



MURIEL BOWSER

MAYOR

January 19, 2021

The Honorable Phil Mendelson
Chairman, Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed for Council consideration is the "Operating Standards for Group Homes for Persons with Intellectual Disabilities Amendment Approval Resolution of 2021," which will approve proposed regulations on Community Residence Facilities for Persons with Intellectual Disabilities. The regulations are drafted in accordance with the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, D.C. Law 5-48, D.C. Official Code § 44-501, *et seq.* (hereinafter "the Act"). The proposed regulations repeal existing regulations on group homes and replace them with updated operating standards on Community Residence Facilities for Persons with Intellectual Disabilities.

The proposed regulations were reviewed by and discussed with the Department on Disability Services (DDS) which is charged with placing citizens in group homes on behalf of the city. The rulemaking accommodates the Medicaid waiver program, administered by DDS, in accordance with which many providers deliver services in group homes. It is agreed that the proposed regulations will function as a much-needed clarification and streamlining of the rights of residents as well as the responsibilities of licensees.

If you need further information, please contact Phillip L. Husband, General Counsel, Department of Health at 442-5970.

Sincerely,



Muriel Bowser
Mayor


Chairman Phil Mendelson
at the request of the Mayor

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4 PROPOSED RESOLUTION

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

10 Chairman Mendelson, at the request of the Mayor, introduced the following resolution,
11 which was referred to the Committee on _____.

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13 To approve proposed rules of the District of Columbia Department of Health that would
14 amend Title 22-B of the District of Columbia Municipal Regulations to revise
15 operating standards for group homes for persons with intellectual disabilities.

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17 RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That
18 this resolution may be cited as the “Operating Standards for Group Homes for Persons
19 with Intellectual Disabilities Amendment Approval Resolution of 2021”.

20 Sec. 2. Pursuant to D.C. Official Code § 44-504(j), the Council of the District of
21 Columbia approves the proposed rulemaking by the District of Columbia Department of
22 Health (“DOH”) that will improve operating standards for groups homes for persons with
23 intellectual disabilities.

24 Sec. 3 The proposed rulemaking would amend Chapter 35 of Title 22-B (Health)
25 of the District of Columbia Municipal Regulations. It would repeal the current Chapter
26 35 and replace it with new rules creating operating standards for group homes for persons
27 with intellectual disabilities in the District of Columbia, addressing such areas as
28 habilitation, health care, qualifications of staff and recordkeeping, and would also

1 recognize the licensing of participants in the Home and Community-Based Services
2 Waiver Residential Habilitation Service Settings (“HCBS”). The rulemaking would also
3 change the name of Chapter 35 from “Group Homes for Persons with Mental
4 Retardation” to “Community Residence Facilities for Persons with Intellectual
5 Disabilities (CRFPID)”.

6 Sec. 4. The Secretary to the Council of the District of Columbia shall transmit a
7 copy of this resolution, upon its adoption, to the Mayor and the Director of DOH.

8 Sec. 5. This resolution shall take effect immediately.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



KARL A. RACINE
ATTORNEY GENERAL



LEGAL COUNSEL DIVISION

MEMORANDUM

TO: Ronan Gulstone
Director
Office of Legislative Support

FROM: Brian K. Flowers
Deputy Attorney General
Legal Counsel Division

DATE: August 19, 2020

SUBJECT: Legal Sufficiency Review of Approval Resolution Accompanying a
Proposed Rulemaking Amending Chapter 35 (Community Residence
Facilities for Persons with Intellectual Disabilities (CRFPID)) of Title 22-B of
the District of Columbia Municipal Regulations
(AR-20-221-C)

This is to Certify that this Office has reviewed the above-referenced legislation and has found it to be legally sufficient. If you have questions regarding this certification, please do not hesitate to contact me at 724-5565.

Handwritten signature of Brian K. Flowers.

Brian K. Flowers

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in section 5(a) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984, D.C. Law 5-48, D.C. Official Code § 44-504(a)(2017 Supp.) (hereinafter “the Act”), and in accordance with Mayor’s Order 98-137, dated August 20, 1998, hereby gives notice of the of the adoption of the following operating standards for group homes for persons with intellectual disabilities and to recognize the licensing of participants in the Home and Community-Based Services Waiver Residential Habilitation Service Settings (HCBS).

These final rules replace the current regulations on group homes for persons with mental retardation and create operating standards for group homes for persons with intellectual disabilities in the District of Columbia, and address such areas as habilitation, health care, qualifications of staff and recordkeeping.

This rulemaking was published in the *D.C. Register* on October 16, 2020 at 67 DCR 11955. No comments were received during the allotted thirty (30)-day public comment period, and no changes were made to the text of the rules as proposed. The rulemaking will be final upon completion of the forty-five (45) day Council review period if the Council does not act earlier to adopt or disapprove a resolution approving the rules.

Chapter 35 of Title 22B DCMR, Group Homes for Persons with Mental Retardation, is renamed Community Residence Facilities for Persons with Intellectual Disabilities and is amended by repealing the current Chapter 35 in its entirety, and replacing it with a new Chapter 35 to read as follows:

CHAPTER 35 COMMUNITY RESIDENCE FACILITIES FOR PERSONS WITH INTELLECTUAL DISABILITIES (CRFPID)

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3517	RECORDKEEPING
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3520	HABILITATION AND TRAINING
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3599	DEFINITIONS

CHAPTER 35 COMMUNITY RESIDENCE FACILITIES FOR PERSONS WITH INTELLECTUAL DISABILITIES

3500 GENERAL PROVISIONS

- 3500.1 For purposes of this chapter, a group home for persons with intellectual disabilities, as defined in §2 of the Act, shall be known as a Community Residence Facility for Persons with Intellectual Disabilities (CRFPID). CRFPID shall serve as substitute for the term “group home for persons with intellectual disabilities” for the purposes of this chapter.
- 3500.2 Each CRFPID shall comply with Chapter 31 of Title 22B of the District of Columbia Municipal Regulations (DCMR), entitled Licensing of Health Care and Community Residence Facilities. Chapter 31 includes administrative procedures on the issuance and renewal of licenses as well as enforcement actions.
- 3500.3 Each CRFPID shall comply with all applicable Federal and District laws and regulations, including D.C. Law 2-137, the Citizens with Intellectual Disabilities Constitutional Rights and Dignity Act of 1978 (D.C. Official Code §7-1301.01 *et seq.*). Providers of Home and Community-Based Waiver Services (“HCBS”), known as residential habilitation service settings, shall also comply with subsection 3500.4 of this Chapter.
- 3500.4 Each provider of services under the HCBS shall be certified by the Department of Disability Services (DDS) to be in compliance with Chapter 19 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled Home and Community-Based Waiver Services for Individuals with Intellectual and Developmental Disabilities. Each provider of waiver services shall comply with this Chapter, 22B DCMR Chapter 35, in order to obtain and maintain licensure.

- 3500.5 Each CRFPID participating in the HCBS must be certified by DDS at the time of the Department's annual licensure survey.
- 3500.6 Each CRFPID that is certified as an Intermediate Care Facility (ICF) shall not provide HCBS program services.
- 3500.7 Each CRFPID shall comply with the terms of its license, and the number of persons living at the home shall not exceed the number permitted by the license and shall not exceed the statutory limitation of eight (8) people.
- 3500.8 Each CRFPID Residence Director shall abide by all District of Columbia laws and regulations relating to the rights of persons with intellectual disabilities.
- 3500.9 Each CRFPID shall provide recreational activities, community integration and inclusion activities outside the home for all of the persons residing there in accordance with the person's choice as identified through the person-centered assessment process and as documented in the person's Individual Support Plan (ISP).
- 3500.10 Each CRFPID shall have equipment to provide a variety of recreational activities inside the home (including, but not limited to, games, crafts, books, television and radio) and shall maintain such equipment in good repair.
- 3500.11 Persons shall have access to and open their own mail, packages, texts, emails, or any other form of electronic communication, *e.g.* FaceTime or Skype. No mail or other forms of communication shall be read by CRFPID staff unless written permission to do so is granted by the person or his or her representative in the form of a memorandum or ISP documentation.
- 3500.12 Visits by friends, relatives or other persons not paid to be in a CRFPID shall be encouraged and permitted by the CRFPID in accordance with a person's wishes, provided there is no undue disruption to CRFPID operations and the privacy concerns of other persons or an assessed need and justified in his or her person-centered plan.
- 3500.13 Each CRFPID shall ensure that each person residing there has privacy in his or her personal space, including entrances that are lockable by the person (with staff having keys as needed and approved in the person's ISP or within other written documentation).
- 3500.14 Each CRFPID shall ensure that each person residing there has control and access to his or her personal funds and bank accounts.
- 3500.15 Each CRFPID shall allow appropriate personnel of the Department of Health (hereinafter "Department") full access, whether the visit is announced or unannounced, to all CRFPID locations, including access to the persons receiving

supports and all records in any form. For purposes of this section, the term “records” includes, but is not limited to, all information relating to the provider, the services and supports being provided, and the persons for whom services are provided; and any information which is generated by or in possession of the CRFPID; the information required by D.C. Law 2-137 (D.C. Official Code § 7-1301, *et seq.*); and any information required by the regulations implementing CRFPID.

3500.16 The CRFPID shall not use any advertising that contains false, misleading or deceptive statements or claims, or false or misleading disclosures of fees and payment for services. The CRFPID’s name shall not imply that it is providing services it is not licensed to provide or does not deliver.

3501 COMPLIANCE AND VARIANCES

3501.1 Each CRFPID that was licensed before the effective date of these regulations shall have one year to comply with the provisions herein.

3501.2 The Director may grant a variance from any of the requirements of these rules, if the applicant can show undue hardship and the variance can satisfy the following conditions:

- (a) It is not inconsistent with other provisions of the Act;
- (b) It is not deleterious to the public health and safety; and
- (c) It would not have the effect of permitting a violation of other laws or regulations of the District of Columbia.

3501.3 A CRFPID requesting a variance shall submit in writing to the Director, the following:

- (a) The regulatory requirement(s) for which a variance from strict compliance is being requested;
- (b) Specific justification as to why the CRFPID cannot meet the requirement(s); and
- (c) Alternative measures provided to ensure quality care and services consistent with these rules.

3501.4 The Director shall grant a variance only to the extent necessary to ameliorate an undue hardship and only when compensating factors are present to give adequate protection to the public health without impairing the intent and purpose of these rules.

3501.5 If the Director determines that the applicant has not justified undue hardship, he or she shall issue a written proposed denial advising the applicant as to his or her right to a hearing by the Office of Administrative Hearings (OAH) in accordance with OAH rules.

3501.6 The Director shall maintain a record, open to inspection by the public, of all variances granted. The record shall contain a complete written explanation of the basis for each variance.

3502 ENVIRONMENTAL REQUIREMENTS

3502.1 No CRFPID shall use a name on the exterior of the facility or display a logo which distinguishes it as being different from any other residence in the neighborhood.

3502.2 Each CRFPID is a person's home and shall be physically accessible to the person and allow the person access to all common areas. The CRFPID must be integrated in the community and support full access to the greater community.

3502.3 A CRFPID is a residential occupancy and may be located in a single or multi-family dwelling.

3502.4 Each CRFPID shall be in good general condition in accordance with 3503.3.

3502.5 Each CRFPID shall be within walking distance of public transportation or demonstrate that it can and does provide accessible transportation to persons, upon reasonable request, to community activities which may include but are not limited to:

- (a) Stores;
- (b) Restaurants;
- (c) Movies;
- (d) Parks;
- (e) Recreational facilities;
- (f) Libraries;
- (g) Post offices;
- (h) Places of worship; and
- (i) Other recreational facilities.

