# STATE OF MAINE

***REGULATIONS GOVERNING THE LICENSING AND FUNCTIONING OF INTERMEDIATE CARE FACILITIES FOR PERSONS WITH INTELLECTUAL DISABILITIES***

**10-144 CMR Chapter 118**

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**DEPARTMENT OF HEALTH & HUMAN SERVICES**

**Division of Licensing & Regulatory Services**

10-144 DEPARTMENT OF HEALTH AND HUMAN SERVICES

 DIVISION OF LICENSING AND REGULATORY SERVICES

Chapter 118: REGULATIONS GOVERNING THE LICENSING AND FUNCTIONING OF INTERMEDIATE CARE FACILITIES FOR PERSONS WITH INTELLECTUAL DISABILITIES

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CHAPTER 1: DECLARATION OF INTENT AND FUNCTIONS OF ICF/ID

Intermediate Care Facilities for Persons with Intellectual Disabilities (ICFs/ID) are homes. They provide persons with intellectual disabilities an opportunity for personal development and growth. If created in concert with the intent of these regulations, these homes afford individuals privacy, dignity, comfort, sanitation, a home-like environment and above all, provide a dynamic, healthy and purposeful life for them.

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| 09/01/07 |  It is the intent of the Maine Department of Health and Human Services (DHHS) to establish and to promote the development and utilization of resources to ensure |

effective health and habilitation services for persons with intellectual disabilities and related conditions who require an environment which adheres to the concepts of "Active Treatment," "Normalization" and/or

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|  |  “Social Role Valorization”. |

09/01/07 Intermediate Care Facilities for Persons with Intellectual Disabilities are subject to licensure by these rules, which establish standards for the physical facility,

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|  |  maintenance and conduct of client care and habilitation, so as to meet the needs |

of those living in the homes.

09/01/07 The goal of ICF/ID services is to provide a habilitation program, which will enhance each person's ability to cope with his/her environment and create a reasonable expectation of progress toward the goal of community living in the least restrictive and most normal living conditions possible.

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| 09/01/07 | In accordance with Chapter 52, Resolve, *To Require the Department of Health and Human Services to Amend Rules Regarding Licensing of Intermediate Care Facilities for Mental Retardation,* DHHS has revised these regulations to eliminate State licensing requirements that are duplicative of the Federal Title XIX requirements, or no longer essential. DHHS has adopted the Medicaid or Title XIX requirements for purposes of State licensure, and by reference has incorporated the Conditions of Participation for Intermediate Care Facilities for the Mentally Retarded (42 Code of Federal Regulations, Subpart I, Sections §483.10-483.40). DHHS has consulted with consumers, providers, advocates and regulators prior to revising these rules. |

CHAPTER 2: DEFINITIONS

The following terms shall have the meanings specified:

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| 09/01/07 | 1. Abuse - The willful, reckless or negligent infliction of injury, unreasonable confinement, intimidation or cruel punishment with resulting physical harm or pain or mental anguish; sexual abuse or exploitation; or the willful deprivation of essential needs. A person may commit abuse by willfully, recklessly or negligently inflicting injury by responding to the actions of a client, if the person’s response was excessive or unwarranted under the circumstances. Intimidation, for purposes of this definition, shall include verbal interaction between a person and a client receiving care that is either intended to inflict mental anguish or could reasonably be expected to inflict mental anguish upon the person subjected to such verbal interaction.1. Willful conduct, for purposes of this definition, means intentional or knowing conduct.
2. Reckless conduct, for purposes of this definition, means a conscious disregard of a substantial and unjustifiable risk.

 c. Negligent conduct, for purposes of this definition, means a failure to exercise that degree of care which a reasonable person would exercise in the same situation. |

2. Active Treatment - A continuous aggressive and consistent program of

specialized and generic training, treatment, health services and related

services that is directed toward 1) the clients' acquisition of behaviors

necessary to function with as much self-determination and independence

as possible; and 2) the prevention or deceleration of regression or loss of

current optimal functional status.

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| 09/01/07 | 3. Activities Coordinator – A person who has training and experience with  |

clients with developmental disabilities, and who is responsible for the

integration of recreation and leisure activities as part of the clients’ active

treatment program.

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| 09/01/07 | 4. Adult – Means any person who has attained eighteen (18) years of age and who is a legally emancipated minor. |

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| 09/01/07 | 5. Advocate - A member of the Office of Advocacy, who is responsible to advise, assist, and protect the personal, legal and financial rights of persons with intellectual disabilities. |

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| 09/01/07 | 6. Ambulatory - Able to walk without assistance from a mechanical device or another human. |

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| 09/01/07 | 7. Annual Plan - See Individual Program Plan.  |

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| 09/01/07 | 8. Behavioral Program - A structured program established for a client by the  Interdisciplinary Team and written by a qualified professional to develop or  |

enhance desired behaviors or to modify or eliminate inappropriate

behaviors.

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| 09/01/07 | 9. Certified Nursing Assistant (CNA) - A person whose duties are assigned by a registered professional nurse and who has successfully completed a training program or course with a curriculum prescribed by the Maine State Board of Nursing, holds a certificate of training from that program or course and is listed on the Maine Registry of Certified Nursing Assistants |

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| 09/01/07 | 10. Certified Nursing Assistant/Medications (CNA/M) - An experienced certified nursing assistant who has satisfactorily completed the Board of Nursing’s standardized medication course for certified nursing assistants. The |

CNA/M may perform this complex nursing task only under the director

onsite supervision of a licensed nurse and only in long term care nursing

facilities and state mental health institutions.

09/01/07 11. Client – A person who 1) has been diagnosed with an intellectual disability or other related developmental disabilities; and 2) is in need of, and is

receiving active treatment in an Intermediate Care Facility for Persons

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|  |  with Intellectual Disabilities. |

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| 09/01/07 | 12. Competent Client - A client eighteen (18) years old or older, not under legal guardianship. |

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| 09/01/07 | 13. Department - The Department of Health and Human Services (DHHS). |

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| 09/01/07 | 14. Intellectual Disability – A severe chronic disability of a person which: |

 A. Is attributable to a mental or physical impairment or a combination

of the two;

 B. Is manifested before the person reaches age 22;

 C. Is likely to continue indefinitely;

 D. Results in substantial functional limitations in three (3) or more of

the following areas of major life activity:

 (1 Self-care;

 (2) Receptive and expressive language;

 (3) Learning;

 (4) Mobility;

 (5) Self-direction;

 (6) Capacity for independent living;

 (7) Economic self-sufficiency; and

 E. Reflects the person's need for a combination and sequence of

special, interdisciplinary, or generic care, treatment, or other

services, which are individually planned and coordinated.

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| 09/01/07 | 15. Developmental Trainer - A person in the ICF/ID facility who, during active treatment hours, is responsible for directing and coordinating of direct services employees on their assigned shift. This person must have the required education and/or experience as outlined in Chapter 6. |

09/01/07 16. Developmental Training Assistant – A person providing direct services in

an ICF/ID facility who has had at least three (3) months experience in

working with persons with developmental disabilities.

09/01/07 17. Developmental Training Coordinator – The person who develops and

monitors habilitation plans for clients in an ICF/ID facility. He/she may

act as assistant to the Qualified Professional.

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| 09/01/07 | 18. Director of Food Services - A person who: |

 A. Is a licensed dietitian; or

 B. Is a licensed dietetic technician or dietary manager or who is

certified by the Dietary Managers Association; or

 C. Is a graduate of a State-approved course that provided at least 90

hours of classroom instruction in food service supervision and has

experience as a supervisor in a health care facility with consultation

from a licensed dietitian; or

 D. Has training and experience in food service supervision or

management in a military service. The training shall be equivalent

in content to the program in paragraph B or C, above, as

determined by the Department.

09/01/07 19. Director of Nursing (DON) – A registered professional nurse who has the

responsibility for nursing services in a facility.

09/01/07 20. Direct Services Staff - Staff whose primary daily responsibility is to manage,

supervise and provide hands-on care to clients in their residential living

units.

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| 09/01/07 | 21. Discharge - The permanent transfer of a client to another residence. |

09/01/07 22. Distinct Part – A physically separate unit that is clearly identifiable in the

facility, such as an entire ward or contiguous wards, wing, floor or buildings.

09/01/07 23. Division of Licensing and Regulatory Services - The State Agency

responsible for licensure and Medicaid certification of ICFs/ID.

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| 09/01/07 | 24. External or Day Programs - An external program means employment for pay, vocational or pre-vocational activity away from the person’s residence, or other habilitative support services that are provided outside of the person’s residence.  |

09/01/07 25. Habilitation - The process by which a person is assisted to acquire and

maintain those life skills which:

 -Enable the person to cope more effectively with the demands of

 his/her own person and of the environment;

 -Raise the level of his/her physical, mental and social ability; and

 -Improve his/her sense of well-being.

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| 09/01/07 | 26. Incident or Accident - Any occurrence which threatens the safety, health or well-being of any person residing in the facility. |

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| 09/01/07 | 27. Individual Program Plan (IPP) - A detailed annual written plan developed by the person and an Interdisciplinary Team, outlining the person’s specific needs for training, treatment, education and habilitation services along with the methods to be utilized in providing them. This includes the Person Centered Plan (PCP). |

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| 09/01/07 | 28. Informed Consent - A specific written approval by or on behalf of a  resident which is given by the person or the person’s legal guardian who is  |

able to evaluate the risks and alternatives of the treatment, program or

proposal.

09/01/07 29. Interdisciplinary Team (IDT) - A team of professionals, paraprofessionals

and nonprofessionals who represent the disciplines or service areas that

are relevant to the identification of the client's needs as described in the

comprehensive functional assessment, and who have the expertise to

design effective programs to meet those needs.

09/01/07 30. Intermediate Care Facility for Persons with Intellectual Disabilities – Group (ICF/ID Group) - A facility that provides for clients with a diagnosis of intellectual disability, or related conditions, who require less than eight (8) hours of licensed nurse supervision per day.

09/01/07 31. Intermediate Care Facility for Persons with Intellectual Disabilities – Nursing (ICF/ID Nursing) - A facility that provides for clients with a diagnosis of intellectual disability whose medical/nursing needs require the presence of a licensed nurse at least eight (8) hours per day seven (7) days per week. The facility must, therefore, have nursing coverage twenty-four (24) hours per day to provide adequate services to clients.

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| 09/01/07 | 32. Institution - Means a facility, a health care facility or an ICF/ID. |

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| 09/01/07 | 33. Laboratory Services - For the purposes of this regulation, “laboratory” means an entity whose work is the microbiological, serological, chemical, hematological, radiobioassay, cytological, immunohematological, pathological or other examination of materials derived from the human body, for the purpose of providing information for the diagnosis, prevention, treatment or assessment of any disease or medical condition.  |

09/01/07 34. Licensee – Any person, partnership, association or corporation to whom a

license to operate an ICF/ID is issued.

09/01/07 35. Medication Error - The incorrect administration of any medication as

related to selection of drug, dosage, form, route and time of

administration, omission of prescribed medication and unauthorized drug

without a physician order. Errors in documentation or charting are

considered medication errors.

09/01/07 36. Mistreatment – Behavior or facility practices that result in any type of

individual exploitation such as financial, sexual or criminal.

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| 09/01/07 |  37. Mobile - Ability to move independently from place to place. |

09/01/07 38. Mobile Nonambulatory - Unable to walk without assistance, but able to

move from place to place with the use of a mechanical device such as a

walker, crutches, a wheelchair or a wheeled platform.

09/01/07 39. Neglect – A threat to an individual’s health or welfare by physical or mental

injury or impairment, deprivation of essential needs or lack of protection

from these.

09/01/07 40. Nonambulatory - Unable to walk without assistance and unable to move

from place to place without the assistance of another person.

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| 09/01/07 | 41. Normalization - Means the principle of assisting the person with an intellectual disability to obtain an existence as close to normal as possible and making available to that person patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society. [See Wolfensberger 1980 in Normalization, Integration and Community Services; R.J. Flynn and K.E. Nitsch (eds.). Baltimore, University Park Press] “The use of culturally valued means in order to enable people to lead culturally valued lives.”  |

09/01/07 42. Person - Any individual, corporation, partnership, association,

governmental subdivision or any other entity.

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| 09/01/07 | 43. Person Centered Plan (PCP) - A process where the needs and desires of the person are articulated and identified with as much involvement of the person him/herself as possible. (See IPP). |

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| 09/01/07 | 1. Prescription Drugs - Means those drugs that may be dispensed only on the written

prescription of a physician, psychiatrist, dentist, physician assistant and nurse practitioner. |

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| 09/01/07 | 45. Program - Refers to any and all activities that are specified in the individual program plan (IPP)/Annual Plan, and is designed to increase  |

 physical, social, emotional or intellectual growth and development.

09/01/07 46. Psychotropic Drug - Those drugs which exert an effect upon the mind and

which include anti-depressants, anti-anxiety agents, anti-psychotics and

hypnotics.

09/01/07 47. Qualified Professional (QP) - A person who has at least one (1) year of

experience working directly with persons with intellectual disabilities or other developmental disabilities; and:

 A. Has a bachelor's degree in human services; or

 B. Is a physician; or

 C. Is a registered nurse.

09/01/07 48. Recreation Therapist - A person who has at least a bachelor’s degree in

therapeutic recreation.

09/01/07 49. Rehabilitation - The restoration of a client to an optimal functional state

through the establishment and implementation of an individually designed

program.

09/01/07 50. Resident Assistant – A person in an entry level position who provides,

under supervision, direct services to clients in an ICF/ID facility.

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| 09/01/07 | 51. Residential Living Unit - (Same as Client Living Unit) Those rooms and/or areas clients can be expected to use on a daily basis. The rooms include the living room, dining room, recreation or family room, bathroom and the individual’s bedroom. |

09/01/07 52. Restraint - Any procedure, equipment or medication used for the purpose

of restricting the activity of a client. Examples of restraint include, but are

not limited to, the following:

 A. Time-out room - The use of a room to isolate a client for a limited

time and only under limited circumstances;

 B. Physical Restraint - Any manual method or physical or mechanical

device that the client cannot remove easily, and which restricts the

free movement of, normal functioning of, or normal access to a

portion or portions of a client's body;

 C. Drugs to Manage Inappropriate Behavior - Medications prescribed

and administered for modifying the maladaptive behavior of a client;

and

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| 09/01/07 |  D. Chemical Restraint - Chemical restraint is the emergency use of a  prescribed medicine, administered involuntarily, when all of the  |

following conditions exist (emergency means a situation in which

the use of the restraint is absolutely necessary to prevent imminent

harm or danger to the person or others, and is a situation that could

not be reasonably anticipated):

 1. The medication is used primarily in response to a behavioral

incident rather than a medical incident;

 2. The prescribed medicine represents a dosage which would

not otherwise be administered to the client as part of a

regular medication regime; and

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| 09/01/07 |  3. The prescribed medicine impairs the client's ability to do or accomplish his or her usual activities of daily living.  |

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| 09/01/07 | 53. Social Role Valorization – “The enablement, establishment, enhancement, maintenance and/or defense of valued social roles for people - particularly for those at value risk - by using, as much as possible, culturally valued means”. (A Brief Introduction to Social Role Valorization (2nd ed.) 1992 by Wolf Wolfensberger; Training Institute for Human Service Planning, Leadership and Change Agentry (Syracuse University) (See Normalization)  |

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| 09/01/07 | 54. Transfer - The movement of a client between facilities.  |

CHAPTER 3: LICENSURE

 3.A. Requirements of Licensure

 3.A.1. Requirements

 a. No person shall operate an ICF/ID without a license from the Department in force, authorizing such operation.

 b. Reimbursement shall not be accepted, by any person, for rendering intermediate care for persons with intellectual disabilities for even one person not a relative within the third degree of kinship, without such person having first secured a license in force, authorizing such operation in accordance with these regulations.

