

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

May 1, 2023
10:00 a.m. Central Time
Nebraska State Office Building – Lower Level
Meadowlark Conference Room
301 Centennial Mall South, Lincoln, Nebraska
Phone call information: 888-820-1398; Participant code: 3213662#

The purpose of this hearing is to receive comments on proposed changes to Title 175, Chapter 3 of the Nebraska Administrative Code (NAC) – *Regulations Governing Centers for the Developmentally Disabled*. The proposed regulations will update requirements to criminal background and registry checks for prospective employees; update requirements for standards of operation, care, and services; and modify general requirements. Other proposed changes include removing duplicative statutory language and any repetitive language found in 175 NAC 1 from the regulations; updating the title name; setting the regulations scope; updating definitions and terminology; updating section headings and formatting; and restructuring the regulatory chapter.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

Interested persons may provide written comments by mail, fax, or email, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 (fax) or dhhs.regulations@nebraska.gov, respectively.

In order to encourage participation in this public hearing, a phone conference line will be set up for any member of the public to call in and provide oral comments. Interested persons may provide verbal comments by participating via phone conference line by calling 888-820-1398; Participant code: 3213662#.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals who are deaf or hard of hearing may call DHHS via the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 175	Prepared by: Mark Luger
Chapter: 3	Date prepared: 3-9-2023
Subject: Centers for Developmentally Disabled	Telephone: 402-471-4975

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)

Provide an Estimated Cost & Description of Impact: No impact.

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why: N/A

TITLE 175 - NEBRASKA DEPARTMENT OF HEALTH/HEALTH CARE FACILITIES/REGULATIONS

CHAPTER 3 - REGULATIONS GOVERNING CENTERS FOR THE DEVELOPMENTALLY DISABLED

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Effective Date: May 8, 1984 (All pages except Page 4)
March 22, 2004 (Page 4 only for 175 NAC 3-002.04A - Fees)

TITLE 175 ■ NEBRASKA DEPARTMENT OF HEALTH/HEALTH CARE FACILITIES/REGULATIONS HEALTH CARE FACILITIES AND SERVICES LICENSURE

CHAPTER 3 ■ REGULATIONS GOVERNING CENTERS FOR THE DEVELOPMENTALLY DISABLED

001. SCOPE AND AUTHORITY. These regulations govern the licensing of Centers for the Developmentally Disabled facilities under the Health Care Facility Licensure Act, Nebraska Revised Statutes (Neb. Rev. Stat.) §§ 71-401 to 71-475.

0012. DEFINITIONS. As used in these regulations, unless the context to be intelligible or prevent absurdity otherwise requires: Definitions set in the Health Care Facility Licensure Act, 175 Nebraska Administrative Code (NAC) 1, and the following apply to this chapter.

~~001.01 Administrator means the operating or supervisory office of a Center for the Developmentally Disabled, however titled. The administrator may also, but need not be, the owner or the licensee of a Center for the Developmentally Disabled.~~

~~001.02 Center for the Developmentally Disabled means any residential facility, place, or building, not licensed as a hospital, which is used to provide accommodation, board, and training, advice, counseling, diagnosis, treatment, care, including medical care when appropriate, or services primarily or exclusively to four (4) or more persons residing in the facility who are developmentally disabled, which term shall include those persons suffering from mental retardation, cerebral palsy, epilepsy, or other neurological handicapping conditions which require care similar to the care required for persons suffering from such aforementioned conditions. The term, "Center for the Developmentally Disabled", shall include a group residence.~~

0012.031 Group Residence GROUP RESIDENCE. means aAny group of rooms located within a building or structure forming a habitable unit with living, sleeping, cooking, and eating facilities for four (4) or more, developmentally disabled persons, operated by the same or identical lessee, owner, or management is a group residence.

0012.042 Ambulatory AMBULATORY. means the The ability to walk without assistance is ambulatory.

~~001.05 Department means the Department of Health of the State of Nebraska.~~

~~001.06 Facility shall mean a Center for the Developmentally Disabled.~~

002.03 BARRIER. A circumstance or obstacle that prevents a client from making progress toward their goals is a barrier.

002.04 HABILITATION. A process aimed at helping disabled people attain, keep or improve skills and functioning for daily living is habilitation.

~~001.07 Licensee means the individual, firm, partnership, corporation or other entity legally responsible for the operation of the Center for the Developmentally Disabled and holding the license for its operation.~~

~~001.08 New Construction means erection of new buildings or the alteration of or addition to existing buildings and that wherever such alterations or additions occur shall comply with all the requirements or construction.~~

~~0024.095 Non-Ambulatory~~ NON-AMBULATORY. means the inability Inability to walk without assistance is non-ambulatory.

~~001.10 Resident means any person admitted to a Center for the Developmentally Disabled.~~

~~001.11 Usable Floor Area means the floor area in a room exclusive of space used for entrance, vestibules, closets, toilet areas and bathing areas.~~

~~001.12 Conversion means converting an existing structure for use as a Center for the Developmentally Disabled.~~

~~001.13 Time Out Room is a program procedure which involves removing the person from a reinforcing situation by placing the person in a room where the person remains for a time under staff observation when the person engages in a specified inappropriate behavior.~~

~~001.14 Seclusion is placement of an individual alone in a locked room. Seclusion is not allowed.~~

002.06 USABLE FLOOR AREA. The floor area in a room exclusive of space used for entrance, vestibules, closets, toilet areas, and bathing areas is usable floor area.

002 LICENSING PROCEDURES

003. LICENSING. To receive a license, an applicant must submit a complete application and meet the requirements for a license set out in the Health Care Facility Licensure Act, 175 NAC 1, and this chapter.

004. GENERAL REQUIREMENTS. ~~004 HEALTH AND SAFETY REQUIREMENTS – GENERAL~~ The following requirements are applicable to all licenses.

004.01 EFFECTIVE DATES AND TERM OF LICENSE. The license of a Center for the Developmentally Disabled expires annually on November 30.

004.02 INITIAL LICENSURE AND RENEWAL FEES. Initial licensure and renewal fees for

Centers for the Developmentally Disabled are \$150.

~~002.01 Application – Initial License. Application for an initial license to operate a Center for the Developmentally Disabled shall be made to the Department of Health of the State of Nebraska upon a form (attachment 1) provided by it upon request by the facility. The supporting documents that shall be submitted with the initial application form are:~~

~~002.01A Plans and specifications with bedrooms identified by number shall be submitted to the Department of Health of the State of Nebraska and State Fire Marshal.~~

~~002.01B Statement from zoning authority the facility location is zoned properly for intended use.~~

~~002.01C Required statutory license fees.~~

~~002.02 License; Suspension; Revocation; Hearing; Procedure. The Department of Health of the State of Nebraska shall issue a license for the operation of a Center for the Developmentally Disabled to any facility which is found to comply with Sections 71-2017 to 71-2029, Reissue Revised Statutes of Nebraska, 1943, and to such regulations as are lawfully promulgated thereto by the Department of Health. The Department of Health of the State of Nebraska shall deny, suspend or revoke licenses on any of the following grounds:~~

~~002.02A Violation of any of the provisions of Sections 71-2017 to 71-2029 or the rules and regulations lawfully promulgated pursuant thereto;~~

~~002.02B Permitting, aiding or abetting the commission of any unlawful act; or~~

~~002.02C Conduct or practices detrimental to the health or safety of residents and employees of the facility; provided that this provision shall not be construed to have any reference to healing practices authorized by law.~~

~~Should the department determine to deny, suspend, or revoke a license, it shall send to the applicant or licensee, by either registered or certified mail, a notice setting forth the particular reasons for the determination. The denial, suspension, or revocation shall become final thirty days after the mailing of the notice, unless the applicant or licensee, within such thirty day period, shall give notice of desire for hearing. Thereupon the applicant or licensee shall be given a fair hearing before the Department of Health of the State of Nebraska and shall have the right to present such evidence as may be proper. On the basis of such evidence the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by either registered or certified mail to the applicant or licensee. The decision shall become final thirty days after a copy thereof is mailed, unless the applicant or licensee within such thirty day period appeals the decision under Section 71-2027, Reissue Revised Statutes of Nebraska, 1943. The procedure governing hearings authorized by this section shall be in accordance with Department of Health Rules of Practice and Procedure. A full and complete record shall be kept of all proceeding. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by Department of Health Rules of Practice and Procedure.~~

~~002.03 Prerequisite Inspections. Upon receipt of a full and complete application for an initial license, the Department shall make or cause to be made an inspection of the premises within thirty (30) days thereof, unless the applicant specifically states that the facility will not be ready for occupancy until a later specified date. A written report describing any deficiencies found in the facility shall be mailed to the applicant within seven (7) working days after such inspection. A final decision by the Department for approval or disapproval of a full and complete application for a license shall be made within one hundred and twenty (120) days after the submission of a full and complete application by the facility. The Department, through its authorized representatives, may inspect the building or structure of any applicant for or holder of a license to operate a Center for the Developmentally Disabled to determine compliance with these regulations. Inspection by the Department, or its authorized representatives, at any time, of a Center for the Developmentally Disabled is a condition of continued licensure.~~

~~002.04 Renewal. Approximately sixty (60) days prior to the expiration date of the license, a renewal application form will be provided by the Department. The required statutory annual license fee shall accompany the application for renewal. Beginning December 1, 1984, all licenses, initial or renewal, shall expire on November 30 of each year.~~

~~002.04A Fees: The licensee must pay fees for licensure and services as set forth below:~~

- ~~1. Initial and renewal licensure fees: \$150~~
- ~~2. Duplicate license: \$10~~
- ~~3. Refunds for denied applications:
 - ~~a. If the Department did not perform an inspection, the license fee is refunded except for an administrative fee of \$25.~~
 - ~~b. If the Department performed an inspection, the license fee is not refunded.~~~~

~~002.05 Notification. The Department shall be notified in writing by the licensee within forty-eight (48) hours whenever a licensed Center for the Developmentally Disabled is sold, leased, discontinued, moved to a new location or has a change of administrator.~~

~~002.06 Separate License. Separate buildings or structures on the same premises under one management shall require only one license; however, upon request by the licensee, separate licenses shall be issued. Licenses shall not be transferable, or assignable, and shall be posted in a conspicuous place on the licensed premises.~~

005. INSPECTIONS. Requirements for inspections are set out in 175 NAC 1.

003 PHYSICAL PLANT REQUIREMENTS FOR GROUP RESIDENCES

006. PHYSICAL PLANT STANDARDS. Each building where services are provided must be maintained by licensee in a manner that is safe, clean and functional for the clients who reside there.

003.01 Group Residences, Approval of Plans.

~~003.01A~~ Whenever construction of or an addition to a Center for the Developmentally Disabled is contemplated by a licensee or an applicant, plans and specifications shall be submitted for review to the State Department of Health in accordance with Nebraska Revised Statute §71-2022 and to the State Fire Marshal or qualified local fire prevention personnel specifically delegated responsibility by the State Fire Marshal as to fire safety. ~~The submission must be made in not less than two (2) stages — preliminary and final.~~ Construction work shall not be placed on market for bids or work commenced until the State Department of Health and the State Fire Marshal or qualified local fire prevention personnel have approved the final drawings and specifications. Any deviation from these final documents must have approval from the State Department of Health in writing prior to the work being performed. This standard shall not apply in the making of minor repairs or in matters of general maintenance.