- 3502.6 Each CRFPID shall be located away from known sources of loud and irritating noises and hazardous conditions including, but not limited to, noxious smoke and fumes.
- 3502.7 All electrical, plumbing and mechanical equipment shall be kept in safe and operating condition. All fire safety equipment, including, at a minimum, smoke detectors, carbon monoxide detectors and fire extinguishers, shall be in good working order.
- 3502.8 Each CRFPID shall ensure that it has at all times a working water supply, trash disposal system and sewage disposal system. The CRFPID shall ensure that recycling, composting and garbage disposal do not create a nuisance or a breeding place for insects and rodents.
- 3502.9 The CRFPID's hot water tank shall be of such size to provide an adequate supply of hot water to the kitchen, bathrooms and laundry. The hot water temperature of all fixtures used by persons residing in the home shall be maintained at a minimum one hundred degrees Fahrenheit (100°F) and not to exceed one hundred and ten degrees Fahrenheit (110°F).
- 3502.10 The CRFPID shall have a central heating and air conditioning system, radiators or electric built-in heaters and/or air conditioning window units that are installed so as to prevent hazards to persons residing in the home or to room furnishings.
- 3502.11 Active radiators shall be covered to protect persons from burns. Space heaters and kerosene heaters shall be prohibited.
- 3502.12 The physical environment shall be well-ventilated. Temperature inside the CRFPID in all rooms shall be maintained to meet persons' preference. The temperature shall not fall below seventy-two degrees Fahrenheit (72°F) or exceed eighty degrees Fahrenheit (80°F).
- 3502.13 The CRFPID shall ensure that all rooms have adequate lighting. All community space, as defined herein, shall be illuminated sufficiently to meet persons' needs, provided that at a minimum such space shall be illuminated to provide 30-foot candles of light at floor level.
- 3502.14 Each sliding glass door or transparent panel shall be made of tempered glass and shall be marked conspicuously.
- 3502.15 Space shall be provided for social and recreational purposes including, but not limited to, a living room or recreation room, and dining area. Space shall also be provided for the activities of daily living, including, but not limited to, a kitchen for cooking and preparing meals, and one or more bathrooms for bathing, toileting and grooming. All space defined in this subsection shall be

termed community space for purposes of this chapter. The CRFPID shall ensure that persons have access to all designated community space.

- 3502.16 Each person living in the CRFPID shall have access to and shall be encouraged to fully utilize all community space.
- 3502.17 Community space (excluding kitchens and bathrooms) shall be at least twenty-five square feet per person above the basement level. Renovated lower floors used as recreation or family rooms with a separate outside exit are not considered a basement.
- 3502.18 Each person in an educational program, including but not limited to a school-age student, shall be provided an area within the CRFPID that is quiet and conducive to study. The area shall have appropriate lighting, and shall have a desk or table with one or more chairs of appropriate height for the table or desk and sufficient in number to provide seating for all persons residing in the home who use the area.
- 3502.19 No smoking shall be permitted inside the CRFPID. If smoking is permitted on the premises, the CRFPID shall designate areas where persons may smoke.

3503 HOUSEKEEPING

- 3503.1 Each CRFPID shall ensure that each person residing there has the freedom to furnish and decorate his or her personnel space.
- 3503.2 All CRFPID furnishings shall be comfortable, functional and in good repair, and in accordance with the preference of the persons who reside there, as well as appropriate for persons who work in the CRFPID.
- 3503.3 The interior and exterior of each CRFPID shall be maintained in a safe, clean, orderly, attractive, and sanitary manner, and be free of clutter, accumulations of dirt, rubbish, and objectionable odors.
- 3503.4 Floors shall be leveled, free of debris, constructed of non-skid and non-abrasive materials, in good repair and promote mobility. Rugs shall be stationary, clean and in good repair.
- 3503.5 Each CRFPID shall be free of insects, rodents and vermin.
- 3503.6 Each CRFPID that is cited by the Department for violation of subsection 3503.5 shall contract with a licensed exterminator to provide services for elimination of any infestation within seventy-two hours (72 hrs.) of receipt of written notice by the Department.

- 3503.7 No cleaning agent, bleach, insecticide or any other poisonous, dangerous, or flammable material shall be accessible to a person where access to such substance is contraindicated in the person's ISP.
- 3503.8 Each CRFPID shall provide appropriate procedures, personnel, and equipment in order to ensure sufficient clean linen supplies and the proper sanitary washing and handling of linen and personal clothing of each person.
- 3503.9 Each CRFPID shall provide at a minimum two (2) sets of the following linens that are appropriate to the size of the bed, clean, and free from stains or tears, appropriate to the needs and in accordance with the preferences of the person:
- (a) Four (4) sheets;
 - (b) Two (2) pillowcase;
 - (c) Two (2) bath towel;
 - (d) Two (2) hand towel; and
 - (e) Two (2) washcloth.
- 3503.10 Each CRFPID shall also provide to each person at a minimum one (1) clean blanket and one (1) bedspread that is clean and free from rips, stains or tears, in accordance with the person's preferences, and that is cleaned as necessary and does not present a risk to health or safety.
- 3503.11 Each CRFPID shall maintain two (2) additional spare blankets and bedspreads for every four (4) persons.
- 3503.12 Each CRFPID shall provide a washer and dryer, or make alternative provisions so that each person who wishes to shall have a safe and convenient place to wash and dry personal laundry.
- 3503.13 Each CRFPID shall assure that each person has at least seven (7) changes of clothing appropriate to his or her preferences, age, activities, culture and season.
- 3503.14 Each CRFPID shall provide adequate storage areas for clean and dirty linen and shall ensure that each person's clothing is kept in good condition, laundered, cleaned and is well-fitted. Personal clothing, linens and laundered items shall be kept separately for use by the person to whom they belong and no other person.

3504 MEALS AND DINING

- 3504.1 Each CRFPID shall ensure that each person residing there has access to food at any time, unless there is a restriction based upon assessment, approved by a physician and justified in the person's ISP.
- 3504.2 Each CRFPID shall offer each person a nourishing, well-balanced diet in accordance with dietary guidelines established by the United States Department of Agriculture.
- 3504.3 Menus shall be developed with consideration of average portion sizes for menu items, person preferences, shall be developed on a weekly basis, shall provide a variety of food choices at each meal, and shall be available to persons during mealtimes and otherwise. Each menu shall vary from week to week and adjusted for seasonal changes. Menus shall be available for each person's review. Mealtime protocols containing personal dietary needs shall not be displayed publicly.
- 3504.4 If a person requires a modified diet, it shall be prescribed by a physician and documented in the person's ISP. A "modified diet" is any diet that requires specialized or restricted textures, restricted or increased calories or any other therapeutic restrictions or use of dietary supplements.
- 3504.5 A recommendation by a licensed dietitian for a modified diet shall be reviewed by a physician within five (5) business days, and shall be implemented only if ordered. If the diet is to be modified based on a medical emergency, the modification must be approved by a physician order within twenty-four (24) hours.
- 3504.6 Any modified diet shall be planned, prepared, and served by staff members who have received instruction and training on modified diets from a licensed dietitian. Subsequent training can be conducted by a licensed health professional trained by a licensed dietitian.
- 3504.7 Modified diets shall be reviewed at least quarterly by a dietitian, and as necessary according to any change in the person's condition. The review shall ensure that each diet provides adequate nutrition.
- 3504.8 All food and drink shall be free from spoilage, contamination and debris.
- 3504.9 The CRFPID shall offer at least three (3) meals per day that are nutritious and suited to the needs and choice of each person, along with the availability of nutritious snacks at the times of a person's choosing. The meals shall be offered at reasonable times as follows:
- (a) There shall not be more than fourteen (14) hours between the time a substantial evening meal is offered and breakfast the following day is offered; and

- (b) There shall not be more than ten (10) hours between the time breakfast and the evening meal of the same day is offered.
- 3504.10 A person shall not be required to eat at the three regularly scheduled meal times. Any variation from the requirements of subsection 3504.9 shall be documented in the person's record.
- 3504.11 Each CRFPID shall be responsible for ensuring that meals served away from the CRFPID are suited to the dietary needs of the person as indicated in his or her ISP.
- 3504.12 No person may be denied a meal as a form of punishment.
- 3504.13 Each CRFPID shall provide table service for all persons who can and want to eat at a table, including persons in wheelchairs. The dining room shall have tables and chairs sufficient in number to seat all persons residing in the home who utilize the dining room.
- 3504.14 Each CRFPID shall equip dining areas with tables, chairs, eating utensils, and dishes designed to meet the needs of each person.
- 3504.15 Persons, as needed, shall be provided training to develop eating skills and to use special eating equipment and utensils if such training is indicated in the ISP.
- 3504.16 Each CRFPID shall train the staff in the use of proper mealtime protocols and how to assist persons who require special mealtime protocols or utensils.
- 3504.17 Each CRFPID shall ensure that all direct care staff who prepare, cook or serve food are trained in the storage, preparation and serving of food, the cleaning and care of equipment, and food preparation in order to maintain sanitary conditions at all times.
- 3504.18 Training in food storage and preparation, serving of food, and cleaning and care of equipment shall be done by a certified food manager in accordance with Title 25A DCMR, Food and Food Operations.
- 3504.19 There shall be at least a three (3) day supply of perishable food and a five (5) day supply of nonperishable food in the CRFPID based on the menus for both regular and modified diets.
- 3504.20 Dry or staple food items shall be stored at least twelve (12) inches above the floor in a room not subject to sewage or waste water backflow, or contamination by condensation, leakage, rodents or vermin.

- 3504.21 Each CRFPID shall have and utilize effective procedures for cleaning all equipment and work areas used in the preparation and serving of foods.
- 3504.22 Dishes, eating utensils and cooking equipment shall be cleaned after each meal, appropriately dried and stored to maintain their sanitary condition.
- 3504.23 Hot and cold water, soap, and towels shall be provided in or adjacent to food preparation areas for hand washing.
- 3504.24 Each CRFPID shall serve meals at temperatures in accordance with Title 25A DCMR, Food and Food Operations. If a person requires mealtime assistance, food shall be maintained at serving temperature until assistance is provided. Food that is not promptly consumed shall be refrigerated, if necessary, and reheated.
- 3504.25 Food requiring refrigeration shall be maintained at temperatures in accordance with Title 25A DCMR, Food and Food Operations, until preparation for consumption or, if appropriate, for consumption while cold.
- 3504.26 Frozen foods shall be maintained frozen in accordance with Title 25A DCMR, Food and Food Operations until preparation for consumption or, if appropriate, for consumption while frozen.
- 3504.27 Foods that must be cooked to safe temperatures (including but not limited to raw animal, seafood or plant foods) before consumption, shall be heated and reheated to the temperatures in accordance with Title 25A DCMR, Food and Food Operations.

3505 BEDROOMS

- 3505.1 Each person's bed shall be located in a room that is designated solely as a bedroom.
- 3505.2 Each occupied bedroom shall accommodate no more than two (2) people, and measure at least 60 square feet per person in multiple client bedrooms, and at least 80 square feet in single person's bedrooms.
- 3505.3 Persons who live in the CRFPID shall not share a bedroom with staff or other non-live-in individuals.
- 3505.4 A room that can only be accessed through a bathroom or another bedroom shall not be used as a bedroom. An attic or basement shall not be used as bedroom.
- 3505.5 Each bed shall be placed at least three feet (3 ft.) from any other bed.
- 3505.6 Each bedroom shall be equipped with at least the following items for each person at all times, and must be in accordance with the person's preference:

- (a) Standard single, queen, king or twin-sized bed;
- (b) Clean pillow with appropriate and adequate fill and firmness;
- (c) Drawer space or secure space for personal items;
- (d) Night stand;
- (e) Lamp;
- (f) A clean, supportive mattress that has no rips, no tears, and no broken springs; and
- (g) At least one chair for each person, if appropriate for the person's abilities.