 3.A.2. Appointment of Administrator

 Each licensee shall appoint an administrator for each ICF/ID. The licensee and the administrator may be the same person.

3.B. Application Procedure

 3.B.1. Filing of Application

 Any person desiring a license to operate an ICF/ID shall, prior to the commencement of such operation, file an application containing the information required in this section with the Department. Application on behalf of a corporation, association, or government unit shall be made by any two officers thereof or by its managing agency and by any general partner of a partnership. All applicants shall submit satisfactory evidence of their ability to comply with the minimum standards of Chapter 405 of Title 22 M.R.S.A., and all rules and regulations adopted thereunder. Such application shall be on a form approved by the Department.

 3.B.2. Contents of Application

 a. The name or address by which the ICF/ID is to be legally known and the name under which it will be doing business;

 b. The address and telephone number of the premises which are to constitute the location of the ICF/ID, together with a description of all structures and buildings forming a part thereof, and the name of the owner or owners of the premises; and

 c. The full name and address of each person having a direct or indirect ownership interest of ten percent (10%) or more in such ICF/ID. Additionally, in case the ICF/ID is organized as a corporation, the full name and address of each officer and director of the corporation; and if the ICF/ID is organized as a partnership, the full name and address of each partner;

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| 09/01/07 | d. The name, home address, home telephone number, e-mail  address and office telephone number of the individual |

designated by the applicant as the administrator of the

facility.

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| 09/01/07 |  3.B.3. Statement by Commissioner of the Department of Public Safety |

 Each applicant shall provide to the Department a written

statement signed by an authorized representative of the

Department of Public Safety or the proper municipal official

designated in Title 25 M.R.S.A., Chapters 311 to 321, to

make fire safety inspections, so that the ICF/ID and

premises comply with said Chapters.

 3.B.4. Fees

09/01/07 Each application for a license must be accompanied by a

non-refundable fee of $10.00 for each bed contained within

the facility. Licenses issued must be renewed annually upon

payment of a like fee and determination of compliance with

state and federal statutes and regulations. Any license re-

09/01/07 issued as a result of a change of administrator, change in

bed complement, change of ownership or modification to a

temporary or a conditional status will be issued upon

payment of a $25.00 fee.

 3.B.5. Additional Information

 Each applicant shall provide to the Department any information the Department may require to determine the suitability for licensure and conformity with state and federal statutes and regulations.

 3.C. Initial Licensing

 The following must be submitted by the applicant with the initial application:

 3.C.1. Floor Plans

 Plans of the ICF/ID, drawn to scale, showing the use of each room and the source of utilities and methods of waste disposal.

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| 09/01/07 |  3.C.2. Statement by Division of Environmental Health |

 A written statement, signed by an authorized representative

09/01/07 of the Division of Environmental Health of the Department,

indicating compliance of the facility with all applicable State

 statutes and regulations relating to plumbing, water supply,

and sewage disposal.

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| 09/01/07 |  3.C.3. Statement by the Office of Adults with Physical and Cognitive Disabilities Services |

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| 09/01/07 |  A written statement, signed by the appropriate local Regional Management Team of the Office of Adults with Cognitive and  Physical Disabilities Services of the Department, indicating the  |

ICF/ID's stated philosophy, operating policies and

procedures, staffing pattern, physical plant design and day

programming, and upholding the rights of persons with intellectual disabilities, as set forth in Title 34-B M.R.S.A., subsection 5601 *et seq*.

 3.C.4. Policies

09/01/07 A copy of the policies governing the services of the facility

 must be submitted to the Department. The Department shall

notify the facility in writing of any policies which are not

approved due to noncompliance with any statutes or

regulations.

 3.C.5. Transfer Agreement

 Each applicant shall have an agreement with a licensed hospital concerning the transfer of clients.

 3.C.6. Copy of the Lease (if applicable)

 When a building is leased, a copy of the lease must be filed with the application for a license. The lease shall clearly indicate responsibility for the maintenance and upkeep of the property. The Department shall be notified within seventy-two (72) hours if there is any change in the lease agreement that may, in any way, affect the responsibility for maintenance and upkeep of the property.

 3.C.7. Compliance with Local Laws

 A letter from the appropriate municipal official having jurisdiction over the premises where the facility is to be located, indicating compliance with all local laws relative to the type of facility for which the license is requested must be on file in the facility.

 3.C.8. Staffing

a. A staffing pattern must be submitted to the

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| 09/01/07 |  Department for approval. Copies of job descriptions  may be requested by the Department.  |

 b. Prior to the opening of a new ICF/ID, all staff shall be appropriately trained and oriented.

 3.C.9. Admission Plan

 a. All direct care staff shall have completed orientation

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| 09/01/07 |  as required in Chapter 6.E.3, prior to admission of  clients.  |

b. A planned program for admissions shall be submitted

09/01/07 to the Department and approved by the Department

prior to any clients being admitted to the facility. For

any changes, a written request must be submitted to

09/01/07 the Department.

09/01/07 c. A survey will be conducted by the Department on the

day of proposed opening. All State requirements must be

met or an acceptable plan of correction must be presented

before a license can be issued or clients admitted.

 3.D. Issuance of License

 Each license issued by the Department shall specify:

 3.D.1. The name and/or the address of the facility;

 3.D.2. The name of the administrator;

 3.D.3. Whether the facility is ICF/ID Nursing or Group;

 3.D.4. The maximum allowable number of clients;

09/01/07 3.D.5. Any waivers that have been granted; and

 3.D.6. An expiration date.

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| 09/01/07 |  3.E. Number of Clients The ICF/ID shall not admit clients beyond: a. Its licensed capacity; or b. Its capability to provide adequate programming. |

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| 09/01/07 | 3.F. Facility Sites/Community Integration |

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| 09/01/07 |  3.F.1. The ICF/ID must be operated in accordance with the principles of normalization and social role valorization. |

09/01/07 3.F.2. The following guidelines govern the location and structure of

ICF/ID facilities.

 a. Based on behavioral and physical needs of clients, the facility must be located within reasonable driving time of:

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| 09/01/07 |  1. Day or external program locations; |

 2. Hospital and other professional services; and

 3. Shopping and recreational resources.

 b. The area must be reasonably free of environmental hazards.

 c. The facility must be served by a road which is kept passable at all times of the year.

09/01/07 3.F.3. The facility must not have any unrelated business conducted

in the building, or any rented living space for other persons.

09/01/07 3.F.4. Separate licenses are required for separate facilities operated

by the same management.

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| 09/01/07 |  3.G. New Construction |

 No new construction may be commenced before application is made for a Certificate of Need from the Department.

09/01/07 3.G.1. An application for approval of new construction must be

submitted on forms required by the Department.

09/01/07 3.G.2. Commencement of construction shall not occur until the

Department issues a Certificate of Need or formally notifies

the facility that such a Certificate is not required.

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| 09/01/07 |  3.H. Changes Requiring Prior Written Approval |

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| 09/01/07 |  The following changes require prior written approval by the Department: |

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| 09/01/07 |  3.H.1. Alterations which affect: |

 a. The structural integrity of the building;

 b. Fire safety;

 c. The primary functioning and/or operation of the facility or the number of beds for which the facility is licensed or relocation of beds.

 No significant change shall be made in a licensed facility, its physical plant operation, or services of a degree or character which affects continuing licensability, without prior approval of the Department.

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| 09/01/07 |  3.H.2. Change in Ownership of Facility |

 a. No license is assigned or transferable.

b. At least thirty (30) days advance written notice must

09/01/07 be given to the Department prior to the transfer of

ownership.

 c. Each application for a license from a new owner must be accompanied by a statement from the previous owner or his/her duly authorized representative concerning the change of ownership, a copy of the purchase and sale agreement, or other validating document.

 d. Upon receipt of a completed application and fee, the Department shall issue a temporary license to the new owner of an occupied facility for a period not to exceed ninety (90) days, pending compliance by the new owner with the requirements for initial licensure.

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| 09/01/07 |  3.I. Change of Administrator |

09/01/07 A change of administrator must be reported to the Department in

writing at least thirty (30) days prior to the change taking effect. In

09/01/07 emergency situations, the Department must be notified immediately.

The name of the new administrator, his/her qualifications, facility

09/01/07 address, home and office telephone number and e-mail address must

be included. A new license shall be issued within thirty (30) days upon

payment of a $25.00 fee, pending approval of the new administrator.

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| 09/01/07 |  3.J. Waiver Provisions |

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| 09/01/07 |  3.J.1. Fire Protection Waiver |

 a. The Department may waive specific provisions of the Life Safety Code (the Code) for as long as it considers appropriate, if:

 1. The waiver would not adversely affect the health and safety of the client's residing in the facility; and

 2. Rigid application of specific provisions would result in unreasonable hardship for the ICF/ID.

 b. If the Department waives provisions of the Code for an existing building of two or more stories that is not built of at least two (2) hour fire-resistive construction, the ICF/ID may not house individuals who are blind, non-ambulatory or with physical, handicaps above the street-level floor unless:

 1. It is built of one-hour protected, noncombustible construction as defined in National Fire Protection Association Standard No. 220;

 2. It has full sprinkler, one (1) hour protected,

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| 09/01/07 |  ordinary construction; or  |

 3. It has full sprinkler, one (1) hour protected, wood frame construction.

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| 09/01/07 |  3.J.2. Building Accessibility and Use |

 The State survey agency may waive, for as long as it considers appropriate, specific provisions of American

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| 09/01/07 |  National Safety Institute (ANSI) Standard No. A 117.1 (1998) if: |

 a. The construction plans for the ICF/ID or a part of it were approved and stamped by the responsible State agency before March 18, 1974;

 b. The provision would result in unreasonable hardship on the ICF/ID if strictly enforced; and

 c. The waiver does not adversely affect the health and safety of the individuals residing in the facility.

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| 09/01/07 |  3.K. Waiver Procedures |

09/01/07 3.K.1. The facility must apply in writing to the Department for a

waiver. The application shall contain a justification for the

request and state the specific provisions of the regulations

for which a waiver is being requested.

09/01/07 3.K.2. No waiver may extend beyond the term of the license and a

new waiver shall be required when the license of the facility

is renewed.

09/01/07 3.K.3. The Department may request additional information before

making a decision on an application for a waiver.

09/01/07 3.K.4. No waiver or waivers shall be granted if there would be an

adverse effect to the health or safety of the individuals

residing in the facility.

09/01/07 3.K.5. The facility shall be notified in writing when a waiver is

granted or denied. In the event of an approval, the waiver shall be

noted on the license.

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| 09/01/07 |  3.L. Availability of License in the Facility |

 The license, with noted waivers if applicable, must be made available to anyone upon request.

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| 09/01/07 |  3.M. Renewal of a License |

 At least thirty (30) days prior to the expiration of a license to operate a facility, an application and the required fee for a renewal thereof must be submitted to the Department on a form approved by the Department and accompanied by such additional information as may be required. Prior to reissuance or renewal of a license, the

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| 09/01/07 |  Department, through the Division of Licensing and Regulatory  Services, will inspect the facility for compliance with licensing  |

regulations. Findings may result in a Statement of Deficiencies,

which will require a detailed, systematic and preventative plan of

correction. Upon receipt and review of the application and

determination of compliance with the law, the Department shall

renew such license for a period of one (1) year, unless it finds that

there are specific and sufficient grounds either for denying the

application for renewal or renewing the license on a temporary or

conditional basis.

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| 09/01/07 |  3.N. Refusal to Issue a License |

09/01/07 The Department may refuse to issue a license to the applicant

 covering the premises identified in the application, if it finds the representation made in the application to be materially incorrect or insufficient, or if it finds that the applicant, the premises, or the

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| 09/01/07 |  designated administrator of the facility do not meet all requirements  of the law and regulations. Any person who is aggrieved by the  |

decision of the Department in denying a license or its renewal may

file an appeal pursuant to Title 5 M.R.S.A., Section 10001, *et seq.*

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| 09/01/07 |  3.N.1. Loss of License a. Temporary or Conditional License The Department may issue a temporary or conditional |

 license to afford the facility the opportunity to correct the

 condition forming the basis for revocation of, or refusal to

 renew a license. The decision to issue a temporary or

 conditional license will be based upon the interests of the

 clients residing in the facility and the interest of the general

 public.

09/01/07 b. Suspension, Emergency Suspension or Revocation of License

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| 09/01/07 |  The Department may amend, modify or refuse to renew a license  hereunder in conformity with the Maine Administrative Procedure Act,  Title 5, M.R.S.A., chapter 375, or file a complaint with the District Court  requesting suspension or revocation of any license on any of the  following grounds: Violation of this chapter or the rules and regulations  issued pursuant thereto; permitting, aiding or abetting the commission of  any illegal act in that institution; conduct of practices detrimental to the  welfare of the patient; provided that whenever, on inspection by the  Department, conditions are found to exist that violate Title 22 M.R.S.A.,  Chapter 405, or departmental regulations issued thereunder that, in the  opinion of the Commissioner, or designee, immediately endanger the  health or safety of patients, or both the health and safety, in any of the  institutions or to such an extent as to create an emergency, the  Department, by it duly authorized agents may, under the emergency  provisions of Title 4, M.R.S.A., section 184, subsection 6, request that  the District Court suspend or revoke the license. Upon suspension or  revocation of a license, the license shall be immediately surrendered to  the Department. |

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| 09/01/07 |  3.O. Closing of a Facility 3.O.1. Involuntary Closing |

 If an annual license is revoked or suspended, if a conditional license is voided, or if the Department refuses to issue or renew a license, the facility shall, in consultation with the Department, make appropriate arrangement for the orderly transfer of all clients residing in the facility.

09/01/07 3.O.2 Voluntary Closing

 Whenever a facility voluntarily discontinues operation, it shall inform the clients residing in the facility, the next of kin, legal

09/01/07 representative or agency acting on the client’s behalf, and the

Department of the fact and the proposed time of such discontinuance,

giving at least thirty (30) days notice so that suitable arrangements

may be made for the orderly transfer of the clients. In the case of

any individual who has no person acting on his/her behalf,

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| 09/01/07 |  the facility, aided by the Department, shall be responsible for  assisting the client to make other suitable living arrangements. |

Immediately upon discontinuance of operation of a licensed

facility, the owner shall surrender the license to the Department.

