

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

**Administration of Medication in Day Programs and Residential Facilities by
Trained Persons**

Inclusive Sections

§§ 17a-6(g)-1—17a-6(g)-16

CONTENTS

Sec. 17a-6(g)-1—17a-6(g)-11.	Reserved
Administration of Medication in Day Programs and Residential Facilities by Trained Persons	
Sec. 17a-6(g)-12.	Scope of regulations
Sec. 17a-6(g)-13.	Definitions
Sec. 17a-6(g)-14.	Designation of trained persons
Sec. 17a-6(g)-15.	Administration of medication training program
Sec. 17a-6(g)-16.	Utilization of trained persons to administer medica- tion

Administration of Medication in Day Programs and Residential Facilities by Trained Persons

Sec. 17a-6(g)-1—17a-6(g)-11. Reserved

Administration of Medication in Day Programs and Residential Facilities by Trained Persons

Sec. 17a-6(g)-12. Scope of regulations

These regulations apply to the administration of medications by trained persons in certain day programs and residential facilities as defined in Section 13 of these regulations. For the purpose of these regulations, it is understood that medicinal preparations being administered have been properly dispensed as prescribed by law.

(Effective February 1, 1994)

Sec. 17a-6(g)-13. Definitions

(a) **Administration of medication** means the direct application of a medication by means other than injection to the body of a person and/or the giving of such medication to a person.

(b) **Commissioner** means the Commissioner of the Department of Children and Families.

(c) **Day programs and residential facilities** means (1) Children's Homes or Similar Institutions, Residential Treatment Facilities, Group Homes, and Temporary Shelters licensed by the Department under Section 17a-145 of the Connecticut General Statutes and funded by the Department. (2) Department administered day programs and residential facilities with limited availability of nursing staff designated by the Commissioner to utilize trained persons to administer medications.

(d) **Department** means Department of Children and Families.

(e) **Medication** means drugs (excluding injectable preparations) as defined in Chapter 418 of the Connecticut General Statutes.

(f) **Unlicensed personnel** – means any person who has successfully completed a training program approved by the department pursuant to Sec. 17a-6(g)-14 of these regulations and who has been issued a certificate authorizing him to administer medication to persons.

(g) **Licensed medical personnel** – means a physician licensed under Chapter 370 of the General Statutes, a dentist licensed under Chapter 379 of the General Statutes, a registered nurse licensed under Chapter 378 of the General Statutes, a licensed practical nurse licensed under Chapter 378 of the General Statutes practicing under the direction of a registered nurse and a pharmacist licensed under Chapter 382 of the General Statutes.

(Effective February 1, 1994)

Sec. 17a-6(g)-14. Designation of trained persons

(a) Unlicensed personnel in day programs and residential facilities who will be

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-6(g)-15

Department of Children and Families

administering medication shall successfully complete a training program which shall be provided by the Department.

(b) Day programs and residential facilities shall designate the persons to be trained and submit a listing of such person to the Department.

(c) Persons to be trained must be high school graduates and/or be otherwise qualified to participate in the training program as recommended by the director of the day program or residential facility and approved by the Department.

(Effective February 1, 1994)

Sec. 17a-6(g)-15. Administration of medication training program

(a) The Department will provide a training program for unlicensed persons designated by day programs and residential facilities.

(b) The Department will designate licensed medical personnel or contract with appropriate education agencies to conduct the training program.

(c) The training program may be conducted at a central location or various locations throughout the state.

(d) The location and frequency of the programs will be determined by the Department based on the needs of the day programs and residential facilities and the number and residences of the persons to be trained.

(e) The courses/curriculum content shall include but not be limited to:

PHASE I ADMINISTRATION OF PRESCRIBED MEDICATION:

- General background on drug control laws
- Desired effects, side-effects, adverse reactions and interactions of medications
- Assessment of adverse reactions and course of action if an adverse reaction occurs
- Error in administration of medication and course of action
- Drug classification, types, dosage, measurement
- Safe storage and control of medications
- Procedure for administration: right person, right medication, right dosage, right method, right time
- Physical and psychological contraindications of administration of medication
- Documentation: recording of administration and of unusual signs
- Supervision and consultation provided by licensed medical staff and pharmacist
- Resources for further information

PHASE II PRACTICUM

(f) The Department will maintain a current listing of those persons who have successfully completed the training program and have been authorized to administer medications. The listing will also identify the program or facility in which such persons are employed.

(g) Each person who successfully completes the training program shall be provided with documentation of completion of the program. The original documentation shall be provided to the person and copy maintained by the Department. In addition, the Department will

provide a copy to the day program or residential facility.

(Effective February 1, 1994)

Sec. 17a-6(g)-16. Utilization of trained persons to administer medication

(a) Day programs and residential facilities utilizing trained persons to administer medications shall maintain a current listing of such persons as well as a copy of each person's authorization to administer medications.

(b) Day programs and residential facilities shall establish and maintain written policies (in accordance with Department Licensing Regulations—17a-145-75) including but not limited to:

- (1) Instructions defining the role and responsibilities of trained persons
- (2) Assuring adequate supervision of or consultation with trained persons by licensed medical staff
- (3) Assuring adequate back-up by licensed medical persons
- (4) Specifying procedures for storage, access, administration and recording medication
- (5) Providing that all medications be administered in accordance with instructions of a licensed physician or dentist
- (6) Specifying procedures regarding errors and adverse reaction in administration of medication

(c) Day programs and residential facilities shall provide continuing education on Administration of Medication to Trained Person Staff Members.

(d) Medications to be administered by trained persons shall be ordered and administered in pre-packaged unit doses if available from the pharmacy supplying medications to the day program or residential facility.

(Effective February 1, 1994)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Placement of Children and Youth on Aftercare

Inclusive Sections

§§ 17a-7-1—17a-7-11

CONTENTS

Sec. 17a-7-1.	Aftercare (Repealed)
Sec. 17a-7-2.	Placement on aftercare (Repealed)
Sec. 17a-7-3.	Conditions of aftercare (Repealed)
Sec. 17a-7-4.	Termination of aftercare (Repealed)
Sec. 17a-7-5.	Aftercare revocation hearing (Repealed)
Sec. 17a-7-6.	Purpose of hearing (Repealed)
Sec. 17a-7-7.	Notice of hearing (Repealed)
Sec. 17a-7-8.	Hearing procedure (Repealed)
Sec. 17a-7-9.	Disposition (Repealed)
Sec. 17a-7-10.	Notice of decision (Repealed)
Sec. 17a-7-11.	Administrative review (Repealed)

Placement of Children and Youth on Aftercare

Sec. 17a-7-1. Aftercare (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7-2. Placement on aftercare (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7-3. Conditions of aftercare (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7-4. Termination of aftercare (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7-5. Aftercare revocation hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7-6. Purpose of hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7-7. Notice of hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-7-8

Department of Children and Families

Sec. 17a-7-8. Hearing procedure (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7-9. Disposition (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7-10. Notice of decision (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7-11. Administrative review (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Standard Leave and Release Policies for Juvenile Offenders

Inclusive Sections

§§ 17a-7a-1—17a-7a-9

CONTENTS

Sec. 17a-7a-1.	Scope of regulations (Repealed)
Sec. 17a-7a-2.	Definitions (Repealed)
Sec. 17a-7a-3.	Facility policy (Repealed)
Sec. 17a-7a-4.	Eligibility for leave (Repealed)
Sec. 17a-7a-5.	Evaluation of fitness and security risk (Repealed)
Sec. 17a-7a-6.	Assignment to parent, legal guardian or responsible adult (Repealed)
Sec. 17a-7a-7.	Notification for leave or release of a juvenile delinquent (Repealed)
Sec. 17a-7a-8.	Notification for leave or release of a serious juvenile offender (Repealed)
Sec. 17a-7a-9.	Private residential program compliance (Repealed)

Standard Leave and Release Policies for Juvenile Offenders

Sec. 17a-7a-1. Scope of regulations (Repealed)

Repealed June 11, 2014.

(Adopted effective July 22, 1999; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7a-2. Definitions (Repealed)

Repealed June 11, 2014.

(Adopted effective July 22, 1999; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7a-3. Facility policy (Repealed)

Repealed June 11, 2014.

(Adopted effective July 22, 1999; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7a-4. Eligibility for leave (Repealed)

Repealed June 11, 2014.

(Adopted effective July 22, 1999; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7a-5. Evaluation of fitness and security risk (Repealed)

Repealed June 11, 2014.

(Adopted effective July 22, 1999; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7a-6. Assignment to parent, legal guardian or responsible adult (Repealed)

Repealed June 11, 2014.

(Adopted effective July 22, 1999; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7a-7. Notification for leave or release of a juvenile delinquent (Repealed)

Repealed June 11, 2014.

(Adopted effective July 22, 1999; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-7a-8

Department of Children and Families

**Sec. 17a-7a-8. Notification for leave or release of a serious juvenile offender
(Repealed)**

Repealed June 11, 2014.

(Adopted effective July 22, 1999; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-7a-9. Private residential program compliance (Repealed)

Repealed June 11, 2014.

(Adopted effective July 22, 1999; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Voluntary Admissions to the Department of a Child or Youth in Residential Facilities Administered by, or Under Contract with, or Otherwise Available to the Department

Inclusive Sections

CONTENTS

Sec. 17a-11-1—17a-11-3.	Repealed
	Voluntary Services
Sec. 17a-11-4.	Scope of regulations
Sec. 17a-11-5.	Definitions
Sec. 17a-11-6.	Voluntary admission of a child or youth
Sec. 17a-11-7.	Admission criteria
Sec. 17a-11-8.	Admission restrictions
Sec. 17a-11-9.	Individualized education program
Sec. 17a-11-10.	Parental consent
Sec. 17a-11-11.	Applications for the voluntary services program
Sec. 17a-11-12.	Termination of services
Sec. 17a-11-13.	The case service plan
Sec. 17a-11-14.	Assessment and services to be provided under the voluntary services program
Sec. 17a-11-15.	Petition to probate court
Sec. 17a-11-16.	Dispositional hearing
Sec. 17a-11-17.	Voluntary services hearing
Sec. 17a-11-18.	Voluntary services hearing procedures
Sec. 17a-11-19.	Scheduling the voluntary services hearing
Sec. 17a-11-20.	Pre-hearing conference for a voluntary services hearing
Sec. 17a-11-21.	Conduct of the voluntary services hearing
Sec. 17a-11-22.	Party and intervenor status in voluntary services hearings
Sec. 17a-11-23.	The voluntary services hearing record
Sec. 17a-11-24.	The voluntary services hearing decision
Sec. 17a-11-25.	Continuing care
Sec. 17a-11-26.	Transition to other services
Sec. 17a-11-27.	Parental liability

Voluntary Admissions to the Department of a Child or Youth in Residential Facilities Administered by, or Under Contract with, or Otherwise Available to the Department

Sec. 17a-11-1—17a-11-3. Repealed

Repealed September 26, 2001.

Voluntary Services

Sec. 17a-11-4. Scope of regulations

Regulations 17a-11-4 through 17a-11-27, inclusive, apply to voluntary services provided by the Department of Children and Families pursuant to section 17a-11 of the Connecticut General Statutes. The voluntary services program provides services for children or youths requiring community based treatment or temporary residential or other out of home placement who might otherwise be committed as neglected, uncared for, or dependent as provided for in section 46b-129 of the Connecticut General Statutes in order to secure department services. The program is designed to encourage the preservation and enhancement of family relationships and the continuing rights and responsibilities of parents even though limited financial resources prevent them from providing the required care and treatment for their child.

(Adopted effective September 26, 2001)

Sec. 17a-11-5. Definitions

As used in sections 17a-11-4 through 17a-11-27, inclusive, of the Regulations of Connecticut State Agencies, the following definitions apply:

- (a) “Case Service Plan” means the treatment plan prescribed by the department.
- (b) “Child” means a person under the age of sixteen.
- (c) “Commissioner” means the commissioner of children and families.
- (d) “Department” means the Department of Children and Families.
- (e) “Treatment Plan” means a written working agreement between the child, parent or guardian, caretaker service provider and the department social worker. The agreement describes and documents the child or family’s service needs as well as what each party agrees is required to address the service needs.
- (f) “Voluntary Admission” means a child or youth afforded access, on a non-compulsory basis, to services offered or administered by or under contract with, or otherwise available to the department.
- (g) “Voluntary Services” means the provision of the services offered or administered by, or under contract with, or otherwise available to the department to a child or youth granted voluntary admission.
- (h) “Youth” means any person sixteen or seventeen years of age.

(Adopted effective September 26, 2001)

Sec. 17a-11-6. Voluntary admission of a child or youth

(a) The commissioner may, pursuant to subsection (a) of section 17a-11 of the Connecticut General Statutes, admit a child or youth to the voluntary services program.

(b) Application for Voluntary Services shall be made in writing pursuant to subsection (a) of section 17a-11 of the Connecticut General Statutes.

(Adopted effective September 26, 2001)

Sec. 17a-11-7. Admission criteria

(a) A child or youth eligible for the voluntary services program shall meet the criteria prescribed in subdivisions (1) through (4) of this subsection:

(1) The child or youth has an emotional, behavioral or substance use disorder diagnosable under the most recent edition of “Diagnostic and Statistical Manual of Mental Disorders” (DSM). A child or youth with a “V code”, developmental disorder, or mental retardation, as defined in the DSM, shall only be eligible if the child or youth also has an emotional, behavioral or substance use disorder and the alleviation of said emotional, behavioral or substance use disorder is the primary purpose of the request for voluntary services;

(2) The child or youth’s treatment needs cannot be met through services currently available to the parent or guardian;

(3) The child or youth’s disorder or disturbance can be treated with services offered, administered by, or under contract with, or otherwise available to, the department at the time of application; and,

(4) The child or youth has not reached the age of eighteen at the time of referral.

(b) In addition to the criteria in subsection (a) of this section a child or youth eligible for out of home placement through the voluntary services program shall meet the criteria prescribed in subdivisions (1) through (4) of this subsection:

(1) the department has determined that out of home placement is the least restrictive alternative for treating the child or youth’s emotional or behavioral disorder;

(2) An appropriate department approved treatment program or facility is available;

(3) There is a reasonably healthy parent-child relationship, and there is reason to believe that the parent or guardian will continue to maintain a relationship with the child or youth while he is participating in the voluntary services program and will continue to be an active participant in all aspects of the planning and treatment process; and,

(4) There is a reasonable expectation that the child or youth will return to the parent or guardian when the case service plan is completed.

(c) A child or youth who has been committed to the commissioner as a juvenile delinquent and who will require the extension of placement or services on a voluntary basis upon the expiration of the commitment may also be admitted to the voluntary services program at the discretion of the commissioner or his designee.

(Adopted effective September 26, 2001)

Sec. 17a-11-8. Admission restrictions

The following types of cases shall not be accepted under the voluntary services program unless the provisions of this section are waived by the commissioner or designee pursuant to section 17a-11-11 of these regulations:

(a) Those in which the department has not been provided with sufficient data to establish eligibility;

(b) The child or youth is the subject of a pending petition alleging that he is neglected, abused or uncared for;

(c) The parent or guardian of a child or youth otherwise eligible for the voluntary services program has an active child protective services case with the department or is the subject of an investigation by the department of an allegation of child abuse or neglect of the child or youth;

(d) The child or youth is: the subject of a pending delinquency petition; has been adjudicated delinquent and is awaiting disposition, on probation, committed to the department, or on parole; or is currently involved with the adult criminal justice system due to arrest, conviction, probation or parole;

(e) Out of home placement of the child or youth:

(1) was made prior to the request for the voluntary services program;

(2) was made in a program or facility not approved or licensed by the department;

(3) was arranged without the prior approval of the department; or,

(4) is in or would be in a program or facility that does not meet the treatment needs of the child or youth as determined by the department;

(f) There is reasonable cause to believe that the child or youth, or the parents of the child or youth will not cooperate with the case service plan.

(Adopted effective September 26, 2001)

Sec. 17a-11-9. Individualized education program

The program shall not provide or arrange for the provision of any services which are a component of the child or youth's Individualized Education Program (IEP) except as otherwise provided by law.

(Adopted effective September 26, 2001)

Sec. 17a-11-10. Parental consent

Parental or guardian consent is required prior to the provision of mental health services, except when a child or youth seeks services pursuant to section 19a-14c of the Connecticut General Statutes.

(Adopted effective September 26, 2001)

Sec. 17a-11-11. Applications for the voluntary services program

(a) The parent or guardian of a child under the age of fourteen, or a child age fourteen or older or a youth seeking admission to the voluntary services program shall initiate a

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-11-12

Department of Children and Families

request for services by contacting the department's centralized intake system.

(b) The parent or guardian of a child under the age of fourteen, or a child age fourteen or older or a youth seeking voluntary services shall complete an application provided by the department, within sixty (60) days of their initial request, and shall provide the department with written reports from service providers and a current psychiatric or psychological evaluation, if such evaluation exists, which addresses the child or youth's treatment needs.

(c) The parent or guardian of a child under the age of fourteen, or a child age fourteen or older or a youth shall complete a financial form provided by the department.

(d) The parent or guardian of a child under the age of fourteen, or a child age fourteen or older or a youth shall sign all release of information forms required by the department.

(e) The commissioner or designee shall complete the assessment of the completed application within fourteen (14) days and notify the parent or guardian of a child under the age of fourteen or a child age fourteen or more or a youth or the attorney for said child or youth, in writing of the decision. Said notice shall inform the parent or guardian of a child under the age of fourteen or a child age fourteen or more or a youth that he may have a right to a voluntary services hearing if he disagrees with the department's decision.

(f) The commissioner or designee may waive the admission requirements or restrictions of the voluntary services program in the case of unusual circumstances. The burden of proof to show the unusual circumstances shall be upon the parent or guardian of a child under fourteen years of age or by such person himself if he is a child fourteen years of age or older or a youth.

(g) If the department determines that the child or youth is ineligible for voluntary services, the parent or guardian of a child under the age of fourteen, or a child age fourteen or older or a youth shall be notified within ten (10) days of the department's determination of their right to a voluntary services hearing pursuant to section 17a-11-17 of the Regulations of Connecticut State Agencies.

(Adopted effective September 26, 2001)

Sec. 17a-11-12. Termination of services

(a) A child or youth admitted to the voluntary services program shall be deemed to be within the care of the commissioner until such admission is terminated.

(b) The commissioner shall terminate the admission of any child or youth pursuant to subsection (b) of section 17a-11 of the Connecticut General Statutes.

(c) The commissioner may terminate the admission of any child or youth pursuant to subsection (b) of section 17a-11 of the Connecticut General Statutes.

(d) The commissioner may terminate the admission of any child or youth admitted to the department's voluntary services program:

(1) If he determines that the child or youth and his parent or guardian have been provided services according to the case service plan and can no longer benefit from such services;

(2) If he determines that the child or youth or the parent of such child or youth is not

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-11-13

cooperating with the case service plan; or,

(3) If he determines that the parent or guardian of the child or youth has failed, neglected or refused to contribute to the support of the child or youth pursuant to section 17a-11-27 of these regulations.

(e) If a voluntary services petition has been filed with the probate court in accordance with section 17a-11-15 of the Regulations of Connecticut State Agencies, the department shall give notice of the termination to the probate court in which the petition was filed.

(f) If the parent or guardian of a child under the age of fourteen or child age fourteen or more or a youth seeks administrative or judicial review of the department's decision to terminate voluntary services said services shall continue until such time as the administrative hearing officer or court has rendered a decision.

(Adopted effective September 26, 2001)

Sec. 17a-11-13. The case service plan

(a) In cases in which a child or youth is determined to be eligible for voluntary services, the case service plan shall be completed within fifty-five calendar days of the approval of the application.

(b) The parent or guardian of any child or youth and a child or youth age fourteen or older shall participate in the development of the case service plan. The department shall consult with all educational, mental health and medical providers serving the child or youth in the development of the case service plan.

(c) The case service plan shall consist of:

(1) The department's assessment conducted in accordance with section 17a-11-14 of the Regulations of Connecticut State Agencies;

(2) The treatment and support services that have been offered and provided to the child, youth or family to treat the emotional or behavioral disorder and to strengthen and reunite the family;

(3) The efforts that have been made or should be made to evaluate and plan for other modes of care if return home is not likely for the child or youth;

(4) Any further efforts which have been or will be made to promote the best interests of the child or youth; and,

(5) A copy of the child or youth's Individualized Education Program (IEP), if applicable, if residential placement is being sought or contemplated.

(d) If a child or youth admitted to the voluntary services program has a diagnosis of mental retardation as defined by section 1-1g of the Connecticut General Statutes, the case service plan shall be developed by the department in conjunction with the Department of Mental Retardation or other responsible state agencies.

(e) A case service plan shall be signed by the department, the parent or guardian of a child under the age of fourteen, or child or youth age fourteen or more.

(Adopted effective September 26, 2001)

Sec. 17a-11-14. Assessment and services to be provided under the voluntary services program

(a) The department shall complete an assessment of the child or youth which shall be part of the case service plan and which shall include:

(1) A compilation of all available diagnostic and social history material which will constitute the referral packet to be submitted to appropriate placement settings or service providers.

(2) Consultation with the child or youth, or parents or both in securing services appropriate to the child or youth's needs, periodically evaluating the child's progress and planning for the termination of the services and, if the child or youth has been placed out of the home, return of the child or youth to the parent.

(b) Services to be provided by the department may include referral to and utilization of other public and private community services as needed to carry out the case service plan.

(c) Any child or youth admitted to the department through the voluntary services program may be placed in, or transferred to, any resource, facility or institution within the department or available to the commissioner except the Connecticut Juvenile Training School, provided the commissioner shall give written notice to the parent or guardian of a child under the age of fourteen or child age fourteen or more or a youth of his intention to make a transfer at least ten (10) calendar days prior to any actual transfer, unless written notice is waived by those entitled to receive it, or unless an emergency commitment of such child is made pursuant to section 17a-502 of the Connecticut General Statutes.

(Adopted effective September 26, 2001)

Sec. 17a-11-15. Petition to probate court

(a) The department shall petition the probate court not more than one hundred twenty (120) days after a child or youth's admission pursuant to subsection (c) of section 17a-11 of the Connecticut General Statutes.

(b) A voluntary services program petition shall be submitted on forms provided by the probate court.

(c) A voluntary services program petition shall be filed in the probate court for the district in which a parent or guardian of the child or youth resides.

(d) A voluntary services program petition shall include a copy of the child or youth's case service plan.

(e) The petition required in subsection (a) of this section shall not be filed if the child or youth's admission in the voluntary services program has terminated prior to the one hundred twenty (120) day requirement in subsection (a) of this section, unless a voluntary services hearing is pending.

(f) A hearing shall be scheduled with the probate court as prescribed by subsection (c) of section 17a-11 of the Connecticut General Statutes

(Adopted effective September 26, 2001)

Sec. 17a-11-16. Dispositional hearing

The commissioner shall file a motion requesting a dispositional hearing on the status of the child or youth not more than twelve (12) months after a child or youth is admitted to the department through the voluntary services program, and every twelve months thereafter pursuant to subsection (d) of section 17a-11 of the Connecticut General Statutes.

(Adopted effective September 26, 2001)

Sec. 17a-11-17. Voluntary services hearing

(a) The department shall conduct a Voluntary Services Hearing when admission to the voluntary services program is denied and the parent or guardian of a child under the age of fourteen or a child age fourteen or more or a youth or the attorney for such child or youth requests a Voluntary Services Hearing. Such hearing shall be conducted in accordance with Chapter 54 of the Connecticut General Statutes.

(b) The department shall conduct a Voluntary Services Hearing when admission to the voluntary services program is terminated and the parent or guardian of a child under the age of fourteen or a child age fourteen or more or a youth or the attorney for such child or youth requests a Voluntary Services Hearing and a petition pursuant to section 17a-11-15 of the Regulations of Connecticut State Agencies has not been filed in the probate court. Such hearing shall be conducted in accordance with Chapter 54 of the Connecticut General Statutes.

(c) The issue at the voluntary services hearing shall be whether the department properly applied the admissions criteria set forth in section 17a-11-7, the admission restrictions set forth in section 17a-11-8 or the provisions for termination of services set forth in section 17a-11-12 of the Regulations of Connecticut State Agencies.

(Adopted effective September 26, 2001)

Sec. 17a-11-18. Voluntary services hearing procedures

(a) The written notice given to the parent or guardian of a child under the age of fourteen or a child aged fourteen or more or a youth or the attorney for said child or youth pursuant to subsection (a) of this section shall include:

(1) a copy of sections 17a-11-4 through 17a-11-27, inclusive, of the Regulations of Connecticut State Agencies;

(2) the department's reason for the denial or termination;

(3) the right of a parent or guardian of a child under the age of fourteen or a child age fourteen or more or a youth to a Voluntary Services Hearing;

(4) how the parent or guardian of a child under the age of fourteen or a child age fourteen or more or a youth shall apply for a Voluntary Services Hearing;

(5) the time in which a request for a Voluntary Services Hearing shall be made.

(b) A copy of the notice provided to the parent or guardian of a child under the age of fourteen or a child age fourteen or more or a youth shall be maintained in the case record, and furnished to the hearings unit by the department, upon request of a hearing officer.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-11-19

Department of Children and Families

(c) A request for a Voluntary Services Hearing shall be made in writing to the Administrative Hearings Unit within fourteen (14) calendar days of receipt of notice of the denial or receipt of the notice of the termination of voluntary services.

(d) If a Voluntary Services Hearing is requested, the department shall refer the applicant to the manager of the hearings unit for technical assistance. The hearing officer assigned to the hearing shall not provide technical assistance on the hearing. Nothing in this section shall require the department to provide legal assistance to the applicant.

(e) A request for a Voluntary Services Hearing shall be stayed, denied or dismissed by the administrative hearings unit if court proceedings are pending in any court which may address the issue of services to be provided to the child or youth.

(f) Denial or termination of voluntary services shall not give rise to any administrative remedy offered by the department other than a Voluntary Services Hearing.

(g) Prior to a Voluntary Services Hearing if any party requests, the department shall hold an informal case review as provided for in section 17a-11(e) of the Connecticut General Statutes.

(Adopted effective September 26, 2001)

Sec. 17a-11-19. Scheduling the voluntary services hearing

(a) The Voluntary Services Hearing shall be scheduled by the hearing unit within thirty (30) calendar days of the date the request is received by the manager of the Administrative Hearings Unit. A Voluntary Services Hearing may be continued or postponed for good cause at the discretion of the hearing officer or with agreement of all parties.

(b) The Voluntary Services Hearing shall be held in the regional office of the department or, if agreeable to all the parties, another location designated by the hearing officer. Hearings requiring the presence of a child or youth shall be held at a time that does not interfere with the child or youth's education.

(Adopted effective September 26, 2001)

Sec. 17a-11-20. Pre-hearing conference for a voluntary services hearing

(a) The hearing officer may involve the parties and their representatives in a pre-hearing conference preceding the Voluntary Services Hearing for the purpose of:

- (1) simplification and consolidation of issues;
- (2) identification and limitation of the number of witnesses;
- (3) considering any other matters that will promote the quality of the proceedings.

(b) The hearing officer shall identify and recite on the Voluntary Services Hearing record any agreements made, or actions taken, by the parties at the conference.

(Adopted effective September 26, 2001)

Sec. 17a-11-21. Conduct of the voluntary services hearing

(a) The Voluntary Services Hearing shall be conducted by a hearing officer designated by the commissioner, or designee.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-11-22

(b) The hearing officer shall have the power to administer oaths and affirmations, subpoena witnesses and require the production of records, physical evidence, papers and documents to any hearing held in the case.

(c) The hearing officer has the final authority to limit witnesses and take any other necessary actions that will facilitate the hearing process.

(d) Each party shall be afforded the opportunity to:

(1) inspect and copy relevant and material records, papers and documents;

(2) at a hearing, to respond, to cross-examine other parties, intervenors, and witnesses and to present evidence and argument on all issues involved.

(e) Any oral or documentary evidence may be received provided:

(1) the hearing officer shall limit or exclude any evidence which is irrelevant, immaterial or unduly repetitious;

(2) the hearing officer shall recognize statutes, regulations and rules of practice governing confidential, privileged and professional communications;

(3) when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;

(4) documentary evidence may be received in the form of copies or excerpts, if the original is not readily available, and, upon request, parties shall be given an opportunity to compare the copy with the original;

(5) notice may be taken of generally recognized technical or scientific facts within common knowledge or the agency's specialized knowledge;

(6) parties shall be notified in a timely manner of any material noticed, including any agency memoranda or data, and they shall be afforded an opportunity to contest the material so noticed;

(7) the agency's experience, technical compliance, and specialized knowledge may be used in the evaluation of the evidence;

(8) all parties and their attorney shall be permitted to examine all records and documents introduced by the parties to the hearing. Should any record or document, which a party was not permitted to examine in advance of the hearing, be introduced, that party may request a continuance, which may be granted at the discretion of the hearing officer, to allow the requesting party an opportunity to prepare a response to the record or document;

(9) a party may conduct cross-examinations required for a full and true disclosure of the facts.

(f) The full proceedings of Voluntary Services Hearings shall be audio recorded.

(g) The person aggrieved by the department's decision shall have the burden of proof. The standard of review in an administrative hearing is a preponderance of the evidence.

(Adopted effective September 26, 2001)

Sec. 17a-11-22. Party and intervenor status in voluntary services hearings

(a) Parties to the Voluntary Services Hearing shall be the parent or guardian of a child under the age of fourteen or a child or youth over the age of fourteen and the department.

Parties may be represented by an attorney.

(b) The parents or guardians of a child or youth age fourteen years or older may request to intervene in any voluntary services hearing concerning the child or youth. Any such request shall be made in writing and sent to the manager of the administrative hearings unit.

(Adopted effective September 26, 2001)

Sec. 17a-11-23. The voluntary services hearing record

(a) The record shall include:

- (1) written notices related to the case;
- (2) all petitions, pleadings, motions and intermediate rulings, if any;
- (3) evidence received or considered;
- (4) questions and offers of proof, objections and rulings thereon;
- (5) the official recording of the proceedings;
- (6) the final decision.

(b) Any recording or stenographic record of the proceeding shall be transcribed on request of any party. The requesting party shall pay the cost of such transcript.

(Adopted effective September 26, 2001)

Sec. 17a-11-24. The voluntary services hearing decision

(a) The hearing officer shall be responsible for preparing the memorandum of decision which shall be mailed within thirty (30) calendar days of the conclusion of the hearing to the parties and their attorney.

(b) The memorandum of decision shall contain:

- (1) the names of the persons present;
- (2) the provisions of law, regulation and policy applicable to the case;
- (3) evidence relied on in making the decision;
- (4) findings of fact;
- (5) a statement of the reasoning on which the decision is based.

(c) Any additional recommendations by the hearing officer pertaining to follow up actions to be taken by the parties shall be submitted in separate correspondence to all parties.

(Adopted effective September 26, 2001)

Sec. 17a-11-25. Continuing care

A person who has passed his eighteenth birthday but has not yet reached his twenty-first birthday, may be permitted to remain voluntarily in the Voluntary Services program pursuant to subsection (g) of section 17a-11 of the Connecticut General Statutes.

(Adopted effective September 26, 2001)

Sec. 17a-11-26. Transition to other services

The department shall provide a plan for the transition of a child or youth from the voluntary services program to adult services provided by one or more state agencies, if such

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-11-27

services are available, as may be necessary for the child or youth.

(Adopted effective September 26, 2001)

Sec. 17a-11-27. Parental liability

(a) The parent of any child or youth receiving assistance through the voluntary services program may be liable for the support of the child or youth in accordance with sections 4a-12 and 4-66d of the Connecticut General Statutes.

(b) Upon acceptance of a child or youth for voluntary services, the parents of said child or youth shall be assessed an amount of money they shall be obligated to contribute to the support of the child or youth pursuant to section 4a-12 of the Connecticut General Statutes.

(Adopted effective September 26, 2001; Amended May 30, 2002)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Hearings on Placement of Children and Youth in State Operated Mental Health Facilities

Inclusive Sections

§§ 17a-12-1—17a-12-6

CONTENTS

Sec. 17a-12-1.	Right to hearing - mental health placement (Repealed)
Sec. 17a-12-2.	Purpose of hearing (Repealed)
Sec. 17a-12-3.	Notice of hearing (Repealed)
Sec. 17a-12-4.	Hearing procedure (Repealed)
Sec. 17a-12-5.	Decision of hearings officer (Repealed)
Sec. 17a-12-6.	Emergency procedures (Repealed)

Hearings on Placement of Children and Youth in State Operated Mental Health Facilities

Sec. 17a-12-1. Right to hearing - mental health placement (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-12-2. Purpose of hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-12-3. Notice of hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-12-4. Hearing procedure (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-12-5. Decision of hearings officer (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-12-6. Emergency procedures (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Treatment Plan and Hearings

Inclusive Sections

§§ 17a-15-1—17a-15-11

CONTENTS

Sec. 17a-15-1.	Treatment plan (Repealed)
Sec. 17a-15-2.	Review of treatment plan (Repealed)
Sec. 17a-15-3.	Access to treatment plan (Repealed)
Sec. 17a-15-4.	Right to a hearing (Repealed)
Sec. 17a-15-5.	Purpose of hearing (Repealed)
Sec. 17a-15-6.	Notice of hearing (Repealed)
Sec. 17a-15-7.	Right to counsel (Repealed)
Sec. 17a-15-8.	Hearing officers (Repealed)
Sec. 17a-15-9.	Hearing procedure (Repealed)
Sec. 17a-15-10.	Disposition (Repealed)
Sec. 17a-15-11.	Written decision (Repealed)

Treatment Plan and Hearings

Sec. 17a-15-1. Treatment plan (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-15-2. Review of treatment plan (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-15-3. Access to treatment plan (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-15-4. Right to a hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-15-5. Purpose of hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-15-6. Notice of hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-15-7. Right to counsel (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-15-8

Department of Children and Families

Sec. 17a-15-8. Hearing officers (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-15-9. Hearing procedure (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-15-10. Disposition (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-15-11. Written decision (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Rights of Children and Youth Under the Supervision of the Commissioner of Children and Families

Inclusive Sections

§§ 17a-16-1—17a-16-18

CONTENTS

Sec. 17a-16-1—17a-16-5.	Reserved
Sec. 17a-16-6.	Scope of regulation
Sec. 17a-16-7.	Definitions
Sec. 17a-16-8.	Use of the telephone
Sec. 17a-16-9.	Use or receipt of mail
Sec. 17a-16-10.	Use of restraint
Sec. 17a-16-11.	Use of seclusion
Sec. 17a-16-12.	Use of force
Sec. 17a-16-13.	Institutional policies and procedures
Hearings on Out-of-State Transfers	
Sec. 17a-16-14.	Right to hearing (Repealed)
Sec. 17a-16-15.	Purpose of hearing (Repealed)
Sec. 17a-16-16.	Notice of hearing (Repealed)
Sec. 17a-16-17.	Contents of notice (Repealed)
Sec. 17a-16-18.	Hearing procedures (Repealed)

Rights of Children and Youth Under the Supervision of the Commissioner of Children and Families

Sec. 17a-16-1—17a-16-5. Reserved

Sec. 17a-16-6. Scope of regulation

In accordance with section 17a-16 of the General Statutes, the Commissioner of Children and Families herewith adopts regulation sections 17a-16-6 through 17a-16-18 concerning the rights of children and youth under the supervision of the commissioner. These regulations pertain to the use of or receipt of mail, use of the telephone, and the use of restraint, seclusion and force.

(Effective February 1, 1994)

Sec. 17a-16-7. Definitions

As used in sections 17a-16-6 through 17a-16-18, the following definitions shall apply:

- (a) “Commissioner” means the Commissioner of Children & Families;
- (b) “Department” means the Department of Children & Families;
- (c) “Contraband” means weapons, unauthorized drugs, and other items which pose a danger to a child or youth or others;
- (d) “Mechanical restraint” means any externally applied mechanical device which limits the voluntary movement of a child or youth;
- (e) “Seclusion” means isolation from the general population of an institution of the commissioner enforced by a locked door.

(Effective February 1, 1994)

Sec. 17a-16-8. Use of the telephone

(a) Public telephones shall be made available in appropriate locations in each institution or facility under the jurisdiction of the commissioner.

(b) A child or youth shall be permitted to make and receive telephone calls at reasonable times exclusive of regularly scheduled program activities. An incoming telephone call from the child’s or youth’s attorney or clergyman shall be transmitted immediately to the child or youth or, if that is not practicable, a message shall be given to the child or youth as to the caller’s identity and his telephone number.

(c) The head of the institution or facility, or his designee, may restrict the use of the telephone by a child or youth when he determines that communication by the child or youth with a particular individual, group or agency is inconsistent with the child’s or youth’s treatment objectives. If use of the telephone is restricted, this shall be explained to the child or youth and the individual, group or agency that is subject to the restriction. Such restriction shall be noted in writing, signed by the head of the institution or facility, and made a part of the child’s or youth’s permanent clinical record.

(Effective February 1, 1994)

Sec. 17a-16-9. Use or receipt of mail

(a) Each institution or facility under the jurisdiction of the commissioner shall furnish writing materials and postage to any child or youth desiring them.

(b) A child or youth shall be permitted to send or receive mail to or from any individual, group or agency. However, the head of the institution or facility, or his designee, may limit the use or receipt of mail by a child or youth if he determines that communication with a particular individual, group or agency is inconsistent with the child's or youth's treatment objectives. If the use or receipt of mail is limited, this shall be explained to the child or youth and all such correspondence shall be returned unopened to the sender with an explanation signed by the head of the institution or facility, or his designee. Such limitation shall be noted in writing, signed by the head of the institution or facility, and made a part of the child's or youth's permanent clinical record.

(c) All incoming mail shall be delivered to the child or youth unopened unless the head of the institution or facility, or his designee, has reason to believe that said mail contains contraband. In such case, the mail shall be opened by the head of the institution or facility, or his designee, in the presence of the child or youth, and any contraband removed.

(Effective February 1, 1994)

Sec. 17a-16-10. Use of restraint

(a) A child or youth may be put in mechanical restraints under one or more of the following circumstances:

(1) there is reasonable cause to believe that the child or youth may inflict physical injury on himself or others;

(2) as a precaution against escape where there is reasonable cause to believe that the child or youth may run away while being transported from one location to another within or without the institution or facility.

(b) The staff member who authorized the use of restraint shall file a written report with the head of the institution or facility setting forth the circumstances of the action, the type of restraint used, the time period during which the restraint was used, and the reasons for the use of restraint. A copy of this report shall be placed in the child's or youth's permanent clinical record.

(c) No restraint shall be used in excess of one (1) hour or the duration of one continuous trip. If continued use of restraint is necessary, authorization must be obtained from the head of the institution or facility, or his designee. This authorization shall be noted in writing with the reason(s) therefore, signed by the head of the institution or facility, and made a part of the child's or youth's permanent clinical record.

(Effective February 1, 1994)

Sec. 17a-16-11. Use of seclusion

(a) A child or youth may be placed in seclusion in an area designated by the head of the institution or facility, for a period not to exceed twenty-four (24) hours under one or more

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-16-12

of the following circumstances:

(1) there is reasonable cause to believe that the child or youth may inflict physical injury on another person;

(2) to prevent the child or youth from inflicting property damage;

(3) the child or youth is engaging in uncontrollable disruptive behavior.

(b) The staff member who authorized the use of seclusion shall file a written report with the head of the institution or facility setting forth the circumstances of the action and the reason for the use of seclusion.

(c) If use of seclusion in excess of twenty-four (24) hours is necessary, authorization must be obtained from the head of the institution or facility, or his designee. Such authorization shall be noted in writing with the reason(s) therefore, signed by the head of the institution or facility, and made a part of the child's or youth's permanent clinical record.

(d) In all cases involving the use of seclusion, staff members must visually check on the child's or youth's well-being at least once every thirty (30) minutes. Staff shall also notify appropriate clinical/medical personnel of any special concern about the child or youth.

(e) All seclusion areas shall be provided with normal furnishings, e.g. bed, chair, etc., unless there is reasonable cause to believe that such items may be used by the child or youth to harm himself or others. Such areas will be provided with adequate heat, lighting and ventilation, and shall have a floor area of at least 40 square feet. Provided, however, that areas used for seclusion for less than two consecutive hours may have a floor area of not less than 30 square feet if institutional policy promulgated under Sec. 17a-16-13 so provides.

(Effective February 1, 1994)

Sec. 17a-16-12. Use of force

(a) A staff member is prohibited from the use of physical force against a child or youth except that reasonable force may be used as necessary:

(1) in self defense;

(2) to prevent imminent physical injury to the child or youth or others;

(3) to prevent the child or youth from inflicting serious property damage;

(4) to prevent escape; or

(5) when a child's or youth's refusal to obey an order seriously disrupts the functioning of the institution or facility.

No more force should be used than is necessary to achieve the legitimate purpose for which it is used.

(b) The staff member using physical force against a child or youth shall file a written report with the head of the institution or facility setting forth the circumstances of the action, the degree of force used, and the reasons for the use of force. A copy of this report shall be placed in the child's or youth's permanent clinical record.

(Effective February 1, 1994)

Sec. 17a-16-13. Institutional policies and procedures

The head of each institution or facility under the jurisdiction of the commissioner shall adopt as needed written policies and procedures to apply the foregoing regulations to the particular circumstances of his institution and submit them to the commissioner, or his designee, for approval. Any amendment or change to these institutional policies and procedures shall also be submitted, in writing, to the commissioner, or his designee, for approval.

(Effective February 1, 1994)

Hearings on Out-of-State Transfers

Sec. 17a-16-14. Right to hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-16-15. Purpose of hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-16-16. Notice of hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-16-17. Contents of notice (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-16-18. Hearing procedures (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Single Cost Accounting System for Payment of Room and Board and Educational Expenses

Inclusive Sections

§§ 17a-17-1—17a-17-16

CONTENTS

Sec. 17a-17-1.	Definitions
Sec. 17a-17-2.	Per diem payment for residential care
Sec. 17a-17-3.	Per diem payment for educational services
Sec. 17a-17-4.	ASCAR
Sec. 17a-17-5.	Allowable costs
Sec. 17a-17-6.	Non-allowable costs
Sec. 17a-17-7.	Depreciation/use allowance
Sec. 17a-17-8.	Allocating costs
Sec. 17a-17-9.	Offsets to allowable costs
Sec. 17a-17-10.	Calculation of revenue
Sec. 17a-17-11.	Computation of per diem rate for residential care
Sec. 17a-17-12.	Computation of per diem payment rate for educational services
Sec. 17a-17-13.	Temporary supplement
Sec. 17a-17-14.	Interim rate-setting for newly licensed treatment center
Sec. 17a-17-15.	Post-audit adjustments
Sec. 17a-17-16.	Hearings

Single Cost Accounting System for Payment of Room and Board and Educational Expenses

Sec. 17a-17-1. Definitions

The terms used in these regulations shall, in its interpretation, be defined as follows unless the context clearly and specifically provides otherwise:

(a) “Commissioner”: Means the Commissioner of the Department of Children and Families, hereinafter the department, or his designated representative.

(b) “State Department of Education”: Means the Commissioner of the State Department of Education, hereinafter SDE, or his designated representative.

(c) “Child”: Means a person who receives services at a treatment center and is under the supervision of the Commissioner.

(d) “Other Minors”: Means persons who receive services at an Approved Private Special Education Program (APSEP) of a treatment center and are not under the supervision of the Commissioner.

(e) “Local Educational Agency” (LEA): Means the board of education for the city, town or region responsible under Connecticut General Statutes 10-76b et. seq. for the education of a child or other minor residing in a treatment center.

(f) “Individualized Educational Program” (IEP): Means a separate written plan for a child or other minor which shall be developed by a planning and placement team to meet the needs of each child or other minor requiring special education, and educational related services.

(g) “Educational services”: Means classes, programs, activities or other services designed to provide an appropriate education to a student determined to be in need of special education or to a student not determined to be in need of special education. In the case of a student determined to be in need of special education, educational services and educational related services shall be provided in accordance with the Individualized Education Program (IEP) developed for the student by the Planning and Placement Team (PPT) of the student’s LEA.

(h) “Educational Related Services”: Means services to a child recommended by the planning and placement team which may include the following services: psychological, health, language, speech and hearing, guidance, social work, transportation, physical and occupational therapy, translation, parent counseling and training in understanding the educational needs of the child, and any medical services required for diagnostic or evaluation purposes.

(i) “Treatment Center”: Means a private residential treatment center licensed by the Commissioner pursuant to Connecticut General Statute 17a-145, offering residential care service and may include an approved private special education program and other programs.

(j) “Approved Private Special Education Program” (APSEP): Means, for the purpose of these regulations, that component of a treatment center which delivers special education. Such school programs must be approved and supervised by the SDE Commissioner pursuant to Connecticut General Statutes 10-76a et. seq.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-17-2

Department of Children and Families

(k) “Other Programs”: Means one or more programs established to provide a specific service to children, other minors and other persons which the treatment center offers in addition to the residential services and/or APSEP.

(l) “Residential Care Services”: Means the room and board and treatment services which a treatment center provides for a child, including but not limited to psychological, health, psychotherapeutic, language, speech, hearing, guidance, social work, therapy, translation, transportation, parent counseling and training, unless such services have been recommended by a Planning and Placement Team (PPT) as educational related services.

(m) “Service Agreement”: Means a written agreement between the Commissioner, after consulting with the State Department of Education, and a treatment center for the purchase of room and board and, to the extent required by an IEP, education services for a child.

(n) “Contract Year”: Means the one year period of service agreements of July 1st through June 30th unless the Commissioner provides for a different schedule.

(o) “Related Party”: Means persons or organizations related through marriage, ability to control, ownership, family or business association, with the treatment center.

(p) “Accrual Basis of Accounting”: Means a method used in accounting which reports all revenue when the treatment center obtains an unqualified right to receive them. All expenses, purchases and other bills are recorded on the book of account when the treatment center incurs a clear obligation to pay them.

(q) “Audited Single Cost Accounting Report” (ASCAR): Means the annual cost and performance reporting document, which consists of forms provided by the Commissioner and submitted by all treatment centers.

(r) “Residential Day of Care”: Means a day in which services are provided for the residential care of a child or other minor by the treatment center.

(s) “Educational Day”: Means a day in which educational services are provided for an enrolled child or other minor by the APSEP.

(t) “Personal Services”: Means salaries and wages; social security taxes; and unemployment compensation.

(u) “Other Expenses”: Means professional fees; consultant/contract services; food and food supplies; office supplies/postage; housekeeping supplies; educational and vocational supplies; miscellaneous supplies; advertising (employment); laundry and dry cleaning; clothing replacement; personal needs/allowance; travel; vehicle expense; conferences, conventions and meetings; maintenance and repairs; dues and fees; books/periodicals; interest; use tax; and other.

(v) “Fixed Expenses”: Means workers’ compensation; dental insurance; hospital insurance; retirement; other fringes; rent; heat, light and water; depreciation; telephone and telegraph; and insurance.

(Effective February 1, 1994)

Sec. 17a-17-2. Per diem payment for residential care

(a) The department will reimburse on a per diem payment basis each treatment center

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-17-4

for the residential care of children under the supervision of the Commissioner. For each treatment center, the system for determining per diem payment rates shall be on a base year (ASCAR) cost-related rate system.

(b) The department shall promulgate annually the per diem payment rates for treatment centers to be effective July 1st of that year, based on costs reported in the ASCAR filed the preceding December.

(c) Per diem payment rates for residential care for each treatment center shall be computed in accordance with Section 17a-17-11 of these regulations and other applicable sections of these regulations.

(Effective February 1, 1994)

Sec. 17a-17-3. Per diem payment for educational services

(a) Per diem payments will be made to a treatment center based on the total number of educational days provided to an individual child or minor in an APSEP.

(b) Per diem payments for APSEP will correspond to the total number of educational days provided. In no event shall an LEA be required to pay or reimburse an APSEP pursuant to this regulation for cost of education provided for a child or minor for more than 30 days after the initial placement under the following circumstances:

(1) If the LEA has determined that appropriate educational services cannot be provided to the child or minor at the APSEP; or

(2) If the LEA has determined that the child can be educated in the local public school and the department agrees that provision of education in the local public school will not significantly impair the department's ability to address the noneducational reasons upon which the placement was made.

(c) The standard school year for the purposes of computing the per diem payment rate for educational services shall be no less than 180 days in accordance with Connecticut General Statute 10-16. Any variation from the standard school year may be prescribed in the IEP for a specific child or other minor served by the APSEP.

(d) Per diem payment rates for educational services shall be computed in accordance with Section 17a-17-12 and other applicable sections of these regulations.

(Effective February 1, 1994)

Sec. 17a-17-4. ASCAR

(a) Each private residential treatment center shall annually file on forms provided by the Commissioner an Audited Single Cost Accounting Report (ASCAR) with the Commissioner by December 1st, for establishing a per diem rate for the subsequent contract year July 1st through June 30th, unless written approval by the Commissioner, after consulting with the SDE, is granted for submission at a later date.

(b) The department shall have a ninety (90) day period commencing on the date a facility submits its single cost report, to prepare a written analysis of that report and to establish a per diem payment for the ensuing fiscal year.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-17-5

Department of Children and Families

(c) The ASCAR shall be completed in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards. Audited financial statements, notes to same, management report and an auditor's opinion letter shall accompany the ASCAR. The ASCAR must be certified by a certified public accountant.

(d) The ASCAR shall be completed using the accrual basis of accounting method. Changes in the accounting method must have prior written approval of the Commissioner.

(e) Each treatment center may permit emergency residential care placements outside the scope of the approved program, provided the placement is at the request of the department and is consistent with the ability of the treatment center to provide the necessary services for said placement.

(f) Records generated by the treatment center for purposes of reporting to the Commissioner must be retained for a minimum of three years from the date of submission of the relevant annual report.

(g) The Commissioner and the state auditors may audit all supporting accounting and business records and all records relating to the provision of services to children.

(h) **Information to be provided on the ASCAR shall include:**

(1) Allowable, appropriately allocated residential care costs incurred during the previous contract year.

(2) Non-allowable costs incurred during the previous contract year.

(3) Real property expenses include all properly allocated direct expenses arising from the occupancy and use of the land, buildings, offices and other facilities owned or leased.

(4) Offsets to allowable costs that accrued during the previous contract year.

(5) All revenue generated by the treatment center during the previous contract year.

(6) A description of all other programs offered by the treatment center and the costs of each program.

(7) Projected income for the next contract year from any source other than LEAs, SDE and the department.

(Effective February 1, 1994)

Sec. 17a-17-5. Allowable costs

(a) **Residential Care Costs:**

(1) Allowable residential care costs are limited to those allowable costs properly allocated, in accordance with Section 17a-17-8 of these regulations, to residential care.

(2) Allowable residential care costs include costs of meals and food service, clothing, laundry, maintenance, housekeeping, transportation, utilities, fuel, property-related insurance, property taxes and real property expenses.

(3) Real property expenses include all properly allocated direct expenses arising from the occupancy and use of the land, buildings, offices and other facilities owned or leased.

(4) Allowable residential care costs also include the properly allocated cost of movable equipment based upon depreciation and interest according to generally accepted accounting principles.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-17-6

(5) A properly allocated amount for reasonable interest expense required to obtain necessary working capital is also an allowable residential care cost.

(6) Costs for medical and dental services are allowable residential care costs to the extent these services are not covered by Title XIX.

(7) Allowable residential care costs are separated into three cost components: Personal Services, Other Expenses and Fixed Expenses.

(8) Except for increases previously approved by the department, increases in the residential care cost components of Personal Services and Other Expenses, in their respective aggregate by activity, over the previous contract year are limited to the increase in the Consumer Price Index as published in July of the year of the last reported ASCAR plus 2% or the actual reported increase in allowable residential care cost components as reported in said ASCAR, whichever is the lesser. Increases in the residential care cost component of Fixed Expenses over the previous contract year will be fully reimbursed, subject to review, except that increases in workers' compensation, dental insurance, hospital insurance, retirement, and other fringes resulting from revision, modification or expansion of benefit plans, unless such changes in benefit plans were previously approved by the department, are non-allowable costs.

(b) Educational Service Costs:

(1) Educational service costs are those costs directly incurred in providing children and other minors placed in the APSEP with an education in accordance with Connecticut General Statutes 10-76a et. seq. In addition, educational service costs include costs properly allocated under Section 17a-17-8 of these regulations to educational services.

(2) Allowable educational service costs are separated into three cost components: Personal Services, Other Expenses and Fixed Expenses.

(3) Except for increases previously approved by SDE, increases in the educational service cost components of Personal Services and Other Expenses, in their respective aggregate by activity, over the previous contract year are limited to the increase in the Consumer Price Index as published in July of the year of the last reported ASCAR plus 2% or the actual reported increase in allowable educational service cost components as reported in said ASCAR, whichever is the lesser. Increases in the educational service cost component of Fixed Expenses over the previous contract year will be fully reimbursed, subject to review, except that increases in workers' compensation, dental insurance, hospital insurance, retirement, and other fringes resulting from revision, modification or expansion of benefit plans, unless such changes in benefit plans were previously approved by SDE, are nonallowable costs.

(Effective February 1, 1994)

Sec. 17a-17-6. Non-allowable costs

Costs that are not allowable include but are not limited to:

(a) Legal, accounting, professional services and related costs incurred to represent the agency in any actions against federal, state or local agencies.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-17-7

Department of Children and Families

- (b) Fines and penalties.
- (c) Bad debts and the costs of action to collect receivables.
- (d) Advertisement (except for recruitment of personnel).
- (e) Contributions.
- (f) Medical and dental services, to the extent these services are covered by Title XIX.
- (g) Fund-raising expenses to the extent that these expenses exceed the amount of contributions used to offset allowable costs.
- (h) Payments made by the treatment center to a related party are non-allowable unless the treatment center provided sufficient data to satisfy the Commissioner that said costs were necessary and reasonable.
- (i) Educational services costs incurred not in accordance with an IEP.

(Effective February 1, 1994)

Sec. 17a-17-7. Depreciation/use allowance

(a) The straight-line method of calculating depreciation shall be used to compute the useful life of equipment valued at \$500 or more based on the initial acquisition cost. Useful life shall be calculated in accordance with the American Hospital Association publication "Estimated Useful Life of Depreciable Hospital Assets," 1983 Edition.

(b) Treatment centers may convert their existing depreciation reports to schedules which are consistent with the straight-line method as specified above.

(c) Total depreciation charges throughout the useful life of the equipment or real property shall not exceed the original cost of acquisition.

(d) Charges for depreciation shall be supported by adequate property records, including acquisition date and cost, and the depreciation period and the amount charged each cost period where applicable.

(e) Physical inventories shall be taken and documented at least once every two years for depreciable equipment.

(f) Gains or losses on the sale, retirement or other disposition of vehicles and other equipment shall be included as credits or charges in the year in which they occur.

(Effective February 1, 1994)

Sec. 17a-17-8. Allocating costs

(a) A portion of allowable costs properly attributable to the provision of educational services shall be allocated in accordance with this section.

(b) Allocations shall be based on floor space utilization, in the case of real property expenses, utilities, fuel, property-related insurance, property taxes, housekeeping, maintenance, and reasonable interest expenses.

(1) The calculation of floor space utilized shall be based on the percent of actual square feet available that is used by the treatment center for either residential care or educational services or both. Common area square footage is not includable in this calculation. Common area refers to space used for lobbies, recreational areas, administrative areas, maintenance

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-17-11

and food service.

(2) To the extent that the same space is used for both residential care and educational services, the percentage of time reserved for each use shall be the basis for allocating floor space under this section.

(3) Changes in the floor space for a program during the budget year that are greater than 5% of the existing floor space must be fully explained and must receive prior written approval from the Commissioner.

(c) For purposes of allocating personnel expenses including related educational services and residential care services, the following procedures apply:

(1) When an employee spends all of his time on either residential care or educational services, the cost must be charged to that activity.

(2) When an employee spends his time on both residential care and educational services, the cost chargeable to that activity must be based on the time actually expended.

(3) Records of allocated time and charges must be maintained to verify allocation of payroll cost.

(d) For purposes of allocating transportation costs and equipment, only those costs actually related to the activity may be allocated.

(Effective February 1, 1994)

Sec. 17a-17-9. Offsets to allowable costs

(a) Grants, gifts, fund-raising and endowment income anticipated to be received during the next contract year and specifically designated by the donor for payment of allowable costs shall be offset against those costs and allocated to either residential care or educational services.

(b) Payments anticipated during the next contract year from governmental sources other than local education agencies, the department or SDE shall offset allowable costs.

(c) At the discretion of the treatment center, a portion of non-designated income anticipated for the next contract year may be included to offset allowable costs. Such designation shall not be considered an offset to allowable costs in future years.

(Effective February 1, 1994)

Sec. 17a-17-10. Calculation of revenue

(a) Treatment centers must identify and list all revenue or income earned and/or donated during the fiscal year on the ASCAR. All sources of and restrictions on this income must be listed. The use of non-designated income must also be listed.

(b) Treatment centers must allocate revenue to residential care, educational services or other programs based on restrictions and/or use of the income.

(Effective February 1, 1994)

Sec. 17a-17-11. Computation of per diem rate for residential care

(a) The calculation of a per diem payment rate for residential care will be based on the

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-17-11

Department of Children and Families

approved operational program and the ASCAR; specifically, allowable properly allocated costs for residential care during the past contract period, less revenue allocated to residential care and offsets to allowable residential care costs will provide the net residential care costs which is the basis for computing the per diem payment rate.

(b) Private fees for service income will not be used in ascertaining the per diem rate, unless the days of care are reduced to reflect occupancy of the privately paid for residents.

(c) The net residential care costs shall be updated for the two year period between the year being reported and the year for which the rate is being set as follows:

The first year following the reporting year will be updated by applying the legislative increase for the private facilities' portion of the Board and Care account for that year. The second year following the reporting year will be updated by applying the percentage increase for the private facilities' portion of the Board and Care account as promulgated in the Governor's budget document.

(d) Other requests for adjustments must be supported by complete documentation; only those adjustments deemed necessary by the department for the provision of residential care will be considered.

(e) Analysis of the ASCAR and other relevant information relating to management, financial and programmatic performance will be considered in the rate adjustment process. Inadequate management, financial and programmatic performance may result in a contract term of less than twelve months.

(f) For treatment centers operating at greater than 95% of residential capacity, during the previous contract year, the per diem payment rate for residential care will be calculated as follows:

The adjusted net residential care cost divided by 95% of the approved capacity multiplied by 360.

(g) For treatment centers operating at 90% to 95% of residential capacity during the previous contract year, the per diem payment rate for residential care will be calculated as follows:

The adjusted net residential care cost divided by the actual number of residential days of care of children served by the treatment center during the past contract year equals the per diem payment rate for residential care.

(h) For treatment centers operating at less than 90% residential capacity during the previous contract year, the per diem payment rate for residential care will be calculated as follows:

The adjusted net residential care cost divided by the minimum number of residential days of care of children served by the treatment center during the past contract year equals the per diem payment rate for residential care. Minimum number of residential days of care is calculated based on 90% of approved residential capacity multiplied by 360.

(i) In no event shall the department pay or reimburse a treatment center for residential care for children under the supervision of the department in an amount exceeding costs

charged for similar care for other minors, within the same facility.

(Effective February 1, 1994)

Sec. 17a-17-12. Computation of per diem payment rate for educational services

(a) The calculation of a per diem payment rate for educational services will be based on the operational program and the ASCAR; specifically, properly allocated costs for educational services during the past contract period, less revenue and offsets allocated to education services will provide net educational services cost which is the basis for computing the per diem payment rate.

(b) The net educational services cost shall be updated for the two year period between the year being reported and the year for which the rate is being set as follows:

The first year following the reporting year will be updated by applying the legislative increase for the private facilities' portion of the Board and Care account for that year. The second year following the reporting year will be updated by applying the percentage increase for the private facilities' portion of the Board and Care account as promulgated in the Governor's budget document.

(c) Other requests for adjustments must be supported by complete documentation; only those adjustments deemed necessary by SDE, in consultation with the appropriate LEA, for the provision of educational services will be considered.

(d) The per diem payment rate for educational services will be calculated as follows:

The adjusted net educational services cost divided by the total number of educational days delivered to all children and other minors at the APSEP during the past contract year equals the per diem payment rate for educational services.

(Effective February 1, 1994)

Sec. 17a-17-13. Temporary supplement

(a) A treatment center may apply to the Commissioner for a temporary per diem payment rate supplement for additional residential care not included in the approved program. The need for temporary supplement for residential care must be documented and submitted to the Commissioner for approval.

(b) A treatment center may apply to the SDE for a temporary rate supplement for additional educational services required by extraordinary conditions. The need for temporary rate supplement for educational services must be documented and approved by the SDE.

(c) Temporary supplements shall not remain in effect longer than twelve months.

(Effective February 1, 1994)

Sec. 17a-17-14. Interim rate-setting for newly licensed treatment center

(a) All newly-licensed treatment centers shall file a proposed operational program with the Commissioner along with a proposed budget on forms provided by the Commissioner.

(b) **Proposed budgets shall include the following information:**

(1) Anticipated allowable and properly allocated residential care costs.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-17-15

Department of Children and Families

- (2) Anticipated educational service costs.
- (3) Anticipated properly allocated revenue.
- (4) Anticipated properly allocated offsets to allowable costs.
- (c) Proposed budgets must be prepared and reported in accordance with these regulations and will be reviewed for accuracy and reasonableness in view of statewide averages.
- (d) The Commissioner in consultation with SDE shall establish interim per diem payment rates for residential care and educational services for newly-licensed treatment centers based on an approved budget for the first year of operation.
- (e) Interim rates shall remain in effect until a per diem payment rate is established pursuant to Section 17a-17-11 and 12 of these regulations or other applicable sections of these regulations, based upon a 12-month ASCAR ending June 30th.
- (f) All newly-licensed treatment centers will file with the Commissioner a semiannual certified financial report. The requirements of these regulations with respect to reporting documents shall apply to this report. The Commissioner in consultation with SDE may adjust the interim rates based on this financial report.