3505.7 Each bedroom shall contain at least one closet, and shall have accessible sufficient storage space for each person's personal effects and seasonal personal clothing.

3505.8 Bedroom doors and windows shall provide adequate privacy. Windows shall have curtains, blinds or shutters. All blinds, curtains and shutters shall be in good repair.

3505.9 Each bedroom shall have at least one external window that shall be appropriately secured to prevent unauthorized entry and to ensure the safety of each person.

3505.10 A person who cannot move up and down the steps independently shall not occupy a bedroom on an upper floor unless functioning mechanisms are employed to ensure the person's safety while ascending and descending stairs. Such mechanisms must be functional and employable in the event of an emergency.

3505.11 Each person shall have privacy in his or her sleeping and living unit.

3505.12 Each bedroom door shall have a functioning lock to which the person and appropriate staffs have keys, as identified in the ISP.

3505.13 Persons have the freedom to furnish and decorate their sleeping units within the lease or other agreement.

3506 BATHROOMS

3506.1 One (1) bathroom consisting of a working toilet, lavatory (sink for hand washing) and bathing facility that is appropriate for the needs of the persons residing in the CRFPID shall be provided for the use of no more than three (3) persons.

- 3506.2 Each bathroom shall have appliances, fixtures or devices which shall be appropriate to the needs of each person who lives and works in the CRFPID, and which shall allow persons in the CRFPID to achieve maximum independence. Appliances, fixtures and devices shall be in good repair.
- 3506.3 Each shared bathroom shall be equipped with adequate light, toilet tissue, paper towels, liquid soap for hand washing, and a mirror, as appropriate to the persons' abilities.
- 3506.4 A person shall not go through another person's bedroom in order to enter a bathroom. A person shall not go through one bathroom in order to have access to a second bathroom.
- 3506.5 Bathrooms shall provide adequate privacy. Each tub or shower shall have privacy partitions or curtains. A bathroom shall not have more than one toilet.

3507 PROGRAM STATEMENT

- 3507.1 Each CRFPID shall have a written program statement that outlines its operating standards and that shall include, at a minimum, the following:
- (a) The philosophy, goals and mission of the CRFPID;
 - (b) The maximum number of persons to be served;
 - (c) The level of care needed for the persons to be served;
 - (d) A description of the supports available to persons (including local community resources);
 - (e) Staffing positions and numbers, in ratio, if applicable;
 - (f) The sources of referrals of persons;
 - (g) The CRFPID's relationship with the person, parents, advocates and legal guardians or other support team members;
 - (h) The name(s) of the licensee and Residence Director; and
 - (i) Exclusion criteria, if any.
- 3507.2 The program statement shall be made available for distribution to each person who requests it.
- 3507.3 The program statement shall be revised as needed, and the Department shall be advised in writing of any change at least thirty (30) days prior to the change.

3507.4 The CRFPID shall only admit those persons whose service needs are consistent with the program statement, and shall not implement services that are inconsistent with its most current service description as set forth in the program statement.

3507.5 The CRFPID shall update the program statement as needed.

3508 POLICIES AND PROCEDURES

3508.1 Each CRFPID shall have on site a written or electronic manual that contains its most current policies and procedures, which shall be as detailed as is necessary to meet the needs of each person served and provide guidance to each staff member.

3508.2 The on-site manual shall have been approved by the management of the CRFPID. The CRFPID management shall review the manual at least annually and revise it as necessary. All policies and procedures shall be in final form and signed and approved by the CRFPID management.

3508.3 The manual shall be available for review and approval by government personnel who have licensing responsibility over CRFPIDs.

3508.4 The CRFPID shall ensure that all staff and contractors are aware of the policies and procedures required by this section and that all policies and procedures are implemented. All employees and contractors shall be kept informed of policy changes that affect the performance of their duties.

3508.5 The manual shall incorporate policies and procedures for at least the following:

- (a) Admission and readmission, which covers admission criteria and exclusions; transfer and discharge; assessments and who shall conduct assessments; services offered; program planning;
- (b) Appropriate conduct between staff and persons residing in the CRFPIDs, and the monitoring of such conduct;
- (c) Behavior support planning;
- (d) Confidentiality of protected health information;
- (e) Emergencies and safety, which cover fire safety, emergency evacuation, infection control, and continuity of operations planning;
- (f) Protocols for managing affairs related to the death of a person;
- (g) Protocols for medical emergencies, first aid and changes in a person's health status;

- (h) General administration, which covers the organization charts, internal assessment of the quality of care, and fiscal management;
- (i) Grievance procedures indicating how a person is to present complaints, including complaints regarding staff, person's rights and investigation of complaints; procedures must include ability for a person to complain anonymously;
- (j) Health care, which covers treatment of acute and chronic health conditions; ensuring the availability of physician and dental services for preventative treatment and emergencies; and development and implementation of medical care plans in accordance with the person's needs and the ISP;
- (k) People's rights and the formation and composition of a human rights committee in compliance with D.C. Law 2-137, the Citizens with Intellectual Disabilities Constitutional Rights and Dignity Act of 1978 (D.C. Official Code §7-1301.01 *et seq.*);
- (l) Maintenance and use of medical and adaptive equipment;
- (m) Medication management which covers administration of medication, medication administration errors, medication storage and disposal (in accordance with section 3521);
- (n) Personnel, which shall include job descriptions and qualifications, staff/person ratios, training and competency evaluations, staff development, health inventories and criminal background checks (in accordance with section 3512);
- (o) Electronic and manual recordkeeping, including confidentiality, accessibility, security, and retention of records (in accordance with section 3517);
- (p) Prohibition of mistreatment, neglect or abuse of persons by staff (in accordance with section 3524);
- (q) Identifying, investigating, managing and reporting of unusual incidents;
- (r) Policies for handling funds of persons receiving services, which shall include:
 - (i) Providing for separate accounting for personal funds and prohibiting comingling of personal and CRFPID funds;

- (ii) Requirements that persons control their own funds whenever possible, be provided training in money management whenever needed, endorse checks made out to them unless a legal guardian or personal representative has been authorized by law to endorse their checks; and
- (iii) Requirement that persons receive receipts of funds unless the person has been deemed by court to be incompetent, in which case the receipts shall be given to a guardian or personal representative;
- (s) Policies and procedures detail a Quality Assurance Program in accordance with which the CRFPID shall evaluate its operations, staff, contractors and quality of services; and
- (t) Policies regarding fees, payments, refunds and services, which shall be available at the time of admission. Policies regarding fees related to the Home and Community-Based Services Waiver Program shall be determined by DDS.

3509 ADMISSIONS

3509.1 An interdisciplinary team (IDT) shall make the determination of whether to admit a person to the CRFPID. The IDT for purposes of determining admission shall be comprised of at least the following:

- (a) The nursing staff;
- (b) The Qualified Intellectual Disabilities Professional (QIDP) and/or the Residence Director;
- (c) The DDS Service Coordinator (if appropriate); and
- (d) Other members of the person's support team.

3509.2 Prior to admission, a person's health, competency or independence levels, training and support needs shall be assessed to determine the appropriateness of the placement in the CRFPID.

3509.3 Any participant of HCBS program shall have a person-centered service plan developed through a person-centered planning process overseen by the DDS.

3509.4 If the admission is from a source other than DDS, the CRFPID shall complete the assessment and shall address:

- (a) Nature, and onset of diagnosis of disability in addition to duration of disability;
- (b) Social, behavioral, developmental and family history;

- (c) Vocational and educational background;
- (d) Previous interventions and outcomes;
- (e) Financial resources and benefits;
- (f) Health history and current medical needs;
- (g) Legal status, including guardianship;
- (h) Daily living skills;
- (i) Social and family supports; and,
- (j) Housing arrangements.

3509.5 Based on the assessment required by subsection 3509.2, the CRFPID shall state in writing the appropriateness of placement in the CRFPID as determined by the needs of the person, and the qualified staff and resources of the CRFPID.

3509.6 The CRFPID shall admit only those persons who are determined through the admission assessment to be candidates for placement in the CRFPID or after other options are explored and proves to be the least restrictive place for the person.

3509.7 The CRFPID shall maintain documentation of the admission assessment and the names of the employee(s) conducting the assessment.

3509.8 A CRFPID may rely on a person's prior ISP to determine the appropriateness of the placement, provided that the prior ISP has been reviewed and updated within the past year.

3509.9 The CRFPID shall conduct a reassessment to determine the appropriateness of the placement when there is a significant change in the medical, behavioral or psychiatric status of the person as determined by a member of the IDT.

3509.10 The CRFPID shall maintain written documentation of each assessment and reassessment. In addition to the update of documentation required by this section, each reassessment shall include the following:

- (a) The date of initial assessment;
- (b) Name, age and gender of the person;
- (c) Address and phone number of the person or parent or guardian, if applicable;
- (d) Presenting needs including psychiatric/medical problems, current medications and history of medical care; and

- (e) Name of the screening employee or contractor and his or her experience and qualifications; and
 - (f) The habilitative assessment tool(s) utilized; and findings.
- 3509.11 For persons not admitted, documentation of the assessment shall be retained for at least six (6) months.
- 3509.12 Each CRFPID shall obtain from the person, sponsoring agency or guardian, as appropriate, information about any known health problems or communicable diseases of a person upon his or her being admitted or readmitted.
- 3509.13 Each person who has a communicable disease may be admitted only to a CRFPID that is capable of implementing environmental and hygienic procedures appropriate to the specific disease as prescribed by a physician, which shall include treatment of the condition and prevention of the spread of the disease.
- 3509.14 Each CRFPID shall obtain upon admission for each person a record of all medications the person is currently taking, and other information, including:
 - (a) Names and of all prescribed controlled substances;
 - (b) A reason for each medication; and
 - (c) A listing of any known allergies to medication.
- 3509.15 Each CRFPID shall obtain a health inventory screening, conducted by a physician, for each newly admitted person prior to admission if possible but no later than within fifteen (15) days of admission.
- 3509.16 A physical examination shall be documented, signed and dated by the physician and shall include the following:
 - (a) Assessment of general physical condition;
 - (b) A complete medical history including allergies, modified diets, medication orders, recent physical complaints and medical conditions, chronic conditions, past serious illnesses and injuries, current and past drug use (including both prescription and illicit drugs), vaccination history, and any condition that may predispose the person to acquiring or transmitting infectious diseases;
 - (c) Treatment for any medical conditions;
 - (d) Evaluation for communicable diseases, including tuberculosis and a determination of the Hepatitis B antigen and antibody status of each person relevant to acquiring or transmitting infectious diseases;

- (e) Immunization updates, as needed;
- (f) Evaluation of the need for other testing; and
- (g) Any other test deemed appropriate by the examining physician.

3509.17 The CRFPID shall ensure that each newly admitted person receives a dental examination within one year of admission or as soon as practicable.

3509.18 Each CRFPID shall secure a written report of the health screening that shall provide sufficient information concerning the person's health to enable the CRFPID to provide appropriate services to meet that person's needs. The CRFPID shall implement all of the physician's orders and any physician recommendations approved by the IDT.

3509.19 Persons receiving or in need of hospice care shall not be admitted to a CRFPID. This restriction shall not apply to persons who were admitted to a CRFPID prior to the initiation of or a recommendation for hospice care.

3509.20 Admission policies shall be available for review by each person contemplating residency in the home or his or her authorized representative.

