance with Title 16 **Del.C.** §1121(28).

**Comment 11:** Section 6.2 contemplates manual entries in a medication administration record. If electronic entries are permissible in a data base (e.g. in THERAP), then this section may merit revision.

**Response:** The DLTCRP agrees and 6.2 has been revised.

**Comment 12:** Section 6.8.3.1 merits review. It generally includes elopement as a reportable incident only if an individual's whereabouts are unknown and the individual suffers harm. Many behavior plans include restrictions (e.g. line of sight or supervision standards). Section 6.8.3.1 does not account for violations of behavioral plans. Thus, an individual restricted to line of sight due to sex offenses could elope and the agency would not have to report the occurrence.

**Response:** The DLTCRP disagrees. Violations of a line of sight restriction would be covered by 6.8.2.

**Comment 13:** Section 6.8.4.2 characterizes injuries resulting in transfer to an acute care facility as a reportable incident. At a minimum, we recommend including "urgent care" facilities in this section. Anecdotally, we understand that a provider may have opted to take injured individuals to urgent care facilities to inferentially avoid reporting incidents. By analogy, the DSCY&F requires its providers to report any injury resulting in medical/dental treatment other than first aid provided on-site. See 9 DE Admin Code 103.15.22 and 103.32.0. This is manifestly a more protective standard.

**Response:** DLTCRP agrees and 6.8.4.2 has been revised.

**Comment 14:** Section 7.4 could be improved by incorporating the ADA standard that there should be no protrusion from the wall in excess of four inches. See attachments related to fire extinguishers.

**Response:** The DLTCRP disagrees. The Fire Marshall oversees the life safety regulations by issuing a report and this standard is in compliance with 5.3 which already includes local and state building codes which incorporates ADA standards.

**Comment 15:** Section 9.1.5 is overly restrictive in requiring all prescribed medications to be kept locked in a cabinet or lock box. An individual with asthma could not keep an emergency inhaler in his personal possession. An individual with dry skin could not keep a prescription skin moisturizer in his personal possession. The standard is also too brittle if staff are trying to train an individual to monitor and self-administer medications in anticipation of developing greater independence. Restricting access to an individually prescribed medication is not "normal" and the blanket policy of locking all prescribed medications may violate the CMS Community Rule. If there are less intrusive methods to achieve safety, they should be considered and restrictions only allowed if included in the person-centered service plan. See 42 C.F.R. 441.530 and 441.710(a).

**Response:** The Division disagrees. All medication is accessible to the individual via 24 hour staff.

**Comment 16:** We did not notice a "waiver of standards" provision analogous to the current regulation, §12.0. If this is an oversight, the Division may wish to include a comparable provision.

**Response:** The Division disagrees. Regulations are to ensure requirements are met and we do not want to deviate from the said requirements.

#### **Decision and Effective Date**

The Department of Health and Social Services finds that 3310 Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities shall be adopted. This regulation will be effective ten (10) days from the date of publication in the Delaware *Register of Regulations*.

**IT IS SO ORDERED** this 17th day of August, 2017.

Kara Odom Walker, MD, MPH, MSHS  
Secretary, DHSS

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

#### **4.0 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).~~

~~15 DE Reg. 1477 (04/01/12)~~

#### **2.0 Definitions**

~~"Advocate" An advocate can be a guardian, legal representative, or knowledgeable person who seeks to promote the person's best interest.~~

~~"Assessment" The process of gathering information as part of the Essential Lifestyle Planning process, including securing information about the individual's strengths, capacities, needs, preferences, and desired outcomes, health status and risk factors.~~

**“Choice”** The process by which people make selections from an array of options.

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

**“Essential Lifestyle Plan (ELP)”** – A comprehensive document that specifies the individual’s desired outcomes, needs, and preferences, and identifies the strategies to address each. The ELP indicates who developed and participated in the process, the timing of the plan and how and when it is updated, including updates in response to changing circumstances and needs. The ELP includes information from assessments conducted prior to the planning meeting. The ELP identifies how the individual/family/advocate is informed of services under the waiver and how the process ensures that the plan addresses the individual’s desired outcomes, needs, preferences and identified health/safety needs. The plan addresses the coordination of services and supports and assigns responsibility for the monitoring and oversight of all components of the individual’s plan.

**“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.

**“Guardian”** – A legal relationship in which the person has been authorized to make decision for another person who has been determined by a court to incompetent to manage his/her affairs and/or property.

**“General Event”** – Any event involving an individual receiving services which causes or could cause injury which has serious impact on the individual or others. A reportable General Event could include, but is not limited to: potential violations of an individual’s rights; an explained or unexplained injury; accidents requiring non-routine first aid or outside medical attention; an individual’s unauthorized absence, the involvement or potential involvement of the legal system/law enforcement; actions of an individual which is generally viewed as unacceptable social behavior in a community setting; significant destruction of property, any situation which necessitates an emergency restrictive procedure; events which could have an adverse impact on the individual or services; any situation which necessitates the use of a medical restraint; any deviation from a physician’s plan of treatment; Errors related to the documentation of a physicians treatment plan; life threatening or allergic reactions by an individual to medical treatment; the death of an individual regardless of cause.

**“General Event Report (GER)”** – The online incident reporting module which also includes the EMBIS (Emergency Medical and Behavioral Intervention Strategies) report, as required by the DDDS Behavior Support Policy.

**“Health Related Protection (HRP)”** – Any material or mechanical device, 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.

**“Individual”** – Term used throughout these regulations that ~~identifies~~ someone receiving services and supports.

**“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 within the community that serves up to 5 individuals with developmental disabilities 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.

**“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; significant errors or omissions in medication/treatment which cause the resident

discomfort or jeopardize the resident's health and safety; and incidents of physical altercations between 2 or more individuals in a residential or day program setting. 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 under contract 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.

#### **15 DE Reg. 1477 (04/01/12)**

### **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 a complete statement listing all charges for services, materials and equipment that shall, or may be, furnished to the person during the period of residency as part of the admission agreement to all individuals/family/guardian/advocate.~~
- 3.10 ~~Each Neighborhood Home provider shall provide a written statement at the time of admission that includes the refund and prepayment policy; and clarifies responsibility in the event of a retroactive denial in the case of a third party payment.~~
- 3.11 ~~Each Neighborhood Home service 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.~~

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

#### **15 DE Reg. 1477 (04/01/12)**

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

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

- 4.1 Choice
  - 4.1.1 Essential Lifestyle Plan contains documentation that the individual was supported to make informed choice about his/her service providers.