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| 09/01/07 |  3.P. Public Notice |

 If an annual license is revoked or suspended, or a conditional license is voided, the Department shall advise the public of such action. The notice to the public must be in the form of a paid legal notice in the local newspapers, published no more than fifteen (15) days after the termination, suspension or, revocation of the license.

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| 09/01/07 |  3.Q. Right of Entry and Inspection |

 The Department and any duly designated representative thereof shall have the right to enter upon and into the premises of any facility licensed pursuant to these rules and regulations at any time in order to determine the facility's compliance with relevant statutes and regulations. Such right of entry and inspection shall extend to any premises which the Department has reason to believe are being operated or maintained as a health care facility without a license, but no such entry or inspection of any premises shall be made without the permission of the owner or person in charge thereof, unless a warrant authorizing the same is first obtained from the court of jurisdiction. Any application for a license made

09/01/07 pursuant to these rules and regulations shall constitute permission

for any entry or inspection of the premises for which the license is

sought in order to facilitate verification of information submitted on

or in connection with such application.

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| 09/01/07 |  3.R. Receivership Pursuant to Title 22 M.R.S.A. Section 7931 *et seq.,* the Department may petition the Superior Court to appoint a receiver to operate an ICF/ID facility in the following circumstances: 1. When the facility intends to close, but has not arranged, at least thirty (30) days prior to closure, for the orderly transfer of its clients;
2. When an emergency exists in the facility, which threatens the health, security or welfare of clients; or
3. When the facility is in substantial or habitual violation of the standards of health, safety or resident care established under State or Federal regulations to the detriment of the welfare of the clients.

 3.S. AppealsAny ICF/ID facility aggrieved by the Department’s decision to take any of the following actions, or to impose any of the following sanctions, may request an administrative hearing to refute the basis of the Department’s decision, as provided by the Maine Administrative Procedure Act, Title 5 M.R.S.A., Section 10001 *et seq.* or the Department’s Administrative Hearing Regulation. Administrative hearings will be held in conformity with the Department’s Administrative Hearing Manual. A request for a hearing must be made in writing to the Director of the Division of Licensing and Regulatory Services, and must specify the reason for the appeal. Any request must be mailed within ten (10) days from receipt of the Department’s decision to: 1. Issue a conditional license;

b. Amend or modify a license c. Void a conditional license; d. Refuse to issue or renew a full license;e. Refuse to issue a provisional license;f. Stop or limit admissions; g. Issue a directed plan of correction  |

CHAPTER 4: GOVERNING BODY AND MANAGEMENT

09/01/07 4.A. Shared Administrator

 1. Separately licensed ICFs/ID may share an administrator.

09/01/07 2. Any sharing of the same administrator shall be defined and

the duties and schedules of working hours for each ICF/ID

shall be outlined in the policy material of the facilities

involved. Each ICF/ID shall make such changes in the

written policies as the Department may require.

09/01/07 4.B. Qualifications of Administrator

09/01/07 4.B.1. An administrator of an ICF/ID Nursing Facility must be licensed in the State of Maine as a nursing home administrator.

09/01/07 4.B.2. An administrator of an ICF/ID Group Facility must be a Qualified

Professional (QP) who has had at least one

(1) year's experience in management, personnel responsibilities

and financial administration. With the concurrence of the

Department, suitable candidates may be considered for the position of administrator if they lack required experience in working with persons with intellectual disabilities, management, personnel responsibilities and financial administration. The administrator shall be designated on the

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| 09/01/07 |  license.  |

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| 09/01/07 | 4.C. Person to Act in Absence of Administrator |

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| 09/01/07 |  A person, qualified and authorized to act in the absence of the administrator during the normal working day, shall be designated. Any planned absence of the administrator for a period longer than thirty (30) days shall be reported in writing to the Department for prior approval. |

4.D. Acting Administrator for Emergency Conditions

09/01/07 If a licensed ICF/ID is required to secure a new administrator under

emergency conditions, he/she may, within seventy-two (72) hours notice

to the Department and in accordance with these Regulations, place the

ICF/ID in charge of in acting administrator. This shall be for such limited time mutually agreed upon between the Department and licensee

as may be necessary to permit the securing of a: qualified administrator, but in no event to exceed sixty (60) days. When a qualified administrator

has been secured, the name, qualifications, home address, office telephone number and e-mail address shall be sent to the Department.

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| 09/01/07 | The current license shall be returned to the Department and a new license will be issued within thirty (30) days with payment of a $25 fee.  |
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If it is unable to secure a qualified administrator within sixty (60) days, the ICF/ID must immediately submit written evidence of actions being taken to secure a qualified administrator.

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| 09/01/07 | 4.E. Client Records |

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| 09/01/07 | 4.E.1. The facility must develop and maintain a record-keeping systemthat includes a separate record for each client. All reports and records must be available for inspection by the Department upon request. |

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| 09/01/07 |  4.E.2. Documentation in the record must include: |

 a. Health Care Services (if appropriate):

 1. Medical care plan and progress notes; or

nursing/health care plan and progress notes; and

 2. Medication administration and response to drugs

 b. Active Treatment:

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| 09/01/07 |  1. Annual Plan  2. Written training plans; 3. Reviews, as appropriate, by a member of the IDT; 4. Professional evaluations and recommendations for treatment; and 5. Reports from external and day programs; 6. Ensure that the updated comprehensive functional assessment and the reviewed and revised IPP is placed in the client's record, together with:(a) New and revised habilitation plans and programs; and(b) All reports and evaluations which contributed to the development of the new plan including, but not limited to:1. Social Services progress notes;

(2) Activities assessments and summaries;(3) Annual evaluations with progress notes and recommendations by all professions whose expertise encompasses areas in which the client does not function appropriately; |
| 09/01/07 |  (4) Physician's statement of current status and evaluation of progress; (5) Psychological evaluation with summary of developmental and behavioral progress/problems and recommendations; (6) Pharmacist's drug regimen reports;(7) Nursing summary of progress/problems and recommendations; and |

 c. Social Information:

 1. Plan of care and progress notes;

 2. Discharge plan;

 3. Record of family involvement; and

 4. Activities assessment.

 d. Protection of Clients Rights:

 1. Acknowledgment of client or his/her legal representative having read or heard the statement of rights;

 2. If anyone other than the facility or appropriate

governmental agency staff is to have access, written

permission from the client or his/her legal

representative for that person;

 3. Personal property inventory; and

 4. Appropriate authorizations and consents by clients,

parents, or legal guardians.

 e. In addition to the above, the record for each client admitted

will contain:

 1. Initial assessments, progress reports, the most recent

individual program plan and current information for

the past twelve (12) months;

 2. Name, date of admission, birth date and place of

birth, citizenship status and social security number;

 3. Parent(s) names, birthplaces and marital status, if known;

 4. Name, address and telephone number of parent(s), legal guardian, correspondent and, if needed, next of kin;

 5. Sex, race, height, weight, color of hair, color of eyes,

identifying marks and recent photograph;

 6. Language spoken and understood, and religious

affiliation;

 7. Preadmission evaluation and medical history;

 8. Physician(s) orders for medication and other

prescribed treatment;

 9. Physician certification for appropriate level of care;

 10. Reason for referral for admission as documented by

the Preplacement Interdisciplinary Team;

 11. Type and legal status of admission;

 12. Legal competency status;

 13. All sources of financial support;

 14. Records of significant behavior incidents;

 15. Records of any allegation or instance of abuse,

neglect or exploitation of the client if appropriate, with

documentation of resolution;

 16. Reports of accidents, seizures, illness and treatments

for these conditions;

 17. Records of all periods that restraints were used, with

justification and authorization for each;

 18. Correspondence pertaining to the client;

 19. Records of immunizations; and

 20. Contracts between the client and the facility.

 4.E.3. The facility shall keep confidential all information in client records

regardless of form or method of storage, including information

contained in an automated data bank. The client or his/her legally

designated guardian shall have access to the records (unless

medically contraindicated as documented by the physician in the

medical record) in the presence of a member of the facility staff.

4.F. Administrative Records

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| 09/01/07 |  Administrative records must be available to the Department.  |

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| 09/01/07 | 4.G. Retention of Records |

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| 09/01/07 |  4.G.1. Client records must: |

 a. Be retained for a period that meets both federal and state

regulations;

 b. Be retained for at least seven (7) years after the date of

death or last discharge of the client. Records of a minor

child shall be retained until the child reaches the age of

majority or seven (7) years after the date of death or last

discharge, whichever is longer;

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| 09/01/07 |  4.G.2. Administrative records must include: |

 a. Minutes of committee meetings, with the most recent twelve

(12) months kept on active file, and the most recent five (5)

years retained;

b. Consultant reports, with the most recent twelve (12) months

09/01/07 kept on active file, and the most recent seven (7) years

retained;

 c. Inservice Records, with three (3) years retained.

 d. Staffing schedules, with five (5) years retained (for auditing

purposes);

 e. Menu plans, with thirty (30) days of plans retained;

09/01/07 f. Financial records, with five (5) years retained (for auditing

purposes);

 g. Reports of fire drills with twelve (12) months retained;

 h. Accident and incident reports with five (5) years retained;

 i. Utilization review reports kept together for twelve (12)

months, with five (5) years retained;

 j. Terminated employee files, with three (3) years retained.

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| 09/01/07 | 4.H.4. Rebating Prohibited |

 No owner, administrator, employee or representative of a licensed

facility may either directly or indirectly pay to, or receive from, any

physician, organization, agency or other person any commission,

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| 09/01/07 |  bonus or gratuity for clients referred or services rendered. |

CHAPTER 5: CLIENT PROTECTIONS

 5.A. Protection of Clients' Rights

 Each facility must have, and shall implement written policies and procedures which ensure the rights of clients as set forth in Title

34-B M.R.S.A., Section 5601, *et seq.* (Rights of Persons with Intellectual Disabilities, Autism, or Acquired Brain Injury) and 42 C.F.R., Section 483.420.

 Policies and procedures shall require that:

 5.A.1. The facility must:

 a. Inform, in writing, each client, parent (if the client is a minor), or legal guardian, of the client's rights and the rules of the facility, including:

 1. All services available; and

 2. Changes in services or charges as they occur during the client's stay.

 b. Inform each client, parent (if the client is a minor), or legal guardian, of the client's medical condition, developmental and behavioral status, attendant risks of treatment, and of the right to refuse treatment and ensure the opportunity for the client to participate in planning the total care and medical treatment, unless the physician decides that informing the client is medically contraindicated. This decision must be documented in the client's record.

 c. Transfer or discharge clients only for:

 1. Medical reasons;

 2. The welfare of the client or that of other clients;

or

 3. Nonpayment, except as prohibited by the Medicaid Program;

 d. Advise clients and guardians of their right to appeal, and notify advocacy agencies as appropriate.

 e. Allow and encourage individual clients to exercise their rights as clients of the facility, and as citizens of the State of Maine and the United States, including their rights to file complaints, to due process and to vote.

 1. The client and parents shall be informed of the

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| 09/01/07 | advocacy services available, and |

 2. Opportunity for client participation in the Resident Council or comparable mechanism for client input regarding the rules of conduct for the facility shall be provided.

09/01/07 f. Ensure that clients are not compelled to perform

services for the facility;

09/01/07 1. Training tasks may not involve the care or

treatment of other clients.

09/01/07 2. Clients shall be encouraged and/or assisted to

perform work in the least restrictive setting and

at the highest remunerative value of which they

are capable.

09/01/07 g. Housekeeping:

09/01/07 A client may be encouraged to perform tasks of a

personal housekeeping nature when:

09/01/07 1. They are included in the client’s Annual Plan to

develop new skills;

09/01/07 2. They require the client to be reasonably

responsible for keeping his/her personal areas

clean and neat.

09/01/07 h. Ensure that each client is being treated with consideration,

respect, and full recognition of his/her dignity and individuality.

To that end, the client shall have a right to private communications

communications, and have access to telephones with privacy for

incoming and outgoing local and long distance calls, except as

contraindicated by factors identified within their IPP.

09/01/07 i. Ensure that each client has the right to retain and use

personal possessions and his/her own clothing. If

necessary, to protect the client or others from

imminent injury, the staff may take temporary custody

of clothing or personal effects, provided such

emergency conditions of custody are documented in

the client's record and the possessions are returned

to the client as soon as the emergency is over and the

return of the possessions would not precipitate

another emergency;

09/01/07 j. Ensure that each client shall be dressed in his/her

own clothing each day.

1. The client shall be assisted in obtaining and, if

necessary, provided with adequate, fashionable and seasonable clothing including

09/01/07 shoes and coats; and

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| 09/01/07 |  2. Special or adaptive clothing shall be provided where necessary. |

09/01/07 k. Provide for assistance to each client so that the client may

09/01/07 1. Exercise the right to vote.

 2. Have the right to religious freedom and practice.

09/01/07 l. Provide privacy for a married client during visits with

his/her spouse;

09/01/07 m. As appropriate, provide training in sexuality and

socialization to include information on contraception;

09/01/07 n. Ensure that no person shall be admitted to an ICF/ID unless a prior determination is made that residence at the home is the least restrictive habilitation setting appropriate for that person.

 1. Clients shall be provided with the least restrictive and most normal living conditions possible. This standard shall apply to dress, grooming, movement, use of free time, and contact and communication with the outside community, including access to educational, vocational and recreational therapy services outside of the facility. Clients shall be taught skills that help them learn how to manipulate their environment and how to make choices necessary for daily living.

 2. Clients have a right to habilitation, including medical treatment, education, training and care, suited to their needs, regardless of age, level of intellectual disability or handicapping condition. Each client has a right to a habilitation program which will maximize his/her abilities, enhance his/her ability to cope with his/her environment and create a reasonable expectation of progress toward the goal of independent living.

09/01/07 o. Ensure that clients shall have a right to the least

restrictive conditions necessary to achieve the

purposes of habilitation. To this end, the facility shall

make every attempt to move clients from:

 1. More to less structured living;

 2. Larger to smaller facilities;

 3. Larger to smaller living units;

 4. Group to individual residences;

 5. Segregated to integrated community living;

 6. Dependent to independent living;

 and in concert with the clients' and/or guardians' preference.

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| 09/01/07 |  p. Ensure that, unless contraindicated by the client's IPP/Annual  Plan, ICFs/ID shall house both male and |

female clients. Unrelated clients of grossly different

ages, developmental levels and social needs shall not

be housed in close physical proximity, and clients who

are non-ambulatory, deaf, blind, epileptic, or

otherwise with a physical disability shall not be

grouped with lower functioning clients solely because

of such handicaps.

09/01/07 q. Ensure that the facility’s rhythm of life shall conform

with practices prevalent in the community. For

example, older clients ordinarily shall not be expected

to live according to the timetable of younger clients.