3509.21 A person's original records shall follow the person and be available at admission.

3510 DISCHARGES AND TRANSFERS

3510.1 A person shall be discharged or transferred from a CRFPID as provided by D.C. Law 2-137; D.C. Official Code §§ 7-1303.07 to 7-1303.10.

3510.2 Each CRFPID shall have written policies which shall specify criteria and procedures for transfer to either a more or less restrictive setting and discharge from a CRFPID.

3510.3 Reasons for transfer from a community residence facility shall include, but not limited to, the following:

- (a) The medical needs as determined by a physician;
- (b) The behavior of the person or other circumstances which pose an imminent danger to the person or other persons in the home; and
- (c) The determination by the interdisciplinary team that the person's habilitative needs would be better met by another setting.

3510.4 Each CRFPID shall plan for voluntary or involuntary transfer or discharge of a person on a non-emergency basis and shall provide the following:

- (a) Thirty (30) days notification to appropriate individuals or sponsoring agencies of reasons for the need to transfer or discharge;
- (b) Comprehensive relocation assistance and counseling to a person being transferred or discharged;
- (c) Identification of the person's needs and the corresponding services and programming required in the new setting; and
- (d) Reason(s) for changing or terminating services.

3510.5 Each CRFPID shall document in writing its compliance with this section.

3510.6 Transfer of a person for emergency medical treatment may be made by the CRFPID director with appropriate notification to the person's physician.

3510.7 Each CRFPID shall have procedures for medical treatment in place which adequately detail the transfer and return process.

3510.8 Prior to or at the time of discharge or transfer of a person, the CRFPID shall provide a complete copy of the person's comprehensive record to the new residence or to the sponsoring agency.

3511 MANAGEMENT OF OPERATIONS

3511.1 Each CRFPID shall provide adequate administrative support to efficiently meet all the needs of each person and to meet all the requirements of District and federal law as applicable to CRFPIDs.

3511.2 The CRFPID shall have a person or persons who oversee the management and operations of the CRFPID and shall ensure compliance with the terms of its license, and is ultimately responsible to the Department for maintaining operating and licensing standards. The names of these persons and their relationship to the CRFPID shall be provided to the Department and the Department shall be notified within forty-eight (48) hours of any change in employment status of these persons.

3511.3 If the CRFPID is a participant in the HCBS, it shall have a person or persons responsible for the management of the waiver program and overseeing of the waiver program and responsibilities monitored by the Department on Disability Services or the Department of Health Care Finance. The name(s) shall be provided to the Departments and within forty-eight (48) hours of any change in employment status of these persons.

- 3511.4 Each CRFPID operated by a corporation or partnership shall maintain in an accessible location, a copy of its Articles of Incorporation, Certificate of Authority, or partnership agreement, as applicable.
- 3511.5 Each CRFPID shall have an organizational chart that shows the following:
- (a) The CRFPIDs management as specified in subsection 3511.2;
 - (b) The personnel who supervise the CRFPIDs programs;
 - (c) The categories of supportive and direct care staff;
 - (d) The lines of authority;
 - (e) The name of the Residence Director/Administrator; and,
 - (f) The name of the designated House Manager, if applicable.
- 3511.6 The management shall appoint a Residence Director to whom it shall delegate in writing the authority and responsibility for the administrative direction of the CRFPID and its services. Nothing in this regulation shall prevent the CRFPID from appointing as Residence Director, the QIDP or other senior staff.
- 3511.7 The management shall approve the CRFPID's program statement, policies and procedures, and budget.
- 3511.8 Each CRFPID shall maintain for at least six (6) years documentation of services provided by contractual agreement when such services are in accordance with a person's Individual Support Plan.
- 3511.9 Each CRFPID shall maintain a full and complete accounting of each person's personal funds entrusted to the facility on behalf of the person.
- 3511.10 Each CRFPID licensee shall carry or ensure that the premise carries the following insurance in at least the following amounts:
- (a) Hazard (fire and extended coverage) in the minimum amount of five hundred thousand dollars (\$500,000) per person to protect belongings, with a minimum of one million dollars (\$1,000,000) per CRFPID; and
 - (b) Liability coverage (premises, personal injury, and products liability) in the amount of one million dollars (\$1,000,000) per occurrence; and professional liability in an amount appropriate to the services provided by the CRFPID.

3511.11 The CRFPID shall notify the Department in writing of its intent to discontinue services no later than sixty (60) days prior to cessation of services. The CRFPID shall continue to provide all services that are identified in each person's ISP after it has given notice of its intent to cease operations and until each person is appropriately discharged or transferred. The CRFPID shall continue to maintain compliance with all applicable regulations as it is in the process of discontinuing its services.

3511.12 All persons and, as applicable, the person's parent guardians, or chosen support team shall be notified of the CRFPID's intent to cease services in writing at least thirty (30) days prior to cessation of services.

3512 PERSONNEL

3512.1 Personnel policies which meet the requirements of this section shall be developed according to the CRFPID's particular needs and distributed to each employee. All employees and contractors shall be kept informed of any policy changes that affect the performance of their duties.

3512.2 A staffing plan is maintained and includes the following:

- (a) Each CRFPID shall develop and implement a staffing plan that includes the type and responsibilities of all employees and contractors, and reflects the needs of the population served, the type of services offered, the service description, and the number of persons served; and
- (b) The staffing plan shall describe the supervisory chain for all employees and contractors. Supervision shall be appropriate to the services provided and shall be a documented plan to ensure there is always an emergency on-call plan to ensure sufficient staff are on duty at all times.

3512.3 Each CRFPID staffing plan shall include the following positions:

- (a) The Residence Director, who shall be responsible for the administrative direction of the CRFPID and its services; or
- (b) A Qualified Intellectual Disabilities Professional (QIDP), who shall have the responsibility for daily oversight of persons and programs. The QIDP can function as the Residence Director; and
- (c) Direct care staff, who shall be at least eighteen (18) years of age and have a high school diploma or a General Education Diploma (GED).

3512.4 In accordance with this chapter each Residence Director who also is employed as a QIDP (and vice versa) shall be qualified as both and must perform the applicable duties adequately.

- 3512.5 The CRFPID shall employ sufficient staff and contractors to provide needed direct care and services for every person at the home in accordance with each person's ISP, provided that the CRFPID shall maintain the minimum staff ratios required by this chapter and shall ensure that there is direct care staff on duty and awake on a twenty-four (24) hour basis whenever persons are present in the CRFPID.
- 3512.6 Employees and contractors shall comply, as required, with all licensing requirements of the Department.
- 3512.7 The CRFPID shall provide adequate staffing to ensure that the residence is clean and in good repair. Housekeeping shall not interfere with the delivery of direct care services in accordance with a person's ISP.
- 3512.8 Each CRFPID staff person shall have a written job description which details each of his or her major responsibilities and duties, supervisory control and the minimum knowledge, skills, abilities, experience and/or professional qualifications required. Any person who assumes the responsibilities of any employee position shall meet the minimum requirements of the position as determined by the job description.
- 3512.9 Each Residence Director or QIDP or a designee shall discuss the contents of job descriptions with each employee at the beginning of employment.
- 3512.10 Each employee shall be given a copy of his or her job description to review and sign at the beginning of employment.
- 3512.11 Each job description shall be reviewed annually. Each job description shall be updated and revised when the duties and responsibilities of the job change when those changes occur and are expected to remain with the job.
- 3512.12 Each employee, within ninety (90) days prior to employment and annually thereafter, shall provide certification from a physician attesting that he or she is fit to perform the required duties of the job and is free from any active communicable disease.
- 3512.13 The CRFPID shall comply with and shall not employ a worker who does not comply with District of Columbia standards on criminal background checks as set out in D.C. Law 14-98, the Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002 and implementing regulations, 22B DCMR Chapter 47. The CRFPID shall obtain enough information from each applicant to comply with criminal background check requirements even if obtaining such information is in addition to information obtained in compliance with subsection 3512.14. In addition, each CRFPID shall comply with background checks in accordance with applicable federal law and shall not employ a person who has a history of the following:

- (a) Child abuse or abuse of someone under his or her care and supervision, including misappropriation of property;
- (b) Neglect;
- (c) Exploitation;
- (d) Conviction for a sexual offense or violent crime; or
- (e) A conviction for criminal violation(s) that would indicate behavior potentially harmful to persons.

3512.14 Each CRFPID shall obtain from each applicant employment information from the last seven (7) years (if the applicant was in the workforce) or the three (3) most recent employment positions, whichever time period is longer, including the name of the employer, the name of the immediate supervisor, the dates of employment, and the reason for leaving the employment, and shall make reasonable efforts to verify the employment information provided.

3512.15 The CRFPID shall maintain a personnel record for each employee and contractor that includes identifying information; professional license, if applicable, and any adverse actions by licensing bodies; employment history; results of reasonable efforts to secure job-related references and verification of employment history; results of criminal, sexual abuse, and child abuse and neglect background checks; performance evaluations; and any disciplinary actions taken by the CRFPID.

3512.16 The CRFPID shall have and implement a written policy that clearly defines and communicates the requirements for the use and responsibilities of students and volunteers including selection and supervision. The CRFPID shall not rely on students and volunteers for direct care services, and the staffing plan shall not include students and volunteers.

3512.17 In addition to complying with this section, each CRFPID shall have a Residence Director or QIDP available and accessible at all times.

3513 RESIDENCE DIRECTOR

3513.1 A Residence Director shall have the following qualifications:

- (a) He or she shall be at least twenty-one (21) years of age;
- (b) He or she shall be certified annually by a physician as being in good physical and mental condition, and be free of communicable diseases (unless he or she is under a physician's care for and in compliance with treatment for the prevention of the communicable disease);

- (c) He or she shall hold at least:
 - 1) a bachelor's degree in a behavioral science;
 - 2) an associate's degree and at least two (2) years of full-time experience working with person's with an intellectual disability; or
 - 3) four years of full-time experience working in a licensed home with persons with an intellectual disability; and
- (d) He or she shall take at least twelve (12) hours of documented training annually related to the management of CRFPIDs and the support of persons with intellectual disabilities.

3513.2 The CRFPID shall inform the Department and any person residing in the home at least thirty (30) days in advance whenever there is a change in the Residence Director, except that such 30-day notice period shall not apply in the event a Residence Director resigns or is terminated with less than 30-days' notice, in which case the Department and any person in the home shall receive notice within twenty-four (24) hours or the next business day or whenever practicable.

3513.3 The Residence Director shall be responsible for the administrative direction of the CRFPID and its services.

3513.4 The Residence Director may deliver direct care to persons no more than fifty (50) percent of his or her time in the home.

3513.5 The Residence Director shall not be employed outside the CRFPID in any position that will create a conflict of interest with his or her responsibilities as a Residence Director.

3513.6 If a Residence Director will be absent from any CRFPID for longer than two (2) weeks he or she shall designate a person to act as Residence Director who shall be qualified in accordance with the requirements in this chapter for a Residence Director.

3514 QUALIFIED INTELLECTUAL DISABILITIES PROFESSIONAL (QIDP)

3514.1 The QIDP shall oversee the initial admission assessments of persons, participate in the development of the ISP and monitor, integrate and coordinate services.