(Effective February 1, 1994)

Sec. 17a-17-15. Post-audit adjustments

(a) If an audit of the treatment center's records reveals errors which have resulted in overpayment to the treatment center, the department in consultation with SDE may make further adjustments to the per diem payment rate(s) for the treatment center or may request immediate reimbursement for this overpayment. In the case of adjustments to be made to the per diem payment rate(s), the department will provide 30 days notice to the treatment center and an opportunity for the treatment center to review the audit report. The Commissioner may request financial assurances from the treatment center in the event the treatment center has been cited by the department or SDE on more than one occasion for erroneous reports.

(b) If an audit of the treatment center's records reveals an underpayment to the treatment center, the department in consultation with SDE, may make further adjustments to the per diem payment rate(s) for the treatment center or, if the treatment center is no longer receiving per diem payments, appropriate reimbursement may be made.

(Effective February 1, 1994)

Sec. 17a-17-16. Hearings

(a) Any treatment center which is aggrieved by the rate making decision for residential care pursuant to these regulations, may, within 30 days after written notice thereof, file with the Commissioner of the department a written request for a hearing on all items of grievement:

Said hearing and all subsequent appeals therefrom shall be conducted in accordance with the provisions of Connecticut General Statutes Section 4-176e et. seq.

(b) Any treatment center which is aggrieved by the rate making decision for educational

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-17-16

services pursuant to these regulations, may, within 30 days after written notice thereof, file with the Commissioner of SDE a written request for a hearing on all items of aggrievement:

Said hearing and all subsequent appeals therefrom shall be conducted in accordance with the provisions of Connecticut General Statutes Section 4-176e et. seq.

(Effective February 1, 1994)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Department Assistance to Psychiatric Clinics and Community Health Facilities

Inclusive Sections

§§ 17a-20-1—17a-20-61

CONTENTS

Sec. 17a-20-1.	Application for funds
Sec. 17a-20-2.	Review of application
Sec. 17a-20-3.	Criteria
Sec. 17a-20-4.	Method of allocation
Sec. 17a-20-5.	Account reports
Licensure of Outpatient Psychiatric Clinics for Children	
Sec. 17a-20-6through17a-20-10.	Reserved for future use
Sec. 17a-20-11.	Definitions. As used in section 17a-20-11 to 17a-20-61, except as otherwise provided therein
Sec. 17a-20-12.	Issuance of license. Not transferable or assignable
Sec. 17a-20-13.	Display of license
Sec. 17a-20-14.	Access of commissioner or designee to premises
Sec. 17a-20-15.	Technical consultation with applicant or licensee
Sec. 17a-20-16.	Causes for denying, suspending, revoking or refusing to renew license
Sec. 17a-20-17.	Hearing on denial, suspension, revocation or refusal to renew a license
Sec. 17a-20-17a.	Suspension of a license
Sec. 17a-20-18.	Limitation of the use of license
Sec. 17a-20-19.	Return of license to the commissioner
Sec. 17a-20-20.	Waiver of requirements
Sec. 17a-20-21.	Record retention
Sec. 17a-20-22.	Personnel policies and procedures
Sec. 17a-20-23.	Health, sanitation, fire safety and zoning approval
Sec. 17a-20-24.	Hazardous equipment
Sec. 17a-20-25.	Construction
Sec. 17a-20-26.	Water supply
Sec. 17a-20-27.	Sewage and garbage facilities

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Sec. 17a-20-28.	Heating, ventilation and lighting
Sec. 17a-20-29.	Lavatory facilities
Sec. 17a-20-30.	Kitchens, equipment, food handling
Sec. 17a-20-31.	Eating areas and supervision
Sec. 17a-20-32.	Housekeeping equipment and supplies
Sec. 17a-20-33.	Internal and external security
Sec. 17a-20-34.	Children's grievance procedure
Sec. 17a-20-35.	Patients rights
Sec. 17a-20-36.	Informed consent for research, experimentation, or clinical trials
Sec. 17a-20-37.	Confidentiality
Sec. 17a-20-38.	Record of enrolled children
Sec. 17a-20-39.	Office space. Confidential files
Sec. 17a-20-40.	Referral process
Sec. 17a-20-41.	Assessment process
Sec. 17a-20-42.	Treatment plan
Sec. 17a-20-43.	Treatment plan review
Sec. 17a-20-44.	Discharge and aftercare procedures
Sec. 17a-20-45.	Agreement between outpatient psychiatric clinic for children and parent or guardian
Sec. 17a-20-46.	Reporting to the department
Sec. 17a-20-47.	Health and medical treatment. Administration of first aid. Prescription medication. Administration of medicine or treatment. Written records. Storage of drugs, medicines and instruments. Sick room. Telephone
Sec. 17a-20-48.	Code of ethical behavior
Sec. 17a-20-49.	Rooms to be used for the treatment of children
Sec. 17a-20-50.	Fire, liability and vehicle insurance
Sec. 17a-20-51.	Written policies and procedures
Sec. 17a-20-52.	Abuse of children. Discipline
Sec. 17a-20-53.	Children not to be used for fund-raising
Sec. 17a-20-54.	Case records
Sec. 17a-20-55.	Governing board
Sec. 17a-20-56.	Finances
Sec. 17a-20-57.	Staffing and human resources
Sec. 17a-20-58.	Populations targeted for priority access
Sec. 17a-20-59.	Effectiveness of services
Sec. 17a-20-60.	Program description

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Sec. 17a-20-61.

Granting of funds to assist in establishing, maintaining, and expanding psychiatric clinics

Department Assistance to Psychiatric Clinics and Community Health Facilities

Sec. 17a-20-1. Application for funds

Application for funds under Section 17a-20 of the General Statutes shall be made on forms to be provided by the State Department of Children and Families, hereinafter referred to as the Department. The application shall set forth a definition of the principal towns and areas to be served by the applicant; background of the organization submitting the application; description of children/youth and families to be served; rationale and need for the service; service objectives and description of expected achievement or outcome during the total service period.

The applicant shall submit, upon request of the Department, details pertaining to its corporate status and authority, if incorporated, or other information pertaining to its legal status and authority.

The applicant and the Department shall develop the method proposed to assess the program's effectiveness. The applicant shall set forth a written plan by which it proposes to coordinate its activities with those of other community agencies and organizations presently providing mental health services to children/youth and their families or contributing in any way to the continuum of services to children/youth in the area. Copies of all formal agreements with other community agencies must be attached to the application.

The applicant shall describe on forms provided by the Department the personnel requirements and qualifications needed to carry out its program proposal.

A detailed budget of anticipated program expenses in implementing the proposal and a statement showing the anticipated income specifying the sources of such income must be included.

The applicant shall submit five copies of the application to the Department.

(Effective February 1, 1994)

Sec. 17a-20-2. Review of application

The Department shall review the application within sixty working days of the receipt of the application. The Department and/or the applicant may request review of the application by the appropriate Department Regional Advisory Council.

(Effective February 1, 1994)

Sec. 17a-20-3. Criteria

The Department, in making allocations, shall consider the extent to which the proposal contained in the application emphasizes the provision of mental health services that are designed to (1) effectively decrease the prevalence and incidence of mental illness, emotional disturbance and social dysfunctioning, (2) promote mental health in individuals, groups and institutions, and (3) provide indirect services such as consultation, public education and training. The grantee shall have available the services of a sufficient number of qualified mental health professionals. These professionals shall include, but not be limited

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-20-4

Department of Children and Families

to, child psychiatrists, psychologists, and social workers. When these qualified professionals are not available, arrangements shall be made to obtain equivalent services on at least a continuing consulting basis. There shall be a sufficient number of other qualified mental health professionals and para-professionals as necessary to carry out the clinical programs. These shall include, but not be limited to, other physicians, psychiatric nurses, educators, speech and hearing specialists, etc. There shall be an adequate number of support personnel to provide the necessary services for administrative and clinical functions.

(Effective February 1, 1994)

Sec. 17a-20-4. Method of allocation

(a) The allocation of funds made by the Department shall be on the basis of a contract or letter of award for services. Each contract or Letter of Award shall set forth the terms and conditions under which the award will be made, the manner in which payments will be made, the period for which awards will be granted, and will make reference to the specific programs described in the application; (b) if, after completion of payments under the conditions set forth in the contract or Letter of Award, it is determined by the Department that the total paid hereunder, together with income from other sources applicable to the program, exceeds the total expenses for the period of the award, the applicant shall be required to refund to the Department, the amount of such excess within thirty (30) days of such termination.

(Effective February 1, 1994)

Sec. 17a-20-5. Account reports

A complete account of income and expenses shall be maintained by the applicant in accordance with guidelines set forth by the Department and is subject to audit for a period of three years following the final date of the period for which the award is made. Quarterly reports of expenditures and income shall be made by the applicant on forms supplied by the Department. Other reports providing statistical data, statements of program evaluation, and other related material shall be submitted as required by the Department.

(Effective February 1, 1994)

Licensure of Outpatient Psychiatric Clinics for Children

Sec. 17a-20-6 through 17a-20-10. Reserved for future use

Sec. 17a-20-11. Definitions. As used in section 17a-20-11 to 17a-20-61, except as otherwise provided therein

(1) “Outpatient Psychiatric Clinic for Children” or “Clinic” means a community-based children’s mental health facility which provides mental health services to children and adolescents under eighteen years of age and their families. These services are designed to: (A) promote mental health and improve functioning in children, youth and families; and (B) effectively decrease the prevalence and incidence of mental illness, emotional

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-20-12

disturbance and social dysfunctioning. Responsibility for diagnostic and treatment services is vested in a multi-disciplinary team comprised of psychiatrists, psychologists, social workers, marriage and family therapists or other mental health professionals. Supervision of clinical services may be provided by a psychiatrist, psychologist, social worker or marriage and family therapist with appropriate child experience and state licensing. Services shall include but not be limited to diagnostic evaluation, psychological testing, family, group and individual therapies, medication services, crisis or emergency interventions. These clinics shall make every effort to respond flexibly and be accessible to their client population, as well as to work in collaboration with schools, the child welfare system, and other child caring agencies. Services are provided to the general public without bias because of race, sex, ethnicity, religion, or sexual preference and are culturally competent. Clinics shall have in place overall policies and procedures in compliance with sections 17a-20-11 to 17a-20-61, inclusive, of the Regulations of Connecticut State Agencies. Clinics shall be licensed by the Department of Children and Families;

(2) “Department” means the Department of Children and Families;

(3) “Commissioner” means the Commissioner of Children and Families;

(4) “Children, youth and their families” means any person under the age of eighteen years and their family;

(5) “Satellite Site” means a location separate from the primary clinical facility at which clinic outpatient services are furnished on an ongoing basis meaning with stated hours per day and days per week;

(6) “Clinic off-site services” means clinic services provided at a location which is not physically a part of the licensed clinic but whose services emanate from the licensed clinic. Such locations may include the recipient’s home, acute care hospital, school, recreational center or similar provisional location. Off-site services do not require separate licensing but shall be specified in the licensing process as locations where services are provided;

(7) “Assessment” means a multidisciplinary process which shall include but not be limited to a review of individual, developmental, family, social, educational, financial, medical, and legal status considerations.

(Adopted effective February 1, 1999)

Sec. 17a-20-12. Issuance of license. Not transferable or assignable

(a) A license for an Outpatient Psychiatric Clinic for Children shall be issued only to the clinic which makes an application and only for the address shown on the application and any identified satellite site, and shall not be transferable or assignable. When issuing a license, the department may impose restrictions on a clinic.

(b) Licenses for Outpatient Psychiatric Clinics for Children shall be issued biennially.

(c) The department may determine that a clinic or organization licensed as an outpatient psychiatric clinic for adults by the State of Connecticut, or accredited by a national mental health accrediting body (e.g., Council on Accreditation, Joint Commission on Accreditation of Healthcare Organizations), meets the standards of sections 17a-20-11 to 17a-20-61,

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-20-13

Department of Children and Families

inclusive, of the Regulations of Connecticut State Agencies if, during the review of existing licenses or accreditation, it is determined that the clinic or organization has recently met these standards. The applicant shall attest that such licensure or accreditation complies with sections 17a-20-11 to 17a-20-61, inclusive, of the Regulations of Connecticut State Agencies.

(Adopted effective February 1, 1999)

Sec. 17a-20-13. Display of license

Each licensed clinic shall publicly display the license on its premises in a prominent place.

(Adopted effective February 1, 1999)

Sec. 17a-20-14. Access of commissioner or designee to premises

The Commissioner or his designee shall have access at all reasonable times to the premises described on the license. If child abuse or neglect is suspected, access shall be at any time.

(Adopted effective February 1, 1999)

Sec. 17a-20-15. Technical consultation with applicant or licensee

Except as provided in Section 17a-20-17 of the Regulations of Connecticut State Agencies, the department shall be available to provide technical consultation with the applicant or licensee to assist them to achieve compliance with sections 17a-20-11 to 17a-20-61, inclusive, of the Regulations of Connecticut State Agencies.

(Adopted effective February 1, 1999)

Sec. 17a-20-16. Causes for denying, suspending, revoking or refusing to renew license

A license may be denied, suspended, revoked or its renewal refused for any of the following reasons:

- (1) Failure to comply with regulations pertaining to the licensure of the clinic;
- (2) Failure to comply with applicable state or local laws, ordinances, rules and regulations, including but not limited to those pertaining to health, safety, fire prevention and protection, building, sanitation and zoning;
- (3) Violation of any of the provisions under which the license was issued;
- (4) Making of any fraudulent or misleading statement in order to maintain or retain the license;
- (5) Failure to provide information or documentation requested by the Commissioner or his designee;
- (6) Failure to allow the Commissioner or his designee access to the premises;
- (7) Employment of any person who, within five years of the date of application for a license, has been convicted of a felony against persons, or injury or risk of injury to a minor,

or impairing the morals of a child, or for the possession, use or sale of a controlled substance.
(Adopted effective February 1, 1999; Amended August 10, 2000)

Sec. 17a-20-17. Hearing on denial, suspension, revocation or refusal to renew a license

Any clinic may, within fifteen (15) days after receipt by certified mail of notice of denial, suspension, intended revocation or refusal to renew a license, submit a written request for an administrative hearing thereon in accordance with the Uniform Administrative Procedures Act, Chapter 54, of the Connecticut General Statutes. Denial or refusal to renew a license shall be stayed until such hearing is held except as provided in Subsection (c) of Section 4-182 of the Connecticut General Statutes. In the absence of such request for a hearing during this time period, the license shall be either denied, suspended, revoked or not renewed.

(Adopted effective February 1, 1999; Amended August 10, 2000)

Sec. 17a-20-17a. Suspension of a license

If the department finds the health, safety or welfare of children requires emergency action and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

(Adopted effective August 10, 2000)

Sec. 17a-20-18. Limitation of the use of license

If the department finds that the health, safety or welfare of children is jeopardized or operation of the clinic is in substantial noncompliance with sections 17a-20-11 to 17a-20-61, inclusive, of the Regulations of Connecticut State Agencies, it may limit the use of said license pending corrective action or further proceedings.

(Adopted effective February 1, 1999)

Sec. 17a-20-19. Return of license to the commissioner

Upon discontinuance of the licensed clinic, or revocation of the license, the license shall be returned by the clinic to the Commissioner within fourteen (14) days after receipt of such request.

(Adopted effective February 1, 1999; Amended August 10, 2000)

Sec. 17a-20-20. Waiver of requirements

A clinic shall comply with all relevant regulations unless a waiver for specific requirements has been granted through a prior written agreement with the department. This agreement shall specify the particular requirements to be waived, the duration of the waiver, and the terms under which the waiver is granted. The department shall grant a waiver only if it determines that the aims of the requirements can still be achieved. If the clinic fails to

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-20-21

Department of Children and Families

comply with the waiver agreement in any part, the agreement shall be immediately canceled and the license may be immediately suspended, revoked or renewal denied.

(Adopted effective February 1, 1999; Amended August 10, 2000)

Sec. 17a-20-21. Record retention

The child's record shall be retained by the clinic for at least seven years following discharge from services. The method of destruction of such record shall be incineration or shredding. If a clinic ceases operation, all case records shall be given to the department, or upon order, to a court of competent jurisdiction. These records, while held by the department, are not considered records of the department for purposes of Section 17a-28 of the Connecticut General Statutes.

(Adopted effective February 1, 1999)

Sec. 17a-20-22. Personnel policies and procedures

(a) Personnel policies and operating procedures regarding clinic employment and personnel practices shall be in writing and on file with the department. A copy shall be given to each employee and volunteer worker. All applications for employment or volunteers shall have a criminal conviction records check completed before being hired or selected; the results of which shall be filed, separately and confidentially in their personnel record. All direct care personnel shall have a physical examination, including a test for tuberculosis, not more than twelve months prior to assuming their assigned duties.

(b) A clinic shall not hire or employ anyone who, within five years of date of employment has been convicted of a felony against persons, or injury or risk of injury to a minor, or impairing the morals of a child, or for the possession, use or sale of a controlled substance. If any employee of the clinic is convicted of a felony against persons, or for injury or risk of injury to a minor or for impairing the morals of a child, or for the possession, use or sale of a controlled substance, such conviction shall constitute grounds for the dismissal of the employee. Prior to employment and anytime thereafter upon request all employees shall undergo a State Police background check for any convictions. A clinic shall maintain written job descriptions outlining the general requirements for each position. A copy shall be given to each employee. All job descriptions shall be made available to all staff upon request. An employee grievance procedure shall be documented and disseminated to all staff. A clinic shall provide staff reasonable access to their personnel file. There shall be written policies and procedures that are designed to assure the confidentiality of personnel records and specify who has access to various types of personnel information. Personnel policies shall include a written plan for staff training and development that includes but is not limited to: introductory orientation; ongoing training and development; supervision; annual evaluations; and external training and education.

(c) Clinics, their staff, trainees, students, and volunteers shall only provide services within their ability and skill level. Referrals shall be made to other staff or organizations with the appropriate ability or skill as necessary. Unlicensed staff, trainees, students, and

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-20-25

volunteers shall function under the direct supervision of a licensed or certified person with expertise in a designated area of mental health or substance abuse.

(d) There shall be a written policy delineating procedures and requirements for the granting of clinical privileges within the clinic. The process for granting clinical privileges for members of the professional staff shall include consideration of the ages of the individuals to be served.

(Adopted effective February 1, 1999)

Sec. 17a-20-23. Health, sanitation, fire safety and zoning approval

(a) Health and sanitation approval by the state and local departments of health, approval for fire safety by the state or local fire marshals, certificate of occupancy and compliance with local zoning are prerequisite to licensing upon initial application. State or local fire and health approvals shall be required for renewal of a license.

(b) A clinic shall ensure that all structures and space used by the clinic are free from any danger to health or safety. The clinic shall ensure the availability of comfortable and sufficient space to staff and children, youth and their families in treatment to permit effective operation of the clinic. A clinic shall have a written policy and procedures regarding emergency planning and procedures including evacuation due to fire and natural disasters, staff responses to emergency medical situations, and staff responses to emergency mental health situations. A clinic shall conduct unannounced, fire drills in which all staff and children shall participate at a frequency established by the Connecticut Fire Safety Code. Documentation of fire drills held shall be maintained on a standardized form which records the date, time, minutes taken to evacuate, problems noted, follow up to problems and simulated conditions of the drill. Fire evacuation diagrams shall be posted at eye level of the children, youth and their families in treatment and written in the primary language of the children, youth and their families in treatment.

(c) There shall be an agency-wide policy for smoking, and the policy shall address smoking by staff, visitors, and clients. The policy shall comply with applicable state and federal laws concerning smoking in public areas.

(d) Clinics shall develop written standards regarding housekeeping supplies and procedures in keeping with its established infection control program.

(Adopted effective February 1, 1999)

Sec. 17a-20-24. Hazardous equipment

All power-driven machines and other hazardous equipment shall be properly safeguarded and their use by children regulated by supervisory staff of the clinic.

(Adopted effective February 1, 1999)

Sec. 17a-20-25. Construction

The plans and designs for all new construction, additions to or substantial modification of buildings or parts of buildings used or to be used in the operation of the clinic shall be

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-20-26

Department of Children and Families

submitted to the Commissioner or his designee for review before such construction is contracted for or begun. The proposed plans shall include written confirmation of required fire, health, safety and zoning approvals. The Commissioner or his designee shall determine if the proposed plans are in compliance with the intent of sections 17a-20-11 to 17a-20-61, inclusive, of the Regulations of Connecticut State Agencies within thirty (30) days of the submittal of such plans.

(Adopted effective February 1, 1999)

Sec. 17a-20-26. Water supply

The water supply shall be adequate and potable. If the clinic is not served by a public water supply, the well water shall be analyzed and approved by the state department of public health, local department of health or a private water testing laboratory approved by the state department of public health at the time of initial licensure and at any subsequent time the department deems such testing as necessary.

(Adopted effective February 1, 1999)

Sec. 17a-20-27. Sewage and garbage facilities

Adequate and safe sewage and garbage facilities shall be maintained.

(Adopted effective February 1, 1999)

Sec. 17a-20-28. Heating, ventilation and lighting

Comfortable heating, sufficient ventilation, and both natural and artificial lighting shall be provided.

(Adopted effective February 1, 1999)

Sec. 17a-20-29. Lavatory facilities

The clinic shall have an adequate number of lavatories to meet the needs of clients and employees. The bathroom equipment for the children, youth and their families shall be of appropriate size and height for their use. Bathrooms and toilets shall allow for individual privacy.

(Adopted effective February 1, 1999)

Sec. 17a-20-30. Kitchens, equipment, food handling

If a clinic provides for the serving of snacks or meals, the food served shall be wholesome and of sufficient quantity. All kitchens shall be clean, well lighted, properly ventilated and screened, and provided with essential and proper equipment for the preparation and serving of food. Storage, refrigeration and freezer facilities shall be adequate for the number of persons to be served. All perishable foods shall be refrigerated at a temperature at or below 45 degrees Fahrenheit. Freezers and frozen food compartments shall be maintained at minus 10 degrees to 0 degrees Fahrenheit. Cooking utensils, dishes and tableware shall be in good condition and proper cleaning facilities for the equipment shall be provided. Dishes shall

be stored in a clean, dry place protected from flies, dust or other contamination. Proper food handling techniques and sanitation to minimize the possibility of the spread of food-borne diseases shall be maintained. The clinic's kitchen, equipment and food handling shall comply with all applicable sections of the public health codes and all other state and federal laws.

(Adopted effective February 1, 1999)

Sec. 17a-20-31. Eating areas and supervision

Designated areas for serving meals or snacks shall be kept clean and attractive, well-lighted, properly screened and ventilated, and shall be large enough to accommodate the children and staff responsible for their supervision. Staff supervision shall be adequate to ensure a safe and comfortable atmosphere for eating.

(Adopted effective February 1, 1999)

Sec. 17a-20-32. Housekeeping equipment and supplies

Housekeeping equipment and supplies shall not be accessible to children unless an individual determination is made concerning their ability to safely use them or their use is under direct staff supervision. Such materials shall be maintained in a safe, protected space which shall be clean, dry, well lighted, ventilated and in good repair, free from rodents and other vermin.

(Adopted effective February 1, 1999)

Sec. 17a-20-33. Internal and external security

The clinic shall provide adequate internal and external security to ensure the safety of children and staff.

(Adopted effective February 1, 1999)

Sec. 17a-20-34. Children's grievance procedure

Clinics shall have written grievance procedures for children and their families. This policy shall be explained to the child and family and, if the child is unable to sign his or her name, the parent or guardian shall sign the form after the child has been informed. The staff member shall enter a note into the child's case record confirming that this explanation has taken place. Any grievance and its disposition shall be recorded in the child's case record.

(Adopted effective February 1, 1999)

Sec. 17a-20-35. Patients rights

Clinics shall have, in writing, policies and procedures which address patient rights. These shall include, but not be limited to, the following:

- (1) A policy which requires the clinic to obtain informed consent from the legal guardian for treatment of the client. Such consent shall be in writing, shall describe in specific terms the treatment for which consent is given, and shall be signed by the legal guardian;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-20-36

Department of Children and Families

- (2) Procedures which ensure the confidentiality of information;
- (3) Procedures which ensure that a client's privacy is protected;
- (4) Procedures which ensure that a client is informed of his rights in a manner and language that promotes understanding of those rights;
- (5) Procedures providing for the review of treatment plans to ensure that the treatment is consistent with the rights of the client and the philosophy of the clinic. All treatment plans shall meet accepted ethical standards;
- (6) Procedures, where, upon request, the client or his family is provided with information regarding the professional education and experience of the treating clinician.

(Adopted effective February 1, 1999)

Sec. 17a-20-36. Informed consent for research, experimentation, or clinical trials

Policies shall be in place to protect the rights of children and their families during any research, experimentation, or clinical trials with signed informed consent including:

- (1) A description of benefits to be expected;
- (2) A description of the potential discomforts and risks;
- (3) A description of alternative, non-experimental services that might also prove advantageous to them;
- (4) A full explanation of the procedures to be followed, especially those that are experimental in nature;
- (5) Assurance of their right to refuse to participate in any research project without comprising their access to services.

(Adopted effective February 1, 1999)

Sec. 17a-20-37. Confidentiality

(a) All case records are confidential and shall be maintained in locked files or secured areas only available to duly authorized personnel listed in the written personnel and policy procedures of the clinic.

(b) The guardian or custodian of the child shall be entitled to receive, upon request, reports and information concerning the health, behavior and progress of the child, and all other information allowed under the provisions of Sections 52-146c through 52-146j, inclusive, and Sections 17a-540 through 17a-550, inclusive, of the Connecticut General Statutes, and Federal Statutes Title 42 USC 290dd-2.

(c) The child's record shall be retained by the clinic for at least seven years following discharge. The method of destruction of such records shall be incineration or shredding. If a clinic ceases operation, all children's case records shall be given to the department, or upon order, to a court of competent jurisdiction.

(d) The clinic shall not disclose information pertaining to a child or family to other persons, unless the parent or guardian has given written permission, except in an emergency or in a case of suspected child abuse or neglect or by a court order, or as permitted in

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-20-41

Sections 52-146f through 52-146i, inclusive, of the Connecticut General Statutes.

(Adopted effective February 1, 1999)

Sec. 17a-20-38. Record of enrolled children

The clinic shall keep a record of each enrolled child, including name, address and telephone number of parent or guardian; child's date of birth, enrollment date; attendance record; accidents and major illnesses while in care and date of termination from the clinic's program.

(Adopted effective February 1, 1999)

Sec. 17a-20-39. Office space. Confidential files

Private office space shall be available for administrative and counseling staff. There shall be office space available large enough to accommodate family counseling or group therapy in a comfortable and confidential manner. There shall be locked files for all confidential material. The records shall not be available to anyone other than authorized persons. A list of duly authorized personnel shall be maintained by the clinic.

(Adopted effective February 1, 1999)

Sec. 17a-20-40. Referral process

(a) The clinic shall consider for admission all referrals regardless of race, sex, religion, sexual orientation, disabilities or ethnic origin.

(b) In the case of refusal, the clinic shall document the reason for refusing admission and so inform the referring agency of these reasons and include recommendations for a more appropriate treatment program.

(Adopted effective February 1, 1999)

Sec. 17a-20-41. Assessment process

(a) The assessment of a client shall be conducted by one or more qualified staff members. There shall be a written report of the assessment and the report shall describe the methods and material used in the evaluation. Any formal or informal tests which are used shall be named in the report and any scores obtained shall be included. Information shall be obtained regarding the client's medical, psychological, developmental and familial history; educational status and academic achievement; social and emotional background and status, the presenting problems and any other relevant information. The assessment shall yield information regarding the client's strengths and weaknesses.

(b) During the assessment, the child's age, cultural background and dominant language or mode of communication shall be considered.

(c) The information obtained through assessment should determine the client's treatment.

(d) In all clinics, a mechanism shall exist that is designed to coordinate and facilitate the family's or guardian's involvement throughout the assessment process. This mechanism includes:

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-20-42

Department of Children and Families

- (1) An assessment of the effect of the family or guardian on the condition of the individual served and the effect of that condition on the family or guardian;
 - (2) An assessment of the individual's legal custody status, when applicable;
 - (3) An assessment of the individual's growth and development, including physical history, emotional, cognitive, educational, nutritional, and social development;
 - (4) An assessment of the individual's play and daily activity needs;
 - (5) The family's or guardian's expectations for and involvement in the assessment, initial treatment, and continuing care of the individual served.
- (e) The clinic shall be able to perform psychological and psychiatric evaluations as needed.
- (f) In the event a clinic provides substance abuse laboratory testing, the clinic shall comply with all relevant state and federal requirements.

(Adopted effective February 1, 1999)

Sec. 17a-20-42. Treatment plan

- (a) The clinic shall ensure that there is an individualized treatment plan for each child within thirty (30) calendar days of the child's entry into the clinic's program unless documentation demonstrates why this was not possible.
- (b) The treatment plan shall specify measurable and time-bounded goals and objectives to be achieved by the child and family in order to establish or re-establish emotional health.
- (c) These goals shall be based on periodic assessments of the child and, when appropriate, the child's family.
- (d) The treatment plan shall specify any specialized services or treatment to be provided by the clinic as well as identify the person responsible for implementing or coordinating the implementation of the treatment plan. The treatment plan shall include referrals for relevant services that the clinic does not provide directly.
- (e) The treatment plan shall delineate the specific criteria to be met for termination of treatment. Such criteria shall be part of the initial treatment plan and all subsequent plans.
- (f) The treatment plan shall identify the supports and resources that may be required for discharge.
- (g) Preliminary plans for discharge shall be discussed as well as alternative aftercare programs, when appropriate.
- (h) The treatment plan specifies the frequency of treatment procedures.
- (i) The treatment plan shall specify the anticipated discharge date.
- (j) The number of contacts shall be specified for the delivery of treatment services.
- (k) The clinic shall ensure that the treatment plan and any subsequent revisions are explained to the child and his parent or guardian in language understandable to these persons.
- (l) The treatment plan shall be signed by the chief administrator of the clinic or his designee; the child, if he is capable of doing so, and the child's parent or guardian.
- (m) In accordance with the treatment plan, each record shall contain notes which

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-20-44

document services provided and progress made toward goals and objectives. Each note shall be typewritten or entered in ink by a qualified staff member or consultant and shall be dated, legibly printed, signed by the person making the entry, and include the person's title.

(n) The clinic shall have policy and procedures governing the use of special treatment procedures which shall be consistent with state statutes and regulations, and shall receive prior approval by the department.

(o) The treatment-planning process is designed to ensure that care is appropriate to the individual's specific needs and shall provide an assessment of the severity of his or her condition, impairment, or disability.

(p) The treatment plan shall reflect the individual's clinical needs and condition and identify functional strengths and limitations.

(Adopted effective February 1, 1999)

Sec. 17a-20-43. Treatment plan review

(a) The clinic shall review each treatment plan initially ninety (90) days after the completion of the initial treatment plan. This review shall document and evaluate the progress or lack thereof toward the established goals and objectives and shall revise the treatment plan accordingly. Thereafter, individual treatment plans shall be documented and reassessed at ninety (90) working day intervals as well as when a significant change in condition or diagnosis occurs.

(b) The treatment plan shall indicate the date of the next review and identify the individuals who participate.

(Adopted effective February 1, 1999)

Sec. 17a-20-44. Discharge and aftercare procedures

(a) The clinic shall establish criteria for discharge, including administrative and emergency discharges.

(b) When a child is discharged, the clinic shall compile a complete written discharge summary within thirty (30) days of the date of discharge.

(c) The discharge summary shall include the name, address and telephone number of the clinic. It shall also include a summary of the treatment services which have been provided; progress in treatment; treatment needs which remain; specification of follow-up services, including alternate service possibilities, the identification of those responsible for such follow-up; and recommendations for any other services.

(d) When the discharge date is not in accordance with the child's treatment plan, the following items shall be added to the summary: the circumstances leading to the unplanned discharge; the actions taken by the clinic regarding the discharge and the reason for these actions.

(e) All discharge documentation shall be maintained in the child's case record.

(f) Services shall reflect continuity in care from assessment and diagnosis, to planning, and treatment of those served. Each client shall receive Case Management as part of their

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-20-45

Department of Children and Families

services, meaning that each child shall be provided coordination among service providers when multiple providers exist.

(Adopted effective February 1, 1999)

Sec. 17a-20-45. Agreement between outpatient psychiatric clinic for children and parent or guardian

The clinic staff shall discuss with the parent or guardian the responsibilities of the clinic and those of the parent or guardian with regard to the treatment of the client. The following information shall specifically be discussed and shall be included in the case record:

- (1) Hours and days of service, fees, and arrangements for the client's arrival and departure arrangements;
- (2) Procedures for medical emergencies;
- (3) Procedures for the administration of medication, if applicable;
- (4) Indication that the clinic has informed the parent or guardian of the clinic's reporting responsibilities, pursuant to Section 17a-101 of the Connecticut General Statutes.

(Adopted effective February 1, 1999)

Sec. 17a-20-46. Reporting to the department

The clinic shall report, in writing, to the department on the next working day any emergency circumstances which alter the service as originally licensed or statement of fact in the application for licensing.

(Adopted effective February 1, 1999)

Sec. 17a-20-47. Health and medical treatment. Administration of first aid. Prescription medication. Administration of medicine or treatment. Written records. Storage of drugs, medicines and instruments. Sick room. Telephone

(a) A clinic that provides medical treatment for clients shall have a written plan which describes the arrangements for routine and emergency care.

(b) There shall be written policies and procedures, reviewed by a physician at least annually, for the administration of first aid care to children with minor illnesses. Appropriate first aid supplies shall be available in the clinic, out of the reach of children.

(c) The clinic shall have a written policy and procedures governing the prescribing of medications. Such policy shall include provisions that there be informed consent, signed by the parent or guardian, acknowledging that they have been provided with a written description of the medication including possible side-effects and contraindications.

(d) There shall be written policies and procedures, reviewed by a physician at least annually, for the administration or use by children of prescription and nonprescription medicines. Such policies and procedures shall only permit prescription medication to be administered to a child upon the written order of the child's physician and written approval of the parent or guardian.

(e) In accordance with Section 20-14i of the Connecticut General Statutes, only staff

who have been fully trained to administer and monitor medications shall be permitted to administer such medication. The clinic shall also have written criteria which are used to designate staff who administer medication and shall maintain a roster of those designated to administer medication. The clinic shall also have a written policy for the training of staff regarding medication. There shall be periodic reviews of the staff's knowledge of medication and other treatment and, where necessary, staff training shall be completed.

(f) A written record shall be kept of the administration of all prescription and non-prescription medicine to a child, identifying the medicine and dosage, time of administration and the person who administered the medicine.

(g) All drugs, medicines and medical instruments shall be kept in labeled containers out of reach of children in a locked cabinet accessible only to designated staff members. A child may keep and administer prescribed medicines himself only with the written approval of his physician and parent or guardian and the agreement of designated staff that this practice would not be a risk for other children in the clinic.

(Adopted effective February 1, 1999)

Sec. 17a-20-48. Code of ethical behavior

The clinic shall establish and implement a code of ethical behaviors that address at least the following:

- (1) Ethical issues in patient care;
- (2) Marketing, admissions, and billing practices;
- (3) The relationship of the clinic and of its staff members to other health care providers, educational institutions, and payers.

(Adopted effective February 1, 1999)

Sec. 17a-20-49. Rooms to be used for the treatment of children

Rooms shall be sufficient in size and equipment to accommodate the licensed program. Each room shall be comfortably and appropriately furnished, well heated, lighted, ventilated and screened, clean and cheerful.

(Adopted effective February 1, 1999)

Sec. 17a-20-50. Fire, liability and vehicle insurance

The licensee shall carry insurance covering fire and liability as protection for children or youth in care. The licensee shall ensure that any vehicle authorized for use in transporting children in care, in accordance with the Connecticut statutory and regulatory transportation requirements and used by any of the licensee's staff on the licensee's business shall have insurance which covers liability.

(Adopted effective February 1, 1999)

Sec. 17a-20-51. Written policies and procedures

- (a) The policies and operating procedures of the clinic shall be in writing, shall be

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-20-52

Department of Children and Families

reviewed no less than annually by the director of the clinic and shall be amended and expanded where necessary. The written policies and procedures shall include, but not be limited to the following: enrollment of clients; treatment programs; discharge planning; supervision and discipline of clients; staffing requirements; and emergency medical care.

(b) The clinic shall have written policies and procedures describing the diagnostic process including types of information to be obtained, procedures to be followed, and types of records to be maintained.

(c) The clinic shall have written policies and procedures regarding family involvement and shall specify if family involvement is required for admission to the clinic's program.

(d) A clinic shall have written policies and procedures to ensure that a wide range of treatment modalities are available, including, but not limited to individual, group, family and psychopharmacological modalities. The clinic may provide the following services: vocational or pre-vocational training; recreational programming; speech therapy; occupational therapy; in-home services; and, other services appropriate to the needs of the children being served.

(e) Copies and any subsequent revisions thereof shall be made available to staff of the clinic. Copies and any subsequent revisions shall be provided to the department on at least an annual basis.

(Adopted effective February 1, 1999)

Sec. 17a-20-52. Abuse of children. Discipline

The clinic shall prohibit abusive, corporal, humiliating or frightening punishment. Restraints shall only be used when appropriate. The control, supervision and discipline of children shall be the responsibility of the staff.

(Adopted effective February 1, 1999)

Sec. 17a-20-53. Children not to be used for fund-raising

The clinic shall not require nor permit children to solicit funds or be identified by name, in photographs or in any other manner in its fund-raising material or in public relations unless written waivers are obtained from the parent or guardian.

(Adopted effective February 1, 1999)

Sec. 17a-20-54. Case records

(a) Each clinic shall maintain a current confidential case record for each child in treatment including family, social and health history. The case record shall contain but not be limited to pre-admission data; the reason for admission; results of all diagnostic assessments performed; a summary of admission information; the individual treatment plan; a record of all care and services, including medical services, provided by the clinic; progress notes on the child in treatment; reviews of the treatment plan; the plan for discharge and disposition; a discharge summary and all other documents received and required for the treatment of a particular child.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-20-57

(b) The case record shall contain only information pertaining to a particular child.

(c) The case record shall include contact summaries where appropriate and copies of special behavior contracts used for a particular child.

(Adopted effective February 1, 1999)

Sec. 17a-20-55. Governing board

All licensed clinics shall have a governing board. Such board shall be legally constituted and shall manage its affairs in accordance with applicable provisions of law, its statement of purpose, its certificate of incorporation and its duly adopted bylaws. The board shall meet at least with the frequency specified in the corporation's bylaws and keep minutes of each meeting which shall be made a part of the permanent records of the facility. Minutes of the discussion of those matters relating to the operation of the clinic shall be made available to the department upon request. A written plan shall include setting a mission or statement of purpose for the clinic and providing the strategic, operational, programmatic, and other plans and policies to achieve the mission or fulfill the statement of purpose.

(Adopted effective February 1, 1999)

Sec. 17a-20-56. Finances

The clinic shall have sufficient income and resources to adequately maintain the plant, equipment and program encompassed by sections 17a-20-11 to 17a-20-61, inclusive, of the Regulations of Connecticut State Agencies. Financial records showing the amount and sources of all income and expenses and of all assets and liabilities of the clinic and the sponsoring organization shall be maintained. There shall be an annual audit of all capital resources, assets, liabilities, receipts and expenditures by a qualified public accountant not affiliated with the clinic or organization as an employee. A copy of each such annual audit in such form as required by the Commissioner or designee shall be a part of the clinic's record and shall be submitted to the department upon request.

(Adopted effective February 1, 1999)

Sec. 17a-20-57. Staffing and human resources

(a) There shall be a full-time chief administrative officer who shall be in charge of the overall management and planning in the clinic and carry out the policies of the governing board.

(b) The clinic shall employ sufficient numbers of qualified staff to ensure the safety and well-being of the clients.

(c) The clinic shall verify the licensure or certification of each member of the professional staff who is required to be licensed or certified pursuant to all Connecticut licensing and certification statutes.

(d) Each clinic shall designate a psychiatrist, licensed in the State of Connecticut, who is preferably a Child Psychiatrist, to serve as Medical Director for the clinic. If the clinic is unable to attain the services of a child psychiatrist, the Medical Director shall be a

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-20-58

Department of Children and Families

psychiatrist with significant documented prior experience working with children and adolescents.

(e) Each clinic shall designate a Clinical Director who shall be trained and have experience in children's mental health, and be a licensed mental health professional in Connecticut.

(f) A clinic shall actively recruit and employ qualified personnel representative of the racial or ethnic groups it serves. No person shall be denied employment in violation of Section 46a-60 of the Connecticut General Statutes.

(g) A clinic shall have a written policy regarding the utilization of volunteers and student interns. Such policy shall detail the duties and responsibilities of volunteers or interns, shall specify the degree of confidential information authorized for access by volunteers or interns, shall require that a personnel file be maintained for each volunteer or intern and shall stipulate that volunteers or interns given direct access to children undergo reference checks, orientation, training and evaluation similar to that of the clinic's professional employees. A copy of this policy shall be provided to each volunteer or intern.

(h) Every personnel record shall contain a form, signed by the individual at the time of entry, that he has read, understands and shall adhere to the provisions of Section 17a-28 of the Connecticut General Statutes regarding confidentiality for all children, Section 17a-101 regarding abuse and neglect reporting and Section 17a-550 regarding patients rights in the area of mental health services.

(Adopted effective February 1, 1999)

Sec. 17a-20-58. Populations targeted for priority access

The clinic shall demonstrate the capability to provide priority access to children with serious emotional disturbance.

(Adopted effective February 1, 1999)

Sec. 17a-20-59. Effectiveness of services

The clinic shall have a comprehensive and well-designed plan for measuring and improving its performance. The plan shall include:

(1) A statement of the clinic's general purpose, specific objectives, needs and practice guidelines;

(2) A description of the methodology which is used to collect and evaluate data and assess the performance of the clinic;

(3) A method for incorporating information yielded by the performance data and implementing changes based on data.

(Adopted effective February 1, 1999)

Sec. 17a-20-60. Program description

Each clinic shall have a written program description which specifies: the statement of purpose; a description of overall approach to treatment and family involvement; the types

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-20-61

of services provided; the characteristics of the children to be served; and the characteristics of those children not appropriate for the clinic's program.

(Adopted effective February 1, 1999)

Sec. 17a-20-61. Granting of funds to assist in establishing, maintaining, and expanding psychiatric clinics

Nothing in sections 17a-20-11 to 17a-20-61, inclusive, of the Regulations of Connecticut State Agencies nor the attainment of a license as a clinic shall be construed as an entitlement of funds or funding by the State of Connecticut or the Department of Children and Families.

(Adopted effective February 1, 1999)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

**Department Aid to Day Treatment Centers for Emotionally Disturbed, Mentally Ill,
and Autistic Children and Youth**

Inclusive Sections

§§ 17a-22-1—17a-22-5

CONTENTS

Sec. 17a-22-1.	Application for funds
Sec. 17a-22-2.	Review of application
Sec. 17a-22-3.	Criteria
Sec. 17a-22-4.	Method of allocation
Sec. 17a-22-5.	Account reports

Department Aid to Day Treatment Centers for Emotionally Disturbed, Mentally Ill, and Autistic Children and Youth

Sec. 17a-22-1. Application for funds

Application for funds under Section 17a-22 of the General Statutes shall be made on forms to be provided by the State Department of Children and Families, hereinafter referred to as the Department. The application shall set forth a definition of the towns and areas to be primarily served by the applicant; background of the organization submitting; description of children/youth and families to be served; rationale and need for the service; service objectives and description of expected achievement or outcome during the total period.

The applicant shall submit, in detail, forms provided by the Department as to the personnel requirements and qualifications needed to carry out its program proposal. Detailed budget of program expenses anticipated in implementing the proposal and a statement showing the anticipated income specifying the sources of such income must be included.

The applicant shall submit, upon request of the Department, details pertaining to its corporate status and authority, if incorporated, or other information pertaining to its legal status and authority.

The applicant shall submit five (5) copies of the application to the Department.

(Effective February 1, 1994)

Sec. 17a-22-2. Review of application

Within 60 days of the receipt of the application, the Department shall review the application and assign to it a priority based on the relative needs of the region and the quality of the proposal contained in the application. The Department may request the application be reviewed by the Department's Regional Advisory Council.

(Effective February 1, 1994)

Sec. 17a-22-3. Criteria

The Department, in making allocations, shall consider among others, the following criteria:

(a) the extent to which the proposal contained in the application emphasizes the provision of day treatment services in order to maintain children/youth in their homes and/or in the community;

(b) the extent to which the proposal shows evidence of improvement in provision of continuity of mental health treatment services, preventive services and other relevant services as described in a formal agreement between applicant and other agencies within the service area;

(c) the extent to which the applicant proposes to provide an increase in service within its region or sub-region, and particularly with respect to serving previously unserved populations. Additionally, particular emphasis will be placed on proposals which made optimum use of available public and private resources within the community as witnessed

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-22-4

Department of Children and Families

by a written agreement;

(d) the extent to which the applicant proposes to analyze and evaluate the program's impact which may include but not be limited to the use of performance indicators such as "client satisfaction questionnaire";

(e) the extent to which the applicant meets the licensing or certification requirements as stipulated by the Department of Health for Day Care Centers and the Department of Education for Special Education Programs;

(f) there shall be an adequate number of clinical supportive personnel to provide the necessary services for the administrative and clinical programs.

(Effective February 1, 1994)

Sec. 17a-22-4. Method of allocation

(a) The allocation of funds made by the Department shall be on the basis of a contract or letter of award for services. Each contract or letter of award shall set forth the terms and conditions under which the award will be made, the manner in which payments will be made, the period for which awards will be granted, and will make reference to the specific programs described in the application;

(b) if, after completion of payments under the conditions set forth in the contract or letter of award, it is determined by the Department that the total paid hereunder, together with income from other sources applicable to the program, exceeds the total expenses for the period of the award, the applicant shall be required to refund to the Department, the amount of such excess within thirty (30) days of such determination.

(Effective February 1, 1994)

Sec. 17a-22-5. Account reports

(a) A complete account of income and expenses shall be maintained by the applicant and is subject to audit for a period of three years following the final date of the period for which the award is made;

(b) quarterly reports of expenditures and income shall be made by the applicant. Other reports, providing statistical data, statements of program evaluation and other related material, shall be submitted as required by the Department.

(Effective February 1, 1994)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Youth Service Bureaus Standards and Funding

Inclusive Sections

§§ 17a-39-1—17a-39-11

CONTENTS

Sec. 17a-39-1—17a-39-11. Repealed

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§

Youth Service Bureaus Standards and Funding

(See §§ 10-19m-1—10-19m-10)

Sec. 17a-39-1—17a-39-11. Repealed

Repealed November 9, 1998.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Establishment of a Photo Listing Service for Children Legally Free for Adoption

Inclusive Sections

§§ 17a-42-1—17a-42-5

CONTENTS

- | | |
|----------------|---|
| Sec. 17a-42-1. | Photo-listing service and registration book (Repealed) |
| Sec. 17a-42-2. | Registration of children and content, maintenance and distribution of registry and photo-listing books (Repealed) |
| Sec. 17a-42-3. | Checking on status of children (Repealed) |
| Sec. 17a-42-4. | Referral, recruitment of family for and registration of unregistered child (Repealed) |
| Sec. 17a-42-5. | Deferral of photo-listing (Repealed) |

Establishment of a Photo Listing Service for Children Legally Free for Adoption

Sec. 17a-42-1. Photo-listing service and registration book (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-42-2. Registration of children and content, maintenance and distribution of registry and photo-listing books (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-42-3. Checking on status of children (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-42-4. Referral, recruitment of family for and registration of unregistered child (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-42-5. Deferral of photo-listing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Youth Services

Subject

Children's Trust Fund

Inclusive Sections

§§ 17a-50-1—17a-50-7

CONTENTS

Sec. 17a-50-1.	Definitions
Sec. 17a-50-2.	Children's trust fund purpose
Sec. 17a-50-3.	Program management
Sec. 17a-50-4.	Fiscal management
Sec. 17a-50-5.	Donations of gifts or grants
Sec. 17a-50-6.	Requests for funding
Sec. 17a-50-7.	Eligibility for program funding

Children's Trust Fund

Sec. 17a-50-1. Definitions

- (a) "Department" means the Department of Children and Youth Services.
- (b) "Commissioner" means the Commissioner of the Department of Children and Youth Services.
- (c) "Children's Trust Fund" means a designated account operated and maintained by the Department to provide financial support for community based child abuse prevention activities.
- (d) "Trust Fund Council" means the children's trust fund council established pursuant to Section 17a-50 of the General Statutes.

(Effective February 8, 1993)

Sec. 17a-50-2. Children's trust fund purpose

The Children's Trust Fund will encourage and support the development of child abuse prevention programs and activities, help strengthen the network of community child protection resources, and expand statewide education and informational activities. The trust fund council shall make recommendations to the commissioner concerning grants to programs. The Department will determine, upon the advice of the trust fund council, the area of concentration for program funding on an annual basis. Preventive services shall include, but not be limited to:

- (a) **Pre and Post-natal Support programs:** to prepare individuals for their roles as parents by providing supports during the prenatal and postnatal periods;
- (b) **Early Childhood Screening and Treatment programs:** to detect and treat health and developmental problems in pre-school and school-aged children;
- (c) **Child Care resources:** to provide regular or occasional child care for families;
- (d) **Parental Self-Help programs:** to provide peer support systems and group activities so that mutual helping networks can be developed;
- (e) **Emergency Services:** to provide immediate support to families in times of crisis. A model comprehensive system should include crisis caretakers, crisis babysitters, crisis nurseries and crisis counseling;
- (f) **Education for Adulthood and Parenting programs:** to equip children, adolescents and young adults with the skills and knowledge to assume the role of parents.

(Effective February 8, 1993)

Sec. 17a-50-3. Program management

Program management of the Children's Trust Fund shall be the responsibility of the Department's Division of Planning and Program Development. Programs and other activities which are within the purposes stated in Section 17a-50-2 shall be eligible for consideration and subject to availability of funding.

(Effective February 8, 1993)

Sec. 17a-50-4. Fiscal management

The fiscal management of the Children's Trust Fund shall be the responsibility of the Department's Division of Fiscal Services. There shall be an annual audit of the trust fund in a manner prescribed by the comptroller's office.

(Effective February 8, 1993)

Sec. 17a-50-5. Donations of gifts or grants

The Division of Fiscal Services will establish and maintain a segregated account with the approval of the Treasurer and the Comptroller in accordance with Section 4-33, Connecticut General Statutes, which will include monies donated by private individuals, agencies and corporations for this purpose. This account may accrue interest. The Department will accept and receive, on behalf of the account, any bequest, devise or grant for use in carrying out the purposes of the Children's Trust Fund. Information pertaining to the donation of gifts or grants to the Children's Trust Fund may be obtained from the Department's Director of Planning and Program Development, 170 Sigourney Street, Hartford, Connecticut 06105.

(Effective February 8, 1993)

Sec. 17a-50-6. Requests for funding

Information and application requests shall be obtained from the Department's Division of Planning and Program Development, 170 Sigourney Street, Hartford, Connecticut 06105.

(Effective February 8, 1993)

Sec. 17a-50-7. Eligibility for program funding

The Department, in making allocations shall consider the following eligibility requirements:

- (a) the applicant must document ability to provide program services and/or consultation to organizations and communities regarding the proposed program;
- (b) the applicant must document knowledge and understanding of the clientele to be served and the problems of abuse and neglect and their prevention;
- (c) the applicant must submit a written comprehensive description of how the program activities will be carried out;
- (d) the applicant must document fiscal and general management capabilities including accurate fiscal and program reporting;
- (e) the personnel carrying out the program shall have education and training appropriate to the purposes of the program;
- (f) the applicant shall agree to maintain a complete account of income and expenses subject to audit for a period of three years following the final date of the period for which an award is made, and to submit progress reports, and reports of expenditures and income, as required by the Department.

(Effective February 8, 1993)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Non-Committed Treatment Program

Inclusive Sections

§§ 17a-90(b)-1—17a-90(b)-10

CONTENTS

Sec. 17a-90(b)-1—17a-90(b)-10. Repealed

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§

Non-Committed Treatment Program

Sec. 17a-90(b)-1—17a-90(b)-10. Repealed

Repealed September 26, 2001.

See § 17a-11.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Fair Hearings

Inclusive Sections

§§ 17a-90-1—17a-90-13

CONTENTS

Sec. 17a-90-1.	Scope of regulations (Repealed)
Sec. 17a-90-2.	Definitions (Repealed)
Sec. 17a-90-3.	Right to a fair hearing (Repealed)
Sec. 17a-90-4.	Fair hearings on medical benefits (Repealed)
Sec. 17a-90-5.	Written notice of department action and right to a fair hearing (Repealed)
Sec. 17a-90-6.	Request for a fair hearing (Repealed)
Sec. 17a-90-7.	Continuation of benefits pending a fair hearing decision (Repealed)
Sec. 17a-90-8.	Agreement to reduce, suspend or discontinue benefits (Repealed)
Sec. 17a-90-9.	Scheduling of fair hearing (Repealed)
Sec. 17a-90-10.	Procedures and conduct of the fair hearing (Repealed)
Sec. 17a-90-11.	Confidentiality of case records (Repealed)
Sec. 17a-90-12.	Record of the fair hearing (Repealed)
Sec. 17a-90-13.	Disposition and decision (Repealed)

Fair Hearings

Sec. 17a-90-1. Scope of regulations (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-90-2. Definitions (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-90-3. Right to a fair hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-90-4. Fair hearings on medical benefits (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-90-5. Written notice of department action and right to a fair hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-90-6. Request for a fair hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-90-7. Continuation of benefits pending a fair hearing decision (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-90-8

Department of Children and Families

Sec. 17a-90-8. Agreement to reduce, suspend or discontinue benefits (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-90-9. Scheduling of fair hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-90-10. Procedures and conduct of the fair hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-90-11. Confidentiality of case records (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-90-12. Record of the fair hearing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-90-13. Disposition and decision (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Removal Hearings—Removal of a Child From a Foster Home

Inclusive Sections

§§ 17a-98-1—17a-98-9

CONTENTS

Sec. 17a-98-1—17a-98-9. Repealed

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§

Removal Hearings—Removal of a Child From a Foster Home

Sec. 17a-98-1—17a-98-9. Repealed

Repealed February 20, 1997.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Removal Hearings for Out of Home Care Providers

Inclusive Sections

§§ 17a-100-1—17a-100-14

CONTENTS

Sec. 17a-100-1.	Scope of regulations (Repealed)
Sec. 17a-100-2.	Definitions (Repealed)
Sec. 17a-100-3.	Removal hearing (Repealed)
Sec. 17a-100-4.	Removal hearing procedures (Repealed)
Sec. 17a-100-5.	Request for removal hearing (Repealed)
Sec. 17a-100-6.	Denial of a request for a removal hearing (Repealed)
Sec. 17a-100-7.	Removal hearing deferred pending licensing action (Repealed)
Sec. 17a-100-8.	Scheduling the removal hearing (Repealed)
Sec. 17a-100-9.	Pre-hearing conference for a removal hearing (Repealed)
Sec. 17a-100-10.	Conduct of the removal hearing (Repealed)
Sec. 17a-100-11.	Party and intervenor status in removal hearings (Repealed)
Sec. 17a-100-12.	The removal hearing record (Repealed)
Sec. 17a-100-13.	The removal hearing decision (Repealed)
Sec. 17a-100-14.	The independent evaluator in a removal hearing (Repealed)

Removal Hearings for Out of Home Care Providers

Sec. 17a-100-1. Scope of regulations (Repealed)

Repealed June 11, 2014.

(Effective February 20, 1997; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-100-2. Definitions (Repealed)

Repealed June 11, 2014.

(Effective February 20, 1997; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-100-3. Removal hearing (Repealed)

Repealed June 11, 2014.

(Effective February 20, 1997; Amended May 10, 1999; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-100-4. Removal hearing procedures (Repealed)

Repealed June 11, 2014.

(Effective February 20, 1997; Amended May 10, 1999; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-100-5. Request for removal hearing (Repealed)

Repealed June 11, 2014.

(Effective February 20, 1997; Amended May 10, 1999; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-100-6. Denial of a request for a removal hearing (Repealed)

Repealed June 11, 2014.

(Effective February 20, 1997; Amended May 10, 1999; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-100-7. Removal hearing deferred pending licensing action (Repealed)

Repealed June 11, 2014.

(Effective February 20, 1997; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-100-8

Department of Children and Families

Sec. 17a-100-8. Scheduling the removal hearing (Repealed)

Repealed June 11, 2014.

(Effective February 20, 1997; Amended May 10, 1999; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-100-9. Pre-hearing conference for a removal hearing (Repealed)

Repealed June 11, 2014.

(Effective February 20, 1997; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-100-10. Conduct of the removal hearing (Repealed)

Repealed June 11, 2014.

(Effective February 20, 1997; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-100-11. Party and intervenor status in removal hearings (Repealed)

Repealed June 11, 2014.

(Effective February 20, 1997; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-100-12. The removal hearing record (Repealed)

Repealed June 11, 2014.

(Effective February 20, 1997; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-100-13. The removal hearing decision (Repealed)

Repealed June 11, 2014.

(Effective February 20, 1997; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-100-14. The independent evaluator in a removal hearing (Repealed)

Repealed June 11, 2014.

(Effective February 20, 1997; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Reports of Child Abuse or Neglect

Inclusive Sections

§§ 17a-101(e)-1—17a-101(e)-6

CONTENTS

Sec. 17a-101(e)-1.	Scope of regulations (Repealed)
Sec. 17a-101(e)-2.	Definitions (Repealed)
Sec. 17a-101(e)-3.	Reports of child abuse or neglect (Repealed)
Sec. 17a-101(e)-4.	Investigation of reports of child abuse or neglect by the department (Repealed)
Sec. 17a-101(e)-5.	Notification of law enforcement agencies—removal of child from the home—child to remain in own home (Repealed)
Sec. 17a-101(e)-6.	Termination of protective services (Repealed)

Reports of Child Abuse or Neglect

Sec. 17a-101(e)-1. Scope of regulations (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-101(e)-2. Definitions (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-101(e)-3. Reports of child abuse or neglect (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-101(e)-4. Investigation of reports of child abuse or neglect by the department (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-101(e)-5. Notification of law enforcement agencies—removal of child from the home—child to remain in own home (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-101(e)-6. Termination of protective services (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Use and Operation of the Child Abuse and Neglect Registry

Inclusive Sections

§§ 17a-101-1—17a-101-13

CONTENTS

Sec. 17a-101-1—17a-101-10.	Repealed
Circumstances Requiring Immediate Removal of a Child from his/her Home 96-Hour Hold	
Sec. 17a-101-11.	Scope of regulations (Repealed)
Sec. 17a-101-12.	Circumstances requiring immediate removal (Repealed)
Sec. 17a-101-13.	Procedures for immediate removal (Repealed)

Use and Operation of the Child Abuse and Neglect Registry

Sec. 17a-101-1—17a-101-10. Repealed

Repealed November 7, 2008.

