

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

CHAPTER 3 - REGULATIONS GOVERNING CENTERS FOR THE DEVELOPMENTALLY DISABLED

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

CHAPTER 3 - REGULATIONS GOVERNING CENTERS FOR THE DEVELOPMENTALLY DISABLED

001 DEFINITIONS. As used in these regulations, unless the context to be intelligible or prevent absurdity otherwise requires:

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.

001.03 Group Residence means any 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.

001.04 Ambulatory means the ability to walk without assistance.

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

001.06 Facility shall mean a Center for the Developmentally Disabled.

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.

001.09 Non-Ambulatory means the inability to walk without assistance.

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 LICENSING PROCEDURES

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.

003 PHYSICAL PLANT REQUIREMENTS FOR GROUP RESIDENCES

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.

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.

003.02 Resident Bedrooms.

003.02A Single bedrooms for ambulatory residents shall 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.

003.02B Multi-bedrooms for ambulatory residents shall provide at least 60 square feet of usable floor space for each resident. There shall 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 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.

003.02C Windows. Bedrooms shall be exterior rooms with at least 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 be at least 10 percent of the Usable floor area. All windows shall 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 ceils not be more than 36 inches above the finished floor. All exterior windows and doors shall have serviceable screens except for doors with panic hardware.

003.02D Closets. There shall be accessible private and adequate storage space for clothing and personal belongings in the bedroom area for each resident. Built-in closets or wardrobes with doors or curtains are acceptable.

003.02E Ceiling Heights. Level ceilings in sleeping rooms shall 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 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.

003.02F Partitions. Partitions defining each bedroom shall run from floor to ceiling.

003.02G All resident bedrooms shall be located at or above natural grade level.

003.02H Doors.

003.02H1 Interior doors excluding time out room doors shall not have vision panels.

003.02H2 Door locks installed on sleeping room doors shall be lockable from the corridor side only, except where such doors 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 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.

003.02H3 Door widths shall not be less than 3 feet wide to allow a minimum clear opening of 32 inches in the fully opened position.

003.02H4 Door alarms shall be provided for exterior doors when residents requiring such supervision is established by the Individual Program Plan.

003.02I Corridors. Corridor widths shall not be less than 3 feet - 0 inches.

003.02J Beds. Each resident shall have an individual bed. Adult beds shall be at least 36 inches wide. Adult size beds shall be provided for individuals 14 years of age and older. Each bed shall have good springs and a clean, firm, comfortable mattress. Beds shall be of suitable construction and dimensions to accommodate persons using them. Bunk beds, roll aways and trundles are not permitted.

003.02K Bedding and Linen.

003.02K1 All beds provided for residents shall 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 be kept clean. Bedding, including mattresses, mattress pads, quilts, blankets, pillows, and bed and bath linen which is worn out or unfit for further use shall not be used. Bedding shall be appropriate to the season. Pillowcases, sheets, and bath linen, after being used by one resident, shall be washed before they are used by other residents.

003.02K2 Clean bed linen shall be furnished at least once each week, or more frequently, to maintain cleanliness and a clean washcloth, towel or appropriate paper service shall be available to each resident.

003.02L Room Furnishings. All equipment, fixtures, furniture and furnishings, including windows, draperies, curtains, and carpets shall be kept clean and free of dust, dirt, vermin, and other contaminants and shall be maintained in good order and repair. Each resident shall be provided with appropriate individual furniture, including as 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 be provided for residents where appropriate. There shall be accessible private storage space for clothing in the bedroom area for each resident. Each resident shall 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.

003.03 Toilets and Bathing Facilities.

003.03A Resident toilet facilities shall be provided as follows: one lavatory and one water closet for each six residents or fraction thereof.

003.03B Bathing facilities shall be provided as follows: One bathing facility (tub or shower) for each eight residents or fraction thereof. Bathtubs and showers shall be provided with stable grab bars to assist residents.

003.03C No toilet room shall open directly into a food preparation area.