09/01/07 r. Ensure that clients who are non-ambulatory and have

multiple handicaps shall, except where otherwise

indicated by a physician's order, spend a major

portion of their waking day out of bed, and out of their

bedroom, have planned daily activity, and be

rendered mobile by suitable methods and devices.

Clients shall not stay in beds, cribs, wheelchairs or

orthopedic carts all day long, except on the order of a

physician, which must be in writing if the order is to

remain in effect for more than four (4) hours.

 5.B. Client Finances

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| 09/01/07 |  The ICF/ID must establish and maintain a system that assures a full and complete accounting of each client's personal funds entrusted to the facility on their behalf. A “full and complete accounting for personal funds” does not need to document accounting for incidental expenses or “pocket money,” funds a capable individual handles without assistance, funds dispensed to an individual under a program to train the individual in money management, and funds that are not entrusted to the facility (e.g., funds paid directly to the individual’s representative payee). |

09/01/07 5.B.1. Each client, unless he/she has a court appointed guardian or

conservator, shall have the right to manage and spend

personal funds, including the right to maintain an individual

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| 09/01/07 |  bank account. |

09/01/07 5.B.2. The ICF/ID must maintain a current financial record for

each client that includes written receipts for:

09/01/07 a. All personal possessions and funds received by or

deposited with the ICF/ID or by the ICF/ID in a

financial institution on behalf of the client.

09/01/07 b. No funds may be deposited with the administrator of a

facility, unless all of the following conditions are met:

1. The deposit is promptly recorded in the client's

records;

 2. A receipt is given to the client or, when appropriate, the guardian or parent;

 3. A record is kept of every deposit or withdrawal of funds, including the date and the amount received or disbursed;

 4. An accounting is provided on demand to the client, guardian or parent;

 5. Deposited funds must be used in accordance with the client's desires, but may never be applied to goods or services which the home is obliged or funded to provide.

09/01/07 c. Where the client has deposited funds in excess of

$200.00 with the administrator, an individual interest

bearing bank account must be maintained. Interest

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| 09/01/07 |  earned thereon shall be the property of the client only. |

09/01/07 5.B.3. Withdrawal of funds requires the authorization of the client,

 or where appropriate, the client's guardian or parent.

09/01/07 5.B.4. The client’s financial record must be made available on

request to the client, or, where appropriate, guardian or

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| 09/01/07 |  parent. The individual, in turn, is free to choose to make his  or her financial record available to anyone else. |

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| 09/01/07 |  5.B.5. The administrator of the facility shall not act as representative payee  for the client. |

09/01/07 5.B.6. No home, and no owner, administrator, employee, relative,

or representative thereof, may act as guardian, trustee or

conservator for any client of such home or for any of his/her

property.

09/01/07 5.B.7. Exceptions to these requirements may be considered by the

Department for clients who are relatives of the owner,

administrator, employee or representative of the licensed

home or their spouse within the third degree of kinship.

 5.C. Staff Treatment of Clients

09/01/07 5.C.1. The facility shall develop and implement written policies and

procedures that prohibit mistreatment, neglect or abuse of

the client. Policies must ensure that:

 a. Mistreatment, neglect, or abuse of clients in any form is prohibited;

 b. Use of all forms of restraint is prohibited, except when absolutely necessary to prevent a client from seriously injuring himself or others;

 c. Restraint is never employed as a punishment, for the convenience of staff, or as a substitute for programs, and restraint may be applied only after other less restrictive means of controlling behavior have been tried and have failed; and

 d. Documentation of the failure of alternative techniques must be included in the client's records and be available for inspection.

09/01/07 5.C.2. The facility must prohibit the employment of individuals with

a conviction or prior employment history of child or client

abuse, conviction for animal abuse, neglect or mistreatment;

 a. A written policy must be developed to outline the facility's hiring procedures;

 b. Results of reference checks must be placed in a personnel folder at the time of employment.

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| 09/01/07 |  5.C.3. All allegations must be reported immediately to: |

 a. The administrator and/or his/her designee, and followed

up in writing within twenty-four (24) hours after the initial

report of the incident;

 b. The advocate;

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| 09/01/07 | c. The Department, Medical Facilities Branch of the Division of Licensing and Regulatory Services.  |

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| 09/01/07 |  Allegations concerning adults with intellectual disabilities must be reported to the Regional Management Team of the Office of Adults with Cognitive Physical Disabilities Services through their reportable events process. |

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| 09/01/07 |  5.C.4. The facility shall ensure that a thorough investigation ofeach alleged violation is completed and must be documented and the facility must prohibit the person alleged to have perpetrated the abuse, mistreatment or neglect from providing direct services to any client during the period of preliminary investigation.  |

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| 09/01/07 |  5.C.5. The results of all investigations must be reported to the administrator within five (5) working days of the incident. A copy of this report will be sent to appropriate State agencies and made available to State agencies upon request. |

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| 09/01/07 |  5.C.6. The administrator shall be responsible to inform the legal guardian of the client of the results of the investigation. |

 5.C.7. [RESERVE]

CHAPTER 6: FACILITY STAFFING

6.A. Qualified Professional

09/01/07 The facility shall have a Qualified Professional (QP) who is responsible

for integrating, coordinating and monitoring each client's active treatment

program. The QP is responsible for such tasks as coordinating, supervising, integrating and reviewing the various aspects of programs and services. The facility shall ensure that:

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| 09/01/07 | 1. There is an assigned qualified professional (QP).
2. There are sufficient numbers of QPs to accomplish the job.
3. The QP observes individuals, reviews data and progress, and revises

programs based on individual need and performance.1. The QP ensures consistency among external and internal programs and

disciplines.1. The QP ensures service design and delivery which provides each

individual with an appropriate active treatment program.1. The QP ensures that any discrepancies or conflicts between

programmatic, medical, dietary, and vocational aspects of the individual’s assessment and program are resolved.1. The QP ensures a follow-up to recommendations for services, equipment

or programs. 1. The QP ensures that adequate environmental supports and assistive

devices are present to promote independence. 9. The QP initiates a periodic review of each individual program plan for  |

necessary changes.

6.B. Professional Program Services

09/01/07 Each client shall receive those professional program services that are

needed to implement the active treatment program defined by the client's

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|  | annual plan, so that the following aspects of the client are considered and incorporated in the annual plan: |

09/01/07 1. Physical development and health;

09/01/07 2. Nutritional status;

09/01/07 3. Sensorimotor development;

09/01/07 4. Affective (emotional development;

09/01/07 5. Speech and language communication development;

09/01/07 6. Auditory functioning;

09/01/07 7. Cognitive development;

09/01/07 8. Vocational development;

09/01/07 9. Social development; and

09/01/07 10. Adaptive behaviors/independent living skills.

09/01/07 6.C. Direct Services (Residential Living Unit) Staff

09/01/07 6.C.1. Direct services staff are defined as the present on-duty staff

calculated over all shifts in a 24-hour period for each defined

residential living unit.

09/01/07 6.C.2. The minimum overall staff-to-client ratio is 1:2 for each residential

living unit serving clients:

a. With severe and/or profound intellectual disability; or

 b. With aggressive, assaultive, severely hyperactive or

psychotic-like behavior; or

 c. Who are under the age of twelve (12); or

 d. With severe physical disabilities; or

 e. Who otherwise present a security risk.

09/01/07 6.C.3. For each residential living unit serving clients with moderate intellectual disability, the minimum staff-to-client ratio is 1:4.

 For each residential living unit, serving clients who function within

the range of mild intellectual disability, the minimum staff-to-client ratio is 1:6.

09/01/07 6.C.4. The staffing pattern and schedule used in the facility are functions

of three (3) variables:

 a. The intensity of the programming required by the clients;

 b. The number of clients living there; and

 c. The accessibility of available community resources.

 Because of the expected variation in client needs, the actual

09/01/07 staffing pattern may exceed the established minimum rations.

Requests for additional staff, based upon the IDT recommendations

shall be submitted for approval to the Department.

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| 09/01/07 | 6.D. Staff Training  6.D.1. The facility must provide each employee with initial and continuing training that enables him to perform his/her duties effectively, efficiently and competently. 6.D.2. Employees who work with clients must be provided training focused on skills and competencies directed toward the clients’ developmental, behavioral, and health needs. |

09/01/07 6.D.3. The facility must provide each employee with basic orientation to

his/her position. The orientation should be provided within two (2)

weeks of employment and should include, but not be limited to:

 a. Emergency procedures such as fire protection/drills/evacuations;

 b. Job description and personnel policies;

 c. Facility policies and procedures;

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| 09/01/07 |  d. Daily operational procedures; e. Orientation to community;  |

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| 09/01/07 | * 1. Confidentiality; and

 g. Reportable Events. |

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| 09/01/07 |  6.D.4. Staff training and introduction to developmental disabilities should  be provided to each direct service staff within ten (10) weeks from |

date of employment. The developmental disabilities training should

include, but not be limited to:

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| 09/01/07 |  a. Social role and community inclusion; b. Developmental disabilities; c. Human and legal rights; d. Teaching people; e. Human behavior; |
| 09/01/07 |  f. Health care and safety; g. Emergency care to include Heimlich maneuver and CPR; h. Annual Planning process; i. Documentation; j. Skill-based activities; k. Oral hygiene, and feeding techniques as appropriate; l. Behavioral intervention, as appropriate. |

09/01/07 6.D.5. No direct services staff may provide services to a client without

having had appropriate training.

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| 09/01/07 |  6.D.6 Continuing inservice training shall be provided, according to Federal Certification requirements and applicable individual certification and licensing requirements for all employees. |

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| 09/01/07 |  6.D.7 Personnel Records |

1. A record must be completed for each employee, and must

be available to the Department for review. This record must

contain date of employment, birth date, home address,

education and background, social security number,

occupational license number if applicable, and whatever

other information the facility deems appropriate for the

position.

1. A record on work performance must be kept for each

employee, containing a periodic performance appraisal, attendance at inservices, trainings, workshops and educational conferences. The record must be included in his/her personnel file.

1. Terminated employee files shall contain a reason for leaving, with a final evaluation of work performance.

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| 09/01/07 | 6.E. Employee RequirementsEmployee schedules must be available to the Department.6.E.1. Resident Assistant (RA) Requirements**ICF/ID Group*** High School Diploma or G.E.D., and
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| 09/01/07 | * Pre-employment Screening

**ICF/ID Nursing*** CNA, and
* Pre-employment screening

6.E.2 Developmental Training Assistant (DTA) Requirements**ICF/ID Group*** H.S. Diploma or G.E.D.,
* 150 Hours inservice training (not to include more than 24 hours of

job shadowing), and* 3 months full-time experience working with individuals with developmental

disabilities. |

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| 09/01/07 | **ICF/ID Nursing*** CNA, and
* 60 hours inservice training (not to include more that 24 hours of job

 shadowing) and* 3 Months full-time experience working with individuals with developmental

 disabilities.6.E.3. Developmental Trainer (DT) Requirements**ICF/ID Group*** 30 credit hours toward an Associates or Bachelor’s Degree in a related

 field and 40 hours inservice training; or* 1 year certificate and 40 hours inservice training; or
* Associates Degree in a related field; or
* 4 years full-time related experience with 160 hours inservice training at

 least 40 of which were in the last year; orMedication Certification**ICF/ID Nursing*** CNA and 30 credit hours toward an Associates or Bachelor’s

Degree in a related field; and* 40 hours inservice training; or
* CNA and 1 year certificate and 40 hours inservice training; or
* CNA and Associates Degree in a related field; or
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| 09/01/07 | * CNA and 4 years full-time related experience with 160 hours inservice

training at least 40 of which were in the last year and High School Diplomaor G.E.D.6.E.4 Developmental Training Coordinator (DTC) Requirements* BA/BS in a related field; or
* Associates Degree in a related field and 1 year experience in a related

field with 40 hours of documented inservice training; or* 60 hours toward a BA/BS in a related field and 1 year experience in a
* related field with 40 hours documented inservice training.
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| 09/01/07 | CHAPTER 7: ADMISSION, DISCHARGE and TRANSFER7.A. Admissions, Transfers, Discharges7.A.1. Admission decisions must be based on a current functional  assessment of the client that is conducted and updated by the  |

facility or by outside sources on admission.

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| 09/01/07 |  7.A.2. On admission the facility shall place in the client's record: |

 a. Medical history;

 b. Current medical status and physical disabilities;

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| 09/01/07 |  c. Transfer form and Medicaid certification; |

 d. Physician's plan of care;

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| 09/01/07 |  e. Preadmission IPP; f. Reason for referral if emergency; g. Personal property list, signed and dated; h. Legal competency status and guardianship, if applicable; i. Physical examination report from physical completed seven (7) days prior to or forty-eight (48) hours following admission. |

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| 09/01/07 |  7.A.3. If admission is not the best plan, but the person must be admitted, the IDT must: |

 a. Clearly acknowledge that the admission is not the best plan; and

 b. Initiate plans to actively explore alternatives.

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| 09/01/07 | 7.A.4. A preliminary evaluation must contain: |

 a. Current background information;

 b. Currently valid assessments of:

 1. Functional development;

 2. Behavior;

 3. Social;

 4. Health and nutritional status;

 To determine if:

 (a) The facility can provide for the client's needs; and

 (b) The client is likely to benefit from placement in

the facility.

09/01/07 7.A.5. Availability of Rules and Procedures

 The facility shall make available for distribution to clients and/or

their guardians) a summary of the laws, regulations, and

procedures concerning admission to, readmission to, and discharge

from the facility.

09/01/07 7.B. Program Implementation

09/01/07 7.B.1. Upon admission, the active treatment program shall:

 a. Establish uniform approaches to be used consistently across

disciplines and environments;

 b. Be carried out with suitable communication across

disciplines and environments;

 c. Be implemented to ensure that each discipline working with

the client integrates, as appropriate, other disciplines'

objectives and techniques;

 d. Be coordinated with other habilitative and training activities

in which the client may participate outside of the facility, and

vice versa.

09/01/07 7.B.2. Transfer or Discharge to Another Home

09/01/07 a. The facility shall establish procedures for counseling a client

and/or guardian concerning the advantages and

disadvantages of a requested move.

09/01/07 b. Planning for the move of a client shall include arranging for

appropriate services in the client's new environment, and

shall be done in accordance with the client's IDT.

09/01/07 c. When a client moves, the facility making the transfer shall

document in the client's record:

 1. The reason for the transfer; and

 2. A summary of status, progress and plans.

09/01/07 d. Except in an emergency, the facility making the transfer shall

inform the client and/or the guardian at least thirty (30) days

in advance and obtain written consent to the transfer or

discharge.