Circumstances Requiring Immediate Removal of a Child from his/her Home 96-Hour Hold

Sec. 17a-101-11. Scope of regulations (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-101-12. Circumstances requiring immediate removal (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-101-13. Procedures for immediate removal (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

Agency
Department of Children and Families
Subject
Child Abuse and Neglect Registry
Inclusive Sections
§§ 17a-101k-1—17a-101k-16

CONTENTS

Sec. 17a-101k-1.	Definitions
Sec. 17a-101k-2.	Notice of substantiation or listing on central registry
Sec. 17a-101k-3.	Criteria for registry finding that individual responsible for abuse or neglect of a child poses a risk to the health, safety or well-being of children
Sec. 17a-101k-4.	Request for internal review
Sec. 17a-101k-5.	Conduct of the internal review
Sec. 17a-101k-6.	Request for an administrative hearing
Sec. 17a-101k-7.	Scheduling the administrative hearing
Sec. 17a-101k-8.	Conduct of the administrative hearing
Sec. 17a-101k-9.	The administrative hearing record
Sec. 17a-101k-10.	The administrative hearing decision
Sec. 17a-101k-11.	Reconsideration and appeal
Sec. 17a-101k-12.	Substantiations prior to May 1, 2000
Sec. 17a-101k-13.	Disclosure
Sec. 17a-101k-14.	Disclosure pending appeal
Sec. 17a-101k-15.	Access to the central registry
Sec. 17a-101k-16.	Expunged reports and investigations

Child Abuse and Neglect Registry

Sec. 17a-101k-1. Definitions

As used in sections 17a-101k-1 to 17a-101k-16, inclusive, of the Regulations of Connecticut State Agencies:

- (1) “Department” means Department of Children and Families;
- (2) “Commissioner” means the Commissioner of the Department of Children and Families;
- (3) “Child” means any person under eighteen (18) years of age;
- (4) “Reports of child abuse or neglect” or “referrals” means complaints received by the department alleging that a person under the age of eighteen (18) has had physical injury or injuries inflicted upon him or her by a person responsible for such child’s health, welfare or care, by a person entrusted with the care of such child, or by a person given access to such child, other than by accidental means or has injuries that are at variance with the history given of them, or is in a condition that is the result of maltreatment such as, but not limited to, malnutrition, sexual abuse, sexual exploitation, deprivation of necessities, emotional maltreatment, or cruel punishment, or has been abandoned or is being denied proper care and attention, physically, educationally, emotionally, or morally, or is being permitted to live under conditions, circumstances or associations injurious to his or her well-being;
- (5) “A person responsible for such child’s health, welfare or care” means a child’s or youth’s parent, guardian or foster parent; an employee of a public or private residential home, agency or institution or other person legally responsible in a residential setting, or any staff person providing out-of-home care, including center-based child day care, family day care or group day care;
- (6) “A person entrusted with the care of a child” means a person given access to a child by a person responsible for the health, welfare or care of a child for the purpose of providing education, child care, counseling, spiritual guidance, coaching, training, instruction, tutoring or mentoring of such child;
- (7) “A person given access to a child” means a person who is permitted to have personal interaction with a child by a person responsible for such child’s health, welfare or care or a person entrusted with the care of a child under circumstances in which the person responsible for such child’s health, welfare or care or the person entrusted with the care of a child has a reasonable expectation that the person given access will exercise some responsibility, control, influence or supervisory role with the child;
- (8) “Guardian” means the person who has the obligation of care and control, the right to custody, and the duty and authority to make major decisions affecting a minor’s welfare;
- (9) “Hotline” means the Department of Children and Families’ centralized intake unit which receives all reports of child abuse or neglect made to the department;
- (10) “Individual responsible” means a person substantiated by the department, after an investigation of a report of child abuse or neglect, as a perpetrator of abuse or neglect;
- (11) “Substantiated” means that the department has found after investigation of a report, pursuant to section 17a-101g of the Connecticut General Statutes, that there is reasonable

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-101k-2

Department of Children and Families

cause to believe that child abuse or neglect has occurred and that a specific person is the individual responsible for an act or acts of child abuse or neglect;

(12) “Substantiation” means the designation given by the department to a report of alleged child abuse or neglect that has been substantiated after investigation;

(13) “Registry finding” means the determination by the commissioner or the commissioner’s designee, based on a standard of reasonable cause, that a person who has been substantiated as an individual responsible for abuse or neglect of a child poses a risk to the health, safety or well-being of children consistent with the requirements of subsection (b) of section 17a-101g of the Connecticut General Statutes and sections 17a-101k-1 to 17a-101k-16, inclusive, of the Regulations of Connecticut State Agencies;

(14) “Central registry” or “registry” means the confidential data file maintained as part of the department’s computerized database, of persons who have been substantiated as individuals responsible for an act or acts of child abuse or neglect and for whom the commissioner has made a determination, based upon a standard of reasonable cause, that the individual poses a risk to the health, safety or well-being of children; and

(15) “Expunged” means the deletion from the department’s computerized database of unsubstantiated reports and the associated investigation protocols five years from the completion of the last unsubstantiated allegation provided that no referrals have been made on the case and there are no other substantiated reports.

(Adopted effective November 7, 2008)

Sec. 17a-101k-2. Notice of substantiation or listing on central registry

(a) Any person: (1) who has been substantiated as an individual responsible for child abuse or neglect pursuant to section 17a-101g of the Connecticut General Statutes; (2) against whom a registry finding is made that the person’s name should be entered in the central registry; or (3) who is a parent or guardian of a child who has been substantiated as an individual responsible for the abuse or neglect of a child shall be informed of any such substantiation or registry finding by the department not later than five (5) business days after the date of the substantiation or registry finding by first class mail sent to the person’s last known address.

(b) The notification required under subsection (a) of this section shall include: (1) the name of the child abused or neglected; (2) the date of the report; (3) the date of the substantiation; (4) the name of the individual responsible; (5) a short and plain description of the type of abuse or neglect alleged; and (6) the steps that shall be followed to request an internal review of the substantiation.

(c) The notification required under subsection (a) of this section shall also: (1) inform the individual responsible for the abuse or neglect of the existence of the registry; (2) if applicable, the registry finding that the individual’s name should be entered on the central registry, and the commissioner’s intention to enter the name of the individual responsible on the registry unless the individual exercises the right to appeal the registry finding; (3) inform the individual responsible of the adverse consequences of being entered on the

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-101k-3

registry, including, but not limited to, the potential effect on the individual obtaining or retaining employment, licensure or engaging in activities involving direct contact with children; and (4) inform the individual responsible of his or her right to administrative procedures to contest the registry finding as provided in sections 17a-101k-1 to 17a-101k-16, inclusive, of the Regulations of Connecticut State Agencies.

(d) The notification required under subsection (a) of this section shall also include a written form for the individual responsible to sign and return to the department, indicating whether the individual intends to invoke the internal review provided for in section 17a-101k-4 of the Regulations of Connecticut State Agencies.

(e) Any person or entity that denies employment, licensing or certification to an individual based on the results of a search of the department's central registry shall inform the individual who is denied employment, licensing or certification that such individual's name is entered on the central registry. The department shall instruct persons, agencies or other public or private entities requesting a background check for employment, licensing or certification purposes that: (1) they shall inform the subject of the background check that he or she is entered in the central registry, as an individual responsible for abuse or neglect; and (2) the subject may be able to contest the substantiation and registry finding pursuant to sections 17a-101k-1 to 17a-101k-16, inclusive, of the Regulations of Connecticut State Agencies.

(Adopted effective November 7, 2008)

Sec. 17a-101k-3. Criteria for registry finding that individual responsible for abuse or neglect of a child poses a risk to the health, safety or well-being of children

(a) In order to enter the name of an individual responsible on the central registry, the commissioner, or the commissioner's designee, shall make a determination that: (1) child abuse or neglect has occurred; (2) there is an identifiable individual responsible for abuse or neglect; (3) the individual responsible poses a risk to the health, safety or well-being of children; and (4) the name of the individual responsible should be listed on the central registry, provided that the individual's name shall not actually appear on the registry until the exhaustion or waiver of all available administrative appeals, except as provided in subsection (d) of section 17a-101g of the Connecticut General Statutes.

(b) A person shall be deemed to pose a risk to the health, safety or well-being of children, and listed on the central registry, when: (1) the child abuse or neglect resulted in or involves (A) the death of a child, (B) the risk of serious physical injury of a child, or (C) the serious physical or emotional harm of a child; (2) the substantiation is for sexual abuse and the individual responsible is over sixteen (16) years of age; (3) there is a second substantiation for physical or emotional abuse; (4) the individual responsible for physical or emotional abuse is a person entrusted with the care of a child within the meaning of section 17a-101k-1(6) of the Regulations of Connecticut State Agencies; (5) the individual responsible is arrested for the act of abuse or neglect that is substantiated; or (6) a petition alleging that a child is neglected or uncared for, or a petition alleging grounds for the termination of

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-101k-3

Department of Children and Families

parental rights pursuant to section 46b-129 or section 17a-112 of the Connecticut General Statutes respectively, and based at least in part on the allegations that form the basis of the substantiation, is pending in Superior Court or on appeal.

(c) In all other cases in which the department substantiates abuse or neglect by an individual responsible, and the individual responsible is not recommended for entry on the central registry pursuant to subsection (b) of this section, the investigator shall review the case to determine whether the individual responsible poses a risk to the health, safety and well-being of children and should be listed on the central registry.

(d) In cases reviewed for a determination of risk to the health, safety and well-being of children as set forth in subsection (c) of this section, the criteria applied by the investigator shall include, where applicable: (1) whether the abuse or neglect was related to medically-defined malnutrition or failure to thrive and the individual responsible could reasonably be expected to have had sufficient knowledge about the basic nutritional needs of the victim; (2) whether there is evidence of cruelty by the individual responsible for the abuse or neglect; (3) whether there is information that would lead to the conclusion that the individual responsible had reason to know that his or her acts or statements were cruel and unconscionable; (4) whether the individual responsible could have reasonably been expected to know that his or her acts or statements would be detrimental to the child's health, safety or well-being; (5) regardless of the intent of the individual responsible, the severity, chronicity, or the use of force involved in the neglect or abuse; (6) whether the individual responsible could have been reasonably expected to know that his or her actions had a high likelihood of resulting in serious injury to the victim; (7) if the neglect or abuse resulted in death, rendering unconscious, concussion, internal head injury, lasting physical impairment of the normal functioning of the child, or from the perspective of qualified medical personnel, the necessity for immediate medical attention for the victim; (8) if there was information that reasonably led to the conclusion that the substantiated neglect or abuse was not an isolated incident; (9) the amount of force used leading to the abuse or neglect of the child was unreasonable given the age, size or intellectual capacity of the child; and (10) whether the impact on the child is likely to be of lasting duration.

(e) In cases of neglect, in addition to the criteria set forth in subsection (d) of this section, the investigator, shall consider the intent, severity, chronicity and behavioral health or domestic violence concerns based on a review of the abuse or neglect that led to the substantiation, including, but not limited to if: (1) there was reason to believe that the individual responsible had sufficient knowledge and resources, the ability to utilize them and an understanding of the implications for failing to provide appropriate care, but made a conscious decision not to do so; (2) there was an adverse impact to the victim, or a serious disregard for the victim's welfare; (3) there is a pattern or chronic nature to the neglect regardless of the measurable impact to the victim; (4) there was a previous substantiation of neglect by the individual responsible for the current abuse or neglect for an incident or conduct unrelated to the current incident or conduct; or (5) substance abuse or domestic violence was a significant contributing factor in the substantiation and the individual

responsible refused to acknowledge that factor, refused to take responsibility for the resulting conduct or failed to provide a viable plan to address the contributing factor.

(f) In cases of physical abuse, in addition to the criteria set forth in subsections (d) and (e) of this section, the investigator shall consider factors including: (1) the intent of the individual responsible, including but not limited to, the intent to cause physical harm; or (2) the severity of the impact on the child.

(g) In cases of sexual abuse, in addition to the criteria set forth in subsections (d) and (e) of this section, the investigator shall consider whether the individual responsible was under the age of sixteen (16) years, and whether an evaluation has been conducted by a licensed evaluator with expertise in determining the risk of re-offending who has concluded that the individual responsible is at moderate to high risk of re-offending.

(h) No individual shall be recommended for entry on the central registry if the only substantiated allegation is educational neglect.

(Adopted effective November 7, 2008)

Sec. 17a-101k-4. Request for internal review

(a) Any person: (1) who has been substantiated as an individual responsible for child abuse or neglect; (2) against whom a determination is made that the individual's name should be entered on the central registry; or (3) who is the parent or guardian of a child who has been substantiated as an individual responsible for child abuse or neglect, and who disagrees with such substantiation or registry finding may request an internal review of the substantiation or registry finding.

(b) To request an internal review, the individual responsible or his or her legal representative shall make such request in writing or return the form provided pursuant to subsection (d) of section 17a-101k-2 of the Regulations of Connecticut State Agencies to the department office or unit that conducted the investigation not later than thirty (30) days after the date of the notification letter sent by the department pursuant to section 17a-101k-2 of the Regulations of Connecticut State Agencies.

(c) A request for an internal review shall be denied by the department when a criminal court proceeding has been finally disposed with a factual determination by the court that the identified person committed the act of child abuse or neglect that is the subject of the substantiation.

(d) A request for an internal review shall be denied by the department when a civil court proceeding has been finally disposed with a factual determination by the court that the identified person committed the act of child abuse or neglect that is the subject of the substantiation.

(e) An internal review shall be deferred pending disposition of any criminal court proceeding arising from the allegation of child abuse or neglect which is the subject of the internal review unless the individual responsible files a written objection to such deferral.

(f) An internal review shall be deferred pending disposition of any civil court proceeding arising from the allegation of child abuse or neglect which is the subject of the internal

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-101k-5

Department of Children and Families

review.

(Adopted effective November 7, 2008)

Sec. 17a-101k-5. Conduct of the internal review

(a) Upon timely receipt by the department office or unit that conducted the abuse or neglect investigation of a request for an internal review of a substantiation or registry finding, the office or unit's designated reviewer shall commence a review of the case to determine whether the substantiation or registry finding is factually or legally deficient and ought to be reversed.

(b) Prior to the completion of the internal review, the department shall provide the individual responsible with all relevant documents in the possession of the department regarding the substantiation or registry finding as provided in subdivision (1) of subsection (c) of section 17a-101k of the Connecticut General Statutes.

(c) Such review shall be completed not later than thirty (30) days after receipt of such request for an internal review and shall consist of a review of all relevant information relating to the substantiation or registry finding, including any documentation submitted by the individual responsible or his or her representative for purposes of the review. Additionally, such review may, in the discretion of the reviewer, include a telephone conference or face-to-face meeting with the individual responsible conducted for the purpose of gathering additional relevant information.

(d) Notwithstanding the foregoing, a registry finding based solely on an arrest as set forth in subdivision (5) of subsection (b) of section 17a-101k-3 of the Regulations of Connecticut State Agencies or a petition as set forth in subdivision (6) of subsection (b) of 17a-101k-3 of the Regulations of Connecticut State Agencies shall be reversed upon a showing that the criminal or civil case was finally disposed without a factual determination by a court that the individual responsible committed the act of child abuse or neglect that is the subject of the substantiation.

(e) If the designated reviewer determines the substantiation or registry finding is factually or legally deficient, he or she shall direct that the substantiation or registry finding be reversed and shall take action to assure that the department's records are amended and such substantiation or registry finding is reversed. The individual requesting the review shall be informed of such reversal by certified mail not later than five (5) days after such determination. The department's records shall be amended with reasonable immediacy.

(f) If the designated reviewer determines the substantiation or registry finding is legally and factually sufficient, the reviewer shall inform the individual responsible by certified mail not later than five (5) days after such determination.

(g) The written notice given pursuant to subsection (f) of this section shall include: (1) a reference to sections 17a-101k-1 to 17a-101k-16, inclusive, of the Regulations of Connecticut State Agencies; (2) the department's grounds for the substantiation; (3) the registry finding, if applicable; (4) the right of the individual responsible to request an administrative hearing; (5) how the individual responsible shall apply for an administrative

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-101k-7

hearing; and (6) notice that the request for an administrative hearing shall be made not later than thirty (30) days after receipt of the notice by the individual responsible.

(h) A copy of the notice provided to the individual responsible shall be maintained in the case record.

(i) If the department fails to conduct an internal review not later than thirty (30) days after receipt of a timely request for such review, the individual responsible, or parent or guardian of an individual responsible who is a minor, may request an administrative hearing from the department administrative hearings unit.

(Adopted effective November 7, 2008)

Sec. 17a-101k-6. Request for an administrative hearing

(a) Any person: (1) who has been substantiated as an individual responsible for child abuse or neglect; (2) against whom a registry finding is made; or (3) who is the parent or guardian of a child who has been substantiated as an individual responsible for child abuse or neglect, and has received notice of the decision reached after an internal review as provided in section 17a-101k-5 of the Regulations of Connecticut State Agencies, or who has timely requested an internal review and has not received a decision pursuant to subsection (i) of section 17a-101k-5 of the Regulations of Connecticut State Agencies, may request an administrative hearing to contest the department's decisions.

(b) The request shall be made by the individual responsible or his or her legal representative sending a written request for an administrative hearing to the commissioner not later than thirty (30) days after the receipt of the decision reached after an internal review or, in the case in which the department has failed to timely conduct an internal review, at any time thirty one (31) or more days after sending the request for an internal review.

(Adopted effective November 7, 2008)

Sec. 17a-101k-7. Scheduling the administrative hearing

(a) The administrative hearing shall be scheduled by the department not later than thirty (30) days after the date the request is received by the commissioner. Notice of the hearing date shall be provided in accordance with section 4-177 of the Connecticut General Statutes.

(b) The administrative hearing shall be held in the office of the department or unit that conducted the investigation or another location designated by the commissioner or designee.

(c) An administrative hearing shall not be continued or postponed except when requested in writing and for good cause shown as determined by the hearing officer.

(d) An administrative hearing may be consolidated with any other reasonably-related department administrative hearings at the discretion of the commissioner or designee.

(e) The hearing officer may dismiss an administrative hearing if the individual responsible, without good cause shown, fails to attend a hearing after receiving notice.

(f) An administrative hearing may be deferred pending disposition of any civil court proceeding arising from or including the incident of abuse or neglect that is the subject of the administrative hearing.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-101k-8

Department of Children and Families

(g) An administrative hearing may be deferred pending disposition of any criminal court proceeding arising from or including the incident of abuse or neglect that is the subject of the administrative hearing unless the individual responsible files a written objection to such deferral.

(h) A request for an administrative hearing shall be denied and the registry finding shall be confirmed in accordance with subsection (b) of section 17a-101k-3 of the Regulations of Connecticut State Agencies by the department when a criminal court proceeding has been finally disposed with a factual determination by the court that the individual responsible committed the act of child abuse or neglect that is the subject of the substantiation.

(i) A request for an administrative hearing shall be denied by the department when a civil court proceeding has been finally disposed with a factual determination by the court that the identified person committed the act of child abuse or neglect that is the subject of the substantiation. Notwithstanding the foregoing, the department shall proceed with an administrative hearing for the sole purpose of determining the legal sufficiency of the registry finding in any civil case that does not result in a factual determination that at least one of the circumstances listed in subsection (b) of section 17a-101k-3 of the Regulations of Connecticut State Agencies exists.

(Adopted effective November 7, 2008)

Sec. 17a-101k-8. Conduct of the administrative hearing

(a) The administrative hearing shall be conducted by a hearing officer designated by the commissioner or designee. The agency's case may be presented by any agency employee or other designee of the commissioner. The person requesting the hearing may be represented by legal counsel, except that the department shall have no obligation to appoint or retain counsel for any person.

(b) The hearing officer shall have the power to administer oaths and affirmations, subpoena witnesses and require the production of records, physical evidence, papers and documents to any hearing held in the case.

(c) The hearing officer shall have the authority to limit witnesses and take any other necessary actions that will facilitate the hearing process.

(d) No pre-hearing discovery shall be permitted except for the opportunity to inspect and copy relevant and material records, papers and documents.

(e) The department may amend its allegation(s) at any time prior to or at the start of the hearing, provided that such amendment is in writing and that the appellant shall be granted, upon request, a continuance for the purpose of preparing a response to the amended allegation(s).

(f) The department's investigative record including protocol, medical records and other materials used to substantiate abuse or neglect or to make the registry finding, and any relevant documents submitted to the department by the individual responsible for use during the internal review shall be admitted as part of the hearing record.

(g) Any oral or documentary evidence may be received provided: (1) the hearing officer

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-101k-9

shall limit or exclude any evidence that is irrelevant, immaterial or unduly repetitious; (2) the hearing officer shall recognize the rules of privilege governing confidential professional communications; (3) when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form; (4) documentary evidence may be received in the form of copies or excerpts, if the original is not readily available, and, upon request, parties shall be given an opportunity to compare the copy with the original; (5) notice may be taken of generally recognized technical or scientific facts within common knowledge or the agency's specialized knowledge; (6) parties shall be notified in a timely manner of any material noticed, including any agency memoranda or data, and they shall be afforded an opportunity to contest the material so noticed; (7) the agency's experience, technical compliance, and specialized knowledge may be used in the evaluation of the evidence; (8) all parties and their attorneys shall be permitted to examine all records and documents introduced by the parties to the hearing. Should any record or document that a party was not permitted to examine in advance of the hearing be introduced, that party may request a continuance, which may be granted at the discretion of the hearing officer, to allow the requesting party an opportunity to prepare a response to the record or document; and (9) a party may present evidence and argument in support of his position on all issues involved and cross-examine witnesses presented by the opposing party or parties.

(h) The abused or neglected child who is the subject of the substantiation shall not testify in an administrative hearing while that child is still a minor.

(i) The full proceedings of administrative hearings shall be audio recorded.

(j) In an administrative hearing, the burden of proof shall be on the department to prove by a fair preponderance of the evidence submitted at the hearing, that (1) the allegations of at least one substantiation; and (2) if applicable, the registry finding, was based on the proper application of the criteria set forth in section 17a-101k-3 of the Regulations of Connecticut State Agencies.

(k) The hearing shall be limited to the evidence available to the department at the time of the internal review, except that a party may be permitted to introduce additional evidence if the hearing officer finds, after an offer of proof, that the additional evidence is relevant and material, that the introduction of such evidence will promote the interests of justice, and that, in the exercise of due diligence, the additional evidence could not have been available to and considered by the department during the investigation or by the internal reviewer.

(Adopted effective November 7, 2008)

Sec. 17a-101k-9. The administrative hearing record

The record shall include: (1) written notices related to the case; (2) all petitions, pleadings, motions and intermediate rulings, if any; (3) evidence received or considered; (4) questions and offers of proof, objections and rulings thereon; (5) the official recording of the

proceedings; and (6) the final decision.

(Adopted effective November 7, 2008)

Sec. 17a-101k-10. The administrative hearing decision

(a) The administrative hearing decision shall be a final decision, pursuant to section 4-179 of the Connecticut General Statutes, unless designated in writing as a proposed decision by the commissioner or designee.

(b) The hearing officer shall be responsible for preparing the memorandum of final decision that shall be mailed not later than thirty (30) days after the conclusion of the hearing to the: (1) parties or their attorneys; (2) the department Bureau Chief for Child Welfare; (3) administrative, legal and casework staff involved in the investigation, internal review and hearing; and (4) the hearings unit file.

(c) The memorandum of final decision shall contain: (1) the names of the persons present, except that the name of an individual responsible, a victim and any nonprofessional witnesses, shall be represented by first name and last initial or other pseudonym; (2) the provisions of law, regulation and policy applicable to the case; (3) findings of fact; and (4) conclusions of law on which the decision is based. Other information that tends to identify persons whose names are represented by pseudonym shall, wherever possible, be edited in such a manner as to protect the confidentiality of those persons.

(d) If the hearing officer reverses the substantiation decision or the registry finding, the hearing officer shall direct that the department's records be amended with reasonable immediacy.

(Adopted effective November 7, 2008)

Sec. 17a-101k-11. Reconsideration and appeal

(a) Any request for reconsideration of a final decision is governed by section 4-181a of the Connecticut General Statutes.

(b) Any individual found to be responsible for abuse or neglect who is aggrieved by the final decision of the hearing officer may appeal the final decision to the superior court in accordance with section 4-183 of the Connecticut General Statutes. Such individual may also seek a stay of the adverse decision of the hearing officer's final decision from the commissioner in accordance with subsection (f) of section 4-183 of the Connecticut General Statutes.

(Adopted effective November 7, 2008)

Sec. 17a-101k-12. Substantiations prior to May 1, 2000

A person may appeal a substantiation of abuse or neglect made by the department prior to May 1, 2000, by sending a written request for an internal review to the department, unless such substantiation has already been appealed.

(Adopted effective November 7, 2008)

Sec. 17a-101k-13. Disclosure

(a) Information about an investigation, a substantiation or the name of a person entered on the central registry may only be disclosed outside the department in accordance with sections 17a-28 and 17a-101a to 17a-101k, inclusive, of the Connecticut General Statutes or as otherwise permitted by law.

(b) The factual allegations underlying an investigation, whether or not there is a substantiation or a registry finding, may be included in a petition filed by the commissioner pursuant to section 17a-112, 45a-715 or 46b-129 of the Connecticut General Statutes, or an action to revoke a license issued by a state agency, or as may otherwise be permitted by law, so long as the agency disclosing such factual allegations also discloses whether the person was substantiated or unsubstantiated as a individual responsible for abuse or neglect, or whether the investigation is ongoing.

(c) In response to a lawful request for a background check for purposes of eligibility for employment, licensure, or benefits, the department unit conducting the background check shall disclose only the following information: (1) whether the person's name is entered on the central registry, and, if so, (2) the substantiated allegations of abuse or neglect, and (3) the date(s) of the investigation(s). If the person's name is entered on the central registry, the department unit conducting the background check may also refer the requestor to the department office or unit that conducted the investigation for further information as authorized by law. If the requestor is the Department of Public Health or Department of Social Services, the department shall provide the investigation file, if requested.

(d) In response to a lawful request for a background check for purposes of eligibility for employment, licensure or benefits, the department shall not disclose: (1) the existence of an unsubstantiated allegation of abuse or neglect; (2) a substantiated allegation of abuse or neglect that has been appealed if the appeal is pending, except as provided in section 17a-101k-14 of the Regulations of Connecticut State Agencies; (3) a substantiated allegation of abuse or neglect, if the time frame for requesting an appeal has not yet expired; or (4) a substantiated allegation of abuse or neglect if the individual responsible was not deemed a risk to the health, safety or well-being of children and the individual's name was not listed on the central registry.

(e) If a lawful request for a background check for purposes of eligibility for employment, licensure or benefits reveals that the name of the subject of the background check is entered on the central registry, the department shall instruct the person, agency or other public or private entity requesting the background check that: (1) they shall inform the subject of the background check that his or her name is entered on the central registry; and (2) the subject may be eligible to appeal the registry finding and underlying substantiation pursuant to sections 17a-101k-1 to 17a-101k-16, inclusive, of the Regulations of Connecticut State Agencies.

(f) Any request for information concerning a child abuse or neglect investigation, or concerning records about an individual responsible, other than a background check for purposes of eligibility for employment, licensure or benefits, shall be processed by the

department office or unit responsible for the investigation in accordance with sections 17a-28 and 17a-101a to 17a-101k, inclusive, of the Connecticut General Statutes or as otherwise permitted by law.

(Adopted effective November 7, 2008)

Sec. 17a-101k-14. Disclosure pending appeal

(a) If the department receives a request for a background check of an individual responsible before the time for requesting an internal review or administrative hearing has expired or while an appeal is pending, the department shall not disclose any information concerning the pending matter, except if the child abuse or neglect resulted in or involves: (1) the death of a child; (2) the risk of serious physical injury or emotional harm of a child; (3) the serious physical harm of a child; (4) the arrest of the person due to abuse or neglect of a child; (5) the filing, by the commissioner, of a neglect or termination of parental rights petition; or (6) sexual abuse of a child.

(b) A substantiated allegation of child abuse or neglect that has been appealed and deferred because of a pending court matter shall not be disclosed while the court matter is pending except as provided in subsection (a) of this section. It shall be the responsibility of the individual responsible to notify the department that the court matter is no longer pending and that the individual responsible would like to proceed with the appeal. If the individual responsible does not notify the department no later than three (3) years after the date of deferral of the appeal, the individual's name shall be entered on the central registry without further notice, if such registry finding was made in the original investigation.

(Adopted effective November 7, 2008)

Sec. 17a-101k-15. Access to the central registry

(a) The department shall provide for use of the central registry on a twenty-four (24) hour daily basis to prevent or discover abuse of children.

(b) Access to the central registry shall be limited to duly authorized persons for purposes of obtaining information for the investigation of child abuse and neglect, background checks, and other uses as permitted by law.

(c) As permitted by law, prospective employers, licensing authorities and other public agencies, may request background checks for any person, provided they submit the request on a form approved by the department for that purpose, signed by the subject of the background check.

(d) As permitted by law, Connecticut state agencies may request background checks under certain circumstances without signed releases pursuant to section 17a-28 of the Connecticut General Statutes.

(Adopted effective November 7, 2008)

Sec. 17a-101k-16. Expunged reports and investigations

Reports of neglect and abuse that were not accepted for investigation by the Hotline shall

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-101k-16

be kept for sixty (60) days from the date the report is received and then expunged. Reports of neglect and abuse that have been investigated and not substantiated shall be kept for five (5) years from the completion date of the investigation and then expunged. If the department has received more than one report on a person, and they are all unsubstantiated, they shall be expunged five (5) years from the completion date of the most recent investigation. Unsubstantiated investigations shall not be expunged if the person has been substantiated as an individual responsible for abuse or neglect in any other investigation. Reports of neglect and abuse that have been investigated and substantiated shall be kept in the department's computerized database and hard copy record indefinitely, regardless of whether or not the person has been determined to pose a risk to the health, safety and well-being of children and has been entered on the central registry.

(Adopted effective November 7, 2008)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Relative Licensing

Inclusive Sections

§§ 17a-114-1—17a-114-25

CONTENTS

Sec. 17a-114-1—17a-114-13.	Repealed
Certification of Relatives Providing Foster Care to a Related Child	
Sec. 17a-114-14.	Scope of regulations (Repealed)
Sec. 17a-114-15.	Definitions. As used in sections 17a-114-14 to 17a-114-25 (Repealed)
Sec. 17a-114-16.	Placement of a related child in the home of a relative pending certification (Repealed)
Sec. 17a-114-17.	Physical requirements of home. Food. Water. Clothing. Privacy (Repealed)
Sec. 17a-114-18.	Waiver of requirements (Repealed)
Sec. 17a-114-19.	Requirements relating to certified relatives (Repealed)
Sec. 17a-114-20.	Causes for denying certification (Repealed)
Sec. 17a-114-21.	Hearing on denial of certification (Repealed)
Sec. 17a-114-22.	Issuance of certification. Term. Recertification. Not transferable or assignable (Repealed)
Sec. 17a-114-23.	Access of commissioner or designee to premises (Repealed)
Sec. 17a-114-24.	Causes for revocation of certification (Repealed)
Sec. 17a-114-25.	Repealed

Relative Licensing

Sec. 17a-114-1—17a-114-13. Repealed

Repealed March 22, 1995.

Certification of Relatives Providing Foster Care to a Related Child

Sec. 17a-114-14. Scope of regulations (Repealed)

Repealed June 11, 2014.

(Effective March 22, 1995; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-114-15. Definitions. As used in sections 17a-114-14 to 17a-114-25 (Repealed)

Repealed June 11, 2014.

(Effective March 22, 1995; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-114-16. Placement of a related child in the home of a relative pending certification (Repealed)

Repealed June 11, 2014.

(Effective March 22, 1995; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-114-17. Physical requirements of home. Food. Water. Clothing. Privacy (Repealed)

Repealed June 11, 2014.

(Effective March 22, 1995; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-114-18. Waiver of requirements (Repealed)

Repealed June 11, 2014.

(Effective March 22, 1995; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-114-19. Requirements relating to certified relatives (Repealed)

Repealed June 11, 2014.

(Effective March 22, 1995; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-114-20

Department of Children and Families

Sec. 17a-114-20. Causes for denying certification (Repealed)

Repealed June 11, 2014.

(Effective March 22, 1995; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-114-21. Hearing on denial of certification (Repealed)

Repealed June 11, 2014.

(Effective March 22, 1995; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-114-22. Issuance of certification. Term. Recertification. Not transferable or assignable (Repealed)

Repealed June 11, 2014.

(Effective March 22, 1995; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-114-23. Access of commissioner or designee to premises (Repealed)

Repealed June 11, 2014.

(Effective March 22, 1995; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-114-24. Causes for revocation of certification (Repealed)

Repealed June 11, 2014.

(Effective March 22, 1995; Amended May 10, 1999; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-114-25. Repealed

Repealed May 10, 1999.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Subsidized Adoption of Special Needs Children

Inclusive Sections

§§ 17a-116-1—17a-116-14

CONTENTS

Sec. 17a-116-1—17a-116-5.	Repealed
Sec. 17a-116-6.	Scope of regulations
Sec. 17a-116-7.	Definitions
Sec. 17a-116-8.	Criteria for certification as a special needs child
Sec. 17a-116-9.	Types and duration of subsidy
Sec. 17a-116-10.	Amount of periodic subsidy
Sec. 17a-116-11.	When subsidy is granted
Sec. 17a-116-12.	Annual review of the subsidy
Sec. 17a-116-13.	Reapplication for subsidy
Sec. 17a-116-14.	Adoption subsidy review board

Subsidized Adoption of Special Needs Children

Sec. 17a-116-1—17a-116-5. Repealed

Repealed May 10, 1999.

Sec. 17a-116-6. Scope of regulations

The following regulations pertaining to subsidized adoption of special needs children are being adopted to establish and maintain an ongoing program of subsidized adoption.

(Effective March 22, 1994)

Sec. 17a-116-7. Definitions

(a) Department means Department of Children and Families.

(b) Commissioner means the Commissioner of the Department of Children and Families or designee.

(c) Current cost of foster maintenance care means the rates for foster or other family type homes (excluding group homes) including regular, individualized or special rates as established by the Department.

(d) High risk of physical or mental disability refers to a child who does not have a currently diagnosed physical or mental disability but a recognized authority (licensed physician, psychiatrist or psychologist) determines that the child's past experience and present condition or functioning indicate a probability for developing such disability in the future.

(e) Legal dependent means a child who qualifies as a dependent of the adoptive parent(s) under the Internal Revenue Code or as defined by future amendments to the Internal Revenue Code.

(Effective March 22, 1994)

Sec. 17a-116-8. Criteria for certification as a special needs child

(a) The child is a ward of the Commissioner or is to be placed in adoption by a licensed child-placing agency.

(b) The adopting family is approved for adoption placement by the Department or a licensed child-placing agency.

(c) The Commissioner or a licensed child-placing agency determines that a child appropriate for adoption is difficult to place (based on all reasonable efforts consistent with the best interests of the child) because of one or more conditions including, but not limited to:

(1) Physical disability (or high risk of such disability) which presents a barrier to adoption. A written diagnosis and recommendation for treatment must be made by a licensed physician.

(2) Mental disability (or high risk of such disability) which presents a barrier to adoption. A written diagnosis and recommendation for treatment must be made by a licensed

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-116-9

Department of Children and Families

psychiatrist or psychologist.

(3) Serious emotional maladjustment (or a high risk for such maladjustment) as indicated by a written diagnosis made by a licensed psychiatrist or psychologist. The written statement must include recommendation for treatment and prognosis.

(4) Age when considered with other factors in the child's functioning and circumstances present a barrier to adoption.

(5) Racial or ethnic factors when considered with other factors in the child's functioning and circumstances present a barrier to adoption.

(6) Member of a sibling group which should be placed together.

(7) The child has established significant emotional ties with prospective adoptive parents while in their care as a foster child.

(d) Upon determining that the child meets the eligibility criteria, the Commissioner shall certify the child as special needs prior to the finalization of the adoption by the Probate Court except as provided for in Section 17a-116-11 of these regulations.

(Effective March 22, 1994)

Sec. 17a-116-9. Types and duration of subsidy

(a) A written certification of the need for a subsidy shall be made by the Commissioner. The type, amount, and duration of the subsidy shall be mutually agreed to by the Commissioner and the adopting parents prior to the entry of the adoption decree. If the parties fail to agree, the adoptive parents may appeal to the Adoption Subsidy Review Board under Section 17a-116-14 of these regulations.

(b) Upon finalization of the adoption by the Probate Court, the Department will provide one or more of the following subsidies:

(1) a special needs subsidy in the form of a lump sum payment paid directly to the person, institution, or facility providing the required service to meet anticipated costs resulting from the adoption to the extent such costs are not covered by other state and federal programs, health or medical insurance, or other third-party payments.

(2) a periodic subsidy in the form of recurring periodic payment to the adoptive parents. Such payments may continue only until the child reaches the age of 18.

(3) In addition to the subsidy granted as outlined above, any medical benefits which are being provided prior to final approval of the adoption by the Probate Court in accordance with the fee schedule and payment procedures under the State Medicaid program as administered by the Department of Social Services shall continue as long as the child qualifies as a legal dependent of the adoptive parents. However, such medical subsidy may continue only until the child reaches age 21.

(4) In order to avoid duplication of medical coverage, the child determined to be eligible for medical subsidy under 17a-117 (a) shall not be eligible for such subsidy under 17a-120.

(c) A child, who is a resident of the State of Connecticut when eligibility for a subsidy is certified, shall remain eligible and continue to receive the subsidy regardless of the domicile or residence of the adoptive parents at the time of application for adoption,

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-116-12

placement, legal decree of adoption or thereafter.

(Effective March 22, 1994)

Sec. 17a-116-10. Amount of periodic subsidy

(a) The amount of periodic subsidy payment shall not exceed the current cost of foster maintenance care as determined by the Department. Such payments shall be adjusted to reflect any changes in the Department's foster maintenance care rates.

(b) Payments of less than the full cost of foster maintenance care may be made if the adoptive parents indicate that a lesser amount would be adequate to facilitate the adoption placement of the child.

(c) The Department will take into consideration any other income available to the child and will reduce the amount of subsidy payment to reflect the child's own income from other sources such as Social Security, Veteran's Administration, etc.

(Effective March 22, 1994)

Sec. 17a-116-11. When subsidy is granted

(a) The subsidy may be granted only for the child certified as a special needs child prior to adoption (except as provided for below).

(b) A request by the adoptive parent(s) for subsidy after a final approval by the Probate Court may be considered at the discretion of the Commissioner for conditions resulting from or directly related to the totality of circumstances surrounding the child which existed prior to adoption. Such requests will be considered in those cases where a review of all the circumstances surrounding the child prior to placement in adoption indicates that, had those circumstances been made known to the Department, at the time, the child would have met the criteria for certification as a special needs child. Upon certification by the Commissioner that the child meets the special needs criteria, the child shall be eligible for inclusion in the subsidized adoption program no later than 30 days after the date of receipt of the request by the Department.

(Effective March 22, 1994)

Sec. 17a-116-12. Annual review of the subsidy

(a) The Department will conduct a biennial review of the continued need for subsidy.

(1) The adoptive parents shall submit a sworn statement indicating that the condition which caused the child to be certified as special needs or a related condition continues to exist or has reoccurred since the time of the last review.

(2) The adoptive parents shall submit a sworn statement indicating that the child continues to qualify as a legal dependent.

(3) If the Department determines that the subsidy should be reduced or terminated, the adoptive parents shall be notified in writing of their right to request a hearing before the Adoption Subsidy Review Board. The notification shall state that adoptive parents disagreeing with such planned action will be given a hearing provided a written request for

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-116-13

Department of Children and Families

a hearing is received by the Department (505 Hudson Street, Hartford, CT 06106) within 15 days from the date the Department mails the notification.

(4) If such a hearing is requested, the adoptive parents shall be given a hearing at least 30 days prior to the anticipated effective date of such action.

(5) The subsidy shall continue without modifications until the final decision of the Adoption Subsidy Review Board.

(Effective March 22, 1994; Amended May 30, 2002)

Sec. 17a-116-13. Reapplication for subsidy

(a) Subsequent to termination of a subsidy, adoptive parents of a child, who was previously certified and received a subsidy as a special needs child, may reapply.

(b) Upon determination by the Commissioner that the condition which caused the child to be certified as special needs or a related condition continues to exist or has reoccurred, the Commissioner shall recertify the child as a special needs child.

(c) The child shall be eligible for inclusion in the subsidized adoption program as of the date of recertification.

(Effective March 22, 1994)

Sec. 17a-116-14. Adoption subsidy review board

(a) Any subsidy decision by the Commissioner may be appealed by a licensed child-placing agency or the adopting parent(s) to the Adoption Subsidy Review Board.

(b) The Adoption Subsidy Review Board shall consist of the Commissioner or designee, a representative from a licensed child-placing agency and an adoptive parent appointed by the Governor.

(c) Adoption Subsidy Review Board procedures will be conducted in accordance with the provisions of Chapter 54 of the Connecticut General Statutes.

(d) All decisions of the Adoption Subsidy Review Board shall be based on the best interest of the child.

(Effective March 22, 1994)

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

Agency
Department of Children and Families
Subject
Medical Expense Subsidy for Adoptive Parents
Inclusive Sections
§§ 17a-120-1—17a-120-9

CONTENTS

Sec. 17a-120-1—17a-120-2.	Repealed
Sec. 17a-120-3.	Scope of regulations
Sec. 17a-120-4.	Definitions
Sec. 17a-120-5.	Eligibility for medical expense subsidy
Sec. 17a-120-6.	Application and determination of eligibility
Sec. 17a-120-7.	Annual review of the subsidy
Sec. 17a-120-8.	Reapplication for subsidy
Sec. 17a-120-9.	Adoption subsidy review board

Medical Expense Subsidy for Adoptive Parents

Sec. 17a-120-1—17a-120-2. Repealed

Repealed May 10, 1999.

Sec. 17a-120-3. Scope of regulations

The following regulations are being adopted to encourage the adoption of handicapped children by providing a medical expense subsidy to the adoptive parents of such children.

(Effective March 22, 1994)

Sec. 17a-120-4. Definitions

(a) Department means Department of Children and Families.

(b) Commissioner means the Commissioner of the Department of Children and Families or designee.

(c) High risk of physical or mental disability refers to a child who does not have a currently diagnosed physical or mental disability, but a recognized authority (licensed physician, psychiatrist or psychologist) determines that the child's past experience and present condition or functioning indicate a probability for developing such disability in the future.

(d) Legal dependent means that the child qualifies as a dependent of the adoptive parent(s) under the Internal Revenue Code or as defined by future amendments to the Internal Revenue Code.

(Effective March 22, 1994)

Sec. 17a-120-5. Eligibility for medical expense subsidy

(a) Any child who is blind or physically disabled (as defined by Section 1-1f of the Connecticut General Statutes), mentally disabled, seriously emotionally maladjusted or has a recognized high risk of physical or mental disability who is to be given or has been given in adoption by a statutory parent (as defined in Section 45a-707 (a) of the Connecticut General Statutes) shall be eligible for a medical expense subsidy if such condition existed prior to adoption.

(b) In order to avoid duplication of medical coverage, the child determined to be eligible for medical subsidy under 17a-117 (a) shall not be eligible for such subsidy under 17a-120.

(Effective March 22, 1994)

Sec. 17a-120-6. Application and determination of eligibility

(a) The adoptive parent(s) of a handicapped child must apply in writing to the regional office serving their town of residence for a medical expense subsidy for the care and treatment of the handicapped child.

(b) The application shall include statements signed by a licensed physician, psychiatrist, psychologist or such others as may be appropriate, documenting:

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-120-7

Department of Children and Families

- (1) The nature of the condition, infirmity or impairment.
- (2) Evidence that the condition existed prior to the adoption.
- (3) The prescribed medical care and treatment such condition requires.
- (c) The application shall also include certification that the anticipated medical care and treatment are not covered by health insurance, federal or other state payments for health care.

(d) The Department shall notify the parent(s) in writing of its determination of eligibility and the acceptance or non-acceptance of the submitted documentation of the existence of such condition prior to adoption.

(1) In cases where the Department has reason to believe that the child is not eligible for medical subsidy, the Department may require a further medical opinion by a licensed physician or other appropriate professional person accredited and specializing in the area of the condition for verification of the existence of such condition.

(2) The effective date of subsidy for applications submitted prior to adoption shall be the date of adoption finalization by the Probate Court. The effective date of subsidy for applications submitted subsequent to adoption shall be the date of determination of eligibility by the Department, but no later than 30 days after the date of receipt of the application by the Department.

(3) Upon finding of eligibility, the parent(s) shall be issued for the child a medical identification card allowing medical expense subsidy for the care and treatment of the child in accordance with the fee schedule and payment procedure established under the Medicaid Program administered by the Department of Social Services.

(4) Within 30 days of the receipt of finding of non-eligibility, the parent(s) may submit a written request for a hearing before the Adoption Subsidy Review Board.

(Effective March 22, 1994)

Sec. 17a-120-7. Annual review of the subsidy

(a) The Department will conduct an annual review of the continued need for subsidy.

(1) The adoptive parent(s) shall submit a sworn statement indicating that the condition which caused the child to be certified as handicapped or a related condition continues to exist or has reoccurred since the time of the last review.

(2) The adoptive parent(s) shall submit a sworn statement indicating that the child continues to qualify as a legal dependent.

(3) If the Department determines that the subsidy should be reduced or terminated, the adoptive parents shall be notified in writing of their right to request a hearing before the Adoption Subsidy Review Board. The notification shall state that adoptive parents disagreeing with such planned action will be given a hearing provided a written request for a hearing is received by the Department (505 Hudson Street, Hartford, CT 06106) within 15 days from the date the Department mails the notification.

(4) If such a hearing is requested, the adopting parents shall be given a hearing at least 30 days prior to the anticipated effective date of such action.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-120-9

(5) The subsidy shall continue without modifications until the final decision of the Adoption Subsidy Review Board.

(Effective March 22, 1994)

Sec. 17a-120-8. Reapplication for subsidy

(a) If subsequent to the termination of the subsidy, the condition for which subsidy was granted or a related condition reoccurs, the adoptive parent(s) may reapply and shall be granted the medical expense subsidy for the child.

(b) The effective date of subsidy shall be the date of eligibility determination by the Department, but no later than 30 days after the date of receipt of the reapplication by the Department.

(c) In no case shall eligibility for the subsidy continue beyond the child's twenty-first birthday.

(Effective March 22, 1994)

Sec. 17a-120-9. Adoption subsidy review board

(a) Any subsidy decision by the Department may be appealed by the adoptive parent(s) or by a licensed child placing agency on behalf of the child or such parent(s) to the Adoption Subsidy Review Board.

(b) The Adoption Subsidy Review Board shall consist of the Commissioner or designee, a representative from a licensed child-placing agency and an adoptive parent appointed by the Governor.

(c) Adoption Subsidy Review Board procedures will be conducted in accordance with the provisions of Chapter 54 of the Connecticut General Statutes.

(d) All decisions of the Adoption Subsidy Review Board shall be based on the best interest of the child.

(Effective March 22, 1994)

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

Agency
Department of Children and Families

Subject
Subsidized Guardianship

Inclusive Sections
§§ 17a-126-1—17a-126-23

CONTENTS

Sec. 17a-126-1.	Scope of regulations
Sec. 17a-126-2.	Definitions
Sec. 17a-126-3.	Request for subsidy
Sec. 17a-126-4.	Guardian counseling
Sec. 17a-126-5.	Program components
Sec. 17a-126-6.	Asset test and household income exemption
Sec. 17a-126-7.	Monthly payment
Sec. 17a-126-8.	Medical benefits
Sec. 17a-126-9.	Special-need subsidy
Sec. 17a-126-10.	Types of subsidy
Sec. 17a-126-11.	Homestudy requirements and exemptions
Sec. 17a-126-12.	Subsidy termination
Sec. 17a-126-13.	Annual review
Sec. 17a-126-14.	Parental liability
Sec. 17a-126-15.	Appeal from decisions by the commissioner denying, modifying or terminating a guardianship subsidy
Sec. 17a-126-16.	Subsidy hearing procedures
Sec. 17a-126-17.	Request for subsidy hearing
Sec. 17a-126-18.	Denial of a request for a subsidy hearing
Sec. 17a-126-19.	Scheduling the subsidy hearing
Sec. 17a-126-20.	Pre-hearing conference for a subsidy hearing
Sec. 17a-126-21.	Conduct of the subsidy hearing
Sec. 17a-126-22.	Subsidy hearing record
Sec. 17a-126-23.	The subsidy hearing decision

Subsidized Guardianship

Sec. 17a-126-1. Scope of regulations

Sections 17a-126-1 through 17a-126-23, inclusive, of the regulations of Connecticut State Agencies apply to a program of subsidized guardianship for the benefit of children who: (1) are in the care or custody of the department; (2) are living with relative caregivers; and, (3) have been in foster care for not less than eighteen (18) months; pursuant to section 7 of Public Act 97-272 as amended by Public Act 98-1 of the June Special Session.

(Adopted effective September 1, 1998)

Sec. 17a-126-2. Definitions

As used in sections 17a-126-1 through 17a-126-23, inclusive, of the regulations of Connecticut State Agencies, the following definitions apply:

(1) “Care or Custody of the Department” means committed to or placed with the department under a court order of the Superior Court for Juvenile Matters, excluding delinquency and Family With Service Needs orders.

(2) “Certified Relative Care” means care provided for a foster child by a person certified to provide such care pursuant to sections 17a-114-14 to 17a-114-25, inclusive, of the regulations of Connecticut State Agencies.

(3) “Child” means a person under the age of eighteen.

(4) “Commissioner” means the Commissioner of Children and Families.

(5) “Department” means the department of children and families.

(6) “Foster Care” means care provided for a foster child by a person licensed, approved or certified to provide such care pursuant to sections 17a-145-130 through 17a-145-160, inclusive, or sections 17a-150-51 through 17a-150-123, inclusive, or sections 17a-114-14 through 17a-114-25, inclusive, of the regulations of Connecticut State Agencies.

(7) “Guardian” means one who has the authority and obligations of “guardianship” as defined in subdivision (8) of this section.

(8) “Guardianship” means guardianship of the person of a minor, and includes:(A)the obligation of care or control; and (B)the authority to make major decisions, affecting the child’s welfare, which the child cannot make on his own, including, but not limited to, consent determinations regarding marriage, enlistment in the armed forces and major medical, psychiatric or surgical treatment.

(9) “Prevailing Foster Care Rate” means the rate the child would be receiving if the child were still in foster care, taking into account the child’s age and special-needs, as adjusted based on the asset test of the child as prescribed in section 17a-126-6 of the regulations of Connecticut State Agencies.

(10) “Relative Caregiver” means a person who is caring for a child related to such person because the parent of the child has died or become otherwise unable to care for the child for reasons that make reunification with the parent not a viable option within the foreseeable future.

(11) “Subsidized Guardian” means a person to whom legal guardianship has been

awarded and who otherwise qualifies for a subsidy under sections 17a-126-1 through 17a-126-23, inclusive, of the regulations of Connecticut State Agencies.

(Adopted effective September 1, 1998)

Sec. 17a-126-3. Request for subsidy

(a) A relative caregiver may request a guardianship subsidy from the Department for a child in the care or custody of the commissioner for not less than eighteen (18) months. A relative caregiver shall initiate a request for a guardianship subsidy by applying to the child's department caseworker. The initiation of a request for guardianship subsidy may not be made before the child has been in the care or custody of the commissioner for at least seventeen (17) months. The caseworker shall provide the relative caregiver with the application form prescribed by the department and shall assist the relative caregiver in the completion of such form and application within thirty (30) days of such request.

(b) The commissioner, or designee may classify a child and the child's relative caregiver as qualified for the subsidized guardianship program if it is determined that such child is in the care or custody of the commissioner, is living with the relative caregiver and has been in foster care or certified relative care for not less than eighteen (18) months, the relative caregiver is the proposed guardian for the child and reunification with the parent is not a viable option within the foreseeable future because of one or more conditions including, but not limited to:

- (1) Death of the parent;
- (2) Abandonment of the child by the parent;
- (3) Physical disability of the parent;
- (4) Mental disability of the parent;
- (5) Serious emotional maladjustment of the parent;
- (6) Failure of the parent to achieve rehabilitation adequate to provide for the child;
- (7) Age of the child when considered with other factors in the child's functioning and circumstances that present a barrier to reunification.

(c) The department shall determine through an assessment period not less than twelve (12) nor more than eighteen (18) months from the time the child was placed with the relative caregiver, who is requesting the subsidy, that the relative caregiver is capable of providing for the care of the child's physical, mental, emotional, educational and medical needs without the continued provision of services by or through the department except for the subsidies provided for in section 17a-126-5 of the regulations of Connecticut State Agencies.

(d) The assessment conducted by the department shall assure that the relative caregiver meets the requirements for relative certification set forth in sections 17a-114-14, 17a-114-15 and 17a-114-17 and sections 17a-114-19 through 17a-114-25, inclusive, of the regulations of Connecticut State Agencies. In addition to the requirements of the regulations, the assessment shall include the following components:

- (1) The health of persons living in the relative caregiver's home shall not present a hazard to the child. Prior to moving or petitioning for the transfer of guardianship the relative

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-126-3

caregiver shall supply to the department a statement from a physician on such forms as approved by the commissioner that within the previous twelve (12) months:

(A) each person living in the home has had a physical examination and has been found to be in good health or that specified members of the family are receiving all necessary continuing medical care and are free of communicable disease;

(B) the relative caregiver has been determined to be physically and mentally able to provide care to the child; and

(C) all persons over the age of eighteen have a negative drug screen performed by an entity approved by the department at the expense of the department.

(2) When all adults in a relative caregiver home are employed or otherwise occupied in a substantial amount of time away from the home, the care and supervision of the child shall be provided by a competent individual and approved in advance by the commissioner, or his designee.

(3) The relative caregiver shall be physically, intellectually and emotionally capable of providing care, guidance and supervision of the child including:

(A) insuring routine medical care, scheduling and transportation;

(B) obtaining and following instructions from the child's medical provider if medication or treatment are to be administered by the relative caregiver. Any medications provided shall be clearly labeled and kept out of the reach of the child;

(C) establishing plans to respond to illness and emergencies, including serious injuries and the ingestion of poison, with appropriate first aid supplies available in the home out of reach of the child;

(D) maintaining all documentation as required by the department;

(E) providing for the child's physical needs including adequate hygiene, nutritional meals and snacks prepared in a safe and sanitary manner, readily available drinking water, a balanced schedule of rest, active play, indoor and outdoor activity appropriate to the age of the child in care;

(F) promoting the social, intellectual, emotional, and physical development of the child by providing activities that meet these needs or special needs if such exist;

(G) assuring adequate opportunity for cultural, and educational activities in the family and in the community. A child who does not share the same language, as the relative caregiver shall be provided with opportunities to communicate in the child's language;

(H) assuring an environment of tolerance and sensitivity to a child's religion through providing adequate opportunity for religious training and participation appropriate to the child's religious denomination, and not requiring any child to participate in religious practices contrary to the child's beliefs;

(I) providing emotional support and an environment that meets the child's needs;

(J) assuring the child's participation in an approved education program, including regular school attendance. The relative caregiver shall cooperate with the proper authorities in relation to the child's educational needs;

(K) guiding the child in the acquisition of daily living skills including the assigning of

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-126-3

Department of Children and Families

daily chores to the child on the basis of the child's abilities and developmental level; and

(L) providing infants and toddlers with ample opportunity for freedom of movement each day outside of a crib or playpen, infants are to be held for all bottle feedings, as well as at other times, for attention and verbal communication.

(4) (A) Before moving or petitioning for the transfer of guardianship from the department to a relative caregiver, the department shall secure and evaluate information necessary to determine if a transfer of guardianship is in the child's best interest.

(B) If it is known that the child or the child's family has received social services from an individual or child placing agency or a state agency, such individual or child placing agency or state agency shall be consulted, if possible, prior to the moving or petitioning for the transfer of guardianship.

(C) All factors relevant to the child's adjustment in the home and in the community for the present and the long term shall be considered.

(D) All relevant information concerning the child's developmental, medical, social, emotional and environmental history, which may be legally disclosed, shall be shared by the department with the relative caregiver prior to the placement of the child in the home.

(5) The child shall be interviewed and the opinion of the child regarding the proposed transfer of guardianship shall be taken into consideration. In the case of a non-verbal child the interaction and relationship between the child and the relative caregiver shall be observed and taken into consideration before moving or petitioning for the transfer of guardianship from the department to the relative caregiver.

(e) (1) The granting of approval as a subsidized guardian shall be denied if any member of the household of the relative caregiver:

(A) has been convicted of injury or risk of injury to a minor or other similar offenses against a minor;

(B) has been convicted of impairing the morals of a minor or other similar offenses against a minor;

(C) has been convicted of violent crime against a person or other similar offenses;

(D) has been convicted of the possession, use, or sale of controlled substances within the past five (5) years;

(E) has been convicted of illegal use of a firearm or other similar offenses;

(F) has ever had an allegation of child abuse or neglect substantiated;

(G) has had a minor removed from their care because of child abuse or neglect; or

(H) has failed a drug screen required by subparagraph (C) of subdivision (1) of subsection (d) of section 17a-126-3 of the regulations of Connecticut State Agencies.

(2) The granting of approval as a subsidized guardian may be denied if any member of the household of the relative caregiver:

(A) is awaiting trial, or is on trial, for charges as described in subparagraphs (A) through (E) of subdivision (1) of this subsection;

(B) has a criminal record that the department believes makes the home unsuitable;

(C) has a current child abuse or neglect allegation pending; or

(D) knowingly arranges for the substitute care of a child by a person described in subdivision (1) or (2) of this subsection.

(f) A waiver from specific requirements of regulations may be granted by the commissioner, provided no such waiver shall be issued for any statutory provision. The waiver shall be reviewed by the commissioner prior to moving or petitioning for the transfer of guardianship. A waiver shall only be granted if the relative caregiver is in substantial compliance with the intent of the relevant regulations being waived or that the intent of the specific requirement to be waived will be satisfactorily achieved in a manner other than that prescribed by the requirement. A waiver shall specify the particular requirements to be waived, the duration of the waiver and the terms under which the waiver is granted. If the relative caregiver fails to comply with the waiver in any way the transfer of guardianship shall be subject to revocation by the court.

(Adopted effective September 1, 1998; Amended May 30, 2002)

Sec. 17a-126-4. Guardian counseling

If adoption of the child by the relative caregiver is an option, the commissioner, or designee shall counsel the relative caregiver about the advantages and disadvantages of adoption and subsidized guardianship. The goal of such counseling shall be to ensure that the decision by the relative caregiver to request a subsidized guardianship is a fully informed decision.

(Adopted effective September 1, 1998)

Sec. 17a-126-5. Program components

(a) The subsidized guardianship program shall provide:

(1) a monthly subsidy on behalf of the child payable to the subsidized guardian equal to the prevailing foster care rate;

(2) a medical subsidy comparable to the medical subsidy to children in the subsidized adoption program if the child lacks private health insurance; and,

(3) a special-need subsidy, which shall be a lump sum payment for one-time expenses resulting from the assumption of care of the child when no other resource is available to pay for such expense, if such payment is required. The assumption of care shall be deemed to be at the time of the transfer of guardianship.

(b) The subsidized guardianship program component provided in subsection (a) of this section shall continue until the child reaches the age of eighteen or the age of twenty-one if such child is in full time attendance at a secondary school, technical school or college or is in a state accredited job training program.

(Adopted effective September 1, 1998)

Sec. 17a-126-6. Asset test and household income exemption

(a) The commissioner may establish an asset test for eligibility under the program. Such asset test shall consider any other assets of and income available to the child and will reduce

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-126-7

Department of Children and Families

the amount of the subsidy payment to reflect the child's own income from other sources including but not limited to: social security benefits; TANF; child support; life insurance or other death benefits from or through a parent; interest income; and, all other federal and state assistance and benefit programs. The asset test employed by the commissioner may be designed to benefit the state with regard to potential federal reimbursement.

(b) A guardianship subsidy shall not be included in the calculation of household income in determining eligibility for benefits of the relative caregiver of the subsidized child or other persons living within the household of the relative caregiver.

(Adopted effective September 1, 1998)

Sec. 17a-126-7. Monthly payment

(a) The monthly subsidy payment on behalf of the child payable to the subsidized guardian shall be equal to the prevailing foster care rate as adjusted based on the asset test of the child as prescribed in section 17a-126-6 of the regulations of Connecticut State Agencies.

(b) Payments of less than the full cost of foster maintenance care may be made if the relative caregiver indicates that a lesser amount would be adequate to provide for the care of the child.

(Adopted effective September 1, 1998)

Sec. 17a-126-8. Medical benefits

(a) Any medical benefits which are being provided prior to the granting of a subsidized guardianship in accordance with the fee schedule and payment procedures under the State Medicaid program as administered by the Department of Social Services shall continue as long as the child qualifies under the subsidized guardianship program, unless the child is otherwise covered under private health insurance.

(b) No child shall be eligible for medical benefits provided by sections 17a-126-1 through 17a-126-23, inclusive, of the regulations of Connecticut State Agencies if the child has private health insurance.

(Adopted effective September 1, 1998)

Sec. 17a-126-9. Special-need subsidy

A special-need subsidy is a lump sum payment for one-time expenses resulting from the assumption of care of the child when no other resource is available to pay for such expense from other state and federal programs, health or medical insurance, or other legally enforceable third-party payments. Such special-need subsidy payment shall be agreed to prior to the transfer of guardianship and made part of the guardianship transfer record.

(Adopted effective September 1, 1998)

Sec. 17a-126-10. Types of subsidy

(a) A written certification of the need for a subsidy shall be made by the department.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-126-13

The type and amount of the subsidy shall be mutually agreed to by the department and the relative caregiver prior to the granting of a subsidy and transfer of guardianship. The subsidy agreement shall be entered on the court record by the department as part of the motion or petition to transfer guardianship. If the parties fail to agree, the relative caregiver may appeal to the administrative hearings unit pursuant to section 17a-126-18 of the regulations of Connecticut State Agencies.

(b) A child, who is a resident of the state of Connecticut when eligibility for a subsidy is certified, shall remain eligible and continue to receive the subsidy regardless of the domicile or residence of the relative caregiver at the time of application for the subsidy or thereafter.

(Adopted effective September 1, 1998)

Sec. 17a-126-11. Homestudy requirements and exemptions

As a prerequisite to payment of a guardianship subsidy for the benefit of a minor child, a home study report shall be filed with the court having jurisdiction of the case of the minor within fifteen (15) days of the request for a subsidy provided that no such report shall be required to be filed if a report has previously been provided to the court or if the caregiver has been determined to be a certified relative caregiver by the commissioner. Such home study report shall be substantively equivalent to the home study report used by the department in the case of a foster family or prospective adoptive family placement.

(Adopted effective September 1, 1998)

Sec. 17a-126-12. Subsidy termination

The guardianship subsidy provided under this section shall terminate:

(1) When the child ceases receiving, from the subsidized guardian, the financial support contemplated by section (c) of 17a-126-3 of the regulations of Connecticut State Agencies;

(2) When the child reaches the age of eighteen or the age of twenty-one if such child is in full time attendance at a secondary school, technical school or college or is in a state accredited job training program;

(3) Upon the death of the guardian; or

(4) When the subsidized guardian ceases providing the financial support contemplated by subsection (c) of section 17a-126-3 of the regulations of Connecticut State Agencies for whatever reason including, but not limited to the return of the child to the child's parent.

(Adopted effective September 1, 1998)

Sec. 17a-126-13. Annual review

(a) Annually, the subsidized guardian shall submit to the commissioner, or designee a sworn statement that the child is still receiving, from the subsidized guardian, the financial support contemplated by section (c) of 17a-126-3 of the regulations of Connecticut State Agencies.