- 4.1.1.1 ~~The individual/family/advocate indicates that opportunities were given regarding choice of providers.~~
- 4.1.1.2 ~~Documentation is present to indicate that the individual was informed of his/her right to choose among service providers.~~
- 4.1.1.3 ~~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.~~
- 4.1.2 ~~The individual's lifestyle, personal activities, routines and supports is based on personal choice.~~
  - 4.1.2.1 ~~The individual is supported to make choices in all areas of his/her life.~~
  - 4.1.2.2 ~~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 ~~The individual is treated as a valued and respected individual~~
    - 4.2.1.1 ~~The individual is treated in a respectful and dignified manner.~~
    - 4.2.1.2 ~~If the individual/family/advocate has a complaint, the service provider addresses the concern in a timely manner.~~
    - 4.2.1.3 ~~The individual decides when and with whom to share personal information.~~
    - 4.2.1.4 ~~The individual is free from unnecessary restraints/restrictions. Surveillance cameras/monitors are prohibited in private areas such as bedrooms and bathrooms unless the individual has extraordinary circumstances that deem constant monitoring. The use of cameras needs approval by PROBIS and HRC with final approval by the DDDS director/designee.~~
    - 4.2.1.5 ~~The individual has access to all areas of his/her environment.~~
  - 4.2.2 ~~The individual is free from physical and emotional harm.~~
    - 4.2.2.1 ~~The individual's incidents and accidents are reported and followed up as appropriate.~~
    - 4.2.2.2 ~~The Policy Memorandum 46 (PM46) policy for reporting abuse, assault, attempted suicide, mistreatment, neglect, financial exploitation and significant injury is followed.~~
  - 4.2.3 ~~The individual is supported to exercise his/her rights and responsibilities.~~
    - 4.2.3.1 ~~The individual's rights and responsibilities are reviewed with the individual/guardian, legal representative or advocate at least annually.~~
    - 4.2.3.2 ~~If the individual has a rights restriction, DDDS policy and procedures are followed.~~
    - 4.2.3.3 ~~The Individual Rights Complaint Policy is posted within the residence and the individual/family/advocate has access to the Individual Rights Complaint form.~~
    - 4.2.3.4 ~~The Patient's Bill of Rights (Title 16) is posted in a conspicuous location within the residence to ensure easy access by individuals served.~~
    - 4.2.3.5 ~~The service provider complies with the Patient's Bill of Rights (Title 16).~~
  - 4.2.4 ~~The service provider completes all required documentation per the DDDS Behavioral/Mental Health/Health Related Protection policies.~~
    - 4.2.4.1 ~~Peer Review of Behavior Intervention Strategies (PROBIS), Human Rights Committee (HRC), and Health Related Protection (HRP) reviews are completed per policy.~~
    - 4.2.4.2 ~~Consents are obtained annually, as otherwise specified, or whenever a change occurs.~~
    - 4.2.4.3 ~~The Individual's Rights Restriction form is completed and reviewed at least annually by HRC or whenever additional rights are restricted.~~
  - 4.2.5 ~~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.~~
    - 4.2.5.1 ~~The individual has access to his/her funds.~~
    - 4.2.5.2 ~~The individual is supported to manage his/her funds to the greatest extent possible.~~
    - 4.2.5.3 ~~The individual's Personal Spending Record (PSR) is reviewed as outlined by DDDS policy to ensure that the individual's money is safeguarded.~~
    - 4.2.5.4 ~~Authorizations for expenditures are present as required by policy.~~
    - 4.2.5.5 ~~Documentation is present for expenditures as required by policy.~~
    - 4.2.5.6 ~~Discrepancies in the individual's funds are addressed in a timely manner.~~
    - 4.2.5.7 ~~The individual's funds are not co-mingled.~~
    - 4.2.5.8 ~~The individual's funds are kept in a secure manner.~~
    - 4.2.5.9 ~~Resource and personal spending issues effecting eligibility for services are handled immediately.~~
- 4.3 ~~Health and Wellness~~

- 4.3.1 ~~The individual receives routine medical/mental health care services, including preventative health screenings as indicated.~~
  - 4.3.1.1 ~~Lab work is completed in a timely manner: as ordered or within 5 working days of receipt of order.~~
  - 4.3.1.2 ~~Necessary screenings/appointments are scheduled within 5 working days of receipt of order or per doctor's order.~~
  - 4.3.1.3 ~~The service provider advocates for any other screenings when indicated by the individual's needs.~~
  - 4.3.1.4 ~~The individual receives all required medical and mental health care.~~
  - 4.3.1.5 ~~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.~~
- 4.3.2 ~~Each individual's health and immunization history shall be updated continuously.~~
  - 4.3.2.1 ~~Documentation is present to indicate that the individual's current health and immunization history is updated on a continuous basis.~~
- 4.3.3 ~~Individuals receive PPD screenings as mandated.~~
  - 4.3.3.1 ~~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.~~
  - 4.3.3.2 ~~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.~~
  - 4.3.3.3 ~~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.~~
  - 4.3.3.4 ~~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.~~
  - 4.3.3.5 ~~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.~~
- 4.3.4 ~~The individual receives medication as ordered.~~
  - 4.3.4.1 ~~Annual/current orders are present for all medications.~~
  - 4.3.4.2 ~~Non-routine medications are obtained immediately upon receipt of Physician's order.~~
  - 4.3.4.3 ~~Medication labels and Medication Administration Records match the Physician's Orders for the medication.~~
  - 4.3.4.4 ~~A three-day supply of medications is available at all times.~~
  - 4.3.4.5 ~~PRN medications have protocols for how/when the medication should be given.~~
  - 4.3.4.6 ~~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.~~
  - 4.3.4.7 ~~The individual's family/guardian/advocate is notified promptly when any new medication is prescribed.~~
- 4.3.5 ~~The individual's medication regimen is managed according to the DDDS Assistance with Self-Administration of Medication (AWSAM) curriculum.~~
  - 4.3.5.1 ~~Medication shall be taken exactly as indicated on the label.~~
  - 4.3.5.2 ~~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.~~
  - 4.3.5.3 ~~Each dose administered shall be recorded by date, time and initials of person or persons assisting.~~
  - 4.3.5.4 ~~Medication errors are addressed immediately.~~
  - 4.3.5.5 ~~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.)~~
  - 4.3.5.6 ~~Side effects sheets are present for all medication the individual receives.~~
- 4.3.6 ~~Medication is stored and disposed of as required by State and Federal policies.~~

- 4.3.6.1 Medication is in the original container and properly labeled except for medications for individuals approved for self-administration of medication. Those medications may be stored in weekly dose containers.
- 4.3.6.2 Medications to be applied externally shall be distinguishable from medications to be taken internally by means of packaging, labeling and segregation within storage areas.
- 4.3.6.3 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.
- 4.3.6.4 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.
- 4.3.6.5 Discontinued and outdated medications and containers with illegible or missing labels shall be promptly disposed of in a safe manner.
- 4.3.6.6 Controlled substances shall be double locked.
- 4.3.7 Individuals are supported to participate in Assistance with Self-Administration or to self-medicate to the best of his/her ability and interest.
  - 4.3.7.1 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.
  - 4.3.7.2 Assessments for self-medication are completed at least annually or more often, if needed, for individuals who desire to self-medicate.
- 4.3.8 The individual's nutritional needs are met.
  - 4.3.8.1 The individual has a nutrition assessment completed upon initiation of services.
  - 4.3.8.2 The individual has a nutritional re-assessment when deemed necessary.
  - 4.3.8.3 Medically prescribed diets are monitored by nurse/dietitian.
  - 4.3.8.4 Food is served according to prescribed diets as applicable to the individual's needs.
  - 4.3.8.5 Individuals are offered a balanced diet, healthy choices, and are supported to participate in food selection and preparation across settings.
  - 4.3.8.6 Records of food served are maintained by the service provider for three months.
- 4.4 Relationships and Community Membership
  - 4.4.1 The individual has relationships he or she chooses, is supported to maintain existing relationships, and experiences opportunities to develop new relationships as desired.
    - 4.4.1.1 The individual indicates that he/she has valued relationships.
    - 4.4.1.2 The service provider supports the individual in learning about, developing new, and/or maintaining existing relationships.
  - 4.4.2 The individual has opportunities to participate in activities at home, at work, in the community and during leisure time that he/she chooses.
    - 4.4.2.1 The individual indicates that he/she participates in activities of his/her choice.
    - 4.4.2.2 Documentation indicates that the individual is participating in chosen activities.
    - 4.4.2.3 Activities are offered at a frequency that the individual chooses.
    - 4.4.2.4 The service provider addresses any of the individual's concerns regarding activities, relationships and community membership.
- 4.5 Assistive Technology
  - 4.5.1 The individual has assistive technology to maximize independence.
    - 4.5.1.1 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.
    - 4.5.1.2 The individual has access to his/her equipment.
    - 4.5.1.3 The individual is supported to be as independent as possible in the use of his/her equipment.
    - 4.5.1.4 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.
    - 4.5.1.5 When needed, interpreters are used to support the individual in communication.