~~003.01B~~ In new construction and additions the preliminary stage shall include the following:

~~003.01B1~~ Plot plan showing size, shape of entire site, location of proposed building or structure and relation to any existing buildings or structures, adjacent streets, roads, highways, sidewalks, and railroads. The plan shall also show properly designated size, characteristics, and location of connections to water, sewer, and gas lines.

~~003.01B2~~ Floor plans showing overall dimensions of building or buildings, or structure or structures, location, size and purpose of all rooms; location and size of all doors, windows, and other openings with swing of doors properly indicated; and location of stairs, elevators, vertical shafts, and chimneys.

~~003.01B3~~ Outline of specifications giving the kind and types of materials to be provided.

~~003.01C~~ In new construction and additions, final floor plans and specifications shall include complete working drawings and contract specifications including layouts for plumbing, heating, ventilation, and electrical work.

~~003.01D~~ If new construction or addition is delayed for a period of time exceeding one year from the time of review of the final drawing or if any other major changes are made, a new evaluation or review is required.

~~003.01E~~ In the alteration, remodeling, or conversion of a building or structure as a Center for the Developmentally Disabled:

~~003.01E1~~ Plans shall show overall dimensions and location of buildings or structures; the purpose of all rooms; the location and size of all doors, corridors, windows, and other openings; the location of stairs, elevators, vertical shafts, and chimneys, and the swing of doors.

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~~003.01E2~~ Equipment shall be shown on the drawings, including but not limited to type of heating system and location of heating plant, type and capacity of hot water heaters, and all water closets, lavatories, and bathing facilities.

~~003.01E3~~ There shall be an outline of specifications giving the kind and type of materials to be provided.

~~003.01E4~~ Plans and specifications are not required to be submitted for maintenance projects, i.e., replacement by floor coverings that meet fire safety requirements, painting, replacement of pumps, motors, plumbing fixtures, and other minor changes that do not affect fire safety or the function of the remodeled areas.

~~003.01F~~ Every detached building or structure on the same premises used as a Center for the Developmentally Disabled shall comply with these regulations and standards.

~~003.01G~~ Approval or rejection of either preliminary drawings, plans or specifications or of final drawings, plans, or specifications shall be made by the State Department of Health no more than sixty (60) days after their submission in full and complete form.

~~003.01H~~ Any major changes in the plans for specifications affecting the functions of any area shall be submitted to and approved by the State Department of Health before making the changes in the work. This shall not affect the owner's right to meet emergency conditions requiring immediate action during construction.

~~006.01003.02~~ Resident Bedrooms. CLIENT BEDROOMS. 003.02A Single bedrooms for ambulatory residents shall clients must provide at least 80 square feet of usable floor area with a side dimension of not less than 7 feet - 0 inches. The amount of usable floor space in a resident bedroom is determined after taking adjustments into account as stated in 003.02E. Space for closets, toilet areas, bath areas, or entrance vestibules shall not be counted as usable floor area. All client bedrooms must have windows which provide an unobstructed view of not less than 15 feet - 0 inches in at least 1 horizontal direction.

~~006.02003.02B~~ Multi-bedrooms MULTI-BEDROOMS. for a Ambulatory residents shall clients must be provided at least 60 square feet of usable floor space for each resident client. There shall must be at least 3 feet - 0 inches between beds placed side-to-side and not less than 3 feet - 0 inches between the heads of the beds. The amount of usable floor space in a resident client bedroom is determined after taking adjustments into account as stated in 003.02E this chapter. A bedroom must have no more than 4 beds. Space for closets, toilet areas, bath areas, or entrance vestibules shall not be counted as usable floor area.

~~006.03003.02C~~ Windows. WINDOWS. Bedrooms shall must be exterior rooms with at least 1 one window which is easily opened to the outside. The minimum total area of the window or windows measured between stops -- clear width when opened, shall must be at least 10 percent of the usable floor area. All windows shall must be provided with screens which are maintained in good repair. Combination storm window screens are acceptable. Full length storm windows may be used during the winter months. Window sills must eels not be more

than 36 inches above the finished floor. All exterior windows and doors ~~shall~~ must have serviceable screens except for doors with panic hardware.

~~006.04003-02D Closets.~~ CLOSETS. There ~~shall~~ must be accessible private and adequate storage space for clothing and personal belongings in the bedroom area for each ~~resident~~ client. Built-in closets or wardrobes with doors or curtains are acceptable.

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~~006.05003-02E Ceiling Heights.~~ CEILING HEIGHTS. Level ceilings in sleeping rooms ~~shall~~ must not be less than 7 feet - 0 inches high. In sleeping rooms with sloped ceilings, only the areas with vertical wall heights of 5 feet or more ~~shall~~ must be included in the required usable floor area. At least half of the usable floor space must have a ceiling not less than 7 feet - 0 inches.

~~006.06003-02F Partitions.~~ PARTITIONS. Partitions defining each bedroom ~~shall~~ must run from floor to ceiling.

~~006.07003-02G CLIENT BEDROOMS.~~ All ~~resident~~ client bedrooms ~~shall~~ must be located at or above natural grade level. Non-ambulatory clients must not be housed in bedrooms located above the first floor level.

~~006.08003-02H Doors.~~ 6.08 DOORS. Doors in a building may be lockable by the occupant if they can be unlocked by a master key from the opposite side. Master keys are to be carried by staff at all times.

~~006.08(A)003-02H1 Interior doors~~ INTERIOR DOORS. ~~e~~Excluding time out room doors, interior doors shall must not have vision panels.

~~006.08(B)003-02H2~~ DOOR LOCKS. Door locks installed on sleeping room doors ~~shall~~ must be lockable from the corridor side only, except where such doors open directly to the outside of the building. Sleeping room doors leading directly to the outside of the building may be lockable on the room side. All locks ~~shall~~ must permit exit from a room by a simple operation without the use of a key. ~~Doors in homes may be lockable by the occupant if they can be unlocked by a master key from the opposite side. Master keys are to be carried by staff at all times.~~

~~006.08(C)003-02H3~~ DOOR WIDTHS. Door widths ~~shall~~ must not be less than 3 feet wide to allow a minimum clear opening of 32 inches in the fully opened position.

~~006.08(D)003-02H4~~ DOOR ALARMS. Door alarms ~~shall~~ must be provided for exterior doors when ~~residents~~ clients requiring such supervision is established by the Individual Program Plan.

~~006.09003-02I~~ Corridors. CORRIDORS. Corridor widths ~~shall~~ must not be less than 3 feet - 0 inches.

~~006.10003-02J~~ Beds. BEDS. Each ~~resident~~ shall client must have an individual bed. Adult beds ~~shall~~ must be at least 36 inches wide. Adult size beds ~~shall~~ must be provided for individuals 14 years of age and older. Each bed ~~shall~~ must have ~~good springs and~~ a clean, firm, comfortable mattress. Beds ~~shall~~ must be of suitable construction and dimensions to

accommodate persons using them. Bunk beds, roll-aways and trundles are not permitted.

~~006.10(A)003.02K Bedding and Linen. BEDDING. 003.02K1~~ All beds provided for ~~residents shall~~ clients must be supplied with suitable pillowcases and bottom and top sheets. All bedding, including mattresses, mattress pads, quilts, blankets, pillows, sheets, spreads, and all bath linen ~~shall~~ must be kept clean. Bedding, including mattresses, mattress pads, quilts,

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blankets, pillows, and bed and bath linen which is worn out or unfit for further use ~~shall~~ must not be used. Bedding ~~shall~~ must be appropriate to the season. Pillowcases, sheets, and bath linen, after being used by one resident client, ~~shall~~ must be washed before they are used by other residents clients.

~~006.10(B)003.02K2 BED LINEN.~~ Clean bed linen ~~shall~~ must be furnished at least once each week, or more frequently, to maintain cleanliness and a clean washcloth, towel or appropriate paper service ~~shall~~ must be available to each resident client.

~~006.11003.02L Room Furnishings. ROOM FURNISHINGS.~~ All equipment, fixtures, furniture and furnishings, including windows, draperies, curtains, and carpets ~~shall~~ must be kept clean and free of dust, dirt, vermin, and other contaminants and ~~shall~~ must be maintained in good order and repair. Each ~~resident shall~~ client must be provided with appropriate individual furniture, including ~~as at~~ a minimum a chest of drawers, an individual wardrobe with clothes racks and shelves unless built-in closet space is provided, and a mirror, and at least one chair per bedroom will be provided. Tilted mirrors or mirrors located at a height for wheelchair use ~~shall~~ must be provided for residents clients where appropriate. There ~~shall~~ must be accessible private storage space for clothing in the bedroom area for each resident client. Each resident shall client must have individual racks or other drying space for washcloths and towels.

~~003.02M Non-ambulatory residents shall not be housed in bedrooms located above the first floor level.~~

~~003.02N No bedroom shall have no more than four beds.~~

~~003.02O Every resident bedroom shall be so located that it is unnecessary to pass through another resident's bedroom for access to the bedroom or a toilet or bath area.~~

~~003.02P Every resident's bedroom shall be so located that it is unnecessary to pass through another resident's bedroom for access to a bedroom or toilet or bath area used by residents other than the resident occupying the bedroom.~~

~~006.12003.03 Toilets and Bathing Facilities. TOILETS AND BATHING FACILITIES. 003.03D~~ Toilet and bathing areas and fixtures ~~shall~~ must approximate normal patterns found in residential construction- and must meet the following requirements:

(A) If there are wheelchair residents clients in the home, the toilet and bath areas ~~shall~~ must be large enough for wheelchair use and also to include appropriate fixtures and appurtenances for the wheelchair residents' clients' use-;

(B) Shower curbs ~~shall~~ must be omitted to permit access by wheelchairs. An accessible restroom shall provide at least the following fixtures and appurtenances for the wheelchair residents' clients' use:

~~003.03C(C)~~ No ~~toilet room shall~~ bathroom must open directly into a food preparation area.;
~~003.03D5(D)~~ Toilets shall must provide bar soap or a soap dispenser to be located no higher than 48 inches from the floor;
~~003.03E(E)~~ All toilet and bathing area facilities and fixtures shall must be kept clean and in good repair.;
~~003.03F(F)~~ Each bathroom and toilet area shall must be well-lighted (~~Ref: Artificial Lighting 003.0411~~) with a mirror over each lavatory.; and

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~~003.03G(G)~~ Wherever there is a ~~water closet, bathroom,~~ there shall must be an easily accessible lavatory toilet.

~~006.13003.03A~~ BATHROOMS. ~~Resident toilet facilities shall~~ Client bathrooms must be provided as follows:

~~003.03A(A)~~ One lavatory sink and one water closet toilet for each ~~six 6 residents clients or fraction thereof.~~

~~003.03D1(B)~~ One lavatory sink which when mounted, allows 29 inches clearance from the floor to the bottom of the apron and a maximum rim height of 34 inches;

~~003.03D2(C)~~ One water closet toilet with the seat ~~14 1/2~~ 15 inches to 20 inches from the floor, or 13 inches to 15 inches for children;

~~003.03D3(D)~~ Grab bars near each side or one side attached and the back of the toilet stool securely attached 32 inches to 34 inches above the parallel to the floor. Grab bars at the side shall must not be less than 24 inches in front of the ~~water closet toilet stool~~. Grab bars shall must have an outside diameter of not less than 1 1/2 inches and ~~shall must~~ provide a clearance of 1 1/2 inches between grab bars and adjacent surface. For children's restrooms grab bars shall must be securely attached 15 inches above the floor and be positioned to extend 16 inches beyond the ~~water closet toilet seat; and~~

~~003.03D6(E)~~ Toilet tissue shall must be provided within reach of the ~~water closet toilet seat~~ and at a height of no more than 48 inches from the floor.