3514.2 The QIDP shall be one of the following:

- (a) A psychologist with specialized training or one (1) year of experience in intellectual disabilities;

- (b) A physician licensed to practice medicine in the District and with specialized training in intellectual disabilities or with one (1) year of experience in treating persons with intellectual disabilities;
- (c) An educator with a degree in education from an accredited program and with specialized training or one (1) year of experience in working with persons with intellectual disabilities;
- (d) A social worker with a master's degree from an accredited school of social work and with specialized training in intellectual disabilities or with one (1) year of experience in working with persons with intellectual disabilities;
- (e) A rehabilitation counselor who is certified by the Commission on Rehabilitation Counselor Certification and who has specialized training in intellectual disabilities or one (1) year of experience in working with persons with intellectual disabilities;
- (f) A therapeutic recreation specialist who is a graduate of an accredited program and who has specialized training or one (1) year of experience in working with persons with intellectual disabilities;
- (g) A human service professional with at least a bachelor's degree in a human services field (including, but not limited to sociology, special education, rehabilitation counseling, and psychology) and who has specialized training in intellectual disabilities or one (1) year of experience in working with persons with intellectual disabilities; or
- (h) A registered nurse with specialized training in intellectual disabilities or with one (1) year experience in working with persons with intellectual disabilities.

3514.3

The QIDP shall have the following responsibility for implementing day to day protocols for the operation of the CRFPID, including but not limited to:

- (a) Management of services and accommodations; direct all facets of the active treatment effort, including the IDT creation of relevant ISPs tailored to meet person needs;
- (b) Effectively coordinate internal and external program services and supports to facilitate the acquisition of person skills and adaptive behaviors;
- (c) Promote competent interactions of residential staff with persons in program implementation and behavior management;

- (d) Ensure implementation of policies, practices, and procedures of the CRFPID; and
- (e) Supervise and direct other employees, except clinicians (e.g. nurses).

3515 STAFF TRAINING

- 3515.1 For each position, orientation training for each new employee shall be complete within thirty (30) days of the date on which each employee begins work in the CRFPID or directly with the person.
- 3515.2 Orientation shall be conducted by persons or entities with specialized training in the subjects to be covered in the orientation.
- 3515.3 Each CRFPID shall maintain a written copy of the orientation training program and materials, including the subjects covered, the number of hours of orientation, and the names and qualifications of the persons conducting the orientation. The written copy shall be available to the Department for review.
- 3515.4 Orientation shall include an overview of intellectual disabilities including, but not limited to, the definition and causes of intellectual disabilities, associated health implications, frequently used medications, and each person's history of care with intellectual disabilities.
- 3515.5 Orientation training shall also cover the following in accordance with each employee's responsibilities and the CRFPID's goals:
 - (a) Prevention of abuse, neglect and exploitation;
 - (b) Compliance with the policies and procedures of the CRFPID, including a review and discussion of relevance of them;
 - (c) Compliance with applicable District and Federal laws and regulations;
 - (d) Confidentiality requirements, including a review of HIPAA;
 - (e) Responding to emergencies, including reporting responsibilities, fire safety, vehicle safety evacuation procedures, disaster plans, first aid, CPR and any other emergency protocols;
 - (f) Providing personal care to persons;
 - (g) Nutrition;
 - (h) Meal preparation and food storage;

- (i) Mealtime protocols;
- (j) Behavior management;
- (k) Persons rights;
- (l) Community integration and inclusion;
- (m) Communication skills and techniques;
- (n) Adaptive Equipment and assistive technologies;
- (o) Transfer and mobility procedures;
- (p) Behavior supports;
- (q) Sexuality, as indicated by the needs of the person;
- (r) Infection control and universal precautions for staff and persons;
- (s) Specialty areas related to the specific needs of the person;
- (t) Implementing ISPs; and
- (u) Training of the person in activities of daily living, including the maintenance of oral health and hygiene.

3515.6 Each direct care staff shall be currently certified in cardiopulmonary resuscitation (CPR) and First Aid. The CPR certification must be obtained in a classroom setting.

3515.7 The CRFPID shall provide on-the-job training as necessary for the performance of job assignments in accordance with the requirements of this section. Employees shall be directly supervised until the Residence Director or QIDP deems that competence in the performance of all job duties has been achieved.

3515.8 The CRFPID shall provide to each employee, at least, twelve (12) hours of annual training in the areas of intellectual disabilities, to include training on protecting persons from abuse, neglect, and mistreatment. The CRFPID shall document in writing each employee's annual training, including the subjects covered and the number of hours of each subject. The CRFPID shall maintain copies of all training materials.

3515.9 Each training program agenda and record of staff participation shall be available for review by the Department.

3516 DIRECT CARE STAFF RATIOS

- 3516.1 Each CRFPID shall ensure that adequate qualified staff is on-site to manage and fulfill the needs of persons supported.
- 3516.2 Staffing ratios shall be maintained at the persons supported levels of need but no fewer than the following to the extent that the CRFPID is providing the service in accordance with:
 - (a) 1:6 during the waking hours of the day, approximately 6:00 a.m. to 2:00 p.m., when persons remain in the CRFPID during the day;
 - (b) 1:4 during the period of approximately 2:00 p.m. to 10:00 p.m.; and
 - (c) 1:6 during the sleeping hours of the night, approximately 10:00 p.m. to 6:00 a.m.
- 3516.3 Staffing ratios may be changed if there are changes to persons needed supports, or changes in the population residing in the CRFPID.
- 3516.4 Staff is not required to be in the CRFPID when all people are away, provided that a staff person is available or on-call for emergencies that may require a person to return to the CRFPID.
- 3516.5 The CRFPID must provide sufficient support staff so that direct care staff is not required to perform support services to the extent that these duties interfere with the exercises of their primary direct client care duties.

3517 RECORDKEEPING

- 3517.1 The CRFPID shall maintain current and accurate records and reports as required by this section.
- 3517.2 Each record shall be kept in a centralized file or stored electronically and made available at any time requested for inspection and review by Department personnel. Any records that are stored off-site must be made available for review in the CRFPID within three (3) hours of request.
- 3517.3 Active and closed records containing any information about persons shall be stored in a locked cabinet or room. A back-up plan, and physical and data security controls shall be implemented for electronic records.
- 3517.4 Each record and report that is required to be kept in accordance with this chapter shall be filed and retained for six (6) years by the CRFPID, unless otherwise specified. Records required to be kept for person's residing in CRFPIDs shall be maintained for at least six (6) years after the person's discharge or death.

3517.5 The CRFPID shall implement a review process to evaluate both current and closed records for completeness, accuracy and timeliness of entries. The process shall be in writing and shall be available for review by the Department.

3517.6 The CRFPID shall maintain the following records:

- (a) Administrative Records, which shall include:
 - (i) List of current charges and fees for services;
 - (ii) Personnel records for all staff, which includes the following:
 - (A) Identifying information, including name, social security number and if applicable driver's license number;
 - (B) Education and training history;
 - (C) Employment history;
 - (D) Results of the provider credentialing process, including methods of verification of applicable professional licenses or certificates;
 - (E) Results of reference checks and verification of prior employment;
 - (F) Results of criminal background checks;
 - (G) Results of performance evaluations; and
 - (H) Records of any disciplinary actions taken by the CRFPID or any other entity.
 - (iii) Weekly staff schedules, including substitutions;
 - (iv) Disaster plans and procedures and documentation of evacuation drills;
 - (v) Signed agreements or contracts for professional services, if applicable;
 - (vi) A current master alphabetical index of all persons serviced by the CRFPID that contains the following information:
 - (A) The person's name;

- (B) The name, address and phone number of the parent(s), guardian or authorized representative;
 - (C) The referring agency, if applicable, and a contact person at the referring agency;
 - (D) The funding source, if applicable, and a contact person or position at the source;
- (vii) A log in which emergencies and other unusual occurrences involving persons is recorded;
 - (viii) A complaint log, including the results of any investigation initiated pursuant to a complaint; and
 - (ix) A record of discharges and transfers, including transfer and discharge summaries.
- (b) Persons Clinical and Habilitation Record shall include:
- (i) Identifying information, including name of the person; current residence; social security number; gender; marital status; date of birth; name of parent, guardian or authorized representative; name, address and phone number of emergency contacts; and date of admission to the CRFPID;
 - (ii) All current and former ISPs and Individual Program Plans (IPPs) for the last six (6) years;
 - (iii) A listing of the person's physician and other licensed health care professionals and contact information;
 - (iv) Clinical and habilitation progress notes;
 - (v) Medical records, including physician orders, diagnosis, immunizations, health consultation recommendations, nursing care plans, nursing notes, and nursing services; and
 - (vi) Medication administration record.

3517.7 The CRFPID shall ensure that all medical records accurately reflect the person's current condition and are updated as necessary. Any changes made to a person's records shall be signed with the date, by each employee or contractor who makes the entry.

3517.8 If a person's records, or components of records, are provided to another CRFPID, agency or hospital during any short-term transfer (such as hospitalization or other

emergency placement), the CRFPID shall ensure that the receiving agency manages such records subject to the access, use, and disclosure requirements set forth in The Health Insurance Portability and Accountability Act of 1996 (HIPAA).

3517.9 If there is a medical emergency involving a person, the CRFPID shall ensure that any medical information necessary for the appropriate treatment of the person is available to the treating medical personnel.

3518 PROFESSIONAL SERVICES

3518.1 Each person who resides in a CRFPID shall receive the professional service(s) required to meet his or her needs as identified in his or her ISP, and any other care plan or prescription.

3518.2 Each person who resides in a CRFPID shall receive professional services from persons of their choice. Those persons who need assistance in choosing a professional service, assistance may be provided by their support group.

3518.3 Each CRFPID shall ensure that qualified professional staff reviews and evaluates a person's health status, and carries out and monitors necessary professional interventions, in accordance with the goals and objectives of every ISP.

3518.4 Professional services shall include, as applicable, but not be limited to, those services provided by individuals trained, qualified, and licensed as required by District of Columbia law in one or more of the following disciplines or areas of services:

- (a) Medicine;
- (b) Dentistry;
- (c) Education;
- (d) Nutrition;
- (e) Nursing;
- (f) Occupational or Physical Therapy;
- (g) Psychology;
- (h) Social Work;
- (i) Speech and language therapy; or

(j) Recreation.

- 3518.5 The CRFPID shall ensure that anyone providing professional services to a person is qualified to provide such services, including ensuring proper licensure and/or certification as required in the District.
- 3518.6 The CRFPID shall maintain on-site proof of current licensure and/or certification for any staff member or professional providing on-site services to a person.
- 3518.7 Professional services shall be provided in accordance with generally accepted professional standards relevant to the service being provided.
- 3518.8 Direct care staff may provide professional services as delegated to them and supervised by a licensed professional and as permitted by District or federal law.
- 3518.9 Professional services shall include diagnosis and evaluation, including identification of developmental levels and needs, treatment services, and services designed to prevent deterioration or further loss of function by the person. Professional services appropriate for each person shall be included in the person's ISP.
- 3518.10 Each professional service provider shall participate in each person's IDT as appropriate to the person's needs, if the person agrees to professional service provider's participation. The ISP shall include the rationale for the selection or exclusion of specific team members.
- 3518.11 Each CRFPID shall ensure that employees who assist in the provision of professional services are properly instructed and trained on the implementation of a person's programs.
- 3518.12 Each professional service and outcomes shall be documented in each person's record.
- 3518.13 Each CRFPID shall obtain from each professional service provider a written report when significant changes occur to warrant revisions to a person's ISP. In the absence of any significant changes, a written report shall be submitted by each professional service provider no less than once every six (6) months.
- 3518.14 If a person requires professional service (s), the CRFPID shall ensure that arrangements are made within ten (10) calendar days of the identified need.

3519 MEDICAL AND NURSING SERVICES

- 3519.1 Each CRFPID shall ensure a designated primary care physician for each person.