- 4.5.2 The individual's adaptive or assistive devices or supports shall be clean and in good repair at all times.
  - 4.5.2.1 The individual's equipment is in good repair.
  - 4.5.2.2 The individual's equipment is clean.
  - 4.5.2.3 Alternative arrangements are in place in order to prevent the individual from going without needed supports during periods of repair, replacement, cleaning or foreseeable loss.
  - 4.5.2.4 The individual's Essential Lifestyle Plan reflects what provider of service is responsible for the continued upkeep of the adaptive or assistive device.

#### 4.6 Individual Planning and Implementation

- 4.6.1 Upon initiation of services, an Essential Lifestyle Plan that documents a individual's needs, preferences, and his/ her selected supports and services are developed for and with the individual.
  - 4.6.1.1 The individual's profile plan with needed information to serve the individual is present at initiation of services.
  - 4.6.1.2 Prior to the development of the Essential Lifestyle Plan (ELP), documentation is present that needs and preferences indicated in the individual's profile are being addressed by the service provider.
  - 4.6.1.3 All necessary assessments, including an assessment of the individual's desired outcomes, are completed within 30 days of initiation of services and are accessible for purposes of program planning.
  - 4.6.1.4 A community based work assessment is completed upon initiation of services by the day service provider and is accessible for the purposes of program planning.
  - 4.6.1.5 The ELP meeting is held within 60 days of initiation of services.
  - 4.6.1.6 The ELP is implemented within 90 days of the initiation of services.
- 4.6.2 The Plan of Care is developed in accordance with DDS policies and procedures.
  - 4.6.2.1 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.
  - 4.6.2.2 Meetings to develop or update the ELP are held at times and locations selected by the individual.
  - 4.6.2.3 The ELP includes all services and supports that the individual chooses and/or needs.
  - 4.6.2.4 The ELP has administrative/designee oversight and approval.
  - 4.6.2.5 Responsibilities for the provision of services and supports are defined.
  - 4.6.2.6 Upon development of the plan, documentation reflects that the plan was shared with all service providers and that they have reviewed the current plan.
  - 4.6.2.7 The ELP is shared with the individual/family/guardian/advocate.
- 4.6.3 The individual's services and supports provided are aligned with his/her needs as defined in the Essential Lifestyle Plan.
  - 4.6.3.1 Services and/or supports to address the needs of the individual are clearly defined within the ELP.
  - 4.6.3.2 For individuals who use adaptive, corrective, mobility, orthotic, prosthetic, communication or other assistive devices or supports, the individual's ELP 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.
- 4.6.4 The individual's services and supports provided are aligned with his/her preferences as defined in the Essential Lifestyle Plan.
  - 4.6.4.1 Services and/or supports to address the individual's preferences are clearly defined within the ELP.
  - 4.6.4.2 Preferences which may take long-term planning shall be included within the ELP and evidence present that the team is making efforts to support the individual in achieving his/her desires.
- 4.6.5 The Essential Lifestyle Plan addresses efforts to support the individual's advancement towards meaningful participation and/or employment in their communities.
  - 4.6.5.1 If the individual who has community employment indicates a desire to increase his hours of employment, the ELP should reflect goals for increasing the number of hours of employment.
  - 4.6.5.2 If the individual is not working in a community setting and expresses a desire to work in a community setting, the ELP should reflect that efforts are being made to achieve employment in a community setting.
  - 4.6.5.3 If an individual is not working in a community setting, a community based work assessment should be completed upon the individual's request and/or at least every three years to determine if employment within the community would be a viable option for the individual.

- 4.6.5.4 If an individual expresses a desire not to work, the ELP reflects that the individual is given opportunities for meaningful community participation.
- 4.6.5.5 If an individual expresses a desire to retire, the ELP reflects that efforts are being made to achieve the individual's expressed desire to retire.
- 4.6.6 The individual's Essential Lifestyle Plan is reviewed and revised before the annual review date.
  - 4.6.6.1 All necessary assessments, including an assessment of the individual's desired outcomes are completed prior to the annual ELP meeting and assessable for purposes of program planning.
  - 4.6.6.2 The individual's ELP meeting is held within at least 365 days of the previous meeting.
- 4.6.7 The Essential Lifestyle Plan indicates that services and supports are revised when an individual's needs and/or preferences change.
  - 4.6.7.1 All components of the ELP are present for implementation within 30 days of the meeting.
  - 4.6.7.2 Documentation reflects ongoing revision as necessary.
- 4.6.8 Services are delivered in accordance with the Essential Lifestyle Plan with regard to scope, amount and duration/frequency.
  - 4.6.8.1 Scope All components of service delivery are specified in the plan.
  - 4.6.8.2 Amount Number of units of services is specified in the plan (i.e. daily, hourly, ½ hour, etc.).
  - 4.6.8.3 Duration How long services are to be delivered is specified in the plan (i.e. 1 month, 6 months, 1 year, etc.).
  - 4.6.8.4 Frequency Services are being delivered as often as indicated in the plan (i.e. 3 times a day, 3 times a week, etc.).
- 4.6.9 The individual's State Case Manager visits the individual for the purpose of reviewing the ELP on at least a monthly basis.
  - 4.6.9.1 Documentation is present that the State Case Manager has visited the individual at least monthly, and has reviewed all components of the ELP to ensure services are adequate and there are no changes in the individual's needs or status.
- 4.6.10 The individual's Residential Service Provider Program Coordinator completes at least monthly reviews of the implementation of the individual Essential Lifestyle Plan.
  - 4.6.10.1 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 ELP.
- 4.6.11 Each service provider shall monitor, review, analyze, and observe all components of the individual's Essential Lifestyle Plan where they provide service and document information on the individual's plan on a frequency indicated in the ELP.
  - 4.6.11.1 The service provider's ongoing documentation reflects areas where the service provider has responsibility.
  - 4.6.11.2 There is documented evidence that the applicable service provider has observed and monitored the implementation of the individual's plan on an ongoing basis.
- 4.6.12 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.
  - 4.6.12.1 The individual's concerns/issues with the plan have been addressed with the individual/family/advocate in a timely manner.
  - 4.6.12.2 The applicable service provider has shared concerns with the individual's other service providers as necessary to ensure ongoing service provision.
  - 4.6.12.3 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 The service provider is delivering services in accordance with the DDDS Contract and the individual's Plan of Care.
  - 4.7.1.1 The services that are provided by the service provider meet the operational definitions as outlined by DDDS.
  - 4.7.1.2 Any billing of services should accurately reflect the type, scope, duration and amount of service delivered by the service provider.
- 4.7.2 The service provider shall comply with all applicable DHSS and DDDS policies.