003.03D Toilet and bathing areas and fixtures shall approximate normal patterns found in residential construction. If there are wheelchair residents in the home, the toilet and bath areas shall be large enough for wheelchair use and also to include appropriate fixtures and appurtenances for the wheelchair residents' use. Shower curbs shall be omitted to permit access by wheelchairs. An accessible restroom shall provide at least the following fixtures and appurtenances for the wheelchair residents' use:

003.03D1 One lavatory 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 One water closet with the seat 110 inches to 20 inches from the floor, or 13 inches to 15 inches for children;

003.03D3 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 not be less than 24 inches in front of the water closet stool. Grab bars shall have an outside diameter of not less than 1 1/2 inches and shall provide a clearance of 1 1/2 inches between grab bars and adjacent surface. For children's restrooms grab bars shall be securely attached 15 inches above the floor and be positioned to extend 16 inches beyond the water closet seat;

003.03D4 Towels or warm air hand dryers shall be provided with the operating mechanism no higher than 48 inches from the floor and not mounted directly above the lavatories;

003.03D5 Toilets shall provide bar soap or a scap dispenser to be located no higher than 48 inches from the floor;

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

003.03E All toilet and bathing area facilities and fixtures shall be kept clean and in good repair.

003.03F Each bathroom and toilet area shall be well-lighted (Ref: Artificial Lighting 003.0411) with a mirror over each lavatory.

003.03G Wherever there is a water closet, there shall be an easily accessible lavatory.

003.04 Physical Requirements:

003.04A Dining and Recreation. All facilities shall have minimum areas for residents' dining and recreation which shall be at least 10 and 20 square feet respectively per resident, or 30 square feet total per resident when the area is used for a combination thereof. Space for non-ambulatory mobile residents shall be increased by 50 percent. Under no circumstances shall the combined recreation and dining space be less than 150 square feet. In residential units that have eight 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 must be allocated for dining purposes. Furnishings in the dining recreation room shall include a couch, chair(s), end tables, dining table and chairs or similar furniture to provide a comfortable setting.

003.04B Food Service. the kitchen may be residential in nature in both layout and equipment except for the following requirements:

003.04B1 Dishwashing utilizing an automatic dishwasher or a three compartment sink is adequate if it meets the following requirements:

003.04B1a When automatic dishwashers are used the final rinse cycle temperature shall not be less than 150° F.;

003.04B1b For chemical sanitization of dishes in a three compartment sink the following procedure is followed:

003.04B1b(1) 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° F. (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) 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.

003.04B1b(3) At least a two compartment sink shall 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.

003.04B2 Food Storage. Dry or staple foods must be stored at least 4 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.

003.04B3 There is a conveniently located handwashing facility in the kitchen.

003.04B4 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.

003.04B5 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.

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

003.04C Administration. A room shall be provided for the house manager or house parents. If the house manager or family live in, their numbers shall be counted in determining the number of toilets and baths, and space allocated for dining and recreation, unless a separate apartment is provided.

003.04D Outside Recreation Area. The lot shall be large enough for an outside recreation area commensurable with the number and type of residents 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 be provided.

003.04E General Storage. General storage in addition to linen closets and residents' room closets shall be provided at the ratio of 60 cubic feet per bed.

003.04F Ventilation. If areas used as kitchens, bathrooms, toilet areas, or laundries are located in rooms without windows, these areas shall be provided with mechanical ventilation with vents lading directly to the outside. If these areas have windows that can be opened to the outside air, mechanical ventilation is not required.

003.04G Plumbing. Hot and cold water shall be piped to all fixtures in the building except cold water shall be piped to the water closet. Hot water at fixtures used by residents for bathing and lavatories shall at a minimum be 110°F and shall not exceed 115°F. In order to prevent a hazard to the residents mixing valves shall be utilized in cases where a resident's individual Program Plan specifies training in temperature adjustment, water temperature may exceed 115°F.

003.04H Heating and Cooling.

003.04H1 The building shall be equipped with a heating system and have a radiator, convertor, or register in each room used by residents 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. For all facilities a cooling system is required which is capable of maintaining an indoor temperature of a range from 68° F. to 78° F. during hot weather conditions at an elevation of 30 inches above the floor in all areas used by residents. Indoor relative humidity must be maintained within the 30-70% range throughout the year. If hot water or steam radiators are used, they shall be provided with covers to prevent inadvertent burns.

003.04H2 Mechanical equipment rooms housing gas-fired heating and hot water equipment shall have positive outside combustion air supplied for the equipment.

003.04H3 Every gas-fired or oil-fired heating appliance and hot water and other heating appliance shall be vented to the outside air.

003.04I Artificial Lighting.

003.04I1 Each room or area, including store rooms shall 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:

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<u>Area Name</u>	<u>General Illumination (foot candles)</u>
Recreation and dining	10
Corridors and halls	5
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

003.04I2 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.

003.04K Laundry.

003.04K1 Laundry services or facilities for residents shall be provided in accordance with the developmental needs of the residents.