(b) In the event that the child ceases receiving the support contemplated by section (C) of

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-126-14

Department of Children and Families

17a-126-3 of the regulations of Connecticut State Agencies such guardian shall notify the department of this in a timely manner.

(c) Annually, the subsidized guardian shall submit pertinent information concerning changes in the financial condition of the child which may result in an adjustment to the guardianship subsidy.

(Adopted effective September 1, 1998)

Sec. 17a-126-14. Parental liability

The parent of any child receiving assistance through the subsidized guardianship program shall remain liable for the support of the child pursuant to Public Act 97-312.

(Adopted effective September 1, 1998)

Sec. 17a-126-15. Appeal from decisions by the commissioner denying, modifying or terminating a guardianship subsidy

The department shall conduct a subsidy hearing when a person qualified for such hearing under section 17a-126-17 of the regulations of Connecticut State Agencies, disagrees with the department's decision to deny, modify or terminate a guardianship subsidy and requests a subsidy hearing.

(Adopted effective September 1, 1998)

Sec. 17a-126-16. Subsidy hearing procedures

(a) The department shall notify the subsidized guardian in writing at least fourteen (14) calendar days before the modification or termination of a guardianship subsidy of its decision to modify or terminate such subsidy and the person's right to a subsidy hearing. In the case of a denial of a guardianship subsidy such notification shall be provided in writing not more than fourteen (14) calendar days after such determination.

(b) The written notice sent pursuant to subsection (a) of this section shall include:

(1) a copy of sections 17a-126-1 through 17a-126-23, inclusive, of the regulations of Connecticut State Agencies;

(2) the department's reason for the denial, modification or termination;

(3) the subsidized guardian's right to a subsidy hearing;

(4) how the subsidized guardian shall apply for a subsidy hearing;

(5) the time within which a request for a subsidy hearing shall be made.

(c) A copy of the notice provided to the subsidized guardian shall be maintained in the case record, and furnished to the hearings unit by the social worker, upon request of a hearing.

(d) If the person denied a subsidy or the subsidized guardian decides to request a subsidy hearing, the social worker shall refer the subsidized guardian to the manager of the hearings unit for technical assistance. The hearing officer assigned to the hearing shall not provide technical assistance on the hearing. However, nothing in this section shall require the

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-126-19

Department to provide legal assistance to the subsidized guardian.

(Adopted effective September 1, 1998)

Sec. 17a-126-17. Request for subsidy hearing

(a) A relative caregiver who is the proposed guardian may request a subsidy hearing if a request for subsidy has been denied and the child:

(1) is in the care or custody of the commissioner, and is living with the relative caregivers;

(2) has been in foster care or certified relative care for not less than eighteen (18) months.

(b) A relative caregiver may request a subsidy hearing if a subsidy agreed to under the provisions of subsection (a) of section 17a-126-10 of the regulations of Connecticut State Agencies has been modified or terminated under the authority of these regulations.

(c) A relative caregiver may request a subsidy hearing if the relative caregiver and the department are unable to come to a subsidy agreement under the provisions of subsection (a) of section 17a-126-9 of the regulations of Connecticut State Agencies.

(d) A relative caregiver may request a subsidy hearing by sending a letter or facsimile to the administrative hearings unit, stating his opposition to the department's denial, or proposal to modify or terminate the subsidy. The letter or facsimile shall be received by the hearings unit within fifteen (15) days of the relative's receipt of the notification from the department. The hearing shall be held within thirty days of receipt of the request.

(e) A subsidy shall not be modified or terminated pending the outcome of the subsidy hearing.

(Adopted effective September 1, 1998)

Sec. 17a-126-18. Denial of a request for a subsidy hearing

A request for a subsidy hearing shall be denied by the hearings unit when:

(1) the relative caregiver fails to qualify for a subsidy hearing pursuant to section 17a-126-17 of the regulations of Connecticut State Agencies; or

(2) the child has reached twenty-one years of age.

(Adopted effective September 1, 1998)

Sec. 17a-126-19. Scheduling the subsidy hearing

(a) The subsidy hearing shall be scheduled by the hearing unit within thirty (30) calendar days of the date the request is received by the manager of the Administrative Hearings Unit. A subsidy hearing may be continued or postponed for good cause at the discretion of the hearing officer or with agreement of all parties.

(b) The subsidy hearing shall be held in the regional office of the department or, if agreeable to all the parties, at another location designated by the hearing officer.

(Adopted effective September 1, 1998)

Sec. 17a-126-20. Pre-hearing conference for a subsidy hearing

(a) The hearing officer may involve the parties and their representatives in a pre-hearing conference preceding the subsidy hearing for the purpose of:

- (1) simplification and consolidation of issues;
- (2) identification and limitation of the number of witnesses; or
- (3) considering any other matters that will promote the quality of the proceedings.

(b) The hearing officer shall identify and recite on the subsidy hearing record any agreements made, or actions taken, by the parties at the conference.

(Adopted effective September 1, 1998)

Sec. 17a-126-21. Conduct of the subsidy hearing

(a) The subsidy hearing shall be conducted by a hearing officer designated by the commissioner or his designee.

(b) The hearing officer shall have the power to administer oaths and affirmations, subpoena witnesses and require the production of records, physical evidence, papers and documents to any hearing held in the case.

(c) The hearing officer has the final authority to limit witnesses and take any other necessary actions that will facilitate the hearing process.

(d) Each party shall be afforded the opportunity to:

- (1) inspect and copy relevant and material records, papers and documents; and
- (2) at a hearing, to respond, to cross-examine other parties, intervenors, and witnesses and to present evidence and argument on all issues involved.

(e) Any oral or documentary evidence may be received provided:

- (1) the hearing officer shall limit or exclude any evidence which is irrelevant, immaterial or unduly repetitious;
- (2) the hearing officer shall recognize the rules of privilege governing confidential, professional communications;

(3) when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;

(4) documentary evidence may be received in the form of copies or excerpts, if the original is not readily available, and, upon request, parties shall be given an opportunity to compare the copy with the original;

(5) notice may be taken of generally recognized technical or scientific facts within common knowledge or the agency's specialized knowledge;

(6) parties shall be notified in a timely manner of any material noticed, including any agency memoranda or data, and they shall be afforded an opportunity to contest the material so noticed;

(7) the agency's experience, technical compliance, and specialized knowledge may be used in the evaluation of the evidence;

(8) all parties and their attorneys shall be permitted to examine all records and documents introduced by the parties to the hearing. Should any record or document, which a party was

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-126-23

not permitted to examine in advance of the hearing, be introduced, that party may request a continuance, which may be granted at the discretion of the hearing officer, to allow the requesting party an opportunity to prepare a response to the record or document; and

(9) a party may conduct cross-examinations as required for a full and true disclosure of the facts.

(f) The full proceedings of subsidy hearings shall be audio recorded.

(g) The subsidy hearing decision shall be entered as part of the licensing file of the relative caregiver and the child's case record.

(Adopted effective September 1, 1998)

Sec. 17a-126-22. Subsidy hearing record

(a) The record shall include:

- (1) written notices related to the case;
- (2) all petitions, pleadings, motions and intermediate rulings, if any;
- (3) evidence received or considered;
- (4) questions and offers of proof, objections and rulings thereon;
- (5) the official recording of the proceedings; and
- (6) the final decision.

(b) Any recording or stenographic record of the proceeding shall be transcribed on request of any party. The requesting party shall pay the cost of such transcript.

(Adopted effective September 1, 1998)

Sec. 17a-126-23. The subsidy hearing decision

(a) The hearing officer shall be responsible for preparing the memorandum of decision which shall be mailed within thirty (30) calendar days of the hearing to:

- (1) parties;
- (2) attorneys;
- (3) guardian ad litem;
- (4) director of children's protective and family services;
- (5) regional office administration and casework staff; and
- (6) hearings unit file.

(b) The standard of review in an administrative hearing is a preponderance of the evidence. The Department shall have the burden of proof.

(c) The memorandum of decision shall contain:

- (1) the names of the persons present;
- (2) the provisions of law, regulation and policy applicable to the case;
- (3) evidence relied on in making the decision;
- (4) findings of fact; and
- (5) a statement of the reasoning on which the decision is based.

(Adopted effective September 1, 1998)

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

Agency
Department of Children and Families
Subject
Operation of Child-Caring Agencies and Facilities
Inclusive Sections
§§ 17a-145-1—17a-145-160

CONTENTS

Sec. 17a-145-1—17a-145-47.	Reserved
Sec. 17a-145-48.	Definitions
Sec. 17a-145-49.	Issuance of license. Not transferable or assignable
Sec. 17a-145-50.	Display of license
Sec. 17a-145-51.	Access of commissioner or designee to premises
Sec. 17a-145-52.	Interstate placement of children
Sec. 17a-145-53.	Consultation with licensee
Sec. 17a-145-54.	Causes for revoking or refusing to renew license
Sec. 17a-145-55.	Hearing on revocation
Sec. 17a-145-56.	Suspension of license
Sec. 17a-145-57.	Return of license to the commissioner
Sec. 17a-145-58.	Waiver of requirements

Children’s Homes or Similar Institutions, Residential Treatment Facilities, Group Homes, and Temporary Shelters

Sec. 17a-145-59.	Compliance with requirements for licensure
Sec. 17a-145-60.	Finances
Sec. 17a-145-61.	Written policies and procedures
Sec. 17a-145-62.	Governing board
Sec. 17a-145-63.	Chief administrative officer
Sec. 17a-145-64.	Personnel policies and procedures
Sec. 17a-145-65.	Hazardous equipment
Sec. 17a-145-66.	Health, sanitation, fire safety, and zoning approval
Sec. 17a-145-67.	Water supply. Sewage and garbage facilities
Sec. 17a-145-68.	Heating, ventilation, lighting
Sec. 17a-145-69.	Construction
Sec. 17a-145-70.	Nursery units
Sec. 17a-145-71.	Living room, lounge
Sec. 17a-145-72.	Living quarters of staff

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Sec. 17a-145-73.	Sleeping accommodations
Sec. 17a-145-74.	Lavatory facilities. Toilet articles and linens
Sec. 17a-145-75.	Health and medical treatment. Administration of first aid. Prescription medication. Administration of medicine or treatment. Written records. Storage of drugs, medicines, and instruments. Sick room, telephone.
Sec. 17a-145-76.	Kitchens, equipment, food-handling
Sec. 17a-145-77.	Dining areas and supervision
Sec. 17a-145-78.	Recreational facilities
Sec. 17a-145-79.	Telephone service
Sec. 17a-145-80.	Internal and external security
Sec. 17a-145-81.	Provisions for education
Sec. 17a-145-82.	Laundry
Sec. 17a-145-83.	Visitors
Sec. 17a-145-84.	Office space. Confidential files
Sec. 17a-145-85.	Housekeeping equipment and supplies
Sec. 17a-145-86.	Instructions in safety procedures. Supervision
Sec. 17a-145-87.	Religious activities
Sec. 17a-145-88.	Abuse of children. Discipline
Sec. 17a-145-89.	Work performed by children
Sec. 17a-145-90.	Clothing. Storage
Sec. 17a-145-91.	Health program, facilities, training
Sec. 17a-145-92.	Food and diet
Sec. 17a-145-93.	Medical, dental, and nursing care
Sec. 17a-145-94.	Written treatment plan
Sec. 17a-145-95.	Children not to be used for fund-raising
Sec. 17a-145-96.	Discharge of child
Sec. 17a-145-97.	Unauthorized absence of child
Sec. 17a-145-98.	Case records. Reports. Confidentiality

Foster Homes and Adoptive Homes/Family Day Care Homes

Sec. 17a-145-99—17a-145-129.	Repealed
Sec. 17a-145-130.	Definitions
Sec. 17a-145-131.	Application of regulations to the department and child placing agencies
Sec. 17a-145-132.	Assessment of foster or prospective adoptive parents and members of the household
Sec. 17a-145-133.	Issuance of license or granting of approval. Not transferable or assignable

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Sec. 17a-145-134.	Access to license or documentation of approval
Sec. 17a-145-135.	Access of commissioner or child placing agency to premises
Sec. 17a-145-136.	Interstate placement of children
Sec. 17a-145-137.	Physical requirements of foster and prospective adoptive homes
Sec. 17a-145-138.	Telephone
Sec. 17a-145-139.	Children's bedroom, clothing and privacy
Sec. 17a-145-140.	Food and water
Sec. 17a-145-141.	Firearms and weapons
Sec. 17a-145-142.	Animals
Sec. 17a-145-143.	Health standards for of foster or prospective adoptive parents and members of the household
Sec. 17a-145-144.	Character standards for foster or prospective adoptive parents and members of the household
Sec. 17a-145-145.	Change in licensed conditions
Sec. 17a-145-146.	Reporting of the injury, illness, death, fire or absence of a child from placement
Sec. 17a-145-147.	Financial condition of the foster or prospective adoptive parent
Sec. 17a-145-148.	Substitute child care
Sec. 17a-145-149.	Cooperation with the department's treatment plan
Sec. 17a-145-150.	Limitation on the number of licenses or approvals allowed
Sec. 17a-145-151.	General requirements of foster and prospective adoptive parents
Sec. 17a-145-152.	Criminal history; pending criminal actions; history of child abuse or neglect
Sec. 17a-145-153.	Achieving compliance with regulatory requirements
Sec. 17a-145-154.	Causes for, denying, revoking or refusing to renew a license
Sec. 17a-145-155.	Summary suspension
Sec. 17a-145-156.	Child placing agency hearing
Sec. 17a-145-157.	Hearing on summary suspension, revocation or non-renewal of license
Sec. 17a-145-158.	Disposition of license or approval documentation
Sec. 17a-145-159.	Waiver of requirements for a foster or prospective adoptive family
Sec. 17a-145-160.	Limitations to number of placements in one foster or

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

prospective adoptive family

Operation of Child-Caring Agencies and Facilities

Sec. 17a-145-1—17a-145-47. Reserved

Sec. 17a-145-48. Definitions

As used in sections 17a-145-48 to 17a-145-99, except as otherwise provided therein:

(a) “Child-care facility” means a congregate residential setting for the out-of-home placement of children or youth under eighteen years of age, licensed by the department of children and families.

(b) “Group of persons, whether incorporated for the purpose or not” includes an agency, firm, association, or organization operating the child-care facility, whether for compensation or not.

(c) “Department” means the department of children and families.

(d) “Commissioner” means the commissioner of children and families.

(e) “Child” means any person under eighteen years of age not related to the owner of the child-care facility.

(f) “Related” means kinship by blood, marriage or adoption, descended from a common ancestor not more than three generations removed from said child.

(Effective February 20, 1997)

Sec. 17a-145-49. Issuance of license. Not transferable or assignable

A license to care for or board a child shall be issued only to the child-care facility for which application is made and only for the address shown on the application and shall not be transferable or assignable.

(Effective February 1, 1994)

Sec. 17a-145-50. Display of license

Each child-care facility to which a license has been granted by the commissioner for the care or board of a child shall publicly display the license on its premises or show it, upon request, to the person or organization seeking to place a child.

(Effective February 1, 1994)

Sec. 17a-145-51. Access of commissioner or designee to premises

Each license shall be conditioned on the granting to the commissioner or his designee access, at any reasonable time as deemed necessary by him, to the premises described on the license. In cases of suspected child abuse/neglect, unrestricted access shall be at any time.

(Effective February 1, 1994)

Sec. 17a-145-52. Interstate placement of children

All facilities licensed under this section shall comply with all state laws regarding the interstate placement of children prior to accepting placement of a child from out of state in

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-145-53

Department of Children and Families

accordance with Sections 17a-152, 46b-151 et seq. and 17a-175 through 17a-182 of the Connecticut General Statutes.

(Effective February 1, 1994)

Sec. 17a-145-53. Consultation with licensee

Except as provided in § 17a-145-56, the department shall make every effort to consult with the licensee to achieve compliance with these regulations.

(Effective February 1, 1994)

Sec. 17a-145-54. Causes for revoking or refusing to renew license

A license may be suspended, revoked, or its renewal refused for any of the following causes whenever in the judgment of the commissioner or his designee the child-care facility:

- (a) Fails to comply with the regulations prescribed by the commissioner;
- (b) Fails to comply with applicable state and local laws, ordinances, rules and regulations relating to building, health, fire protection, safety, sanitation and zoning;
- (c) Violates any of the provisions under which the license has been issued;
- (d) Furnishes or makes any false or misleading statements to the commissioner in order to obtain or retain the license;
- (e) Refuses or fails to submit reports or make records available when requested by the commissioner or his designee;
- (f) Fails or refuses to admit the commissioner or his designee at any reasonable time as deemed necessary by him, or in cases of suspected child abuse at any time, for the purpose of investigation.

(Effective February 1, 1994)

Sec. 17a-145-55. Hearing on revocation

Any child-care facility may, within 15 days after receipt by certified mail of notice of refusal to renew or intended revocation of a license, request an administrative hearing thereon in accordance with the Uniform Administrative Procedures Act, Chapter 54, Connecticut General Statutes. Revocation or denial of renewal of license shall be stayed until such hearing is held except as provided in section 4-182 subsection (c). In the absence of such request for a hearing during this time period, the license shall either be revoked or not renewed. Applicants for initial licensure who are aggrieved by the refusal of the department to issue a license may request a hearing thereon by putting such request in writing to the commissioner.

(Effective February 1, 1994)

Sec. 17a-145-56. Suspension of license

If the department finds that public health, safety or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These

proceedings shall be promptly instituted and determined.

(Effective February 1, 1994)

Sec. 17a-145-57. Return of license to the commissioner

Upon discontinuance of the licensed program or revocation of the license, the license shall be returned by the child-care facility to the commissioner within 14 days after receipt of such request.

(Effective February 1, 1994)

Sec. 17a-145-58. Waiver of requirements

A child-care facility shall comply with all relevant regulations unless a waiver for specific requirement(s) has been granted through a prior written agreement with the department. This agreement shall specify the particular requirement(s) to be waived, the duration of the waiver, and the terms under which waiver is granted. Waiver of specific requirements shall be granted only when the facility has documented that the intent of the specific requirement(s) to be waived will be satisfactorily achieved in a manner other than that prescribed by the requirement(s). When the facility fails to comply with the waiver agreement in any particular, the agreement shall be subject to immediate cancellation.

(Effective February 1, 1994)

Children's Homes or Similar Institutions, Residential Treatment Facilities, Group Homes, and Temporary Shelters

Sec. 17a-145-59. Compliance with requirements for licensure

The minimum requirements set forth in section 17a-145-60 to section 17a-145-98, shall be complied with as requisite for licensing children's homes or similar institutions, residential treatment facilities, group homes and temporary shelters. Facilities which are not private family homes may be licensed under these sections.

(Effective February 1, 1994)

Sec. 17a-145-60. Finances

Each such facility shall have sufficient income and resources to adequately maintain the plant, equipment and program encompassed by these regulations. Financial records showing the amount and source of all income and expenses and of all assets and liabilities of the child-care facility and the sponsoring agency shall be maintained. There shall be an annual audit of all capital resources, assets, liabilities, receipts and expenditures by a qualified public accountant not affiliated with the facility or agency as an employee. A copy of each such annual audit, in such form as required by the commissioner or his designee, shall be a part of the facility's record and shall be submitted to the department upon request.

(Effective February 1, 1994)

Sec. 17a-145-61. Written policies and procedures

The policies and operating procedures of the facility covering the selection, medical care, education, religious training, discipline, discharge, program, daily care, feeding, staffing pattern and supervision of the children shall be clearly stated in writing, reviewed no less than annually by the persons responsible for the total operation of the facility, and kept current. Copies and any subsequent revision thereof shall be made available to appropriate staff of the facility. Copies and any subsequent substantial revisions shall be provided to the department.

(Effective February 1, 1994)

Sec. 17a-145-62. Governing board

All licensed child-care facilities shall have a governing board. Such board shall be legally constituted and shall manage its affairs in accordance with applicable provisions of law, its certificate of incorporation and its duly adopted bylaws. The board shall meet at least with the frequency specified in the corporation's bylaws and keep minutes of each meeting which shall be made a part of the permanent records of the facility. Minutes of the discussion of those matters relating to the licensed facility's operation shall be made available to the department upon request.

(Effective February 1, 1994)

Sec. 17a-145-63. Chief administrative officer

There shall be a chief administrative officer who shall be in charge of the overall management of the facility and carry out the policies of the governing board. Each facility shall provide the staff and complementary services to enhance the physical and emotional well-being and ensure the safety of the children.

(Effective February 1, 1994)

Sec. 17a-145-64. Personnel policies and procedures

Personnel policies and operating procedures regarding facility employment and personnel practices shall be in writing and on file with the department. A copy shall be given to each employee and volunteer worker. A record containing personnel and health information shall be maintained by the facility for each employee. All direct care personnel shall have a physical examination, including a test for tuberculosis, immediately prior to assuming assigned duties.

(Effective February 1, 1994)

Sec. 17a-145-65. Hazardous equipment

All power-driven machines and other hazardous equipment shall be properly safeguarded and their use by children regulated by supervisory staff of the facility.

(Effective February 1, 1994)

Sec. 17a-145-66. Health, sanitation, fire safety, and zoning approval

Health and sanitation approval by the state and local departments of health, approval for safety by the state and local fire marshals, certificate of occupancy and zoning approval are prerequisite to licensing upon initial application. State, or at the discretion of the commissioner, local fire marshal and health inspections and approvals shall be required for renewal of a license.

(Effective February 1, 1994)

Sec. 17a-145-67. Water supply. Sewage and garbage facilities

Water supply shall be adequate and safe. If the facility is not served by public water supply, the water shall be analyzed and approved by the state department of health services or local department of health or a private water-testing laboratory approved by the state department of health services at the time of initial licensure and at any subsequent time the department deems such testing is necessary. Adequate and safe sewage and garbage facilities shall be maintained.

(Effective February 1, 1994)

Sec. 17a-145-68. Heating, ventilation, lighting

Comfortable heating, sufficient ventilation, and both natural and artificial lighting shall be provided.

(Effective February 1, 1994)

Sec. 17a-145-69. Construction

The plans and designs for all new construction, additions to or substantial modifications of buildings or parts of buildings used or to be used in the operation of the child-care facility shall be submitted to the commissioner for review before such construction is contracted for or begun. The proposed plans shall include written confirmation of required fire, safety and zoning approvals. The commissioner shall determine if the proposed plans are in compliance with the intent of these regulations within 30 days.

(Effective February 1, 1994)

Sec. 17a-145-70. Nursery units

Nursery units for children up to two years of age shall be separate from living quarters for children.

(Effective February 1, 1994)

Sec. 17a-145-71. Living room, lounge

Cottage-type and congregate-type institutions shall provide a living room or lounge in each unit sufficient in size and equipment for the informal use of the children. Each living room or lounge shall be comfortably and attractively furnished, well heated, lighted, ventilated and screened, clean and cheerful, with substantial furnishings suitable for use by

children.

(Effective February 1, 1994)

Sec. 17a-145-72. Living quarters of staff

Living quarters of staff shall afford privacy from children and shall be suitable according to job duties and employment arrangements.

(Effective February 1, 1994)

Sec. 17a-145-73. Sleeping accommodations

(a) Sleeping accommodations for each child shall have adequate area, spacing and equipment in accordance with the child's age and needs. Bedrooms shall contain a window unless there is a 24-hour ventilation system approved by the state or local health department. Heating facilities shall be sufficient to maintain a room temperature consistent with existing department of health services' guidelines. Separate sleeping quarters shall be provided for children of the opposite sex six years of age or over. The facility shall provide each such child with a single bed with adequate linens and covers suitable for the temperature, and a locker, dresser or other storage space for the child's private use conveniently located in or near the child's sleeping room.

(b) Sleeping quarters for children under 12 years of age shall have a minimum of 300 cubic feet of air space per child, or a minimum of 70 square feet of floor space. Sleeping quarters for children aged 12 and over shall have a minimum of 500 cubic feet of air space, or a minimum of 70 square feet of floor space per child.

(c) Sleeping quarters of staff shall be separate from those of the children but near enough to afford proper supervision.

(Effective February 1, 1994)

Sec. 17a-145-74. Lavatory facilities. Toilet articles and linens

(a) At least one toilet and washbasin shall be provided near sleeping quarters, recreation areas, and dining rooms respectively and shall have adequate hot and cold running water, equipment and supplies. Adequate bath facilities shall be in the same building as, and accessible to, sleeping quarters. The bathroom equipment for children shall be of appropriate size and height for the children's use. Each facility shall provide for bathrooms and toilets which shall allow for individual privacy.

(b) Each child shall be provided with an adequate supply of toilet articles and linen.

(Effective February 1, 1994)

Sec. 17a-145-75. Health and medical treatment. Administration of first aid. Prescription medication. Administration of medicine or treatment. Written records. Storage of drugs, medicines, and instruments. Sick room, telephone.

(a) The facility shall provide for the health and medical treatment needs of children by having a written plan which specifies the arrangements for the provision of preventive,

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-145-76

routine, elective and emergency medical care. The facility shall provide or arrange for qualified medical care for its residents, including medical emergency treatment, on a 24-hour, 7-day-a-week basis.

(b) There shall be written policies and procedures, reviewed by a physician at least quarterly, for the administration of first-aid; care of residents with minor illnesses, injuries or special conditions; and for the administration or use by residents of patent medicines.

(c) The facility shall only permit prescription medication to be administered to a child upon the written order of a licensed physician who has examined the child in an appropriate manner for the condition and its treatment. Orders for prescription medication should be reviewed at intervals appropriate for that child and his/her treatment, as specified in writing by a physician, and at least quarterly.

(d) The facility shall permit only staff who have been fully instructed in the proper administration, expected and untoward effects, and contraindications to continued administration of a prescribed medicine or treatment to administer that medicine or treatment. The facility shall have a written policy specifying the criteria used for designating staff to administer medication and a written plan for training staff. The facility shall maintain a current, written roster of staff designated to administer medication. There shall be periodic reviews and updating of staff's knowledge about medication and other treatments and their administration.

(e) A written record shall be kept of the administration of all prescriptive and non-prescriptive medicine to a resident, identifying the medicine and dosage, time of administration and the person who administered the medicine.

(f) All drugs, medicines and medical instruments shall be kept in a locked cabinet accessible only to designated staff members. A resident may keep and administer prescribed medicines himself only with the written approval of a physician and the agreement of designated staff that this practice would not be a risk for other children in residence.

(g) The facility shall ensure that residents, in the event of sickness have an area which is comfortable, safe and allows appropriate privacy.

(h) A telephone with posted emergency medical and poison information numbers shall be available in all health care areas.

(Effective February 1, 1994)

Sec. 17a-145-76. Kitchens, equipment, food-handling

All kitchens shall be clean, well lighted, properly ventilated and screened, and provided with essential and proper equipment for the preparation and serving of food. Storage, refrigeration and freezer facilities shall be adequate for the number of persons to be served. All perishable foods shall be refrigerated at a temperature at or below 45° Fahrenheit. Freezers and frozen food compartments shall be maintained at minus 10° to 0° Fahrenheit. Cooking utensils, dishes and tableware shall be in good condition and proper cleaning facilities for this equipment shall be provided. Dishes shall be stored in a clean, dry place protected from flies, dust or other contamination. Food preparation and serving areas shall

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-145-77

Department of Children and Families

comply with section 19-13-B42 of the public health code. Proper food handling techniques and sanitation to minimize the possibility of the spread of food-borne diseases shall be maintained.

(Effective February 1, 1994)

Sec. 17a-145-77. Dining areas and supervision

Dining areas shall be kept clean and attractive, well-lighted, properly screened and ventilated, and shall be large enough to accommodate the children and staff responsible for their supervision. Staff supervision at meals shall be adequate to ensure a safe and comfortable atmosphere for eating.

(Effective February 1, 1994)

Sec. 17a-145-78. Recreational facilities

Indoor and outdoor recreational facilities, supplies and equipment shall be provided and used by the children. Appropriate safety measures, instructions and supervision should be provided to protect the children from bodily harm.

(Effective February 1, 1994)

Sec. 17a-145-79. Telephone service

Each cottage or separate living unit shall have 24-hour telephone service.

(Effective February 1, 1994)

Sec. 17a-145-80. Internal and external security

The facility shall provide adequate internal and external security to ensure the safety of children and staff from outside intruders.

(Effective February 1, 1994)

Sec. 17a-145-81. Provisions for education

Each child-care facility shall ensure that every child in care attends an appropriate educational program which is approved by the state education agency in accordance with state law.

(Effective February 1, 1994)

Sec. 17a-145-82. Laundry

Provisions shall be made for the children's personal laundry, the facility's laundry and the repair of clothing.

(Effective February 1, 1994)

Sec. 17a-145-83. Visitors

Children shall have a place to receive visitors in privacy. Each child shall be permitted to receive visitors subject to reasonable restrictions consistent with the child's treatment

objectives.

(Effective February 1, 1994)

Sec. 17a-145-84. Office space. Confidential files

Private office space shall be available for administrative and counseling staff. There shall be locked files for all confidential material.

(Effective February 1, 1994)

Sec. 17a-145-85. Housekeeping equipment and supplies

Housekeeping equipment and supplies shall not be accessible to children unless an individual determination is made concerning their ability to safely use them or their use is under direct staff supervision. Such materials shall be maintained in a safe, protected space which shall be clean, dry, well-lighted, ventilated and in good repair, free from rodents and other vermin.

(Effective February 1, 1994)

Sec. 17a-145-86. Instructions in safety procedures. Supervision

Each child shall be instructed, as appropriate to his own age level, in safety procedures, including fire drills, civil defense and safe use of electrical or power equipment. All use of such equipment shall be under the supervision of a competent adult. Safety procedures for waterfront and swimming pools shall be maintained. All on-grounds pools shall be enclosed with safety fences and shall be regularly tested to ensure that the pools are free of contamination. A certified individual shall be on duty when the children in care are swimming. A certified individual is one who has a current water safety instructor's certificate or senior lifesaving certificate from the Red Cross or its equivalent. The waterfront or pool shall be properly maintained and have proper safety equipment available. The swimming pool shall be inspected under section 19-13-B33a, and the waterfront under sections 19-13-B34 or 19-13-B36, respectively, of the Connecticut General Statutes.

(Effective February 1, 1994)

Sec. 17a-145-87. Religious activities

The religious faith of each child shall be protected and the child shall be given the opportunity to participate in religious activities of his own faith whenever possible.

(Effective February 1, 1994)

Sec. 17a-145-88. Abuse of children. Discipline

The child-care facility shall prohibit abusive, corporal, humiliating or frightening punishment and restraints not appropriate to the circumstances, particularly in the area of toileting, feeding or sleeping practices. Control, supervision and discipline of children shall be an adult responsibility appropriate to the child's age and level of development and shall not be prescribed or administered by the children except in those programs which employ

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-145-89

Department of Children and Families

peer counseling and control under specific guidelines as determined by the commissioner.

(Effective February 1, 1994)

Sec. 17a-145-89. Work performed by children

Children shall be encouraged to work. Each facility shall ensure that the child's work experience has a constructive value for his or her training and development. Work assignments shall be made in accordance with the age and ability of the child and applicable laws and regulations.

(Effective February 1, 1994)

Sec. 17a-145-90. Clothing. Storage

Each child-care facility shall ensure that each child in care has adequate clean, well-fitting, attractive and seasonable clothing as required for health, comfort and physical well-being, and as appropriate to age, sex, individual needs and community standards. A child's clothing must be identifiably his/her own and not shared in common. Provision shall be made for the safe storage of the child's personal possessions.

(Effective February 1, 1994)

Sec. 17a-145-91. Health program, facilities, training

Each child-care facility shall provide the program, facilities and training necessary for the children's daily health needs and the development of sound habits and practices or personal hygiene and appearance.

(Effective February 1, 1994)

Sec. 17a-145-92. Food and diet

Food served shall be wholesome and of sufficient quantity. The diet of children under one year of age shall be prescribed by a qualified physician. The diet of children over one year of age shall meet the recommended daily allowances published by the food and nutrition board of the national research council, the state department of health or county extension service.

(Effective February 1, 1994)

Sec. 17a-145-93. Medical, dental, and nursing care

Each child-care facility shall provide or arrange for appropriate medical, dental and nursing care for children, including use of community health services. The health program for the children shall include preventive and remedial medical and dental services and psychiatric and psychological services as needed.

(Effective February 1, 1994)

Sec. 17a-145-94. Written treatment plan

An individualized facility written treatment plan shall be established by the facility and

implemented for each child in accordance with department treatment plans and regulations as applicable.

(Effective February 1, 1994)

Sec. 17a-145-95. Children not to be used for fund-raising

The child-care facility shall not require or permit children in its care to solicit funds for the institution or be identified by name, in photographs or in any other manner in its fund-raising material and activities or in public relations unless legally sufficient waivers are obtained.

(Effective February 1, 1994)

Sec. 17a-145-96. Discharge of child

Discharge of a child from the care of the child-care facility shall be only to the person, persons or agency having legal custody of the child, or on the written authorization of such legal custodian.

(Effective February 1, 1994)

Sec. 17a-145-97. Unauthorized absence of child

Unauthorized absences of a child in care shall be reported immediately by telephone, or not later than the next working day, to the guardian followed by a written report within a reasonable period of time. When such absences occur outside of normal working hours or on weekends and holidays and the department or guardian cannot be notified, the child-care facility shall also report the absence to the police.

(Effective February 1, 1994)

Sec. 17a-145-98. Case records. Reports. Confidentiality

(a) Each child-care facility shall maintain a current, confidential case record for each child, including family, social and health history; the reason for admission; the individual treatment plan; the care and service provided; the progress of the child in the facility; and the plan for discharge and disposition.

(b) The guardian or custodian of the child shall be entitled to receive, upon written request, reports and information concerning the health, behavior, progress and educational achievement of the child.

(c) All confidential records shall be maintained in locked files and shall not be available to other than authorized persons. A record of duly authorized personnel shall be maintained by the facility.

(Effective February 1, 1994)

Foster Homes and Adoptive Homes/Family Day Care Homes

Sec. 17a-145-99—17a-145-129. Repealed

Repealed February 20, 1997.

Sec. 17a-145-130. Definitions

As used in Sections 17a-145-130 through 17a-145-160, inclusive, of the Regulations of Connecticut State Agencies, the following definitions apply:

(a) “Approved” means to be granted permission by a child placing agency, licensed by the department, to be a foster family or prospective adoptive family.

(b) “Bedroom” means a room used by a foster or adoptive child for sleeping.

(c) “Child” means any person under eighteen years of age not related to the foster or prospective adoptive family.

(d) “Child-placing agency” means an agency, association, corporation, institution, society, or other public or private organization licensed by the department to approve foster or prospective adoptive families and to place a child into an approved foster or prospective adoptive family.

(e) “Commissioner” means the commissioner of the Department of Children and Families.

(f) “Department” means the Department of Children and Families.

(g) “Emergency” means any situation in which an immediate threat to the health or welfare of a child or children exists or is suspected.

(h) “Firearms or other types of dangerous weapons” means those items defined in Sections 53a-3(19) and 53a-3(21) of the Connecticut General Statutes.

(i) “Foster family” means a person or persons, licensed or certified by the department of children and families or approved by a licensed child placing agency, for the care of a child or children in a private home, herein after referred to as a foster family, foster home or foster parents.

(j) “Licensed” means to be granted permission by the department.

(k) “Member of the household” means a person who lives in or has regular access to a foster or prospective adoptive home including, but not limited to boarders, roomers, relatives and friends.

(l) “Prospective adoptive family” means a person or persons, licensed by the department of children and families or approved by a licensed child placing agency, who is awaiting the placement of, or who has a child or children placed in their home for purposes of adoption, herein after referred to as a prospective adoptive family, prospective adoptive home or prospective adoptive parents.

(m) “Summary suspension” means the immediate termination of the right to provide care as a foster or prospective adoptive family as granted in a department issued license, pending proceedings for revocation or other licensure action.

(n) “Trigger guard lock” means a lock which prevents the discharge of a firearm unless

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-145-133

unlocked by a key or combination.

(Effective February 20, 1997)

Sec. 17a-145-131. Application of regulations to the department and child placing agencies

The provisions of sections 17a-145-130 through 17a-145-160, inclusive, of the Regulations of Connecticut State Agencies shall apply to the process of licensing or approving a foster or prospective adoptive family by the department or child placing agencies except where otherwise referenced in such regulations.

(Effective February 20, 1997)

Sec. 17a-145-132. Assessment of foster or prospective adoptive parents and members of the household

The department and each child placing agency shall conduct an assessment of any applicant for a foster family or prospective adoptive family license or for the renewal of such a license. Such assessment shall include the applicant as well as all members of the applicant's household. The assessment shall determine the ability of the applicant to comply with the requirements of sections 17a-145-130 through 17a-145-160, inclusive, of the Regulations of Connecticut State Agencies. Such assessment shall include, but not necessarily be limited to, the physical condition of the home, the health of the applicant and other members of the household, and the ability of the applicant to provide an environment that will advance the physical, mental, emotional educational and societal development of each foster or adoptive child who may be placed in such home. In the case of a foster family the assessment shall also determine the ability of the foster family or applicant to work with the department to pursue the child's treatment plan including reunification with the biological family.

(Effective February 20, 1997)

Sec. 17a-145-133. Issuance of license or granting of approval. Not transferable or assignable

(a) A license to care for or board a child shall be issued by the department only to the foster family or prospective adoptive family for which application is made and only for the address shown on the application and shall not be transferable or assignable. Foster families or prospective adoptive families approved through a licensed child placing agency shall be granted such approval by a licensed child placing agency only to the foster family or prospective adoptive family for which application is made and only for the address shown on the application and shall not be transferable or assignable.

(b) No foster or prospective adoptive home shall possess more than one (1) license or approval for adoption or other form of out of home care either through the department, an entity licensed by the department or licensed or otherwise approved through any other entity.

(c) In the case that there are changes to any member of the household or dwelling

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-145-134

Department of Children and Families

structure, the department or child placing agency may require a new assessment of the foster or prospective adoptive family. Such assessment shall result in the issuance of a new license or approval or the initiation of action to revoke such license or approval.

(d) A foster care license or approval is not an entitlement.

(Effective February 20, 1997)

Sec. 17a-145-134. Access to license or documentation of approval

Each foster family or prospective adoptive family to which a license has been granted by the commissioner for the care of a child shall keep such license at the residence and shall make such license available to the commissioner or his designee upon request. Foster families or prospective adoptive families approved through a child placing agency shall keep a letter or other form of documentation from such agency proving they are approved and shall make such letter or documentation available to the child placing agency, commissioner or his designee upon request.

(Effective February 20, 1997)

Sec. 17a-145-135. Access of commissioner or child placing agency to premises

Each foster family or prospective adoptive family shall grant the commissioner or his designee or child placing agency access to the child, premises and documents related to the child at any reasonable time as deemed necessary with respect to non-emergency child related issues. In emergency circumstances unrestricted access shall be granted.

(Effective February 20, 1997)

Sec. 17a-145-136. Interstate placement of children

Each child placing agency, foster family or prospective adoptive family shall comply with state statutes and regulations regarding the interstate placement of children prior to accepting placement of a child from out of state.

(Effective February 20, 1997)

Sec. 17a-145-137. Physical requirements of foster and prospective adoptive homes

(a) Dwelling and furnishings shall be clean and comfortable and in good repair.

(b) State and local fire codes shall be observed by all foster families and prospective adoptive families. A determination of reasonable fire safety shall be established for all foster families or prospective adoptive families. In the event of a disagreement between the department and a foster family or prospective adoptive family regarding fire safety issues, the final determination shall be vested in the local fire marshal.

(c) The home and grounds shall be reasonably free from anything that constitutes a hazard to children including, but not limited to:

1) Any peeling paint inside or outside of the house which is accessible to the children shall be determined to be non-toxic in compliance with requirements of the department of public health;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-145-139

- 2) equipment used by the children shall not be painted or covered by any material which is poisonous;
- 3) all swimming pools shall comply with state and local regulations; and
- 4) medicines and toxic and flammable materials shall be kept out of the reach of children.
- (d) There shall be sufficient indoor and outdoor space, ventilation, toilet facilities, light and heat to ensure the health and comfort of all members of the household.
- (e) All heating systems shall comply with the state and local building and fire codes.
- (f) Adequate sewage and garbage facilities shall be maintained.
- (g) All power driven machines or other hazardous equipment shall be properly safeguarded and their use by any foster or adoptive child properly supervised by an adult.
- (h) Emergency evacuation plans shall be established and practiced at least quarterly with the children.
- (i) If a furnace is on the same floor as a living space it shall be enclosed.
- (j) All foster and prospective adoptive homes shall have smoke detectors in operating condition so as to protect sleep areas, play areas and the basement.

(Effective February 20, 1997)

Sec. 17a-145-138. Telephone

All foster and prospective adoptive homes shall have a working telephone with emergency numbers posted in an easily visible location. The department or child placing agency shall be notified within one (1) business day of any change in the home's telephone number or telephone status.

(Effective February 20, 1997)

Sec. 17a-145-139. Children's bedroom, clothing and privacy

- (a) (1) Each bedroom shall be enclosed on all sides, with a window and a door that leads into a hallway or other common living area.
- (2) Each bedroom shall have at least two approved means of exit capable of providing for escape in the event of fire or disaster
- (3) Bedrooms for children shall be used for sleeping purposes and customary childrens' activities only. The child's bedroom shall not be used for general purposes of other members of the family.
- (4) Children under the age of five placed in foster families and prospective adoptive families shall sleep on the same floor and in close proximity to foster or prospective adoptive parents or a responsible adult.
- (5) A separate bed shall be provided for each child except that siblings of the same sex may sleep together in a double sized or larger bed with the approval of the commissioner or his designee.
- (6) No child three years of age or older shall be permitted to share a bedroom with another child of the opposite sex or a same sex child of disparate age. No child over the age of one shall share a room with an adult without the permission of the commissioner or his

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-145-140

Department of Children and Families

designee.

(7) No more than four (4) children including the foster or prospective adoptive parents own children shall sleep in the same room without the permission of the commissioner or his designee.

(b) The child's clothing shall be kept clean and in good condition in keeping with the standards of the community. Provision shall be made for the safe storage of the child's clothing and personal possessions.

(c) Each child shall be afforded privacy appropriate to his growth and development.

(Effective February 20, 1997)

Sec. 17a-145-140. Food and water

(a) All food for human consumption, food storage and preparation, personal cleanliness and general care of the home shall meet generally accepted health standards.

(b) No non-pasteurized milk products shall be provided by, or with the approval or knowledge of, a foster family or prospective adoptive family to any child in care.

(c) The water supply shall be safe and adequate to meet the needs of the household. If the home is not served by a public water supply, the water shall be analyzed and approved by the state or local department of health or by a private water testing laboratory approved by the department of public health and addiction services at the time of initial licensure or approval and at any subsequent time the department or child placing agency deems such testing necessary.

(Effective February 20, 1997)

Sec. 17a-145-141. Firearms and weapons

Firearms or other types of dangerous weapons are discouraged in foster and prospective adoptive homes. The department or child placing agency shall be notified by any foster or prospective adoptive parents if they or a resident in their home possess, prior to licensure or approval or obtained subsequent to licensure or approval, a firearm or other type of dangerous weapon. A foster or prospective adoptive parents shall ensure that: (1) Firearms and ammunition shall each be locked in separate places inaccessible to all children; firearms; (2) whenever practicable, firearms are equipped with a trigger guard lock; (3) other types of dangerous weapons shall be unstrung or unloaded and shall be stored in locked containers out of the reach of children; and, (4) keys to the locked storage area of firearms, other types of dangerous weapons, trigger guards, and ammunition shall be kept in the secure possession of an adult or reasonably secure from children.

(Effective February 20, 1997)

Sec. 17a-145-142. Animals

All animals in the foster family or prospective adoptive family shall be kept in a safe and sanitary manner and shall be in compliance with all statutes and regulations regarding

vaccination, and generally accepted veterinary care.

(Effective February 20, 1997)

Sec. 17a-145-143. Health standards for of foster or prospective adoptive parents and members of the household

(a) The health of persons living in the foster or prospective adoptive family shall not present a hazard to the children. Prior to licensure or approval applicants to become a foster family or prospective adoptive family shall supply a statement from a physician on such forms as approved by the commissioner or child placing agency that within the previous twelve (12) months:

(1) Each person living in the home has had a physical examination and has been found to be in good health or that specified members of the family are receiving all necessary continuing medical care and are free of communicable disease; and

(2) the parents have been determined to be physically and mentally able to provide care to children.

(b) Once licensed, foster or prospective adoptive parents shall notify the department whenever they or a member of the household develop a physical or mental infirmity which may interfere with their ability to care for and meet the needs of the child.

(c) The department or child placing agency may require a physical, mental or psychological examination of any member of the foster or prospective adoptive household if such person exhibits characteristics or behaviors which indicate or could indicate that they are unable to provide for the care of the child. Such examination shall be done at the expense of the department or child placing agency if such person is uninsured.

(Effective February 20, 1997)

Sec. 17a-145-144. Character standards for foster or prospective adoptive parents and members of the household

Foster and prospective adoptive parents and others members of the household shall be of good character, habits and reputation.

(Effective February 20, 1997)

Sec. 17a-145-145. Change in licensed conditions

Foster and prospective adoptive parents shall notify the department or child placing agency, in writing, prior to or not later than one (1) business day following any change in circumstance or member of the household which alters the statement of fact made in the application for licensure or approval or which effect the ability of the foster or prospective adoptive parent to provide on-going care of the child.

(Effective February 20, 1997)

Sec. 17a-145-146. Reporting of the injury, illness, death, fire or absence of a child from placement

Foster and prospective adoptive parents shall report to the department or child placing agency, by telephone, within six (6) hours any serious injury, serious illness or death of a child, any fire in the home or any unauthorized absence of a child.

(Effective February 20, 1997)

Sec. 17a-145-147. Financial condition of the foster or prospective adoptive parent

Foster and prospective adoptive parents shall have an income sufficient to meet the needs of their family. Money received on behalf of the child shall be expended for the care of the child.

(Effective February 20, 1997)

Sec. 17a-145-148. Substitute child care

When all adults in a foster home or prospective adoptive home are employed or otherwise occupied in substantial amount of time away from the foster home or prospective adoptive home, the plans for care and supervision of the child shall be provided by a competent individual and approved in advance by the commissioner or his designee.

(Effective February 20, 1997)

Sec. 17a-145-149. Cooperation with the department's treatment plan

(a) Foster parents shall comply with the treatment plan for the child and work cooperatively with the department or child placing agency in all matters pertaining to the child's welfare.

(b) Foster parents shall accept, cooperate with and support arrangements made for the child to have contact including visits and correspondence with the child's biological family in keeping with the frequency indicated by the treatment plan. Visits between children and biological parents shall take place in the foster home unless it is deemed not to be in the best interest of the child or foster family. Foster parents shall be active participants in reunification of the child with the child's biological family.

(Effective February 20, 1997)

Sec. 17a-145-150. Limitation on the number of licenses or approvals allowed

A foster or prospective adoptive family shall be approved only by a child placing agency. No foster or prospective adoptive home shall possess more than one (1) license or approval for adoption or other form of out of home care either through the department, an entity licensed by the department or licensed or otherwise approved through any other entity. No foster or prospective adoptive family shall hold dual licensure or approval. No licensed or approved foster or prospective adoptive family shall accept, on a private basis, another child for placement.

(Effective February 20, 1997)

Sec. 17a-145-151. General requirements of foster and prospective adoptive parents

(a) Foster and prospective adoptive parents shall be physically, intellectually and emotionally capable of providing care, guidance and supervision of the child including:

- (1) Insuring routine medical care, scheduling and transportation;
- (2) obtaining and following instructions from the child's medical provider if medication or treatment are to be administered by the foster or prospective adoptive parents. Any medications provided shall be clearly labeled and kept out of the reach of children;
- (3) establishing plans to respond to illness and emergencies, including serious injuries and the ingestion of poison, with appropriate first aid supplies available in the home out of reach of the children;
- (4) maintaining all documentation as required by the department;
- (5) providing for the child's physical needs including adequate hygiene, nutritional meals and snacks prepared in a safe and sanitary manner, readily available drinking water, a balanced schedule of rest, active play, indoor and outdoor activity appropriate to the age of the child in care;
- (6) promoting the social, intellectual, emotional, and physical development of each child by providing activities that meet these needs or special needs if such exist;
- (7) assuring adequate opportunity for cultural, and educational activities in the family and in the community. Children who do not share the same language, as their caretaker shall be provided with opportunities to practice their native language as they become bilingual or multi-lingual;
- (8) assuring an environment of tolerance and sensitivity to a child's religion through providing adequate opportunity for religious training and participation appropriate to the child's religious denomination, and not requiring any child to participate in religious practices contrary to the child's beliefs;
- (9) providing emotional support and an environment that meets the child's ethnic and cultural needs;
- (10) assuring the child's participation in an approved education program, including regular school attendance. The foster or prospective adoptive parents shall cooperate with the proper authorities in relation to the child's educational needs;
- (11) guiding the child in the acquisition of daily living skills including the assigning of daily chores to the child on the basis of the child's abilities and developmental level; and
- (12) providing infants and toddlers with ample opportunity for freedom of movement each day outside of a crib or playpen, infants are to be held for all bottle feedings, as well as at other times, for attention and verbal communication.

(b) Foster and prospective adoptive parents, members of the household, substitute care providers, and other persons having regular access to children in the home shall give the child humane and affectionate care. They shall be a positive role model to the child and instruct the child in appropriate behavior. They shall establish limits and assist the child to develop self control and judgment skills. Children in the home shall be encouraged to assume age-appropriate responsibility for their decisions and actions.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-145-152

Department of Children and Families

(c) Discipline shall be appropriate to the child's age and level of development. Foster and prospective adoptive parents shall not use physically or verbally abusive, neglectful, humiliating, frightening or corporal punishment, including but not limited to spanking, cursing or threats.

(d) When unusual circumstances require continued or frequent use of physical or mechanical restraints prior written approval shall be obtained from the commissioner or his designee.

(e) Licensed or approved foster and prospective adoptive parents shall complete all assessment and training requirements as prescribed by the department or child placing agency.

(f) The department or child placing agency may consider any unusual circumstances including but not limited to the health demands of other members of the household which may detract from the attention, structure and time required by a foster or prospective adoptive child.

(Effective February 20, 1997)

Sec. 17a-145-152. Criminal history; pending criminal actions; history of child abuse or neglect

(a) The granting of a license or approval shall be denied if any member of the household of a foster family or prospective adoptive family:

(1) Has been convicted of injury or risk of injury to minor or other similar offenses against a minor

(2) has been convicted of impairing the morals of a minor or other similar offenses against a minor;

(3) has been convicted of violent crime against a person or other similar offenses;

(4) has been convicted of the possession, use, or sale of controlled substances within the past five (5) years;

(5) has been convicted of illegal use of a firearm or other similar offenses;

(6) has ever had an allegation of child abuse or neglect substantiated; or

(7) has had a minor removed from their care because of child abuse or neglect.

(b) The renewal of a license or approval may be denied if any member of the household of a foster family or prospective adoptive family:

(1) Has been convicted of injury or risk of injury to a minor or other similar offenses against a minor;

(2) has been convicted of impairing the morals of a minor or other similar offenses against a minor;

(3) has been convicted of violent crime against a person or other similar offenses;

(4) has been convicted of the possession, use, or sale of controlled substances;

(5) has been convicted of illegal use of a firearm or other similar offenses;

(6) has ever had an allegation of child abuse or neglect substantiated; or

(7) has had a minor removed from their care because of child abuse or neglect.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-145-153

(c) The granting or renewal of a license or approval may be denied if any member of the household of a foster family or prospective adoptive family:

(1) Is awaiting trial, or is on trial, for charges as described in subdivisions (1) through (5) of subsection (a) of this section;

(2) has a criminal record that the department or child placing agency believes makes the home unsuitable; or

(3) has a current child abuse or neglect allegation pending;

(d) No approval shall be renewed if the holder of such approval knowingly arranges for the substitute care of a child by a person described in subsection (a) or (c) of this section.

(Effective February 20, 1997)

Sec. 17a-145-153. Achieving compliance with regulatory requirements

(a) In the event that a foster family is found to be in non-compliance with any statutes or regulations the department shall identify in writing within twenty (20) business days of the determination of non-compliance the sections of the statutes or regulations in which such person is not in compliance.

(b) The foster family shall be given twenty (20) business days to show compliance with the statutes or regulations. When such person cannot demonstrate compliance within twenty (20) business days the commissioner or his designee may provide such person the opportunity to submit a written plan to the department outlining steps which will be taken to achieve compliance.

(c) Upon approval by the commissioner or his designee of a written plan to achieve compliance with all relevant statutes and regulations a foster family may be issued a provisional license. Each provisional license may be in force for up to a period of up to sixty (60) days per license. Additional provisional licenses may be issued for additional periods of up to sixty (60) days if adequate progress towards compliance as outlined in the written plan is being demonstrated. The total period for which a foster family may be issued provisional licenses shall not exceed one (1) year.

(d) In accordance with section 17a-151 of the Connecticut General Statutes a provisional license or a provisional approval may be revoked, suspended, denied or its renewal refused if the foster family does not supply a satisfactory plan for achieving compliance with all relevant regulations, does not make good faith efforts to achieve compliance, or does not achieve compliance within a period of not more than one (1) year.

(e) The commissioner or his designee shall not grant the opportunity for the submission of a written plan if the nature or severity of the non compliance is such that the commissioner or his designee determine that compliance is not achievable within a reasonable time period or would require such involvement by the department that the relative cost/benefit would be fiscally imprudent on the part of the department. The department shall document such instances when the opportunity to submit a written plan is not granted.

(f) If the department revokes, suspends, denies or refuses to renew a license pursuant to subsection (d) of this section or does not grant the submission of a plan pursuant to

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-145-154

Department of Children and Families

subsection (e) of this section the department shall provide the foster family with documentation of the nature of the non-compliance and the reasons for the department's action. The department shall promptly institute proceedings for revocation or non-renewal of such license.

(Effective February 20, 1997)

Sec. 17a-145-154. Causes for, denying, revoking or refusing to renew a license

(a) A license or approval may be denied, revoked, or its renewal refused if the applicant or holder of such license or approval:

(1) Fails to comply with applicable statutes and regulations regarding child care and child placement;

(2) fails to comply with applicable state and local laws, ordinances, rules and regulations relating to building, health, fire protection, safety, sanitation and zoning;

(3) violates any of the provisions under which the license or approval has been issued or granted;

(4) furnishes or makes any false or misleading statements to the commissioner or child placing agency in order to obtain or retain a license or approval;

(5) refuses or fails to submit reports or make records available when requested by the commissioner, designee or child placing agency; or

(6) fails or refuses to admit to the property or to discuss regulatory issues with the commissioner or his designee or child placing agency as required in section 17a-145-135 of the Regulations of Connecticut State Agencies.

(Effective February 20, 1997)

Sec. 17a-145-155. Summary suspension

If the department has reason to believe that a threat to the health or welfare of a child or children placed in a foster or prospective adoptive home exists, the department may summarily suspend the license or approval. The department shall immediately remove any foster or prospective adoptive child residing in a foster or prospective adoptive home which has had its license or approval summarily suspended. Any licensed foster or prospective adoptive home which has been issued a summary suspension shall be immediately notified by mail of its right to a hearing on the issue of summary suspension pursuant to section 17a-145-157 of the Regulations of Connecticut State Agencies. If the licensed foster or prospective adoptive home requests a hearing within ten (10) days of notification such hearing shall be held within thirty (30) days. If no hearing is requested the recommended action of the department is accepted. Regardless of a request for a hearing no additional children shall be placed in a foster or prospective adoptive home under summary suspension until a final decision is rendered on the matter.

(Effective February 20, 1997)

Sec. 17a-145-156. Child placing agency hearing

Any approved foster or prospective adoptive family may request a review, hearing or other method of appeal as shall be provided for by the child placing agency seeking any type of administrative hold, suspension, revocation or refusal to renew an approval granted a foster or prospective adoptive family.

(Effective February 20, 1997)

Sec. 17a-145-157. Hearing on summary suspension, revocation or non-renewal of license

Any licensed foster or prospective adoptive home may, within ten (10) days after receipt by mail of notice of summary suspension, intended revocation or refusal to renew a license, request an administrative hearing concerning licensure in accordance with the Uniform Administrative Procedures Act, Chapter 54, Connecticut General Statutes. Summary suspension, intended revocation or refusal to renew a license shall be stayed until such hearing is held except in the case of an emergency removal. If no hearing is requested the recommended action of the department is accepted.

(Effective February 20, 1997)

Sec. 17a-145-158. Disposition of license or approval documentation

In the case that any changes to the specifications set forth on license or approval documentation are made, a new assessment of the foster or prospective adoptive family shall be conducted by the department: A new license or approval documentation may be issued. In the event that a license or approval is revoked the revoked license or documentation of approval shall be returned to the department or child placing agency.

(Effective February 20, 1997)

Sec. 17a-145-159. Waiver of requirements for a foster or prospective adoptive family

A foster or prospective adoptive family shall comply with all relevant regulations unless a waiver for specific requirements of such regulations has been granted by the commissioner or his designee. A waiver shall only be issued if a foster or prospective adoptive family is in substantial compliance with the relevant regulations being exempted or that the specific requirement to be exempted will be satisfactorily achieved in a manner other than that prescribed by the requirement. A waiver shall specify the particular requirements to be exempted, the duration of the exemption and the terms under which the exemption is granted. If the foster or prospective adoptive family fails to comply with the waiver in any way the agreement shall be subject to immediate cancellation.

(Effective February 20, 1997)

Sec. 17a-145-160. Limitations to number of placements in one foster or prospective adoptive family

(a) Children shall not be placed in a foster family or prospective adoptive family if that

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-145-160

Department of Children and Families

placement shall result in: (1) More than three foster or prospective adoptive children in that foster family or prospective adoptive family; (2) a total of six children including the foster or prospective adoptive family's natural and adoptive children; (3) more than two children under two years of age; or (4) more than three children under six years of age, except in the case of siblings as provided for in subsection (b) of this section.

(b) The commissioner or a department regional administrator, for their specific region, may authorize a placement which exceeds the population limitations proscribed in subsection (a) of this section, only if such placement is done to keep sibling groups together and such placement does not exceed the population levels of local ordinance as provided for in subsection (d) of this section.

(c) The commissioner may authorize the placement of a child or children which exceeds the population limitations proscribed in subsection (a) of this section in special circumstances as deemed appropriate by the commissioner if such placement does not exceed the population levels of local ordinance as provided for in subsection (d) of this section.

(d) When local ordinances specify that a smaller number of children may be in care than is provided for in subsection (a) of this section or as may be provided for by subsections (b) and (c) of this section, the local ordinance shall prevail.

(e) Notwithstanding the provisions of subsections (a), (b) and (c) of this section a foster family or prospective adoptive family shall not care for more than two (2) nonambulatory children who are incapable of self-preservation.

(Effective February 20, 1997)

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

Agency
Department of Children and Families
Subject
Licensing of Extended Day Treatment Programs
Inclusive Sections
§§ 17a-147-1—17a-147-36

CONTENTS

Sec. 17a-147-1.	Definitions as used in section 17a-147-1 to 17a-147-36, except as otherwise provided therein
Sec. 17a-147-2.	Issuance of license. Not transferable or assignable
Sec. 17a-147-3.	Display of license
Sec. 17a-147-3a.	Access of commissioner or designee to premises
Sec. 17a-147-3b.	Technical consultation with applicant or licensee
Sec. 17a-147-4.	Causes for denying, suspending, revoking or refusing to renew license
Sec. 17a-147-5.	Hearing on denial, suspension or revocation of license
Sec. 17a-147-6.	Suspension of a license
Sec. 17a-147-7.	Return of license to the commissioner
Sec. 17a-147-8.	Waiver of requirements
Sec. 17a-147-9.	Program description
Sec. 17a-147-9a.	Governing board
Sec. 17a-147-10.	Written policies and procedures
Sec. 17a-147-11.	Staffing and human resources
Sec. 17a-147-11a.	Finances
Sec. 17a-147-11b.	Fire, liability and vehicle insurance
Sec. 17a-147-11c.	Health, sanitation, fire safety and zoning approval
Sec. 17a-147-11d.	Personnel policies and procedures
Sec. 17a-147-12.	Hazardous equipment
Sec. 17a-147-12a.	Construction
Sec. 17a-147-12b.	Water supply
Sec. 17a-147-12c.	Sewage and garbage facilities
Sec. 17a-147-12d.	Heating, ventilation and lighting
Sec. 17a-147-12e.	Lavatory facilities
Sec. 17a-147-13.	Rooms to be used for the treatment of children
Sec. 17a-147-14.	Kitchens, equipment, food handling
Sec. 17a-147-15.	Eating areas and supervision

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

- Sec. 17a-147-16. Housekeeping equipment and supplies
- Sec. 17a-147-17. Recreational facilities
- Sec. 17a-147-18. Instructions in safety procedures. Supervision
- Sec. 17a-147-19. Internal and external security
- Sec. 17a-147-20. Office space. Confidential files
- Sec. 17a-147-21. Health and medical treatment. Administration of first aid. Prescription medication. Administration of medicine or treatment. Written records. Storage of drugs, medicines and instruments. Sick room. Telephone
- Sec. 17a-147-26. Record of enrolled children
- Sec. 17a-147-27. Written permission for emergency health care
- Sec. 17a-147-28. Repealed
- Sec. 17a-147-29. Reporting to the department
- Sec. 17a-147-30. Children's grievance procedure
- Sec. 17a-147-31. Referral process
- Sec. 17a-147-32. Assessment process
- Sec. 17a-147-33. Treatment plan
- Sec. 17a-147-34. Treatment plan review
- Sec. 17a-147-34a. Case records
- Sec. 17a-147-35. Discharge and aftercare procedures
- Sec. 17a-147-36. Discharge summary

Licensing of Extended Day Treatment Programs

Sec. 17a-147-1. Definitions as used in section 17a-147-1 to 17a-147-36, except as otherwise provided therein

(a) “Extended Day Treatment”: Means a supplementary care community-based program providing a comprehensive multidisciplinary approach to treatment and rehabilitation of emotionally disturbed, mentally ill, behaviorally disordered or multiply handicapped children and youth during the hours immediately before and after school while they reside with their parents or surrogate family, except any such program provided by a regional educational service center established in accordance with Section 10-66a of the Connecticut General Statutes.