- 4.7.2.1 Policies are available to service provider staff.
- 4.7.2.2 The service provider follows DDDS and DHSS policies and procedures.
- 4.7.2.3 Staff demonstrate knowledge of applicable policies and procedures.
- 4.7.3 The service provider supports growth and change to continually improve services to individuals.
  - 4.7.3.1 The service provider has policies that support self-determination principles and DDDS philosophy.
  - 4.7.3.2 The service provider actively solicits and uses input from individuals.
  - 4.7.3.3 The service provider has an internal quality management system and submits semi-annual agency performance reports to DDDS.
- 4.7.4 The service provider is in compliance with major environmental/safety standards.
  - 4.7.4.1 Accessible accommodations are present to assure the individual's access to support and service environments.
  - 4.7.4.2 Safe service and support environments are free of safety hazards.
  - 4.7.4.3 Sanitary service and support areas are maintained in sanitary condition.
  - 4.7.4.4 Home like service and support areas are personalized to display the choices and interests of the individual and create a comfortable home like environment.
  - 4.7.4.5 Food supplies are provided in adequate quantities at least a three day supply of food in addition to a 3 day supply of non-perishable food, is available in residential sites at all times.
  - 4.7.4.6 Food is stored in a safe and sanitary environment.
- 4.7.5 Service providers have adequate procedures and plans for emergencies, disaster fire drills and evacuation needs.
  - 4.7.5.1 Emergency/Disaster Plans present/updated.
  - 4.7.5.2 Fire drills completed per site requirement (Residential once per shift per quarter, Facility Based Day Services once per quarter).
  - 4.7.5.3 Fire Suppression Equipment if present.
  - 4.7.5.4 Emergency numbers available.
  - 4.7.5.5 Staff demonstrate knowledge of emergency procedures.
  - 4.7.5.6 Evacuation/Relocation Plans present. The Emergency/Relocation Plan reflects knowledge of the resources that will identify accessible emergency shelters.
  - 4.7.5.7 A supply of oxygen and battery packs are available as deemed necessary.
  - 4.7.5.8 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.
  - 4.7.5.9 An emergency supply of medications is available.
- 4.7.6 The individual has accessible, well-maintained transportation available.
  - 4.7.6.1 The transportation system operated by, or under contract to, the home shall meet local and state licensing, inspection, insurance, and capacity requirements.
  - 4.7.6.2 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.
  - 4.7.6.3 Emergency transportation shall be available on a 24-hour basis
  - 4.7.6.4 The service provider shall provide or arrange transportation for a individual's routine medical and dental care.
  - 4.7.6.5 Fire Suppression Equipment is present.
  - 4.7.6.6 First Aid Supplies are present.
  - 4.7.6.7 The vehicle is in good repair.
  - 4.7.6.8 Emergency information is present.
  - 4.7.6.9 Wheelchair lifts, ramps, etc. are safe and operate properly.
- 4.8 Staff Stability and Competency
  - 4.8.1 The service provider abides by all DHSS/DDDS background screening policies and applicable State of Delaware Laws.
    - 4.8.1.1 Federal and State Criminal background checks are completed per contract requirements on staff.
    - 4.8.1.2 Adult registry check is completed on staff, per contract requirements.
    - 4.8.1.3 Child registry check is completed on staff, per contract requirements.
  - 4.8.2 Ten-step Drug testing is completed on staff (per service provider contract) that includes the following:

- 4.8.2.1 Marijuana/cannabis
- 4.8.2.2 Cocaine
- 4.8.2.3 Opiates including heroin
- 4.8.2.4 Phencyclidine (PCP)
- 4.8.2.5 Amphetamines
- 4.8.2.6 Barbiturates
- 4.8.2.7 Benzodiazepine
- 4.8.2.8 Methadone
- 4.8.2.9 Methaqualone
- 4.8.2.10 Propoxyphene
- 4.8.3 ~~Drivers of vehicles shall have valid and appropriate driver's licenses.~~
- 4.8.4 ~~All personnel required by Delaware State law to practice with a professional license have provided legal documentation of current, authorized licenses.~~
- 4.8.5 ~~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.~~
- 4.8.6 ~~Service providers shall comply with the following PPD screening requirements:~~
  - 4.8.6.1 ~~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.~~
  - 4.8.6.2 ~~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.~~
  - 4.8.6.3 ~~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.~~
  - 4.8.6.4 ~~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.~~
  - 4.8.6.5 ~~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.~~
- 4.8.7 ~~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.~~
  - 4.8.7.1 ~~There is documentation that all staff have been trained according to the DDDS training policy.~~
  - 4.8.7.2 ~~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.~~
    - 4.8.7.2.1 ~~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.~~
    - 4.8.7.2.2 ~~Staff are observed to assist the individual with medications according to the AWSAM curriculum.~~
    - 4.8.7.2.3 ~~Staff whose medication certification is expired shall not assist with medications.~~
- 4.8.8 ~~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.~~
  - 4.8.8.1 ~~Staff are provided specialized training according to the individual's needs.~~
  - 4.8.8.2 ~~Training is updated as needed.~~
- 4.8.9 ~~Staff demonstrate competency and knowledge of the individual's programming.~~
  - 4.8.9.1 ~~Staff reflect knowledge of DDDS and DHSS policies and procedures as indicated by staff response to questions and observation.~~
  - 4.8.9.2 ~~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.~~
  - 4.8.9.3 ~~Staff treat the individual with dignity and respect.~~

4.8.9.4 The staff demonstrate an understanding of when the individual should use adaptive equipment or assistive technology.

#### 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 persons 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 General Event Reports (GER), with adequate documentation, shall be completed for each general event. Adequate documentation shall consist of the name of the individual(s) involved; the date, time and place of the general event; a description of the general event; 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. General Event Reports (GERs) shall be kept on file by the service provider. Reportable incidents shall be communicated immediately to the Division of Developmental Disabilities Services.

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#### 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.

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**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. The dishwasher must either have a sanitizing cycle or the home must use a dishwasher detergent with bleach.~~
- 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.~~

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**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.~~

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**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. Neighborhood homes licensed subsequent to the implementation of these regulations shall provide at least 80 square feet per person.~~
- 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 stature 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.

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**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 challenged 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.

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**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 staff on duty 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.

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**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.

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**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.

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**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.

**3310 Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities**

**1.0 Purpose**

To promote the health, safety and well-being of all individuals living in neighborhood homes and to ensure that the providers are held accountable for services provided. In addition to these regulations, providers must comply with the requirements of Division of Developmental Disabilities Services (DDDS).

**2.0 Definitions**

**"Abuse"** means the term as defined in 16 Del.C. Ch. 11.

**"Authorized Representative"** means the person, on behalf of an individual without decision-making capacity, who has the highest priority to act for the individual under law, and who has the authority to make decisions on behalf of the individual. The individual's authorized representative could be a person designated by an individual under an advance health-care directive, an agent under a medical durable power of attorney for health-care decisions or financial decisions, a guardian of the person appointed pursuant to 12 Del.C. Chs. 39 and 39A, in accordance with the authority granted by the appointing court, a surrogate appointed under 16 Del.C. Ch. 25, a person designated by an individual pursuant to 16 Del.C. Ch. 94A, or an individual who is



otherwise authorized under applicable law to make the decisions on the individual's behalf, if the individual lacks decision-making capacity.

"Aversive Interventions" means those interventions intended to inflict pain, discomfort and/or social humiliation or any intervention as perceived by the individual to inflict pain, discomfort or social humiliation in order to reduce behavior. Examples of aversive interventions include, but are not limited to, electric skin shock, liquid spray to one's face and strong, non-preferred taste applied to the mouth. (National Association of State Directors of Developmental Disabilities Services (NASDDDS) Research Committee-11/11/2014)

"Choice" means the process by which people make selections from an array of options.

"DDDS" means the Division of Developmental Disabilities Services.

"Department" means the Department of Health and Social Services.

"DLTCRP" means the Division of Long Term Care Residents Protection.

"Financial Exploitation" means the term as defined in 16 Del.C. Chapter 11.

"Incident" means an unexpected and usually unpleasant occurrence that interrupts normal procedure or functioning.

"Individual" means a person living in a neighborhood home in the community who receives authorized services and/or supports through the DDDS.

"Mistreatment" means the term as defined in 16 Del.C. Chapter 11.

"Neglect" means the term as defined in 16 Del.C. Chapter 11.

"Neighborhood Home" means a residence for no more than five (5) individuals that is fully integrated in the community, not on the grounds of an institution, has shared common living areas and is where the individual chooses to live. These homes offer 24 hour supports to individuals with intellectual and/or developmental disabilities.

"Person Centered Plan" means the Life Span Plan or other plan approved by DDDS. This plan includes the following elements: people chosen by the individual; [reflects] cultural considerations; [uses] plain language; strategies for solving disagreements; [offers] informed choice[s] to the individual regarding services and supports that the individual receives and from whom; and [provides] a method to request updates.