~~006.14003.03B~~ BATHING FACILITIES. Bathing facilities shall must be provided as follows:

~~(A)~~ One bathing facility (tub or shower) for each eight ~~residents clients or fraction thereof.~~

~~(B)~~ Bathtubs and showers shall must be provided with stable grab bars to assist ~~residents. clients.; and~~

~~003.03D4(C)~~ Towels or warm air hand dryers shall must be provided with the operating mechanism no higher than 48 inches from the floor and not mounted directly above the ~~lavatories sinks.~~

003.04 Physical Requirements:

~~006.15003.04A~~ Dining and Recreation. DINING AND RECREATION. All facilities shall must have minimum areas for ~~residents' clients'~~ dining and recreation which shall must be at least 10 and 20 square feet respectively per ~~resident, client,~~ or 30 square feet total per ~~resident client~~ when the area is used for a combination thereof. Space for non-ambulatory mobile ~~residents clients~~ shall must be increased by 50 percent. Under no circumstances shall must the combined recreation and dining space be less than 150 square feet. In residential units that have eight 8 beds or less, space in the kitchen may be used for dining if the kitchen was laid out to accommodate table space for eating purposes; the space must be located apart from the food preparation area, and 10 square feet per ~~resident client~~ must be allocated for

dining purposes. Furnishings in the dining recreation room ~~shall~~ **must** include a couch, chair(s), end tables, dining table and chairs or similar furniture to provide a comfortable setting.

~~006.16003.04B Food Service. FOOD SERVICE.~~ **FOOD SERVICE.** ~~†The kitchen may be residential in nature in both layout and equipment, except for the following requirements:~~

~~006.17003.04B1 Dishwashing DISHWASHING.~~ **DISHWASHING.** ~~‡Utilizing an automatic dishwasher or a three compartment sink is adequate if it meets the following requirements:~~

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~~003.04B1a(A)~~ **003.04B1a(A)** When automatic dishwashers are used, the final rinse cycle temperature ~~shall~~ **must** not be less than 150 ~~°~~ **degrees Fahrenheit; and**

~~003.04B1b(B)~~ **003.04B1b(B)** For chemical sanitization of dishes in a three compartment sink, the following procedure is followed:

~~003.04B1b(1)(i)~~ **003.04B1b(1)(i)** Immersion for a minimum of one minute in sanitizing solution containing: at least 50 parts per million of available chlorine in water at a temperature not less than 75 ~~°~~ **degrees Fahrenheit** (one-half tablespoon of laundry bleach or similar product containing 5 1/4 percent of available chlorine to each gallon of water provides minimum concentration;

~~003.04B1b(2)(ii)~~ **003.04B1b(2)(ii)** Use another commercial chemical sanitizer which has the equivalent bacterial effect at this level of chlorine. The quantity required will need to be determined on an individual basis. For some, quantity will depend on the hardness or mineral content of the local water supply; ~~or~~

~~003.04B1b(3)(iii)~~ **003.04B1b(3)(iii)** At least a ~~two~~ **2**-compartment sink ~~shall~~ **must** be available in each kitchen. It is recommended that, when made up, the strength of sanitizing solutions be at least twice the minimum strength required for the particular sanitizing solution used. One tablespoon of laundry bleach or other solution containing 5 1/4 percent available chlorine to each gallon of water provides 100 parts per million.

~~006.18003.04B2 Food Storage. FOOD STORAGE.~~ **FOOD STORAGE.** Dry or staple foods must be stored at least 4-~~6~~ **6** inches above the floor in a ventilated room not subject to sewage or waste water backflow, contamination leakage, water overflow, rodents, or vermin. This requirement does not preclude the use of dry or staple food stored in cabinets in the kitchen if these requirements are met.

~~006.19003.04B3 HANDWASHING.~~ **HANDWASHING.** There ~~is~~ **must be** a conveniently located handwashing facility in the kitchen.

~~006.20003.04B4 COUNTER SPACE.~~ **COUNTER SPACE.** There is cleanable work counter space for the preparation of meals. Formica, vinyl, or resilient type work counter coverings which are free of crevices or cracks are ~~adequate~~ **permitted**.

~~006.21003.04B5 REFRIGERATION.~~ **REFRIGERATION.** Refrigerators are provided for perishable foods and are kept clean and in good working order, and maintain refrigerated foods at from ~~33° F to 45° F.~~ **33 degrees Fahrenheit to 45 degrees Fahrenheit.**

~~003.04B6 Laundry equipment shall not be located in the kitchen, but in the laundry room only.~~

~~006.22003.04C Administration.~~ ADMINISTRATION. A room ~~shall~~ must be provided for the house manager or house parents. If the house manager or family live in the facility, their numbers ~~shall~~ must be counted in determining the number of toilets and baths, and space allocated for dining and recreation, unless a separate apartment is provided.

~~006.23003.04D Outside Recreation Area.~~ OUTSIDE RECREATION AREA. The lot ~~shall~~ must be large enough for an outside recreation area commensurable with the number and type of ~~residents~~ clients in order to effectively promote normalization. In areas where public recreation is not available within one city block of the block where the facility is located, at least 25 square feet of outdoor recreation area per ~~resident shall~~ client must be provided.

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~~006.24003.04E General Storage.~~ GENERAL STORAGE. General storage in addition to linen closets and ~~residents' clients'~~ room closets ~~shall~~ must be provided at the ratio of 60 cubic feet per bed.

~~006.25003.04F Ventilation.~~ VENTILATION. If areas used as kitchens, bathrooms, toilet areas, or laundries are located in rooms without windows, or widows that cannot be opened to the outside air, these areas ~~shall~~ must be provided with mechanical ventilation with vents leading directly to the outside. If these areas have windows that can be opened to the outside air, mechanical ventilation is not required.

~~006.26003.04G Plumbing.~~ PLUMBING. Hot and cold water ~~shall~~ must be piped to all fixtures in the building except cold water shall be piped to the ~~water closet toilet~~. Hot water at fixtures used by ~~residents clients~~ for bathing and ~~lavatories sinks~~ ~~shall~~ must at a minimum be ~~110 degrees Fahrenheit~~ and ~~shall~~ must not exceed ~~115 degrees Fahrenheit~~. In order to prevent a hazard to the ~~residents clients~~, mixing valves ~~shall~~ must be utilized in cases where a ~~resident's client's~~ Individual Program Plan specifies training in temperature adjustment. ~~Water~~ water temperature may ~~not~~ exceed ~~115 degrees Fahrenheit~~.

~~006.27003.04H Heating and Cooling.~~ HEATING AND COOLING. ~~003.04H1~~ The building ~~shall~~ must be equipped with a heating system and have a radiator, convertor, or register in each room used by ~~residents clients~~ that does not constitute a burn hazard. The heating system must be capable of maintaining a temperature of 70-75 degrees Fahrenheit during severe cold weather conditions at an elevation of 30 inches above the floor in all areas used by ~~residents clients~~. For all facilities a cooling system is required which is capable of maintaining an indoor temperature of a range from ~~68 degrees Fahrenheit to 78 degrees Fahrenheit~~ during hot weather conditions at an elevation of 30 inches above the floor in all areas used by ~~residents clients~~. Indoor relative humidity must be maintained within the 30-70% range throughout the year. If hot water or steam radiators are used, they ~~shall~~ must be provided with covers to prevent inadvertent burns.

~~006.27(A)003.04H2~~ MECHANICAL ROOMS. Mechanical equipment rooms housing gas-fired heating and hot water equipment ~~shall~~ must have positive outside combustion air supplied for the equipment.

~~006.27(B)003.04H3~~ HEATING APPLIANCES. Every gas-fired or oil-fired heating appliance and hot water and other heating appliance ~~shall~~ must be vented to the outside air.

~~006.28003.041~~ ~~Artificial Lighting.~~ ARTIFICIAL LIGHTING. ~~003.0411~~ Each room or area, including store rooms ~~shall~~ must be provided with light fixtures to provide the following minimum foot candles or lumen per square foot rating at an elevation of 30 inches above the floor: Extension cords and temporary outlets are prohibited. Bare, incandescent bulbs are prohibited in client areas.

General Illumination

Area Name _____ (foot candles)

Recreation and dining _____ 10
 Corridors and halls _____ 5

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Storage room _____ 3
 Resident room (reading) _____ 20
 Resident room (general) _____ 10
 Bath and toilet area _____ 10
 Medicine area _____ 20
 Kitchen area _____ 10
 Laundry _____ 8
 Mechanical room _____ 5

~~003.0412~~ ~~Extension cords or temporary outlets are prohibited. Bare, incandescent bulbs are prohibited in resident areas.~~

~~003.04J~~ ~~Building Codes. Each center for the developmentally disabled must conform to at least the following codes and standards:~~

~~003.04J1~~ ~~"Nebraska Electrical Code", National Electrical Code, except for tables 310-20 through 310-30 and figure 310-1, issued and adopted by the National Fire Protection Association in 1984, Publication Number 70-1984, and filed by the State Electrical Board with the Secretary of State and with the Revisor of Regulations.~~

~~003.04J2~~ ~~American Standards Plumbing Code (ASA A40.8-1955) published by the American Society of Mechanical Engineers, and filed by the State Fire Marshal with the Revisor of Regulations.~~

~~003.04J3~~ ~~Safety Code for Elevators, latest edition published by the Nebraska State Department of Labor prior to the adoption of these regulations and filed by same with the Revisor of Regulations as 223-NAC 1.~~

~~003.04J4~~ ~~Regulations promulgated by the Nebraska State Fire Marshal Governing Safety to Life from Fire and Like Emergencies Buildings and Structures; And General Fire Prevention, effective October 18, 1973, as amended (Nebraska Life Safety Code), Rule 1 of the State Fire Marshal, and Appendix "B", Rule 2 of the State Fire Marshal, both in the latest edition filed by the State Fire Marshal with the Revisor of Regulations prior to the adoption of these regulations.~~

~~The codes and standards mentioned in the preceding subparts 003.04J1 through 003.04J4 are hereby adopted and incorporated by reference; they have the same force and effect as if set out verbatim in this part.~~

~~006.29003.04K Laundry. LAUNDRY. 003.04K1~~ Laundry services or facilities for ~~residents shall clients must~~ be provided in accordance with the developmental needs of the ~~residents clients. 003.04K2~~ Separate storage space for soiled and clean laundry ~~shall must~~ be located in the residence. All damp soiled linen such as bed linen, towels, and washcloths ~~shall must~~ be maintained in covered waterproof containers.

~~006.29(A)003.04K3 LAUNDRY EQUIPMENT.~~ Domestic type equipment ~~shall must~~ be provided for the laundry. ~~Under no circumstances can the laundry operation be located in the food service area. Laundry equipment must not be located in the kitchen.~~

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~~004 HEALTH AND SAFETY REQUIREMENTS – GENERAL~~

~~004.01 Location and Zoning.~~

~~004.01A~~ A center for the developmentally disabled shall be so located as to promote at all times the health, comfort, safety, and well-being of the residents. An official statement as to compliance with applicable local zoning codes and the requirements of Sections 18-1744 to 18-1747, R.S. Supp., 1982, if applicable, shall be submitted with the application. Sections 18-1744 to 18-1747, R.S. Supp., 1982, allow group homes housing up to eight residents to be located in any residential zone of a municipality, and further state that no group home located within 1200 feet of another existing group home or within one-half mile in a city of the metropolitan class (Omaha), can be licensed unless the municipality grants it an exemption. These statutes also limit the number of group homes that can be established in a municipality, based on population in the municipality.