(b) “Department” means the department of children and families.

(c) “Commissioner” means the commissioner of children and families.

(d) “Children and Youth” means any person under the age of eighteen years.

(e) “Time Out” means to remove the child to a less stimulating space in order to allow the child time to regain his self-control.

(f) “Restraint” means any measure that restricts the movement of the child.

(g) “Seclusion” means confinement of a child in a single room used solely for the isolation of a child.

(h) “Assessment” means a multidisciplinary process which shall include but not be limited to a review of individual, developmental, family, social, educational, financial, medical, and legal status considerations.

(Effective August 1, 1994)

Sec. 17a-147-2. Issuance of license. Not transferable or assignable

(a) A license to provide extended day treatment services shall be issued only to the organization who makes an application and only for the address shown on the application and shall not be transferable or assignable. When issuing a license, the department may impose restrictions on an organization, including but not limited to the number of children to be served and the type of children to be served.

(b) Licenses for extended day treatment programs shall be issued biennially.

(Effective August 1, 1994)

Sec. 17a-147-3. Display of license

Each licensed extended day treatment program shall publicly display the license on its premises in a prominent place.

(Effective September 27, 1991)

Sec. 17a-147-3a. Access of commissioner or designee to premises

Each license shall be conditional on the granting to the commissioner or designee access to the premises described on the license to investigate, inspect, and evaluate. In cases of

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-147-3b

Department of Children and Families

suspected child abuse or neglect, unrestricted access shall be at any time.

(Effective August 1, 1994)

Sec. 17a-147-3b. Technical consultation with applicant or licensee

Except as provided in Section 17a-147-5 of the Regulations of Connecticut State Agencies, the department shall be available to provide technical consultation with the applicant or licensee to assist them to achieve compliance with these regulations.

(Effective August 1, 1994)

Sec. 17a-147-4. Causes for denying, suspending, revoking or refusing to renew license

A license may be denied, suspended, revoked, or its renewal refused for any of the following causes whenever in the judgment of the commissioner or his designee the extended day treatment program:

- (a) Fails to comply with the applicable regulations;
- (b) Fails to comply with applicable state or local laws, ordinances, rules or regulations including but not limited to building, health, fire protection, safety, sanitation and zoning;
- (c) Violates any of the provisions under which the license has been issued;
- (d) Furnishes or makes any false or misleading statements in order to obtain or retain the license;
- (e) Refuses or fails to submit information or documentation or make information or documents available when requested by the commissioner or his designee;
- (f) Fails or refuses to grant the commissioner or his designee unrestricted access to the premises to investigate cases of suspected abuse or neglect; to evaluate the provision of services and inspect the premises;
- (g) Management or staff have been, within five years of date of application for license, convicted of a felony against persons, for injury or risk of injury to or impairing the morals of a child, or for the possession, use or sale of a controlled substance, is awaiting or is on trial for such charges, or has had a child removed from his care or custody for reasons of child abuse or neglect.

(Effective August 1, 1994)

Sec. 17a-147-5. Hearing on denial, suspension or revocation of license

Any extended day treatment program may, within fifteen (15) days after receipt by certified mail of notice of denial, suspension, intended revocation or refusal to renew a license, request an administrative hearing thereon in accordance with the Uniform Administrative Procedures Act, Chapter 54, of the Connecticut General Statutes. Denial, suspension, intended revocation or refusal to renew a license shall be stayed until such hearing is held except as provided in subsection (c) of Section 4-182 of the Connecticut General Statutes. In the absence of such request for a hearing during this time period, the

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-147-9a

license shall be either denied, suspended, revoked or not renewed.

(Effective August 1, 1994)

Sec. 17a-147-6. Suspension of a license

If the department finds the health, safety or welfare of children imperatively requires emergency action and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

(Effective September 27, 1991)

Sec. 17a-147-7. Return of license to the commissioner

Upon discontinuance of the licensed program or revocation of the license, the license shall be returned by the extended day treatment program to the commissioner within fourteen (14) days after receipt of such request.

(Effective September 27, 1991)

Sec. 17a-147-8. Waiver of requirements

An extended day treatment program shall comply with all relevant regulations unless a waiver for specific requirements has been granted through a prior written agreement with the department. This agreement shall specify the particular requirements to be waived, the duration of the waiver, and the terms under which the waiver is granted. A waiver of specific requirements shall be granted only when the extended day treatment program officials have documented that the intent of the specific requirements to be waived will be satisfactorily achieved in a manner other than that prescribed by the requirements. When the extended day treatment program fails to comply with the waiver agreement in any part, the agreement shall be immediately cancelled and the license may be immediately suspended, revoked or renewal denied.

(Effective August 1, 1994)

Sec. 17a-147-9. Program description

Each extended day treatment program shall have a written program description which specifies: the statement of purpose; a description of overall approach to treatment and family involvement; the types of services provided; the characteristics of the children to be served; and the characteristics of those children not appropriate for the program.

(Effective September 27, 1991)

Sec. 17a-147-9a. Governing board

All licensed extended day treatment programs shall have a governing board. Such board shall be legally constituted and shall manage its affairs in accordance with applicable provisions of law, its statement of purpose, its certificate of incorporation and its duly adopted bylaws. The board shall meet at least with the frequency specified in the

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-147-10

Department of Children and Families

corporation's bylaws and keep minutes of each meeting which shall be made a part of the permanent records of the facility. Minutes of the discussion of those matters relating to the operation of the extended day treatment program shall be made available to the department upon request.

(Effective August 1, 1994)

Sec. 17a-147-10. Written policies and procedures

(a) The policies and operating procedures of the extended day treatment program covering the selection, emergency medical care, discipline, discharge planning, treatment program, staffing pattern and supervision of the children shall be clearly stated in writing, reviewed no less than annually by the persons responsible for the total operation of the program, and kept current.

(b) The program shall have written policies and procedures describing the diagnostic process including types of information to be obtained, procedures to be followed, and types of records to be maintained. Assessments shall be conducted in the following areas: presenting problems, family history and current functioning, social and environmental situations, educational functioning, physical and medical history, developmental history, strengths and weaknesses, prior treatment, and demographic data.

(c) The extended day treatment program shall have written policies and procedures regarding family involvement and shall specify if family involvement is required for admission to the program.

(d) An extended day treatment program shall have written policies and procedures to ensure that a wide range of treatment modalities are available, including, but not limited to individual, group, family and psychopharmacological modalities. The program may provide the following services: vocational or pre-vocational training; recreational programming; speech therapy; occupational therapy; and, other services appropriate to the needs of the children being served.

(e) Copies and any subsequent revisions thereof shall be made available to staff of the program. Copies and any subsequent revisions shall be provided to the department on at least an annual basis.

(Effective August 1, 1994)

Sec. 17a-147-11. Staffing and human resources

(a) There shall be a chief administrative officer who shall be in charge of the overall management of the extended day treatment program and carry out the policies of the governing board.

(b) An extended day treatment program shall employ sufficient numbers of qualified clinical, recreational, administrative and support staff to enhance the physical and emotional well-being and ensure the safety of the children in treatment.

(c) An extended day treatment program shall verify the licensure or certification of the professional staff who are mandated to be licensed or certified or to be supervised by

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-147-11b

licensed or certified professional staff pursuant to all Connecticut licensing and certification statutes.

(d) An extended day treatment program vests clinical responsibility for all clients in a psychiatrist, preferably a child psychiatrist.

(e) An extended day treatment program shall actively recruit and employ qualified personnel representative of the racial or ethnic groups it serves. No person shall be denied employment in accordance with Section 46a-60 of the Connecticut General Statutes.

(f) An extended day treatment program shall have a written policy regarding the utilization of volunteers and student interns. Such policy shall detail the duties and responsibilities of volunteers or interns, shall specify the degree of confidential information authorized for access by volunteers or interns, shall require that a personnel file be maintained for each volunteer or intern and shall stipulate that volunteers or interns given direct access to children undergo reference checks, orientation, training and evaluation similar to that of the program's professional employees. A copy of this policy shall be provided to each volunteer or intern.

(g) Every personnel record shall contain a form, signed by the employee at the time of hiring, that he has read, understands and will adhere to the provisions of Section 17a-28 of the Connecticut General Statutes regarding confidentiality for all children in the program who are in the custody of the commissioner.

(Effective August 1, 1994)

Sec. 17a-147-11a. Finances

The extended day treatment program shall have sufficient income and resources to adequately maintain the plant, equipment and program encompassed by these regulations. Financial records showing the amount and sources of all income and expenses and of all assets and liabilities of the extended day treatment program and the sponsoring organization shall be maintained. There shall be an annual audit of all capital resources, assets, liabilities, receipts and expenditures by a qualified public accountant not affiliated with the program or organization as an employee. A copy of each such annual audit in such form as required by the commissioner or designee shall be a part of the program's record and shall be submitted to the department upon request.

(Effective August 1, 1994)

Sec. 17a-147-11b. Fire, liability and vehicle insurance

The licensee shall carry insurance covering fire and liability as protection for children or youth in care. The licensee shall ensure that any vehicle authorized for use in transporting children in care, in accordance with the Connecticut statutory and regulatory transportation requirements and used by any of the licensee's staff on the licensee's business shall have insurance which covers liability.

(Effective August 1, 1994)

Sec. 17a-147-11c. Health, sanitation, fire safety and zoning approval

(a) Health and sanitation approval by the state and local departments of health, approval for fire safety by the state and local fire marshals, certificate of occupancy and compliance with local zoning are prerequisite to licensing upon initial application. State and local fire and health approvals shall be required for renewal of a license.

(b) An extended day treatment program shall ensure that all structures and space used by the program are free from any danger to health or safety. The extended day treatment program shall ensure the availability of comfortable and sufficient space to staff and children and youth in treatment to permit effective operation of the program. An extended day treatment program shall have written policy and procedures regarding emergency planning and procedures including evacuation due to fire and natural disasters, staff responses to emergency medical situations, and staff responses to emergency mental health situations. An extended day treatment program shall conduct unannounced, fire drills in which all staff and children shall participate at a frequency established by the Connecticut Fire and Safety Code. Documentation of fire drills held shall be maintained on a standardized form which records the date, time, minutes taken to evacuate, problems noted, follow up to problems and simulated conditions of the drill. Fire evacuation diagrams shall be posted at eye level of the children and youth in treatment and written in the primary language of the children and youth in treatment. An extended day treatment program shall ensure that at all times at least one staff member on-duty is qualified by American Red Cross certification to administer First Aid and CPR. An extended day treatment program shall develop written standards regarding housekeeping supplies and procedures in keeping with its established infection control program.

(Effective August 1, 1994)

Sec. 17a-147-11d. Personnel policies and procedures

(a) Personnel policies and operating procedures regarding program employment and personnel practices shall be in writing and on file with the department. A copy shall be given to each employee and volunteer worker. All applications for employment or volunteers will have a criminal conviction records check completed before being hired or selected; the results of which shall be filed, separately and confidentially in their personnel record. All direct care personnel shall have a physical examination, including a test for tuberculosis, immediately prior to assuming their assigned duties.

(b) An extended day treatment program shall not hire or employ anyone who has been within five years of date of employment convicted of a felony against persons, for injury or risk of injury to or impairing the morals of a child, or for the possession, use or sale of a controlled substance, is awaiting or is on trial for such charges, or has had a child removed from his care or custody for reasons of child abuse or neglect. Prior to employment and anytime thereafter upon request all employees shall undergo a State Police background check for any convictions. An extended day treatment program shall maintain written job descriptions outlining the general requirements for each position. A copy shall be given to

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-147-12d

each employee. All job descriptions shall be made available to all staff upon request. An extended day treatment program shall provide staff reasonable access to their personnel file. There shall be written policies and procedures that are designed to assure the confidentiality of personnel records and specify who has access to various types of personnel information. Personnel policies shall include a written plan for staff training and development that includes but is not limited to: introductory orientation; ongoing training and development; supervision; and evaluations; and external training and education.

(Effective August 1, 1994)

Sec. 17a-147-12. Hazardous equipment

All power-driven machines and other hazardous equipment shall be properly safeguarded and their use by children regulated by supervisory staff of the program.

(Effective September 27, 1991)

Sec. 17a-147-12a. Construction

The plans and designs for all new construction, additions to or substantial modification of buildings or parts of buildings used or to be used in the operation of the extended day treatment program shall be submitted to the commissioner or his designee for review before such construction is contracted for or begun. The proposed plans shall include written confirmation of required fire, health, safety and zoning approvals. The commissioner or his designee shall determine if the proposed plans are in compliance with the intent of these regulations within thirty (30) days.

(Effective August 1, 1994)

Sec. 17a-147-12b. Water supply

The water supply shall be adequate and potable. If the program is not served by a public water supply, the well water shall be analyzed and approved by the state department of public health and addiction services, local department of health or a private water testing laboratory approved by the state department of public health and addiction services at the time of initial licensure and at any subsequent time the department deems such testing as necessary.

(Effective August 1, 1994)

Sec. 17a-147-12c. Sewage and garbage facilities

Adequate and safe sewage and garbage facilities shall be maintained.

(Effective August 1, 1994)

Sec. 17a-147-12d. Heating, ventilation and lighting

Comfortable heating, sufficient ventilation, and both natural and artificial lighting shall be provided.

(Effective August 1, 1994)

Sec. 17a-147-12e. Lavatory facilities

The state and local departments of health shall determine the requirements for lavatories based upon the number of children and youth to be served by the program and the number of employees. The bathroom equipment for the children and youth shall be of appropriate size and height for their use. Bathrooms and toilets shall allow for individual privacy.

(Effective August 1, 1994)

Sec. 17a-147-13. Rooms to be used for the treatment of children

Rooms shall be sufficient in size and equipment to accommodate the licensed program. Each room shall be comfortably and attractively furnished, well heated, lighted, ventilated and screened, clean and cheerful, with substantial furnishings suitable for use by children.

(Effective September 27, 1991)

Sec. 17a-147-14. Kitchens, equipment, food handling

The extended day treatment program shall provide for the serving of snacks or meals depending upon the program's hours of operation. Food served shall be wholesome and of sufficient quantity. All kitchens shall be clean, well lighted, properly ventilated and screened, and provided with essential and proper equipment for the preparation and serving of food. Storage, refrigeration and freezer facilities shall be adequate for the number of persons to be served. All perishable foods shall be refrigerated at a temperature at or below 45 degrees Fahrenheit. Freezers and frozen food compartments shall be maintained at minus 10 degrees to 0 degrees Fahrenheit. Cooking utensils, dishes and tableware shall be in good condition and proper cleaning facilities for the equipment shall be provided. Dishes shall be stored in a clean, dry place protected from flies, dust or other contamination. Proper food handling techniques and sanitation to minimize the possibility of the spread of food-borne diseases shall be maintained. The extended day treatment program's kitchen, equipment and food handling must comply with all applicable sections of the public health codes and all other state and federal laws.

(Effective September 27, 1991)

Sec. 17a-147-15. Eating areas and supervision

Designated areas for serving meals or snacks shall be kept clean and attractive, well lighted, properly screened and ventilated, and shall be large enough to accommodate the children and staff responsible for their supervision. Staff supervision shall be adequate to ensure a safe and comfortable atmosphere for eating.

(Effective September 27, 1991)

Sec. 17a-147-16. Housekeeping equipment and supplies

Housekeeping equipment and supplies shall not be accessible to children unless an individual determination is made concerning their ability to safely use them or their use is under direct staff supervision. Such materials shall be maintained in a safe, protected space

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-147-21

which shall be clean, dry, well lighted, ventilated and in good repair, free from rodents and other vermin.

(Effective September 27, 1991)

Sec. 17a-147-17. Recreational facilities

Recreational facilities, supplies and equipment shall be provided for use by the children. Appropriate safety measures, instructions and supervision shall be provided to ensure the safety of children.

(Effective September 27, 1991)

Sec. 17a-147-18. Instructions in safety procedures. Supervision

Each child shall be instructed, as appropriate to his own age level, in safety procedures, including fire drills, civil defense and safe use of electrical or power equipment. All use of such equipment shall be under the supervision of a competent adult. If an extended day treatment program has on-ground or access to a waterfront or swimming pools, the following safety procedures must be maintained. All on-ground pools shall be enclosed with safety fences and shall be regularly tested to ensure that the pools are free of contamination. A certified individual shall be on duty when the children are swimming. A certified individual is one who has a current water safety instructor's certificate or senior lifesaving certificate from the Red Cross or its equivalent. The waterfront or pool shall be properly maintained and have proper safety equipment available. Any proposed or existing pool shall meet regulatory and zoning requirements.

(Effective August 1, 1994)

Sec. 17a-147-19. Internal and external security

The extended day treatment program shall provide adequate internal and external security to ensure the safety of children and staff.

(Effective September 27, 1991)

Sec. 17a-147-20. Office space. Confidential files

Private office space shall be available for administrative and counseling staff. There shall be office space available large enough to accommodate family counseling or group therapy in a comfortable and confidential manner. There shall be locked files for all confidential material. The records shall not be available to anyone other than authorized persons. A list of duly authorized personnel shall be maintained by the program.

(Effective September 27, 1991)

Sec. 17a-147-21. Health and medical treatment. Administration of first aid. Prescription medication. Administration of medicine or treatment. Written records. Storage of drugs, medicines and instruments. Sick room. Telephone

(a) The extended day treatment program shall provide for the health and medical

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-147-26

Department of Children and Families

treatment needs of children while attending the program by having a written plan which specifies the arrangements for routine and emergency medical care. The program shall arrange for medical emergency treatment during its hours of operation.

(b) There shall be written policies and procedures, reviewed by a physician at least annually, for the administration of first aid care of children with minor illnesses; injuries or special conditions; and for the administration or use by children of patent medicines.

(c) The program shall only permit prescription medication to be administered to a child upon the written order of the child's physician and written approval of the parent or guardian.

(d) The program shall permit only staff who have been fully instructed in the proper administration, expected and side effects, and contraindications to continued administration of a prescribed medicine or treatment to administer that medicine or treatment pursuant to Section 20-14i of the Connecticut General Statutes. The program shall have a written policy specifying the criteria used for designating staff to administer medication and a written plan for training staff. The program shall maintain a current, written roster of staff designated to administer medication. There shall be periodic reviews and updating of staff's knowledge about medication and other treatments and their administration.

(e) A written record shall be kept of the administration of all prescription and non-prescription medicine to a child, identifying the medicine and dosage, time of administration and the person who administered the medicine.

(f) All drugs, medicines and medical instruments shall be kept in labeled containers out of reach of children in a locked cabinet accessible only to designated staff members. A child may keep and administer prescribed medicines himself only with the written approval of his physician and parent or guardian and the agreement of designated staff that this practice would not be a risk for other children in the program.

(g) The program shall ensure that children, in the event of sickness have an area which is comfortable, safe and allows appropriate privacy until the child can be taken home by his parent or guardian. Any child showing suspicious signs of illness shall be isolated from other children as much and as soon as possible and the parent or guardian called immediately.

(h) Working telephones shall be on-site. All telephones shall have posted emergency medical and poison information numbers, especially in areas where medications are kept and in the gym and cafeteria.

(i) Appropriate first aid supplies shall be available in the extended day treatment program, out of the reach of children.

(Effective August 1, 1994)

Sec. 17a-147-26. Record of enrolled children

The extended day treatment program shall keep a record of each enrolled child, including name, address and telephone number of parent/guardian; child's date of birth, enrollment date; attendance record; accidents and major illnesses while in care and date of termination

from the program.

(Effective September 27, 1991)

Sec. 17a-147-27. Written permission for emergency health care

Written permission for emergency health care of the child must be obtained from the parent/guardian, including the names, addresses and telephone numbers of the child's physician, the hospital-of-choice to be called in case of an emergency and two responsible adults the extended day treatment program staff may contact in case the parent/guardian is not available.

(Effective September 27, 1991)

Sec. 17a-147-28. Repealed

Repealed August 1, 1994.

Sec. 17a-147-29. Reporting to the department

The extended day treatment program shall report, in writing, to the department on the next working day any emergency circumstances which alter the service as originally licensed or statement of fact in the application for licensing.

(Effective September 27, 1991)

Sec. 17a-147-30. Children's grievance procedure

The extended day treatment program shall have written grievance procedures for children. This policy shall be explained to the child and, if the child is unable to sign his or her name, the parent/guardian must sign the form after the child has been informed. The staff member shall enter a note into the child's case record confirming that this explanation has taken place. Any grievance and its disposition shall be recorded in the child's case record.

(Effective September 27, 1991)

Sec. 17a-147-31. Referral process

(a) The program shall consider for admission all referrals regardless of race, sex, religion, disabilities or ethnic origin. The program shall certify that it has notified the appropriate parties of its decision in writing no more than forty-five (45) days from the date of receipt of the application.

(b) In the case of refusal, the extended day treatment program shall document the reason for refusing admission and so inform the referring agency of these reasons and include recommendations for a more appropriate treatment program.

(Effective August 1, 1994)

Sec. 17a-147-32. Assessment process

(a) The assessment process shall be documented. This process shall be conducted by a professionally qualified staff member. Testing instruments used in the assessment process

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-147-33

Department of Children and Families

shall be reflected in the child's record. The assessment shall specify the needs and strengths of the child in the areas of health care, education, psychological development, social development, family relationships, vocational training, recreation and life skills development.

(b) All methods and procedures used in the assessment process shall consider the child's age, cultural background and dominant language or mode of communication.

(Effective September 27, 1991)

Sec. 17a-147-33. Treatment plan

(a) The extended day treatment program shall ensure that there is a written individualized treatment plan for each child within thirty (30) calendar days of the child's entry into the program.

(b) The treatment plan shall specify measurable and time-bounded goals and objectives to be achieved by the child and family in order to establish or re-establish emotional or physical health as well as maximum growth and adaptive capabilities.

(c) These goals shall be based on periodic assessments of the child and, when appropriate, the child's family.

(d) The treatment plan shall specify any specialized services or treatment to be provided as well as identify the person responsible for implementing or coordinating the implementation of the treatment plan.

(e) The treatment plan shall delineate the specific criteria to be met for termination of treatment. Such criteria shall be part of the initial treatment plan and all subsequent plans.

(f) The treatment plan shall identify the supports and resources that may be required for discharge.

(g) Preliminary plans for discharge shall be discussed as well as alternative aftercare programs, when appropriate.

(h) The treatment plan shall specify the anticipated discharge date.

(i) The number of contacts shall be specified for the delivery of treatment services.

(j) The extended day treatment program shall ensure that the treatment plan and any subsequent revisions are explained to the child, his parent or guardian and the referring agency, in language understandable to these persons.

(k) The treatment plan shall be signed by the chief administrator of the extended day treatment program or his designee; a representative of the referring agency or person; the child, if he is capable of doing so; and the child's parent or guardian.

(l) In accordance with the treatment plan, each record shall contain notes which document services provided and progress made toward goals and objectives. Each note shall be entered in ink by a qualified staff member or consultant and shall be dated, legibly printed, signed by the person making the entry, and include the person's title.

(Effective August 1, 1994)

Sec. 17a-147-34. Treatment plan review

(a) The program shall review each treatment plan initially sixty (60) days after the completion and approval of the initial treatment plan. This review shall document and evaluate the progress or lack thereof toward the established goals and objectives and shall revise the treatment plan accordingly. Thereafter, individual treatment plans shall be documented and reassessed at sixty (60) working day intervals.

(b) The treatment plan shall indicate the date of the next review and identify the individuals who will participate.

(Effective September 27, 1991)

Sec. 17a-147-34a. Case records

(a) Each extended day treatment program shall maintain a current confidential case record for each child in treatment including family, social and health history. The case record shall contain but not be limited to pre-admission data; the reason for admission; results of all diagnostic assessments performed; a summary of admission information; the individual treatment plan; a record of all care and services, including medical services, provided by the program; progress notes on the child in treatment; reviews of the treatment plan; the plan for discharge and disposition; a discharge summary and all other documents received and required for the treatment of a particular child.

(b) The case record shall contain only information pertaining to a particular child and not identifying information regarding other children in care.

(c) The case record shall include contact summaries where appropriate and copies of special behavior contracts used for a particular child.

(d) The parent or guardian of the child shall be entitled to receive, upon written request, reports and information concerning their child.

(Effective August 1, 1994)

Sec. 17a-147-35. Discharge and aftercare procedures

The extended day treatment program shall establish criteria for discharge, including administrative and emergency discharges.

(Effective September 27, 1991)

Sec. 17a-147-36. Discharge summary

(a) When a child is discharged, the extended day treatment program shall compile a complete written discharge summary within thirty (30) days of the date of discharge.

(b) The discharge summary shall include the extended day treatment program's name, address, telephone number, a summary of services provided during treatment, a summary of growth and accomplishments during treatment, the assessed needs which remain to be met and alternate service possibilities which might meet those needs, and recommendations as appropriate for a follow-up plan and identification of who is responsible for follow-up services.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-147-36

Department of Children and Families

(c) When the discharge date is not in accordance with the child's treatment plan, the following items shall be added to the summary: the circumstances leading to the unplanned discharge; the actions taken by the extended day treatment program to avoid the discharge and the reason for these actions.

(d) All discharge documentation shall be maintained in the child's case record.

(Effective September 27, 1991)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Child Placing Agency Licensing and Responsibilities

Inclusive Sections

§§ 17a-150-1—17a-150-123

CONTENTS

Sec. 17a-150-1—17a-150-50.	Repealed
Sec. 17a-150-51.	Definitions
Sec. 17a-150-52.	Governing board
Sec. 17a-150-53.	Governing board review requirements
Sec. 17a-150-54.	Policies and procedures
Sec. 17a-150-55.	Non-profit and tax-exempt status required
Sec. 17a-150-56.	Minimum staff
Sec. 17a-150-57.	Staff supervision
Sec. 17a-150-58.	Staff education and experience requirements
Sec. 17a-150-59.	Training of staff and families
Sec. 17a-150-60.	Copies of employee and volunteer policies
Sec. 17a-150-61.	Exploitation of children
Sec. 17a-150-62.	Types of licenses to be issued
Sec. 17a-150-63.	Agency license not transferable or assignable
Sec. 17a-150-64.	Display of agency license
Sec. 17a-150-65.	Department access to agency premises
Sec. 17a-150-66.	Agency compliance with requirements for licensing
Sec. 17a-150-67.	License application
Sec. 17a-150-68.	Description of program
Sec. 17a-150-69.	Finances
Sec. 17a-150-70.	Program monitoring
Sec. 17a-150-71.	License denial, revocation, suspension or renewal refusal
Sec. 17a-150-72.	Hearing on revocation, or suspension or refusal to renew a license
Sec. 17a-150-73.	Suspension of a license
Sec. 17a-150-74.	Notification of closure or termination of services
Sec. 17a-150-75.	Waiver provision for a child placing agency
Sec. 17a-150-76.	Recruitment

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Sec. 17a-150-77.	Causes for, denying, revoking or refusing to renew an approval
Sec. 17a-150-78.	Disposition of approval documentation
Sec. 17a-150-79.	Approval of staff as providers restricted
Sec. 17a-150-80.	Supervision of homes approved by a child placing agency
Sec. 17a-150-81.	Reports of violations of regulations
Sec. 17a-150-82.	Reports of abuse or neglect
Sec. 17a-150-83.	Case records
Sec. 17a-150-84.	Maintenance of confidential records
Sec. 17a-150-85.	Transfer of case records
Sec. 17a-150-86.	Facilities
Sec. 17a-150-87.	Discharge of children
Sec. 17a-150-88.	Evaluation before placement
Sec. 17a-150-89.	Consent for placements
Sec. 17a-150-90.	Assessment of foster or prospective adoptive parents and members of the household
Sec. 17a-150-91.	Granting of approval is not transferable or assignable
Sec. 17a-150-92.	Access to documentation of approval
Sec. 17a-150-93.	Access of commissioner or child placing agency to premises
Sec. 17a-150-94.	Interstate placement of children
Sec. 17a-150-95.	Physical requirements of foster and prospective adoptive homes
Sec. 17a-150-96.	Telephone
Sec. 17a-150-97.	Children's bedroom, clothing and privacy
Sec. 17a-150-98.	Food and water
Sec. 17a-150-99.	Firearms and weapons
Sec. 17a-150-100.	Animals
Sec. 17a-150-101.	Health standards for foster or prospective adoptive parents and members of the household
Sec. 17a-150-102.	Character standards for foster or prospective adoptive parents and members of the household
Sec. 17a-150-103.	Change in approved foster and prospective adoptive family conditions
Sec. 17a-150-104.	Reporting of the injury, illness, death, fire or absence of a child from placement
Sec. 17a-150-105.	Financial condition of the foster or prospective adoptive parent

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Sec. 17a-150-106.	Substitute child care
Sec. 17a-150-107.	Cooperation with the child's treatment plan
Sec. 17a-150-108.	Limitation on the number of licenses or approvals allowed
Sec. 17a-150-109.	General requirements of foster and prospective adoptive parents
Sec. 17a-150-110.	Foster family or prospective adoptive family criminal history; pending criminal actions; history of child abuse or neglect
Sec. 17a-150-111.	Compliance with regulations
Sec. 17a-150-112.	Application for approval as a foster family or prospective adoptive family
Sec. 17a-150-113.	Placement criteria
Sec. 17a-150-114.	Adequate clothing
Sec. 17a-150-115.	Consent of guardian and preferences of the biological parents
Sec. 17a-150-116.	Services to adoptive child and family
Sec. 17a-150-117.	Review of treatment plans
Sec. 17a-150-118.	Medical or genetic information pertaining to adopted persons
Sec. 17a-150-119.	Placement out-of-state or out-of-country and children entering Connecticut from out-of-state
Sec. 17a-150-120.	Child care facility must meet licensing standards
Sec. 17a-150-121.	Approval of out-of-state agencies
Sec. 17a-150-122.	Approval of out-of-country agencies
Sec. 17a-150-123.	Reporting of status of approved homes to the department

Child Placing Agency Licensing and Responsibilities

Sec. 17a-150-1—17a-150-50. Repealed

Repealed February 20, 1997.

Sec. 17a-150-51. Definitions

As used in sections 17a-150-51 through 17a-150-123, inclusive, of the Regulations of Connecticut State Agencies, the following definitions apply:

(a) “Adoptable person” has the same meaning as defined in section 45a-743 of the Connecticut General Statutes.

(b) “Adopted person” has the same meaning as defined in section 45a-743 of the Connecticut General Statutes.

(c) “Approved” means to be granted permission by a child placing agency, licensed by the department, to be a foster family or prospective adoptive family.

(d) “Bedroom” means a room used by a foster or prospective adoptive child for sleeping.

(e) “Child” means a person under eighteen years of age not related to the foster family or prospective adoptive family.

(f) “Child-placing agency” means an agency, association, corporation, institution, society, or other public or private organization licensed by the department to approve foster or prospective adoptive families and to place a child into an approved foster or prospective adoptive family.

(g) “Child Placing Program” means activities conducted by child placing agencies including, but not necessarily limited to the recruitment, training, evaluation and monitoring of foster families and prospective adoptive families.

(h) “Commissioner” means the Commissioner of the Department of Children and Families.

(i) “Department” means the Department of Children and Families.

(j) “Emergency” means any situation in which an immediate threat to the health or welfare of a child or children exists or is suspected.

(k) “Foster family” or “Foster family” or “Foster home” or “Foster parents” means a person or persons licensed by the Department of Children and Families or approved by a licensed child placing agency, for the care of a child or children in a private home.

(l) “Knowingly” means should reasonably have known or did not take adequate measures to discover.

(m) “Licensed” means to be granted permission by the department.

(n) “Member of the household” means a person who lives in or has regular access to a foster or prospective adoptive home including, but not limited to boarders, roomers, relatives and friends.

(o) “Prospective adoptive family” or “Prospective adoptive family” or “Prospective adoptive home” or “Prospective adoptive parents” means a person or persons, licensed by the Department of Children and Families or approved by a licensed child placing agency, who is awaiting the placement of, or who has a child or children placed in their home for

purposes of adoption.

(p) “Related” means kinship by blood, marriage or adoption, descended from a common ancestor not more than three generations removed from said child.

(q) “Summary suspension” means the immediate termination of the right to provide care as a foster or prospective adoptive family as granted in a department issued license, pending proceedings for revocation or other licensure action.

(r) “Trigger guard lock” means a lock which prevents the discharge of a firearm unless unlocked by a key or combination.

(Effective February 20, 1997)

Sec. 17a-150-52. Governing board

The child placing agency shall be incorporated and have a governing board. Such board shall be legally constituted and shall manage its affairs in accordance with applicable provisions of law, its certificate of incorporation, and its duly adopted bylaws. The board shall meet not less than once each quarter and keep detailed records of each meeting which shall be made a part of the permanent record of the child placing agency. Minutes of the board meeting shall be provided to the department upon request.

(Effective February 20, 1997)

Sec. 17a-150-53. Governing board review requirements

(a) Staff training plans and the training and education plans for its approved foster families and prospective adoptive families shall be reviewed by the governing board of the child placing agency not less than once every two (2) years. Such review shall ensure currency and consistency with good practice. The child placing agency shall document the implementation of such training and education plans in a manner prescribed by the department.

(b) The policies of the child placing agency covering its plans, program, and services shall be clearly stated in writing and reviewed not less than once each year by the governing board. Any revisions to policy shall be reviewed by the governing board as soon as practicable. Evidence of review by the governing board shall be submitted to the department, upon request, in a manner prescribed by the department.

(Effective February 20, 1997)

Sec. 17a-150-54. Policies and procedures

The policies of the child placing agency covering its plans, program, and services shall be clearly stated in writing and kept current. Copies of the child placing agency’s policies and any revisions to the plan shall be made immediately available to all staff. A copy of the child placing agency’s complete policies as well as any revisions shall be provided to the department upon request.

(Effective February 20, 1997)

Sec. 17a-150-55. Non-profit and tax-exempt status required

As required by section 17a-150 of the Connecticut General Statutes a child placing agency shall be a nonprofit organization qualified as a tax-exempt organization under Section 501(c) (3) of the Internal Revenue Code of 1986, or any subsequent corresponding Internal Revenue Code of the United States, as from time to time amended.

(Effective February 20, 1997)

Sec. 17a-150-56. Minimum staff

Any child placing agency applying for an initial license on or after March 9, 1984 shall have a minimum of two staff persons in the child placing program, who shall devote to the program a portion of their time sufficient to ensure the achievement of the program's objectives and the welfare of children considered for placement, taking into consideration the volume of placements.

(Effective February 20, 1997)

Sec. 17a-150-57. Staff supervision

(a) Each child placing agency shall provide supervisory staff capable of ensuring:

- (1) The health and safety of each child;
- (2) the security and well being of each child; and
- (3) the support of each foster family or prospective adoptive family.

(Effective February 20, 1997)

Sec. 17a-150-58. Staff education and experience requirements

(a) The person responsible for the child placing program, whether the chief administrative officer, or designee, shall be employed full time by the child placing agency.

(b) The minimum degree of training and experience for the person responsible for the child placing program shall be:

(1) A master's degree in social work or other related area of study, and at least five (5) years experience in a social services agency in a supervisory or administrative capacity, three (3) years of which shall have been in child placement; or

(2) a master's degree in social work or other related area of study, and at least six (6) years of direct service and administrative experience in child placement; or

(3) a bachelor's degree in social work or other related area of study and at least six (6) years of direct service and administrative experience in child placement.

(c) The minimum degree of training and experience for staff supervising social workers shall be a master's or bachelor's degree in social work or a related area of study and three (3) years experience in child placement;

(d) The minimum degree of training and experience for social workers performing intake services, direct services to children, homefinding and assessment studies shall be a bachelors degree in social work or a related area of study.

(e) The minimum degree of training and experience for case aides shall be the completion

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-150-59

Department of Children and Families

of at least two (2) years of college or demonstration of a compensatory amount of life experience pertinent to the children in the program.

(f) Consultants including, but not limited to psychiatrists, psychologists, physicians, nurses, dentists and attorneys shall be licensed or certified as required under law.

(Effective February 20, 1997)

Sec. 17a-150-59. Training of staff and families

Any applicant for a child placing agency license or any licensed child placing agency shall have a department accepted plan for the training and education of its staff and approved foster families and prospective adoptive families.

(Effective February 20, 1997)

Sec. 17a-150-60. Copies of employee and volunteer policies

Personnel policies regarding child placing agency employment, personnel practices and volunteers shall be in writing and a copy given to each employee and volunteer. A record containing personnel and health information shall be maintained for each employee.

(Effective February 20, 1997)

Sec. 17a-150-61. Exploitation of children

Children in the care of a child placing agency shall not be:

- (1) Required or permitted to solicit funds for the child placing agency;
- (2) identified by name, in photographs, or in any other manner in its fund-raising material and activities or in public relations; or
- (3) exploited by the child placing agency or any of its staff for their own advantage or purposes.

(Effective February 20, 1997)

Sec. 17a-150-62. Types of licenses to be issued

Each person or entity applying for a child placing agency license shall do so on forms prescribed by the department. A child placing agency license shall be in force for a period of twenty-four (24) months from the date of issue, and shall be renewed for the ensuing twenty-four (24) months if such person or entity continues to be in compliance with statutory and regulatory requirements of such licensing.

(Effective February 20, 1997)

Sec. 17a-150-63. Agency license not transferable or assignable

A child placing agency license shall be issued only to the entity for which the application is made and for the address shown on the application. The child placing agency license is not transferable or assignable.

(Effective February 20, 1997)

Sec. 17a-150-64. Display of agency license

Each child placing agency shall prominently display the child placing agency license on its premises, and make the child placing agency license available upon request.

(Effective February 20, 1997)

Sec. 17a-150-65. Department access to agency premises

Each child placing agency shall grant the commissioner or his designee access to its premises and documents at any reasonable time for the purpose of inspection, review of any records or other documentation, interviews with staff, and supervision as may be necessary to ensure the quality and delivery of services, as well as conformance with sections 17a-150-51 through 17a-150-123, inclusive, of the Regulations of Connecticut State Agencies. In emergency circumstances or at any time an investigation of allegations of regulatory violations is required, unrestricted access shall be granted.

(Effective February 20, 1997)

Sec. 17a-150-66. Agency compliance with requirements for licensing

Except as provided in 17a-150-73 of the Regulations of Connecticut State Agencies the department shall be available to provide technical consultation with the applicant or licensee to assist them to achieve compliance with sections 17a-150-51 through 17a-150-123, inclusive, of the Regulations of Connecticut State Agencies.

(Effective February 20, 1997)

Sec. 17a-150-67. License application

(a) The application for an initial license or a license renewal shall state:

- (1) The location of the principal place of business;
- (2) the name of the entity to be licensed;
- (3) the purpose of the entity; and

(4) the part of the entity which will be responsible for carrying out the responsibilities of a child placing agency.

(b) The application shall include the name, title, degree of professional training, or demonstrated equivalent experience either by child placing agency training, on-the-job training, or life experience background of each staff member to be engaged in carrying out the stated purpose of the program.

(c) The applicant or child placing agency shall submit a copy of its incorporation papers and current bylaws.

(Effective February 20, 1997)

Sec. 17a-150-68. Description of program

The child placing program description provided to clients shall include a detailed explanation of the services offered and the fees charged.

(Effective February 20, 1997)

Sec. 17a-150-69. Finances

(a) The child placing agency shall have sufficient income and resources to enable it to provide proper care for children and operate the program. A budget shall be prepared which demonstrates the applicant's ability to carry out the stated purpose of the program.

(b) If fees are charged, a fee schedule shall be submitted to the department with the application for licensing or re-licensing. The fee schedule shall include a description of how the fees are applied.

(c) The applicant shall identify the sources of income, including fees, and demonstrate the ability to operate the program as a going concern.

(d) Financial records showing the amount and source of all income and expenses and of all assets and liabilities of the child placing agency and the sponsoring child placing agency shall be maintained through the use of a general ledger and subsidiary ledgers posted not less than once each quarter.

(e) The applicant is required to disclose all related party transactions. Related party transactions include but are not limited to the ownership of, or interest in any other entity with which the child placing agency does business by any child placing agency director, employee or volunteer.

(f) There shall be an annual audit of all capital resources, assets, liabilities, receipts and expenditures by a qualified public accountant not affiliated with the child placing agency. The department may accept a financial statement in lieu of an annual audit for a child placing agency which has been licensed for a total of less than two (2) years. A copy of each such annual audit or financial statement shall be submitted to the department annually, or upon request and be a part of the child placing agency's record.

(g) The department shall have access to all financial records as may be necessary to ensure the quality and delivery of services, as well as conformance with sections 17a-150-51 through 17a-150-123, inclusive, of the Regulations of Connecticut State Agencies.

(Effective February 20, 1997)

Sec. 17a-150-70. Program monitoring

(a) The applicant for a child placing agency license shall submit a written quality assurance-plan which shall describe how the applicant intends to monitor the quality of its services, the extent to which it complies with its stated purpose, program objectives, and all Department of Children and Families requirements.

(b) Each child placing agency shall submit a written quality assurance-plan, not less than once a year, which shall describe how the child placing agency intends to monitor the quality of its services, the extent to which it complies with its stated purpose, program objectives, and all Department of Children and Families requirements. Documentation of the implementation of the quality assurance-plan, with findings and an improvement plan, shall be submitted to the department, not less than once every two years. Any revision of the quality assurance-plan shall be made immediately available to child placing agency staff

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-150-71

and the department.

(Effective February 20, 1997)

Sec. 17a-150-71. License denial, revocation, suspension or renewal refusal

(a) A child placing agency license shall be denied or its renewal refused for any of the following causes whenever, in the judgment of the department, the child placing agency:

(1) Fails to comply with sections 17a-150-1 through 17a-150-49, inclusive of the regulation of Connecticut State Agencies;

(2) fails to comply with applicable federal, state and local laws, ordinances, rules, and regulations;

(3) violates any of the provisions or conditions under which the child placing agency license was issued;

(4) furnishes or makes any false or misleading statements in order to obtain or retain a child placing agency license;

(5) refuses or fails to submit reports when requested by the department; or

(6) fails or refuses to admit the department to its premises at any reasonable time for the purpose of inspection, review, and supervision;

(b) The granting of a child placing agency license shall be denied if the child placing agency knowingly employs or uses as a volunteer anyone who:

(1) Has been convicted of injury or risk of injury to a child or other similar offenses against a child;

(2) has been convicted of impairing the morals of a child or other similar offenses against a child;

(3) has been convicted of violent crime against a person or other similar offenses;

(4) has been convicted of the possession, use, or sale of controlled substances;

(5) has been convicted of illegal use of a firearm or other similar offenses;

(6) has ever had an allegation of child abuse or neglect substantiated; or

(7) has had a child removed from their care because of child abuse or neglect.

(c) The renewal of a child placing agency license may be denied if the child placing agency knowingly employs or uses as a volunteer anyone who:

(1) Has been convicted of injury or risk of injury to a child or other similar offenses against a child;

(2) has been convicted of impairing the morals of a child or other similar offenses against a child;

(3) has been convicted of violent crime against a person or other similar offenses;

(4) has been convicted of the possession, use, or sale of controlled substances;

(5) has been convicted of illegal use of a firearm or other similar offenses;

(6) has ever had an allegation of child abuse or neglect substantiated; or

(7) has had a child removed from their care because of child abuse or neglect.

(d) The granting or renewal of a child placing agency license may be denied if the child placing agency knowingly employs or uses as a volunteer anyone who:

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-150-72

Department of Children and Families

(1) Is awaiting trial, or is on trial, for charges as described in subdivisions (1) through (5) of subsection (a) of this section; or

(2) has a criminal record that the department or child placing agency believes makes the home unsuitable;

(e) The granting or renewal of a child placing agency license may be denied if the child placing agency knowingly employs or uses as a volunteer anyone who has a current child abuse or neglect allegation pending and the child placing agency fails to have a plan approved by the Department of Children and Families which provides for the protection of children pending the outcome of the investigation.

(f) No child placing agency license shall be renewed if the holder of such child placing agency license knowingly arranges for the placement of a child with, or arranges for the substitute care of a child by, a person described in subdivisions (1) through (4), inclusive, of subsection (b) of this section, or subdivisions (1) and (2) of subsection (d) of this section.

(g) The chief administrative officer of a child placing agency shall immediately notify the department upon obtaining knowledge that any employee or volunteer acquires any descriptors in subdivisions (1) through (7), inclusive, of subsection (b) of this section, or subdivisions (1) and (2) of subsection (d) of this section.

(h) A child placing agency license shall be denied, revoked, suspended or its renewal refused pursuant to the provisions of sections 46a-79 through 46a-81, inclusive, of the Connecticut General Statutes relating to the employment of criminal offenders.

(Effective February 20, 1997)

Sec. 17a-150-72. Hearing on revocation, or suspension or refusal to renew a license

Any child placing agency may, within fifteen (15) days after receipt by mail of notice of a revocation, suspension or refusal to renew a child placing agency license, request an administrative hearing thereon in accordance with the Uniform Administrative Procedure Act, Chapter 54, Connecticut General Statutes. Any revocation, limitation, suspension or refusal to renew a child placing agency license shall be stayed until such hearing is held. If a request for a hearing during this time period is not received, the department's decision shall be final.

(Effective February 20, 1997)

Sec. 17a-150-73. Suspension of a license

If the department finds that public health, safety, or welfare requires emergency action and incorporates a finding to that effect in its order, suspension of a license may be ordered pending proceedings for revocation or other licensure action. These proceedings shall be promptly instituted and determined.

(Effective February 20, 1997)

Sec. 17a-150-74. Notification of closure or termination of services

(a) Each child placing agency shall inform the commissioner whenever and for whatever

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-150-77

reason the chief administrative officer or the governing board believes the child placing agency may close or may terminate the provision of child placing agency services. Such notification shall be made not less than thirty (30) business days before such anticipated closure or termination.

(b) Notification of anticipated closure or termination shall include:

- (1) Evidence of proper notification to clientele;
- (2) return of the child placing agency license within five (5) business days, by mail, of closure or termination
- (3) a plan for stewardship of all records by another child placing agency;
- (4) evidence of proper notification to any creditors, utilities, and other state and local agencies as necessary; and
- (5) an audit of, or a plan to audit, all records, including identification and status of the record, and a brief statement of the status of each open case;

(Effective February 20, 1997)

Sec. 17a-150-75. Waiver provision for a child placing agency

A child placing agency shall comply with all relevant regulations unless a waiver for specific requirements of such regulations has been granted by the commissioner or his designee. A waiver agreement shall only be issued if the child placing agency is in substantial compliance with the intent of the relevant regulations being exempted or that the intent of the specific requirement to be exempted will be satisfactorily achieved in a manner other than that prescribed by the requirement. A waiver shall specify the particular requirements to be exempted, the duration of the exemption and the terms under which the exemption is granted. If child placing agency fails to comply with the waiver in any way the agreement shall be subject to immediate cancellation.

(Effective February 20, 1997)

Sec. 17a-150-76. Recruitment

The child placing agency shall provide for the diligent recruitment of potential foster families and prospective adoptive families. Such recruitment shall reflect, to the extent possible, the ethnic and racial diversity of children in the state for whom foster and adoptive families are needed.

(Effective February 20, 1997)

Sec. 17a-150-77. Causes for, denying, revoking or refusing to renew an approval

(a) An approval may be denied, revoked, or its renewal refused for any of the following causes whenever a foster or prospective adoptive family:

- (1) Fails to comply with applicable statutes and regulations regarding child care and child placement;
- (2) fails to comply with applicable state and local laws, ordinances, rules and regulations relating to building, health, fire protection, safety, sanitation and zoning;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-150-78

Department of Children and Families

- (3) violates any of the provisions under which the approval has been granted;
 - (4) furnishes or makes any false or misleading statements to the child placing agency in order to obtain or retain an approval;
 - (5) refuses or fails to submit reports or make records available when requested by the commissioner, designee or child placing agency; or
 - (6) fails or refuses to admit to the property or to discuss regulatory issues with the commissioner or his designee or child placing agency as required in section 17a-145-135 of the Regulations of Connecticut State Agencies.
- (b) Each child placing agency shall make a decision regarding the approval or denial of any application to become a foster family or prospective adoptive family based on the Regulations of Connecticut State Agencies, sections 17a-150-51 through 17a-150-123.
- (c) The child placing agency shall make the results of its decision available in written form for the record, documenting compliance, or failure to comply, with pertinent regulations and child placing agency policies.
- (d) The child placing agency shall notify, by mail, each person applying to become a foster family or prospective adoptive family of the agency's decision. In the case of denial, the agency shall state the specific reasons for the denial citing pertinent regulations and child placing agency policies.
- (e) There shall be a biennial evaluation for each foster family or prospective adoptive family. The evaluation shall contain updates of data and information on the family to determine continued compliance with approval requirements.

(Effective February 20, 1997)

Sec. 17a-150-78. Disposition of approval documentation

Whenever any changes to the specifications set forth on an approval documentation are made, a new assessment of the approved foster or prospective adoptive family may be conducted by the child placing agency. A new approval documentation shall be granted if the approved foster or prospective adoptive family is found to be in continued compliance. In the event that an approval is revoked, the foster or prospective adoptive family shall return the revoked documentation of approval to the child placing agency.

(Effective February 20, 1997)

Sec. 17a-150-79. Approval of staff as providers restricted

- (a) A child placing agency using its own staff as a foster family shall ensure that the responsibility for care and for case management are assigned to separate, unrelated staff.
- (b) A child placing agency shall ensure that its staff is not granted preferential treatment in the placement of a prospective adoptive child into the prospective adoptive home of its own staff.

(Effective February 20, 1997)

Sec. 17a-150-80. Supervision of homes approved by a child placing agency

(a) Any person or entity applying for a child placing agency license shall agree to assume full responsibility for, and to demonstrate the ability to inspect, review, and supervise the foster family or prospective adoptive family in which a child is placed, or is to be placed by such child placing agency.

(b) Each child placing agency shall be responsible for the placement of a child in another foster family or prospective adoptive family if the existing placement is terminated.

(Effective February 20, 1997)

Sec. 17a-150-81. Reports of violations of regulations

(a) If a child placing agency receives information that a foster family or prospective adoptive family it has approved may be in violation of sections 17a-150-51 through 17a-150-123, inclusive, of the Regulations of Connecticut State Agencies, the chief administrative officer shall ensure that:

(1) An immediate inquiry is conducted to determine whether a violation of sections 17a-150-51 through 17a-150-123, inclusive, of the Regulations of Connecticut State Agencies has occurred;

(2) a written report of the inquiry is completed;

(3) a timely decision be made on what action, if any, including revocation of an approval, is required in light of the findings of the inquiry; and

(4) a copy of the written report of the inquiry and the decision be included in the a foster family or prospective adoptive family's permanent file.

(Effective February 20, 1997)

Sec. 17a-150-82. Reports of abuse or neglect

All cases of suspected abuse or neglect shall be reported to the department in accordance with Section 17a-101 et seq, of the Connecticut General Statutes.

(Effective February 20, 1997)

Sec. 17a-150-83. Case records

Each child placing agency shall maintain a current confidential case record for each child, including: Family, social, and health history; reason for acceptance for service; services to be provided to the child; the plan for the child's treatment, if applicable; a summary of services and treatment provided to the child; and the plan for discharge and final disposition. Records shall be maintained in a manner which provides for the separation of information on the biological family, prospective adoptive family, and child so as to preserve the integrity and confidentiality of the records. Records should be clearly labeled and cross referenced as to related files for birth, adoptive family and child to provide continuity of information while preserving confidentiality.

(Effective February 20, 1997)

Sec. 17a-150-84. Maintenance of confidential records

All confidential case records shall be kept secure and maintained in locked files on the premises of the child placing agency. Confidential case records shall not be available to anyone other than authorized persons. Confidential case records shall not be removed from the premises of the child placing agency except at the authorization of the chief administrative officer.

(Effective February 20, 1997)

Sec. 17a-150-85. Transfer of case records

All confidential case records, as required under section 17a-150-83 of the Regulations of Connecticut State Agencies, shall become the property of the State of Connecticut upon the closing of a child placing agency, unless the child placing agency has provided for the maintenance of such records by another child placing agency.

(Effective February 20, 1997)

Sec. 17a-150-86. Facilities

The facilities of the child placing agency shall include a waiting room and at least one (1) separate office or interviewing room which will provide privacy.

(Effective February 20, 1997)

Sec. 17a-150-87. Discharge of children

Discharge of a child from child placing agency care shall be to the person, persons, or child placing agency having legal guardianship of the child. Discharge may be to another child placing agency or person only upon written authorization of such legal guardian.

(Effective February 20, 1997)

Sec. 17a-150-88. Evaluation before placement

(a) Before placing a child in a foster family or prospective adoptive family, the child placing agency shall secure and evaluate information necessary to determine if a foster or adoptive placement is in the child's best interest.

(b) All possible alternatives to placement shall be explored with parents considering or planning to release their child for adoption or place their child in foster care.

(c) If it is known that the child or the child's family has received social services from an individual or child placing agency or a state agency, such individual or child placing agency or state agency shall be consulted, if possible, prior to the child's placement.

(d) All factors relevant to the child's adjustment in the home and in the community for the present and the long term shall be considered.

(e) With the consent of the guardian, foster care may be provided when a child requests it due to an immediate need for shelter away from home.

(f) All relevant information concerning the child's developmental, medical, social, emotional and environmental history, which may be legally disclosed, shall be shared by

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-150-92

the child placing agency with the foster family or prospective adoptive family prior to the placement of the child in the home.

(Effective February 20, 1997; Amended May 30, 2002)

Sec. 17a-150-89. Consent for placements

Placement shall only be made with the consent of the guardian. Such consent may be verbal but shall be followed, as soon as is reasonably possible, by written consent on a form prescribed or authorized by the department.

(Effective February 20, 1997)

Sec. 17a-150-90. Assessment of foster or prospective adoptive parents and members of the household

Each child placing agency shall conduct an assessment of any applicant for a foster family or prospective adoptive family approval or for the renewal of such approval. Such assessment shall include the applicant as well as all members of the applicant's household. The assessment shall determine the ability of the applicant to comply with the requirements of sections 17a-150-51 through 17a-150-123, inclusive, of the Regulations of Connecticut State Agencies. Such assessment shall include but not necessarily be limited to the physical condition of the home, the health of the applicant and other members of the household, and the ability of the applicant to provide an environment that will advance the physical, mental, emotional educational and societal development of each foster or adoptive child who may be placed in such home. In the case of a foster family the assessment shall also determine the ability of the foster family or applicant to work with the child placing agency or department to pursue the child's treatment plan including reunification with the biological family.

(Effective February 20, 1997)

Sec. 17a-150-91. Granting of approval is not transferable or assignable

(a) Foster families or prospective adoptive families approved through a child placing agency shall be granted such approval by a licensed child placing agency only to the foster family or prospective adoptive family for which application is made and only for the address shown on the application and shall not be transferable or assignable.

(b) Whenever there are changes to any member of the household or dwelling structure, the child placing agency may require a new assessment of the foster or prospective adoptive family. Such assessment shall result in the issuance of a new approval or the initiation of action to revoke such approval.

(Effective February 20, 1997)

Sec. 17a-150-92. Access to documentation of approval

Foster families or prospective adoptive families approved through a child placing agency shall keep a letter or other form of documentation from such agency proving they are

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-150-93

Department of Children and Families

approved and shall make such letter or documentation available to the child placing agency, commissioner or his designee upon request.

(Effective February 20, 1997)

Sec. 17a-150-93. Access of commissioner or child placing agency to premises

Each foster family or prospective adoptive family shall grant the commissioner or his designee or child placing agency access to the child, premises and documents related to the child at any reasonable time as deemed necessary with respect to non-emergency child related issues. In emergency circumstances unrestricted access shall be granted.

(Effective February 20, 1997)

Sec. 17a-150-94. Interstate placement of children

Each child placing agency, foster family or prospective adoptive family shall comply with state statutes and regulations regarding the interstate placement of children prior to accepting placement of a child from out of state.

(Effective February 20, 1997)

Sec. 17a-150-95. Physical requirements of foster and prospective adoptive homes

(a) Dwelling and furnishings shall be clean and comfortable and in good repair.

(b) State and local fire codes shall be observed by all foster families and prospective adoptive families. A determination of reasonable fire safety shall be established by the department or child placing agency for all foster families or prospective adoptive families. In the event of a disagreement between the department or child placing agency and a foster family or prospective adoptive family regarding fire safety issues, the final determination shall be vested in the local fire marshal.

(c) The home and grounds shall be reasonably free from anything that constitutes a hazard to children including but not limited to:

(1) Any peeling paint inside or outside of the house which is accessible to the children shall be determined to be non-toxic in compliance with requirements of the department of public health;

(2) equipment used by the children shall not be painted or covered by any material which is poisonous;

(3) all swimming pools shall comply with state and local regulations; and

(4) medicines and toxic and flammable materials shall be kept out of the reach of children.

(d) There shall be sufficient indoor and outdoor space, ventilation, toilet facilities, light and heat to ensure the health and comfort of all members of the household.

(e) All heating systems shall comply with the state and local building and fire codes.

(f) Adequate sewage and garbage facilities shall be maintained.

(g) All power driven machines or other hazardous equipment shall be properly safeguarded and their use by any foster or adoptive child properly supervised by an adult.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-150-97

- (h) Emergency evacuation plans shall be established.
- (i) If a furnace is on the same floor as a living space it shall be enclosed.
- (j) All foster and prospective adoptive homes shall have smoke detectors in operating condition so as to protect sleep areas, play areas and the basement.

(Effective February 20, 1997)

Sec. 17a-150-96. Telephone

All foster and prospective adoptive homes shall have a working telephone with emergency numbers posted in an easily visible location. The department or child placing agency shall be notified within one (1) business day of any change in the home's telephone number or telephone status.

(Effective February 20, 1997)

Sec. 17a-150-97. Children's bedroom, clothing and privacy

(a) (1) Each bedroom shall be enclosed on all sides, with a window and a door that leads into a hallway or other common living area.

(2) Each bedroom shall have at least two approved means of exit capable of providing for escape in the event of fire or disaster.

(3) Bedrooms for children shall be used for sleeping purposes and customary childrens' activities only. The child's bedroom shall not be used for general purposes of other members of the family.

(4) Children under the age of three placed in foster families and prospective adoptive families shall sleep on the same floor and in close proximity to foster or prospective adoptive parents or a responsible adult.

(5) A separate bed shall be provided for each child except that siblings of the same sex may sleep together in a double sized or larger bed with the approval of the chief administrative officer of the child placing agency or the commissioner.

(6) No child three years of age or older shall be permitted to share a bedroom with another child of the opposite sex or a same sex child of disparate age without the permission of the chief administrative officer of the child placing agency or the commissioner. No child over the age of one shall share a room with an adult without the permission of the chief administrative officer of the child placing agency or the commissioner.

(7) No more than four (4) children including the foster or prospective adoptive parents own children shall sleep in the same room without the permission of the chief administrative officer of the child placing agency or the commissioner.

(b) The child's clothing shall be kept clean and in good condition in keeping with the standards of the community. Provision shall be made for the safe storage of the child's clothing and personal possessions.

(c) Each child shall be afforded privacy appropriate to his growth and development.

(Effective February 20, 1997)

Sec. 17a-150-98. Food and water

(a) All food for human consumption, food storage and preparation, personal cleanliness and general care of the home shall meet generally accepted health standards.

(b) No non-pasteurized milk products shall be provided by, or with the approval or knowledge of, a foster family or prospective adoptive family to any child in care.

(c) The water supply shall be safe and adequate to meet the needs of the household. If the home is not served by a public water supply, the water shall be analyzed and approved by the state or local department of health or by a private water testing laboratory approved by the Department of Public Health at the time of initial licensure or approval and at any subsequent time the department or child placing agency deems such testing necessary.

(Effective February 20, 1997)

Sec. 17a-150-99. Firearms and weapons

Firearms or other types of dangerous weapons are discouraged in foster and prospective adoptive homes. The department or child placing agency shall be notified by any foster or prospective adoptive parents if they or a resident in their home possess, prior to licensure or approval or obtained subsequent to licensure or approval, a firearm or other type of dangerous weapon. A foster or prospective adoptive parents shall ensure that: (1) Firearms and ammunition shall each be locked in separate places inaccessible to all children; firearms; (2) whenever practicable, firearms are equipped with a trigger guard lock; (3) other types of dangerous weapons shall be unstrung or unloaded and shall be stored in locked containers out of the reach of children; and, (4) keys to the locked storage area of firearms, other types of dangerous weapons, trigger guards, and ammunition shall be kept in the secure possession of an adult or reasonably secure from children.

(Effective February 20, 1997)

Sec. 17a-150-100. Animals

All animals in the foster family or prospective adoptive family shall be kept in a safe and sanitary manner and shall be in compliance with all statutes and regulations regarding vaccination, and generally accepted veterinary care.