- 3519.2 Each CRFPID shall ensure that all persons have access to appropriate medical and health care providers of their person's choice, subject to the person's health insurance coverage.
- 3519.3 The CRFPID shall ensure appropriate referral and follow-up to meet the routine, chronic and acute health care needs of the person and in accordance with the person's choice of provider.
- 3519.4 The CRFPID must employ or arrange for licensed nursing services appropriate to care for person's health care needs, including persons with medical care plans, using the provider of the person's choice.
- 3519.5 The CRFPID shall ensure that its staff responds immediately to emergencies and provides care and intervention in accordance with the CRFPID's policies and procedures.
- 3519.6 The CRFPID shall ensure that a person's health records include the diagnosis of any current condition, and that any diagnoses are based on relevant, objective and accurate data, and are updated as necessary to reflect the person's current condition.
- 3519.7 Verbal orders shall be transcribed onto a physician order form by a nurse and countersigned and dated by the physician within twenty-four (24) hours for all controlled substances and psychotropic medications, and within ten (10) calendar days for other drugs. The CRFPID shall retain a copy of the signed order in the person's record.
- 3519.8 The CRFPID shall ensure that a person's primary care physician receives reports of recommendations or orders from all other health or medical specialists to whom the person is referred within twenty-four (24) hours or the next business day. The CRFPID shall retain a copy of the signed recommendations or orders in the person's record.
- 3519.9 The person's physician or advanced practice nurse must develop in coordination with licensed nursing personnel a medical care plan of treatment for people, if the physician determines that a person requires twenty-four (24) hours of licensed nursing care. The plan must be integrated in the person's ISP and monitored by the nursing and medical team as appropriate.
- 3519.10 A physician or registered nurse shall implement with other members of the IDT appropriate protective and preventive health measures that include, but are not limited to:
- (a) Training persons and staff as needed in appropriate health and hygiene methods;

- (b) Control of communicable diseases and infections, including the instruction of other personnel in methods of infection control; and
- (c) Training direct care staff in detecting signs and symptoms of illness or health condition and basic skills required to meet the health needs of the person.

- 3519.11 The CRFPID must utilize registered nurses as appropriate and as required by District of Columbia law to perform the health services specified in this section.
- 3519.12 If the CRFPID utilizes only licensed practical nurses to provide health services, it must have a formal arrangement with a registered nurse or nurse practitioner to be available for verbal or on-site consultation and supervision to the licensed practical nurse.
- 3519.13 The CRFPID may utilize trained medication employees practicing under the scope of their certification in accordance with Title 17 of the District of Columbia Municipal Regulations Chapter 61 (17 DCMR Chapter 61).
- 3519.14 Non-licensed nursing personnel who work with persons under a medical care plan must do so under the supervision of a licensed nurse or medical physician.
- 3519.15 A registered nurse may only delegate nursing functions to a licensed practical nurse in accordance with the Nurse Practice Act of the District of Columbia. A registered nurse or licensed practical nurse may not delegate nursing functions other than those aspects of care which address activities of daily living to direct support staff.

3520 HABILITATION AND TRAINING

- 3520.1 Each CRFPID shall provide meaningful, and integrated, community-based adult activities for persons to participate in their communities. The CRFPID must optimize, but not regiment, person's initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. This shall include providing support for meaningful daytime activities, employment exploration, as well as building and maintaining relationships.
- 3520.2 If a person is admitted without a current ISP (one that was completed within the past year); the person's support team must develop an ISP and IPP within thirty (30) days of admission.
- 3520.3 If a person is admitted to the CRFPID with a current ISP (one that has been reviewed and updated within the past year), the CRFPID may implement it provided that the ISP is reviewed, approved and updated as necessary by the IDT upon admission. The ISP shall be reviewed, updated and completed within thirty

(30) days of admission. The ISP shall be implemented immediately upon the IDT approval.

3520.4 The ISP shall be developed by the IDT, and shall include at a minimum, based on the person's choice, the following members: the person; the parent or guardian; supported decision-making authority for the person; the QIDP; and any health care professional relevant to the person's needs as identified through the initial admission assessment or a prior ISP.

3520.5 Each ISP shall be used by all staff who plan, provide, or evaluate services for the person.

3520.6 The ISP shall include an assessment of the strengths and weaknesses of the person; the preferences of the person; goals and objectives and their target dates; necessary services including, but not limited to, medical, therapeutic, nursing, assistive technology, specialized staffing; and the frequency of services. The ISP shall also include appropriate supports and competency building, skill development, aimed at teaching the person to increase his or her skills and self-reliance which may include, but may not be limited to, the following:

- (a) Eating and drinking (including table manners, use of adaptive equipment, and use of appropriate utensils);
- (b) Toileting (including use of equipment);
- (c) Personal hygiene (including washing, bathing, shampooing, brushing teeth, and menstrual care);
- (d) Dressing (including purchasing, selecting, and access to clothing);
- (e) Grooming (including shaving, combing and brushing hair, and caring for nails);
- (f) Health care (including skills related to nutrition, use and self-administration of medication, first aid, care and use of prosthetic and orthotic devices, preventive health care, and safety);
- (g) Communication (including language development and usage, signing, use of the telephone, letter writing, and availability and utilization of communications media, such as books, newspapers, magazines, radio, television, telephone, and such specialized equipment as may be required);
- (h) Interpersonal and social skills;
- (i) Home management (including maintenance of clothing, shopping, meal planning and preparation, and housekeeping);

- (j) Employment and work adjustment and appropriate day programs;
- (k) Mobility (including ambulation, transportation, mapping and orientation, and use of mobility equipment);
- (l) Time management (including use of leisure time and scheduling activities);
- (m) Financial management (including budgeting and banking, management of benefits);
- (n) Academic and pre-academic skills (including development of attention span, discrimination, association, memory, numbers, time, and spatial concepts);
- (o) Motor and perceptual skills (including balance, posture, and gross and fine motor skills);
- (p) Problem-solving and decision-making (including opportunities to experience consequences of decisions);
- (q) Sexuality education;
- (r) Opportunity for social, recreational and religious activities utilizing community resources;
- (s) Behavior management, which shall be consistent with applicable federal and District laws and regulations;
- (t) Skill building in support of self-determination and self-advocacy; and
- (u) Personal skills essential for privacy and independence is appropriate for each person.

3520.7 The CRFPID shall involve the person, to the extent that he or she is able to participate, in development, review, and revision of the ISP. If the person has been adjudicated to be incompetent, he or she shall be represented by an advocate, guardian or supported decision maker as appropriate or as requested by the person.

3520.8 The QIDP and/or Residential Director shall document on each person's ISP monthly to evaluate the progress of the person including determining when the person requires a less restrictive level of care or setting.

3520.9 The QIDP and/or Residential Director shall ensure that each person's ISP is updated as needed and approved by the IDT. The CRFPID shall maintain records

of any revisions to the ISP, including any reasons for making or not making any changes.

- 3520.10 The CRFPID shall develop an IPP for each person to implement the ISP. All training shall be implemented as prescribed by the ISP.
- 3520.11 The IPP shall contain the following elements:
- (a) Reasons for training and habilitation as identified in the ISP;
 - (b) Measurable objectives for addressing each identified training need, habilitation need and/or goals;
 - (c) Monitoring procedures;
 - (d) Services, supports and frequency to accomplish goals and objectives;
 - (e) Implementation strategies and dates;
 - (f) Target dates for accomplishment of goals and objectives;
 - (g) Estimated duration of training and habilitation; and
 - (h) The employees or contractors responsible for coordination, performance and integration of services.
- 3520.12 The ISP shall be signed and dated at a minimum by the person(s) responsible for developing the ISP, and the person or legal representative. If the signature of the person or legal representative is not obtained, the CRFPID shall document the reason.
- 3520.13 The QIDP or Residential Director shall, in the implementation of the ISP, consider each recommendation made by the IDT and consult with professionals or experts as necessary to ensure that implementation of the ISP is accurate.
- 3520.14 The IDT shall review and make modifications as necessary to persons IPP at least every six (6) months or when the person:
- (a) Has successfully completed an objective or objectives identified in the ISP;
 - (b) Is regressing or losing skills already gained;
 - (c) Is failing to progress toward identified objectives;
 - (d) Is being considered for training toward a new objective or objectives;

- (e) Has a change in his or her health status;
- (f) Experiences a deterioration in mood or behavior; or
- (g) Has a change in cognitive skills.

3520.15 Each CRFPID shall ensure that habilitation and training programs for persons do the following:

- (a) Utilize the least restrictive circumstances and methods and materials that are culturally normative and appropriate to the chronological age of the person, unless the use of non-normative or non-age appropriate methods and materials is justified in the person's ISP;
- (b) Provide for direct or consulting services from those professionally qualified persons necessary to assist the staff in conducting training; and
- (c) Identify other programs and services that are available to the person to supplement the training program.

3520.16 Each CRFPID shall ensure that each person is provided an opportunity for placement in an appropriate educational, employment, or daytime training program, to include opportunities for supported work in a competitive, non-disability specific setting. The CRFPID shall include opportunities for each person to participate in choosing the placement, as appropriate, and shall ensure that the placement allows for the person's self-management to the extent possible. The placement shall be consistent with the person's ISP.

3520.17 Each CRFPID shall develop an activity schedule that is individualized and consistent with what is important to and for the person, as well as to promote opportunities for community integration as indicated in the ISP.

3520.18 No person shall be forced or coerced to participate in any activity.

3520.19 Each person's activity schedule shall be available to direct care staff and be carried out daily, and shall be reviewed and amended as necessary.

3521 MEDICATIONS

3521.1 The CRFPID shall comply with all federal and local laws and regulations relating to controlled substances.

3521.2 Drugs shall be administered to persons only by licensed physicians, licensed nurses, or professional licensees whose license or certification authorizes the administration of medication(s).

- 3521.3 A registered nurse or physician shall assess each person's capability to self-administer medications. The assessment shall reflect the person's skills and abilities and shall determine whether technology can be used to promote self-management. Assessment findings shall be available to the IDT for determining the person's training and support needs, in accordance with subsection 3519.6.
- 3521.4 If the IDT determines that self-medication is an appropriate objective based on the assessment, the CRFPID shall obtain a physician's order indicating that the person may engage in self-medication training.
- 3521.5 All drugs shall be administered in accordance with physician orders.
- 3521.6 All drug orders must be documented on a physician order form, signed and dated by the physician or advanced practice registered nurse within twenty-four (24) hours for all controlled substances and psychotropic medications, and within ten (10) calendar days for other drugs.
- 3521.7 A pharmacist, physician, or advanced practice registered nurse shall review each person's complete drug regimen whenever the drug regimen is changed, to ensure that the person is being provided medication as prescribed.
- 3521.8 The RN or LPN shall report any irregularities in the person's drug regimen to the primary care physician. An "irregularity" is any deviation from the person's prescribed schedule or dosage, and shall be recorded in the person's record.
- 3521.9 The CRFPID shall maintain an accurate medication administration record for each person, including a daily log of all medications administered or refused by the person, and medication not administered due to lack of availability. The log shall identify who administered the medication. Each record shall be kept current and updated as necessary.
- 3521.10 The CRFPID shall maintain in one central location on site all current prescriptions and physician orders.
- 3521.11 Medication requiring refrigeration shall be maintained in a separate and secure medication refrigerator.
- 3521.12 Each medication shall be stored in its original container and shall not be transferred to another container by the CRFPID or taken or used by another person. All medications given to persons to be taken outside of the CRFPID's control (for example, if the person is going home on a visit) must be pre-packaged by a pharmacist.
- 3521.13 Each medication shall be stored under proper conditions of light and temperature as indicated on its label.
- 3521.14 Each CRFPID shall promptly and appropriately dispose prescribed medications that are discontinued by the physician or has reached the expiration date in

accordance with Title 22-B DCMR Chapter 5 Safe Disposal of Unused Pharmaceuticals in Health Care Facilities.