09/01/07 e. On the death of a client residing in the facility:

 1. The facility shall promptly notify the client's next of kin

and/or guardian;

 2. The facility shall advise the next of kin and/or

guardian of his/her right to request the autopsy

findings if one is performed;

 3. The physician will write an order for the release of the

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| 09/01/07 |  body, and |

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| 09/01/07 |  4. The mortician will sign for receipt of the body.  |

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| 09/01/07 |  5. All personal funds will be refunded to responsible estate within 30 days. |

09/01/07 7.B.3. Transfer to a Hospital

 a. The facility shall have in effect a transfer agreement with one

or more hospitals sufficiently close:

 1. To make feasible the prompt transfer of the client; and

 2. To support a working arrangement between the

facility and the hospital for providing hospital services

to clients when needed.

 b. The transfer agreement must provide:

 1. For the transfer of written information pertaining to the

care which the client has been receiving; and

 2. For the transfer of written information relative to

personal effects of significant value.

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| 09/01/07 |  7.B.4. At the time of discharge the facility personnel shall: |

 a. Place in the client's record:

 1. Physician's discharge order and final summary;

 2. Disposition of personal possessions;

 3. Physician's order and disposition of medications; and

 4. Evidence of transfer of personal funds.

CHAPTER 8: FACILITY PRACTICES AND CLIENT BEHAVIOR

8.A. Facility Practices - Conduct Toward Clients

 8.A.1. The facility shall develop and implement written policies and

procedures for the management of conduct between staff and clients.

 These policies and procedures must:

 a. Promote the growth, development and independence of the

client;

1. Address the extent to which client choice will be accommodated

in daily decision-making, emphasizing self-determination and self-

management, to the extent possible;

 c. Specify client conduct to be allowed or not allowed;

 d. Be available to all staff;

1. Be available to clients and parents of minor children or legal

guardians of clients; and

1. Be available in the facility.

8.B. Management of Inappropriate Client Behavior

 The facility must develop and implement written policies and procedures

that govern the management of inappropriate client behavior.

 These policies and procedures must:

 8.B.1. Be consistent with the provisions of conduct toward clients in this

section;

 8.B.2. Specify all facility approved interventions to manage inappropriate

client behavior;

09/01/07 8.B.3. Designate these interventions on a hierarchy to be implemented,

ranging from most positive or least intrusive, to least positive or

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|  |  most intrusive; and |

 8.B.4. Insure, prior to the use of more restrictive techniques, that the

client's record documents that programs incorporating the use of

less intrusive or more positive techniques have been tried

systematically and demonstrated to be ineffective.

 Definition

09/01/07 8.B.5. Staff Members Who May Authorize the Use of Specified Interventions

 Any staff member who is involved in interventions used in the

management of inappropriate client behaviors must have training

and experience in:

 a. Client rights;

 b. Behavioral procedures in the field of intellectual disability; and

 c. The use of the specific behavioral intervention.

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| 09/01/07 | 8.C. Drug Usage |

09/01/07 8.C.1. Drugs Used for Control of Inappropriate Behavior

 a. For these drugs to be an effective therapeutic tool, they must

be prescribed only to the extent that they are necessary for

management of the client.

 b. Each use of a chemical restraint shall be ordered by a

physician. Such order shall be signed by the physician as

soon as possible after use of the drug. The physician's

findings must be noted in the client's record.

 c. In an emergency, a physician may authorize the use of a

drug to modify an inappropriate behavior. However, orders

for continued emergency drug usage cannot continue

beyond twelve (12) hours unless:

 1. The drug usage has been reviewed by the

Interdisciplinary Team; and

 2. The drug's use is included as an integral part of the

client's individual program plan that is directed

specifically towards the reduction of and eventual

elimination of the behaviors for which the drug is

employed.

 d. Psychotropic drug therapy may not be used outside an

active treatment program targeted to eliminate the specific

behaviors, which are thought to be drug responsive.

 e. When drugs are used for control of inappropriate behavior,

documentation that alternative interventions have been

considered and tried must be contained in the client's record.

09/01/07 8.C.2. Drugs used for control of inappropriate behavior must not be used

until they have been justified in writing by a member of the IDT, that

the harmful effects of the behavior clearly outweigh the potentially

harmful effects of the drugs.

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| 09/01/07 |  8.C.3. Drugs used for control of inappropriate behavior must be: |

 a. Assessed at time of medication change;

 b. Monitored by the:

 1. Physician, at least as often as the drug and client's

condition requires;

 2. R.N. or Pharmacist, at least monthly;

 3. Pharmacist, at least quarterly; and

 4. Facility staff, as often as is necessary to determine

whether the desired response is being attained or

there are any adverse consequences, e.g., motor

restlessness, Parkinson's symptoms, Tardive

Dyskinesia.

CHAPTER 9: PROFESSIONAL AND DEVELOPMENTAL SERVICES

9.A. Provision of Professional Programs and Services

 The facility shall provide professional and special programs and services

to the clients based on their needs.

 9.A.1. A need is deemed to be unmet when the client is not functioning

optimally in a given environment.

 9.A.2. Programs and services provided by the ICF/ID or to the ICF/ID by outside agencies or individuals must meet the standards for quality of services required.

09/01/07 9.B. Implementing Training Skills of Daily Living

 Training services in the skills of daily living must be provided to the client

in the following areas, as appropriate, to enhance the client's

independence, to facilitate his/her intellectual, social, sensorimotor and

affective development, and to prevent deceleration of abilities:

 a. Personal hygiene, grooming and personal care, including

appropriate eating, dressing, care and selection of clothing and

toileting;

 b. Health maintenance, self-preservation and safety, including mobility

skills, hazard recognition and avoidance and responses appropriate

to emergency situations;

 c. Self-direction, including problem-solving and decision-making,

orientation and mobility and time management;

 d. Communication skills, including verbal and written expression,

signing for the deaf, utilization of available and appropriate forms

of communication media;

 e. Social skills, including interpersonal relations, appropriateness of

social behavior, expression of feelings through appropriate

behavior, participation in social activities, development of the

client's interest in his/her environment and training in the selection

of and participation in recreational and leisure time activities; and

 f. Training in community orientation and involvement including use of

transportation and travel, restaurant and restroom use, shopping,

enjoying cultural events and entertainment, and citizenship training

including voting, consumer rights and orientation to advocacy resources.

09/01/07 9.C. Day or External Programs

09/01/07 a. Unless a competent client objects, all clients are required to attend

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|  | day or external programs outside the facility each week day, unless medically contraindicated. This should be reviewed and  |

documented quarterly.

09/01/07 b. All day programs must be of at least four (4) hours duration,

exclusive of meal and rest periods. A client may attend for a

shorter period of time if recommended by the IPP and if the client

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|  | receives alternate programming in the living unit and/or the community. |

09/01/07 9.D. Activity Services

09/01/07 There must be activity services to increase the client’s independence in

pursuit and use of leisure time activities as well as the promotion of

maximum community integration of the client and his/her activities.

 9.D.1. Required Services

 The facility shall:

09/01/07 a. Coordinate activity services with other services and

programs provided to each client in order to:

 1. Make the fullest possible use of the facility's resources; and

 2. Maximize benefits to the clients;

 b. Design and construct or modify recreation areas and

facilities so that all clients, regardless of their disabilities,

have access to them;

 c. Provide recreational activities that are appropriate to the

client, are individualized and reflect the client's choice and

preferences; and

 d. Provide recreational program activity to each client as

established in his/her IPP.

09/01/07 9.E. Program Activity

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| 09/01/07 |  The intent must be to provide opportunities that meet the activity needs of each client as set forth in his/her IPP. There must be enough activities equipment to provide adequate services to all clients. There must be a |

special effort to find equipment as necessary, that is appropriate for people who

have multiple handicaps and profound intellectual disability. The activity program must conform as closely as possible to normal community activities.

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09/01/07 9.E.1. Recreation may be considered a part of programming if it consists

of organized and structured activity related to the achievement of

IPP goals.

09/01/07 9.E.2. Whenever possible, activities shall take place in the community.

The facility shall ensure transportation for clients, regardless of

handicap.

09/01/07 9.E.3. In addition to recreational program activity, developmentally

appropriate opportunities shall be provided to all clients for use of

their leisure time.

09/01/07 9.E.4. Weather permitting, and unless inappropriate for the activity, it shall

take place outdoors.

09/01/07 9.E.5. A calendar with activity plans for individual clients and large and

small group activities must be made available for all staff and clients.

09/01/07 9.F. Client Records

 The client's records must include:

09/01/07 9.F.1. Periodic surveys of the client’s interests, at least annually;

09/01/07 9.F.2. The extent and level of the client’s participation in the activities

program; and

09/01/07 9.F.3. Quarterly progress notes to show implementation of the activity

plan according to the IPP.

09/01/07 9.G. Social Work Services

09/01/07 9.G.1. When social work needs are identified in the Annual Plan, the

facility may either continue to employ a licensed social worker per

the hours authorized prior to 12/1/89 or arrange for social work with

qualified outside resources.

09/01/07 9.G.2. If the facility employs a licensed social worker, the licensed social

will be responsible for at least the following:

09/01/07 a. Enhancing the coping capabilities of each client’s family.

09/01/07 b. Preparing and maintaining records as follows:

 1. Psychosocial history completed within one (1) month

of admission, with an update as needed or at least

every three (3) years;

 2. Psychosocial assessment completed within one (1)

month of admission and updated as needed or at

least annually;

 3. Social work services care plan completed within one

(1) month of admission which shall identify the social

and emotional needs of the client and his/her family,

be integrated and coordinated with the overall IPP

and be updated as needed or at least annually;

 4. A discharge plan completed within one (1) month of

admission and updated as needed or at least annually;

 5. Progress notes entered at least quarterly containing a

summary of the worker's contacts with the client and

family, progress made on goals identified in the social

work services care plan, and significant emotional

attitudes and events.

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| 09/01/07 |  9.G.3. If the facility employs a social service designee, the designee may be responsible only for functions delegated by the licensed Social Worker. A non-licensed social service designee must receive consultation from a qualified Social Worker eight (8) hours per quarter. |

09/01/07 9.H. Social Service Designee

09/01/07 If a social service designee is employed, consultation from a qualified

social worker must be provided to the facility eight (8) hours quarterly.

09/01/07 9.I. Physical Therapy Services

 The facility must provide:

09/01/07 9.I.1. Physical therapy services as identified in the Annual Plan through:

 a. Direct contact between therapist and clients; and

 b. Contact between therapists and individuals involved with

clients.

09/01/07 9.I.2. Programs developed by a physical therapist and delivered by

appropriate staff, that are designed to:

 a.. Preserve and improve abilities, such as range of motion,

strength, physical coordination, and sensorimotor

functioning; and

 b. Prevent deceleration of current functional status through

techniques utilizing orthotic and prosthetic appliances, assistive and

adaptive devices, and positioning and sensory stimulation.

09/01/07 9.I.3. Adequate space, equipment, and supplies, for efficient and

effective physical therapy services;

09/01/07 9.I.4. A Physical Therapist (as appropriate) to:

 a. Work with client's primary physician and other medical

specialists;

 b. Participate as members of IDT in relevant aspects of the

active treatment process;

 c. Provide an evaluation for any client who does not function

normally and is in need of physical therapy services;

 d. Provide direct treatment to the client as appropriate;

 e. Provide recommendations for treatment and recall;

 f. Provide progress notes quarterly for each client receiving

physical therapy services;

 g. Modify programs as necessary; and

 h. Offer training and supervision, as needed, to ensure that

direct service staff are capable of carrying out prescribed

programs for clients.

09/01/07 9.J. Occupational Therapy Services

 The facility must provide the following services:

09/01/07 9.J.1. Occupational Therapy Services, as identified in the Annual Plan through:

 a. Direct contact between therapists and clients; and

 b. Contact between therapists and individuals involved with clients.

09/01/07 9.J.2. Programs, developed by professionals and implemented by

appropriate staff, that are designed to:

 a. Preserve and increase client abilities, such as fine and gross

motor coordination, activities of daily living, and adaptive

habilitation methods; and

 b. Prevent deceleration of current functional status and

decrease of independence through designed procedures

such as behavior adaptation, sensorimotor coordination,

self-help dining techniques, etc.

09/01/07 9.J.3. Adequate equipment, supplies and space for proficient and

productive occupational therapy;

09/01/07 9.J.4. Sufficient qualified professional and direct service staff:

 a. The professional occupational therapist shall:

 1. Work with the client's medical and developmental

professionals;

 2. Participate as a member of the IDT in relevant

aspects of the active treatment process;

 3. Provide an evaluation for each client who needs

occupational therapy services;

 4. Provide direct treatment to the client, as necessary;

 5. Write progress notes quarterly for each client

receiving occupational therapy services; and

 6. Modify programs as necessary.

 b. To offer training and supervision, as needed, to ensure that

direct service staff is capable of carrying out prescribed

programs for clients.

09/01/07 9.K. Psychological Services

09/01/07 9.K.1. The facility must provide psychological services as identified by the

Annual Plan.

09/01/07 9.K.2. Sufficient qualified psychologists and support staff to provide

 services needed by clients including, but not limited to the following:

09/01/07 a. Professional psychological services must be available to the

QP and other staff for consultation and program

development.

09/01/07 b. Professional instruction in behavior management techniques

must be given to direct services personnel.

09/01/07 9.K.3. The psychologist must:

1. Assist in the monitoring and follow-up of the client's behavior

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| --- | --- |
| 09/01/07 |  management and/or behavior modification program as  appropriate; |

 b. Promptly provide information necessary to staff working with

the client;

 c. Participate in the development of written behavioral plans

which shall be:

09/01/07 1. Specific and individualized for the client and

 2. Reviewed periodically for recommendation for follow-

up or for modification.

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| 09/01/07 | 9.L. Speech Pathology and Audiology 9.L.1. The facility shall provide speech pathology and audiology services, as required by the Annual Plan: |

 a. Through direct contact between speech therapists and

audiologists and the clients; and

 b. Contact between speech therapists and audiologists and

other personnel, such as direct service staff and teachers.

 c. Which include, but are not limited to:

 1. Speech evaluation, as appropriate, for each client

who is unable to communicate;

 2. Hearing screening as appropriate if the client has a

hearing impairment;

 3. Provision for procurement, maintenance, and

replacement of hearing aids as specified by a

qualified audiologist;

 4. Sufficient space, equipment and supplies to promote

efficient and effective speech pathology and

audiology services.

09/01/07 9.L.2. The speech therapist or audiologist shall:

 a. Participate in the client's IDT as appropriate;

 b. Document in the client's record, the information needed for

staff to implement continuing programs;

c. Record each client's response to program and progress, at

least quarterly;

d. Participate in inservice training for direct service staff to

whom implementation of treatment is delegated.

CHAPTER 10: HEALTH CARE SERVICES

10.A. Physician Services

 The facility must:

 10.A.1. Have a formal arrangement for providing each client with medical care that includes:

09/01/07 a. The availability of physician services twenty-four (24) hours a day; and

 b. The provision of care for medical emergencies twenty-four

(24) hours a day.