(Effective February 20, 1997)

Sec. 17a-150-101. Health standards for foster or prospective adoptive parents and members of the household

(a) The health of persons living in the foster or prospective adoptive family shall not present a hazard to the children. Prior to licensure or approval applicants to become a foster family or prospective adoptive family shall supply a statement from a physician on such forms as approved by the commissioner or child placing agency that within the previous twelve (12) months:

(1) Each person living in the home has had a physical examination and has been found to be in good health or that specified members of the family are receiving all necessary

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-150-105

continuing medical care and are free of communicable disease; and

(2) the parents have been determined to be physically and mentally able to provide care to children.

(b) Once approved, foster or prospective adoptive parents shall notify the child placing agency whenever they or a member of the household develop a physical or mental infirmity which may interfere with their ability to care for and meet the needs of the child.

(c) The child placing agency may require a physical, mental or psychological examination of any member of the foster or prospective adoptive household if such person exhibits characteristics or behaviors which indicate or could indicate that they are unable to provide for the care of the child. Such examination shall be done at the expense of the child placing agency if such person is uninsured or such persons insurance does not cover such examination.

(d) No applicant shall be approved as a foster family or prospective adoptive family if the applicant has suffered the death of a biological, adoptable or adopted child within one (1) year of the application.

(Effective February 20, 1997)

Sec. 17a-150-102. Character standards for foster or prospective adoptive parents and members of the household

Foster and prospective adoptive parents and others members of the household shall be of good character, habits and reputation.

(Effective February 20, 1997)

Sec. 17a-150-103. Change in approved foster and prospective adoptive family conditions

Approved foster and prospective adoptive parents shall notify child placing agency, in writing, prior to or not later than one (1) business day following any change in circumstance or member of the household which alters the statement of fact made in the application for licensure or approval or which effect the ability of the foster or prospective adoptive parent to provide on-going care of the child.

(Effective February 20, 1997)

Sec. 17a-150-104. Reporting of the injury, illness, death, fire or absence of a child from placement

Foster and prospective adoptive parents shall report to the department or child placing agency, by telephone, within six (6) hours any serious injury, serious illness or death of a child, any fire in the home or any unauthorized absence of a child.

(Effective February 20, 1997)

Sec. 17a-150-105. Financial condition of the foster or prospective adoptive parent

Foster and prospective adoptive parents shall have an income sufficient to meet the needs

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-150-106

Department of Children and Families

of their family. Money received on behalf of the child shall be expended for the care of the child.

(Effective February 20, 1997)

Sec. 17a-150-106. Substitute child care

When all adults in a foster home are employed or otherwise occupied in substantial amount of time away from the foster home or prospective adoptive home, the plans for care and supervision of the child shall be provided by a competent individual and approved in advance by the chief administrative officer of the child placing agency or the commissioner.

(Effective February 20, 1997)

Sec. 17a-150-107. Cooperation with the child's treatment plan

(a) Foster parents shall comply with the treatment plan for the child and work cooperatively with the department or child placing agency in all matters pertaining to the child's welfare.

(b) Foster parents shall accept, cooperate with and support arrangements made for the child to have contact including visits and correspondence with the child's biological family in keeping with the frequency indicated by the treatment plan. Visits between children and biological parents shall take place in the foster home unless it is deemed not to be in the best interest of the child or foster family. Foster parents shall be active participants in reunification of the child with the child's biological family.

(Effective February 20, 1997)

Sec. 17a-150-108. Limitation on the number of licenses or approvals allowed

A foster or prospective adoptive family shall be approved only by a child placing agency. No foster or prospective adoptive home shall possess more than one (1) license or approval for adoption or other form of out of home care either through the department, an entity licensed by the department or licensed or otherwise approved through any other entity. No foster or prospective adoptive family shall hold dual licensure or approval. No licensed or approved foster or prospective adoptive family shall accept, on a private basis, another child for placement.

(Effective February 20, 1997)

Sec. 17a-150-109. General requirements of foster and prospective adoptive parents

(a) Foster and prospective adoptive parents shall be physically, intellectually and emotionally capable of providing care, guidance and supervision of the child including:

- (1) Insuring routine medical care, scheduling and transportation;
- (2) obtaining and following instructions from the child's medical provider if medication or treatment are to be administered by the foster or prospective adoptive parents. Any medications provided shall be clearly labeled and kept out of the reach of children;
- (3) establishing plans to respond to illness and emergencies, including serious injuries

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-150-109

and the ingestion of poison, with appropriate first aid supplies available in the home out of reach of the children;

(4) maintaining all documentation as required by the department;

(5) providing for the child's physical needs including adequate hygiene, nutritional meals and snacks prepared in a safe and sanitary manner, readily available drinking water, a balanced schedule of rest, active play, indoor and outdoor activity appropriate to the age of the child in care;

(6) promoting the social, intellectual, emotional, and physical development of each child by providing activities that meet these needs or special needs if such exist;

(7) assuring adequate opportunity for cultural, and educational activities in the family and in the community. Children who do not share the same language as their caretaker shall be provided with opportunities to practice their native language as they become bilingual or multi-lingual;

(8) assuring an environment of tolerance and sensitivity to a child's religion through providing adequate opportunity for religious training and participation appropriate to the child's religious denomination, and not requiring any child to participate in religious practices contrary to the child's beliefs;

(9) providing emotional support and an environment that meets the child's ethnic and cultural needs;

(10) assuring the child's participation in an approved education program, including regular school attendance. The foster or prospective adoptive parents shall cooperate with the proper authorities in relation to the child's educational needs;

(11) guiding the child in the acquisition of daily living skills including the assigning of daily chores to the child on the basis of the child's abilities and developmental level; and

(12) providing infants and toddlers with ample opportunity for freedom of movement each day outside of a crib or playpen, infants are to be held for all bottle feedings, as well as at other times, for attention and verbal communication.

(b) Foster and prospective adoptive parents, members of the household, substitute care providers, and other persons having regular access to children in the home shall give the child humane and affectionate care. They shall be a positive role model to the child and instruct the child in appropriate behavior. They shall establish limits and assist the child to develop self control and judgment skills. Children in the home shall be encouraged to assume age-appropriate responsibility for their decisions and actions.

(c) Discipline shall be appropriate to the child's age and level of development. Foster and prospective adoptive parents shall not use physically or verbally abusive, neglectful, humiliating, frightening or corporal punishment, including but not limited to spanking, cursing or threats.

(d) When unusual circumstances require continued or frequent use of physical or mechanical restraints prior written approval shall be obtained from the commissioner or his designee.

(e) Licensed or approved foster and prospective adoptive parents shall complete all

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-150-110

Department of Children and Families

assessment and training requirements as prescribed by the department or child placing agency.

(f) The department or child placing agency may consider any unusual circumstances including but not limited to the health demands of other members of the household which may detract from the attention, structure and time required by a foster or prospective adoptive child.

(Effective February 20, 1997)

Sec. 17a-150-110. Foster family or prospective adoptive family criminal history; pending criminal actions; history of child abuse or neglect

(a) The granting of a license or approval shall be denied if any member of the household of a foster family or prospective adoptive family:

(1) Has been convicted of injury or risk of injury to minor or other similar offenses against a minor

(2) has been convicted of impairing the morals of a minor or other similar offenses against a minor;

(3) has been convicted of violent crime against a person or other similar offenses;

(4) has been convicted of the possession, use, or sale of controlled substances within the past five (5) years;

(5) has been convicted of illegal use of a firearm or other similar offenses;

(6) has ever had an allegation of child abuse or neglect substantiated; or

(7) has had a minor removed from their care because of child abuse or neglect.

(b) The renewal of a license or approval may be denied if any member of the household of a foster family or prospective adoptive family:

(1) Has been convicted of injury or risk of injury to a minor or other similar offenses against a minor;

(2) has been convicted of impairing the morals of a minor or other similar offenses against a minor;

(3) has been convicted of violent crime against a person or other similar offenses;

(4) has been convicted of the possession, use, or sale of controlled substances;

(5) has been convicted of illegal use of a firearm or other similar offenses;

(6) has ever had an allegation of child abuse or neglect substantiated; or

(7) has had a minor removed from their care because of child abuse or neglect.

(c) The granting or renewal of a license or approval may be denied if any member of the household of a foster family or prospective adoptive family:

(1) Is awaiting trial, or is on trial, for charges as described in subdivisions (1) through (5) of subsection (a) of this section;

(2) has a criminal record that the department or child placing agency believes makes the home unsuitable; or

(3) has a current child abuse or neglect allegation pending;

(d) No license or approval shall be renewed if the holder of such license or approval

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-150-114

knowingly arranges for the substitute care of a child by a person described in subsection (a) or (b) of this section.

(Effective February 20, 1997)

Sec. 17a-150-111. Compliance with regulations

All foster and adoptive homes approved by the child placing agency shall be in compliance with the Regulations of Connecticut State Agencies for foster and adoptive homes.

(Effective February 20, 1997)

Sec. 17a-150-112. Application for approval as a foster family or prospective adoptive family

(a) The child placing agency shall provide to persons seeking approval as a foster family or prospective adoptive family an application form or forms as prescribed or authorized by the department. Such form or forms shall be used to obtain a declaration of the person's intent to become a foster family or prospective adoptive family and other information as may be necessary to process the application.

(b) Child-placing agencies may have requirements in addition to those prescribed by the department for the approval of persons seeking approval as a foster family or prospective adoptive family. Any additional requirements shall be stated in the written policies of the child placing agency and provided to the department upon request.

(c) The child placing agency's initial study of a request for approval as a foster family or prospective adoptive family shall include at least two office visits and at least one home visit. Interviews shall be conducted with all persons residing in the home and all family members who are residing away from home on a temporary basis, if practicable.

(d) Each foster family or prospective adoptive family shall be in compliance with sections 17a-150-51 through 17a-150-123, inclusive, of the Regulations of Connecticut State Agencies prior to approval.

(Effective February 20, 1997)

Sec. 17a-150-113. Placement criteria

The child placing agency's placement criteria shall be based upon the suitability of potential placements for the child and the wishes of the guardian for their child with respect to religion and other appropriate attributes of approved homes. The child placing agency's placement criteria shall not discriminate between approved families on the basis of reimbursement for the child placing agency.

(Effective February 20, 1997)

Sec. 17a-150-114. Adequate clothing

The child placing agency shall ensure that each child is provided with sufficient individual

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-150-115

Department of Children and Families

clothing suitable for the child's age and activities and appropriate to the season.

(Effective February 20, 1997)

Sec. 17a-150-115. Consent of guardian and preferences of the biological parents

(a) Each child placing agency shall place a child only with the written consent of the guardian. The consent form shall cite the appeal procedures the guardian may use concerning case management decisions with which the guardian believes are not in the best interest of the child.

(Effective February 20, 1997)

Sec. 17a-150-116. Services to adoptive child and family

The child placing agency shall provide social services to the adoptive child, his biological parents if appropriate, and the foster family or prospective adoptive family in accordance with an established, individualized written child placing agency service plan that includes a plan for discharge.

(Effective February 20, 1997)

Sec. 17a-150-117. Review of treatment plans

Treatment plans for children in foster care shall be reviewed at least every six (6) months. Treatment plans for children in adoptive placements shall be reviewed at least every six (6) months until the adoption is finalized at which time the reviews shall cease.

(Effective February 20, 1997)

Sec. 17a-150-118. Medical or genetic information pertaining to adopted persons

Medical or genetic information which has, or may have serious implications for the physical or mental health of any child placed for adoption or adopted person, descendant of such person, sibling of such person or genetic parent shall be provided by the department or the child placing agency pursuant to section 45a-146 of the Connecticut General Statutes.

(Effective February 20, 1997)

Sec. 17a-150-119. Placement out-of-state or out-of-country and children entering Connecticut from out-of-state

(a) When a child placing agency determines that placement of a child in another state or country is in the best interest of the child, it shall use only the services of an out-of-state or out-of-country child placing agency licensed or otherwise authorized by the laws of that state or country to perform such services.

(b) Children being placed from Connecticut into other states for the purpose of adoption or foster care shall comply with the Interstate Compact on the Placement of Children, Sections 17a-175 through 17a-182, inclusive, of the Connecticut General Statutes.

(c) Children being placed into Connecticut from other states or countries with Connecticut families for the purpose of adoption or foster care shall comply with the

Interstate Compact on the Placement of Children, Sections 17a-175 through 17a-182, inclusive, and section 17a-151 of the Connecticut General Statutes.

(Effective February 20, 1997)

Sec. 17a-150-120. Child care facility must meet licensing standards

The child placing agency shall ensure that any child care facility, residential treatment institution, group home, temporary shelter or foster or adoptive home not located in Connecticut which is not licensed or authorized by the State of Connecticut, in which it places a child shall meet the standards of the state in which the facility is located.

(Effective February 20, 1997)

Sec. 17a-150-121. Approval of out-of-state agencies

(a) Out-of-state private child placing agencies seeking to place children into Connecticut for the purpose of foster care or adoption shall provide:

(1) A copy of their current license or other form of authorization from the approving authority in their state. If no such license or authorization is issued, they must provide a reference statement from the approving authority stating they are authorized to place children in foster care or adoption or both in their jurisdiction;

(2) a description of the program, including that within its geographical area the child placing agency conducts home studies; placements; supervision; and, if applicable, adoptive placements and the finalization of adoptions. The child placing agency must also agree to continuing responsibility for placement planning and replacement if the placement fails;

(3) such other information as the department may require;

(4) notification to the department of any significant child placing agency changes after approval;

(5) if the adoption is finalized prior to bringing or sending the child to Connecticut, the out-of-state child placing agency involved is not required to be approved by the department under Section 17a-152 of the Connecticut General Statutes or need be in compliance with Sections 17a-175 through 17a-182 of the Connecticut General Statutes regarding the Interstate Compact on the placement of children; and

(6) such agencies shall not place a child who is originally from Connecticut into Connecticut.

(Effective February 20, 1997)

Sec. 17a-150-122. Approval of out-of-country agencies

(a) Out-of-country child-placing agencies seeking to place children into Connecticut for the purpose of foster care or adoption shall provide:

(1) A copy of their current license from the approving authority in their country. If no such license is issued, they must provide a reference statement from the approving authority stating they are authorized to place children in foster care or for adoption;

(2) a description of the services available to Connecticut families;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-150-123

Department of Children and Families

(3) a statement agreeing to continue responsibility for placement planning and placement in another home if the placement fails;

(4) such other information as the department may require; and

(5) notification to the department of any significant child placing agency changes after approval.

(b) If the adoption is finalized in the child's country of origin prior to bringing or sending the child to Connecticut, the out-of-country child placing agency involved is not required to:

(1) Be approved by the department under Section 17a-152 of the Connecticut General Statutes; or

(2) need be in compliance with sections 17a-175 through 17a-182, inclusive, of the Connecticut General Statutes regarding the Interstate Compact on the Placement of Children.

(c) Out-of-country child-placing agencies shall not place a child from Connecticut into Connecticut.

(Effective February 20, 1997)

Sec. 17a-150-123. Reporting of status of approved homes to the department

Child placing agencies licensed to place a child into a foster family or prospective adoptive family shall provide the department, upon request, with required information regarding the families they have approved, denied and the number that have withdrawn an application for approval.

(Effective February 20, 1997)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Children and Families

Subject

Licensing of Permanent Family Residences

Inclusive Sections

§§ 17a-155-1—17a-155-35

CONTENTS

Sec. 17a-155-1.	Definitions (Repealed)
Sec. 17a-155-2.	Bed capacity (Repealed)
Sec. 17a-155-3.	Types of licenses to be issued (Repealed)
Sec. 17a-155-4.	License not transferable or assignable (Repealed)
Sec. 17a-155-5.	Display of license (Repealed)
Sec. 17a-155-6.	Department access to premises (Repealed)
Sec. 17a-155-7.	Interstate placement of children (Repealed)
Sec. 17a-155-8.	Consultation with licensee (Repealed)
Sec. 17a-155-9.	Refusal or revocation of license (Repealed)
Sec. 17a-155-10.	Hearing on denial, revocation or limiting of license (Repealed)
Sec. 17a-155-11.	Suspension of license (Repealed)
Sec. 17a-155-12.	Return of license to the department (Repealed)
Sec. 17a-155-13.	Waiver provision (Repealed)
Sec. 17a-155-14.	Permanent family residence (Repealed)
Sec. 17a-155-15.	Construction (Repealed)
Sec. 17a-155-16.	Determination of fire safety (Repealed)
Sec. 17a-155-17.	Physical plant requirements (Repealed)
Sec. 17a-155-18.	Permanent family residence parents (Repealed)
Sec. 17a-155-19.	Occupation of parent (Repealed)
Sec. 17a-155-20.	Medical examination (Repealed)
Sec. 17a-155-21.	Communicable diseases (Repealed)
Sec. 17a-155-22.	Income (Repealed)
Sec. 17a-155-23.	Governing board (Repealed)
Sec. 17a-155-24.	Requirements relative to parents (Repealed)
Sec. 17a-155-25.	Contact with biological parents (Repealed)
Sec. 17a-155-26.	Child's plan (Repealed)
Sec. 17a-155-27.	Roomers or boarders (Repealed)
Sec. 17a-155-28.	Water supply, sewage and garbage facilities (Repealed)
Sec. 17a-155-29.	Milk (Repealed)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

- Sec. 17a-155-30. Clothing (Repealed)
- Sec. 17a-155-31. Privacy (Repealed)
- Sec. 17a-155-32. Abuse of children. Discipline (Repealed)
- Sec. 17a-155-33. Children not to be used for fund-raising (Repealed)
- Sec. 17a-155-34. Unauthorized absences (Repealed)
- Sec. 17a-155-35. Reporting to the department (Repealed)

Licensing of Permanent Family Residences

Sec. 17a-155-1. Definitions (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-2. Bed capacity (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-3. Types of licenses to be issued (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-4. License not transferable or assignable (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-5. Display of license (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-6. Department access to premises (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-7. Interstate placement of children (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-155-8

Department of Children and Families

Sec. 17a-155-8. Consultation with licensee (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-9. Refusal or revocation of license (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-10. Hearing on denial, revocation or limiting of license (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-11. Suspension of license (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-12. Return of license to the department (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-13. Waiver provision (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-14. Permanent family residence (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-15. Construction (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-16. Determination of fire safety (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-17. Physical plant requirements (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-18. Permanent family residence parents (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-19. Occupation of parent (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-20. Medical examination (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-21. Communicable diseases (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-155-22

Department of Children and Families

Sec. 17a-155-22. Income (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-23. Governing board (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-24. Requirements relative to parents (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-25. Contact with biological parents (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-26. Child's plan (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-27. Roomers or boarders (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-28. Water supply, sewage and garbage facilities (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Children and Families

§17a-155-35

Sec. 17a-155-29. Milk (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-30. Clothing (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-31. Privacy (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-32. Abuse of children. Discipline (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-33. Children not to be used for fund-raising (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-34. Unauthorized absences (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-155-35. Reporting to the department (Repealed)

Repealed June 11, 2014.

(Effective February 1, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Developmental Services

Subject

Administration of Medications: Residential Facilities, Respite Centers, Day Programs, Community Training Homes, and Individual and Family Supports

Inclusive Sections

§§ 17a-210-1—17a-210-15

CONTENTS

Sec. 17a-210-1.	Definitions
Sec. 17a-210-2.	Administration of medication
Sec. 17a-210-3.	Certification process for non-licensed personnel
Sec. 17a-210-3a.	Approval process for trained non-licensed personnel for individual and family support: General training in medication administration
Sec. 17a-210-4.	Self-administration of medications in residential facilities, respite centers, day programs or community training homes
Sec. 17a-210-5.	Storage and disposal of medications in residential facilities, respite centers and day programs
Sec. 17a-210-6.	Documentation
Sec. 17a-210-7.	Supervision and quality assurance for certified non-licensed personnel
Sec. 17a-210-8.	Sanctions for certified non-licensed personnel
Sec. 17a-210-9.	Hearing on revocation or suspension of certificate
Sec. 17a-210-10.	Termination of department approval for trained non-licensed personnel

Personal Data

Sec. 17a-210-11.	Definitions
Sec. 17a-210-12.	General nature and purpose of personal data systems
Sec. 17a-210-13.	Maintenance of personal data
Sec. 17a-210-14.	Disclosure of personal data
Sec. 17a-210-15.	Procedure for contesting the content of personal data

Administration of Medications: Residential Facilities, Respite Centers, Day Programs, Community Training Homes, and Individual and Family Supports

Sec. 17a-210-1. Definitions

As used in section 17a-210-1 to section 17a-210-10, inclusive, of the Regulations of Connecticut State Agencies:

(a) “Administration” means the direct application of a medication by inhalation, ingestion or any other means to the body of a person, other than by injection.

(b) “Authorized licensed practical nurse” means a licensed practical nurse who has successfully completed the department’s authorization program and may be delegated responsibility to participate in certain aspects of the medication administration certification process.

(c) “Certified non-licensed personnel” means any person who has successfully completed a training program approved by the department pursuant to section 17a-210-3 of the Regulations of Connecticut State Agencies and who has been issued a certificate authorizing him to be delegated the responsibilities to administer medication to consumers in specific programs operated and licensed by the department.

(d) “Certificate” means written authorization issued by the commissioner that establishes the competency of a person to receive further specific training and be delegated the responsibility to administer medications by a registered nurse in accordance with sections 17a-210-1 to 17a-210-10, inclusive, of the Regulations of Connecticut State Agencies.

(e) “Consumer” means any person receiving services from or funded by the department.

(f) “Community training home” means a private family home licensed by the department to provide residential supports and services pursuant to section 17a-227 of the Connecticut General Statutes.

(g) “Commissioner” means the Commissioner of Developmental Services or his designated representative.

(h) “Controlled medication” means controlled substances, Schedules II-V, as defined in section 21a-240 of the Connecticut General Statutes and regulations adopted pursuant to section 21a-243 of the Connecticut General Statutes.

(i) “Day program” means the following programs operated or funded by the department: supported employment, sheltered employment, day support options and similar day programs funded by the department which are site-based or provided to a group of consumers.

(j) “Delegation” means the transfer of responsibility for selected nursing tasks from the licensed nurse who is responsible for the overall plan of care for the consumer to qualified non-licensed personnel.

(k) “Department” means the Department of Developmental Services.

(l) “Dwelling” means any building designed for human habitation.

(m) “Employee” means, solely for the purposes of sections 17a-210-1 to 17a-210-10, inclusive, of the Regulations of Connecticut State Agencies, any individual employed by a residential facility operated, licensed or funded by the department; by a day program

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-210-1

Department of Developmental Services

operated or funded by the department; or hired directly by a provider, the consumer or the consumer's family or guardian with department funding.

(n) "Endorsed instructor" means a registered nurse who has successfully completed the department's endorsed instructor training program and is granted endorsement by the department to teach the approved curriculum.

(o) "Error" means failure to administer medication to a consumer, failure to administer medication within one hour of the time designated by the licensed prescriber or supervising nurse, failure to administer the specific medication prescribed for a consumer, failure to administer the correct dosage of medication, failure to administer the medication by the correct route or failure to administer the medication according to generally accepted standards of practice.

(p) "Individual and family support" means, solely for the purposes of sections 17a-210-1 to 17a-210-10, inclusive, of the Regulations of Connecticut State Agencies, the support services provided or funded by the department through paid staff within a consumer's home, or a consumer's family home, or specialized day services that are self-directed. Such support services shall not include services provided in residential settings licensed or operated by the department or within day programs as defined in this section.

(q) "Individual plan" means the department's document that guides the supports and services provided to a consumer.

(r) "Investigational drug" means any medication which is being scientifically tested and clinically evaluated to determine its efficacy, safety and side effects, and which has not yet received federal Food and Drug Administration approval.

(s) "Licensed personnel" means a physician licensed under chapter 370 of the Connecticut General Statutes, a dentist licensed under chapter 379 of the Connecticut General Statutes, a registered nurse licensed under chapter 378 of the Connecticut General Statutes, an advanced practice registered nurse licensed under chapter 378 of the Connecticut General Statutes, a licensed practical nurse licensed under chapter 378 of the Connecticut General Statutes practicing under the direction of a registered nurse or an advanced practice registered nurse, a physician's assistant licensed under chapter 370 of the Connecticut General Statutes or a pharmacist licensed under chapter 400j of the Connecticut General Statutes and acting in accordance with section 19a-509d of the Connecticut General Statutes.

(t) "Licensed prescriber" means a physician or other health care practitioner with applicable statutory authority to prescribe medication.

(u) "Medication" means any medicinal preparation including controlled medication as defined in subsection (h) of this section and non-controlled medication as defined in subsection (w) of this section.

(v) "Multiple doses" means the administration of more than one single dose, as defined in subsection (gg) of this section.

(w) "Non-controlled medication" means those medicinal preparations that are available by prescription or over-the-counter that are not included in Schedules II-V, as defined in

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Developmental Services

§17a-210-1

section 21a-240 of the Connecticut General Statutes and regulations adopted pursuant to section 21a-243 of the Connecticut General Statutes.

(x) “Original orders” means the written instructions from the licensed prescriber that provide authorization and direction regarding the administration of medication. The original orders shall either (1) contain the original signature of the licensed prescriber, or (2) be a direct facsimile transmission from the licensed prescriber, or (3) be an order taken by a registered nurse, licensed practical nurse or a pharmacist that is signed by the licensed prescriber not later than two weeks following the date the order is taken.

(y) “Prohibited practices” means an action or inaction that violates state or federal statute or regulation, or generally accepted standards of practice.

(z) “Provider” means a private agency, organization or individual from whom a consumer, or a consumer’s family or guardian, purchases support services and from whom a consumer receives these services.

(aa) “Residential facility” means any campus or community-based dwelling, or respite center, funded or licensed by the department pursuant to section 17a-227 of the Connecticut General Statutes as a residence for the lodging of consumers excluding community training homes. A community-based dwelling, in which 16 or more persons reside, may be included only upon the written approval of the commissioner. Such approval shall be valid for an indefinite period subject to such terms and conditions deemed necessary by the commissioner to protect the health and safety of consumers. A dwelling that is not community-based in which eight or fewer residents reside may be approved by the commissioner for an indefinite period subject to such terms and conditions deemed necessary by the commissioner to protect the health and safety of consumers.

(bb) “Regional director” means that person appointed by the commissioner to be directly responsible for the management of one of the three regions of the department.

(cc) “Regional director of health services” means that person designated by the regional director to be directly responsible for the quality of consumer health services in each of the three regions of the department and quality assurance provisions of the regulations concerning the administration of medication by certified non-licensed personnel and trained non-licensed personnel.

(dd) “Revocation of certificate” means the removal by the commissioner, or the commissioner’s designee, of the medication administration certification issued to certified non-licensed personnel.

(ee) “Self-administration of medication” means that a consumer is able to identify the appropriate medication by size, color, amount, or other label identification; knows independently, or with the prompting of an employee or adaptive device, the frequency and time of day for which medication is ordered; and takes responsibility for the administration of the medication as prescribed.

(ff) “Serious medication error” means any error made by trained non-licensed personnel that requires a consumer to receive medical care at a physician’s office, medical facility or hospital; or that results in the injury or death of a consumer.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-210-2

Department of Developmental Services

(gg) “Single dose” means one or more medications in the prescribed dosages that are scheduled to be administered at the same time, on the same day at a location other than a residential facility.

(hh) “Supervisor” means an employee assigned by a residential facility, respite center or day program to be directly responsible for the management of the specific residential, respite or day program, including other persons employed by such program.

(ii) “Supervising nurse” means a registered nurse assigned by a residential facility, respite center or day program to be directly responsible for the management of medical services provided to the consumer in the specific residential, respite or day program, including the delegation of the task of medication administration to certified non-licensed personnel.

(jj) “Suspension of certificate” means the temporary cessation by the commissioner, or the commissioner’s designee, of the medication administration certification issued to certified non-licensed personnel.

(kk) “Suspend the delegation” means the measure imposed by the delegating registered nurse to protect the health and safety of the consumer following the identification of a single significant error or multiple errors committed by a certified non-licensed personnel. This measure means that certified non-licensed personnel are not permitted to administer medication until corrective action or sanction actions have been successfully completed and delegation resumed.

(ll) “Trained non-licensed personnel” means any person who: (1) is a department-funded, paid employee; (2) is hired by a consumer, the family or guardian of a consumer, or a provider, to provide individual and family support services; (3) has successfully completed training required by the department, pursuant to section 17a-210-3a of the Regulations of Connecticut State Agencies; and (4) has been approved to administer medication to consumers supported in their own home, family home or specialized day services.

(Effective May 31, 1996; Amended December 3, 2009)

Sec. 17a-210-2. Administration of medication

(a) Licensed personnel shall administer medication in any residential facility operated, licensed or funded by the department in which 16 or more persons reside except that certified non-licensed personnel may administer medications in these residential facilities with the prior approval of the commissioner.

(b) Licensed personnel or certified non-licensed personnel may administer medication in any residential facility operated, licensed or funded by the department in which 15 or fewer persons reside, or in residential facilities approved in accordance with subsection (aa) of section 17a-210-1 of the Regulations of Connecticut State Agencies, provided that investigational drugs shall be administered by licensed personnel.

(c) Licensed personnel or certified non-licensed personnel may administer medications to consumers who reside in non-community-based residential facilities as necessary for recreational activities occurring outside the residential facility in accordance with subdivisions (1), (2), (3) and (4) of subsection (n) of this section.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Developmental Services

§17a-210-2

(d) Licensed personnel or certified non-licensed personnel may administer medication at any day program operated or funded by the department.

(e) Licensed personnel or trained non-licensed personnel may administer medications to consumers receiving individual and family support services in accordance with the procedures and requirements established in sections 17a-210-1 to 17a-210-10, inclusive, of the Regulations of Connecticut State Agencies.

(f) Certified non-licensed personnel shall administer all medications in accordance with the written orders of the licensed prescriber. If a licensed prescriber determines that the training of certified non-licensed personnel is inadequate to safely administer medications to a particular consumer, the licensed prescriber may order that such administration be performed by licensed personnel.

(g) Trained non-licensed personnel shall administer all medications according to written directions provided by the licensed prescriber.

(h) No over-the-counter medication may be administered by certified non-licensed personnel or trained non-licensed personnel to a consumer unless a licensed pre-scriber has previously approved of such administration.

(i) Prescribed medications shall only be administered to or taken by the person for whom the prescription has been written.

(j) (1) Any residential, respite or day program in which medications are administered by certified non-licensed personnel shall have a written policy which specifies the administrative procedures to be followed, the registered nurse and other employees to be notified, the local poison information center telephone number, and the physician, clinic, emergency room or comparable medical personnel to be contacted in the event of a medication emergency. Such policy shall include a list of employees and medical personnel to be contacted which is up-to-date, readily available to employees and clearly indicates who is to be contacted on a 24 hour a day, seven day a week basis.

(2) Any trained non-licensed personnel who administers medications shall be aware of the emergency procedures and contact information appropriate to the consumer they support.

(k) Certified non-licensed personnel and trained non-licensed personnel shall administer only oral, topical or inhalant medications; suppositories; medications given by gastrostomy or jejunostomy tube; or medications applied to mucous membranes. The licensed prescriber may require that the initial administration of suppositories, inhalants or medication instilled in the ears, nose, eyes, gastrostomy tube or jejunostomy tube be done under the direct supervision of licensed personnel. Injectable medications may not be administered by certified or trained non-licensed personnel except as necessary for emergency response using premeasured, commercially prepared syringe as provided for in subsection (s) of this section.

(l) Original orders from the licensed prescriber are required prior to the administration of medications by certified non-licensed personnel. A prescription for medication shall be limited to a ninety (90) day supply with one refill or a one hundred eighty (180) day supply. The licensed prescriber shall be notified of this requirement by the employee designated

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-210-2

Department of Developmental Services

by the residential facility.

(m) The supervisor of any residential facility operated, licensed or funded by the department shall notify the consumer's day supports and services provider of all medications the consumer receives including those which the consumer will take on a regular basis during those hours the consumer receives services.

(n)

(1) When a consumer who resides at a residential facility requires multiple doses of medication to be administered at a location other than a residential facility, one of the following procedures shall be utilized: (A) a licensed prescriber may order a separate prescription in the required number of doses, and issue such prescription to the person authorized to administer the medication, or (B) each labeled medication container from a pharmacy stored in the residential facility for a consumer may be transported to the other location and given to persons authorized to administer medication at the other location, or (C) a separate, labeled medication container from a pharmacy may be kept at each location.

(2) When a consumer who receives individual or family support services requires multiple doses of medication to be administered by trained non-licensed personnel at a location other than the consumer's home, the medication must be transported to the other location in a labeled medication container from a pharmacy.

(3) When a consumer who resides at a residential facility requires a single dose of medication to be administered at a location other than a residential facility, one of the following procedures shall be utilized: (A) any one of the procedures specified in subdivision (1) of this subsection; or (B) certified non-licensed personnel or licensed personnel may place the single dose in a suitable container and ensure that it is given to persons authorized to administer medication at the other location. The container shall be labeled with the consumer's name, the medication name and strength, the dosage, the route of administration, and the scheduled time and date for administration.

(4) When a consumer who receives individual and family support services requires a single dose of medication to be administered by trained non-licensed personnel at a location other than the consumer's home, the medication must be transported in a suitable container that is labeled with the consumer's name, the medication name and strength, the dosage, the route of administration, and the scheduled time and date for administration.

(o) The residential facility, respite center or day program shall adopt a written policy that specifies the procedure for reporting errors in the administration of medication made by certified non-licensed personnel. Such policy shall include a provision that any such error shall be reported immediately to the supervising nurse. Such policy shall also specify the procedures to be followed in obtaining medical treatment required as a result of such error and the corrective procedures to be followed in the event certified non-licensed personnel make more than three (3) errors in the administration of medication during a one month period. Such policy shall be approved by the regional director of health services.

(p) Trained non-licensed personnel that commit an error shall report the error to the consumer, the consumer's family or guardian, as appropriate, and to the provider, as

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Developmental Services

§17a-210-3

appropriate. Trained non-licensed personnel that commit a serious medication error shall report the serious medication error to the consumer's case manager, to the consumer's family or guardian, as appropriate, and to the provider, as appropriate.

(q) Community training home licensees or their designees that commit an error or a serious medication error shall report the error or serious medication error to the consumer, the consumer's family or guardian, as appropriate, the consumer's health care provider and the consumer's nurse or the consumer's case manager.

(r) Any error by certified non-licensed personnel shall be documented in the consumer's record and an incident report shall be completed by the person who discovers the error not later than twenty-four (24) hours following the discovery of the error. If the error results in the need for medical treatment, such fact shall be noted and managed in accordance with the department's critical incident reporting system. The supervising nurse or the supervising nurse's designee shall notify the appropriate regional director of health services. A copy of the incident report shall be maintained in the consumer's record.

(s) Notwithstanding any provision in sections 17a-210-1 to 17a-210-10, inclusive, of the Regulations of Connecticut State Agencies, the use of a premeasured, commercially prepared syringe or, other emergency medications for emergency response to allergic reactions, with prior approval of the department, shall not be prohibited if prescribed for the consumer by a licensed prescriber.

(Effective May 31, 1996; Amended December 3, 2009)

Sec. 17a-210-3. Certification process for non-licensed personnel

(a) No employee of a residential facility, respite center or day program may administer medications without successfully completing a department approved certification training program that includes, but is not limited to, the following areas:

- (1) Theory
 - (A) Medical terminology;
 - (B) Drug classifications, including controlled medications, dosage, measurement and forms of medications;
 - (C) Intended purpose and effects of medication;
 - (D) Identification of medication reactions including, but not limited to, known side effects, interactions and the proper course of action if a side effect occurs;
 - (E) Correct and safe techniques of medication administration including, but not limited to, the correct methods to prepare, administer and document the administration of medication;
 - (F) Prohibited and dangerous techniques of medication administration;
 - (G) Documentation of medication administered to each consumer including, but not limited to, observation, reporting and recording responses of each consumer to the medication administered;
 - (H) Reporting medication errors;
 - (I) Responsibilities associated with control and storage of medication;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-210-3

Department of Developmental Services

(J) Available medication information resources;

(K) Communication and reporting responsibilities relative to certified non-licensed personnel, licensed personnel and other persons; and

(L) State and federal statutes and regulations pertaining to medication.

(2) Laboratory practicum.

(3) Written examination.

(b) No employee of a residential facility, respite center or day program shall administer medications without (1) the successful completion of a department approved worksite practicum administered by a registered nurse; and (2) the delegation of responsibility for medication administration to consumers at the site by the supervising nurse.

(c) Qualifications of applicants for medication administration certification training

Each residential facility, respite center and day program shall select the employees to be enrolled in the medication administration certification training program. Such employees shall be admitted to the training program if they are high school graduates or otherwise qualified to participate in such program and if such employees are approved by the department. A person convicted of a crime involving the manufacture, sale, dispensing, possession, or possession with the intent to sell any controlled substance may be denied admission to the training program by the department. The department's denial shall be based upon the following considerations: (1) the nature of the crime and its relationship to the position to which the certificate applies; (2) information pertaining to the degree of rehabilitation of the convicted person; and (3) the time elapsed since the conviction. On this basis, the department may determine that such person is not suitable to be enrolled in the medication administration certification training program.

(d) Qualifications of endorsed instructors for medication administration certification training

(1) The certification program provided for in sections 17a-210-1 to 17a-210-10, inclusive, of the Regulations of Connecticut State Agencies shall be taught by a registered nurse, licensed pursuant to chapter 378 of the Connecticut General Statutes with experience in training persons to administer medications.

(2) Endorsed instructors shall successfully complete the department's endorsed instructor training program prior to being endorsed by the department to teach the medication administration certification training program.

(3) Endorsed instructors shall be endorsed for a period not to exceed two (2) years from the date of endorsement and must complete department requirements to continue this endorsement.

(e) Certification

(1) Each person who successfully completes the certification training program specified in subsections (a) and (b) of this section shall be issued a certificate that indicates successful completion of the baseline competency training requirements, which allows for the delegation of medication administration responsibilities, following the completion of a worksite practicum under the direction of the supervising nurse.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Developmental Services

§17a-210-3a

(2) No person may continue to administer medication beyond two years from the issuance of his certificate unless such person has met the requirements for recertification established by the department. A person shall be recertified if he successfully completes a department approved worksite practicum conducted under the supervision of a registered nurse, passes the department's recertification examination and otherwise remains qualified in accordance with subsection (c) of this section.

(f)

(1) Community training home licensees and their designees shall be required to be familiar with general information regarding the safe and correct procedures associated with the administration of medications to consumers residing in their community training home. This information shall be conveyed in a manner identified by the department and shall be reviewed with the licensee by a registered nurse upon initial consumer placement at the community training home and at least annually thereafter.

(2) Information specific to the medications and the administration of the medications to consumers in a community training home shall be provided to the community training home licensee by a licensed prescriber or the consumer's nurse. The community training home licensee shall share this information with each designee who administers medications.

(3) A community training home licensee may be required by a licensed prescriber or a regional director of health services to complete a course of instruction in or demonstrate a proficiency in the administration of medication, including requiring such licensee to attend a department endorsed training program.

(Effective May 31, 1996; Amended December 3, 2009)

Sec. 17a-210-3a. Approval process for trained non-licensed personnel for individual and family support: General training in medication administration

(a) Non-licensed personnel paid to provide supports to consumers in individual and family support settings shall be approved to administer medications upon successful completion of the following requirements:

(1) Instruction in theory provided by an endorsed instructor or a department approved computer-based training program that includes:

(A) Medical terminology;

(B) Drug classifications, including controlled medications, dosage, measurement and forms of medications;

(C) Intended purpose and effects of medication and sources of information on medications;

(D) Correct and safe techniques of medication administration including, but not limited to, the correct methods to prepare and administer medication;

(E) Prohibited and dangerous techniques of medication administration;

(F) Observational skills and identification of signs of medication reactions; including, but not limited to, known side effects, interactions, and the proper course of action if a side effect occurs;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-210-3a

Department of Developmental Services

(G) Responsibilities associated with the administration of medication including, but not limited to, reporting errors; and

(H) State and federal statutes and regulations pertaining to medication.

(2) Demonstration of skills related to the general training in medication administration.

(b) Upon successful completion of general training in medication administration, the name of the non-licensed personnel shall be included in the listing of persons who are identified by the department to have met the requirements for general training in medication administration and are approved to administer medications to consumers supported by individual and family support services.

(c) Trained non-licensed personnel who have been approved to provide medication administration support shall be required to receive additional training specific to the needs and medications of each consumer they support. This instruction may be provided by the consumer's licensed prescriber, a registered nurse providing support to the consumer or the consumer's family or guardian.

(d) Non-licensed personnel employed in individual and family support settings who possess current or recent medication certification, obtained not more than five (5) years prior to the date of application to become a trained non-licensed personnel, may substitute this experience for the general training in medication administration required by this section unless the following conditions exist:

(1) the non-licensed personnel's certification has been revoked or suspended;

(2) the delegation of medication administration to the non-licensed personnel has been suspended by a supervising nurse due to repeated, documented errors; or

(3) the employment of the non-licensed personnel has been terminated based upon repeated errors in medication administration.

(e) Qualifications for non-licensed personnel to participate in the general training in medication administration.

(1) Non-licensed personnel shall be eligible to receive training if they are high school graduates or otherwise qualified to participate in such program and if such non-licensed personnel are approved by the department. A person convicted of a crime involving the manufacture, sale, dispensing, possession, or possession with the intent to sell any controlled substance, or any other criminal offenses may be denied admission to the general training program by the department. The department's denial shall be based upon the following considerations: (A) the nature of the crime and its relationship to the position to which the department's approval as trained non-licensed personnel applies; (B) information pertaining to the degree of rehabilitation of the convicted person; and (C) the time elapsed since the conviction. On this basis, the department may determine that such person is not suitable to participate in the general training in medication administration.

(2) Paid employees, who will be required to administer medications as part of the support provided to consumers, shall be reviewed by the Medication Administration Unit of the department to determine if any issues or concerns in the administration of medications to consumers have previously been reported to the Medication Administration Unit. This

review and approval process shall be completed prior to training.

(f) **Qualifications for instructors for trained non-licensed personnel.** The approved general training program in medication administration identified in this section shall be taught by a registered nurse, licensed pursuant to chapter 378 of the Connecticut General Statutes, who has completed the department's endorsed instructor training program and received orientation in the department curriculum for trained non-licensed personnel.

(Adopted effective December 3, 2009)

Sec. 17a-210-4. Self-administration of medications in residential facilities, respite centers, day programs or community training homes

(a) Consumers shall be determined to possess the ability to self-administer medication through a process approved by the department.

(b) Consumers, who are able to self-administer medication as defined in subsection (ee) of section 17a-210-1 of the Regulations of Connecticut State Agencies, may do so, provided a licensed prescriber writes an order for self-administration.

(Effective May 31, 1996; Amended December 3, 2009)

Sec. 17a-210-5. Storage and disposal of medications in residential facilities, respite centers and day programs

(a) All medications, except for controlled medications, shall be kept in a locked container, cabinet or closet used exclusively for the purpose of storage of medications. Medications for internal use shall be stored separately from substances that are for external administration. All controlled medications shall be stored in accordance with section 21a-262-9 of the Regulations of Connecticut State Agencies. Each residential facility, respite center and day program shall have counting procedures in place to ensure the correct disposition of controlled medications.

(b) Medications requiring refrigeration shall be stored separately from food. If a separate, locked refrigerator is not available, these medications may be placed in a locked container in the same refrigerator in which food is stored. The temperature of the refrigerator shall be maintained between 36-46 degrees Fahrenheit.

(c) Access to medications shall be limited to persons authorized to administer medications. Each residential facility, respite center and day program in which certified non-licensed personnel may administer medication shall maintain a copy of each person's current certificate to administer medications at each site where such administration occurs.

(d) Medications for consumers who are permitted to self-administer medication in accordance with subsection (ee) of section 17a-210-1 and section 17a-210-4 of the Regulations of Connecticut State Agencies shall be stored in such a way as to make them inaccessible to other consumers. Such medications shall be stored in a locked container or locked area unless the supervising nurse makes a determination that unlocked storage of the medication poses no threat to the health or safety of the consumer or other consumers.

(e) All medications shall be stored in labeled containers from a pharmacy.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-210-6

Department of Developmental Services

(f) Unused, outdated or unlabeled non-controlled medications shall be destroyed in a non-recoverable manner by licensed or certified non-licensed personnel in the presence of at least one (1) witness. Non-controlled medication destruction shall be documented by program or facility staff in the records maintained by the program or the residential facility.

(g) In community-based residential facilities, unused, outdated or unlabeled controlled medications shall be destroyed in a non-recoverable manner by licensed personnel in the presence of at least one (1) witness. In non-community-based residential facilities, the Department of Consumer Protection shall be notified in order to destroy in a non-recoverable manner unused, outdated or unlabeled controlled medications. The destruction of controlled medications shall be recorded on the appropriate documentation forms and on the receipt and disposition forms by program or facility staff in the records maintained by the residential facility.

(h) Trained non-licensed personnel shall not dispose of any medications.

(i) Licensed personnel, certified non-licensed personnel and trained non-licensed personnel shall follow applicable state and federal statutes and regulations regarding the handling and administration of controlled medications.

(Effective May 31, 1996; Amended December 3, 2009)

Sec. 17a-210-6. Documentation

(a) In residential facilities, respite centers and day programs, administration of medication shall be documented under the direct supervision of a supervising nurse as follows:

(1) All documentation on the administration of medications shall be made in ink.

(2) A signed original of all licensed prescriber's orders shall be maintained in the consumer's file at each site of administration. Copies of orders may be used only if they contain an original signature. A facsimile transmission of the original order that is received directly from the licensed prescriber, shall be considered a signed original if it contains the required identification information for the consumer and the licensed prescriber. This facsimile shall not be considered an original order if it is re-transmitted to another site.

(3) A licensed prescriber's telephone order, for any medication can only be received by licensed personnel as defined in subsection (s) of section 17a-210-1 of the Regulations of Connecticut State Agencies. The licensed prescriber shall sign such order as soon as is practicable, but not later than two weeks from the date of receipt of the order.

(4) Any change in medication, dosage level of medication, route of administration or frequency of administration shall be considered a new medication order for the purpose of documentation.

(5) Documentation of each administration of all medications shall be made by the residential facility, respite center or day program on a separate medication record for each consumer.

(6) Medication records shall include the following information:

(A) The consumer's name;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Developmental Services

§17a-210-6

- (B) The name of the medication;
- (C) The name of the licensed prescriber;
- (D) The dosage of the medication;
- (E) The frequency of administration;
- (F) The route of administration;
- (G) The initials and signatures of employees who have administered the medication;
- (H) The renewal date of the original order from the licensed prescriber;
- (I) Whether the medication was administered;
- (J) When the medication was administered;
- (K) The expiration date of the original order from the licensed prescriber;
- (L) Consumer allergies to food and medication;
- (M) Information on non-compliance of a consumer in accepting medication; and
- (N) For medication ordered on an as-needed-basis, the reason for the administration and the consumer's response to the medication.

(7) The receipt by a residential facility, respite center or day program of each prescription for a controlled medication and the documentation of the administration of such controlled medication shall be made on receipt and disposition forms.

(8) The receipt and disposition forms shall include the following information:

- (A) The consumer's name;
- (B) The prescription number;
- (C) The prescription date;
- (D) The name of the pharmacy;
- (E) The name of the licensed prescriber;
- (F) The date of receipt of the controlled medication;
- (G) The quantity of the controlled medication;
- (H) The name of the medication;
- (I) The dosage of the medication;
- (J) The form of the medication;
- (K) The signature of the employee who received the controlled medication;
- (L) The frequency of administration;
- (M) The route of administration;
- (N) The initials and signatures of employees who have administered the medication;
- (O) The month, day, year and time the medication was administered;
- (P) The amount of medication remaining;
- (Q) The expiration date of the medication; and
- (R) Consumer allergies to food and medication.

(9) Any errors in the administration of medications shall be documented in accordance with subsections (o) and (r) of section 17a-210-2 of the Regulations of Connecticut State Agencies.

(10) At the end of each month, the consumer's medication record shall become a permanent part of the consumer's record. The receipt and disposition forms shall be kept in

a location separate from the consumer's medical record.

(b) In individual and family support settings trained non-licensed personnel shall document the administration of medication to consumers in accordance with the consumer's individual plan.

(Effective May 31, 1996; Amended December 3, 2009)

Sec. 17a-210-7. Supervision and quality assurance for certified non-licensed personnel

(a) The supervising nurse of the residential facility, respite center or day program shall:

(1) Directly supervise the initial worksite administration of medications by certified non-licensed personnel and document such supervision.

(2) Observe the administration of medications by certified non-licensed personnel periodically and not less than annually and document such observations. The supervising nurse may delegate this responsibility to an authorized licensed practical nurse.

(3) Monitor and document on an ongoing basis, and not less than quarterly, all documentation pertaining to the administration of medication. This monitoring shall include, but not be limited to: (A) a licensed prescriber's orders; (B) medication labels and medications listed on the medication record and receipt and distribution forms to determine whether they match the orders of the licensed prescriber; and (C) the medication record and receipt and disposition forms to ensure that they contain the following information: medication error documentation; whether medication was administered as prescribed; compliance or non-compliance of the consumer; and the existence of full signatures for all initials used by persons documenting the administration of medication. The supervising nurse may delegate this responsibility to an authorized licensed practical nurse.

(4) Follow the established policies and procedures of the residential facility, respite center or day program for the identification, documentation, and tracking of medication errors and prohibited practices committed by certified non-licensed personnel. Recurring errors made by certified non-licensed personnel that reach a level of concern by the supervising nurse, but do not rise to the level of official commissioner sanction, shall be reported in writing to the department's Medication Administration Unit.

(5) Suspend the delegation of medication administration responsibilities of certified non-licensed personnel at any time they believe that the life, health or safety of a consumer is in jeopardy, until further action is determined.

(6) Submit a written report requesting an official commissioner sanction to the appropriate regional director of health services not later than five (5) working days following the date of the supervising nurse obtaining information indicating that any certified non-licensed personnel has committed substantial or habitual violation of sections 17a-210-1 to 17a-210-10, inclusive, of the Regulations of Connecticut State Agencies and that this level of sanction is necessary. This request for sanction shall be verbally communicated to the regional director of health services if such supervising nurse believes that the life, health or safety of a consumer is in jeopardy.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Developmental Services

§17a-210-9

(7) The request for sanction form shall include, but not be limited to, the following information:

- (A) the name of the employee;
- (B) the specific section or sections of the regulations with which the employee has failed to comply;
- (C) the basis for the belief that such employee failed to comply with sections 17a-210-1 to 17a-210-10, inclusive, of the Regulations of Connecticut State Agencies;
- (D) the written document or documents that such supervising nurse relied upon in submitting the request for sanction;
- (E) recommendations concerning which of the sanctions authorized by section 17a-210-8 of the Regulations of Connecticut State Agencies should be imposed as a result of the failure of certified non-licensed personnel to comply with sections 17a-210-1 to 17a-210-10, inclusive, of the Regulations of Connecticut State Agencies; and
- (F) all other information required on the department's request for sanction form.

(b) The supervising nurse shall document the training and supervision of the authorized licensed practical nurse at least annually in accordance with the department's identified process.

(Effective May 31, 1996; Amended December 3, 2009)

Sec. 17a-210-8. Sanctions for certified non-licensed personnel

(a) The regional director of health services, after review of the report and request for sanction form submitted to him pursuant to section 17a-210-7 of the Regulations of Connecticut State Agencies and any other investigation the regional director of health services deems appropriate, shall make written recommendations to the commissioner concerning whether the certificate of any certified non-licensed personnel should be suspended or revoked or whether other conditions should be imposed on the continued administration of medication by certified non-licensed personnel.

(b) The commissioner, or the commissioner's designee, after review of the recommendations submitted pursuant to subsection (a) of this section and any other information the commissioner deems appropriate, may suspend or revoke a certificate or may impose probationary conditions such as further training or enhanced supervision of the certified non-licensed personnel, if the commissioner finds that such employee has failed to comply with sections 17a-210-1 to 17a-210-10, inclusive, of the Regulations of Connecticut State Agencies.

(Effective May 31, 1996; Amended December 3, 2009)

Sec. 17a-210-9. Hearing on revocation or suspension of certificate

(a) Any person aggrieved by the decision of the commissioner to revoke or suspend a certificate may, not later than twenty (20) days after the date of receipt of a notice of revocation or suspension of a certificate, submit a written request to the commissioner for a reconsideration of the commissioner's decision. Not later than twenty (20) working days

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-210-10

Department of Developmental Services

after the date of receipt of such request, the commissioner or the commissioner's designee shall conduct an informal hearing, at which the regional director of health services, the supervising nurse requesting sanction and the employee may present written and oral evidence.

(b) The commissioner or the commissioner's designee shall render a decision not later than twenty (20) working days after the date of the hearing. The decision of the commissioner or the commissioner's designee shall be final. Revocation or suspension of a certificate shall be stayed pending the outcome of such hearing except that the person shall not administer medication under the authority of the certificate pending the outcome of such hearing. In the absence of a request for a reconsideration during this time period, the certificate shall either be revoked or suspended.

(Effective May 31, 1996; Amended December 3, 2009)

Sec. 17a-210-10. Termination of department approval for trained non-licensed personnel

(a) Consumers, consumer's families or guardians, or other persons providing support to a consumer in individual and family support situations may report concerns regarding the administration of medication by trained non-licensed personnel to the consumer's case manager. These concerns shall be reported in writing by the consumer's case manager to the regional director of health services for review.

(b) Trained non-licensed personnel that commit a serious medication error or any person who discovers a serious medication error shall report the serious medication error to the consumer's case manager who shall forward such report to the regional director of health services for review and for an abuse and neglect investigation.

(c) Trained non-licensed personnel who have been determined as a result of investigative findings to be in violation of the department's general training in medication administration, as defined in section 17a-210-3a of the Regulations of Connecticut State Agencies, shall have their name removed by the Medication Administration Unit from the list of those trained non-licensed personnel who are approved by the department to provide medication administration to consumers supported by the department in individual and family support situations.

(d) Trained non-licensed personnel shall receive written notification of termination of the department's approval to administer medication from the Medication Administration Unit. The consumer and the consumer's case manager also shall receive written notification of the termination of the department's approval from the Medication Administration Unit. The consumer's family or guardian and the provider may receive written notification of the termination of the department's approval, as appropriate, from the Medication Administration Unit.

(Effective August 24, 1994; Amended December 3, 2009)

Personal Data

Sec. 17a-210-11. Definitions

For the purposes of sections 17a-210-11 to 17a-210-15, inclusive, of the Regulations of Connecticut State Agencies, the following definitions shall apply:

(1) “Category of personal data” means the classifications of personal information set forth in Sec. 4-190 of the Connecticut General Statutes.

(2) “Client” means any individual who is receiving services or who has received services funded by the department.

(3) “Commissioner” means the commissioner of the department of mental retardation.

(4) “Department” means the Department of Mental Retardation, its divisions, facilities, regions or training school.

(5) “Other data” means any information which because of name, identifying number, mark or description can be readily associated with a particular person.

(Adopted effective April 9, 1998)

Sec. 17a-210-12. General nature and purpose of personal data systems

The Department of Mental Retardation maintains the following personal data systems:

(a) Personnel Records

(1) Personnel records are maintained at the location where the individual is employed or which has the individual on its payroll.

(2) Personnel Records are maintained in both manual and automated forms.

(3) The purpose of the personnel records system is to provide data necessary for personnel and payroll management activities and/or to satisfy the requirements of state or federal laws.

(4) Personal data in these records are maintained under authority of Sec. 5-193 through 5-269, inclusive, of the Connecticut General Statutes.

(5) Categories of personal data may include address, phone number, social security number, birth date, sex, race, educational history, licensure or certification, employment history, financial information, emergency contact person, medical or emotional condition or history, disciplinary action, reputation or character information and conviction records.

(6) These records are maintained on applicants for employment and on current and former employees of the department.

(7) These records are routinely used by employees of the department who are assigned responsibility for personnel, payroll and employment-related activities.

(b) Fiscal Records

(1) Fiscal records are maintained at the department’s central office at 460 Capitol Avenue, Hartford, CT 06106 and at each region and training school location.

(2) Fiscal records are maintained in both manual and automated forms.

(3) The purpose of the fiscal records system is to maintain vendor payment records, personal services contracts, Medicaid billing, insurance billing, reimbursement records for employee travel expenses, records of private donations, client accounts, activity fund,

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-210-12

Department of Developmental Services

general fund, and to reflect activities required to secure federal and state funding for programs of the department and its grantees.

(4) Routine sources of data in these records may include donors, vendors, employees, clients, contractors, grantees and other state and federal agencies.

(5) Categories of personal data maintained in this system may include birth date, educational history, licensure or certification, employment history, and financial information.

(6) Categories of other data maintained in this system may include address, telephone number, social security number, employee number, provider information, FEIN, fee amount, case number, client account number, information pertaining to department application for and receipt of state and federal payments, Medicaid/Medicare provider number and insuring billing.

(7) These records are maintained on current and former donors, vendors, contractors, grantees, clients, and employees.

(8) These records are routinely used by employees of the department who are assigned responsibility to manage the grants, contracts, vendor payments, Medicaid billing, insurance billing, donations, and employee travel reimbursements.

(c) Affirmative Action Records

(1) Affirmative action records are maintained at the location where the individual is employed or where the individual is on the payroll.

(2) Affirmative action records are maintained in both manual and automated forms.

(3) The purpose of the system is to provide data for monitoring and revising department affirmative action plans and implementing affirmative action discrimination, and sexual harassment complaint procedures.

(4) Affirmative action records are the responsibility of the Affirmative Action Administrator, Department of Mental Retardation, 460 Capitol Avenue, Hartford, CT 06106.

(5) Personal data in these records are maintained under authority of Section 46a-51 through 46a-104, inclusive, of the Connecticut General Statutes, and the regulations promulgated thereunder.

(6) Categories of personal data maintained in this system may include birth date, age, sex, race, educational history, employment history, existence of disability, medical history, discrimination and/or sexual harassment complaints, and administrative investigation material.

(7) These records are kept on current and former employees of the department.

(8) These records are routinely used by affirmative action staff in affirmative action and equal employment opportunity monitoring and complaint resolution.

(d) Client Records

(1) Client records are maintained at the location where the client receives services. Master records, including information regarding eligibility, are kept in regional offices or satellite offices.

(2) Client records are maintained in both manual and automated forms.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Developmental Services

§17a-210-12

(3) The client records system serves several purposes including: collecting preliminary demographic and clinical data to determine eligibility of an individual for services; documenting admission, diagnosis, treatment planning, treatment process, care, service delivery; case management of client; transition or discharge planning; documenting quality assurance; monitoring of treatment planning and service delivery; providing complete demographic and clinical data on clients; and providing a baseline of information for billing purposes.

(4) The personal data records in this system are the responsibility of the appropriate region or training school of the department.

(5) Routine sources of data in these records may include the client, family members, friends, health care and other service providers, treatment staff, other state or federal agencies and the judicial system.

(6) Categories of personal data maintained in this system may include birth date, sex, race, social and family history, religious preference, educational and employment histories, voter registration status, financial, medical and emotional condition or history, plan of service, legal status, name of legal representative or guardian, complaints, incident reports and investigation materials, and provider information.

(7) Categories of other data maintained in this system may include social security number, case number, Medicaid/Medicare numbers, client identification number, correspondence, referral sources, demographic admissions data and the names of individuals authorized to access the records.

(8) These records are maintained on current and former clients.

(9) These records are routinely used by staff who are assigned care and treatment planning and responsibilities for the clients, by staff who have quality assurance monitoring responsibilities and by staff who have responsibility for administrative reporting of census, diagnosis, demographic data and billing information.

(e) Early Intervention Records

(1) Early Connections Program

(A) The early connections records are maintained in the office of the Superintendent of the Unified School District 3 at 460 Capitol Avenue, Hartford, CT 06106 and each location where an early connection program operates.

(B) Records are maintained in both manual and automated forms.

(C) The purpose of the system is to maintain educational records of individuals served through early connections and to document and record the administration functions.

(D) The Superintendent of the Unified School District 3 is the custodian of records for the early connections program. All requests for disclosure or amendments to these records should be submitted to the superintendent. The superintendent may appoint regional designees to assist in this function.

(E) Categories of personal data maintained in this system may include the child's name, address, date of birth, parents/guardians, sex, race, teachers, medical records, standardized test scores, and private and public education agencies.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-210-13

Department of Developmental Services

(F) Personal data are collected and maintained and used under authority of Section 17a-248 to 17a-248b, inclusive, of the Connecticut General Statutes.

(G) Records are used by the early connection staff to reflect educational programs and services provided to individuals enrolled in the early connection program.

(2) Birth To Three System

(A) The Birth to Three System records are maintained in the office of the System Director at 460 Capitol Avenue, Hartford, CT 06106, and at each location where a Birth to Three Program operates.

(B) Records are kept in both manual and automated forms. Personal information at the single point of intake and at the regional offices is only kept in automated forms.

(C) The purpose of the system is to maintain early intervention records of individuals served through the Birth to Three System and to document and record the administrative functions.

(D) The System Director is the custodian of records for the Birth to Three System. All requests for disclosure or amendments to these records should be made to the System Director. The director may appoint designees at each program site to assist in this function.

(E) Categories of personal data maintained in this system may include the child's name, address, date of birth, parents/guardians, sex, race, teachers and therapists, medical records, private or other public agencies involved.

(F) Personal data are collected and maintained and used under authority of Section 17a-248 of the Connecticut General Statutes.

(G) Records are used by the birth to three staff and providers of service to reflect early intervention programs and services provided to individuals enrolled in the birth to three system.