~~004.01B~~ A center for the developmentally disabled shall be located in an area free of excessive dust, smoke, fumes or obnoxious odors from refuse dumps, stockyards, and areas of heavy industry, or sources of excessive noise.

~~004.01C~~ All resident bedrooms shall have windows which provide an unobstructed view of not less than 15 feet 0 inches in at least one horizontal direction.

~~004.02 Drug Storage and Handling.~~ The licensee or designated employees of a center for the developmentally disabled may assist a resident in taking routine oral or external medications prescribed for the resident by a licensed physician and dispensed by a licensed pharmacist and may provide storage and handling of such medications if procedures for storage and handling comply with the specific regulations of the Department of Health rule Title 175 NAC 5.

~~006.30004.03 Elevators. ELEVATORS.~~ All elevators in a Center for the Developmentally Disabled ~~shall must~~ be inspected for safety at least once a year by the Nebraska State Department of Labor.

~~006.31004.04 Floors, Walls, and Ceilings. FLOORS, WALLS, AND CEILINGS. 004.04A~~

Floors: The floors of all rooms, hallways, bathrooms, storerooms, and all other spaces used or traversed by residents clients and staff shall must be of such construction as to be easily cleaned, shall be smooth, and shall be kept clean and in good repair. Cleaning of floors shall must be so done as to minimize the raising of dust and exposure of residents clients thereto. Ceilings in areas where food is stored or prepared and in which dishes and utensils are washed must be of such construction as to be easily cleaned, must be smooth, and must be kept clean and in good repair. The safe use of rugs, carpets, or natural stone which can be kept clean is permitted. Abrasive strips to reduce or prevent slipping shall be used where slippery surfaces present a hazard.

~~006.31(A)004.04B~~ DIRT FLOORS. Dirt floors in a basement area are prohibited. Basement floors must be concrete with proper drainage.

~~006.31(B)004.04C~~ Walls: WALLS. Walls in bathrooms, utility rooms, kitchens, and other wet areas shall have a smooth, washable surface. They shall must be free from spaces

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which may harbor insects vermin. Walls in other areas of the facility shall must have a cleanable finish. Lead based paints are not permitted in any area of the facility.

~~006.31(C)004.04D~~ Ceilings: CEILINGS. ~~Ceilings in areas where food is stored or prepared and in which dishes and utensils are washed shall have a washable surface.~~ Enamel-painted plaster, gypsum board, concrete and vinyl-coated suspended ceiling panels, or equally washable surfaces are adequate.

~~004.05 Housekeeping.~~ All parts of the premises shall be kept neat, clean and free of litter and rubbish.

~~004.06 Maintenance.~~ All parts of the facility and all equipment must be maintained in proper working order and routine maintenance functions must be performed on a timely and appropriate basis.

~~004.07 Garbage and Rubbish Disposal.~~ All garbage and rubbish containing food wastes shall, prior to disposal, be kept in leak-proof, nonabsorbent containers with disposable liners which shall be covered with tight-fitting lids when filled or stored, or not in continuous use. All other rubbish shall be stored in containers. The rooms, enclosures, areas, and containers used shall provide adequate space for the storage of all food waste and rubbish accumulating on the premises. Adequate cleaning facilities shall be provided and each container, room, or area shall be thoroughly cleaned after the emptying or removal of garbage and rubbish. Food waste grinders, if used, shall be installed in compliance with state and local standards and shall be of suitable construction. All garbage and rubbish shall be disposed of in a manner so as to prevent the attraction of insects, rodents, and vermin.

~~004.08 Health of Personnel.~~

~~004.08A~~ All employees shall have a pre-employment medical examination which shall consist of a physical examination by a physician. All persons shall have an annual tuberculin skin test except for those who have a positive reaction and are without x-ray evidence of active disease shall be required to have either chemoprophylaxis against

~~tuberculosis infection or a chest x-ray every three years. Results of such examinations and tests shall be retained as part of the person's employment record.~~

~~004.08B— Any person (including any volunteer) who is afflicted with a disease in a communicable stage, or who is a carrier of a communicable disease, or who has an open wound or sore, is not permitted to work in a capacity (including food service) where there is a likelihood of transmitting the disease or infection to a resident or to other personnel.~~

~~006.32004.09 Food Service. FOOD SERVICE. Each facility shall licensee must comply with the provisions of the Nebraska Pure Food Act, Nebraska Food Code. Neb. Rev. Stat. §81-216.01 to 81-216.37 (Reissue 1981) as they pertain to the Food Service Code, which means the 1976 Recommendations of the Food and Drug Administration entitled Food Service Sanitation Manual Including A Model Food Service Sanitation Ordinance as it exists on August 1, 1981, except sections 10-601 and 10-602 of such code [Neb. Rev. Stat. § 81-216.03 (1981)]. This code, in the format published by the Nebraska Department of Agriculture, Bureau of Dairies and~~

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~~Foods, is hereby adopted and incorporated by reference and shall have the same force and effect as if set out verbatim in this subsection (Attachment 2).~~

~~006.33004.09A Menu Planning: MENU PLANNING. 004.09A1 Menus shall must be planned at least a week in advance. 004.09A2 Menus shall and must be reviewed and approved by a dietician before service.~~

~~006.33(A)004.09A3 MEAL SUBSTITUTIONS. Records of substitutions of planned food items shall must be made. Substitutions shall and must be of equal nutritional value.~~

~~006.33(B)004.09A4 DOCUMENTATION OF MENUS. Records of menus shall must be filed for six 6 months in the center facility.~~

~~004.09B— Modified or Therapeutic Diets:~~

~~004.09B1— Menus specifying portion sizes shall be planned at least two weeks in advance.~~

~~004.09B2— Modified or therapeutic diets shall be developed by a dietician and approved by the attending physician.~~

~~006.34004.09C Dining Rooms: DINING ROOMS. 004.09C1 All residents, clients, including the mobile non-ambulatory shall must eat or be fed in dining areas except where contraindicated for health reasons. 004.09C2 Table service shall must be provided for all who can and will eat at a table.~~

~~006.34(A)004.09C3 DINING EQUIPMENT. Dining areas shall must be equipped with tables, chairs, eating utensils and dishes to meet the developmental needs of the residents clients.~~

~~006.34(B)004.09C4~~ DINING SUPERVISION. Dining areas shall ~~must~~ be adequately supervised and staffed for the direction of self-help eating procedures and to assure that each ~~resident~~ client receive an adequate amount and variety of food.

~~004.09D~~ Food Purchasing:

~~004.09D1~~ Food shall be free from spoilage, filth, and other contamination.

~~004.09D2~~ Food shall be obtained from approved sources that comply with all laws relating to food and food labeling.

~~004.09D2a~~ All meat and meat products shall be U.S.D.A. approved or obtained from a meat processing plant that is approved by U.S.D.A.

~~004.09D2b~~ Only clean whole eggs with shell intact and without cracks shall be used. Pasteurized liquid, frozen or dry egg products may be used. Commercially prepared and packaged peeled hard boiled eggs may also be used.

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~~004.09D2c~~ Fresh garden vegetables may be used.

~~004.09D2d~~ The use of food in hermetically sealed containers that were not prepared in U.S.D.A. approved food processing establishments are prohibited unless canned by residents of the facility.

~~004.09D3~~ Pasteurized Grade A milk and milk products shall be used.

~~004.10~~ Sewage Disposal. The sewage shall discharge into a sewage system which complies with the rules and regulations of the Department of Environmental Control of the State of Nebraska.

~~004.11~~ State Fire Safety Code. As a prerequisite to and condition of continued licensure, each building or structure in which a Center for the Developmentally Disabled is housed, shall comply with the Regulations Promulgated by the Nebraska State Fire Marshal Governing Safety to Life From Fire and Like Emergencies in Buildings and Structures; and General Fire Prevention effective October 18, 1973 as amended (Nebraska Life Safety Code), Rule 1 of the State Fire Marshal and Appendix "B", Rule 2 of the State Fire Marshal, both in the latest edition filed by the State Fire Marshal with the Revisor of Regulations prior to the adoption of these regulations. Any building or structure within this scope used or intended to be used for the housing of non-ambulatory, or of four (4) or more persons, shall have installed or maintained proper operating conditions and an approved automatic fire alarm system. Any building or structure within this scope or subdivision used or intended to be used for the housing of less than four (4) ambulatory persons shall have a minimum of a single station smoke detection system. Every person, firm, corporation or other entity maintaining or operating any facility for the care of the mentally handicapped, developmentally disabled, or physically disabled, shall maintain documentation in each resident's record, on the annual physical, within fifteen (15) days of admission, or readmission of a person, stating whether or not the resident is ambulatory or non-ambulatory person and enumerating the reasons for such classification. Such statement shall also be filed

~~for each resident residing within the facility within thirty (30) days of the effective date of these regulations.~~

~~It shall be a violation of these regulations for any person, firm, or corporation required to file a statement pursuant to this section to include false statements therein. The ambulatory or non-ambulatory status of any mentally handicapped, developmentally disabled, or physically disabled person within this scope shall be determined by a physician.~~

~~004.12 Insect and Rodent Control. Every facility shall or equipped so as to prevent the entrance, harborage, or breeding of flies, roaches, bedbugs, rats, mice, and all other insects and vermin. Cleaning renovation, or fumigation by licensed pest control operator for The elimination of such pests shall be used when necessary.~~

~~006.35004.13 Water Supply. WATER AND SEWER SYSTEMS. Each building must have and maintain an accessible and safe supply of potable water. Where an authorized public water supply of satisfactory quality, quantity and pressure is available, the building must be connected to it and must use it exclusively. All water distribution systems must be protected with anti-siphon devices and air-gaps to prevent contamination. Every facility shall have a safe, sanitary, and potable water supply, connected to a municipal system when available, which complies with the provisions of Title 179, Nebraska Administrative Code, Chapter 2, Regulations Governing~~

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~~Public Water Supply Systems, adopted and promulgated by the State Department of Health. No plumbing fixture or other device shall be installed which provides a connection between a drinking water supply and a drainage, soil, waste, or sewer pipe so as to make possible the backflow of sewage or waste water into the water supply system.~~

~~006.35(A)004.13A PRIVATE WELLS. Any center for the developmentally disabled The licensee must ensure that any building with a private well or wells as the source of the water supply must have this water supply tested quarterly for coliform bacteria quarterly and a chemical analysis every ~~three~~ 3 years by the State Health Department Laboratory or a laboratory approved by the same.~~

~~004.13B Bacteriological. The maximum permissible contaminant level for coliform bacteria is four per one hundred milliliters of sample examined. Any sample submitted which exceeds the four coliform per one hundred milliliters a second sample shall be immediately collected and submitted for examination. If two consecutive samples have greater than four coliform per one hundred milliliters, the well and wells shall be disinfected immediately.~~

~~004.13C Chemical. A water sample shall be submitted every three years for a chemical analysis. The maximum contaminate levels shall not exceed those contained in the Department regulation 179 NAC 2-002.01 and 179 NAC 2-002.02.~~

~~004.13D Copies of the water supply test reports must be retained in the center for the developmentally disabled for the period of one year and a copy of each report for the previous year must be submitted to the Department with the licensure application.~~

~~006.36004.14 Clothing. CLOTHING.~~ Each ~~resident shall~~ client must have an adequate allowance of neat, clean, fashionable and seasonable clothing.

~~006.36(A)004.14A CLOTHING IDENTIFICATION.~~ Each ~~resident shall~~ client must have her or his own clothing, which is, properly marked with her or his name, and he or she shall use this clothing.