09/01/07 10.A.2. Designate a physician, licensed to practice in the State of

Maine, to be responsible for maintaining the general health

conditions and practices in the facility;

09/01/07 10.A.3. Have enough space, facilities, and equipment to service the

medical needs of the clients;

10.B. The physician shall:

 10.B.1. Prior to a client's admission, furnish for the preplacement IDT:

 a. Client's medical history;

 b. Current medical findings;

 10.B.2. Certify that the admission is necessary;

 10.B.3. On admission provide a plan of care which includes:

 a. Health services and treatment as appropriate;

 b. Diet;

 c. Orders for medications if appropriate.

09/01/07 10.B.4. Carry out a complete physical examination seven (7) days prior

to or two (2) days following admission.

09/01/07 10.B.5. The medical plan of care must be reviewed and reordered by

the physician at least every ninety (90) days.

09/01/07 10.C. The facility must provide or obtain:

09/01/07 10.C.1. Means for the prompt detection and referral of health problems

through adequate medical surveillance, periodic inspection and

regular examinations;

09/01/07 10.C.2. Preventive and general care including:

 a. Medical services-to maintain an optimum level of health

and to prevent disability for each client;

 b. Procedures for referral for specialized services by other

physicians;

 c. Agreements with providers of such services as laboratory

and radiology.

09/01/07 10.D. Physician Participation in the IPP

 A physician shall participate in:

09/01/07 10.D.1. The IDT process if appropriate;

09/01/07 10.D.2. The review and update of an IPP as part of the interdisciplinary

team process, if appropriate:

09/01/07 a. At least annually;

09/01/07 b. By review and reordering of the medical plan of care

quarterly; and

09/01/07 c. By the quarterly writing of notes to record achievement of

progress toward goals.

09/01/07 10.E. The registered nurse shall participate in:

09/01/07 10.E.1. The preadmission evaluation study and plan for each client;

09/01/07 10.E.2. The evaluation study, program design, and placement of the

client at the time of admission;

09/01/07 10.E.3. The periodic re-evaluation of the type, extent and quality of

services and programming;

09/01/07 10.E.4. The development and modifications of the discharge plan;

09/01/07 10.E.5. The development of a written nursing services plan:

09/01/07 a. For each client with a medical care plan;

09/01/07 b. For each client who has nursing needs;

09/01/07 10.E.6. Review and modification of the nursing care plan in terms of the

client's daily needs, at least quarterly for adults and more

frequently for children, in accordance with developmental

changes.

09/01/07 10.F. Nursing Staff

09/01/07 10.F.1. The facility shall utilize registered nurses as appropriate and as

required by State law to perform the health services specified in

this section.

a. There must be a registered nurse serving as director of

09/01/07 nursing in each ICF/ID Nursing facility. Departmental

approval must be obtained for less than forty (40) hours/week for Director of Nursing services.

b. The facility shall have a contractual agreement with a

registered nurse consultant to provide nursing services in

an ICF/ID Group facility.

09/01/07 c. If the facility utilizes only licensed practical or vocational

nurses to provide health services, it must have a formal

arrangement with a registered nurse to be available for

verbal or on-site consultation to the licensed practical or

vocational nurse. A record must be kept of each

consultation.

09/01/07 10.F.2. Non-licensed direct care staff in an ICF/ID Nursing facility must be certified nursing assistants, or be enrolled in an approved nurse aide training program. A CNA may perform duties only under the supervision of a licensed nurse.

09/01/07 10.G. Dental Services

 The facility shall provide education and training in the maintenance of oral

health by:

 a. Direct contact between dental professional and clients, or

09/01/07 b. Contact between dental professionals and staff who work directly

With clients.

09/01/07 10.H. Comprehensive Dental Diagnostic Services

09/01/07 10.H.1. The dentist shall enter into the client’s record

 a. The findings of the examination;

 b. A summary of services performed;

 c. Recommendations for treatment, if any;

 d. Return date; and

 e. Dentist's signature and date of entry.

09/01/07 10.H.2. The dental records and recommendations must be released to

Accompany the client when discharged.

09/01/07 10.I. Pharmacy Services

 The facility shall:

09/01/07 10.I.1. Provide current [no more than three (3) years old] reference

material for staff to use as a resource for information regarding the

administration and use of medication;

09/01/07 10.I.2. Develop policies and procedures with input from the pharmacist,

physician and nurse to govern the administration and handling of

drugs, to include but not be limited to:

 a. Identification and administration of medications;

 b. Drug storage and security measures;

 c. Staff qualifications for medication administration;

 d. Recording of medication administration;

 e. Reporting of drug errors and reactions;

 f. Self administration of drugs; and

 g. The use of drugs by clients while not under the direct

care of the facility.

09/01/07 10.J. Drug Regimen Review

09/01/07 10.J.1. A pharmacist or registered nurse must review the medication

record of each client monthly:

 a. For rationale, potential adverse reactions, allergies,

interactions, contraindications, and response to medications;

 b. For modifications indicated by any laboratory test;

 c. To advise the physician of any recommended changes and

give the reasons therefor; and

 d. To propose an alternate drug regimen if indicated.

09/01/07 10.J.2. The pharmacist must:

1. Maintain a profile of all prescription and non prescription

09/01/07 medications, including quantities and frequency of refills; and

 b. Participate, as appropriate, in the continuing interdisciplinary

evaluation of individual charts for the purposes of beginning,

monitoring and following up on individualized programs.

09/01/07 10.J.3. The facility shall have an organized system for drug administration

 that identifies each drug up to the point of administration. The system

 must assure that:

 a. All staff administering medications employ a uniform means

for identifying clients; and

 b. Procedures are established to check administration of

medication against the physician's orders.

09/01/07 10.J.4. All drugs must be administered in compliance with the physician’s

 orders.

09/01/07 a. Orders for medications must:

 1. Be written by the client's physician;

 2. Contain the name and strength of the medication, the

dose, the dosage form, the route of administration, and

the frequency to administer the medications;

 3. Be signed and dated by the physician; and

 4. Be in effect for the time specified by the physician but in

no case to exceed a period of three (3) months unless

there is a written reorder.

 b. Oral orders may be accepted only by a:

 1. Licensed nurse;

 2. Pharmacist; or

 3. Physician.

 c. The person taking an oral order shall:

 1. Write it in the client's record, immediately;

 2. Sign the order; and

 3. Ensure that the physician countersigns according to

accepted practice.

 d. The client's physician shall be notified prior to the

discontinuation of a medication.

09/01/07 10.J.5. Medication Records

 a. An individual medication administration record must be kept

for each resident of all treatments, drugs and medications

ordered by the physician, including the name of the drug,

dosage and time to be given.

 b. An entry must be made on the medication administration

record to indicate whenever a medication, including a

medication ordered to be administered as needed, or a

treatment is started, given, refused, or discontinued.

 c. Medication errors and reactions must be recorded in the

resident's record. Medication errors include omissions, as

well as errors of commission. Errors in documentation or

charting are errors of omission.

09/01/07 10.J.5. All drugs, including those that are self-administered, are

 administered without error.

 a. A record of drug administration errors must:

 1. Be reported to the administrator, with a written incident

report; and

* 1. Describe the incident and indicate the extent of the

injury or reaction and necessary treatment;

09/01/07 a. The resident shall be examined and treated by a

physician, if necessary; and

09/01/07 b. The administrator shall sign and date the incident report.

09/01/07 10.J.7. Personnel Administering Medication

1. In ICFs/ID Nursing, all medications must be administered

by licensed medical, nursing personnel, or a CNA who has a certificate indicating completion of a course in medication administration given in accordance with Chapter 5 of the Rules and Regulations of the Maine State Board of Nursing.

1. In ICFs/ID Group, oral and topical medications may be

given by a staff member who has a certificate in the administration of medications, awarded upon successful completion of a state approved medication administration course. The R.N. Consultant is responsible for:

1. Monitoring the policies and procedures related to the

administration of medications;

1. Regularly observing and evaluating the administration

of medications to the clients in the facility;

1. Providing inservice relative to the medications

prescribed for the clients in the facility;

4. Conducting an overview of the policies and procedures

relating to the administration of medications with new

personnel prior to their performance of this task; and

09/01/07 5. Ensuring that the staff maintain current certification.

1. Medications must be administered as soon as possible after

doses are prepared and by the same person who prepared the medication for administration.

1. An individual medication administration record must be

maintained for each client.

 1. The record must include:

 (a) Name of drug;

 (b) Dosage;

 (c) Time given; and

(d) Initials of the administering individual with the full

name of the individual written somewhere on the record.

1. Entries must be made on the medication record

whenever medications are started, given, discontinued, or refused or when a medication error is made.

09/01/07 10.J.8. Drugs used by clients, while not under the direct care of the

 facility, must be packaged and labeled in accordance with State

 law. Procedures for sending medications with the client to the

 external or day program, on vacation, or home, etc., include:

a. The pharmacist may provide a separate container or medication

pack with an appropriate label.

b. Packaging of medication may be done only by the pharmacist.

09/01/07 10.J.9. Drug administration errors and adverse drug reactions must be:

 a. Recorded in the client's record;

09/01/07 b. Reported immediately to a physician; and

 c. Reviewed monthly, with appropriate recommendations for

action.

09/01/07 10.K. Drug Storage and Recordkeeping

09/01/07 10.K.1. The facility may stock in bulk supply those items regularly available

without prescription at a pharmacy.

09/01/07 10.K.2. The facility shall:

 a. Provide a medicine cabinet for individual prescriptions,

which:

 1. Is large enough to hold all medications in use and lit

well enough to permit one to read the labels;

 2. Is located where easily accessible;

 3. Is equipped with secure storage units, plainly labeled,

in which individual client’s medications can be clearly

separated from another's; and

 4. Provides physical separation for internal and external

medications.

 b. Store poisons, drugs used externally, and drugs taken

internally on separate shelves or in separate cabinets, at all

locations;

 c. Store in a separate compartment with proper security, any

medication that is kept in a refrigerator that also contains

non-medication items;

09/01/07 d. Have a separate secure place apart from medicine, drugs

and food for the storage of bleaches, detergents,

disinfectants, insecticides and poisons. Each of these must

 be clearly labeled; and

1. Keep all drugs and biologicals locked except when they are

being prepared for administration.

09/01/07 f. Only authorized persons may have access to the keys to the

drug storage area.

09/01/07 10.K.3. All prescribed medicines are the property of the client. Upon

discharge of a living client from a licensed home, his/her

prescribed medications, including controlled drugs or substances,

may be released with him, but only upon written authorization by the

client's physician.

09/01/07 10.K.4. All prescribed medications other than Schedule II controlled substances

and individual unit doses for a deceased client must be destroyed by the

Administrator or the Director of Nursing Services:

09/01/07 a. The destruction shall be conducted in such a manner so as to

prevent any person from being able to use, administer, sell or give away the medication;

09/01/07 b. The destruction shall be documented by the person

destroying the medications; and

09/01/07 c. Witnessed in fact and by signature by at least one (1)

additional witness.

09/01/07 10.K.5. Schedule II controlled substances that are the property of the patient

and are no longer in use may be disposed of by any of the following

persons:

09/01/07 a. A pharmacist;

b. A pharmacist member of the Maine Board of Pharmacy;

c. A Drug Enforcement Agency (DEA) agent; or

1. An authorized representative of the Department of Health

and Human Services in association with a pharmacist or nurse.

Records will be maintained of the disposition/destruction of all

Schedule II controlled substances.

09/01/07 10.K.6. Individual unit doses may be returned to the pharmacist for credit.

09/01/07 10.K.7. Amounts of medication destroyed or returned must be recorded

on the client’s record and witnessed by one (1) additional witness.

09/01/07 10.K.8. An emergency kit appropriate to the needs of the clients must

be available to the authorized personnel of the living unit.

09/01/07 10.L. Drug Labeling

 Labeling of drugs and biologicals must be based on currently accepted

professional principles and practices:

09/01/07 10.L.1. Each drug container must be clearly labeled and the label

must include:

 a. Prescription number;

 b. Client's full name;

 c. The name, strength and dosage form of the drug;

 d. Directions for use;

 e. Name of physician prescribing;

 f. Name and address of pharmacy issuing the drug;

 g. Date of issuance or latest refill;

 h. Expiration date; and

09/01/07 j. The appropriate accessory and cautionary instructions.

09/01/07 10.L.2. A medication must be used only by the client for whom it was issued.

09/01/07 10.M. Laboratory

09/01/07 10.M.1. If a facility chooses to provide laboratory services, the laboratory shall:

1. Meet the management requirements specified in 42 CFR

09/01/07 493.110.1105;

1. Provide personnel to direct and conduct the laboratory

09/01/07 service as specified in 42 CFR 493.1351.1495;

09/01/07 c. Meet the proficiency testing requirements specified in 42

CFR 493.801.865;

d. Meet the quality control requirements specified in 42 CFR

09/01/07 493.1200.1299;

09/01/07 f. If the laboratory chooses to refer specimens for testing to

another laboratory, the referral laboratory shall be certified in

accordance with the Clinical Laboratory Improvement Amendments of 1988 (CLIA).

CHAPTER 11: CLIENT LIVING ENVIRONMENT

11.A. Client Living Environment

09/01/07 11.A.1. The size of the living unit must be based upon the needs of the

clients, but may not serve more than twenty (20) clients.

09/01/07 11.A.2. The client living unit:

 a. Must house both male and female clients to the extent

that this conforms to the prevailing cultural norms and is

not contraindicated by the IPP. This unit must make

provision for privacy and for appropriate separation of

male and female clients;

09/01/07 b. Must stimulate the environment of a family home in order

to encourage a personalized atmosphere for clients;

09/01/07 c. Must contain at least the following: a bedroom, living

room, bathroom, recreation room, connecting areas,

dining room, and kitchen. A waiver for a recreation room

may be requested by a pre-existing facility. This waiver

is time-limited to the duration of the license.

09/01/07 11.A.3. Client Use of Facility Space

 a. Clients shall be allowed free use of all space within the

living unit, with due regard for privacy and personal

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| --- | --- |
| 09/01/07 | possessions. Any restrictions must be documented in the Annual Plan. |

 b. Each client shall have access to a quiet, private area

where he/she can withdraw from the group.

09/01/07 c. Outdoor leisure time or recreation areas shall be readily

accessible to all living units.

 d. No interior or exterior doors may be locked except to

protect a client and the ICF/ID from clear and present

danger, or in conjunction with a behavior management

program. In no case may locked doors be a substitute

for program or staff interaction with clients or interfere

with the rights of other clients.

11.B. Physical Environment

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| --- | --- |
| 09/01/07 |  11.B.1. Each client's bedroom must have direct access to a corridor, without requiring one to pass through a bathroom or another client's room. |

 11.B.2. Single bedrooms for the accommodation of clients must contain

a minimum of one hundred (100) square feet of usable floor

space. Multiple bedrooms must contain a minimum of eighty

(80) square feet of available floor space per bed. Available floor

space shall be calculated only for those areas having a ceiling

height of at least six (6) feet. Available floor space does not

include corridors, passageways and vestibules.