- 3521.15 Upon discharge or transfer from a CRFPID, all medications currently prescribed and a copy of the person's medication record shall be given to the person or authorized medical decision maker, or forwarded to any other residential setting to which the person is transferred.
- 3521.16 Any CRFPID to which a person is transferred shall ensure that it receives a copy of the medication record, all medications currently prescribed, and a reconciliation and accounting of all medication.
- 3521.17 In the event of a medication error or drug reaction, the person's physician shall be notified as soon as possible. Any errors or reactions shall be documented in the person's medication record.
- 3521.18 Upon the death of a person, all medication shall be retained by the CRFPID until it has been determined that disposal would be in accord with the investigation and reporting of deaths under the jurisdiction of the Medical Examiner.
- 3521.19 All prescriptions for controlled substances and psychotropic medications shall be written with an expiration date, which shall not exceed thirty (30) days from the date prescribed and in accordance with D.C. Law 2-137, the Citizens with Intellectual Disabilities Constitutional Rights and Dignity Act of 1978 (D.C. Official Code §7-1301.01 *et seq.*).
- 3521.20 Medication shall not be used as a punishment, for the convenience of staff, as a substitute for programs, or in quantities that interfere with the person's habilitation program.
- 3521.21 The CRFPID shall maintain records of receipt and disposition of all controlled substances.

3522 BEHAVIOR SUPPORT

- 3522.1 The CRFPID shall designate and use a specially constituted committee(s) to review, identify, address and monitor person's behavior and their rights that the committee(s) deems at risk. This committee shall be called the Human Rights Committee (HRC).
- 3522.2 The HRC required under this section shall consist of representatives of CRFPID staff, parents, legal guardians, persons as appropriate and qualified individuals who have either experience or training in contemporary practices to change people behavior, and persons with no ownership or controlling interest in the CRFPID.
- 3522.3 Programs approved by the HRC and established by the CRFPID in accordance with this section shall be implemented only with the written informed consent of the person, the person's parent or the person's legal guardian.

- 3522.4 A behavior support plan shall, if necessary, be developed as part of the ISP in response to behavioral or medical needs identified through the habilitative assessment process which shall specify all interventions.
- 3522.5 A CRFPID may use restrictive intervention, through physical and/or pharmacological means only if such intervention is justified and included in a behavior support plan or is otherwise utilized in accordance with this section.
- 3522.6 The behavior support plan shall be developed by a health care provider licensed in psychology or psychiatry, and shall be implemented as prescribed in the ISP.
- 3522.7 The use of restrictive intervention is permitted on a time-limited basis provided that less restrictive methods to safeguard persons and/or property have been attempted and failed or if there is no time to attempt less restrictive methods under one or more of the following conditions:
- (a) When a person's health or safety is at risk;
 - (b) When intervention is court ordered;
 - (c) When health-related protection is ordered by a physician;
 - (d) As a means to protect a person or others from harm; or
 - (e) As a means of preventing the destruction of property.
- 3522.8 A person for whom physical restrictive intervention is being utilized must be visually monitored at all times and the method of intervention examined at least every five (5) minutes by a staff person trained in the use of the type of intervention used for a maximum duration of thirty (30) minutes. Monitoring shall be documented. The use of restrictive intervention shall be employed for no longer than thirty (30) minutes and shall be discontinued as soon as the person is stable if less than thirty (30) minutes.
- 3522.9 The CRFPID shall document the initiation, monitoring and termination of the intervention, including a chronological update of the person's outward mental and physical status.
- 3522.10 Physical intervention shall be used so as not to cause injury to the person, to cause the least possible discomfort and to impose the least possible restriction given its purpose.
- 3522.11 A person for whom restrictive intervention has been employed shall be provided the opportunity for liquid intake and toileting as well as other necessary functions,

if needed. Restrictive intervention may continue if disrupted when it is feasible and for the welfare of the person.

- 3522.12 The CRFPID shall closely monitor any person who has been prescribed psychotropic medications for responses and any adverse consequences. Monitoring shall be documented in writing and accessible to government officials.
- 3522.13 Psychotropic medications may not be given on an as-needed basis (PRN).
- 3522.14 Restrictive intervention cannot be used in lieu of adequate staffing or to discipline a person. The following are prohibited:
- (a) Prevention of contacts and visits with attorney, probation officer, placing agency representative, minister or chaplain;
 - (b) Any action that is humiliating, degrading, harsh, punitive, painful, or abusive that causes undue trauma or deprivation of rights, that is used as a means of coercion, discipline, or retaliation, or that is used solely or primarily for the convenience of staff;
 - (c) Corporal punishment;
 - (d) Subjection to unsanitary living conditions;
 - (e) Deprivation of opportunities for bathing or access to toilet facilities, except as ordered by a licensed physician for a legitimate medical purpose and documented in the person's record;
 - (f) Deprivation of appropriate services and treatment;
 - (g) Deprivation of health care;
 - (h) Administration of laxatives, enemas, or emetics except as ordered by a physician or other professional acting within the scope of their license for a legitimate medical purpose and documented in the person's record;
 - (i) Applications of aversive stimuli;
 - (j) Deprivation of drinking water or food necessary to meet a person's daily nutritional needs except as ordered by a licensed physician for a legitimate medical purpose and documented in the person's record;
 - (k) Prohibition on contacts and visits with family or legal guardian except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;

- (l) Delay or withholding of incoming or outgoing mail except as permitted by other applicable state and federal regulations or by order of a court of competent jurisdiction;
- (m) Deprivation of opportunities for sleep or rest except as ordered by a licensed physician for a legitimate medical purpose and documented in the person's record;
- (n) Mechanical devices used to restrict a person's movement such as straightjackets, shackles and belted jackets that the person cannot remove;
- (o) Seclusion or time-out rooms;
- (p) The use or application of painful stimuli; and
- (q) The use of any restraint which is not time-limited. Restraints must be removed as soon as the person is no longer an imminent threat to himself or others.

3522.15 The CRFPID shall maintain records documenting any time behavior intervention were used including why it was used, what was done, who was involved, and other information to show compliance with this section.

3523 EMERGENCIES

3523.1 Each CRFPID shall maintain written policies and procedures which address emergency situations, including fire or general disaster, missing persons, serious illness or trauma, and death.

3523.2 The policies and procedures shall include, but not limited to:

- (a) Written plan to evacuate persons from the CRFPID;
- (b) Documentation of contact and coordination with local and federal authorities to determine local risks and community-wide plans to address different disaster and emergency situations;
- (c) Analysis of the CRFPID's capabilities and potential hazards that could disrupt the normal course of service delivery;
- (d) Specific responsibilities of staff members in an emergency;
- (e) Management of response activities, coordination of logistics, and communications during an emergency;

- (f) Procedures for warning and notifying persons receiving services of an emergency;
- (g) Evacuation and relocation, if necessary, of persons receiving services;
- (h) Alerting emergency personnel;
- (i) Notification to parents and guardians; and
- (j) Recovery and restoration of services.

- 3523.3 The CRFPID shall review the policy annually to determine whether it is current and adequately addresses potential emergencies. Any revisions will be communicated to employees, contractors and volunteers, and incorporated into future trainings.
- 3523.4 The CRFPID shall develop and implement periodic training on emergency procedures in accordance with section 3515 for all employees, contractors and volunteers.
- 3523.5 Operable flashlights or battery lanterns shall be readily accessible to employees and contractors that operate between dusk and dawn to use in emergencies.
- 3523.6 Each CRFPID shall maintain written documentation that each employee has been trained in carrying out the policies and procedures set forth in this section.
- 3523.7 Each CRFPID shall ensure that telephones are accessible for emergency purposes, and shall make available near each telephone, emergency numbers which include at least fire and rescue squads, the local police department, the nearest hospital, a poison control center, each person's physician, Director of Nursing, Service Coordinator (if applicable) and the Residence Director.
- 3523.8 The CRFPID shall maintain a well-stocked first aid kit which shall be maintained and readily accessible for minor injuries and medical emergencies. Such kit shall be maintained at each service location, and available to employees, volunteers or contractors providing services at the CRFPID or travelling with persons. At a minimum, the kit shall contain a thermometer, bandages, saline solution, band-aides, sterile gauze, tweezers, instant ice-pack, adhesive tape, antibiotic cream, and antiseptic soap.
- 3523.9 Each CRFPID shall ensure that at least one employee or contractor is on duty at all times who holds a current certificate, issued by a recognized local, state or national authority, in standard first aid and cardiopulmonary resuscitation (CPR). A registered nurse or physician who holds a current license shall be deemed to have a current certificate in first aid, but not in CPR.

- 3523.10 If there is an unusual incident involving a person, the CRFPID shall promptly notify the person's authorized emergency contact, his or her next of kin if the person has no guardian, or the representative of the sponsoring agency of the person's status as soon as possible, followed by written notice and documentation no later than twenty-four (24) hours or the next business day after the incident.
- 3523.11 Each CRFPID shall document each unusual incident and enter the follow-up actions into the person's permanent record, which shall be made available for review by authorized people. The record shall include the date and time of the emergency incident, details of the incident, interventions or treatments provided, employees and/or contractors involved, and outcome.
- 3523.12 Each CRFPID shall notify promptly after a person's death the person's guardian or next of kin, the placement agency and the Office of the Chief Medical Examiner.
- 3523.13 In addition to the reporting requirement in subsection 3523.10, each CRFPID shall notify the Department, of any other unusual incident that substantially interferes with a person's health, welfare, living arrangement or well-being or in any other way places a person at risk. Such notification shall be made by telephone immediately when the staff is aware and shall be followed up by written notification within twenty-four (24) hours or the next business day.
- 3523.14 Each CRFPID shall have in place a procedure which describes the process for arranging funeral services and burials and for assuring the notification and involvement of significant others.
- 3523.15 Each CRFPID shall comply with all applicable District of Columbia fire safety requirements as interpreted and enforced by the District of Columbia Fire Chief in accordance with Chapter 31, Title 22B DCMR.
- 3523.16 Each CRFPID shall be free from fire hazards and shall have adequate smoke detectors and working and updated fire extinguishers. The fire extinguishers shall be properly maintained and located as required by the Fire Chief, including at least one (1) all-purpose fire extinguisher, which is a minimum 2A 10BC on each level of the CRFPID.
- 3523.17 Each CRFPID shall have on the premises the following items:
- (a) Written policies and procedures shall be kept readily accessible to staff and persons and shall include the following:
 - (i) The instructions and plans that are to be followed in case of fire;
 - (ii) The persons to be notified;

- (iii) The location of alarm signals;
 - (iv) The locations of fire extinguishers;
 - (v) The evacuation routes;
 - (vi) The frequency of fire drills;
 - (vii) The assignment of specific tasks and responsibilities to the staff of each shift;
- (b) Records of the training of all personnel who are to perform the specific tasks designated in the manual described in paragraph (a) of this subsection;
 - (c) Records of fire inspection reports; and
 - (d) Dates of the test of alarm appliances.

3523.18 Each CRFPID shall conduct fire drills in order to test the effectiveness of the plan at least once every three months for each shift. An actual evacuation must be documented during at least one drill, each year on each shift.

3523.19 Each CRFPID shall maintain records of each fire drill.

3523.20 Each CRFPID shall ensure that all personnel on all shifts are familiar with the use of the CRFPID fire protection features.

3524 ABUSE AND NEGLECT

3524.1 In addition to the reporting requirement in subsection 3523.13, each CRFPID shall establish mechanisms for the reporting of complaints alleging the neglect, abuse or mistreatment of any person.