003.04K2 Separate storage space for soiled and clean laundry shall be located in the residence. All damp soiled linen such as bed linen, towels, and washcloths shall be maintained in covered waterproof containers.

003.04K3 Domestic type equipment shall be provided for the laundry. Under no circumstances can the laundry operation be located in the food service area.

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.

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

004.04 Floors, Walls, and Ceilings.

004.04A Floors: The floors of all rooms, hallways, bathrooms, storerooms, and all other spaces used or traversed by residents and staff shall 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 be so done as to minimize the raising of dust and exposure of residents thereto. 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.

004.04B Dirt floors in a basement area are prohibited. Basement floors must be concrete with proper drainage.

004.04C Walls: Walls in bathrooms, utility rooms, kitchens, and other wet areas shall have a smooth, washable surface. They shall be free from spaces which may harbor insects. Walls in other areas of the facility shall have a cleanable finish. Lead based paints are not permitted in any area of the facility.

004.04D 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.

004.09 Food Service. Each facility shall comply with the provisions of the Nebraska Pure Food Act, 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 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).

004.09A Menu Planning:

004.09A1 Menus shall be planned at least a week in advance.

004.09A2 Menus shall be reviewed and approved by a dietician before service.

004.09A3 Records of substitutions shall be made. Substitutions shall be of equal nutritional value.

004.09A4 Records of menus shall be filed for six months in the center.

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.

004.09C Dining Rooms:

004.09C1 All residents, including the mobile nonambulatory shall eat or be fed in dining areas except where contraindicated for health reasons.

004.09C2 Table service shall be provided for all who can and will eat at a table.

004.09C3 Dining areas shall be equipped with tables, chairs, eating utensils and dishes to meet the developmental needs of the residents.

004.09C4 Dining areas shall be adequately supervised and staffed for the direction of self-help eating procedures and to assure that each resident 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.

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.

004.13 Water Supply. 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 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.

004.13A Any center for the developmentally disabled with a private well or wells as the source of the water supply must have this water supply tested for coliform bacteria quarterly and a chemical analysis every three 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.

004.14 Clothing. Each resident shall have an adequate allowance of neat, clean, fashionable and seasonable clothing.

004.14A Each resident shall have her or his own clothing, which is, properly marked with her or his name and he or she shall use this clothing.

004.14B Such clothing shall 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.

004.14C Non-ambulatory clients shall be dressed daily in their own clothing, including shoes, unless contraindicated in a written, medical order which is reviewed periodically.

004.14D An ongoing wardrobe check should be kept on each resident'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

005.01 Center Staff.

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.

005.01B Personnel Policies.

005.01B1 Written personnel policies and procedures shall 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 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 that employees with symptoms or signs of communicable disease are not permitted to work.

005.01B2 A job description for each consultant and staff position shall be established and made available to each consultant and staff person upon employment. Each job description shall 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.

005.01B3 Policies and procedures shall be available which specify the training and supervision to be given to volunteers. A volunteer shall never be left in charge of the facility.

005.01C Training.

005.01C1 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 served. Training during the first three months shall 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

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and implementation, (4) resident rights, (5) agency/facility policies and procedures, and (6) on-the-job training.

005.01C2 Policies and procedures shall be available which specify the training to be received during the three (3) months orientation period and provide for inservice training and staff development on a regular basis thereafter.

005.01C3 Inservice 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 to be served. A plan of inservice training and staff development shall be established for a three (3) month period and shall provide for ongoing inservice training and staff development.

005.01C4 Documentation of all staff training and inservices attended shall be kept in each employee's personnel record. Inservice records shall include topic and content, actual training time and date of training.

005.01D Staffing. Regardless of the organization or design of resident living units, the staff-resident ratios, unless program needs justify otherwise, shall be, morning (awake and present), afternoon and evening (awake and present) and overnight (sleeping):

005.01D1 For units including either children under the age of 6 years, 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:

morning - 1:4
afternoon and evening - 1:4
overnight - 1:8

005.01D2 For units 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:

morning - 1:8
afternoon and evening 1:8
overnight - 1:10

005.01D3 For units serving residents in vocational training programs and adults who work in sheltered employment situations, the staff-resident ratios shall not be less than:

morning - 1:8
afternoon and evening - 1:8
overnight - 1:10

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

staff coverage shall be provided on call for the Center as necessary during emergencies, including illness of a resident or residents. Additional staff coverage shall be provided on call during emergencies in accordance with the previously stated ratios. These individuals and their phone numbers must be listed near the Center's main telephone. Volunteers cannot be included in the staff-resident ratios. Those facilities that accept residents whose needs require awake overnight care must provide awake and present staff in the prescribed ratios.