"Provider" means an entity that has been authorized and approved in accordance with the standards of DDDS to provide services to meet the specialized needs of individuals' with intellectual and developmental disabilities.

"Reportable Incident" means an occurrence, event or suspicion of same which must be reported immediately to the DDDS and within 8 hours to the DLTCRP.

"Rights Complaint" means an allegation that an individual's rights have been violated.

"Safety" means 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" means the promotion of hygiene and prevention of disease by the maintenance of uncontaminated conditions.

"Support" means 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 No person shall establish, conduct or maintain in this State any neighborhood home without first obtaining a license from the Department.**

#### **3.1.1 Issuance of Licenses**

##### **3.1.1.1 Initial License**

**3.1.1.1.1 An initial license approval will be granted to those applicants who meet the requirements for licensure.**

**3.1.1.1.2 Once an initial license approval has been issued the applicant may accept residents.**

**3.1.1.1.3 An initial license shall be issued when the first resident moves in and shall be for a term of six (6) months, during which a follow-up inspection will be conducted.**

**3.1.1.1.3.1 If the applicant meets the licensing requirement at the end of the six (6) month period, an annual license for the remainder of the licensure year will be issued.**

**3.1.1.1.3.2 If the applicant does not meet the requirements but shows the ability to meet the requirements a provisional licensed may be issued for a period of 90 days pending the implementation of corrective actions.**

### 3.1.1.2 Provisional License:

3.1.1.2.1 A provisional license may be granted for a period of 90 days to a neighborhood home that, after inspection by the Department, is not in substantial compliance with these rules and regulations but has demonstrated the ability and willingness to comply within the 90-day period.

3.1.1.2.2 The Department shall designate the conditions and the time period under which a provisional license is issued.

3.1.1.2.3 A provisional license may not be renewed.

3.1.1.2.4 A license will not be granted pursuant to subsection 3.1.1.2 after the provisional licensure period to any neighborhood home that is not in substantial compliance with these rules and regulations.

### 3.1.1.3 Annual License:

3.1.1.3.1 A license shall be granted, for a period of one year (12 months), to all neighborhood homes which are and remain in substantial compliance with these rules and regulations.

3.1.1.3.2 A license shall be effective for a twelve-month period following date of issue and shall expire one year following such date, unless it is: modified to a provisional license, suspended, revoked, or surrendered prior to the expiration date.

3.1.1.3.3 All applications for renewal of licenses shall be filed with the Department at least 30 days prior to expiration.

3.1.1.3.4 A license will not be issued to a neighborhood home which is not in substantial compliance with these regulations and/or whose deficient practices present an immediate threat to the health and safety of its residents.

## 3.1.2 Suspension or Revocation of Licenses

3.1.2.1 The Department may suspend or revoke a license issued under this chapter for good cause, including but not limited to the following:

3.1.2.1.1 Violation of any of the provisions of these rules and regulations or 16 Del.C. Ch. 11.

3.1.2.1.2 Deficiencies which present a threat to the health and safety of residents.

3.1.2.1.3 Permitting, aiding, or abetting the commission of any illegal act in the neighborhood home.

3.1.2.1.4 Conduct or practices which the Department determines pose a serious threat to the health and safety of a resident or residents.

3.1.2.1.5 Refusal to allow the Department access to the neighborhood home to conduct surveys/ investigations as deemed necessary by the Department.

3.1.2.2 Before any license issued under this chapter is suspended or revoked, the Department shall give 10 calendar days written notice to the holder of the license, during which the holder may appeal for a hearing before the Secretary of the Department or her/his designee.

3.1.2.3 The holder of the license may, within such 10-day period, give written notice of the desire to have a hearing.

3.1.2.3.1 The due process protections of notice and opportunity to be heard shall be provided to facilities and the hearing process shall be consistent with the Administrative Procedures Act, 29 Del.C. Ch. 101.

## 3.1.3 Fees

3.1.3.1 Fees shall be in accordance with 16 Del.C. Ch. 11.

3.1.4 A license is not transferable from provider to another or from one location to another.

3.1.5 A new license shall be required in the event of a change in the neighborhood home management company, building owner or controlling person.

3.1.6 The license shall be readily available in the neighborhood home for which it was issued.

## 3.2 Inspection

3.2.1 Every neighborhood home for which a license has been issued under this chapter shall be inspected [at least] annually.

## 3.3 Application Process

3.3.1 All persons or entities applying for a license shall request a licensure application from the Department.

3.3.2 The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the Department.

3.3.3 Providers applying for an initial license, must submit:

3.3.3.1 Evidence of a satisfactory compliance history, as appropriate, during the preceding five years.

- 3.3.3.2 A list of all facilities managed, owned or controlled by the applicant or associated entity in any jurisdiction during the preceding five years.
- 3.3.3.3 Financial information as required by the Department.
  - 3.3.3.3.1 Financial information disclosed to the Department shall not be subject to Freedom of Information Act requests.
- 3.4 Separate licenses are required for separate homes maintained in separate locations, regardless of their proximity, even though operated by the same provider.
- 3.5 All required records maintained by the Neighborhood Home shall be open to inspection by the authorized representatives of the 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 The Department shall be notified in writing of any changes in the ownership or management of a neighborhood home.
- 3.9 Each provider shall provide a complete statement listing all charges for services, materials and equipment that shall, or may be, furnished to the individual during the period of residency as part of the admission agreement to all individuals and authorized representatives.
- 3.10 Each provider shall provide a written statement at the time of admission that includes the refund and prepayment policy; and clarifies responsibility in the event of a retroactive denial in the case of a third party payment.
- 3.11 Each provider shall cooperate fully with the Medicaid Fraud Control Unit and the state protection and advocacy agency, as defined in 16 **Del.C.** §1102(7), in fulfilling functions authorized by 16 **Del.C.** Ch. 11.

#### **4.0 Policies and Procedures**

- 4.1 The provider shall maintain and comply with a written policy and procedure manual.
  - 4.1.1 The manual must be updated as necessary to comply with changes in state and/or federal laws and regulations.
  - 4.1.2 The manual must be reviewed at least annually.
  - 4.1.3 Staff must be notified promptly of changes and provided necessary education.
- 4.2 The provider shall establish written policies and procedures regarding:
  - 4.2.1 Individuals owning, renting, or occupying the premises:
    - 4.2.1.1 Under a legally enforceable agreement have the same protections from eviction that other tenants have under the Delaware Landlord Tenant Code 25 **Del.C.** Ch. 53.
    - 4.2.1.2 Are protected under Delaware Administrative Code 3102 Long Term Care Transfer, Discharge and Readmission Procedures.
  - 4.2.2 Behavior support that uses person-centered positive behavior support techniques that are consistent with the DDDS policies/standards and that are monitored by DDDS.
  - 4.2.3 The utilization of reportable incident data to track trends in and help prevent further incidents.
  - 4.2.4 The system for reporting and processing of reportable incidents.
  - 4.2.5 Open communication with persons of the community in which the neighborhood home is located in order to facilitate the individual's community integration.
  - 4.2.6 Criminal background check and drug testing laws as required under 16 **Del.C.** Ch. 11.
  - 4.2.7 The implementation and documentation of the person-centered plan.
  - 4.2.8 Employment/Personnel which shall include:
    - 4.2.8.1 Qualifications, responsibilities and requirements for each job classification;
    - 4.2.8.2 Pre-employment requirements;
    - 4.2.8.3 Position descriptions;
    - 4.2.8.4 Orientation for all employees and contractors including any guidelines for specialized training;
    - 4.2.8.5 Inservice education policy; and
    - 4.2.8.6 Annual performance review and competency testing.
  - 4.2.9 The rights of individuals and individual rights complaints.
  - 4.2.10 The safeguarding of the individuals' funds while still allowing access to the individuals' funds at all times.
  - 4.2.11 Control of the exposure of individuals and staff to persons with communicable diseases.
  - 4.2.12 Infection prevention and control.