~~006.36(B)004.14B APPROPRIATE CLOTHING.~~ Such clothing ~~shall~~ must make it possible for clients to go out of doors in inclement weather, to go on trips or visits, appropriately dressed and to make a normal appearance in the community.

~~006.36(C)004.14C NON-AMBULATORY CLIENTS.~~ Non-ambulatory clients ~~shall~~ must be dressed daily in their own clothing, including shoes, unless contraindicated in a written, medical order which is reviewed periodically.

~~006.36(D)004.14D CLOTHING MAINTENANCE.~~ An ongoing wardrobe check should be kept on each ~~resident's~~ client's personal and clothing items to assure proper maintenance.

~~004.15 Emergency Procedures. Facility shall have written policies and procedures providing for quarterly fire and inclement weather drills.~~

~~005 GENERAL OPERATIONAL REQUIREMENTS 007. STANDARDS OF OPERATION, CARE,~~

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~~AND TREATMENT. A Center for the Developmentally Disabled must be organized, managed, and administered by the licensee to ensure each client receiving services at the facility received necessary care and treatment in a safe manner, in accordance with current standards of practice, and in accordance with the Health Care Facility Licensure Act, 175 NAC 1, and this chapter.~~

~~007.01 ADMINISTRATION. The licensee may be the administrator or may appoint a person to be the administrator. If the administrator is not the licensee, the administrator is directly responsible to the licensee in all matters related to the maintenance, operation, and management of the facility. The administrator is the contact person for the facility. The licensee's responsibilities include:~~

- ~~(A) Designating a house manager in writing;~~
- ~~(B) Being available or ensuring the administrator is available to the house manager at all times;~~
- ~~(C) Ensuring the health, safety and protection of clients residing at the facility;~~
- ~~(D) Maintaining compliance with all applicable state statutes, codes, rules and regulations;~~
- ~~(E) Notifying the Department in writing within 5 working days when:
 - ~~(i) A vacancy in the administrator position occurs including the name of who will be responsible for the position until another administrator is appointed; and~~
 - ~~(ii) A vacancy in the administrator position is filled including the effective date and name of person appointed to that position; and~~~~
- ~~(F) Establishing, implementing and revising as necessary, written policies and procedures governing the facility operations.~~

~~007.02005.04 Center Staff. STAFFING. The licensee must maintain a sufficient number of staff with the required experience, orientation, training, and competency necessary to meet~~

the care and treatment needs of clients and the operations needs of the facility.

~~005.01A Personnel. One individual must be identified as having primary authority over and responsibility for the overall operation of each center for the developmentally disabled in accordance with the written policies of the center; such a person shall be the Administrator. The Administrator shall be the contact person for the facility. This individual's name must appear on the licensure application.~~

~~007.02(A)005.01B Personnel Policies. PERSONNEL POLICIES. 005.01B1~~ Written personnel policies and procedures ~~shall~~ must be established and made available to each employee. Personnel policies and procedures must be read by each employee upon employment and as revisions are made. Documentation of this ~~shall~~ must be maintained in the employee's personnel file. Personnel policies must address hiring, assignment and promotion of employees; grievance procedures; suspension or dismissal of an employee; and ~~insure~~ ensure that employees with symptoms or signs of communicable disease are not permitted to work.

~~007.02(B)005.01B2 JOB DESCRIPTIONS. A j~~ Job descriptions ~~s~~ for each consultant and staff position ~~shall~~ must be established and made available to each consultant and staff person upon employment. Each job description ~~shall~~ must include but not necessarily be limited to a description of the person's duties and responsibilities and the person's role, if any, in implementing the individual program, plan job descriptions for consultants must be included as a part of the contract with a consultant.

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~~007.02(C)005.01B3 VOLUNTEERS.~~ Policies and procedures ~~shall~~ must be ~~available~~ implemented which specify the training and supervision to be given to volunteers. A volunteer ~~shall~~ must never be left in charge ~~of~~ of the facility.

~~007.02(D)005.01C Training. 005.01C2 TRAINING.~~ Policies and procedures ~~shall~~ must be available which specify the training to be received during the ~~three~~ (3) months orientation period and provide for in-service training and staff development on a regular basis thereafter.

~~007.02(D)(i)005.01C1 INITIAL TRAINING.~~ Staff orientation for new employees must take place during the first ~~three~~ (3) months of employment and must begin on the first day of employment. Orientation during the first ~~three~~ (3) months must be consistent with the job description for the individual and the needs of the ~~individuals~~ clients served. Training during the first ~~three~~ 3 months ~~shall~~ must include: basic first aid and cardiopulmonary resuscitation, (2) drug administration, (in-service must be completed prior to administration of drugs), (3) Individual Program Plan development and implementation, (4) ~~resident~~ client rights, and (5) ~~agency~~/facility policies and procedures, ~~and~~ (6) ~~on-the-job~~ training.

~~007.02(D)(ii)005.01C3 ONGOING TRAINING.~~ In-service training and staff development must be available to and attended by all staff on a regular basis. Training must be consistent with the job description for the individual and the needs of the ~~individuals~~ clients to be served. A plan of in-service training and staff development ~~shall~~ must be established for a ~~three~~ (3) month period and ~~shall~~ must provide for ongoing in-service training and staff development.

~~007.02(D)(iii)005-04C4~~ TRAINING DOCUMENTATION. Documentation of all staff training and in-services attended ~~shall~~ must be kept in each employee's personnel record. In-service records ~~shall~~ must include topic and content, actual training time and date of training.

~~007.02(E)005-04D~~ Staffing. STAFFING. Regardless of the organization or design of resident living units, the staff-resident client ratios, ~~unless program needs justify otherwise, shall~~ must be, morning, ~~(awake and present),~~ afternoon and evening, ~~(awake and present),~~ and overnight ~~(sleeping)~~. For time periods when clients are not present in the facility, staff-ratios will not apply.

~~007.02(E)(i)005-04D1~~ STAFFING RATIOS FOR DISABLED. For any units within a facility that including includes clients who are either children under the age of 6 years, disabled, severely and profoundly retarded, severely physically handicapped, or residents who are aggressive, assaultive, or security risks, or who manifest severely hyperactive or psychotic-like behavior, or other residents who require considerable adult guidance and supervision, ~~the staff-resident ratios shall be not less than: the following~~

minimum staff-client ratio must be met:

- ~~(1)m~~Morning - 1:4;
- ~~(2)a~~Afternoon and evening - 1:4; and
- ~~(3)e~~Overnight - 1:8.

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~~007.02(E)(ii)005-04D2~~ STAFFING RATIOS FOR BASIC INDEPENDENT SKILLS. For any units within a facility that includes clients serving residents requiring training in basic independent living-skills, and who do not attend vocational training programs but may attend prevocational training-programs, ~~the staff-resident ratios shall not be less than: the following minimum staff client ratios must be met:~~

- ~~(1)m~~Morning - 1:8;
- ~~(2)a~~Afternoon and evening - 1:8; and
- ~~(3)e~~Overnight - 1:10.

~~007.02(E)(iii)005-04D3~~ STAFFING RATIOS FOR TRAINING PROGRAMS. For any units serving residents clients in vocational training programs and adults who work in sheltered employment situations, the following minimum staff-resident client ratios ~~shall not be less than: must be met:~~

- ~~(1)m~~Morning - 1:8;
- ~~(2)a~~Afternoon and evening - 1:8; and
- ~~(3)e~~Overnight - 1:10.

~~For time periods when residents are awake and not present in the facility, the staff-resident ratio need not be maintained.~~

~~007.02(E)(iv)~~ ADDITIONAL STAFFING. Additional staff coverage ~~shall~~ must be provided on call ~~for the Center~~ as necessary during emergencies, including illness of a client or clients ~~resident or residents~~. Additional staff coverage ~~shall~~ must be provided on call during emergencies in accordance with the previously stated ratios.

These individuals ~~and~~ and their phone numbers must be listed near the ~~Center's~~ main telephone ~~for the facility~~. Volunteers ~~cannot be~~ are not included in meeting the staff-resident client ratios. A licensee ~~These facilities~~ that accepts any client residents whose needs require awake overnight care must provide awake and present staff in the prescribed ratios.

~~007.03005.02 Emergency Medical Services. EMERGENCY MEDICAL SERVICES. 005.02A~~ Each licensee ~~There shall~~ must establish, implement and revise as necessary policies and procedures regarding the handling of emergency situations ~~be written procedures for the handling of emergency situations~~. All employees and volunteers must have immediate access to such information along with the names, telephone numbers, location, and type of medical services available. Emergency information must be maintained in the ~~Center~~ facility at a location known to all ~~Center~~ facility employees.

~~007.03(A)005.02B MEDICAL INFORMATION.~~ All staff ~~shall~~ must have immediate access to ~~residents'~~ clients' medical information including, name of physician(s), person to notify in case of emergency, current medications, and known allergies. Medical information must be maintained in the ~~Center~~ facility at a location known to all ~~Center~~ facility employees.

~~007.03(B)005.02G EMERGENCY SITUATIONS.~~ The ~~Center shall~~ licensee must maintain a first aid kit adequate to deal with possible emergency situations. ~~This kit shall be checked on at least an annual basis and restocked as needed at each location. This kit must be checked on at least an annual basis and restocked as needed. Documentation of the annual check must be maintained in the Center for two years. The first aid kit shall contain~~

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~~the following items:~~

~~band-aids
adhesive tape
gauze bandages
sterile gauze pads
antiseptic such as Merthiolate
triangular bandages
sterile eye pads
scissors
tweezers
ointment, cream, or spray
paper tape
First aid handbook~~

~~005.02D All employees shall be trained during their first three months of employment in the administration of first aid and cardiopulmonary resuscitation. Documentation of training must be kept in each employee's personnel file.~~

~~007.04005.03 Personnel Files. PERSONNEL.~~ Personnel files ~~shall~~ must be maintained in a centralized system and ~~shall~~ must be subject to inspection by authorized representatives of the Department at any time. Personnel files ~~shall~~ must be maintained for all personnel and

shall ~~must~~ include, ~~but need not be limited to~~:

- ~~005.03A(1)~~ Job description;
- ~~005.03B(2)~~ Documentation of completed training and in-service attended;
- ~~005.03C(3)~~ Documentation of annual performance evaluation;
- ~~005.03D(4)~~ Pre-employment physical;
- ~~005.03E~~ ~~Documentation on an annual basis of tuberculin skin tests, or chemoprophylaxis or x-ray (every three years);~~
- ~~005.03F(5)~~ Job application;
- ~~005.03G(6)~~ Credential verification;
- ~~005.03H(7)~~ Date of hiring; and
- ~~005.03I(8)~~ Disciplinary actions, if any.

007.04(A) INDIVIDUAL LICENSE REQUIREMENTS. The licensee must ensure all persons who provide a service to clients meet applicable state laws. The licensee must ensure that all persons for whom a license, certification or registration is required hold the license, certification or registration in accordance with applicable state laws.

007.04(A)(i) REPORTING. Each licensee must ensure that any incident where there is reason to believe that abuse, neglect, or exploitation of a client has occurred are reported to:

- (1) The Adult and Child Abuse and Neglect Hotline via telephone immediately; and
- (2) Local law enforcement as required by state and federal laws.

007.04(B) INVESTIGATION. A licensee must ensure any incident where there is reason to believe that abuse, neglect, or exploitation of a client has occurred is thoroughly investigated and the investigation documented in a written report. Within 5 working days of

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the incident, the facility must submit the written investigative report to the Department.