005.02 Emergency Medical Services.

005.02A There shall 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 at a location known to all Center employees.

005.02B All staff shall have immediate access to residents' 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 at a location known to all Center employees.

005.02C The Center shall 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. Documentation of the annual check must be maintained in the Center for two years. The first aid kit shall contain 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.

005.03 Personnel Files. Personnel files shall be maintained in a centralized system and shall be subject to inspection by authorized representatives of the Department at any time. Personnel files shall be maintained for all personnel and shall include, but need not be limited to:

005.03A Job description;

005.03B Documentation of completed training and inservice attended;

005.03C Documentation of annual performance evaluation;

005.03D Pre-employment physical;

005.03E Documentation on an annual basis of tuberculin skin tests, or chemoprophylaxis or x-ray (every three years);

005.03F Job application;

005.03G Credential verification;

005.03H Date of hiring; and

005.03I Disciplinary actions, if any.

005.04 Resident Records.

005.04A 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, 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.

005.04B 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:

005.04C1 At the time of admission a preliminary program plan and within 30 calendar days after admission a post admission Individual Program Plan. 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.

005.04C6a For adults 18 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;

005.04C15 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 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.

005.04C16 Documentation of all current evaluations.

005.04C17 Documentation of incident reports.

005.04C18 Documentation of clothing and personal possession inventory.

005.04C19 Documentation of medication histories and response profiles.

005.04C20 Documentation of resident consent forms.

005.04D 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.

005.05 Rights of Residents. The Center shall have policies and procedures assuring that all residents of a Center for Developmentally Disabled persons have the same constitutional rights as all other citizens unless specific rights have been removed: (1) by court of law after the resident has been afforded his or her full due process rights, or (2) for the particular circumstances and with specific safeguards outlined. The Center shall

have a Human Rights Committee. Policies and procedures regarding Residents' Rights should be reviewed by the Human Rights Committee at least annually. Any compromise of these rights must be documented with justification. Residents shall 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 personal liberty. A Human Rights Committee must be established for each Center. Reports of the Committee meetings must be available in each facility served or locale and must specify what occurred during the Committee meetings.

005.05A Protective Safeguards of Residents' Rights. The Center's Human Rights Committee shall 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 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. Composition of the Human Rights Committee shall be as follows: (1) Administrative staff representative, (2) Residential and service staff, (3) Direct consumer, i.e., resident, (4) Indirect consumer, i.e., the parents or guardian of a resident, (5) Representatives from community concerned with rights of individuals with developmental disabilities.

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

005.05C Recognition of Human Dignity. Each resident shall 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' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, and entertainments shall be elicited and respected by the facility. Privacy of a resident's body shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance.

005.05D Input into Decision Making. There shall be documentation that each resident 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 of their condition is medically contraindicated, this decision and reasons for it shall be documented in the Center in the resident's record by the physician.

005.05E Freedom from Restraints and Abuse. 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 be employed only in accordance with policies and procedures approved by the Human Rights Committee and shall be employed only after approval by the same. Physical restraints, psychotropic medication and aversive conditioning techniques (defined as using noxious or aversive stimuli) shall never be used as a punishment, for the convenience of staff, or as a substitute for programs, and shall be applied only after other means of controlling behavior have been tried and have failed. Documentation of the failure of these alternative techniques shall be included in a resident'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 habilitation plan, except when absolutely necessary in an emergency situation to prevent a resident from seriously injuring himself or others: (1) It must be documented in the resident's record in the Center that physical restraints, psychotropic medications or aversive conditioning techniques, or any or all of them, are essential for the resident'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 habilitation plans has been with the informed consent of the resident, or his or her family, guardian, or representative, when applicable, and documented in the resident's record in the Center. The written policies and procedures of the facility governing the use of restraints must delineate the following:

005.05E1 Physician's orders must indicate the specific reasons for the use of restraints and must specify the type of restraints used;

005.05E2 The use of restraints must be temporary and the resident shall not be restrained for an indefinite amount of time;

005.05E3 Orders for restraints shall not be enforced for longer than 12 hours, unless the resident's condition warrants and must be reordered every 12 hours by the physician;

005.05E4 A resident placed in the restraint shall be checked at least every 15 minutes by appropriately trained staff and an account must be kept of this surveillance;

005.05E5 Reorders shall be issued only after a review of the resident's condition;

005.05E6 The use of restraints must not be employed as punishment, for the convenience of the staff, or as a substitute for supervision;

005.05E7 Mechanical restraints must avoid physical injury to the resident and provide a minimum of discomfort;

005.05E8 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.