- 4.2.13 Limited lay administration of medication (LLAM).
- 4.2.14 Maintenance (including electrical maintenance) and cleaning procedures, storage of cleaning materials and/or pesticides and other toxic materials.
- 4.2.15 The prohibition of firearms on the premises of the neighborhood home.

## **5.0 Environment**

### **5.1 Site Provisions**

- 5.1.1 Each neighborhood home shall be located on a site which is considered suitable by the Department.
- 5.1.2 The site must be safe, easily drained, must be suitable for disposal of sewage and furnishing a potable water supply.
- 5.1.3 The exterior of the site shall be free from hazards and also from the accumulation of waste materials, obsolete and unnecessary articles, tin cans, rubbish, and other litter.

5.2 The neighborhood home must have a safe and sanitary environment, properly constructed, equipped, and maintained to protect the health and safety of residents.

5.3 The neighborhood home shall comply with all local and state building codes and ordinances as pertain to this occupancy.

### **5.4 Physical Plant**

5.4.1 All construction - new, renovations, or remodeling - must conform to the local building codes, current at the time of construction.

5.4.2 When a neighborhood home plans to construct or extensively remodel a licensed home or convert a building to a licensed home, it shall submit one copy of properly prepared plans and specifications for the entire home to the Department.

5.4.2.1 An approval, in writing, shall be obtained before such work is begun.

5.4.2.2 All completed construction, extensive remodeling or conversions shall remain in accordance with the plans and specifications, as approved by the Department.

5.4.2.3 The Department must visit the site upon completion of the work to ensure that the work was completed according to plans submitted.

### **5.4.3 Windows**

5.4.3.1 Window space shall not be less than one tenth (1/10) of the floor space.

5.4.3.1.1 Up to 25% reduction may be allowed when approved mechanical ventilation is utilized in multi-bed rooms.

5.4.3.2 All windows in rooms to be used by individuals are to be constructed to eliminate drafts and to provide adequate light and ventilation.

5.4.3.3 All windows designed to open and shut must be functional.

5.4.4 The building shall be constructed and maintained to prevent the entrance, and control the existence, of rodents and insects.

5.4.4.1 All exterior openings shall be effectively screened.

5.4.4.2 Screen doors shall open outward and shall be equipped with self-closing devices.

5.4.4.3 All screening shall have at least 16 mesh per inch.

5.4.5 Individual bedrooms shall open directly into a corridor.

~~5.4.6 Neighborhood homes accommodating individuals who regularly require wheelchairs shall be equipped with ramps.~~

~~5.4.6.1 Egress ramps must be located at the primary means of egress.~~

~~5.4.6.1.1 A secondary means of egress that is independent and remotely located from the primary means of egress must be provided to the outside of the dwelling at street/ground level or open to an exterior balcony.~~

~~5.4.6.2 Ramps must be compliant with the standards outlined in Americans with Disabilities Act (ADA).]~~

~~5.4.6] 5.4.6] The physical dimensions of the home will provide, as a minimum, 150 square feet of common living space for the first occupant and 100 square feet of living space for each additional occupant.~~

~~5.4.8] 5.4.7] Neighborhood homes with below grade accommodations must have a direct means of egress to the outside from that level.~~

~~5.4.9] 5.4.8] The roof, exterior walls, doors, skylights and windows shall be weather tight and watertight and shall be kept in sound condition and good repair.~~

- 5.5 Water supply and sewage disposal
  - 5.5.1 Non-public water systems must be approved by the Department.
    - 5.5.1.1 Providers must sample non-public water annually and have it tested by the Department.
      - 5.5.1.1.1 A copy of all water testing results must be kept on site at the neighborhood home.
  - 5.5.2 Non-public sewage disposal systems must be approved by the Department of Natural Resources and Environmental Control.
  - 5.5.3 The water system must supply adequate hot and cold water, under pressure, at all times.
  - 5.5.4 The plumbing shall meet the requirements of all municipal or county codes. Where there are no local codes, the provisions of the Department Sanitary Plumbing Code shall prevail.
  - 5.5.5 Hot water at shower, bathing and hand washing facilities shall not exceed 115°F (46°C).
- 5.6 A licensee must ensure that the home's premises and equipment accessible to or used by residents are free from any danger to their health, safety and well-being.
- 5.7 Electric shall meet all municipal, county and State requirements and laws.
- 5.8 Each room and access way shall be suitably lighted at all times for maximum safety, comfort, sanitation and efficiency of operation particularly in areas that present safety hazards. Careful attention shall be given to avoid glare.
- 5.9 Safety equipment
  - 5.9.1 Stairways shall have non-slip surfaces and sturdy handrails to prevent slipping. Stairways over six (6) feet in width shall have handrails on both sides.
  - 5.9.2 Working electric switches shall be located at the top and the bottom of stairways.
  - 5.9.3 Hallways shall be equipped with working night-lights.
  - 5.9.4 Floor surfaces shall be durable, yet non-abrasive and slip-resistant. Floor surfaces shall be kept in good repair. Area rugs on hard finished floors shall have a non-skid backing. Carpeting shall be maintained in a clean condition.
  - 5.9.5 All interior doors in areas used by individuals shall be capable of being opened from either side at all times.
  - 5.9.6 Cameras or monitoring devices are not permitted in individual bedrooms or bathrooms unless written permission by individual(s) or authorized representative(s) is on file.
- 5.10 Bedrooms
  - 5.10.1 Each bedroom shall be well-ventilated.
  - 5.10.2 Each bedroom shall be an outside room with at least one (1) window opening directly to the outside. The window sill shall be at least three (3) feet above the floor and above grade.
  - 5.10.3 A one (1) person bedroom shall be at least 100 square feet.
  - 5.10.4 Multi-bed bedrooms shall:
    - 5.10.4.1 Provide at least eighty (80) square feet of floor space per person.
    - 5.10.4.2 Be adequately spaced for comfort.
    - 5.10.4.3 Have the beds spaced at least three (3) feet apart. Bunk beds are prohibited.
  - 5.10.5 The ceiling height shall be not less than seven (7) feet from the floor on average. Areas where the height of the ceiling is less than five (5) feet shall not be counted in the determination of the room size.
  - 5.10.6 Walls must extend from the floor to the ceiling.
  - 5.10.7 Doors must be closable and lockable **[by the individual with only appropriate staff having keys to the doors]**.
  - 5.10.8 Each bedroom must have adequate electrical outlets which are conveniently located.
  - 5.10.9 At least one (1) light fixture shall be switched at the entrance to each bedroom.
  - 5.10.10 Walls shall be cleanable.
  - 5.10.11 Each bedroom shall ensure adequate privacy.
  - 5.10.12 No more than two (2) individuals may share a bedroom.
  - 5.10.13 Individuals may furnish and decorate their own bedrooms.
  - 5.10.14 Mattresses shall be covered or protected with non-porous material.
  - 5.10.15 Each bedroom shall provide storage space for clothing and storage space for personal items to include, minimally, closet space.
  - 5.10.16 Bedrooms shall contain space, as needed, for bedside assistance and to accommodate the use and storage of mobility devices and prosthetic equipment.
- 5.11 Bathrooms

- 5.11.1 Floor and wall surfaces shall be constructed and maintained to be impervious to water and to permit the floor and walls to be easily kept in a clean condition.
- 5.11.2 At least one (1) window or mechanical ventilation to the outside shall be provided.
- 5.11.3 Floor surfaces shall be durable, yet non-abrasive and slip-resistant. Floor surfaces shall be kept in good repair.
- 5.11.4 There shall be at least one (1) bathtub or shower for every four (4) individuals.
  - 5.11.4.1 Each bathtub or shower shall be in an individual room or enclosure which provides private space for bathing, drying and dressing.
  - 5.11.4.2 Each bathtub or shower shall be equipped with substantial grab bars and slip-resistant surfaces.
- 5.11.5 There shall be at least one (1) toilet of appropriate size for each four (4) individuals which shall be located on the same level as the individuals' bedrooms.
  - 5.11.5.1 When more than one (1) toilet is located in the same room, provisions for private use shall be made.
  - 5.11.5.2 Each toilet shall be equipped with a substantial grab bar.
  - 5.11.5.3 Each toilet shall be equipped with a toilet seat and toilet tissue.
- 5.11.6 There shall be at least one (1) hand washing sink for every four (4) individuals which shall be located on the same level as the individual's bedrooms.
  - 5.11.6.1 The hand washing sink shall have hot and cold water.
  - 5.11.6.2 Hand washing sinks shall be available in or immediately adjacent to bathrooms and/or toilet rooms.
- 5.11.7 Mirrors shall be furnished in bathrooms, including mirrors that are accessible by individuals who use wheelchairs.