007.04(C) PROTECTION. A licensee must ensure that clients are protected throughout the investigation. Actions must be taken as a result of the investigation to ensure patient safety and to prevent the potential for recurrence.

007.04(D) CRIMINAL BACKGROUND AND REGISTRY CHECKS. A licensee must complete and maintain documentation of pre-employment criminal background and registry checks on each unlicensed direct care staff member.

007.04(D)(i) CRIMINAL BACKGROUND CHECKS. A licensee must complete criminal background checks through a governmental law enforcement agency or a private entity that maintains criminal background information.

007.04(D)(ii) REGISTRY CHECKS. A licensee must check for adverse findings on the following registries:

- (1) Nurse Aide Registry;
- (2) Adult Protective Services Central Registry;
- (3) Central Register of Child Protection Cases; and
- (4) Nebraska State Patrol Sex Offender Registry.

007.04(D)(iii) NURSE AIDE REGISTRY CHECKS. A licensee must not employ staff with adverse findings on the Nurse Aide Registry regarding abuse or neglect of clients served, or misappropriation of the property of clients served. The licensee must:

- (1) Determine how to use the criminal background and registry information, except for the Nurse Aide Registry, in making hiring decisions;
- (2) Decide whether employment can begin prior to receiving the criminal background information; and
- (3) Document any decision to hire a person with a criminal background or adverse registry findings, except for the Nurse Aide Registry. The documentation must include the basis for the decision and how it will not pose a threat to clients' safety or property.

~~007.05005.04 Resident Records. CLIENT RECORDS. 005.04A The licensee must establish, implement and revise as necessary policies and procedures regarding the confidentiality, maintenance, storage and destruction of client records. Client records must include: Residents' records shall be retained for the period of time specified by the Center, but no less than the period of time the individual is a resident of the Center and at least three years following the individual's discharge from the Center. In cases in which a Center for the Developmentally Disabled ceases operation all records of residents shall be transferred to the facility to which the resident moves; all other records of such Center for Developmentally Disabled if not specifically governed by the provisions of these regulations, shall be disposed of in accordance with Center policy so long as the residents rights of confidentiality are not violated. Resident records shall be subject to inspection by an authorized representative of the Department and may not be removed except by court order. Resident records may be destroyed only when they are in excess of three years of age, following resident discharge and destruction has been authorized in writing by the Department of Health. In order to insure the resident's rights of confidentiality,~~

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~~whenever the records of a resident of a Center for the Developmentally Disabled are destroyed or disposed of it shall be by shredding, mutilation, burning or similar protective measure.~~

~~005.04C16(A) Documentation of all current evaluations-;~~

~~005.04C17(B) Documentation of incident reports-;~~

~~005.04C18(C) Documentation of clothing and personal possession inventory-;~~

~~005.04C19(D) Documentation of medication histories and response profiles-;~~

~~005.04C20(E) Documentation of client consent forms-; and~~

~~005.04D(F) If vocational services are offered to the clients of the facility, the records of the facility must indicate whether or not such services have been approved by the state. If vocational services are offered to the residents of the Center for the Developmentally Disabled, the records of the Center shall indicate whether or not such services have been approved by the state.~~

~~005.04B The record of each resident of a Center shall be maintained and retained in the Center until the resident leaves the Center and in accordance with 005.04A above. A centralized system may be kept to maintain duplicate information.~~

~~005.04C~~ A record containing information pertinent to the resident and the resident's program plan shall be maintained for each resident on the licensed premises and shall be available for inspection by any authorized representative of the Department of Health. All entries into the resident's record shall be legible, dated and authenticated by signature of the person making the entry. Records in the Center shall include:

~~007.06005.04C1~~ POST-ADMISSION INDIVIDUAL PROGRAM PLAN. At the time of admission a preliminary program plan and within 30 calendar days after admission a post-admission Individual Program Plan must include measurable goals and objectives, must be developed and implemented within 30 days after admission of any client, and be completed by the interdisciplinary team. Continued placement and programs must be determined, by the interdisciplinary team, in accordance with developmental needs as identified in comprehensive assessments and must not be contingent on age or time restrictions. Thereafter an Individual Program Plan designed at least annually by an interdisciplinary team;

~~005.04C2~~ Documentation of observation of the resident's response to programs implemented in the Center and recorded as specified on the program plan;

~~005.04C3~~ Periodic, but at least quarterly, review of the resident's Individual Program Plan by a member or members of the individual's interdisciplinary team, as determined by the team;

~~005.04C4~~ Documentation of a medical examination. Upon admittance, a dated physical examination must have been completed by a physician the past 3 months, or within 15 days following admittance;

~~005.04C5~~ Documentation of a dated dental examination.

~~005.04C6~~ Height and weight records must be maintained.

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~~005.04C6a~~ For adults 118 years and older according to the Individual Program, Plan,

~~005.04C6b~~ For children who shall be weighed once a month,

~~005.04C6c~~ For children whose height shall be measured quarterly,

~~005.04C7~~ Documentation of immunizations and dates of immunizations for children;

~~005.04C8~~ A written physician's order for all current medications administered and all current treatments;

~~005.04C9~~ Documentation of all current medications as administered;

~~005.04C10~~ Documentation of visits to physician within the last 12 months;

~~005.04C11~~ Documentation of dental visits within the last 12 months;

~~005.04C12 Documentation of hospitalization within the last 12 months;~~

~~005.04C13 Documentation of illnesses within the last 12 months;~~

~~005.04C14 Documentation of accidents and seizures for the last 12 months;~~

~~007.07005.04C15~~ RESTRAINT DOCUMENTATION. Documentation of monitoring of restraints and time-out rooms which includes extent of time in time-out, reason for use, 15 minute checks of the restraint, release from restraints and exercise every 2 hours, and signature of the individual documenting monitoring of restraints. If a time-out room is used for behavior modification programs the room must provide a minimum of 60 square feet of floor space and have a ceiling height of 9 feet. There must be a means of observing the resident client while in the time-out room. Appropriate furniture, at least a bed or chair and a light must be provided. The door must be lockable from only the outside.

~~007.08005.05~~ Rights of Residents. CLIENT RIGHTS. ~~Each licensee The Center shall must establish, implement and revise as necessary have~~ policies and procedures assuring that ~~all residents of a Center for Developmentally Disabled persons each client has have~~ the same constitutional civil rights ~~as all other citizens~~ unless specific rights have been removed: ~~(1) by a court of law after the resident client has been afforded his or her full due process rights, or (2) for the particular circumstances and with specific safeguards outlined.~~

~~007.08(A)~~ HUMAN RIGHTS COMMITTEE. ~~The licensee The Center shall must~~ have a Human Rights Committee for each facility. Policies and procedures regarding Residents' Clients' Rights ~~should must~~ be reviewed by the Human Rights Committee at least annually. Any compromise of these rights must be documented with justification. ~~Residents shall Clients must~~ have a right to treatment, services and habilitation designed to maximize developmental potential of the person and provided in a setting that is least restrictive of the resident's client's personal liberty. A Human Rights Committee must be established for

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each Center facility. Reports of the Committee meetings must be available in each facility served or locale and must specify what occurred during the Committee meetings.

~~007.08(B)005.05A~~ Protective Safeguards of Residents' Rights. PROTECTIVE SAFEGUARDS OF THE CLIENT'S RIGHTS. The ~~Center's~~ Human Rights Committee ~~shall must~~ review and take action in accordance with written policies and procedures, with respect to alleged instances of mistreatment, neglect, abuse, exploitation, and situations ~~in which where~~ restraints, psychotropic medication or aversive conditioning are used. Documentation of reviews and actions by the Human Rights Committee must be maintained in the Center for residents of the Center facility for clients. Composition of the Human Rights Committee ~~shall must~~ be as follows:

~~(i)(1)~~ Administrative staff representative;

~~(ii)(2)~~ Residential and service staff;

~~(iii)(3)~~ Direct consumer, i.e., resident, Client;

~~(iv)(4)~~ Indirect consumer, i.e., the parents or guardian of a resident, client; and

~~(v)(5)~~ Representatives from community concerned with rights of individuals with developmental disabilities.

~~007.08(C)005.05B~~ ~~Information Regarding Rights.~~ INFORMATION REGARDING CLIENT RIGHTS. Each resident client must be informed, by an appropriate communication system, of his or her rights and responsibilities as a resident, client, and of all rules and regulations governing resident client conduct and responsibilities. Receipt of such information must be acknowledged in writing by the resident client or his or her family, guardian, or representative, where applicable, and maintained in the resident's client's record in the Center facility. If written acknowledgement cannot be obtained, information regarding resident's client's rights shall must be sent to his or her family, guardian or representative by certified mail.

~~007.08(C)(i)005.05C~~ ~~Recognition of Human Dignity.~~ RECOGNITION OF HUMAN DIGNITY. Each ~~resident shall~~ client must be treated with consideration, respect, truthfulness and full recognition of his or her dignity and individuality, including privacy in treatment and in care of his or her personal needs. Residents' Clients' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, and entertainments shall must be elicited and respected by the facility. Privacy of a resident's client's body shall must be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident client safety or assistance.

~~007.08(C)(ii)005.05D~~ ~~Input into Decision Making.~~ INPUT INTO DECISION MAKING. There shall must be documentation that each resident client is afforded maximum opportunity to participate in any decisions concerning his or her person, including those decisions involving medical care and treatment, residency, and the development and implementation of the Individual Program Plan. If it is determined that informing residents clients of their condition is medically contraindicated, this decision and reasons for it shall must be documented in the Center facility in the resident's client's record by the physician.

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~~007.08(C)(iii)005.05E~~ ~~Freedom from Restraints and Abuse.~~ FREEDOM FROM RESTRAINTS. ~~Mistreatment, neglect, physical, mental or verbal abuse, or exploitation of residents in any form is prohibited. The Center must have a written policy that defines use of behavior modification programs, the staff members who may authorize their use, and a mechanism for monitoring and controlling their use. Seclusion (defined as the placement of a resident alone in a locked room) is also prohibited.~~ Physical restraints, psychotropic medications or aversive conditioning techniques shall must be employed only in accordance with policies and procedures approved by the Human Rights Committee and shall must be employed only after approval by the same. Physical restraints, psychotropic medication and aversive conditioning techniques, ~~(defined such as using noxious or aversive stimuli,)~~ shall must never be used as a punishment, for the convenience of staff, or as a substitute for programs, and shall must be applied only after other means of controlling behavior have been tried and have failed. Documentation of the failure of these alternative techniques shall must be included in a resident's client's record and reviewed by the Human Rights

Committee. Prior to the incorporation of physical restraints, psychotropic medications, or aversive conditioning techniques in a resident's client's habilitation plan, except when absolutely necessary in an emergency situation to prevent a resident client from seriously injuring himself or others:

- (1) It must be documented in the resident's client's record in the Center facility that physical restraints, psychotropic medications or aversive conditioning techniques, or any or all of them, are essential for the resident's client's habilitation and that less restrictive techniques have been attempted and have failed; and
- (2) Incorporation of aversive conditioning techniques, physical restraints, or psychotropic medications in the resident's client's habilitation plans has been with the informed consent of the resident, client, or his or her family, guardian, or representative, when applicable, and documented in the resident's client's record in the Center facility. The written policies and procedures of the facility governing the use of restraints must delineate the following:
 - 005.05E1(a) Physician's orders must indicate the specific reasons for the use ~~oil~~ of restraints and must specify the type of restraints used;
 - 005.05E2(b) The use of restraints must be temporary and the ~~resident.~~ shall client must not be restrained for an indefinite amount of time;
 - 005.05E3(c) Orders for restraints ~~shall must~~ not be enforced for longer than 12 hours, unless the resident's client's condition warrants and must be reordered every 12 hours by the physician;
 - 005.05E4(d) A resident client placed in the restraint ~~shall must~~ be checked at least every 15 minutes by appropriately trained staff and an account must be kept of this surveillance;
 - 005.05E5(e) Reorders shall be issued only after a review of the resident's client's condition;
 - 005.05E6(f) The use of restraints must not be employed as punishment, for the convenience of the staff, or as a substitute for supervision;
 - 005.05E7(g) Mechanical restraints must avoid physical injury to the resident client and provide a minimum of discomfort;

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005.05E8(h) The opportunity for motion and exercise must be provided for a period of not less than 10 minutes during each 2 hours in which restraints are employed, except at night, if the client is asleep; ~~and~~

(i) The following documentation is required before incorporation in the residents client's habilitation plan of more restrictive methods of managing behavior, i.e., psychotropic medication, restraint, ~~or aversive conditioning~~:
005.05E8a and A a complete description of the maladaptive behavior must include:

005.05E8a(1)(i) The form of the behavior; ~~;~~

005.05E8a(2)(ii) Where and when the behavior occurred; ~~;~~

005.05E8a(3)(iii) The frequency of the occurrence of the behavior; ~~;~~

005.05E8a(4)(iv) The results of this occurrence; ~~;~~

005.05E8b(v) The previous intervention approaches tried; ~~;~~

005.05E8b(1)(vi) The description of the teaching procedures; ~~;~~

005.05E8b(2)(vii) The persons responsible; ~~;~~

~~005.05E8b(3)(viii)~~ The setting-;
~~005.05E8b(4)(ix)~~ The time spent per day and week-;
~~005.05E8b(6)(x)~~ The results of the alternative approaches-;
~~005.05E8c(xi)~~ The proposed procedure-;
~~005.05E8c(1)(xii)~~ The description of the proposed procedure-;
~~005.05E8c(2)(xiii)~~ The persons responsible-;
~~005.05E8c(3)(xiv)~~ The setting-;
~~005.05E8c(4)(xv)~~ The rationale for choosing this specific procedure-;
~~005.05E8c(5)(xvi)~~ The evaluation of the program (data collection)-;
~~005.05E8c(6)(xvii)~~ Who will review it-;
~~005.05E8c(7)(xviii)~~ The proposed length of the implementation-;
~~005.05E8c(8)(xix)~~ Who can terminate the procedure-; and
~~005.05E8c(9)(xx)~~ Who will monitor and how frequently will they monitoring occur.

007.08(C)(iv) FREEDOM FROM SECLUSION. Seclusion is prohibited.

007.08(C)(v) FREEDOM FROM ABUSE AND NEGLECT. Mistreatment, neglect, physical, mental or verbal abuse, or exploitation of clients in any form is prohibited. The licensee must have a written policy that defines use of behavior modification programs, the staff members who may authorize their use, and a mechanism for monitoring and controlling their use.

007.08(C)(vi)005.05E8d Consent Form. BEHAVIOR MANAGEMENT CONSENT. For discontinuation of a behavior management program associated with the use of psychotropic medication(s), the resident client record shall must contain documentation that the cessation of psychotropic medication does not interfere with a resident's client's habilitation program and that there is documentation of no problematic behavior. Once a maintenance dose for psychotropic medication has been established, there must be provision in the resident's client's Individual Program Plan for quarterly review of the resident's client's status and documentation of the review maintained in the Center's facility's records for the resident client.

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007.08(C)(vii)005.05F Discipline of Residents. DISCIPLINE OF CLIENTS. Residents shall Clients must not discipline other residents, clients, except as, part of an organized self-government program which is conducted in accordance with written policy of the Center facility.

007.08(C)(viii)005.05G Freedom of Association and Communication. FREEDOM OF ASSOCIATION AND COMMUNICATION. Each resident shall client must be afforded the right to communicate, associate, and meet privately with persons of his or her own choice; to send and receive his or her personal mail unopened; and to participate in activities of social, religious, and community groups at his or her discretion. There will be documentation of the rationale for the restriction of any of these rights. A decision to restrict a visitor is reviewed and re-evaluated each time the resident's client's Individual Program Plan is reviewed by the Interdisciplinary Team and medical orders

are reviewed by the physician or at the ~~resident's client's~~ request. Close relatives ~~shall~~ must be permitted to visit ~~residents clients~~ at reasonable hours without prior notice.

~~007.08(C)(ix)005.05H Confidential Treatment of Resident Information.~~ CONFIDENTIAL TREATMENT OF CLIENT INFORMATION. Each ~~resident shall client~~ must be assured

of confidential treatment of all information contained in his or her records and his or her written, informed consent, or the written, informed consent of his or her family, guardian, or representative, if applicable, ~~shall~~ must be required for the release of information to persons not authorized under law to receive it.

~~007.08(C)(x)005.05I Freedom from Interference with Personal Financial Affairs.~~ FREEDOM FROM INTERFERENCE WITH PERSONAL FINANCIAL AFFAIRS. Each ~~resident shall client~~ must be afforded the right to manage his or her personal financial affairs. In the event a ~~resident client~~ has had a conservator appointed by a court of law, the conservator ~~shall~~ must be free to manage the ~~resident's client's~~ personal financial affairs within the bounds of the court order appointing the conservator. Each ~~resident client~~ and his or her parent(s), or conservator, if applicable, shall be informed orally and in writing of all financial responsibilities involved in being a ~~resident client of a Center for Developmentally Disabled persons.~~ Written authorization from the resident or his or her conservator, if applicable, shall be obtained when the Center is handling the resident's and documented in the resident's record in the Center.

~~007.08(D)005.05I1 AUTHORIZATION. The Center must maintain a written account of all residents' funds received by or deposited with the facility. Written authorization from the client or his or her conservator, if applicable, must be obtained when the licensee is handling the client's funds and the authorization must be in the client's record in the facility.~~

~~007.08(D)(i)005.05I2 CLIENT FUNDS. The Center may, licensee must at the residents maintain a written account of all clients' funds received by or deposited with the facility. The facility may, at the client's request, keep on deposit personal funds over which the resident client has control. Should the resident client or conservator, where applicable, request these funds, they shall must be given to him or her on request with receipts maintained by the facility and a copy to the resident client.~~

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~~007.08(D)(ii)005.05I3 FINANCIAL TRANSACTIONS. If the Center licensee makes financial transactions on a resident's client's behalf, the resident client or his or her representative must receive, or acknowledge that he or she has seen, an itemized accounting, of disbursements and current balances at least quarterly. A copy of this statement must be maintained in the resident's client's financial or business record.~~

~~007.08(D)(iii)005.05J Freedom from Involuntary Servitude. FREEDOM FROM INVOLUNTARY SERVITUDE. No resident shall client must ever be required to perform labor which involves the operation and maintenance of the program or facility or the regular care, treatment, or supervision of other residents clients. Residents Clients may voluntarily perform any work available to them. Residents Clients may be required however, to perform tasks of a housekeeping nature (such as the making of~~

their own beds) without compensation. ~~The agency provides documentation for clients who are involved in the workshop that it complies with current state and federal wage and hour laws, and that there is documentary evidence of each resident's production level and each resident's earning rate.~~

~~007.08(D)(iv)005.05K~~ ~~Transfer or Discharge of Residents.~~ TRANSFER OR DISCHARGE OF CLIENTS. When the resident client is transferred or discharged, the reason for the transfer or discharge and a summary of findings, progress and plans must be recorded and made available to both the transferring facility and the facility to which the client is transferred ~~to~~. Except in an emergency, the resident client or his or her parents, guardian, or representative, if applicable, must be informed in writing at least 30 days in advance of transfer and at least 60 days in advance of discharge, and his or her written consent obtained. The ~~i~~Interdisciplinary Team must convene prior to transfer or discharge of a resident client and must review the move.

~~007.08(D)(v)005.05L~~ ~~Fee Schedule.~~ FEE SCHEDULE. ~~The agency provides e~~Each resident client has the right to a copy and to view a fee schedule of ~~its~~ charges for services to the resident client.

005.06 Services to Residents.

~~007.09005.06A~~ CLIENT SERVICES. A ~~center licensee may~~ must not admit any client to a facility if the individual need for that client cannot be met ~~anyone whose current identified needs it cannot meet.~~ An Eevaluations by ~~at least~~ a physician, a psychologist, a social worker and residential staff must be completed prior to admission for each client.

~~007.09(A)005.06B~~ INTERDISCIPLINARY TEAM. The interdisciplinary team is responsible for development of a preliminary program plan at the time of admission, ~~an~~ complete individual Program Plan with 30 days, after the date of admission and at least annual review of the Individual Program Plan. ~~The interdisciplinary of at least:~~ and must complete an annual review of each client's program plan. The Interdisciplinary Team must include:

005.06B1(i)The ~~individual's~~ client's case manager_i;

005.06B2(ii)The ~~individual's~~ client's parent or guardian, if applicable_i;

005.06B3(iii)The ~~individual~~ client to be served, or reason for nonattendance,

005.06B4(iv)A representative from the ~~Center's~~ residential program~~matic~~ staff_i; and

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~~005.06B5(v)~~Professionals from those disciplines for which the individual has specialized ~~there are currently identified~~ needs, including vocational staff, if applicable and school system representatives, if applicable.

007.09(B) NONPARTICIPATION IN INTERDISCIPLINARY TEAM. If any member(s) of the previous team ~~is~~ are not involved in ~~this determination,~~ the development or review of the program plan, the reasons for their nonparticipation ~~shall~~ must be documented in the minutes of the Interdisciplinary Team meeting. Program Plans ~~shall~~ must include signatures of the individuals ~~s~~ or the individual's legal representative participation, in the Interdisciplinary Team meeting.

007.09(C) PROFESSIONALS WHO PARTICIPATE ON THE INTERDISCIPLINARY TEAM. Professionals who participate on the Interdisciplinary Team must meet the following requirements:

~~005.06B5a~~ Psychologists must be licensed to practice in the State and certified by the Department as qualified practice clinical psychology. ~~(i)~~ A psychologist must have a current active license in Nebraska;

~~005.06B5b~~ Social Services Workers must have a minimum of a baccalaureate degree from an accredited college or university, in social work, mental retardation, or a related field. ~~(ii)~~ Social Services Workers must have a bachelor's degree in social work, developmental or intellectual disabilities, or a related field;

~~005.06B5c~~ Physicians must be licensed to practice in the State. ~~(iii)~~ Physicians must have a current active license in Nebraska;

~~005.06B5d~~ Dentists must be licensed to practice in the State. ~~(iv)~~ Dentists must have a
a
active license in Nebraska;

~~005.06B5e~~ Dieticians must be eligible for registration by the American Dietetic Association under its requirements in effect on January 17, 1974 or have a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management, have one year of supervisory experience in the dietetic service of a health care institution, and also participate annually in continuing dietetic education. ~~(v)~~ Licensed Medical Nutrition Therapists must have a current active license in Nebraska;

~~005.06B5f~~ Speech pathologists or audiologists must be licensed to practice in the State. ~~(vi)~~ Speech pathologists or audiologists must have a current active license in Nebraska;

~~005.06B5g~~ Physical Therapists must be licensed to practice in the State. ~~(vii)~~ Physical Therapists must have a current active license in Nebraska; and

~~005.06B5h(viii)~~ Occupational Therapists must be:

~~005.06B5h(1)~~ Graduates of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association; or

~~005.06B5h(2)~~ Eligible for certification by the American Occupational Therapy Association under its requirements in effect on the effective date of these regulations; or

~~005.06B5h(3)~~ Have 2 years of competent experience as an occupational therapist.