(Adopted effective April 9, 1998)

Sec. 17a-210-13. Maintenance of personal data

(a) Records for each personal data system are maintained in accordance with schedules prepared by the Connecticut State Library, Department of Public Records Administration and retention schedules approved by the Public Records Administrator as authorized by Section 11-8a of the Connecticut General Statutes.

(b) Personal data shall not be maintained unless relevant and necessary to accomplish the lawful purposes of the department. Where the department finds irrelevant or unnecessary public records in its possession, the department shall dispose of the records with the approval of the public records administrator pursuant to Section 11-8a of the Connecticut General Statutes.

(c) The department shall collect and maintain all records with accuracy and completeness.

(d) Insofar as it is consistent with the needs and mission of the department, the department shall, wherever practical, collect personal data directly from the person to whom a record pertains.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Developmental Services

§17a-210-13

(e) When an individual is asked to supply personal data to the department, the department shall disclose to that individual, upon request:

(1) the name of the department and division within the department requesting the personal data;

(2) the legal authority under which the department is empowered to collect and maintain the personal data;

(3) the individual's rights pertaining to such records under the Personal Data Act and the department regulations;

(4) the known consequences arising from supplying or refusing to supply the requested personal data; and

(5) the proposed use to be made of the requested personal data.

(f) Department employees involved in the operation of the department's personal data systems will be informed of the provisions of the Personal Data Act and the department's regulations, the Freedom of Information Act and any other state or federal statute or regulations concerning maintenance or disclosure of personal data kept by the department.

(g) All department employees shall take reasonable precautions to protect personal data under their custody from the danger of fire, theft, flood, natural disaster and other physical threats.

(h) The department shall incorporate by reference the provisions of the Personal Data Act and regulations promulgated thereunder in all contracts, agreements or licenses for the operation of a personal data system or for research, evaluation and reporting of personal data for the department or on its behalf.

(i) The department shall ensure that personal data requested from any other state agency is properly maintained.

(j) Only department employees who have a specific need to review personal data records for lawful purposes of the department will be entitled to access such records.

(k) The department shall keep a written up-to-date list of individuals entitled to access each of the department's personal data systems.

(l) The department will ensure against unnecessary duplication of personal data records. In the event it is necessary to send personal data records through interdepartmental mail, such records will be sent in envelopes or boxes sealed and marked confidential.

(m) The department will ensure that all records in manual personal data systems are kept safe.

(n) Where automated personal data systems records are maintained, the department shall:

(1) locate automated equipment and records in a limited access area;

(2) ensure that regular access to automated equipment is limited to operations personnel; and

(3) utilize appropriate access control mechanisms to prevent disclosure of personal data to unauthorized individuals.

(Adopted effective April 9, 1998)

Sec. 17a-210-14. Disclosure of personal data

(a) Within ten (10) business days of receipt of a written request for disclosure of personal data, the department shall mail or deliver to the requesting individual a written response, informing him as to whether or not the department maintains personal data on that individual, the category and location of the personal data maintained on that individual and procedures available to review the records, including the records kept under subsection (h) of this section.

(b) Except where nondisclosure is required or specifically permitted by law, the department shall disclose to any person upon written request all personal data concerning that individual which is maintained by the department. The procedures for disclosure shall be in accordance with Section 1-15 through 1-21, inclusive, of the Connecticut General Statutes. If the personal data is maintained in coded form, the department shall transcribe the data into a commonly understandable form before disclosure.

(c) The department is responsible for verifying the identity of any person requesting access to his or her own personal data.

(d) The department is responsible for ensuring that disclosure made pursuant to the Personal Data Act does not disclose any personal data concerning persons other than the person requesting the information.

(e) The department may refuse to disclose to a person medical, psychiatric or psychological data on that person if the department determines that such disclosure would be detrimental to that person.

(f) In any case where the department refuses disclosure, it shall advise that person of his or her rights to seek appropriate relief, including judicial relief, pursuant to the Personal Data Act.

(g) If the department refuses to disclose medical, psychiatric or psychological data to a person based on its determination that disclosure would be detrimental to that person and disclosure is not mandated by law, the department shall, at the written request of such person, permit a qualified medical doctor to review the personal data contained in the person's record to determine if the personal data should be disclosed. If disclosure is recommended by the person's medical doctor, the department shall disclose the personal data to such person; if nondisclosure is recommended by such person's medical doctor, the department shall not disclose the personal data and shall inform such person of the judicial relief provided under the Personal Data Act.

(h) The department shall maintain a complete log of each person, agency or organization who has obtained access to or to whom disclosure has been made of personal data under the Personal Data Act, together with the reason for such disclosure or access. This log shall be maintained for not less than five years from the date of such disclosure or access or for the life of the personal data record, whichever is longer.

(Adopted effective April 9, 1998)

Sec. 17a-210-15. Procedure for contesting the content of personal data

(a) Any person who believes that the department is maintaining inaccurate, incomplete or irrelevant personal data concerning him may file a written request with the department for correction of said personal data. Such requests should be in writing and sent to the Department of Mental Retardation, 460 Capitol Avenue, Hartford, CT 06106, Attention: Commissioner's Office.

(b) Within thirty (30) days of receipt of such request, the department shall give written notice to that person that it will make the requested correction, or if the correction is not to be made as submitted, the department shall state the reason for its denial of such request and notify the person of his right to add his own statement to his personal data records.

(c) Following such denial by the department, the person requesting such correction shall be permitted to add a statement to his personal data record setting forth what that person believes to be an accurate, complete and relevant version of the personal data in question. Such statements shall be disclosed to any individual, agency or organization to which the disputed personal data is disclosed.

(Adopted effective April 9, 1998)

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

Agency

Department of Mental Retardation

Subject

Criteria for Determining Eligibility for Services/Criteria used in Selecting which Eligible Persons will Receive Services and in Selecting Private Sector Service Providers

Inclusive Sections

CONTENTS

Sec. 17a-212-1.	Definitions
Sec. 17a-212-2.	Eligibility for services
Sec. 17a-212-3.	Identification of service and support needs
Sec. 17a-212-4.	Authorization for services and supports
Sec. 17a-212-5.	Selection of private sector service providers

Criteria for Determining Eligibility for Services/Criteria used in Selecting which Eligible Persons will Receive Services and in Selecting Private Sector Service Providers

Sec. 17a-212-1. Definitions

For the purposes of Sections 17a-212-1 through 17a-212-5, inclusive, the following definitions shall apply:

- (1) “Authorization” means approval to receive services funded by the department.
- (2) “Bidders conference” means a forum for regional personnel to present and discuss the service outcomes and service requirements with prospective service providers.
- (3) “Central office” means the central office of the department.
- (4) “Central office eligibility unit” means one or more clinical staff or other appropriate staff designated by the commissioner to review and make eligibility determinations.
- (5) “Commissioner” means the commissioner of the department of mental retardation.
- (6) “Cost analysis” means a review of the budget submitted by the private sector service provider, including revenue and expense projections, with regard to feasibility for implementing the proposal within the proposed budget and the cost effectiveness of the proposal.
- (7) “Department” means the department of mental retardation.
- (8) “Department’s determination to deny eligibility” means the commissioner’s determination after any informal administrative review which may be available.
- (9) “Financial stability” means that the financial operations of the private sector service provider conform to legal requirements and sound financial planning including efficient and effective recording, reporting, and control of earnings, expenses, assets and liabilities.
- (10) “Mental retardation” means mental retardation as defined in section 1-1g of the Connecticut General Statutes and includes persons under the age of five who have substantial developmental delay or a specific diagnosed condition with a high probability of resulting in developmental delay, but for whom a determination of mental retardation is not possible.
- (11) “Post selection review” means a forum that regional personnel will make available to the private sector service providers to review the selection process for service agreements.
- (12) “Private sector service provider” means any person, organization or corporation who receives funding from the department for the purpose of providing residential and adult day services to persons with mental retardation. Community training home providers and those providing services for a specific person, including but not limited to paid assistance from neighbors and paid roommates, are not private sector service providers for the purpose of these regulations.
- (13) “Region” means the geographical subdivision of the state as defined by the department.
- (14) “Service agreement” means a document or contract which authorizes a private sector

service provider to provide appropriate supports and services.

(Adopted September 27, 1991; Amended October 1, 2001)

Sec. 17a-212-2. Eligibility for services

(a) Request for Services

A request for services to the central office may be submitted by any person who is a resident of Connecticut and who is, or believes himself to be a person with mental retardation, or by someone on the person's behalf.

Upon submission of a request for services, the central office eligibility unit shall make an initial determination of eligibility. The person requesting services shall be notified in writing of the determination.

(b) Criteria for Determining Eligibility

A person is eligible for services of the department if he:

- (1) is a resident of the State of Connecticut; and
- (2) has mental retardation.

A person who has not met these criteria may be eligible for such services of the department as are expressly authorized by State or Federal law.

(c) Appeal on Denial of Eligibility

A person who is aggrieved by the department's determination to deny eligibility may, within sixty days after receipt of such determination request a hearing in accordance with Sections 4-176e to 4-184, inclusive, of the Connecticut General Statutes. Such request shall be made in writing to the commissioner.

(Adopted September 27, 1991; Amended October 1, 2001)

Sec. 17a-212-3. Identification of service and support needs

Each person who is determined eligible for services and supports pursuant to Sec. 17a-212-2 of the Regulations of Connecticut state agencies shall have the opportunity to:

- (a) be provided with information on services and supports, policies and procedures,
- (b) participate in the identification of his service and support needs,
- (c) participate in the development of strategies to achieve desire outcomes based upon identified service and support needs, and
- (d) make or have application made on his behalf for authorization for funding of such department services and supports as are identified.

(Adopted September 27, 1991; Amended October 1, 2001)

Sec. 17a-212-4. Authorization for services and supports

(a) Criteria for Authorizing Services and Supports

The department shall determine, and redetermine when necessary, which if any services and supports to authorize for an eligible person through an assessment of:

- (1) the identified service and support needs of the person,
- (2) available community services and supports,

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-212-5

- (3) the person's personal resources and preferences, and
- (4) the resources available to the department.

(b) Procedures for Authorizing Services and Supports

- (1) Central Office Responsibilities

The department's central office shall:

(A) annually determine the nature and distribution of available resources among the regions, and

(B) develop an authorization format for the regions to prepare a written protocol, using the criteria identified in subsection (a) of this section to determine which eligible persons shall be authorized to receive services and supports.

- (2) Regional Responsibilities:

Each region shall:

(A) develop a written protocol, consistent with the format developed by the central office, and using the criteria identified in subsection (a) of this section, to determine which eligible persons shall be authorized to receive services and supports,

(B) with community input, develop the regional protocol, considering any unique or peculiar local and geographic needs and resources applicable to the given region and its population,

(C) submit their written protocol for approval by the commissioner. Any modification to an approved protocol shall be submitted for the approval of the commissioner,

- (D) make the approved protocol available to the community, and

(E) at least annually, consistent with a format developed by the central office, issue a report to the commissioner, which summarizes service and support authorization decisions and adherence to the approved protocol.

(Adopted September 27, 1991; Amended October 1, 2001)

Sec. 17a-212-5. Selection of private sector service providers

- (a) Criteria for Selection of Private Sector Service Providers.**

Service agreements will be issued to private sector service providers using the following criteria:

- (1) Proposed methods to achieve outcomes based upon:

(A) strategies to address the person's identified service and support needs,

(B) ability to provide services based on the needs of the person,

(C) description of outcome measurements, and

(D) assessment and plan for integration of community resources and services.

- (2) Cost analysis

- (3) Performance

(A) demonstrated ability to achieve outcomes,

(B) previous performance, and

(C) financial stability.

- (b) Procedures for Selection of Private Sector Service Providers**

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-212-5

Department of Mental Retardation

(1) Central Office Responsibilities

The department's central office shall:

(A) annually determine the nature and distribution of available resources among the regions, and

(B) develop a selection format for the regions to use in preparing a written protocol using the criteria identified in subsection (a) of this section in selecting which private sector services providers will receive service agreements. The format shall address, but not be limited to, a bidders conference and a post selection review process.

(2) Regional Responsibilities

Each region shall:

(A) with community input, develop a written protocol, consistent with the format developed by the central office, and using the criteria identified in subsection (a) of this section for determining which private sector service providers shall receive services agreements,

(B) submit their written protocol for approval by the commissioner. Any modification to an approved protocol shall be submitted for approval of the commissioner,

(C) make the approved protocol available to the community, and

(D) at least annually, consistent with a format developed by the central office, issue a report to the commissioner summarizing selection decisions and adherence to the approved protocol.

(Adopted September 27, 1991; Amended October 1, 2001)

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

Agency

Department of Mental Retardation

Subject

Placement and Care of Clients Who Pose a Serious Threat to Others

Inclusive Sections

§§ 17a-212a-1—17a-212a-4

CONTENTS

Sec. 17a-212a-1.	Definitions
Sec. 17a-212a-2.	Risk review
Sec. 17a-212a-3.	Program and placement planning
Sec. 17a-212a-4.	Siting of residential facilities

Placement and Care of Clients Who Pose a Serious Threat to Others

Sec. 17a-212a-1. Definitions

For the purposes of Sections 17a-212a-1 through 17a-212a-4 of the Regulations of Connecticut State Agencies, the following definitions shall apply:

- (1) “Commissioner” means the Commissioner of the Department of Mental Retardation.
- (2) “Department” means the Department of Mental Retardation.
- (3) “Deputy commissioner” means the deputy commissioner of the Department of Mental Retardation.
- (4) “Forensic coordinator” means the person responsible for the coordination of the forensic process, development of policies and procedures, and serving as liaison to the forensic review committees.
- (5) “Forensic process” means all activities associated with the department’s statutory role in the criminal justice system and the evaluation and planning associated with persons with mental retardation who may pose a serious threat in the absence of adequate supervision and services.
- (6) “Forensic review committee” means a group of persons responsible for implementing and monitoring the forensic process, placements and programs.
- (7) “Interdisciplinary team” means a group of persons which includes the person being served, his or her family or guardian, those persons who work most directly with the person in each of the professions, disciplines, or service areas that provide service to the person, including direct care staff; and any other persons whose participation is relevant to identifying the needs of the person, devising ways to meet them, writing an overall plan of services and reviewing the plan’s effectiveness.
- (8) “Legal responsibility review” means the review process conducted by a forensic review committee by which the department’s legal obligations to the client are evaluated. Such reviews include, but are not limited to, evaluations concerning admissions or involuntary placements, and any other statutory, regulatory or judicial requirements or factors relevant to a person’s legal relationship with the department.
- (9) “Non-community based residential facility” means a specially designed residential facility operated, licensed or funded by the department which is located on a state-owned campus setting or which is otherwise segregated from a neighborhood of private single-family and multi-family homes, apartment complexes and condominiums.
- (10) “Regional or training school director” means that person appointed by the commissioner to be directly responsible for the management of one of the department’s three regions or of the training school.
- (11) “Regional placement committee” means a group of persons who evaluate the availability and appropriateness of programs and placements for the person being served.
- (12) “Risk review” means a process which evaluates the degree of serious threat associated with acts or behaviors.
- (13) “Risk review screening instrument” means the format developed by the department to analyze factual information relating to clinical, legal, behavioral and psychiatric aspects

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-212a-2

Department of Mental Retardation

of the person under review.

(14) “Serious Threat” means the expression, indication or communication by a person of a present intention to cause serious harm to others, to oneself, or serious damage to property.

(Adopted effective September 29, 2003)

Sec. 17a-212a-2. Risk review

(a) Any person who is served by the department, or for whom the department is planning supports and services, or reassessing existing supports and services, may be referred for a risk review conducted by the appropriate forensic review committee. Referral may be made by any appropriate person, including but not limited to, the following:

- (1) the forensic coordinator;
- (2) the regional placement committee;
- (3) a regional or training school director; or
- (4) the commissioner or deputy commissioner

(b) Risk review shall be conducted by a forensic review committee.

(c) Risk review shall include an evaluation of all relevant client records, any available court documents, other pertinent evaluations, and use of the risk review screening instrument, or acceptable variation thereof, developed by the department, and shall include a legal responsibility review.

(d) The results of the risk review shall be transmitted from the forensic review committee to the forensic coordinator and the regional or training school director for approval.

(e) The regional or training school director, in consultation with the forensic coordinator, shall direct that program and placement plans, supervision, security, and other interventions be prepared by the interdisciplinary team, regional placement committee, or forensic review committee, as applicable, which are responsive to the results and recommendations of the risk review.

(Adopted effective September 29, 2003)

Sec. 17a-212a-3. Program and placement planning

(a) The regional or training school director shall assure that program and placement planning are coordinated by the interdisciplinary team, regional placement committee or forensic review committee to respond to the needs of the person as identified through the risk review and other evaluations and assessments.

(b) Program and placement plans, and other strategies and interventions developed in response to the risk review, shall be transmitted to the forensic review committee for review and oversight of implementation of program, placement, service and support plans, and fiscal accountability.

(c) Following review and consultation by the forensic review committee, the regional or training school director shall assure that actions are initiated to implement the plans, placement, interventions or strategies developed to address identified serious threats or

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-212a-4

changes in the assessment of serious threats as well as other needs of the person.

(d) Program and placement planning shall be conducted in accordance with departmental policy with an emphasis on assuring the delivery of supports and services in the least restrictive, most integrated manner, promotion of independence and quality of life, which is commensurate with identified serious threat or changes in the assessment of serious threat.

(e) The department provides program and placement oversight through contract services and case management. Clients of the department whose program and placement development are a result of a risk or forensic review process, shall receive enhanced oversight by the forensic review committee and forensic coordinator.

(f) When program placement planning results in a determination to serve, or continue to serve, a person in a non-community based residential facility, a review committee established by the commissioner shall monitor and oversee the process to assure that risk factors are properly considered in decision making which results in placement in a non-community based setting and are regularly reviewed annually thereafter.

(g) Programs and placements for persons who are evaluated as posing serious threats in the absence of appropriate support and supervision may be available, in appropriate cases, through the department's cooperative placement account, as established and funded in the appropriations act for the state of Connecticut, in accordance with established protocols.

(Adopted effective September 29, 2003)

Sec. 17a-212a-4. Siting of residential facilities

(a) The department provides a continuum of services and support to persons with mental retardation, including highly structured and supervised settings, with specialized security and treatment features for persons who are evaluated as posing a serious threat.

(b) Whenever the department determines it necessary to design and develop a non-community based residential facility for persons who are evaluated as posing a serious threat in the absence of specialized safety and security features the following actions shall occur:

(1) Such residential facilities shall be designed to address safety and security of residents and members of the general public while promoting independence and progress toward less restrictive programs and placements;

(2) Facility and program design shall be reviewed and overseen by a forensic review committee, or such other review committee established by the commissioner;

(3) The department shall consult as necessary with the Departments of Public Safety and Correction, or other security personnel in the design of appropriate safety, security, and program design features to meet the needs of residents and public safety; and

(4) Prior notice of the proposed or intended siting of any residential facility designed and developed for persons who are evaluated as posing a serious threat unless specialized supervision and security is in place, shall be provided to the chief elected official of the relevant municipality, the chief law enforcement officer of such municipality, and the joint standing committee of the General Assembly having cognizance of matters relating to public health. The department, after review of the specific public safety issues presented by any

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-212a-4

Department of Mental Retardation

such residential facility, may provide such further notice as will further the interests of public safety and the safety and security of the residents of such facility.

(c) Any person placed in a residential facility designed and developed for persons who are evaluated as posing a serious threat shall retain all rights to challenge program and placement decisions as are afforded by applicable federal and state law, regulations and policy of the department.

(d) The department shall not site more than one residential facility designed and developed for persons who are evaluated as posing a serious threat in any one municipality.

(Adopted effective September 29, 2003)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Mental Retardation

Subject

Community Based Housing Subsidy Program for Eligible Clients of the Department of Mental Retardation

Inclusive Sections

§§ 17a-218-1—17a-218-23

CONTENTS

Sec. 17a-218-1.	Definitions
Sec. 17a-218-2.	Eligibility
Sec. 17a-218-3.	Referral
Sec. 17a-218-4.	Certificate of program participation
Sec. 17a-218-5.	Leasing capacity
Sec. 17a-218-6.	Method of payment
Sec. 17a-218-7.	Miscellaneous
Respite Programs	
Sec. 17a-218-8.	Definitions (Repealed)
Sec. 17a-218-9.	Applications for contracts (Repealed)
Sec. 17a-218-10.	Contracting procedure (Repealed)
Sec. 17a-218-11.	Applications for certification (Repealed)
Sec. 17a-218-12.	Certification process (Repealed)
Sec. 17a-218-13.	Renewal (Repealed)
Sec. 17a-218-14.	Revocation, compliance orders, sanctions (Repealed)
Sec. 17a-218-15.	Hearings (Repealed)
Sec. 17a-218-16.	Initial standards (Repealed)
Sec. 17a-218-17.	Operating standards (Repealed)
Bidding Procedures for the Construction, Renovation or Rehabilitation of Community-Based Residential Facilities	
Sec. 17a-218-18.	Definitions
Sec. 17a-218-19.	Bidding for contracts
Sec. 17a-218-20.	Bidding procedure
Sec. 17a-218-21.	Award
Sec. 17a-218-22.	Rejection of bids
Sec. 17a-218-23.	Objective criteria for determining the lowest responsible qualified bidder

Community Based Housing Subsidy Program for Eligible Clients of the Department of Mental Retardation

Sec. 17a-218-1. Definitions

As used in Sections 17a-218-1 to 17a-218-7 inclusive:

(a) “Assistant Regional Director” (A.R.D.) means the Assistant Regional Director for Residential Services for the Department of Mental Retardation region which serves the eligible client.

(b) “Capacity” means a level of intellectual functioning, understanding, memory and judgment sufficient to enable a person to understand the nature and effects of his acts relative to a particular transaction.

(c) “Client” means a person admitted to, or authorized by, the Department of Mental Retardation to receive residential services funded or partially funded by the Department of Mental Retardation.

(d) “Commissioner” means the Commissioner of Mental Retardation.

(e) “Department” means the Department of Mental Retardation.

(f) “Housing Costs” means those costs normally attributable to the acquisition, retention, use, and occupancy of a subsidized community based residence including, but not limited to:

- (1) rent or other periodic payments for use and occupancy;
- (2) security deposits;
- (3) utilities;
- (4) insurance; and
- (5) costs relating to routine maintenance and repair.

(g) “Program Participant” means a client who is certified to participate in the community-based housing subsidy program.

(h) “Regional Director” means the regional director for the department of mental retardation region which serves the eligible client.

(i) “Rent” means the periodic payment for use and occupancy of residential property.

(j) “Subsidized Community-Based Residence” means any residential structure in which clients who are certified pursuant to Section 17a-218-4 of these regulations reside and for which they receive a subsidy to assist in meeting their housing costs pursuant to these regulations.

(Effective August 24, 1994)

Sec. 17a-218-2. Eligibility

(a) Any client authorized for residential services of the department may be eligible for a community-based housing subsidy if the regional director has determined that the residential needs of the client could be adequately met by placement in a subsidized community-based residence.

(b) No client whose income and assets are sufficient to pay for his total housing costs

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-218-3

Department of Mental Retardation

may be considered eligible for a housing subsidy pursuant to these regulations.

(Effective August 24, 1994)

Sec. 17a-218-3. Referral

(a) Any client may be considered for placement in a subsidized community-based residence. The assistant regional director shall evaluate community residential resources to determine if an eligible client could be adequately served by the community-based housing subsidy program.

(b) Any client considered for placement in a subsidized community-based residence will have at least one (1) opportunity to visit the residence prior to the placement decision. A proposed placement in a subsidized community-based residence must be reviewed and approved by the regional director.

(c) No community-based residence may be considered for a placement of eligible clients if the housing costs attributable to rent or other periodic payments for use and occupancy are in excess of 130% of the Fair Market Rents published by the Secretary of the United States Department of Housing and Urban Development pursuant to Section 8 (c) (1) of the United States Housing Act of 1937.

(d) The commissioner may make exceptions to the limitations contained in subsection (c) of this section if the regional director makes a written request for an exception based on:

(1) demonstrated higher housing costs for the area of the state where the proposed subsidized community-based residence is located; or

(2) demonstrated inability to meet the specialized residential needs of the program participant within the limitations set forth in subsection (c) of this section.

(3) No request for an exception shall be approved if the total housing costs for the unit or residence attributable to rent or other periodic payments for use and occupancy exceed fair market value based on review of at least two (2) comparable properties.

(e) Upon approval of a placement in a subsidized community-based residence, the assistant regional director shall evaluate and determine, or cause to be evaluated and determined;

(1) the current gross income available to the client for payment of housing costs as provided in an Income Verification Form provided by the department;

(2) the projected income available to the client for payment of housing costs;

(3) all costs attributable to housing costs;

(4) the type and amount of supervision required;

(5) whether the proposed placement meets the clients needs particularly with regard to health and safety;

(6) the current and projected monthly subsidy necessary to assist the client to meet his housing costs; and

(7) the current and projected share of housing costs to be paid by other income available

to the program participant.

(Effective August 24, 1994)

Sec. 17a-218-4. Certificate of program participation

(a) The A.R.D. may approve the client for participation in the community-based housing subsidy program if there are sufficient resources available to provide the subsidy and appropriate supervision and the requirements of Section 17a-218-3 of these regulations are satisfied.

(b) If the A.R.D. approves a client for program participation, a certificate of program participation will be issued to the client with one (1) copy maintained in the individual client record, one (1) copy provided to the commissioner, one (1) copy provided to the client and one (1) copy provided to the landlord. The certificate of program participation shall include, but not be limited to:

- (1) a statement that the client is certified to participate in the community-based housing subsidy program;
- (2) a description of the community-based housing subsidy program;
- (3) reference to the statutory and regulatory authority for the program;
- (4) the name of the program participant;
- (5) a statement that neither the department, the State of Connecticut nor any of its employees have responsibilities as lessees or any other interest in the property which is the subject of the subsidy, and that the subsidy payments made to a program participant may be adjusted or terminated without prior notice to the lessor;
- (6) the signature of the regional director.

(Effective August 24, 1994)

Sec. 17a-218-5. Leasing capacity

If placement in a subsidized community residence requires the execution of a lease, the following issues must be addressed:

(a) The regional director must make an initial assessment of the client's capacity to execute a lease. If the regional director determines that the client has the capacity to execute a lease, the client may execute the lease on his own behalf.

(b) If the regional director makes an initial determination that the client lacks capacity to execute a lease, or a guardian or conservator has been appointed, arrangements must be made for the lease to be executed by a guardian or a conservator, or by another party who is not an employee of the department or the State of Connecticut.

(Effective August 24, 1994)

Sec. 17a-218-6. Method of payment

(a) The subsidy payment shall be made monthly to the client or his representative payee to cover housing costs for the following month. An initial subsidy payment, which may include a security deposit, may be made prior to use and occupancy of the subsidized

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-218-7

Department of Mental Retardation

community residence to cover housing costs for a reasonable transition period not to exceed forty-five (45) days.

(b) At least quarterly the A.R.D. shall reevaluate, or cause to be reevaluated, an updated Income Verification Form for each program participant for purposes of determining changes in income available to pay for housing costs. The amount of the subsidy payment may be adjusted at any time to reflect any change in a program participant's other sources of income and may be terminated if the other sources of income are determined sufficient to pay for the program participant's total housing costs.

(c) Prior to approval of any subsidy payment pursuant to these regulations the commissioner or his designee shall determine that the program participant has a right to use and occupancy of the premises, as evidenced by a written lease or otherwise.

(d) Each regional director shall submit reports containing information relative to various aspects of the housing subsidy program to the commissioner upon his request.

(Effective August 24, 1994)

Sec. 17a-218-7. Miscellaneous

(a) All statutes and regulations pertaining to transfers of clients shall be adhered to for clients placed, or to be placed, in subsidized community residences.

(b) If it becomes necessary for a client to cease use and occupancy of a subsidized community-based residence, the department will provide assistance relating but not limited to:

- (1) termination of the lease;
- (2) substitution of other clients certified to participate pursuant to these regulations; and
- (3) other negotiations with the landlord as needed to assist in relieving the client of any legal liability resulting from his cessation of occupancy.

(c) Notwithstanding the provisions of subsection (c) of Section 17a-218-3 of these regulations, any program participant residing in a subsidized community residence and receiving a subsidy payment for housing costs on or before the effective date of these regulations shall continue to be eligible for such assistance, provided such participant continues to reside in his current residence and is otherwise eligible pursuant to these regulations.

(Effective August 24, 1994)

Respite Programs

Sec. 17a-218-8. Definitions (Repealed)

Repealed June 11, 2014.

(Effective August 24, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-218-15

Sec. 17a-218-9. Applications for contracts (Repealed)

Repealed June 11, 2014.

(Effective August 24, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-218-10. Contracting procedure (Repealed)

Repealed June 11, 2014.

(Effective August 24, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-218-11. Applications for certification (Repealed)

Repealed June 11, 2014.

(Effective August 24, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-218-12. Certification process (Repealed)

Repealed June 11, 2014.

(Effective August 24, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-218-13. Renewal (Repealed)

Repealed June 11, 2014.

(Effective August 24, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-218-14. Revocation, compliance orders, sanctions (Repealed)

Repealed June 11, 2014.

(Effective August 24, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-218-15. Hearings (Repealed)

Repealed June 11, 2014.

(Effective August 24, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-218-16. Initial standards (Repealed)

Repealed June 11, 2014.

(Effective August 24, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-218-17. Operating standards (Repealed)

Repealed June 11, 2014.

(Effective August 24, 1994; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

**Bidding Procedures for the Construction, Renovation or Rehabilitation of
Community-Based Residential Facilities**

Sec. 17a-218-18. Definitions

For the purposes of Sections 17a-218-18 to 17a-218-23, inclusive of these regulations, the following definitions shall apply:

(1) “Bid” means an offer, submitted in response to an invitation to bid for the construction, renovation or rehabilitation of a community-based residential facility including those to be leased with a purchase option by the department.

(2) “Bidder” means any person, firm or corporation submitting a bid on an invitation to bid issued by the Commissioner.

(3) “Commissioner” means the commissioner of the department of mental retardation or his designee.

(4) “Contract” means the agreement reached when the commissioner accepts the offer of a bidder for the construction, renovation or rehabilitation of a community-based residential facility including those to be leased with a purchase option by the department, subject to all legally required consents and approvals.

(5) “Contractor” means the person, firm or corporation to whom a contract is awarded against a bid submitted.

(6) “Department” means the department of mental retardation.

(7) “Invitation to bid” means the communication which states the terms and conditions under which a specified procurement will be made in a particular instance.

(8) “Lowest responsible qualified bidder” means the bidder whose bid is the lowest of those bidders possessing the skill, ability and integrity necessary to faithfully perform the work based upon objective criteria addressing past performance and financial responsibility.

(Effective July 2, 1997)

Sec. 17a-218-19. Bidding for contracts

(a) On and after January 1, 1997, every contract for the construction, renovation or rehabilitation of a community-based residential facility, including those for lease with a

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-218-21

purchase option shall be awarded to the lowest responsible qualified bidder on the basis of competitive bids.

(Effective July 2, 1997)

Sec. 17a-218-20. Bidding procedure

(a) Whenever the department finds it necessary to construct, renovate or rehabilitate a community-based residential facility including those for lease with a purchase option by the department and when the department is authorized to be the agent of the state for such projects an invitation to bid shall be issued.

(b) All bids submitted in response to the invitation to bid shall be submitted on and in accordance with the forms supplied by the commissioner. Telegraphic bids, telephone bids or bids transmitted by facsimile equipment shall not be accepted.

(c) The time and date that bids are to be opened shall be outlined in the invitation to bid. Bids received after the specified time and date of bid opening shall not be considered. Bids submitted in pencil shall be rejected. Unsigned bids shall be rejected. All signatures shall be original signatures unless there is specific authorization from the commissioner for the use of non-manual forms of signature. Erasures, alterations or corrections on both the original and copy of the proposal schedule to be returned shall be initialed by the person signing the bid or proposal or his authorized designee.

(d) Multiple bids shall not be considered from the same bidder.

(e) All bids shall be opened and read publicly and thereafter are subject to public inspection during normal business hours of the department. Bidders may be present or be represented at all openings.

(f) The commissioner shall have the right to amend or cancel an invitation to bid prior to the date of bid opening.

(Effective July 2, 1997)

Sec. 17a-218-21. Award

(a) Award shall be made to the lowest responsible qualified bidder. Essential information in regard to such qualifications shall be submitted with the bid in such form as the commissioner may require by specification in the bid documents and on the bid form.

(b) The commissioner reserves the right to make awards within thirty calendar days from the date bids are opened, unless otherwise specified in the invitation to bid.

(c) Should award, in whole or in part, be delayed beyond the thirty day or an earlier date specified by a bidder in his bid, such awards shall be conditioned upon bidder's acceptance.

(d) The bidder, if requested by the commissioner, shall be prepared to present evidence of experience, ability, and financial standing necessary to meet satisfactorily the requirements set forth or implied in the invitation to bid.

(e) The commissioner reserves the right to correct inaccurate awards resulting from his clerical or administrative errors.

(Effective July 2, 1997)

Sec. 17a-218-22. Rejection of bids

(a) In inviting bids, the commissioner shall reserve the right to reject any or all such general bids, if:

(1) the commissioner determines that the general bidder or bidders involved are not competent to perform the work as specified, based on objective criteria established for making such determinations, including past performance and financial responsibility;

(2) the low bid price exceeds the amount of money available for the project;

(3) the commissioner determined that the project shall not go forward; or

(4) the commissioner finds cause to reject such bids.

(b) If the commissioner rejects any or all bids pursuant to this section, it shall notify each affected bidder, in writing, of the reasons of such rejection.

(Effective July 2, 1997)

Sec. 17a-218-23. Objective criteria for determining the lowest responsible qualified bidder

(a) The invitation to bid shall state the evaluation factors, including price, and their relative importance. Past performance and financial responsibility shall always be factors in making this determination.

(b) The evaluation shall be based on the evaluation factors in the invitation to bid. Numerical rating systems may be used but are not required. Factors not specified in the invitation to bid shall not be considered.

(c) Proposals shall be classified as acceptable; potentially acceptable, that is reasonably susceptible of being made acceptable; or unacceptable.

(d) Bidders whose proposals are unacceptable shall be so notified promptly.

(Effective July 2, 1997)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Mental Retardation

Subject

**Licensing of Community Living Arrangements, Residential Schools and Habilitative
Nursing Facilities**

Inclusive Sections

§§ 17a-227-1—17a-227-37

CONTENTS

Sec. 17a-227-1.	Definitions
Sec. 17a-227-2.	Licensure
Sec. 17a-227-3.	Initial application
Sec. 17a-227-4.	Inspections
Sec. 17a-227-5.	Plans of correction
Sec. 17a-227-6.	Annual license renewal
Sec. 17a-227-7.	Compliance orders, sanctions
Sec. 17a-227-8.	Denial or revocation of a license
Sec. 17a-227-9.	Hearing on revocation, or denial of license
Sec. 17a-227-10.	Policies and procedures
Sec. 17a-227-11.	Physical requirements
Sec. 17a-227-12.	Emergency planning
Sec. 17a-227-13.	Staffing
Sec. 17a-227-14.	Staff development
Sec. 17a-227-15.	Special protections
Sec. 17a-227-16.	Individual records
Sec. 17a-227-17.	Habilitative services
Sec. 17a-227-18.	Health services
Sec. 17a-227-19.	Financial records
Sec. 17a-227-20.	Transfer
Sec. 17a-227-21.	Residential schools
Sec. 17a-227-22.	Habilitative nursing facilities

**Licensure of Private Residential Facilities For Mentally Retarded and Autistic
People**

Community Training Home Licensing Regulations

Sec. 17a-227-23.	Definitions
Sec. 17a-227-24.	Applications
Sec. 17a-227-25.	Licensing procedure

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

- Sec. 17a-227-26. Renewal
- Sec. 17a-227-27. Revocation, compliance orders, sanctions
- Sec. 17a-227-28. Hearings
- Sec. 17a-227-29. Initial standards
- Sec. 17a-227-30. Operating standards

Contracting for Residential Support Services Supported Living Services

- Sec. 17a-227-31. Definitions
- Sec. 17a-227-32. Applications
- Sec. 17a-227-33. Contracting procedure
- Sec. 17a-227-34. Contract cancellation
- Sec. 17a-227-35. Rights of service recipients
- Sec. 17a-227-36. Planning and provision of residential support services
- Sec. 17a-227-37. Contract conclusion

Licensing of Community Living Arrangements, Residential Schools and Habilitative Nursing Facilities

Sec. 17a-227-1. Definitions

For the purpose of Sections 17a-227-1 through 17a-227-22, inclusive, the following definitions shall apply:

(a) “Administrator” means the person responsible for the overall management, operation and provision of services within the licensed residence.

(b) “Admission” means the formal acceptance and entrance of an individual into the residence under the auspices of the interdisciplinary team responsible for the individual’s service planning.

(c) “Aversive procedure” means the planned use of an event which may be unpleasant, noxious, or otherwise cause discomfort, to alter the occurrence of a specific behavior or to protect an individual from injuring himself or others. These procedures include the use of physical isolation and mechanical and physical restraint.

(d) “Behavior modifying medications” means any chemical agent used for the direct effect it exerts upon the central nervous system to modify thoughts, feelings, mental activities, mood or performance. These chemical agents or psychotropic medications are often broken down into the following categories: antipsychotics, antidepressants, antimaniacs, antianxiety agents, stimulants and sedative/hypnotics. Medications which are not usually described as psychotropics are covered by these regulations when they are prescribed primarily for their psychotropic effects such as mood stabilization and impulse control. These medications include certain anticonvulsants, some beta-blockers and certain other drugs.

(e) “Commissioner” means the commissioner of the department of mental retardation.

(f) “Community living arrangement” means a residential facility in which the licensee provides residential services to 15 or fewer individuals with mental retardation.

(g) “Department” means the department of mental retardation.

(h) “Direct contact personnel” means those people hired by the licensee, including relief or temporary employees, whose primary job description and focus is to provide support to individuals in acquiring and maintaining life skills.

(i) “Emergency” means a critical circumstance in which the health or safety of the individual or other persons must be immediately protected.

(j) “Habilitation” means the process by which an individual is helped to acquire and/or maintain those life skills necessary to cope with the demands of his person and environment and to improve his physical, mental and social competence.

(k) “Habilitative nursing facility” means a free-standing dwelling, licensed prior to January 1992 in which the licensee provides direct twenty-four hour nursing services and comprehensive individual habilitation for four or more individuals with mental retardation.

(l) “Home safety inspection report” means the department’s environmental inspection report addressing minimal physical/safety requirements for three or fewer individuals when a local fire marshal’s certificate has not been obtained.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-227-1

Department of Mental Retardation

(m) “Human rights committee” means a group of persons convened by the department, but who are not employed by the department, who provide monitoring to ensure the protection of legally guaranteed rights of individuals with mental retardation. For licensees serving individuals who are not clients of the department, this includes a committee established by the licensee to perform the functions of the department’s human rights committee for individuals who are not funded or admitted to the department pursuant to Sec. 17a-281 CGS. Such committee must receive prior approval by the department that its functions and responsibilities are consistent with the human rights committee of the department.

(n) “Individual” means any individual with mental retardation who resides in a residence licensed pursuant to Section 17a-227 CGS.

(o) “Individual record” means a file or files containing vital documents including, but not limited to medical information, evaluations, program planning documents, court documents and correspondence.

(p) “Interdisciplinary team (IDT)” means a group of persons which includes the individual being served and, as applicable, includes the family, guardian or advocate, those persons who work most directly with the individual in each of the professions, disciplines or service areas, including direct contact personnel, and any other persons whose participation is relevant to identifying the needs of the individual, devising ways to meet them, writing an overall plan of services and reviewing the plan for effectiveness.

(q) “License” means written authorization issued by the commissioner to operate a residence.

(r) “Licensed personnel” means persons who currently are required to maintain licensure by the State of Connecticut including but not limited to registered nurses, dentists, physicians, psychologists, licensed practical nurses, dental hygienists, pharmacists, physical therapists and occupational therapists.

(s) “Licensee” means the person, agency or other legal entity responsible to the department for the overall operation of the facility or residence, including planning, staffing, managing and maintaining facilities.

(t) “Mechanical restraint” means any apparatus that restricts movement, excluding mechanical supports designed by a physical therapist and approved by a physician that are used to achieve proper body position, alignment or balance, and helmets used to protect individuals from falls due to seizures. Helmets, mitts and similar devices used to prevent self injury are considered mechanical restraints.

(u) “Overall plan of services” means a document which specifies a strategy to guide the delivery of services to an individual for up to one year.

(v) “Physical isolation” means the process whereby an individual is separated from others, usually by placement in a room or area alone.

(w) “Physical restraint” means physically holding an individual to restrict movement or to prevent the individual from harming himself or others. Restraint techniques must be department approved, or in the case of newly proposed techniques, receive approval by the

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-227-2

local program review committee for use in any circumstances.

(x) “Plan of correction” means a written document submitted by the administrator to the department specifying steps to be taken to correct regulatory deficiencies, persons responsible for these steps, and time frames for completion.

(y) “Program review committee” means a group of professionals, including a psychiatrist, assembled to review client programs and behavior modifying medications to ensure that they are clinically sound and supported by proper documentation. For licensees serving individuals who are not clients of the department, this includes a committee established by the licensee to perform the functions of the department’s program review committee for individuals who are not funded by or admitted to the department.

(z) “Residence” means a dwelling licensed by the department pursuant to Section 17a-227 CGS, excluding community training homes.

(aa) “Residential school” means a free-standing dwelling or a group of dwellings located on a single campus, which provides residential services in addition to the educational programming required by the department of education to qualify it to be called a school.

(bb) “Respite status” means the temporary emergency or relief placement of an individual with mental retardation into a residence not to exceed 30 days without written regional authorization.

(cc) “Self-administration of medication” means that an individual is able to identify the appropriate medication by size, color, amount, or other label identification, know independently or with the prompting of an employee or adaptive device the frequency of time of day for which medication is ordered, and consume the medication appropriately.

(dd) “Transfer” means individual movement to another separately licensed residence or to an unlicensed residence.

(ee) “Waiver” means the deferral of any specific regulation or other requirements that do not materially effect the health or safety of individuals.

(Effective October 1, 1992)

Sec. 17a-227-2. Licensure

(a) The administrator shall comply with all regulations unless the commissioner grants a written waiver.

(b) A license shall be issued according to type of residence as either a community living arrangement, habilitative nursing facility or residential school. A license may be designated to provide permanent and/or respite services.

(c) A license shall be issued only to a single residence, except in the case of a residential school, condominium or apartment complex, where up to five individual sites located on one campus or complex may be grouped under one license.

(d) Where there is a change in ownership, the new licensee shall comply with all the requirements of these regulations and the applicable laws and regulations of legally authorized agencies.

(e) The license is not transferable and shall be in effect only as the residence was

organized at the time the license was issued.

(f) The department shall receive sixty days advance notice when the licensee plans physical structural changes in a home, a sale of the residence or plans to discontinue operation. In the event of a change in the administration, the department will be notified as soon as possible.

(Effective October 1, 1992)

Sec. 17a-227-3. Initial application

(a) An application for the granting of an initial license to operate a residence shall be submitted in writing, signed by the person seeking authority to operate the residence and notarized, and shall include all items required on the application packet checklist and the following as applicable:

- (1) local fire marshal's certificate;
- (2) insurance governing fire, replacement value and general liability, third parties and auto liability;
- (3) bacteriological report for facilities using a private water supply system; and
- (4) public health official report for septic systems other than a city sewer system.

(b) A plan for all direct contact personnel to have completed training in the following prior to the opening of a new residence:

- (1) communicable disease/food handling;
- (2) signs and symptoms of illness;
- (3) individual basic health and behavioral needs;
- (4) daily routines of the residence; and
- (5) emergency procedures.

(c) Assure that medications shall be administered by those who are certified or licensed in accordance with Sec. 20-14h CGS and the regulations promulgated thereunder.

(d) If an existing corporation, a copy of a financial audit conducted within one year by an independent licensed or certified public accountant.

(e) For any residence housing more than four individuals, a non-refundable licensing fee of fifty dollars payable to the treasurer, State of Connecticut, is required.

(Effective October 1, 1992)

Sec. 17a-227-4. Inspections

(a) Inspections shall be conducted by the department at initial licensure and at intervals of not more than two years.

(b) Within fifteen working days of completion of inspection, the department shall provide a written summary of regulation citations noted during the inspection.

(Effective October 1, 1992)

Sec. 17a-227-5. Plans of correction

(a) The administrator shall respond with a written plan of correction within fifteen

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-227-8

working days of receipt of the citation summary.

(b) The plan of correction shall be reviewed by the department and when determined to be acceptable, an initial license or a renewal letter shall be issued. The administrator shall ensure that plans of correction are implemented by the dates as documented.

(c) If a plan of correction is deemed unacceptable by the department, the licensee shall be notified within ten working days with rationale for each unacceptable citation noted.

(d) A request for a waiver must be in writing, signed by the applicant and provide the reasons for the request and any supporting documentation.

(e) Notification of acceptance or denial of a waiver request shall be made within ten working days.

(Effective October 1, 1992)

Sec. 17a-227-6. Annual license renewal

(a) The licensee shall submit a current annual license application packet at least thirty days prior to the anniversary date of initial licensure and annually thereafter.

(b) For any residence housing more than four residents, an annual non-refundable licensing fee of fifty dollars payable to the treasurer, State of Connecticut, shall be submitted with the licensing packet.

(Effective October 1, 1992)

Sec. 17a-227-7. Compliance orders, sanctions

(a) The commissioner may issue any of the following compliance orders whenever a licensee fails to comply with the provisions of these regulations:

(1) reduce the licensed capacity of the residence;

(2) require the licensee to increase staff support and/or accept additional monitoring from the department;

(3) require additional training;

(4) correct specific licensing citations.

(b) Compliance orders must be implemented within thirty days of issuance, or as specified by the commissioner, unless the licensee requests a hearing in accordance with Sec. 17a-227-9 of these regulations. Failure to implement a compliance order may result in the commissioner taking actions authorized by this section. Compliance orders shall be issued by the commissioner via certified letter to the licensee and shall be in place until such time as the department deems that compliance has been achieved.

(Effective October 1, 1992)

Sec. 17a-227-8. Denial or revocation of a license

An application for initial licensure may be denied, or a license may be revoked for any of the following reasons, whenever the administrator:

(a) fails to comply with the licensing regulations prescribed by the department;

(b) fails to comply with the applicable state and local laws, ordinances, rules, regulations

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-227-9

Department of Mental Retardation

and codes relating to building, health, fire protection, safety, sanitation and zoning;

(c) violates any of the provisions under which the license has been issued;

(d) furnishes or makes any false or misleading statements to the commissioner or his designee in order to obtain or retain the license;

(e) fails or refuses to submit reports or make records available when requested by the commissioner or his designee;

(f) refuses to admit the commissioner or his designee to the premises at any reasonable time as deemed necessary by him;

(g) fails to implement plans of correction approved by the department.

(Effective October 1, 1992)

Sec. 17a-227-9. Hearing on revocation, or denial of license

A licensee aggrieved by the commissioner's decision to deny application for licensure or revoke a license may, within fifteen days after receipt by certified mail of notice of denial or intended revocation of a license, request by certified letter an administrative hearing in accordance with the department's rules of practice, Sec. 19-570-1 through 19-570-67, inclusive, of the regulations of Connecticut state agencies. Revocation of a license shall be stayed pending such hearing. In the absence of a request for a hearing during this time period, the commissioner's decision shall be final.

(Effective October 1, 1992)

Sec. 17a-227-10. Policies and procedures

(a) The administrator shall be responsible for the overall management, operation and provision of services within the residence.

(b) The administrator shall be knowledgeable of the nature, needs, development and management of programs for individuals with mental retardation.

(c) Policies required by regulation as necessary for the operation of the residence shall be current within two years, signed by the administrator or his designee, available to staff, clients and the commissioner or his designee, implemented and followed.

(Effective October 1, 1992)

Sec. 17a-227-11. Physical requirements

(a) Any building used as a residence shall be in compliance with all applicable federal, state and local codes which govern construction, building safety and zoning ordinances.

(b) A residence located in a building containing more than two living units or more than three individuals per living unit shall obtain a fire marshal's certificate in accordance with Sec. 29-305 CGS.

(c) For a residence licensed for three or fewer individuals, the licensee shall comply with the requirements of the department's home safety inspection report unless a fire marshal's certificate is obtained for each residence.

(d) The residence and grounds shall be free from unpleasant odors, refuse and potential

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-227-13

safety hazards.

(e) Furniture and furnishings shall be safe and in good repair.

(f) The residence shall have toileting and bathing facilities that are clean, accessible and afford privacy to individuals.

(g) Fire extinguishers shall be located in the kitchen and the furnace area.

(h) Each residence and vehicle shall have emergency first aid supplies.

(i) All kitchens and dining areas shall be clean, well-lighted, ventilated, screened and provided with appropriate equipment for the preparation and serving of food.

(j) There shall at all times be a working telephone accessible to individuals with emergency numbers posted in an easily visible location. The department shall be immediately notified of any change in the telephone number.

(k) Each individual shall have a minimum of eighty square feet in a single bed room and at least sixty square feet in a multiple bed room.

(l) Each individual shall have sufficient and accessible storage space to accommodate all in-season clothing.

(m) Laundry facilities shall be available to all individuals.

(Effective October 1, 1992)

Sec. 17a-227-12. Emergency planning

(a) Each residence shall have a plan in place which accommodates individuals' needs and identifies direct contact personnel responsibilities in the event of a life threatening emergency.

(b) The licensee shall provide training for direct contact personnel and individuals being served on how to respond in case of fire and other life threatening situations and shall carry out monthly evacuation drills.

(c) If the licensee finds an inefficiency or other problems identified during a drill, the licensee shall write and carry out a plan of specific corrective action(s).

(Effective October 1, 1992)

Sec. 17a-227-13. Staffing

(a) The administrator shall have policies and procedures delineating licensee personnel practices, hiring practices, performance expectations, duties and responsibilities, evaluation and termination.

(b) Each residence shall have sufficient direct care personnel at all times to ensure that the individuals' essential requirements for health and safety are met. No violation of this subsection may be found for a residential facility which receives a service rate from the department and which maintain direct care staffing levels which are consistent with the funding provided for that purpose. The licensing division of the department shall promptly notify the appropriate region if a determination is made that the residence is maintaining staffing levels consistent with the contract but that those staffing levels are inadequate to

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-227-14

Department of Mental Retardation

meet the essential requirements for health and safety of the individuals.

(Effective October 1, 1992)

Sec. 17a-227-14. Staff development

(a) The administrator shall specify training requirements for direct contact personnel including training content, trainer qualifications and delivery method.

(b) Direct contact personnel shall participate in an orientation in the following areas within thirty days of employment and every two years thereafter:

- (1) signs and symptoms of disease and illness;
- (2) communicable disease control;
- (3) resident basic health and behavioral needs;
- (4) routines of the residence; and
- (5) emergency procedures for the residence.

New employees who have not completed the orientation shall not work without other personnel on duty that have been trained in these areas.

(c) In addition to orientation, direct contact personnel shall have completed inservice training in the following areas within the first six months of hire and every two years thereafter:

- (1) first aid for accidents;
- (2) agency/residence policies and procedures;
- (3) abuse and neglect prevention;
- (4) planning and provision of service; and
- (5) behavioral emergency techniques.

(d) There shall be one staff person on duty per shift certified in cardiopulmonary resuscitation (CPR).

(e) Written summaries of the inservice program content shall be made available upon request.

(Effective October 1, 1992)

Sec. 17a-227-15. Special protections

(a) Human Rights

Policies and procedures shall be in place which:

(1) ensure that each individual, parent, legal guardian or advocate is fully informed of the individual's rights and of all rules and regulations governing individual conduct and responsibilities;

(2) assure confidential treatment of all information concerning individuals;

(3) provide for the safekeeping and accountability of individuals' personal property;

(4) comply with Sec. 17a-238 CGS and the regulations promulgated thereunder, concerning the rights of individuals under the supervision of the commissioner of mental retardation and which:

(A) prohibit mistreatment, neglect or abuse of individuals;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-227-15

(B) include a system for reporting alleged violations, carrying out investigations in accordance with Sections 17a-101, 17a-430 and 46a-11 CGS, and instituting appropriate sanctions if the allegation is substantiated;

(C) are formulated with individual participation where appropriate; and

(D) ensure that all incidents, injuries, restraints, serious accidents and deaths are reported in a timely fashion.

(b) **Behavioral Procedures**

(1) Medications, restraints and other aversive procedures shall not be used as punishment, or in quantities which interfere with an individual's program.

(2) The administrator shall ensure that behavior modifying medications are prescribed and administered in accordance with Sec. 20-14h to 20-14j, inclusive, CGS and the regulations promulgated thereunder.

(3) Each residence shall have policies and procedures which:

(A) define the use of behavior management techniques, behavior modifying medications, restraints and aversive procedures;

(B) ensure that teaching strategies and behavior management techniques which include the use of aversive procedures and/or restraint are developed, reviewed and approved by program review and human rights committees and the appropriate regional director;

(C) ensure personnel use only the minimum force necessary to protect the individual and release the individual from restraint as soon as he no longer presents a danger to himself or others;

(D) identify authorization procedures necessary for utilization of a restraint measure;

(E) describe the circumstances under which restraints may be used and the type, both physical and mechanical, to be used;

(F) delineate helmets used as protection against injuries resulting from falls due to seizures as protective devices not as restraints;

(G) ensure that physical restraint shall be employed only when absolutely necessary to protect the individual from injury to himself or others;

(H) ensure that mechanical restraints shall be designed and used so as to cause the least possible discomfort;

(I) ensure that an individual placed in restraint shall be checked at least every thirty minutes by appropriately trained staff and that a record of such checks shall be kept; and

(J) ensure an opportunity for motion and exercise for a period of not less than ten minutes after each one hour for which the restraint is employed.

(4) During the use of physical isolation, where an individual is separated from others by placement in any area or room alone, the use of a locked door is prohibited.

(5) Under emergency conditions, the licensee shall assure that, to the extent reasonably possible, the individual who experiences a behavioral emergency will be managed utilizing approved behavioral techniques. Prior to resorting to police intervention, hospital emergency room admission or admission to a mental health facility, the licensee shall notify the department of the action. In an acute behavioral emergency, the notification procedure may

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-227-16

Department of Mental Retardation

occur as soon as possible after the incident.

(6) The use of a specifically designed room for physical isolation by any licensee shall be prohibited as of July 1, 1992.

(Effective October 1, 1992)

Sec. 17a-227-16. Individual records

Individuals' records shall be started at the time of admission and remain current and shall include as appropriate:

(a) reports of accidents, seizures, illnesses, hospitalizations and treatments thereof, immunizations and allergies;

(b) documentation of all periods of restraint with justification and authorization for each;

(c) documentation of significant behavioral incidents;

(d) health history and current medical status;

(e) family related information;

(f) legal competency status;

(g) name, date of admission, date of birth, place of birth, social security number, and department number if appropriate;

(h) sources of financial support, including social security, veterans' benefits and insurance, as appropriate; and

(i) physical description and photograph.

(Effective October 1, 1992)

Sec. 17a-227-17. Habilitative services

(a) The administrator shall have a written policy which gives employees direction regarding habilitative programming that supports sound residential service practices, normalization principles and department philosophy.

(b) Within forty five days after formal admission by the licensee, an overall plan of service addressing habilitative programming shall be developed for each individual and implemented within thirty days of development, or as delineated in the overall plan of services.

(c) If an individual exceeds thirty days in respite status, the licensee shall conduct an interdisciplinary team meeting within ten working days following the expiration of the thirty day respite status to identify and implement priority health and habilitative needs.

(d) Overall plans of services shall be developed maximizing suggestions and participation from the individual, the family, guardian or advocate and with persons who are knowledgeable about the individual's strengths, preferences, needs and special interests.

(e) The overall plan of services shall be developed after a review of the information in the current individual record in relation to the current skills and health status of the individual.

(f) The overall plan of services shall guide the development of an integrated habilitative program with identified strategies for learning, which utilizes measurable behavioral goals

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-227-18

and objectives.

(g) The licensee shall provide the individual with opportunities for learning through activities and social interactions which provide community experiences.

(h) The overall plan of services, including goals and objectives, shall be reviewed and updated, at a minimum, on a quarterly basis to meet ongoing individual needs.

(i) Behavioral strategies involving the use of aversive procedures, including restraints, shall be reviewed at least monthly by the program author or designee.

(j) Data will be collected to document the individual's progress, as specified in the individual teaching strategy.

(k) The overall plan of services planning process shall be conducted annually based on an annual assessment of the individual's functioning skills.

(l) The annual overall plan of services shall be implemented within thirty days of its development, or as delineated in the planning document, and kept on file for two years from the date of development.

(Effective October 1, 1992)

Sec. 17a-227-18. Health services

(a) **Medical**

(1) Each residence shall comply with Sec. 20-14h to 20-14j, inclusive, CGS and the regulations promulgated thereunder pertaining to the administration of medication.

(2) Each licensee shall have a policy regarding:

- (A) individual consent for medical treatment;
- (B) individual consent for administration of medication;
- (C) administration of medication for individuals who can self-administer;
- (D) individual consent of disposal of medication no longer in use; and
- (E) ongoing individual health care and injuries;

(3) The licensee shall provide nursing services in accordance with individual needs which may include:

- (A) coordination, assessment, monitoring and provision of medical services; and
- (B) planning and implementation of training for direct contact personnel.

(4) The licensee shall assure medical examinations as indicated by the individual's physician with:

- (A) additional testing or follow-up as determined by the physician; and
- (B) signed and dated documentation of medical treatment through physician's orders, progress notes or other medical reports, in order to assure the provision of necessary health care.

(b) **Dental**

The licensee shall assure dental examinations as indicated by the individual's dentist in order to assure the provision of necessary oral health care with:

- (1) additional follow-up or testing as needed; and
- (2) signed and dated documentation of dental services by the licensed dentist or dental

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-227-19

Department of Mental Retardation

hygienist through dentist's orders, progress notes or other reports.

(c) **Dietary**

(1) The licensee shall have a policy in place to ensure adequate nutrition and hydration for all individuals.

(2) For individuals on special diets, the administrator shall ensure physician's ordered diets are carried out with consultation from an appropriate professional.

(Effective October 1, 1992)

Sec. 17a-227-19. Financial records

(a) The facility shall have policies and procedures which:

(1) provide for the safekeeping, availability and the accountability of the individual's financial interests;

(2) ensure that individual finances shall be separate from the licensee's financial records;

(3) ensure maintenance of receipts of monies disbursed or received for items in excess of \$20.00; and

(4) address the licensee's responsibility for individuals who are independent in managing their finances.

(Effective October 1, 1992)

Sec. 17a-227-20. Transfer

(a) No individual shall be transferred except in accordance with the provisions of Sec. 17a-210 CGS, or as otherwise authorized by law.

(b) The licensee shall have policies and procedures which:

(1) govern the notification to the department of the proposed resident transfer;

(2) govern the respite status, admission, transfer and discharge of individuals; and

(3) describe the procedure by which the financial interests are protected for individuals who are transferred to another residence.

(c) Copies of clinical records and reports/recommendations of current health status shall accompany the individual upon transfer to another residence.

(d) Transfer summaries shall be maintained for all individuals who leave the residence.

(e) For any individual placed in a licensed residence from another state, the licensee shall assure that there is a discharge plan in place which provides for his return to the placing state or provides for the continuation of appropriate services upon cessation of funding by the placing state.

(Effective October 1, 1992)

Sec. 17a-227-21. Residential schools

In addition to meeting the requirements set out in Sec. 17a-227-1 through 17a-227-20 inclusive of these regulations, an applicant for licensure or renewal as a residential school shall:

(a) Set forth in policy and procedure a method of coordinating programming and

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-227-22

communications between the residential and educational components which shall include provision for participation by educational staff in the interdisciplinary process.

(b) Have a policy demonstrating compliance with Sec. 10-212a CGS for teachers who administer medications during school hours.

(c) Have a written policy and procedure outlining duty, function and responsibility of educational and residential personnel who are assigned duties in other than their respective areas.

(d) All medications shall be administered by a registered nurse or a licensed practical nurse and shall be reviewed every ninety days.

(e) Each residential school shall establish a behavior review committee to review and document approval of all individual behavior treatment programs which incorporate aversive or potentially aversive techniques and/or behavior modifying medications. Each school shall develop policies and procedures regarding the operation of this committee. The committee shall have a representation of diverse views which may include psychology, parent, local citizen not otherwise involved, staff, and a representative of the department's human rights committee or regional director designee.

(f) Records of the residential school shall include written permission, signed by the parent, for disclosure of the educational record to residential staff and to the commissioner or his designee.

(Effective October 1, 1992)

Sec. 17a-227-22. Habilitative nursing facilities

In addition to meeting the requirements of Sec. 17a-227-1 through 17a-227-20, inclusive of these regulations, an applicant for licensure or renewal of a license as an habilitative nursing facility shall:

(a) Develop policies and procedures which address totally enclosed cribs and barred enclosures as restraints.

(b) Only licensed nurses shall be allowed to administer medications and all medications shall be reviewed every thirty days by the nurse.

(c) Appropriate inservice training to staff shall be provided including:

- (1) proper positioning procedures;
- (2) bathing procedures;
- (3) proper feeding procedures;
- (4) side effects of medication; and
- (5) charting seizures.