## 5.12 Kitchen

- 5.12.1 Floor, wall and counter surfaces shall be constructed and maintained to be impervious to water (to the level of splash) and to permit the floor and walls to be easily kept in a clean condition.
- 5.12.2 There shall be:
  - 5.12.2.1 At least one (1) refrigerator and one (1) 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, as determined in the warmest part of the refrigerator.
    - 5.12.2.1.1 Each refrigerator shall be equipped with a refrigerator thermometer.
  - 5.12.2.2 At least one (1) four-burner range and one (1) oven (or combination thereof) which is in proper working order.
  - 5.12.2.3 A dishwasher that has a sanitizing cycle or the home must use a dishwasher detergent with bleach.
  - 5.12.2.4 At least one (1) clean trash receptacle.
  - 5.12.2.5 At least one (1) operable window or suitable exhaust system for removal of smoke, odors and fumes.
  - 5.12.2.6 Adequate cleaning/disinfecting agents and supplies.
  - 5.12.2.7 Storage areas with separate storage for:
    - 5.12.2.7.1 Food, which must be stored off of the floor.
      - 5.12.2.7.1.1 Dry or staple food items shall be stored at least six (6) inches above the floor in a ventilated room that is not subject to waste water back flow or to contamination by condensation or leakage.
    - 5.12.2.7.2 Cleaning agents, disinfectants and polishes.
    - 5.12.2.7.3 Poisons, pesticides or other toxic chemicals which must be stored in locked cabinets/storage areas.
      - 5.12.2.7.3.1 Material Safety Data Sheets (MSDS) must be available for any poisons, pesticides or toxic chemicals stored on-site.
    - 5.12.2.7.4 Eating and serving utensils, pots, pans and cooking utensils which must be stored off of the floor.
- 5.12.3 All food items shall be stored in closed or sealed containers or wrapping.
- 5.12.4 Food storage areas shall be free of food particles, dust and dirt.
- 5.12.5 Food preparation areas, utensils and appliances shall be cleaned following each meal prepared.
- 5.12.6 Opened foods that are to be stored shall immediately be dated with the date that the foods were opened.

- 5.12.7 Prepared and leftover foods requiring refrigeration must be kept for no more than three (3) days.
- 5.13 Dining and dayroom area
- 5.13.1 There shall be provided one (1) or more areas that are adequate in size and furnished for resident dining, recreational and social activities.
- 5.13.2 The furniture shall be of such condition so as not to pose a safety hazard and arranged and located as to provide convenient access to the individuals.
- 5.13.3 When a multi-purpose room is used, it shall have sufficient space to accommodate activities in order to prevent interference of one (1) activity with another.
- 5.14 Sanitation and housekeeping
- 5.14.1 All rooms and every part of the building shall be kept clean, orderly, in good repair and free of offensive odors.
- 5.14.2 Waste material, obsolete and unnecessary articles, tin cans, rubbish and other litter shall not be permitted to accumulate in the home.
- 5.14.3 Sharps shall be stored in sanitary containers and disposed of in a sanitary manner.
- 5.14.4 When a separate sink is not provided for janitorial or laundry duties, the sink shall be sanitized with bleach after each use.
- 5.14.5 No laundry may be done in the food service area during the preparation or serving of food.
- 5.14.6 Laundry
- 5.14.6.1 Bed linens and towels must be changed at least weekly or more often as necessary.
- 5.14.6.2 If linen chutes are used, they will maintained in a sanitary condition.
- 5.14.6.3 If the clothes washing machine is in the kitchen, soiled laundry shall not be taken into the kitchen until it is ready to be washed.
- 5.14.6.4 The authorized provider will complete laundry for individuals who are incapable of doing so on their own.
- 5.15 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.
- 5.16 Furniture and furnishings shall be safe, comfortable, cleanable and in good repair and shall resemble those in homes in the local community, to the extent compatible with individuals' choice and the physical needs of the individuals living in the home. To the extent possible, personal furniture shall be chosen by individuals.
- 5.17 Heating apparatus shall not constitute a burn, smoke or carbon monoxide hazard to individuals served or their support staff.
- 5.18 Temperature, humidity, ventilation, and light in all living and sleeping quarters shall be maintained to provide a comfortable atmosphere.
- 5.19 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 individual's behavior support plan.
- 5.20 Basement space may be used for activities for people in the home if there is a minimum of two (2) fire exits.

## **6.0 Records and Reports**

- 6.1 There shall be a separate record maintained on each individual as per DDDS standards.
- 6.2 There shall be a medication administration record (MAR) including medications, dosages, frequency, route of administration, and initials of the person administering each dose. The record shall include ~~the signature of each person whose initials appear on the MAR~~ **the identity of each person administering medication**].
- 6.3 Confidentiality of individuals' records shall be maintained in accordance with the federal Health Insurance Portability and Accountability Act (HIPAA) and 16 Del.C. §1121(6).
- 6.4 Records shall be retained for 6 years after discharge. For a minor, records shall be retained for three years after age of majority.
- 6.5 Incident reporting
- 6.5.1 All incidents shall be adequately documented. Adequate documentation shall include:
- 6.5.1.1 The name of the individual(s) involved;
- 6.5.1.2 The date, time and place of the incident;
- 6.5.1.3 A detailed description of the incident;
- 6.5.1.4 A list of other parties involved, including witnesses;
- 6.5.1.5 Witness statements;

- 6.5.1.6 The nature of any injuries sustained;
- 6.5.1.7 individual(s) outcome(s); and
- 6.5.1.8 Follow-up action:
  - 6.5.1.8.1 Notification of the individual(s) authorized representative(s), attending physician and licensing or law enforcement authorities, when appropriate;
  - 6.5.1.8.2 The corrective action taken immediately for each individual or area impacted;
  - 6.5.1.8.3 How the staff will act to protect individuals in a similar situation;
  - 6.5.1.8.4 What measures will be taken or what systems will be changed to ensure that the incident does not recur;
  - 6.5.1.8.5 How the staff will measure the success of the interventions put in place.

6.6 All reports of incidents, whether or not required to be reported, shall be retained for three years.

6.7 Reportable incidents shall be communicated immediately to the DDDS and within 8 hours to the DLTCRP.

6.8 Reportable incidents are as follows:

6.8.1 Abuse as defined in 16 Del.C. §1131, or reasonable suspicion of same.

6.8.1.1 Physical abuse with injury if individual to individual and physical abuse with or without injury if staff to individual or any other person to individual.

6.8.1.2 Any sexual act between staff and an individual and any non-consensual sexual act between individuals or between an individual and any other person such as a visitor.