The following documentation is required before incorporation in the residents habilitation plan of more restrictive methods of managing behavior, i.e., psychotropic medication, restraint, or aversive conditioning:

005.05E8a A complete description of the maladaptive behavior.

005.05E8a(1) The form of the behavior.

005.05E8a(2) Where and when the behavior occurred.

005.05E8a(3) The frequency of the occurrence of the behavior.

005.05E8a(4) The results of this occurrence.

005.05E8b The previous intervention approaches tried.

005.05E8b(1) The description of the teaching procedures.

005.05E8b(2) The persons responsible.

005.05E8b(3) The setting.

005.05E8b(4) The time spent per day and week.

005.05E8b(6) The results of the alternative approaches.

005.05E8c The proposed procedure.

005.05E8c(1) The description of the proposed procedure.

005.05E8c(2) The persons responsible.

005.05E8c(3) The setting.

005.05E8c(4) The rationale for choosing this specific procedure.

005.05E8c(5) The evaluation of the program (data collection).

005.05E8c(6) Who will review it.

005.05E8c(7) The proposed length of the implementation.

005.05E8c(8) Who can terminate the procedure.

005.05E8c(9) Who will monitor and how frequently will they monitor.

005.05E8d Consent Form. For discontinuation of a behavior management program associated with the use of psychotropic medication(s), the resident record shall contain documentation that the cessation of psychotropic medication does not interfere with a resident'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 Individual Program Plan for quarterly review of the resident's status and documentation of the review maintained in the Center's records for the resident.

005.05F Discipline of Residents. Residents shall not discipline other residents, except as, part of an organized self-government program which is conducted in accordance with written policy of the Center.

005.05G Freedom of Association and Communication. Each resident shall 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 Individual Program Plan is reviewed by the Interdisciplinary Team and medical orders are reviewed by the physician

or at the resident's request. Close relatives shall be permitted to visit residents at reasonable hours without prior notice.

005.05H Confidential Treatment of Resident Information. Each resident shall 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 be required for the release of information to persons not authorized under law to receive it.

005.05I Freedom from Interference with Personal Financial Affairs. Each resident shall be afforded the right to manage his or her personal financial affairs. In the event a resident has had a conservator appointed by a court of law, the conservator shall be free to manage the resident's personal financial affairs within the bounds of the court order appointing the conservator. Each resident 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 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.

005.05I1 The Center must maintain a written account of all residents' funds received by or deposited with the facility.

005.05I2 The Center may, at the residents request, keep on deposit personal funds over which the resident has control. Should the resident or conservator, where applicable, request these funds, they shall be given to him on request with receipts maintained by the facility and a copy to the resident.

005.05I3 If the Center makes financial transactions on a resident's behalf the resident or his representative must receive, or acknowledge that he 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 financial or business record.

005.05J Freedom from Involuntary Servitude. No resident shall 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. Residents may voluntarily perform any work available to them. Residents 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.

005.05K Transfer or Discharge of Residents. When the resident 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 transferred to. Except in an emergency, the resident 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 interdisciplinary Team must convene prior to transfer or discharge of a resident and must review the move.

005.05L Fee Schedule. The agency provides each resident a fee schedule of its charges for services to the resident.

005.06 Services to Residents.

005.06A A center may not admit anyone whose current identified needs it cannot meet. Evaluations by at least a physician, a psychologist, a social worker and residential staff must be completed prior to admission.

005.06B The interdisciplinary team is responsible for development of a preliminary program plan at the time of admission, an individual Program Plan with 30 days, and at least annual review of the Individual Program Plan. The interdisciplinary of at least:

005.06B1 The individual's case manager,

005.06B2 The individual's parent or guardian, if applicable,

005.06B3 The individual to be served, or reason for nonattendance,

005.06B4 A representative from the Center's residential programmatic staff,

005.06B5 Professionals from those disciplines for which there are currently identified needs, including vocational staff, if applicable and school system representatives, if applicable.

If any member(s) of the previous team is not involved in this determination, the reasons for their nonparticipation shall be documented in the minutes of the Interdisciplinary Team meeting. Program Plans shall include signatures of the individuals participation, in the Interdisciplinary Team meeting.

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.

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.

005.06B5c Physicians must be licensed to practice in the State.

005.06B5d Dentists must be licensed to practice in the State.