 11.B.3. No room may have more than two (2) beds except in

placements developed prior to January 1, 1978, which may

have no more than three (3).

09/01/07 11.B.4. Bedroom windows must have a minimum window glass area

equal to 1/10 of the available floor space. The windows must be

openable and be equipped with functioning window shades or

their equivalent, except in air conditioned buildings, or if a

bedroom is below grade level, one (1) window in each room

must be operable and usable as a second means of escape by

the client(s) occupying the room.

09/01/07 11.B.5. Bedroom windows must be grade level on a vertical plane,

located on an exterior wall, and have an unobstructed view.

09/01/07 11.C. Client Bedrooms

 Each facility must provide each client with:

 11.C.1. A separate bed of proper size and height for the convenience of

the client, at least thirty-six (36) inches wide, of substantial

construction and in good repair. Rollaway beds, metal cots or

folding beds are not acceptable. Each bed must have:

 a. Satisfactory type springs in good repair, and a clean

comfortable mattress at least five (5) inches thick, four (4)

inches if of foam rubber construction, and four and one-

half (4 1/2) inches thick if of inner spring type and

standard in size for the bed. Specialty beds, such as

waterbeds, will be acceptable, and will be reviewed for

approval by the Department on an individual basis;

 b. Clean, comfortable pillows of average bed size;

09/01/07 c. Moisture-proof covers and sheets sufficient to keep the

 mattress and pillows dry and clean, and

09/01/07 d. A bedspread.

 11.C.2. Beds must be so placed in each room as to be easily

serviceable and not subjected to extremes of heat or cold. A

bed must not be placed any closer than (3) feet to other beds.

The head of a bed may be placed against properly insulated

exterior wall. No bed may be placed within three (3) feet of a

heating unit, unless the heating unit is properly protected.

 11.C.3. Each client's bedroom must have functional furniture

appropriate to the client's needs, including:

 a. A bedside cabinet with a drawer and washable top or

table;

 b. A minimum of two (2) dresser drawers;

 c. A comfortable non-folding chair, or a chair specifically

designed for client needs;

 d. A reading lamp; and

 e. A mirror.

09/01/07 11.D. Client Bathrooms

 The facility shall:

09/01/07 11.D.1. Have a minimum of one (1) lavatory and one (1) toilet for each

six (6) clients. All ICFs/ID, or additions of more than four (4)

beds to existing ICFs/ID, for which construction is started after July 1, 1980 must provide a minimum of one (1) lavatory and one (1) toilet for each four (4) clients. A minimum door width of two feet eight inches (2'8") must be provided to all client toilet areas; and

09/01/07 11.D.2. For persons with physical handicaps, ICFs/ID must equip

bathrooms and provide appliances appropriate for use by such

persons.

09/01/07 11.D.3. Bathroom Location and Equipment

 a. All bathing and toileting rooms must be easily accessible

and conveniently located to all clients.

 b. No bathing or toileting rooms may be so located that a

client must pass through another client's room to enter it.

 c. No toileting room may open directly into a kitchen, pantry,

or food preparation or storage room.

 d. Each toileting and bathing room must be adequately

lighted, have a light switch just inside or outside the door,

and be provided with a well lighted mirror for each

lavatory.

 e. Locks on the rooms must be able to be opened from the

outside.

 f. One (1) toilet enclosure large enough to permit toilet

training of wheelchair clients must be provided on each

floor having people who use wheelchairs.

 g. New ICFs/ID for which construction is started after July 1, 1980 must provide a toilet training room directly off the corridor with at least three (3) feet clearance on both sides and in front of the toilet. A sink and a mirror

located and hung so that it can be used by persons who

use wheelchairs must be provided for each toilet.

 h. Clients' bathing, lavatory and toilet rooms must not be

used as utility rooms, linen storage or medication areas.

09/01/07 11.E. Laundry Facilities

09/01/07 11.E.1. The facility shall provide a laundry room which:

 a. Contains adequate washing, drying and ironing equipment;

 b. Is well lit and ventilated and adequate in size for the

needs of the facility;

09/01/07 c. Is maintained in a sanitary manner and kept in good

repair; and

09/01/07 d. Is not used for food storage, preparation or serving.

09/01/07 11.E.2. The facility shall develop procedures for laundry services which

ensure that all:

 a. Personal clothing of the clients is laundered;

 b. Personal laundry is not washed with house linens;

 c. Services and procedures are conducted in a safe and

sanitary manner; and

 d. Soiled linen is not carried through food preparation areas,

except when enclosed in clean nonpermeable laundry

bags.

09/01/07 11.E.3. Linen Supply

 There must be a sufficient supply of linen including sheets,

pillow cases, blankets and bedspreads for each bed.

09/01/07 11.F. Administrative Services

 The facility must provide adequate administrative support to meet the

needs of the clients through its purchasing of supplies, storage and

property control functions.

09/01/07 11.F.1. Engineering and Maintenance

 The facility must develop an appropriate written policy for a

preventive maintenance program which ensures that:

a. The building is kept in good repair and free of hazards such as cracks in floors, walls or ceilings; warped or loose boards; warped, broken, loose or cracked floor coverings such as tile or linoleum; loose handrails or railings, loose or broken windowpanes and any similar hazards;

 b. All electrical, mechanical and fire protection systems are

kept in a safe and functional condition. Frayed wires,

cracked or damaged switches, plugs, fixtures and

appliances must be repaired or replaced;

 c. All plumbing fixtures are maintained in good repair and

properly functioning;

 d. The heating system is inspected regularly and all

necessary repairs are made to maintain it in a safe and

functioning condition;

 e. The interior and exterior of the building are painted as

needed. Loose, cracked or peeling wall paper or paint

must be promptly replaced or repaired with lead-free paint;

 f. All furniture and furnishings are attractive and kept in

good repair; and

 g. The grounds and other buildings on the grounds are kept

in a safe, sanitary, and presentable condition. Grounds

must be kept free of refuse and litter, as well as insect

and rodent breeding areas.

09/01/07 11.F.2. Housekeeping Services

 The facility must develop policies and procedures which provide that:

 a. Sufficient staff time is allocated to ensure, that the facility

is in compliance with standards of health, safety and

sanitation;

 b. The building, including rooms, corridors and stairways

are maintained in a clean, safe and orderly condition;

 c. The facility, including attics, basements and storage

areas, is kept free of any necessary accumulations of

refuse, clutter, newspapers, boxes, discarded furniture

and equipment; and

 d. Bathrooms and lavatories are not used for laundering,

janitorial or storage purposes.

09/01/07 11.F.3. Storage

 The facility shall provide:

 a. That all storage areas are kept neat, safe and free of

unnecessary accumulations;

b. Sufficient areas for storage of clients’ possessions, out of

season clothing, seasonal outdoor furniture and

equipment and maintenance equipment; and

c. A suitable number, type and location of utility and storage

areas, which depends on the size of the facility, its

physical layout and the needs of the clients living there.

 d. Kitchen Areas

1. Garbage must be:

(a) Located away from food preparation and client areas;

 (b) In fly and rodent-tight enclosures; and

 2. Garbage cans must be installed so as to be easily

and thoroughly cleaned inside and out at each

emptying.

1. Dry storage areas must be suitable in size and type,

and placed in a well ventilated area accessible to the kitchen.

e. Provide a locked storage area for bleaches, detergents,

disinfectants, insecticides and poisons.

09/01/07 11.F.4. Table and Kitchen Ware

 An enclosed space and a method that ensures prevention of

contamination must be provided for storage of trays, glasses

and dishes.

09/01/07 11.G. Building Location and Construction Requirements

 The facility shall:

09/01/07 11.G.1. Be located so as to be reasonably free from undue noises,

smoke and dust;

09/01/07 11.G.2. Be served by a road which is kept passable at all times of the year;

09/01/07 11.G.3. Be served by a reliable electrical service;

09/01/07 11.G.4. Have an entrance into the building which provides a transition

area from the out-of-doors to interior areas. Main entrance

areas must open into general or group function areas;

09/01/07 11.G.5. Ensure that traffic patterns resemble those expected in other

residences in the community;

09/01/07 11.G.6. Provide adequate closet space located near outside entrances

for coats, boots, jackets, etc.

09/01/07 11.G.7. Be constructed and maintained so as to reasonable prevent the

entrance and harboring of rats, mice, flies and other insects,

rodents and pests;

09/01/07 11.G.8. Have all windows opening to the outside effectively protected by

screening. All windows must be in good repair, fit snugly, and

open and close easily;

09/01/07 11.G.9. Provide safety devices across windows lower than two (2) feet

from the floor and across open landings at changes in floor level

or other danger areas used by clients;

09/01/07 11.G.10. Have all open porches and verandas protected by sturdy rails of

a height not less than forty (40) inches;

09/01/07 11.G.11. Be equipped, as appropriate, with sturdy handrails on each side

of all inside and outside stairs that are accessible to clients,

unless the Department has given prior written approval for any

exceptions. All stairways must be provided with non-skid treads;

09/01/07 11.G.12. Have a telephone in the building and additional telephones or

extensions as required by the Department to summon help

promptly in case of fire or other emergencies. Pay stations or

locked telephones do not meet this requirement;

09/01/07 11.G.13. Have a telephone located so as to be accessible and afford

privacy to each client; and

09/01/07 11.G.14. Be equipped with a central heating plant connected to a

radiator, convector or register in each room or area used by

clients and staff. The heating system must be capable of

maintaining a temperature of seventy-five (75) degrees

Fahrenheit throughout the clients' section of the building.

Alternate heating systems may be approved by the Department

if a uniform temperature of seventy-five (75) degrees Fahrenheit

cannot be safely maintained in the facility.

09/01/07 11.H. Family Rooms and Dining Rooms

09/01/07 11.H.1. Usage and Size

 a. Family rooms and dining areas must be accessible to all clients.

 b. Each facility shall provide a family room and a dining

room for the use of the clients, which:

 1. May not, under any circumstances, be used as

bedrooms by clients or personnel;

 2. Must contain sufficient space to accommodate all

activities without one activity interfering with any other.

 c. No corridor area may be used as a family room,

recreation room or dining room.

 d. No multipurpose room may be used as a dining room,

family room or recreation room without prior approval of

the Department.

 e. Each facility shall provide at least twenty (20) square feet

of family and dining room area per bed.

 f. All newly constructed facilities, or additions of more than

four (4) beds to existing facilities, for which construction

is started after July 1, 1980 shall provide family room and

dining room areas to the extent of thirty (30) square feet

per bed or additional bed.

09/01/07 11.H.2. Furnishings

 a. Family Room

 Each family room or recreation room for clients' use must

be provided with an adequate number of reading lamps

capable of producing thirty (30) foot candles of light at

reading level and furnished with:

 1. Tables and chairs or settees of satisfactory design

for needs of the clients;

 2. Sufficient equipment for leisure and social activities; and

 3. A functional television set.

 b. Dining Area

 1. The dining area must be furnished to stimulate

maximum self-development, social interaction,

comfort and pleasure.

 2. The dining area must have a pleasant and home-

like environment, be attractively furnished and

decorated, and have good acoustic quality.

09/01/07 11.I. Utilities

09/01/07 11.I.1. Water Supply

 a. Each facility shall use an approved public or municipal

water supply if one is available.

b. In areas where an approved public or municipal water supply is not available, a private water supply under pressure must be provided for each facility and it shall meet the standards approved by the Division of Health Engineering in the Department. If water is used from a private supply, water samples must be submitted to the Division of Health Engineering at least once every six (6) months.

 c. There must be sufficient water pressure to meet the

sanitary needs of each facility at all times.

 d. There must be an adequate supply of hot water for

clients' use at all times.

 e. All plumbing must comply with the standards set by the

State of Maine Plumbing Code, including any

amendments thereof or additions thereto, as well as with

any higher standards set by local ordinances.

 11.I.2. Sewage Disposal

 a. Each facility shall dispose of all sewage and liquid wastes

in a public sewerage system, if one is available.

 b. If a public sewerage system is not available, sewerage

and liquid wastes must be collected and disposed of in

private disposal facilities, the construction, maintenance,

and operation of which must be approved by the Division

of Health Engineering of the Department.

 c. Plans for any proposed disposal system and/or additions

thereto must be reviewed and approved by the Division

of Health Engineering in the Department before

construction is started.

 11.I.3. Lighting

 a. Each facility shall provide all entrances, hallways,

stairways, cellars, attics, storerooms, kitchens, laundries,

and service units with sufficient lighting, natural or artificial,

for these areas to be functional at any hour of the day.

1. Natural or artificial lighting must be provided for various

areas as follows:

Minimum Foot Candles

Entrances, exits, hallways, stairways, ramps 10

Storerooms 10

Bedrooms - general 10

Reading or sewing 30

Bathrooms, lavatories 10

Dining Room 20

Living Room - general 20

Living Room - reading or sewing 30

Kitchen, Laundry, Utility Room 20

General office 20

Desks and Charts 30

Medication Cabinet 30

 c. The use of candles, courtesy oil lanterns and other open

flame methods of illumination is prohibited.

 d. An emergency source of electrical power must be

provided to maintain operation of lights in all means of

egress; for equipment to maintain fire detection, alarm

and extinguishing systems; and life support systems.

Such emergency electrical service may be battery

operated if the battery is sufficiently charged to provide

adequate power for four (4) or more hours.

09/01/07 11.J. Building Accessibility and Use

09/01/07 11.J.1. The facility must:

 a. Be accessible to and usable by all clients, personnel, and

the public, including clients with disabilities;

 b. Have only clients who are ambulatory in bedrooms on

any floor that is served by a corridor that cannot

accommodate a wheelchair; and

 c. Not have housed above the first floor any clients who are

blind or non-ambulatory who would be unable to

evacuate the premises in an emergency without physical

assistance from others.

09/01/07 11.J.2. In newly constructed facilities for persons who are ambulatory,

visitors who use wheelchairs shall be accommodated in the

following manner:

 a. The entrances must be accessible;

 b. Doorways must be thirty-six (36) inches in width;

 c. Hallways must be of sufficient width to meet accessibility

requirements; and

 d. There must be at least one barrier-free bathroom that is

accessible to staff and visitors who have handicaps.

09/01/07 11.J.3. Ramps

 To provide accessibility in all facilities to clients who are

nonambulatory and for visitors who use wheelchairs, facilities

which do not have grounds graded to the same level as the

primary entrance shall install a ramp to the first floor. The ramp

must have:

 a. No greater slope than one and three sixteenth (1 3/16)

inches in twelve (12) inches;

 b. Handrails;

 c. A width not less than four (4) feet clear of all obstructions; and

 d. A surface of nonskid material.

09/01/07 11.J.4. Each facility shall meet the requirements of Americans with

Disabilities Act Guidelines, 1991.

 a. Stairs that allow use by persons with physical handicaps

are of a height and design that allow such individuals to

negotiate them without assistance.

 b. These stairs must be equipped with handrails, at least

one of which extends past the top and bottom steps.

 c. Floors are non-slip and on a common level or connected

by a negotiable ramp on each story.