6.8.1.3 Emotional abuse whether staff to individual, individual to individual or any other person to individual.

6.8.2 Neglect, mistreatment or financial exploitation as defined in 16 Del.C. §1131, or reasonable suspicion of same.

6.8.3 Individual elopement under the following circumstances:

6.8.3.1 An individual's whereabouts on or off the premises is unknown to staff and the individual suffers harm.

6.8.3.2 A cognitively impaired individual's whereabouts are unknown to staff and the individual leaves the neighborhood home premises.

6.8.3.3 An individual cannot be found inside or outside the neighborhood home and the police are summoned.

6.8.4 Significant injuries.

6.8.4.1 Injury from an incident of unknown source in which the initial evaluation supports the conclusion that the injury is suspicious.

6.8.4.1.1 Circumstances which may cause an injury to be suspicious are:

6.8.4.1.1.1 The extent of the injury;

6.8.4.1.1.2 The location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma);

6.8.4.1.1.3 The number of injuries observed at one particular point in time; or

6.8.4.1.1.4 The incidence of injuries over time.

6.8.4.2 Injury which results in ~~[transfer to an acute care facility for treatment or evaluation~~ **medical or dental treatment other than first aid provided in the home**].

6.8.4.3 Areas of contusions or bruises caused by staff to a dependent individual during ambulation, transport, transfer or bathing.

6.8.4.4 Significant error or omission in medication/treatment, including drug diversion, which causes the individual discomfort or jeopardizes the individual's health and safety.

6.8.4.5 A burn greater than first degree.

6.8.4.6 Any serious unusual and/or life-threatening injury.

6.8.5 Entrapment which causes the individual injury or immobility of body or limb or which requires assistance from another person for the individual to secure release.

6.8.6 Suicide or attempted suicide.

6.8.7 Poisoning.

6.8.8 Fire within a neighborhood home.

6.8.9 Utility interruption lasting more than eight hours in one or more major service(s) including electricity, water supply, plumbing, heating or air conditioning, fire alarm, sprinkler system or telephones.

6.8.10 Structural damage or unsafe structural conditions.



6.8.11 Water damage which impacts individual health, safety or comfort.

6.8.12 Deaths.

6.9 The authorized provider shall maintain records and reports of fire safety, health, sanitation, and environmental inspections required by local and state laws and regulations.

6.9.1 The provider shall document actions taken to correct deficiencies noted in these reports. Corrective actions shall include:

6.9.1.1 The corrective action taken immediately for each individual or area impacted;

6.9.1.2 How the staff will act to protect individuals in a similar situation;

6.9.1.3 What measures will be taken or what systems will be changed to ensure that the incident does not recur;

6.9.1.4 How the staff will measure the success of the interventions put in place.

## **7.0 Emergencies and Disasters**

7.1 Fire safety in neighborhood homes shall comply with the rules and regulations of the State Fire Prevention Commission or the appropriate local jurisdiction.

7.2 The home shall have a minimum of two means of egress.

7.3 The home shall have an adequate number of UL approved smoke detectors in working order.

7.3.1 In a single level home, a minimum of one smoke detector shall be placed between the bedroom area and the remainder of the home.

7.3.2 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.

7.4 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. Each extinguisher shall be checked annually.

7.5 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.

7.5.1 The procedures shall assign staff on duty to specific tasks and responsibilities.

7.5.2 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.

7.6 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.

7.7 The telephone numbers of the nearest poison control center and the nearest source of emergency medical services shall be posted.

7.8 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.

7.9 Evacuation Drills

7.9.1 Drills shall be held quarterly and on different days and at different times. Drills are not to be held at night, during individuals' sleep time, nor are they to be held in inclement weather.

7.9.2 The location of egress during these evacuation drills shall be varied, with window evacuation procedures discussed as an alternative, if not practiced.

7.9.3 During drills, individuals shall be evacuated with staff assistance to the designated safe area outside of the home.

7.9.4 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.

7.9.4.1 Any problems individuals have evacuating a building during a drill shall result in a written plan of specific corrective action(s) to be taken.

## **8.0 Individual Rights**

Neighborhood homes must comply with 16 Del.C. Ch.11, Subchapter II, regarding the rights of the individuals residing in the neighborhood homes.

## **9.0 Individual Services**

## 9.1 Healthcare

- 9.1.1 The provider shall ensure that individuals receive needed medical, dental, visual and behavioral care.
- 9.1.2 Necessary screenings/appointments are scheduled within five (5) business days of receipt of an order.
- 9.1.3 Providers assist individuals to the carry out all health related orders as determined by the health care professionals.
- 9.1.4 Each resident shall have a physical/medical examination annually or more frequently as required by a physician or the affiliated social agency/program.
- 9.1.5 Medications
  - 9.1.5.1 Medications prescribed for residents shall be kept locked in a cabinet or a lock box set aside for that exclusive purpose.
  - 9.1.5.2 Medications requiring refrigeration shall be kept locked in a separate box within the refrigerator.
  - 9.1.5.3 Medications shall be self-administered or distributed directly to the resident from the prescription container in strict accordance with the prescription directions.
    - 9.1.5.3.1 Administration of medications must be in accordance with the requirements in 24 Del.C. Ch.19, §1932.
  - 9.1.5.4 The authorized provider shall ensure that prescription medication is not used by other than the resident for whom the medication was prescribed.
  - 9.1.5.5 Topical (external) medications must be stored separately from oral (internal) medications.
  - 9.1.5.6 Controlled substances must be under a double lock whether stored in a cupboard or refrigerator. A lock on an outside access door can be considered the first lock.
  - 9.1.5.7 Medication must be stored at room temperature (59-86F) unless otherwise indicated by the labeling in a manner that protects the product itself from deterioration or container breakage.
- 9.1.6 Communicable disease
  - 9.1.6.1 An individual with an active communicable disease must receive prompt medical treatment and supervision.
  - 9.1.6.2 The provider shall assume responsibility for seeing that necessary precautions are taken and that there is a minimum danger of transmission of a communicable disease to any occupant of the home.
  - 9.1.6.3 Minimum requirements for tuberculosis (TB) testing require all occupants to have a base line two step tuberculin skin test.
  - 9.1.6.4 All homes shall have on file evidence of an annual vaccination against influenza for all residents unless refused or medically contraindicated.

9.2 The provider shall provide or assist to arrange for transportation for an individual's appointments.

## 9.3 Food service

- 9.3.1 A minimum of three (3) meals shall be available and/or served in each 24 hour period.
- 9.3.2 There shall not be more than a 14 hour span between the evening and breakfast meals unless suitable nourishment is provided in the interim.
- 9.3.3 Individuals shall have access to food at all times.
- 9.3.4 The food served shall be suitably prepared and of sufficient quantity and quality to meet the nutritional needs of the residents.
- 9.3.5 Special diets shall be served on the written prescription of the resident's physician.
- 9.3.6 There shall be three day supply of food and water in each home at all times.

## **10.0 Personnel**

10.1 Personnel records shall be kept current and available for each employee, and include the following:

- 10.1.1 Results of tuberculosis screening.
- 10.1.2 Documentation of annual influenza vaccination or refusal.
- 10.1.3 Result of criminal background check.
- 10.1.4 Result of mandatory drug testing.
- 10.1.5 Result of Adult Abuse Registry check.
- 10.1.6 Titles and hours of in-service training.
- 10.1.7 If applicable, license/certification number and expiration date.

10.2 Each neighborhood home must have at least one (1) staff person on duty at all times when individuals are present in the home.

10.2.1 Staffing must conform to the specific needs of the individuals as recorded on the person-centered plan.

10.3 Each neighborhood home must have at least one (1) staff person, on duty at all times, trained in first aid and CPR.

10.4 Each neighborhood home must have a nurse on-call at all times for consultation.

#### **11.0 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 (10/01/03)**

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

**15 DE Reg. 1477 (04/01/12)**

**21 DE Reg. 229 (09/01/17) (Final)**