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.

005.06B5f Speech pathologists or audiologists must be licensed to practice in the State.

005.06B5g Physical Therapists must be licensed to practice in the State.

005.06B5h 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.

005.06C The individual evaluations conducted by the disciplinary areas shall include:

005.06C1 Summary of progress towards meeting the current Individual Program Plan's goal and objectives and assessments of continuing need for care,

005.06C2 Identification of the tools or methods used for assessment,

005.06C3 Needs, strengths and weaknesses (barriers),

005.06C4 Recommendations if the resident has habilitative needs (shall be stated behaviorally),

005.06C5 Written in language clearly understandable by all.

005.06D The individual Program Plan shall include:

005.06D1 Behaviorally stated long term goals and short term objectives, that are

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

005.06D1b Assigned projected completion dates

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

005.06D1d Sequenced within a developmental progression appropriate to the individual, and

005.06D1e Assigned priorities.

005.06D2 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 Data collection procedures

005.06D2b Training procedures

005.06D2c Staff responsible for training

005.06D2e Conditions (environment) and materials needed

005.06D2f Method by which effectiveness of program will be evaluated.

005.06D3 A statement (in readily understandable form) of specific habilitation services to be provided, containing the identity of the individual (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.

005.06D4 Activity schedules that are an active extension of the Individual Program Plan. The schedule shall be recorded and shall include:

005.06D4a Resident's schedules on a weekly basis.

005.06D4b Time periods in which staff are working with residents on their Individual Program Plans.

005.06D4c Time periods residents are working alone or together on skill attainment.

005.06D4d Times for the individual to choose activities that interest him or her.

005.06D5 Ongoing staff services (responsible persons)

005.06D6 Restrictions of resident rights

005.06D7 Barriers to programming, i.e., blind, non-ambulatory

005.06D8 Guardianship status

005.06D9 Admission date

005.06D10 Primary relative, guardian or advocate

005.06E 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 individual's developmental needs to be completed within 30 calendar days following admission. Reassessments must be provided annually or more frequently if needed as determined by resident need. Comprehensive evaluations must include:

005.06E1 Medical (upon admission and thereafter as needed) evaluations shall address physical and mental health and include a medication history.

005.06E2 Dental (upon admission and thereafter as needed) evaluations shall include complete extra and intra-oral examinations.

005.06E3 Sensorimotor Development.

005.06E4 Communicative Development.

005.06E5 Social Development. (Upon admission and thereafter as needed.)

005.06E6 Affective Development.

005.06E7 Cognitive Development.

005.06E8 Adaptive behaviors or independent living skills.

005.06E9 Dietary, if applicable. Dietary evaluations shall address eating skills; adaptive equipment; modified diets; and edible reinforcers, and nutritional inducements.

005.06E10 Speech, if applicable. Speech evaluations shall include appraisal of articulation, voice, rhythm, and language.

005.06E11 Audiology, if applicable. Audiology evaluations shall 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 Physical therapy, if applicable. Physical therapy evaluations shall 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 Occupational therapy, if applicable. Occupational therapy evaluations shall 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.

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

005.06E15 Vocational, if applicable. Vocational evaluations shall address resident aptitudes, abilities, interests, work attitudes, work habits, work tolerances, community and social skills.

005.06F1 The post-admission Individual Program Plan, which shall include measurable goals and objectives, is developed and implemented within 30 calendar days after admission by the Interdisciplinary Team.

005.06F2 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.

005.06G All programs must be implemented as specified on the program plan. Programming frequency must be according to normal life activities.

005.06H The ongoing implementation and continuing appropriateness of the Individual Program Plan must be reviewed at least quarterly by the individual's Interdisciplinary Team.

005.06I The Individual Program Plan itself must also be reviewed and modified as necessary by the individual's Interdisciplinary Team at intervals determined by the team, and at least annually.

005.06J Residents must be provided with leisure time activities by the Center which shall be directed at keeping the resident both physically and mentally alert and active.

005.06K The Center shall utilize, as extensively as possible, generic services and resources appropriate to the needs of the individuals served, including introducing individuals 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.

005.06L Services must be provided in settings that are appropriate for and that encourage disabled individuals to experience relationships with non-disabled persons in community activities.

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005.06M The Interdisciplinary Team shall identify one staff person as responsible for coordinating all services provided to the resident by the Center. This person shall be designated on the resident's Individual Program Plan.

SOURCE: Nebraska Revised Statutes Section
71-2024 and Sections 71-2017 to
71-2029

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