3524.2 The CRFPID must comply with all applicable federal, local and relevant agencies requirement for reporting unusual incidents, abuse neglect, or mistreatment of any person.

3524.3 The CRFPID shall immediately notify the Department of all suspected or alleged incidents of abuse, neglect, mistreatment, and exploitation, as well as deaths. The Department shall be notified by telephone immediately, and the CRFPID shall follow-up by written notification to the Department within twenty-four (24) hours or the next business day.

- 3524.4 Any person accused or suspected of abuse or neglect shall immediately be removed from any duties involving direct care of persons.
- 3524.5 If the perpetrator of any alleged, suspected or substantiated abuse or neglect is not known, the CRFPID shall prevent further potential abuse or neglect of person's pending an investigation.
- 3524.6 The CRFPID shall complete an investigation of any alleged incident within five (5) working days unless additional time is requested of and approved by the Department. The result of such investigation shall be reported to the Department within two (2) days of the conclusion of the investigation. A copy of the investigative report shall be provided to the Department upon request. Any substantiated claim of abuse, neglect or mistreatment shall be reported to the appropriate law enforcement entities.
- 3524.7 The CRFPID shall take immediate corrective action in the event that any alleged incident of abuse or neglect is substantiated pursuant to the investigation.

3525 VENTILATOR SERVICES

- 3525.1 The CRFPID may care for ventilator person's in a ventilator care area upon compliance with Title III of the Nursing Home and Community Residence Facility Residents' Protections Act of 1985, effective April 18, 1986, D.C. Law 6-108, D.C. Code § 32-1431 *et seq.* The CRFPID shall notify the Department of all relevant information regarding this service, including the names of the physician and nurses in charge of providing the service.
- 3525.2 Ventilator care shall be supervised by a physician who has special training and experience in diagnosing, treating and assessing problems related to ventilator patients.
- 3525.3 The CRFPID shall ensure that ventilator care services are provided by a sufficient number of qualified staff and that personnel provide ventilator care services commensurate with their documented training, experience, and competence.
- 3525.4 As appropriate, ventilator care personnel shall be competent in the following:
- (a) The fundamentals of cardiopulmonary physiology and of fluids and electrolytes;
 - (b) The recognition, interpretation and recording of signs and symptoms of respiratory dysfunction and medication side effects, particularly those that require notification of a physician;
 - (c) The initiation and maintenance of cardiopulmonary resuscitation and other related life-support procedures;

- (d) The mechanics of ventilation and ventilator function;
- (e) The principles of airway maintenance, including endotracheal and tracheotomy care;
- (f) The effective and safe use of equipment for administering oxygen and other therapeutic gases and providing humidification, nebulization and medication;
- (g) Pulmonary function testing and blood gas analysis when these procedures are performed within the CRFPID providing ventilator care;
- (h) Methods that assist in the removal of secretions from the bronchial tree, such as hydration, breathing and coughing exercises, postural drainage, therapeutic percussion and vibration, and mechanical clearing of the airway through proper suctioning technique;
- (i) Procedures and observations to be followed during and after extubation; and
- (j) Recognition of and attention to the psychosocial needs of persons, their families and supported decision maker.

3525.5 The CRFPID shall ensure that each ventilator is equipped with an alarm, designed to alert the registered nurse in charge of monitoring the ventilator, on both the pressure valve and the volume valve.

3525.6 In order to operate ventilator services, the CRFPID shall develop a plan of operation approved by the Department which shall include:

- (a) A description of the services to be provided;
- (b) A description of the staffing pattern;
- (c) A description of the qualifications, duties and responsibilities of personnel;
- (d) A quality assurance plan which shall include:
 - (1) Assignment of responsibility for monitoring and evaluating activities;
 - (2) Identification of indicators and appropriate clinical critical criteria for monitoring the most important aspects; and

- (3) Establishment of thresholds (levels or trends) for the indicators that will trigger evaluation of care;
- (e) Policies and procedures on the following:
- (1) The transfer or referral of persons who require services that are not provided by the CRFPID;
 - (2) The administration of medicines unique to the needs of the ventilator person;
 - (3) Infection control measures to minimize the transfer of infection in the CRFPID;
 - (4) Pertinent safety practices, including the control of fire and medical hazards; and
 - (5) Protocols for emergency situations.

3525.7

When the ventilator care services are provided by an outside contractor, the CRFPID shall document the following:

- (a) Approve the contractor based on the contractor's credentials, qualifications and experience; and
- (b) Ensure that all contractors:
 - (1) Provide services twenty-four hours a day;
 - (2) Meet all safety requirements;
 - (3) Abide by all pertinent policies and procedures of the CRFPID;
 - (4) Provide services in accordance with the law governing the CRFPID;
 - (5) Participate in the monitoring and evaluation of persons;
 - (6) Participate in the monitoring and evaluation of the appropriateness of services provided as required by the CRFPID's quality assurance program; and
 - (7) Ensure that all contractual services are under the supervision of the CRFPID's medical director or the physician employed by the CRFPID to coordinate ventilator care services.

When used in this chapter, the following terms and phrases shall have the meaning ascribed:

Abuse – the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or personal anguish.

Advocate – a person who has experience in assuring that persons with intellectual disabilities are treated with respect and dignity and in accordance with all laws and regulations pertaining to the rights of persons with disabilities, and who can independently speak on behalf of persons with intellectual disabilities.

Act – the Health Care and Community Residence Facility, Hospice, Home Care Licensure Act of 1983, D.C. Law 5-48, Official Code § 7-1301 - Citizens with Intellectual Disabilities, *et seq.*

Advanced Practice Registered Nurse (APRN) – a person licensed to practice registered nursing under the Health Occupation Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*) and Chapter 54 District of Columbia Municipal Regulations.

Controlled Substance – a drug, substance, or immediate precursor, as set forth in Schedules I through V of Subchapter 2 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code §§ 48-901 *et seq.*).

Community Residence Facility for Persons with Intellectual Disabilities (CRFPID) – a community residence facility that provides a home-like environment for at least 4 but no more than 8 related or unrelated individuals who on account of intellectual disabilities require specialized living arrangements, and maintains the necessary staff, programs, support services, and equipment for their care and habilitation. A CRFPID is synonymous with the term “group home for persons with intellectual disabilities” that is utilized by the Act.

Department – The District of Columbia Department of Health (DC Health).

Direct Care Staff – individuals employed to work in the CRFPID who render the day-to-day personal assistance and aid persons in meeting the goals and objectives of their individual program.

Director – Director of the District of Columbia Department of Health (DC Health).

Discharge – The permanent movement of a person to a new CRFPID or another setting which operates independently of the person’s current CRFPID.

Emergency care – appropriate services in a variety of settings accessible to individuals designed to meet an immediate need and restore or maintain the physical or mental well-being of the person or provider.

Habilitation – the process by which a person is assisted to acquire and maintain those life skills which enable him or her to cope more effectively with the demands of his or her own person and of his or her own environment, and to raise the level of his or her physical, intellectual, social, emotional, and economic efficiency. The term includes, but is not limited to, the provision of community-based services.

Health Inventory – health history, including present illnesses and symptoms and physician’s assessment of current health status.

HIPAA – The Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d-9 (2010), which provides protections for health information that is in the possession of the certain covered agencies, including health care facilities.

Immediate (as in reporting) – no delay between staff awareness of the occurrence and reporting to the administrator or other officials in accordance with District of Columbia law unless the situation is unstable in which case reporting should occur as soon as the safety of all persons is assured.

Individual Program Plan (IPP) – a written document for each person, the purpose of which is to implement the ISP.

Individual Support Plan (ISP) – a plan developed for the habilitation of a person.

Intellectual Disability – a condition characterized by a substantial limitation in capacity that manifests before eighteen (18) years of age and is characterized by significantly below average intellectual functioning, existing concurrently with two (2) or more significant limitations in adaptive functioning.

Interdisciplinary Team (IDT) – a group of individuals with special training and experience in the diagnosis and habilitation of persons with intellectual disabilities which has the responsibility of performing a comprehensive evaluation of each person and participating in the development, implementation, and monitoring of the persons individual support plan.

Intermediate Care Facility – in accordance with 42 CFR 435.1009, an institution for persons with intellectual disabilities (or a distinct part of an institution) that Is primarily for the diagnosis, treatment, or rehabilitation of the instinctually disabled or persons with related conditions; and Provides, in a protected residential setting, ongoing evaluation, planning 24-hour supervision, coordination, and integration of health or rehabilitative services to help each person function at this greatest ability.

Level of Need – a comprehensive assessment of the support needs and risk screening for participants in the ICF/IDD and ID/DD Home and Community Based Services Waiver programs.

Licensed Practical Nurse (LPN) – a person licensed to practice practical nursing under the Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99;

D.C. Official Code §§ 3-1201.01 *et seq.*) and Chapter 55 District of Columbia Municipal Regulations.

Medical Care Plan – a plan of treatment developed by a physician or advanced practice nurse, individually or in coordination with licensed nursing personnel, for persons who are either acutely ill and require licensed nursing care and monitoring temporarily on a 24 hour basis, or persons whose chronic medical conditions require or indicate 24 hour licensed nursing care and monitoring. The physician determines when 24 hour nursing care is required, type of care, scope, duration, and the frequency of treatment ordered.

Mistreatment – behavior or facility practices that result in any type of person exploitation such as financial, physical, sexual, or criminal. Mistreatment also refers to the use of behavioral management techniques outside of their use as approved by the specially constituted committee and facility policies and procedures.

Neglect – failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness. Staff failure to intervene appropriately to prevent self-injurious behavior may constitute neglect. Staff failure to implement facility safeguards, once person to person aggression is identified, may also constitute neglect.

Person/People – a person who has been diagnosed as having an intellectual disability.

Physical Restraint – any manual method or device that the person cannot remove easily and that restricts the free movement or normal functioning of or normal access to a portion or portions of a person's body.

Qualified Health Care Professional – practicing under the scope of his or her license in accordance with the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code xx 3-1201 §§ *et seq.* (2012 Repl. & 2015 Supp.) (“HORA”).

Qualified Intellectual Disabilities Professional (QIDP) – also known as Qualified Developmental Disabilities Professional or QDDP, is someone who implements the day-to-day operations of a community residence facility by overseeing the initial habilitative assessment of a person; develops, monitors, and reviews ISPs, and integrates and coordinates Waiver services.

Registered Nurse (RN) – a person licensed to practice registered nursing under the Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*) and Chapter 54 District of Columbia Municipal Regulations.

Residential Habilitation Service Setting – a community residence facility for persons with intellectual disabilities that is a provider in the Home and Community Based Waiver Services Residential Habilitation Service Settings (HCBS) Program, authorized by 29 DCMR Chapter 19 under the supervision of the Department of Disability Services.

Seclusion – The placement of a person alone in a locked room or in an obviously isolated portion of a room.

Service Coordinator – The DDS staff responsible for coordinating a person’s services pursuant to their ISP and Plan of Care.

Transfer – The temporary movement of a person between CRFPIDs, or the permanent movement of a person between living units of the same CRFPID.

Trained Medication Employee (TME) – a person who is certified in accordance with Title 17 of the District of Columbia Municipal Regulations Chapter 61 (17 DCMR Chapter 61).

Unusual Incident – any occurrence or event which substantially interferes with a person's health, welfare, living arrangement, well-being or in any way places the person at risk. These incidents may include but are not limited to natural disaster or other events which cause damage to the CRFPID or threaten the person, outbreaks of disease, filing of bankruptcy, labor disputes or any event which may interfere with the operation of the CRFPID, allegations or incidents involving neglect, abuse, assault, or sexual assault of a person, sudden death of a person and allegations or incidents of drug possession or distribution by a staff person of the CRFPID.