09/01/07 11.J.5. Each facility must have accessible to and usable by persons

with handicaps:

 a. An appropriate number of toilet rooms;

09/01/07 b. An appropriate number of public telephones;

09/01/07 c. Elevators in multi-story buildings (at entrance level and

all levels normally used by the public);

09/01/07 d. Switches and controls of frequent or essential use;

09/01/07 e. Appropriate means for persons who are blind to identify

rooms, facilities and hazard areas;

09/01/07 f. Simultaneous audible and visual warning signals, if

appropriate to persons living in that facility;

09/01/07 g. Safeguards to eliminate hazards;

09/01/07 h. Client closets; and

09/01/07 i. Beds of a height that permit a person to get in and out of

bed unassisted.

09/01/07 11.J.6. The facility shall:

 a. Be accessible to and usable by all clients, staff and the public;

 b. Have grounds that are graded to the same level as the

primary entrance so that the building is accessible to

persons with physical handicaps;

 c. Have walks, the width and grade of which are designed

so that they can be utilized by persons with handicaps;

 d. Have a properly designated parking space near the

building, allowing room for persons with handicaps to get

in and out of an automobile onto a surface suitable for

wheeling and walking;

 e. Have ramps designed so that they can be negotiated by

persons who use wheelchairs;

 f. Have a primary entrance usable by persons in wheelchairs;

 g. Have doors used by clients and the public that are of

sufficient width and weight and are so equipped to permit

a person in a wheelchair to open them with a single effort.

09/01/07 11.K. Emergency Plan and Procedures

09/01/07 11.K.1. The facility shall make the emergency plan available, and

provide training to the staff. The plan is to be reviewed annually.

09/01/07 11.L. Fire Protection

09/01/07 11.L.1. Except as specified in paragraph 11.M.1. of this Chapter, the

facility shall meet the applicable provisions of either the Health

Care Occupancies Chapters or the Residential Board and Care

Occupancies Chapter of the Life Safety Code (LSC) of the

09/01/07 National Fire Protection Association, 2003 edition, which is

incorporated by reference. The State Survey Agency may

apply a single chapter of the Life Safety Code to the entire

facility or may apply different chapters to different buildings or

parts of buildings as permitted by the Life Safety Code. A

facility that meets the Life Safety Code definition of a residential

board and care occupancy and has sixteen (16) or fewer beds,

must have its evacuation capability evaluated in accordance

with the Evacuation Difficulty Index of the Life Safety Code.

1. Facilities which are designated ICF/ID Nursing shall

09/01/07 meet the requirements of Chapter 18 of the Life Safety

Code of the National Fire Protection Agency (2003).

1. Facilities designated ICF/ID Group non-ambulatory shall meet the requirements of Chapter 18

09/01/07 of the Life Safety Code of the National Fire

Protection Agency (2003).

 c. Facilities designated ICF/ID Group and housing less

than sixteen (16) clients shall meet the requirements of

09/01/07 Chapter 32 of the Life Safety Code of the National Fire

Protection Association (2003).

09/01/07 11.M. Fire Protection Exceptions

09/01/07 11.M.1. Exceptions for facilities that meet the Life Safety Code definition

of a health care occupancy:

09/01/07 a. The Centers for Medicare and Medicaid Services may

waive, for a period it considers appropriate, specific

09/01/07 provisions of the Life Safety Code [See 42 CFR,

483.486] if:

 1. The waiver would not adversely affect the health

and safety of the clients; and

 2. Rigid application of specific provisions would result

in an unreasonable hardship for the facility.

b. The State Survey Agency may apply the State's fire and

safety code instead of the Life Safety Code, if the

Secretary of the Department of Health and Human

Services finds that the State has a code imposed by

State law that adequately protects a facility's clients.

 c. Compliance on November 26, 1982 with the 1967 edition

of the Life Safety Code (LSC) or compliance on April 18,

1986 with the 1981 edition of the LSC, with or without

waivers, is considered to be in compliance with Chapter

11.0. of these regulations as long as the facility continues

to remain in compliance with that edition of the Code.

09/01/07 d. For facilities that meet the Life Safety Code definition of a

residential board and care occupancy and that have

more than sixteen (16) beds, the State Survey Agency

may apply the State's fire and safety code as specified in

 paragraph 11.L.1. of this Chapter.

09/01/07 11.M.2. If the State Survey Agency waives provisions of the Code for an

existing building of two (2) or more stories that is not built of at

least two (2) hour fire-resistive construction, the ICF/ID may

not house persons who are blind, non-ambulatory, or with

physical handicaps above the street-level floor, unless it is:

a. Built of one (1) hour protected, noncombustible construction

as defined in National Fire Protection Association Standard No. 220 or achieves a passing score on the Fire Safety Evaluation System (42 CFR 405.1134, 442.323);

 b. Fully sprinklered, one (1) hour protected, ordinary

construction; or

 c. Fully sprinklered, one (1) hour protected, wood frame

construction.

09/01/07 11.N. Safety and Sanitation

09/01/07 11.N.1. Department of Public Safety Certification

 Each facility shall be certified by the Department of Public

Safety of the State of Maine as having complied with the fire

protection and prevention requirements of the Department.

09/01/07 11.N.2. Reporting of Fire Incidents

 A written report must be submitted to the State Fire Marshal Office,

Department of Public Safety, and the Department, within seventy-two

(72) hours of any smoke or any fire incident involving the facility or

any client. The report must include the date, time, and place of the

incident, and a description of what occurred, and the action taken.

09/01/07 11.N.3. Testing of Equipment

 a. The manual fire alarm system must be tested each month.

 b. The emergency lights must be checked at least monthly.

 c. The automatic fire detection system must be tested at

least monthly.

 d. The sprinkler system must be checked by a qualified

sprinkler serviceman at least annually.

 e. Fire extinguishers must be checked and tagged at least

yearly, or more often if so indicated by the condition of

the extinguishers.

 f. The emergency generator (when a generator is required)

must be made operational for a period of at least half an

hour each month.

 g. A record book must be maintained showing the day each

of the above tests or checks was done, and by whom.

 h. Any equipment found defective must be immediately fully

repaired.

09/01/07 11.O. Infection Control

09/01/07 11.O.1. There must be an active program for the prevention, control and

investigation of infection and communicable diseases including,

 a. Continuing staff training in methods and procedures in

antisepsis and prophylaxis;

 b. Teaching of personal hygiene and cleanliness to clients;

 c. Documentation of all instances of infection, detailing in

each instance the investigation undertaken and

recommendations made.

09/01/07 11.O.2. The facility must implement successful corrective action in

affected problem areas and must make reports available to

appropriate authorities including the Department.

CHAPTER 12: FOOD AND NUTRITION SERVICES

09/01/07 12.A. Staff

09/01/07 12.A.1. There must be sufficient adequately trained staff to carry out the

functions of dietetic services and to meet the food and nutrition

needs of clients.

09/01/07 12.A.2. Staff must maintain a high degree of personal cleanliness and

conform to good hygienic practices.

09/01/07 12.A.3. A licensed dietitian must be employed either full-time, part-time

or on a consultant basis at the facility's discretion.

 a. When a dietitian is employed on a consultant basis, the

dietitian must prepare a written report for the

administration including dates, times, services rendered,

problems identified and recommendations made.

Consultation time must be at least eight (8) hours

minimum per quarter. Consultation time beyond eight (8)

hours per quarter must have prior approval from the

Department.

09/01/07 12.A.4. In an ICF/ID with less than twenty (20) beds, where a licensed dietitian is not employed full-time, the facility must designate a person responsible for food services.

 In an ICF/ID with twenty (20) beds or more, the facility must

have a Director of Food Services.

09/01/07 12.A.5. The functions of the person responsible for food and nutrition

services include performance or supervision of the following:

 a. Training and establishing work schedules and

assignments for staff;

 b. Menu planning and purchasing of food and supplies;

 c. Preparing and serving of all food,

 d. Assuring proper food storage;

 e. Assuring proper sanitation in the kitchen and all other

areas where food is prepared and/or stored;

 f. Dishwashing;

 g. Monitoring clients' food preferences, intake and tolerance

to diet;

 h. Gathering nutritional data for the dietitian to assess;

 i. Participating in the development and review of food and

nutrition policies and procedures that may be needed.

09/01/07 12.A.6. Responsibilities of the dietitian include the following:

 a. Assisting in the evaluation of food and nutrition services;

 b. Developing a nutrition assessment format to be

completed for each client on admission;

 c. Identifying nutrition problems for consideration by the

client's interdisciplinary team;

 d. Documenting potential information regarding clients'

nutritional status and care;

09/01/07 e. Approving all menus including prescribed, modified and

special diets;

 f. Approving the diet manual;

09/01/07 g. Planning and conducting inservice education programs, and

 h. Participating in the development and review of food and

nutrition policies and procedures.

09/01/07 12.B. Diet Requirements

09/01/07 12.B.1. Food must be served in an attractive, appetizing manner.

Clients should be encouraged to eat in a leisurely fashion and to

select items in quantities according to food preference and diet

requirements, Liquids must be offered throughout the meal.

09/01/07 12.B.2. The client’s interdisciplinary team, including a licensed dietitian

and physician, must prescribe all modified and special diets

including those used as a part of a program to manage

inappropriate client behavior.

09/01/07 12.C. Food Service

09/01/07 12.C.1. Food must be served:

 a. In appropriate quantity;

 b. At appropriate temperatures;

 c. In a form consistent with the developmental level of the

client; and

 d. With appropriate utensils.

09/01/07 12.C.2. Substitutes of similar nutritive value must be offered if a client

refuses food served.

09/01/07 12.D. Menus

09/01/07 12.D.1. Menus must:

 a. Be prepared in advance;

 b. Provide a variety of foods at each meal;

1. Be different for the same days of each week and

09/01/07 adjusted to include fresh food in season; and

 d. Include the average portion sizes for menu items.

09/01/07 12.D.2. A current diet manual, not more than five (5) years old, must be

available in the facility.

09/01/07 12.E. Food Supplies

09/01/07 12.E.1. An adequate supply of good quality food to meet client needs

must be kept on the premises at all times This must include

supplies of staple foods sufficient for at least one week and of

perishable foods sufficient for at least forty-eight (48) hours to

meet the requirements of the planned menus.

09/01/07 12.E.2. The use of second grade or outdated products, unlabeled

canned goods, railroad salvage, and similar foods is prohibited.

09/01/07 12.E.3. Hermetically sealed food must be obtained from a regulated

food processing establishment.

09/01/07 12.E.4. Fluid milk and fluid milk products used or served must be

obtained pasteurized.

09/01/07 12.E.5. Milk served to clients for drinking must be served in the original

container or the glass filled at mealtime from a sanitary bulk

milk dispenser.

09/01/07 12.E.6. No reconstituted powdered milk or evaporated milk may be

served for drinking.

09/01/07 12.E.7. Dry powdered or evaporated milk may be used in cooking or

may be added to milk from the dairy to be used as a high

protein supplement.

09/01/07 12.E.8. Only clean whole eggs, with shell intact and without cracks or

checks, or pasteurized liquid, frozen or dry eggs or pasteurized

dry egg products may be used. Hard-boiled, peeled eggs,

commercially prepared and packaged, may be used. Eggs must

be refrigerated at all times and no raw eggs may be used in

uncooked products.

09/01/07 12.E.9. Food containers must be in good condition and maintain the

safety and integrity of the contents.

09/01/07 12.F. Food Storage

09/01/07 12.F.1. Food, whether raw or prepared, if removed from the container or

package in which it was obtained, must be stored in a clean and

sanitized container and be labeled and dated.

09/01/07 12.F.2. Containers of food must be stored at least eight (8) inches

above the floor, in such a manner as to be protected from

splashing and other contamination.

09/01/07 12.F.3. Food not subject to further washing or cooking before serving

must be protected against contamination from food requiring

washing or cooking.

09/01/07 12.F.4. Hermetically sealed cans, once opened, must not be used for

storage of food.

09/01/07 12.F.5. The maximum temperature for the refrigerated storage of all

perishable and potentially hazardous foods and fluids is forty-

five (45) degrees Fahrenheit.

09/01/07 12.F.6. Freezers and frozen food compartments of refrigerators must be

maintained at or below zero (0) degrees Fahrenheit.

09/01/07 12.F.7. A thermometer, accurate to plus or minus three (3) degrees

Fahrenheit, must be attached to the inside of each refrigerator,

freezer, or other storage space used for potentially hazardous

food.

09/01/07 12.G. Food Preparation

09/01/07 12.G.1. Food must be prepared by methods that conserve nutritive

value, flavor, and appearance.

09/01/07 12.G.2. A file of recipes that list clear descriptive procedures, portion

yield, and measures, must be maintained and utilized and must

correspond to items on the menus.

09/01/07 12.G.3. Food must be cut, chopped, or ground to meet individual needs.

09/01/07 12.G.4. Convenient and suitable utensils, such as forks, knives, tongs,

spoons, scoops and disposable gloves must be provided and

used to minimize direct manual contact with food at all points

where food is prepared.

09/01/07 12.G.5. Food must be prepared on surfaces that have been cleaned and

sanitized to prevent cross contamination.

09/01/07 12.G.6. All raw fruits and vegetables must be thoroughly washed to

remove soil and other contaminants before being cut, combined

with other ingredients, cooked or served.

09/01/07 12.G.7. Frozen foods must be thawed as follows:

1. Under refrigeration at a temperature not to exceed forty-

five (45) degrees Fahrenheit;

 b. Under potable running water at a temperature of seventy (70)

degrees Fahrenheit, or below, with sufficient water velocity to

agitate and float off loose particles into the overflow and for a

period not to exceed that needed to thaw the products; or

 c. As part of a continuous cooking process using a

microwave oven, a conventional cooking unit or a-

combination of cooking equipment.

STATUTORY AUTHORITY:

 22 M.R.S. §§ 42 AND 1812-K (2).

RULEMAKING HISTORY:

EFFECTIVE DATE (ELECTRONIC CONVERSION):

 May 5, 1996

AMENDED:

 July 13, 2004 – filing 2004-259, added 5.D.11

NON-SUBSTANTIVE CORRECTION:

 April 4, 2005 – Section 5.D.11.b.2.(b)

AMENDED:

September 1, 2007 – filing 2007-302 (major substantive final adoption by the authority of Resolve 2007, Chapter 33)

AMENDED:

 January 1, 2009 – filing 2008-580, Chapter 5.C.7 Mandatory Reporting of Sentinel Events is repealed and replaced by 10-144 C.M.R. Chapter 114, Rules Governing the Reporting of Sentinel Events.

NON-SUBSTANTIVE CORRECTION:

 October 17, 2024 – Language corrections to comply with PL 2011 Ch 542, An Act To Implement the Recommendations of the Department of Health and Human Services and the Maine Developmental Disabilities Council Regarding Respectful Language.