007.10005.06C CLIENT EVALUATIONS. The individual Client evaluations conducted by the disciplinary areas shall must include:

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~~005.06C1(A)~~ Summary of progress towards meeting the current Individual Program Plan's goal and objectives and assessments of continuing need for care; ~~;~~

~~005.06C2(B)~~ Identification of the tools or methods used for assessment; ~~;~~

~~005.06C3(C)~~ Needs, strengths and weaknesses (barriers); ~~;~~

~~005.06C4(D)~~ Recommendations if the resident client has habilitative needs (~~shall be stated behaviorally~~); ~~;~~ and

~~005.06C5(E)~~ Written in language clearly understandable by all.

007.11005.06D INDIVIDUAL PROGRAM PLAN. The individual Program Plan shall must include:

~~005.06D1(A)~~ Behaviorally stated long term goals and short term objectives, that are stated separately, and each objective is stated in terms of a single behavioral outcome;

~~005.06D1a~~ Stated separately (that is, each objective is stated in terms of a single behavioral outcome);

~~005.06D1b(B)~~ Assigned projected completion dates;

~~005.06D1c(C)~~ Expressed in behavioral terms that provide measurable indices indicators of progress expressed in behavioral terms (inclusive of a pass and a fail criteria);

~~005.06D1d(D)~~ Be sequenced within a developmental progression appropriate to the individual; and

~~005.06D1e(E)~~ Assigned priorities.

~~007.11(A)~~ ~~005.06D2~~ INDIVIDUAL PROGRAM PLAN OBJECTIVES. The Individual Program Plan objectives must include A description of the manner in which objectives will be achieved and possible barriers to the achievement of them in common language understandable by all concerned; a training plan shall be written for the implementation of each objective specifying:

~~005.06D2a(i)~~ Data collection procedures;

~~005.06D2b(ii)~~ Training procedures;

~~005.06D2c(iii)~~ Staff responsible for training;

~~005.06D2e(iv)~~ Conditions or (environment) and materials needed; and

~~005.06D2f(v)~~ Method by which effectiveness of program will be evaluated.

~~007.11(B)~~ ~~005.06D3~~ INDIVIDUAL PROGRAM PLAN SPECIFICATIONS. The Individual Program Plan must include A statements (in readily understandable form) of specific habilitation services to be provided, containing the identity of the individual client (by name and title) or agency which will deliver each service, and specifying the date of the initiation of each service to be provided and the proposed duration of each service.

~~007.11(C)~~ ~~005.06D4~~ ACTIVITY SCHEDULES. Activity schedules that are an active extension of the Individual Program Plan. The schedule shall must be recorded and shall must include:

~~005.06D4a(i)~~ Resident's Client's schedules on a weekly basis;

~~005.06D4b(ii)~~ Time periods in which staff are working with residents clients on their Individual Program Plans;

~~005.06D4c(iii)~~ Time periods residents clients are working alone or together on skill attainment;

~~005.06D4d(iv)~~ Times for the individual client to choose activities that interest him or her;

~~005.06D5(v)~~ Ongoing staff services (responsible persons);

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~~005.06D6(vi)~~ Restrictions of resident client rights;

~~005.06D7(vii)~~ Barriers to programming, i.e., blind, non-ambulatory;

~~005.06D8(viii)~~ Guardianship status;

~~005.06D9(ix)~~ Admission date; and

~~005.06D10(x)~~ Primary relative, guardian or advocate.

~~007.11(C)(1)~~ ~~005.06E~~ INDIVIDUALIZED SERVICE PLAN. At the time of admission, a preliminary program plan shall be developed by an Interdisciplinary Team which may

provide for the continuation of existing programs from previous facility, ~~but shall for all individuals include~~ Comprehensive evaluations of the a individual's client's developmental needs to must be completed within 30 ~~calendar~~ days following admission. Reassessments must be ~~provided completed~~ annually or more frequently if needed as determined by ~~resident need~~ the needs of the client. Comprehensive evaluations must include:

~~005.06E1(a)~~ Medical evaluation, (upon admission and thereafter as needed), ~~evaluations shall must~~ address physical and mental health and include a medication history-;

~~005.06E2(b)~~ Dental evaluation, (upon admission and thereafter as needed), ~~evaluations shall must~~ include complete extra and intra-oral examinations-;

~~005.06E3(c)~~ Sensorimotor Development evaluation-;

~~005.06E4(d)~~ Communicative Development evaluation-;

~~005.06E5(e)~~ Social Development evaluation; (~~U~~upon admission and thereafter as needed)-;

~~005.06E6(f)~~ Affective Development evaluation-;

~~005.06E7(g)~~ Cognitive Development evaluation-;

~~005.06E8(h)~~ Adaptive behaviors or independent living skills evaluation-;

~~005.06E9(i)~~ Dietary, if applicable. Dietary evaluations ~~shall must~~ address eating skills; adaptive equipment; modified diets; ~~and~~ edible reinforcers, and nutritional inducements-;

~~005.06E10(j)~~ Speech, if applicable. Speech evaluations ~~shall must~~ include appraisal of articulation, voice, rhythm, and language-;

~~005.06E11(k)~~ Audiology, if applicable. Audiology evaluations ~~shall must~~ include tests of puretone air and bone conduction, speech audiometry, and other procedures as necessary, and include assessment of the use of visual cues, and use of amplification-;

~~005.06E12(l)~~ Physical therapy, if applicable. Physical therapy evaluations ~~shall must~~ address the preservation and improvement of abilities for independent function such as range of motion, strength tolerance, coordination, and activities of daily living; and prevention, insofar as possible of irreducible or progressive disabilities through means such as the use of orthotic and prosthetic appliances, assistive and adaptive devices, positioning, behavior adaptations, and sensory stimulation-;

~~005.06E13(m)~~ Occupational therapy, if applicable. Occupational therapy evaluations ~~shall must~~ address the preservation and improvement of abilities for independent function such as range of motion, strength, tolerance, coordination, and activities of daily living; and prevention, insofar as possible of irreducible or progressive disabilities through means such as the use of orthotic and prosthetic

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appliances, assistive and adaptive devices, positioning, behavior adaptations, and sensory stimulation-;

~~005.06E14(n)~~ Psychological (~~an~~ initial evaluation upon admission and ~~bi-annually thereafter as needed~~). Psychological evaluations ~~shall must~~ address perceptual skills, social skills, self-direction, emotional stability, and effective use of time, (including leisure time). Full-scale ~~shall must~~ include ~~NA non-adaptive~~ and adaptive behavior scale-; and

~~005.06E15(15)~~ Vocational, if applicable. Vocational evaluations ~~shall~~ must address ~~resident client~~ aptitudes, abilities, interests, work attitudes, work habits, work tolerances, community and social skills.

~~007.11(C)(2)005.06F4~~ POST-ADMISSION INDIVIDUAL PROGRAM PLAN. The post-admission Individual Program Plan, which ~~shall~~ must include measurable goals and objectives, is developed and implemented within 30 calendar days after admission by the Interdisciplinary Team.

~~005.06F2(a)~~ Continued placement and programs must be determined in accordance with developmental needs as identified by comprehensive assessments and not be contingent on age or time restrictions.

~~007.11(D)005.06G~~ PROGRAMS. All ~~p~~Programs must be implemented as specified on the Individual program plan. The frequency of implementation of a program Programming frequency must be in accordance with ~~according to~~ normal life activities.

~~007.11(E)005.06H~~ ONGOING IMPLEMENTATION AND CONTINUING APPROPRIATENESS. ~~The ongoing implementation and continuing appropriateness of~~ The Individual Program Plan must be reviewed at least quarterly by the individual's client's Interdisciplinary Team for assuring implementation and whether it continues to be appropriate for the client.

~~007.11(F)005.06I~~ MODIFICATION AND REVIEW OF THE INDIVIDUAL PROGRAM PLAN. The Individual Program Plan itself must also be reviewed and modified as necessary by the individual's client's Interdisciplinary Team at intervals determined by the team, and at least annually.

~~007.11(G)005.06J~~ LEISURE TIME ACTIVITIES. ~~Residents Clients~~ must be provided with leisure time activities ~~by the Center which shall and must~~ be directed at keeping the resident-client both physically and mentally alert and active.

~~007.11(H)005.06K~~ GENERIC SERVICES AND RESOURCES. The ~~Center shall licensee~~ must utilize, as extensively as possible, generic services and resources appropriate to the needs of the individuals clients served, including introducing individuals clients into the environments available in the community that are most appropriate to addressing their needs. There must be written policies and procedures to utilize these resources within the scope of availability.

~~007.11(I)005.06L~~ COMMUNITY ACTIVITIES. Services must be provided in settings that are appropriate for and that encourage disabled individuals clients to experience relationships with non-disabled persons in community activities.

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~~007.11(J)005.06M~~ STAFF PERSON RESPONSIBILITY FOR SERVICES. The Interdisciplinary Team ~~shall~~ must identify one staff person as responsible for coordinating all services provided to the resident client by the ~~Center facility~~. This person ~~shall~~ must be designated on the resident's client's Individual Program Plan.

007.12 MEDICATIONS. Each licensee must establish, implement and revise as necessary policies and procedures governing the handling, storage and administration of medications

that must be in compliance with current standards of practice and state and federal law.

007.12(A) MEDICATION STORAGE AND HANDLING. All medications must be prescribed for the client by a licensed medical practitioner and dispensed by a licensed pharmacist.

007.12(B) ADMINISTRATION OF MEDICATION. The licensee must ensure clients receive medications only as legally prescribed by a medical practitioner in accordance with the prescription and prevailing professional standards.

007.12(B)(i) METHODS OF ADMINISTRATION. When the licensee is responsible for the administration of medication, it must be accomplished by the following methods:

007.12(B)(i)(1) SELF ADMINISTRATION. The licensee must allow clients to self-administer medication, with or without supervision, unless an Interdisciplinary Team has determined the client is not capable of doing so safely.

007.12(B)(i)(2) LICENSED HEALTH CARE PROFESSIONAL. When the licensee utilizes licensed health care professionals for whom medication administration is included in their scope of practice, the licensee must ensure the medications are properly administered in accordance with prevailing professional standards.

007.12(B)(i)(3) PERSONS OTHER THAN A LICENSED HEALTH CARE PROFESSIONAL. When the licensee utilizes persons other than licensed health care professionals in the provision of medications, the licensee must follow 172 NAC 95, Regulations Governing the Provision of Medications by Medication Aides and Other Unlicensed Persons, and 172 NAC 96, Regulations Governing the Medication Aide Registry.

007.12(C) FACILITY RESPONSIBILITY. When the licensee is not responsible for medication administration or provision of medication, the licensee maintains responsibility for the overall supervision, safety and welfare of the client.

007.12(D) DISPOSAL OF MEDICATIONS. Medications that are discontinued by the medical practitioner, and those medications which are beyond their expiration date, must be destroyed. The licensee must identify who will be responsible for disposal of medications and the method to dispose of medications in a timely and safe manner. Documentation of the disposal should be documented and such documentation should be retained for a minimum of 5 years.

~~SOURCE: Nebraska Revised Statutes Section
71-2024 and Sections 71-2017 to~~

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