(Effective October 1, 1992)

Licensure of Private Residential Facilities For Mentally Retarded and Autistic People

Community Training Home Licensing Regulations

Sec. 17a-227-23. Definitions

For the purpose of these regulations the following definitions shall apply:

(a) “Aversive Procedure” means the planned use of an event which may be unpleasant, noxious, or otherwise cause discomfort to alter the occurrence of a specific behavior. These procedures include the use of physical isolation, mechanical and physical restraint.

(b) “Behavior modifying medications” means any chemical agent used for the direct effect it exerts upon the central nervous system to modify thoughts, feelings, mental activities, mood, or performance. These chemical agents or psychotropic medications are often broken down into antimaniacs, antianxiety agents, antipsychotics, antidepressants, stimulants, and sedative/hypnotics. Medications which are not usually described as psychotropics are covered by this definition when they are prescribed primarily for their psychotropic effects such as mood stabilization and impulse control. These medications include certain anticonvulsants, some beta-blockers, and certain other drugs.

(c) “Case manager” means the person responsible for assisting individuals to gain access to department services, managing development of the client’s overall plan of services, securing and/or coordinating services, monitoring client progress, maintaining family contact, collecting and disseminating data and information.

(d) “Commissioner” means the commissioner of the department of mental retardation.

(e) “Community training home (CTH)” means a private family home in which three or fewer adults or children with mental retardation or autism reside and which is licensed pursuant to Section 17a-227 CGS. For children, the CTH provides a substitute family for those who cannot live with their own families or for whom adoption is not immediately possible. For adults, the CTH provides a nurturing home environment where adults can share responsibilities, develop mutual relationships, be independent and make their own choices.

(f) “CTH home study” means a compilation of information gathered through processes of visitation, interview and research which includes the following topics: general information, family members, applicants as individuals, family/individual in function, health status, desired characteristics of individuals to be placed, physical aspects of the home, neighborhood and community and social worker’s evaluation.

(g) “Community training home residential survey” means a checklist that is used during the licensing procedure to determine that general conditions in the home meet the standards contained in these regulations.

(h) “Department” means the department of mental retardation (DMR).

(i) “Designee” means a person selected to act on someone’s behalf.

(j) “DMR policies” means written procedures and rules issued by the commissioner which govern the operation of the department and organizations and persons licensed to

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-227-23

conduct or maintain private facilities pursuant to Section 17a-227 CGS.

(k) “Direct contract person” means any person, other than the licensee or his designee who provides personal care services, supervision or assistance to residents.

(l) “Document” means to provide material that is evidence of compliance with applicable regulatory standards. Such material may take any form which is sufficient to document compliance.

(m) “Dwelling” means any building designed for human habitation.

(n) “Emergency” means a critical circumstance in which the health or safety of the client or other persons must be protected immediately.

(o) “Fire safety inspection report” means a checklist that is used to determine compliance with the current edition of the National Fire Protection Association Life Safety Code, as amended by the department.

(p) “Individual” means any person with mental retardation or autism who resides in a private residence conducted or maintained by a person or organization licensed pursuant to Section 17a-227 CGS and these regulations.

(q) “Habilitation” means the process by which a person with mental retardation or autism is helped to acquire those life skills which enable him to experience community presence and participation, provide him with opportunities to develop and exercise competence, to make choices, to develop meaningful relationships and to be accorded respect and dignity.

(r) “Human rights committee” means a group of individuals who are not employees of the department, who provide monitoring to ensure the protection of legally guaranteed rights of persons who are mentally retarded and are recognized to do so by the region.

(s) “Interdisciplinary team (IDT)” means a group of persons which includes the individual being served, his or her family, guardian or advocate, those persons who work most directly with the individual in each of the professions, disciplines, or service areas that provide service to the individual, including direct care staff, and any other persons whose participation is relevant to identifying the needs of the individual, devising ways to meet them, writing an Overall Plan of Services and reviewing the plan for effectiveness.

(t) “License” means written authorization issued by the commissioner to any person or organization to conduct or maintain a private residence for the lodging of persons with mental retardation or autism for a period of up to one year.

(u) “Licensee” means the person who is authorized by the commissioner to conduct or maintain a private residence for the lodging of persons with mental retardation or autism and is responsible to the department for complying with the provisions of these regulations.

(v) “Mechanical restraint” means any apparatus that restricts movement. Helmets, mitts and similar devices used to prevent self injury are considered mechanical restraints.

(w) “Occupant” means any person residing in a home licensed as a community training home including residents placed there by the department and non-retarded persons residing there for whatever reason.

(x) “Overall plan of services (OPS)” means a document which specifies a strategy to guide the delivery of service to a client for up to one year.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-227-24

Department of Mental Retardation

(y) “Personal care services” means assistance to individuals which allows them to perform their routine activities of daily living to maintain independence, health, personal appearance, comfort, safety and interactions within their community.

(z) “Physical restraint” means physically holding a client to restrict movement or to prevent the client from harming himself or others.

(aa) “Private residence” means any dwelling that is conducted or maintained by a person or organization, licensed pursuant to Section 17a-227 G.S., as a residence for the lodging of persons with mental retardation, autism or both.

(bb) “Program review committee” means a group of professionals who are assembled to review client programs and behavior modifying medications to ensure that they are clinically sound, supported by proper documentation, and that they provide the least restrictive service within as normalized a setting as possible and are recognized by the region to do so.

(cc) “Provisional license” means a license which is issued in response to an application for renewal if, for any reason, the department has not denied or issued a permanent license within thirty (30) days after the expiration date of the previous license. A provisional license is valid for not more than 180 days.

(dd) “Region” means the management of a geographical subdivision of the state as defined by the department of mental retardation.

(ee) “Record” means written information pertaining to each resident which shall include administrative, treatment and educational data.

(ff) “Specific service plan” means a component of the overall plan of service that is written and implemented by a member of the interdisciplinary team to implement the goals assigned to that team member.

(Effective August 24, 1994)

Sec. 17a-227-24. Applications

(a) Applications for a license to conduct or maintain a community training home and provide personal care services for persons with mental retardation or autism shall be filed, on forms provided by the department of mental retardation, with the region in which the home is located. An application may be filed by one person or persons.

(b) Applications for an initial license to conduct or maintain a community training home shall be signed by the applicant(s). The application packet shall be completed by the applicant with assistance from the department and include the following information: (1) the real property interest, if any, the applicant(s) holds in the residence, such as lease or ownership; (2) the address and physical description of the residence (3) three character references for each applicant from three responsible who are not related to the applicant(s); (4) verification of any conviction records of the applicant(s) and any other occupants of the home; (5) whether the applicant(s) currently holds or previously held licenses from the department or any other state department; (6) a certification of good health for each applicant signed by a licensed physician within the past twelve months; (7) the employment status of

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-227-25

the applicant(s) for the past three years; (8) a complete list of all occupants, indicating age and relation to the applicant(s); and (9) a local fire marshal's certificate if the CTH is located in a structure containing more than two dwelling units.

(Effective August 24, 1994)

Sec. 17a-227-25. Licensing procedure

(a) The regional office will review the application, and such other materials which may be required to accompany the application, for completeness and accuracy.

(b) The case manager, or other person designated by the region, assigned to the CTH will complete a CTH Home Study.

(c) The regional director will transmit to the department's director of regulatory compliance the application and related materials (including CTH Home Study) if approved by the regional director as to completeness and accuracy. If satisfied that the required application package is complete and accurate, the director of regulatory compliance shall cause an inspection to occur within 30 days to determine if the applicant satisfies all applicable initial licensing standards.

(d) The applicant shall comply with the requirements delineated on the department's fire safety inspection report. Additionally, applicants located in a building containing more than two living units shall obtain a fire marshal certificate reflecting the applicable chapter of the NFPA Life Safety Code.

(e) The applicant shall be advised in writing of any deficiencies noted in the completed residential survey and shall submit an acceptable plan of correction which is developed with regional office assistance as necessary. If the applicant fully complies with applicable initial standards the commissioner shall issue a license which indicates type of residence and maximum number of clients who may reside in the residence. The license shall be for a term of one year and may be renewed in accordance with Sec. 17a-227-26 of these regulations. All licenses are conditional upon compliance with applicable initial and operating standards and may be revoked at any time in accordance with Sec. 17a-227-27 of these regulations.

(f) The commissioner may grant a waiver for any specific standard(s), standards or other requirements that do not materially effect the health and safety of residents. A request for a waiver must be in writing, signed by the applicant, and provide the reasons for the request and any supporting documentation. A waiver granted by the commissioner shall be in writing and specify the duration and terms under which the waiver is granted.

(g) If an applicant fails to comply with applicable standard(s) and licensing procedures, and has not obtained a waiver from any such standard(s) or requirements or has failed to submit and implement an acceptable plan of correction, the application for a license to conduct or maintain a residence shall be denied. An application may also be denied if, as a result of a routine police check, the applicant or any other occupant is found to have a police record which indicates any potential risk to the resident's health and safety.

(Effective August 24, 1994)

Sec. 17a-227-26. Renewal

(a) At least 45 days prior to the expiration date of a license the department will notify the licensee to initiate renewal of a license if the licensee wishes to continue to conduct or maintain a residence. Application for renewal shall be made on a Summary Application for Renewal, signed by the licensee on forms provided by the department. The Summary Application for Renewal is designed to update the information contained in the initial application which may not be current and any other information which needs to be updated annually.

(b) The Summary Application for Renewal shall be filed with the regional office serving the community training home. The Summary Application for Renewal shall be processed in accordance with the licensing procedure outlined in Sec. 17a-227-25 of these regulations. If a license is not denied or renewed within 30 days after the expiration date of the license, the commissioner shall issue a provisional license for not more than 60 days. The commissioner may grant 30 day extensions not to exceed 180 days to any provisional license. A provisional license may only be issued if (1) the licensee substantially complies with initial and operating standards; (2) any deficiencies do not materially affect the health and safety of clients; and either (3) the licensee has developed an acceptable plan of correction; or (4) time is needed for the orderly transfer of residents.

(Effective August 24, 1994)

Sec. 17a-227-27. Revocation, compliance orders, sanctions

(a) A license may be revoked at any time a licensee: (1) fails to comply with the licensing procedure prescribed by the department; (2) fails to comply with any applicable initial or operating standard, fails to obtain necessary waivers, or fails to submit and implement an acceptable plan of correction; (3) fails to comply with applicable state and local laws relating to building, health, fire, protection, safety, sanitation and zoning; (4) furnishes or makes any false or misleading statements to the commissioner or the department in order to obtain or retain a license; (5) fails or refuses to submit reports when required or make records available when requested by the commissioner or department or otherwise denies unrestricted access to records of individuals served by the licensee; (6) refuses to admit the commissioner or his designee onto the licensed premises at any reasonable time as deemed necessary by the commissioner or his designee to protect the health or safety of the residents.

(b) The commissioner may impose any of the following restrictions and limitations whenever a licensee fails to comply with any applicable initial or operating standards: (1) reduce the licensed capacity of the residence; (2) modify the intensity of supervision by requiring the licensee to accept staff support and additional supervision from the department; (3) require such additional training as may be necessary to correct a violation or prevent a repeat violation of these regulations; (4) issue compliance orders that must be implemented within 30 days of issuance unless the licensee requests a hearing in accordance with Sec. 17a-227-28 of these regulations. Failure to implement a compliance order may result in the commissioner taking any action authorized by this section. Compliance orders shall be

issued by the commissioner by certified letter to the licensee.

(Effective August 24, 1994)

Sec. 17a-227-28. Hearings

Any person aggrieved by a decision to: (1) deny an application for an initial license; (2) deny an application for renewal of a license; (3) revoke a license; or (4) any other decision authorized pursuant to Sec. 17a-227-27 of these regulations, may request by certified letter an administrative hearing within 15 days of receipt of the notice of the action by certified letter. Administrative hearings shall be conducted in accordance with the department's rules of practice, sections 19-570-1 through 67, inclusive of the Regulations of Connecticut State Agencies. In the absence of a written request for an administrative hearing within the fifteen day period, the decision or action of the commissioner shall be deemed effective from the date of receipt of the notice of such decision or action. Requests for an administrative hearing must be made in writing to the commissioner.

(Effective August 24, 1994)

Sec. 17a-227-29. Initial standards

The licensee must meet the following standards before obtaining any license to conduct or maintain a residence for persons with mental retardation or autism.

(a) Licensee Qualifications and Responsibilities

(1) The licensee shall demonstrate the capacity to maintain a health and safe living environment for individuals.

(2) The licensee shall complete the department's approved training for community training home operators and/or shall be able to demonstrate during the CTH home study phase, that they are competent in the following areas:

- (A) first aid,
- (B) cardiopulmonary resuscitation (CPR),
- (C) emergency medical procedures,
- (D) infection control procedures,
- (E) how to respond in case of fire and other life-threatening situations, and
- (F) DMR mission statement.
- (G) For homes licensed for children:
 - (1) permanency planning,
 - (2) subsidized adoption,
 - (3) educational rights,
 - (4) relations with natural families, and
 - (5) information resources.
- (H) For homes licensed for adults:
 - (1) use of generic resources,
 - (2) age-appropriate activities and expectations, and
 - (3) supported employment.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-227-30

Department of Mental Retardation

(b) Health and Life Safety

(1) The residence shall comply with all applicable state and local codes governing construction, fire and building safety.

(2) The applicant shall comply with the requirements delineated on the department's fire safety inspection report. Additionally, applicants located in a building containing more than two living units shall obtain a fire marshal certificate reflecting the applicable chapter of the NFPA Life Safety Code.

(3) The licensee shall have written evacuation procedures that are designed to accommodate the special requirements of each person who lives in the residence.

(4) The licensee shall have a plan for responding to power failure including the loss of electricity, heat or water.

(5) The licensee shall ensure that overall conditions of the residence are safe, sanitary, and meet applicable state health codes.

(6) The licensee shall ensure that toileting and bathing facilities are clean, accessible and afford privacy to the residents.

(7) The licensee shall ensure that furniture and furnishings are safe, comfortable, appropriate to the needs of the residents, and in good repair.

(8) The licensee shall ensure that bedrooms have walls that extend from floor to ceiling and at least one exterior window.

(10) The licensee shall ensure that multiple-bed bedrooms provide at least 60 square feet per occupant.

(11) The licensee shall ensure that single-bed bedrooms contain at least 80 square feet.

(12) The licensee shall ensure that bedrooms contain additional space as needed for bedside assistance and to accommodate the use and storage of mobility devices and prosthetic equipment.

(Effective August 24, 1994)

Sec. 17a-227-30. Operating standards

A licensee must meet the following standards in order to maintain any license to conduct or maintain a residence for persons with mental retardation or autism:

(a) Health and Life Safety

(1) The applicant shall comply with the requirements delineated on the department's fire safety inspection report. Additionally, applicants located in a building containing more than two living units shall obtain a fire marshal certificate reflecting the applicable chapter of the NFPA Life Safety Code.

(2) The licensee shall practice and document evacuation procedures on a quarterly basis.

(A) At least one of the quarterly evacuation procedures per year shall be held during sleeping hours, and

(B) During evacuation procedures, individuals shall be moved to safe areas outside of the dwelling, unless their ability to evacuate independently has been documented, or unless practice evacuation would endanger the health or safety of those individuals.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-227-30

(3) When the licensee is absent from the home, he shall provide a responsible designee who is available at all times, if such supervision is necessary as documented in the overall plan of services.

(4) The licensee shall ensure that the commissioner or his or her designee has access to the residence, the individual and his records at any reasonable time for the purpose of monitoring the person's safety and coordinating residential and other services.

(5) The licensee shall maintain records and reports of periodic fire safety, health, sanitation, and environmental inspections required by local and state laws and regulations and shall document actions taken to correct deficiencies noted in these reports.

(6) The licensee shall ensure and document that they and their designees are adequately trained to teach and support the individualized needs of residents as defined in the overall plan of services, including, but not limited to individuals who:

- (A) Require special mealtime assistance,
- (B) Use mobility devices,
- (C) Have seizure disorders or physical disabilities,
- (D) Have special communication needs,
- (E) Require positioning or supportive devices,
- (F) Require behavior management techniques, including those for behavioral emergencies,
- (G) Are unable to self-administer medications,
- (H) Receive behavior modifying and/or anti-convulsant medications, and
- (I) Require other personal care services as outlined in the individual's OPS.

(7) The licensee shall ensure that required information is communicated to all direct contact persons to ensure the individual's safety and well-being.

(8) The licensee shall ensure that the individual receives adequate medical attention to prevent or treat any physical ailment or injury.

(9) The licensee shall assist the individual to obtain a medical examination annually or otherwise in accordance with the recommendation of the primary care physician and maintain documentation to that effect. The examination shall be appropriate to the person's gender and age and shall monitor chronic medical conditions, such as seizure disorders.

(10) The licensee shall record any time a person has a seizure and maintain such records for three years from the date of the last seizure. Such records shall include:

- (A) Time of the seizure,
- (B) Duration of the seizure, and
- (C) Descriptive characteristics of the seizure.

(11) The licensee shall assist the individual to obtain an annual dental examination and maintain documentation to that effect. The examination shall be appropriate to the person's age and shall monitor chronic dental conditions. Individuals without teeth shall be seen by a dentist and evaluated for prosthetic devices.

(12) The licensee shall ensure that each individual's adaptive, corrective, mobility, orthotic, prosthetic, and other devices are kept in good repair, that basic maintenance is

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-227-30

Department of Mental Retardation

performed as needed and that the case manager is notified of any problems with the devices.

(13) The licensee shall ensure that the individual's case manager is notified whenever the seriousness or frequency of a behavior is causing distress to an individual or suggests the possibility of a physiological, psychiatric, or psychological condition.

(14) The licensee shall ensure that on-going psychiatric or neurological consultation is provided as ordered by the physician who prescribes the behavior modifying medication.

(15) When an individual receives antipsychotic medication, the licensee shall assist the individual to obtain an examination for signs of an involuntary movement disorder semi-annually or more frequently required by the department or the individual's physician.

(16) The licensee shall ensure that the individual is provided adequate nutrition and hydration and special diets or eating devices when specified by a dietary professional or a physician.

(17) The licensee shall ensure sufficient amounts and variety of nutritious food for meals.

(b) Resident Rights

(1) The licensee shall not deny services, and treatments shall not be withheld from individuals who are otherwise eligible for them, solely on the basis of religion, race, color, ancestry, national origin, sex or physical or mental disability.

(2) The licensee shall foster ongoing communication and contact between individuals and their families, friends and other significant persons.

(3) The licensee shall not require the individual to perform work beyond normal household chores, unless such work is part of a program that has been approved by the person's interdisciplinary team and, if necessary, the regional program review and human rights committees.

(4) The licensee shall not require the individual to be involved in the care, eating assistance, clothing, or training of other individuals.

(5) The licensee shall ensure each individual's access to his advocate or legal counsel.

(6) The licensee shall not subject the individual to harassment or humiliation in any aspect of the residential program.

(7) The licensee shall allow the individual to attend religious services as desired and whenever possible, shall help the person travel to religious activities in the community.

(8) The licensee shall allow the individual to acquire, possess, store, and have access to his personal belongings.

(9) The licensee shall not deny an individual regular meals for any reason, except according to a doctor's orders.

(10) The licensee shall allow individuals access to telephones with privacy for incoming and outgoing calls. Assistance in the proper use of the telephone shall be afforded the individual so he may pursue this right. Any limitations imposed on this access by the overall plan of services shall be reviewed and approved by the human rights committee and the regional director.

(11) The licensee shall ensure that the individual may receive and send sealed mail without any form of censorship or invasion of privacy. The licensee shall offer training and

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-227-30

assistance as needed to help the individual.

(12) The licensee shall allow the individual to voice grievances without interference.

(13) The licensee shall allow the individual to be employed outside of the home and assist him in his efforts to secure suitable employment.

(c) Prevention of Abuse and Neglect

(1) The licensee shall not use and shall prohibit the use of corporal punishment.

(2) The licensee shall not mistreat, abuse, or neglect an individual who receives services under the auspices of the licensee. The licensee shall report any instance of suspected abuse according to provisions of applicable state law.

(3) The licensee shall document any instance of possible abuse or neglect or unusual incidents in the individual's record and shall notify the department's case manager verbally within 72 hours of learning of the incident.

(4) The licensee shall cooperate with all investigating bodies and supply any information requested during an abuse investigation.

(5) The licensee shall verbally report the death of an individual to the regional director within 24 hours of the death.

(6) The licensee shall implement any protective service plan required by DMR or another agency authorized to investigate abuse and require these plans.

(d) Protection of Resident Financial Interests

(1) Money earned or received by an individual as a gift or allowance shall be treated as the individual's personal property.

(2) The licensee shall assist individuals to control their personal funds as prescribed in their overall plans of service, and assure that the individuals are involved in decisions related to the expenditures of such funds.

(3) The licensee shall, as appropriate to each individual's age and abilities, teach skills in budgeting, shopping and money management consistent with the individual's specific service plan for the residential setting.

(4) Individuals' personal monies shall not be used to pay for any services or other expenses which are funded by state or federal programs.

(5) The licensee shall assure that the financial interests and personal belongings of individuals who are transferred into a residence are received and properly accounted for. The licensee shall assure that individuals who are transferred from the licensee's residence leave in possession of their financial resources, personal property, and that appropriate documentation is maintained, including:

(A) If the individual is transferred to another residence, the licensee of the sending residence shall assure that the individual leaves in possession of his bankbook or any other indices of ownership of bank accounts,

(B) The balance of the individual's funds, shall be sent to the new licensee or the individual, whichever is appropriate, within ten (10) days after the transfer date, and

(C) Any cash held by the licensee plus any amount held in aggregate trustee bank accounts shall be included.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-227-30

Department of Mental Retardation

(6) The licensee shall assure the safekeeping of individuals' financial interests and personal belongings.

(A) Individual monies and personal belongings, to the extent the licensee exercises any control over such monies and belongings, shall be kept reasonably safe from theft or destruction,

(B) Checking, savings or any other bank accounts shall be titled in a manner that assures that only the resident has an ownership interest in such accounts, and

(C) Resident's personal monies and accounts shall not be commingled with the licensee's personal monies or accounts.

(7) A license shall maintain an accounting of all client personal monies. The accounting shall:

(A) Maintain an individual financial record which documents, on a monthly basis, receipt and disbursement of resident funds and personal monies,

(B) Provide adequate documentation to support disbursements of individuals' monies with bona fide receipts for items costing in excess of \$20.00 from vendors and stores identifying the nature of the expenditures,

(C) Assure that such documentation discloses specific dates of transactions, the amount and the current balance,

(D) Maintain such documentation a minimum of three (3) years from the date of the last audit by the department, and

(E) Provide timely reports in the form of a detailed accounting upon request of a resident, family members, guardians, advocates or the department.

(e) Medication and Restraint

(1) The licensee shall not use medication, restraint or punishment as a substitute for programming or in any manner that interferes with habilitative programming.

(2) Behavior modifying medication shall not be ordered or administered on an as needed (p.r.n.) basis.

(3) The licensee shall administer medication in accordance with the physician's order, including monitoring for adverse reactions. The physician shall be notified immediately if any adverse reactions are noted.

(4) The licensee shall not employ mechanical or physical restraints, isolation, or aversive methods without prior interdisciplinary team involvement and approval of program review and human rights committees.

(5) In an emergency situation, of severity equal to a sudden psychotic episode, acute mania or suicidal depression, the licensee shall ensure that the individual's case manager is notified as soon as possible.

(6) The licensee shall assure that, to the extent reasonably possible, an individual who experiences a behavioral emergency will be managed utilizing approved behavior management techniques without resorting to police intervention, hospital emergency room admission, or admission to a mental health facility.

In the event that a licensee cannot manage a behavioral emergency within the licensee's

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-227-30

resources and must resort to police intervention, hospital emergency room admission or admission to a mental health facility, the licensee shall notify the regional director or his designee via the region's emergency on-call system prior to taking any such action, or as soon as possible thereafter.

(7) If a behavior modifying medication is used on an emergency basis three times within a 30-day period, the licensee shall notify the individual's case manager.

(8) The licensee shall employ emergency mechanical or physical restraints only when absolutely necessary to protect the individual from injury to himself or to prevent injury to others.

(9) When mechanical or physical restraint is used three times within a 30 day period, the licensee shall notify the individual's case manager.

(10) The licensee shall report each use of an emergency restraint or behavior modifying medication to the DMR case manager within 72 hours.

(11) Only devices identical to those specified in a written behavior management program shall be used to restrain an individual. When an individual is restrained using mechanical devices, the licensee shall document for each use:

(A) That the safety and well-being of the individual is checked at least every 15 minutes during each application,

(B) That release from restraint was provided for a minimum of ten minutes every hour with an opportunity provided for motion, exercise, liquid intake, and toileting, and

(C) That release from restraint is allowed as soon as the individual is calm.

(f) Planning and Provision of Services

(1) The licensee shall participate in the individual's interdisciplinary team and shall assist in the development of the individual's overall plan of service.

(2) When the individual's overall plan of service specifies goals that are to be addressed in the residential setting, the licensee shall participate in the development and implementation of a written specific service plan in collaboration with the individual's interdisciplinary team as appropriate.

(3) Prior to the development of the specific service plan, the licensee shall review any pertinent information, which may include plans developed for the individual by other agencies to assess its relevance to the residential needs of the individual.

(4) The licensee shall ensure that the specific service plan developed for the residential setting is implemented consistent with:

(A) The behavioral objectives,

(B) The instructional methods,

(C) Collection, reporting and analysis procedures, and

(D) Timeframes identified in the plan.

(5) The licensee shall obtain any health, psychological, cognitive, social, or other assessment of the individual that is specified as the licensee's responsibility by the interdisciplinary team.

(6) The licensee and the case manager shall review the overall plan of service on at least

a quarterly basis to ensure that it is being implemented and that it continues to meet the needs of the individual.

(7) The licensee shall not transfer an individual without the prior approval of the department.

(8) The licensee shall ensure that he and his designees use the language or communication system that the individual uses or is being taught to use.

(9) The licensee shall teach the individual skills through activities and social interactions that maximize the individual's positive contact with other persons in the community.

(Effective August 24, 1994)

Contracting for Residential Support Services Supported Living Services

Sec. 17a-227-31. Definitions

For the purpose of Sec. 17a-227-31 through Sec. 17a-227-37, inclusive, the following definitions shall apply:

(a) "Annual Performance Review" means a review of the contractor's compliance with the terms of the contract.

(b) "Commissioner" means the commissioner of the department of mental retardation.

(c) "Contract" means written authorization issued by the commissioner to any person, firm or corporation to provide residential support services to persons with mental retardation for a period of up to one fiscal year.

(d) "Contractor" means the person, firm or corporation that is authorized by the commissioner to provide residential support services to persons with mental retardation and is responsible to the department for complying with the provisions of these regulations.

(e) "Department" means the department of mental retardation (DMR).

(f) "DMR policies" means written procedures and rules issued by the commissioner which govern the operation of the department and organizations and persons contracted with to provide residential support services pursuant to Section 17a-227 C.G.S. as amended by P.A. 89-375.

(g) "Dwelling" means any building designed for human habitation.

(h) "Follow-Along Plan" means an annual planning process identifying the minimal level of services for clients of the department.

(i) "Housing costs" means those costs normally attributable to the acquisition, retention, use and occupancy of a dwelling, including but not limited to rent or other periodic payments for use and occupancy.

(j) "Overall Plan of Services (OPS)" means an individual planning process that results in a document that specifies a strategy to guide the delivery of service to a person with mental retardation for up to one year.

(k) "Own Home" means any dwelling not requiring a license by the department that is occupied by a person with mental retardation for which the occupant pays his own housing costs wholly with his own funds or with assistance.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-227-33

(l) “Personal Care Services” means assistance to individuals which allows them to perform their routine activities of daily living to maintain independence, health, personal appearance, comfort, safety and interactions within their community.

(m) “Region” means the management of a geographical subdivision of the state as defined by the department.

(n) “Record” means written information pertaining to each service recipient which shall include administrative, treatment and educational data.

(o) “Residential Support Services” means any service provided by a person, firm or corporation to assist a person with mental retardation to live in his own home. These services are not intended for persons who have a need for continuous supervision or the presence of staff in the person’s own home for the purpose of protection or control except for certain periods of transition or adjustment. Such services may include, but are not limited to: periodic visits as defined in the service contract or supports provided by a paid neighbor or roommate, assistance with specific life needs such as financial management, locating housing, health care, shopping, teaching of basic independent living skills, periodic counseling and emotional support, personal care services or adaptive devices.

(p) “Residential Support Services Plan” means a plan for the delivery of residential support services developed in conjunction with the person receiving the services. This plan shall delineate in measurable terms the services to be provided, the person(s) responsible and timeframes for delivery of services.

(Effective August 24, 1994)

Sec. 17a-227-32. Applications

(a) Applications for a contract to provide residential support services to persons with mental retardation shall be filed, on forms provided by the department, with the regional office serving such persons.

(b) Existing contractors and new applicants shall make available updated application materials as requested by the department.

(Effective August 24, 1994)

Sec. 17a-227-33. Contracting procedure

(a) The regional office will review the application, and other such materials which may be required to accompany the application for completeness and accuracy. The regional office will provide technical assistance to the applicant upon request to complete the application package.

(b) The regional director or his designee will approve or deny the application.

(c) Upon regional approval of the application, the department will enter into a contract with the applicant to provide residential support services. The contract shall be for a term of up to one fiscal year and may be renewed in accordance with Sec. 17a-227-32 of these regulations. All contracts are conditional upon compliance with these regulations.

(d) Upon execution of the contract, the contractor shall provide the residential support

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-227-34

Department of Mental Retardation

services identified in the contract. The contract shall describe the services to be provided, the frequency and duration of those services and the amount to be paid to the contractor for provision of such services.

(e) The regional office shall conduct an annual performance review of the contract to determine client needs, eligibility for renewal and contractor efficiency and effectiveness.

(Effective August 24, 1994)

Sec. 17a-227-34. Contract cancellation

(a) The contract may be terminated without cause upon 30 days written notice by either party during the term of the contract. The department has the right to terminate the contract within 24 hours notice when it deems the health or welfare of the service recipient(s) is endangered.

(b) Contracts are subject to contractor compliance with all applicable department policies related to human rights, overall plans of service, freedom from abuse or neglect, use of restraints and psychotropic medications or other policies. As such, the contract may be cancelled, terminated or suspended for violation or non-compliance with such policies.

(Effective August 24, 1994)

Sec. 17a-227-35. Rights of service recipients

(a) The contractor shall:

(1) Notify the department and other public agencies specified in state laws or regulations of any instance of suspected abuse or neglect,

(2) Cooperate with agencies investigating abuse or neglect of persons with mental retardation and supply any information requested during the investigation, and

(3) Document any instance of possible abuse or neglect or unusual incidents in the person's record and shall notify the region within 72 hours of learning of the incident.

(b) The contractor shall document that staff are screened prior to employment. Documentation shall include reference letters from former employer(s) and personal references or phone notes on such references.

(c) The contractor shall not use and shall prohibit the use of corporal punishment.

(d) The contractor shall not deny services, and treatments shall not be withheld from persons who are otherwise eligible for them, solely on the basis of religion, race, color, ancestry, national origin, sex or physical or mental disability.

(e) The contractor shall not mistreat, abuse or neglect a service recipient or subject the person to harassment or humiliation.

(f) The contractor shall verbally report the death of a person to the regional director within 24 hours of learning of the death.

(Effective August 24, 1994)

Sec. 17a-227-36. Planning and provision of residential support services

(a) The contractor shall participate in any orientation or training that is required by the

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-227-37

contract to familiarize him with the needs of person(s) named pursuant to the contract and to give him the necessary skills to meet those needs.

(b) Whenever requested by the region, the contractor or his designee shall be a member of the person's interdisciplinary team and shall assist in the development of the person's overall plan of service or follow-along plan.

(c) The contractor shall ensure that documentation requirements specified in a person's overall plan of service or follow-along plan are met in a timely and accurate fashion.

(d) The contractor shall assist the person to obtain any health, psychological, cognitive, social, or other assessment of the person that is specified as the contractor's responsibility in the person's overall plan of service or follow-along plan.

(e) Regardless of the presence or absence of an overall plan of service or follow-along plan as required by the region, the contractor shall develop a written residential support services plan in collaboration with the person.

(1) The residential support services plan shall contain measurable service objectives that relate to the kind and amount of assistance needed by the person that will allow him to live in his own home. These objectives shall also relate to goals in the person's overall plan of service or follow-along plan that are essential to assisting the person to live in his own home if the person has such a plan.

(2) The contractor shall review the plan with the person to be served on a scheduled or as needed basis to ensure the continued relevance and effectiveness of the plan. This review shall occur not less than quarterly during the first year of service and annually thereafter.

(3) The contractor shall give the DMR case manager or other DMR personnel access to all documents pertaining to the residential support services plan to ensure that it is being implemented and that it continues to meet the needs of the individual.

(Effective August 24, 1994)

Sec. 17a-227-37. Contract conclusion

(a) Upon conclusion of the contract or more frequently if required by the contract, the contractor shall report to the department on forms provided by the department on the expenditure of funds and programmatic outcomes.

(b) The commissioner shall ensure that all payments made pursuant to the contract have been properly expended and shall recoup any payments improperly expended.

(c) The contractor shall maintain all records pertaining to this contract for a period of three years and provide the department access to such records upon request.

(Effective August 24, 1994)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Mental Retardation

Subject

Funding Program for Privately Operated Community Residences for Mentally Retarded Persons

Inclusive Sections

§§ 17a-230-1—17a-230-15

CONTENTS

Sec. 17a-230-1.	Definitions
Sec. 17a-230-2.	Application process
Sec. 17a-230-3.	Advance payments
Sec. 17a-230-4.	Per diem services reimbursement
Sec. 17a-230-5.	Regional eligibility teams
Sec. 17a-230-6.	Referral process
Sec. 17a-230-7.	Eligibility determination
Sec. 17a-230-8.	Ratio
Sec. 17a-230-9.	Client selection
Sec. 17a-230-10.	Client authorization
Sec. 17a-230-11.	Grandfathered individuals
Sec. 17a-230-12.	Reauthorization
Sec. 17a-230-13.	Transfers
Sec. 17a-230-14.	Hearings and reviews
Sec. 17a-230-15.	Respite

Funding Program for Privately Operated Community Residences for Mentally Retarded Persons

Sec. 17a-230-1. Definitions

(a) “**Admission**“ means a private residential facility’s acceptance of an individual into residence.

(b) “**Authorization**“ means the department of mental retardation’s acceptance of responsibility for programmatic payment for an individual.

(c) “**Case review**“ means examination of referral materials, records of decision making process of regional eligibility teams or private providers, and additional information as needed for the purposes of determining whether or not a person subjected to the authorization process or selection process for residential placement in a private residential facility had been unreasonably denied fair consideration.

(d) “**Commissioner**“ means the commissioner of the department of mental retardation.

(e) “**Department**“ means the department of mental retardation.

(f) “**Emergency placement**” means the admission of an individual into a private residential facility for reasons considered emergency by the provider (ex: an individual rendered homeless or where his or her principal caretaking person becomes unavailable).

(g) “**Existing facilities**“ means private residential facilities except community training homes, residential schools or habilitative nursing facilities, licensed under 19a-467 on or before September 30, 1983.

(h) “**Fair hearing**“ means the right of the mentally retarded person or private provider to request a hearing or review for the purposes of providing additional information and requesting a decision or justification of determinations made under the provisions of this statute and regulations.

(i) “**Grandfathered individual**“ means a person residing in a private residential facility licensed by the department and receiving state payment for the cost of such services prior to October 1, 1983 or any person who is admitted to a private residential facility for the mentally retarded after October 1, 1983, and not later than December 31, 1983, which private residential facility is licensed by the department after October 1, 1983 and who is receiving state payment for the cost of such services, if (1) not later than July 15, 1983, the applicant for licensure owns or has an interest in the private residential facility or land upon which the private residential facility shall be located, or concludes a closing transaction on any mortgage loan secured by mortgage on such private residential facility or land, (2) such private residential facility is licensed not later than December 31, 1983, and (3) the applicant for licensure presents evidence to the commissioner that commitments had been made by such applicant not later than July 15, 1983, for the placement of individuals in such private residential facility.

(j) “**Impartial individual**“ means a person who has had at least two years experience related to residential services to mentally retarded persons and has not participated in any decision on the clients’ eligibility or level of care.

(k) “**Level of care**“ means that degree of supervision, programming and intervention

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-230-1

Department of Mental Retardation

necessary to meet the needs of a given population or individual.

(l) “**Mentally retarded person**“ means an individual with significant sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

“Mental retardation” means the condition of a mentally retarded person as defined, includes borderline intelligence, and shall be determined by a psychologist licensed in the State of Connecticut.

(m) “**Pre-authorization process**“ means the method of determination by a regional eligibility team of the clients’ eligibility for authorization or payment according to his appropriate level of care for the purposes of providing information to private providers essential to the development of private residential facilities and client selection.

(n) “**Overall plan of care**“ means an individual written plan of programs and services developed, implemented, reviewed and modified according to the resident’s needs and in accordance with the department’s licensing regulations.

(o) “**Private residential facility**“ means any residence licensed by the department or proposed to be licensed by the department pursuant to Section 19a-467 CGS excluding community training homes, residential schools and habilitative nursing facilities.

(p) “**Private sector client**“ an individual who resides in his own home, family home, or home of friends, or is residing in a privately operated residential program.

(q) “**Provider**“ means an individual, partnership or corporation which owns or operates a private residential program.

(r) “**Public sector client**“ means an individual who lives in residential accommodations which are owned or operated by the department or who are mentally retarded, duly considered to be clients of the department through existing department practices, and reside in long term care facilities licensed by the department of health services.

(s) “**Ratios**“ means the prevailing relationship between public sector clients, urgent waiting list clients, and private sector clients for the purposes of selection of clients for placement in private residential facilities funded by the department under the provisions of this statute and regulations.

(t) “**Reauthorization process**“ means the determination by the department that a person, previously authorized for funding is either no longer eligible for funding or continues to be eligible for funding and, if still eligible for funding whether at the same level of care.

(u) “**Referral**“ means the written presentation of essential information regarding a public sector, urgent waiting list or private sector client to a regional eligibility team upon which determination shall be made of that client’s eligibility for authorization in accordance with these regulations.

(v) “**Residential services**“ means the provision of intervention, support or training appropriate to a level of care available in a private residential facility to meet the needs of mentally retarded persons and include direct care, administrative and support staff as well as other resources specified in these regulations which are necessary to ensure the provisions of such services.

(w) “**Respite**“ means the temporary emergency or relief placement of a mentally retarded person into a private residential facility for the purposes of providing food, shelter and supervision to that person for a period not to exceed thirty days.

(x) “**Supplemental case review**“ means a formal examination by an impartial third party of case review materials for which additional information and testimony may be given for the purposes of determining whether or not the individual has been unreasonably denied fair consideration during the authorization or selection process.

(y) “**Transfer**“ means the process by which the department shall coordinate efforts to secure an appropriate alternative residential placement for an individual who is not reauthorized for funding or not reauthorized at his present level of care.

(z) “**Urgent waiting list client**“ means an individual who is considered to be a client of the department through existing department practices who has met the existing department criteria of urgent need for residential placement as determined clinically through interdisciplinary team review, and whose name is maintained by the department on waiting lists for residential placement.

(Effective June 28, 1994)

Sec. 17a-230-2. Application process

(a) Any provider requesting funding under these regulations shall make application to the department prior to the authorization of the clients or the establishment of a rate by the department of income maintenance during times designated by the Commissioner for receipt of applications.

(b) The application shall be on forms provided by the department and shall at least include the following information:

- (1) name and address of corporation, person or persons who will operate the private residential facility,
- (2) list of other programs and their addresses currently being run by the corporation or person,
- (3) full disclosure of partners or board members, and officers,
- (4) if a corporation, a copy of a financial audit conducted within the past two years by an independent certified public accountant, or licensed public accountant,
- (5) if a person or partnership, three professional references and present employment information,
- (6) concerning the private residential facility for which funds are requested:
 - (A) type of private residential facility,
 - (B) proposed opening date,
 - (C) proposed number of clients,
 - (D) specific location,
 - (E) age, sex and disability range of proposed clients,
 - (F) type of day programs to which clients will have access,
 - (G) staffing pattern by shift,

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-230-3

Department of Mental Retardation

- (H) professional/clinical services to be provided,
- (I) proposed operating budget,
- (J) advance payment requirements, and
- (K) method of financing the development of the private residential facility and any long term financing requirements.

(c) The commissioner shall review each provider's application and shall notify the applicant within sixty days of the closing date for the receipt of application as to his decision. In his review, the commissioner shall consider the relationship of the proposal to the department's residential plan, the financial feasibility of the proposal and its impact on the applicant's rate and financial condition, the proposal's contribution to quality, accessibility and cost-effect, residential service and any other factors which the commissioner deems relevant including:

(1) whether the existing or proposed administrative structure is sufficient to properly develop, operate and maintain the proposed private residential facility on a continuous long term basis. Evidence shall include at least the following:

(A) operating policies and procedures, (B) provision for supervision of staff, (C) provision for implementation of clients' plans of care, (D) availability of program support services, and (E) provision for administrative oversight.

(2) Whether the provider has or can obtain the necessary financial resources to establish and maintain the proposed private residential facility, evidence of which shall include at least the following: (A) availability of capital financing for property development (B) provision for start up and working capital requirements, and (C) financial management abilities.

(d) Project Review Committee

There shall be a statewide project review committee (see P.A. 83-39, Sec. 15) which shall review all proposals to be funded. The committee shall report to the commissioner its findings and recommendations on each application on whether it is appropriate for housing retarded persons and whether it meets the department's statewide residential plan.

(e) The commissioner's approval for funding may include a commitment to: advance payments as provided in Sec. 3 of these regulations, the number of residential beds, levels of care and a specific opening date for the private residential facility. Such commitment shall remain in effect for no more than sixty days past any specified opening date of the private residential facility, approved by the commissioner. An extension of such commitment may be granted by the commissioner if an extension request is received in writing no later than ten days before the specified opening date.

(Effective June 28, 1994)

Sec. 17a-230-3. Advance payments

(a) The commissioner may make payments to a provider in advance of provider's rendering services for any of the following expenditures:

- (1) Rent or mortgage, utilities and other costs incurred to open and maintain the private

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-230-4

residential facility.

(2) Salaries, fringe benefits and other expenses for direct care, and professional staff incurred in order to (A) develop the residential services, (B) select, evaluate and place clients, or (C) both (A) and (B).

(3) Administrative and organizational expenses incurred in order to develop the private residential facility.

(b) Payments may only be made if expenses are incurred during the forty-five days just prior to the initial admission of the first client to the private residential facility.

(c) Prior approval shall be obtained by submitting in writing, on forms supplied by the department, an itemized budget of allowable costs to be incurred. The department may make advance payment prior to the expenditure of funds by the provider. Payments may be made no more than sixty days in advance of the admission of the first client to the private residential facility. Records of expenditures must be maintained by the provider and submitted to the department no later than forty-five days after the admission of the first resident.

(d) Expenditures submitted shall be considered proper if (1) they do not exceed charges made for comparable services to the general public, (2) are for those expenditures described in Sec. 3, (3) have prior approval, and (4) are incurred no earlier than forty-five days prior to the first admission to the private residential facility.

(e) If an expenditure is found to be improper by the department, and payment to the provider has already been made, the provider shall return such payment to the department within thirty days of receipt of written notice.

(f) Advance payments under this section shall be no greater than forty-five days of the per diem rate established for the private residential facility by the department of income maintenance multiplied by the number of approved beds.

(Effective June 28, 1994)

Sec. 17a-230-4. Per diem services reimbursement

(a) Per diem services reimbursement under this section shall be based on the rate established for services under Section 17-313b.

(b) Reimbursement shall be made each month for services rendered the previous month and shall be based upon attendance records submitted by the provider for the previous month. Reimbursement shall be made directly to the private residential facility for clients authorized by the department.

(c) A cash advance shall be paid by the department no later than the fifteenth day of the first month of operation. The advance shall equal thirty days of funding at the rate for services established under Section 17-313b of the General Statutes. It shall be paid for the total number of beds authorized for the private residential facility under Section (e) of Section 17a-230-2 of the Regulations of Connecticut State Agencies into which authorized clients will be placed. The cash advance payment shall be applied to the amount owing for services for the last month of the private residential facility's operation. If the private

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-230-5

Department of Mental Retardation

residential facility is subsequently certified as a medicaid provider, the cash advance will be collected within one year of such certification. If the private residential facility is subsequently converted, with prior approval of the department, to a residential program which does not require licensure, the cash advance shall be retained by the provider and applied to the amount owed for services for the last month of such residential program's operation.

(d) An authorized client may be absent from the private residential facility up to twenty-eight days a year without affecting reimbursement to the private residential facility. To obtain reimbursement for absences in excess of twenty-eight days, the private residential facility shall obtain prior approval of the department. Requests shall be submitted in writing to the department.

(e) Reimbursement shall be authorized for the day of admission and not for the day of discharge of a client, except that: in the case of death, and in the case of an admission and discharge on the same date, reimbursement is authorized for one day of care. A day for other purposes shall be the census of the private residential facility taken at midnight.

(f) The department shall reimburse providers pursuant to an annual contract for services. Such contracts may address advance payments, a commitment for a maximum day of service and cash advance for services at the rate established by the department of income maintenance.

(g) The department shall have a contract with each provider which shall include at a minimum: (1) the number of private residential facilities to be operated by the provider, (2) the number of clients to be served per private residential facility, (3) the level of care that shall be provided for each client, (4) that each client shall have an overall plan of care that shall include the amount, duration and scope of services to be provided, and (5) the maximum total amount to be paid by the department.

(h) The department may revoke or modify any contract with a provider, if it finds that the provider has not met the provisions of this contract as defined in subsection (g) of this section. It may revoke any contract where the provider has misrepresented information required in section 2(b) of these regulations.

(Effective November 17, 1994)

Sec. 17a-230-5. Regional eligibility teams

(a) There shall be a regional eligibility team in each region of the department.

(b) This team shall be composed of five members. One shall be the region's superintendent or his designee who shall function as chairperson, two shall be department staff. Two shall represent private sector residential, parent or advocacy groups. At least three disciplines shall be represented.

(c) The teams shall (1) meet as often as necessary to provide lists of clients as provided in Section (e) of the department's urgent waiting list, public and private sector eligible individuals in accordance with these regulations to facilitate client selection for private residential facilities in the region, (2) have a quorum present which consists of fewer than

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-230-6

three members, alternates and the chairperson included, at least one of which is private sector representative, (3) allow the testimony of the client where appropriate or of other persons who know the needs of those individuals who are being considered for authorization, (4) adopt by-laws in accordance with standards developed by the department with regard to team process and procedures and maintain minutes of all team meetings, (5) be responsible for maintaining lists of eligible urgent waiting list, public and private sector clients in accordance with these regulations, and (6) be responsible for ensuring that timely notifications are provided to appropriate designated parties of the results of the team's determinations.

(d) Private sector residential, parent and advocacy groups shall nominate from their staff or membership from the region those whom they recommend for the superintendent's appointment to fill the two non-department positions of the team. The superintendent shall appoint from the nominees unless none or only one is received from the private sector. Appointees shall serve one year terms commencing with the first meeting of the regional eligibility teams. An alternate shall also be appointed to serve in the absence of the regular members of both department and private sector representative. Members and alternates may be reappointed to no more than four consecutive terms.

(e) The purpose of the regional eligibility team shall be to: (1) review client referral material submitted by the department and private providers to determine client eligibility for authorization according to Section 7 of these regulations; (2) assign each referred client to a level of care in accordance with these regulations; (3) develop lists of eligible clients according to assigned levels of care; (4) develop lists of department urgent waiting list authorizable clients according to assigned levels of care; (5) provide data on numbers of clients of each level of care to private providers developing residential services; (6) provide lists and referral information to private providers; (7) protect the confidentiality of individuals; (8) inform the individual, his or her parent or legal representative and referring provider of decisions in a timely manner and in writing; and (9) conduct case reviews, in accordance with Section 14 of these regulations.

(Effective June 28, 1994)

Sec. 17a-230-6. Referral process

(a) Referrals, as defined in these regulations, shall be made on forms provided by the department, by private providers or department agencies for persons who are known to these providers or agencies and who are currently requesting or receiving services from these providers. Referrals shall be made with permission of the individual, parent, guardian or other legal representative or by the responsible state agency.

(b) Referral information provided to the regional eligibility team shall be sufficient to substantiate the referring party's position: (1) that the individual is mentally retarded as defined in these regulations and therefore potentially eligible for department funding; (2) that there is justification of the individual's need for residential services at a level of care provided for in Section 7 (b) of these regulations according to some or all of the following

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-230-7

Department of Mental Retardation

factors; (A) the need to deinstitutionalize that person, (B) the need to prevent that person's institutionalization, (C) the need for age-appropriate or other specific types of residential services, (D) the urgent need of that person for placement to prevent functional deterioration; and (E) that the person's financial statement confirms his receipt of aid to the disabled, aid to the blind or aid to the elderly or that his ability to pay for residential services as defined in Section 7 (c) of these regulations, does not exceed the potential cost of such level of care.

(c) In the event of an emergency placement, as defined in these regulations, of a client by a private provider into one of its private residential facilities, the same information called for in sub-section (b) of this section shall be provided to the regional eligibility team within seven days after the emergency placement in order to determine that client's eligibility for authorization. Sufficient documentation to verify the nature of the emergency and the need for residential placement shall be provided to the department within seven days of the placement.

(Effective June 28, 1994)

Sec. 17a-230-7. Eligibility determination

(a) Determination of client eligibility for authorization shall be based on the regional eligibility team's review of the information provided in written referral materials in accordance with Section 6 of these regulations. This review shall include, but shall not be limited to, verification of the client's diagnosis of mental retardation as defined in these regulations, determination of the level of care required by the client and determination of need for residential services. The commissioner or his designee may waive the level of care assigned to a specific client by the regional eligibility team, and assign a different level, if the commissioner or his designee deems such action reasonable to facilitate or promote an otherwise appropriate placement.

(b) There shall be five levels of care: (1) Level I shall be the supervised level of care which shall provide minimal protection and supervision, limited professional, consultative and support services concentrating on the use of generic community services, refinement of independent living skills and counseling for placement into employment. Residents shall have self-preservation skills and shall be capable of self-administering any medications they may require. (2) Level II shall be the semi-structured level of care which shall provide the supervision of basic living skills, training in the use of leisure time and development of social skills. Residents shall have self-preservation skills, shall be capable of administering any medications they may require and shall receive training to assure maintenance of these skills. (3) Level III shall be the structured level of care which shall provide training in basic living skills, training in the use of leisure time and development of social skills and professional consultative and support services as needed. Residents may not have acquired self-preservation skills or may not be capable of self-administering medications and shall receive training in both. (4) Level IV shall be the intensive level of care which shall provide training in basic self-care skills, behavioral intervention and modification of problem behaviors, and direct professional support services. Residents shall receive intensive training

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-230-8

designed to develop self-preservation skills and shall have medications administered by appropriately training personnel. (5) Level V shall be the highly intensive level of care which shall provide total support for self-care, intensive behavioral intervention and modification, and direct professional support services. Residents shall require twenty-four hour supervision due to total lack of self preservation skills and may require up to twenty-four hour medical monitoring.

(c) The department shall determine if the client meets the following financial eligibility requirements: (1) the client is eligible for or receiving aid to the disabled, aid to the blind or aid to the elderly, or (2) the client does not have the ability to pay for any portion of the residential services at his assigned level of care at the established rate, as evidenced by a signed financial disclosure statement on forms provided by the department, or (3) the client has the ability to pay for only a portion of the residential services at his assigned level of care at the established rate, as evidenced by a signed financial disclosure statement on forms provided by the department.

(d) If financial eligibility is based on ability to pay for a portion of residential services as in sub-section (c) (3) of this section, the client shall be eligible for authorization for funding of only that portion of the residential services for which he is unable to pay.

(e) The regional eligibility team shall create three separate lists of individuals who are determined to be eligible for authorization in accordance with sub-sections (a) and (b) above as follows: (1) public sector clients, (2) department's urgent waiting lists of clients from the private sector, (3) private sector clients. Each list shall be maintained according to levels of care in order to facilitate residential development and client selection by the private sector according to the established prevailing ratios addressed in Section 8 of these regulations.

(f) The regional eligibility team shall create a separate list of individuals who are determined to be eligible for respite in accordance with (a) and (c) above and without regard to whether the individual is from the public sector or the private sector.

(g) Appeals under Section 7 shall be processed according to Section 14—Hearings and Reviews.

(Effective June 28, 1994)

Sec. 17a-230-8. Ratio

(a) The ratio as defined in these regulations shall be set at: three clients from the public sector, one client from the department's urgent waiting list, and two clients from the private sector.

(b) Such ratio shall be in effect until it is reviewed and revised by the commissioner in consultation with the commission on long term care and private sector representatives. Review shall occur one year after the effective date of these regulations and at least annually thereafter.

(c) Regarding new private residential facilities, such ratios shall be applied to either an individual private residential facility or several private residential facilities sponsored by the same provider provided these private residential facilities are approved for development

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-230-9

Department of Mental Retardation

in accordance with Section 2 of these regulations and shall be available in a timely way agreed upon in advance by the developing provider and the department.

(d) Regarding existing private residential facilities, such ratio shall be applied only to vacated beds.

(e) Nothing in this section shall prevent a private residential facility from selecting more than the specified number of clients from the public sector.

(Effective June 28, 1994)

Sec. 17a-230-9. Client selection

(a) The provider planning to develop or manage a specific private residential facility, upon receiving a commitment from the department to proceed with such development shall have access to lists of individuals who have been determined by regional eligibility teams to need the level of care to be provided by the private residential facility and are therefore eligible for authorization. Likewise, existing private residential facilities operating under the provisions of these regulations which seek to fill a vacancy shall have similar access to such lists of clients, determined to need the level of care provided by the private residential facility.

(b) The availability of these lists of eligible clients shall not be unreasonably restricted by geographic catchment area, however, it is understood that for some persons there may be an optimal region of placement that shall be considered during the selection process.

(c) From these lists of public and private sector individuals, the designated staff or individuals charged by the provider with the responsibility for client selection (1) shall have access to referral information concerning the eligible individuals being considered for placement which is contained in department files; (2) shall have access to visitation with those individuals and staff of those person's current residential and day program; and (3) may contact those individuals' families. Staff involved in these selection activities shall adhere to statutory requirements regarding client confidentiality.

(d) To qualify for funding under these regulations, the licensee shall select individuals for residence from among clients determined to be eligible by the regional eligibility team and in accordance with the ratio set forth in Section 8.

(Effective June 28, 1994)

Sec. 17a-230-10. Client authorization

The commissioner shall authorize a client for funding at the rate established by the department of income maintenance under Section 17-313b of the General Statutes when he finds that the client has been determined eligible for funding according to Section 7 of these regulations, that the client has been selected by an eligible private residential facility that can provide the level of care he needs and that his selection conforms with the ratio as set forth in Section 8. Such authorization shall remain in effect until the next reauthorization or until the client leaves the private residential facility.

(Effective June 28, 1994)

Sec. 17a-230-11. Grandfathered individuals

(a) The commissioner shall pay for the per diem reimbursement costs as established by Section 4 of these regulations after June 30, 1984 when the regional eligibility team determines that a grandfathered individual (1) is eligible for authorization at his current level of care in accordance with Section 7 (b) of these regulations; (2) requires a different level of care which is currently available in his current private residential facility or; (3) is not appropriate at the present level of care but that a transfer is clinically contraindicated at the time; (4) meets the financial eligibility requirements of Section 7 (c) and (d).

(b) The regional eligibility team shall provide notice in writing within thirty days after the review to any grandfathered individual who does not meet the conditions addressed in sub-section (a) of this section, of its determination that the client is not eligible for department funding after June 30, 1984. Copies of such notice shall also be forwarded to the provider operating the private residential facility in which the client currently resides. Clients denied eligibility for authorization may appeal the regional eligibility team decision under the provisions of the statute. The department shall, however, provide funding at the level provided by the department of income maintenance prior to July, 1984, until final disposition of the appeal.

(c) The transfer process according to Section 13 of these regulations shall be implemented immediately upon receipt of notice from the regional eligibility team that a grandfathered client has been determined financially ineligible for department funding or determined to be eligible for funding at a different level of care than provided at the private residential facility in which he currently resides.

(Effective June 28, 1994)

Sec. 17a-230-12. Reauthorization

(a) Client reauthorization for funding, as defined in these regulations, shall be conducted for each funded individual by the department on at least an annual basis.

(b) Reauthorization may be conducted more frequently at the request of the individual, his legal representative, the private provider providing residential services, or the department. Justification for any such request may include: (1) change of client's functioning which would warrant a different level of care, or (2) emergency transfer of the client in accordance with Section 13 of these regulations.

(c) Reauthorization shall include a review of the client's record to: (1) verify diagnosis of mental retardation as defined in these regulations; (2) determine the client's appropriateness for the level of care provided by the private residential facility where he resides at the time of reauthorization using criteria for levels of care established in Section 7 (b) of these regulations, and (3) determine the client's financial eligibility for funding according to criteria established in Section 7 (c) and 7 (d) of these regulations.

(d) Reauthorization at the same level of care shall occur when the department determines: (1) that the individual is mentally retarded as defined in these regulations, (2) that the individual is financially eligible for funding, and (3) that the individual is (A) appropriate

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-230-13

Department of Mental Retardation

for his current level of care (B) appropriate for a different level of care which is not currently available in either his current private residential facility or in another private residential facility within the regional center catchment area, or (C) appropriate for a different level of care but a transfer is clinically contraindicated at the time.

(e) Reauthorization at a different level of care shall occur when the department determines (1) that the individual is mentally retarded as defined in these regulations, (2) that the individual is financially eligible for funding, and (3) that the client is inappropriate for current level of care but the appropriate level of care is available in either his current private residential facility or in another private residential facility within the regional center catchment area and transfer is not clinically contraindicated at the time.

(f) The department shall provide notice in writing within thirty days of any review to all individuals subject to the reauthorization process regarding its decision of (1) reauthorization at the same level of care, (2) reauthorization at a different level of care, or (3) denial of reauthorization. Copies of such notice shall be sent to the provider operating the private residential facility in which the client currently resides and the appropriate parties of the department according to procedures established to implement these regulations.

(Effective June 28, 1994)

Sec. 17a-230-13. Transfers

(a) The department shall initiate the transfer of a client when it is determined that a client is (1) reauthorized at a level of care that is not being provided in the client's present private residential facility, or (2) found to be ineligible for reauthorization.

(b) When the department has found an appropriate placement for transfer, notice of the transfer shall be provided at least fifteen days preceding the date on which transfer is to occur, to the individual or his representative and all other involved parties.

(c) Funding shall continue until the transfer takes place. No individual shall be transferred while awaiting a determination.

(d) The department shall not fund any individual who (1) has exhausted his right of appeal under Section 14, and (2) has been given proper notice of transfer and refuses the transfer.

(e) When a transfer is initiated by a private residential facility, funding for that client shall continue if prior approval is obtained from the department.

(f) In the event of an emergency placement of a previously unfunded client into a private residential facility authorized for funding according to Section 2 of these regulations, written notice shall be provided to the department agency of the region in which the private residential facility is located within seven days after the emergency placement. It shall be the responsibility of the private provider to refer the client to the appropriate regional eligibility team to determine his eligibility for funding according to Section 7 of these regulations. All provisions of these regulations regarding appeals, reauthorization and transfers shall apply to individuals placed on an emergency basis under this subsection.

(Effective June 28, 1994)

Sec. 17a-230-14. Hearings and reviews

(a) Case Review, as defined in these regulations:

(1) Shall be offered to persons: (A) who have been denied initial eligibility for authorization under Section 7, (B) who dispute the level of care that was initially assigned to them by the regional eligibility team, or (C) who have been denied admission by a private residential facility.

(2) The request for a case review shall be made in writing by the individual, or his legal representative, to the superintendent of the region or to the private residential facility or to both according to subsections (4) and (5) below. The superintendent or the private residential facility shall transmit such request to the regional eligibility team within five days. The request shall be made within fifteen days after the receipt of notice of denial or eligibility, dispute of level of care or denial of admission to a private residential facility.

(3) At the time of request for a case review, any additional information may be submitted by the client or his legal representative.

(4) If a client has been denied eligibility or disputes his level of care, the regional eligibility team shall, within thirty days after receipt of request for case review, review its previous decision and any new information submitted and either confirm or change its original decision.

The chairperson of the regional eligibility team shall notify the individual of the team's decision in writing.

(5) If a client has been denied admission to a private residential facility, the private residential facility's selection body shall review its decision and if the initial decision prevails, a notice shall be sent to the client stating the reasons for denial of admission. A copy of the decision shall be sent to the regional eligibility team.

(b) A supplemental case review, as defined in these regulations, shall apply as follows:

(1) A client or his representative, who is not satisfied with the decision in subsection (a) (4) and (5) may request a supplemental case review.

(2) Request for a supplemental case review shall be made in writing to the superintendent of the region in which the decision was made. Requests shall be made within fifteen days of receipt of notice of the case review decision.

(3) The superintendent of the region, upon receipt of such request, shall appoint an impartial individual to review the decision of the regional eligibility team of the private residential facility.

(4) The impartial individual shall solicit any information from the client or his legal representative and the regional eligibility team or the private residential facilities and may require attendance at a meeting by such parties in order to make a binding determination of the dispute.

(5) If the impartial individual schedules a meeting of the parties, he shall do so within five days of the receipt of the request for supplemental case review and such meeting shall be held within fifteen days of receipt of the request.

(6) The decision of the impartial individual shall be sent in writing to all parties involved

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-230-15

Department of Mental Retardation

within ten days of any meeting or if no meeting is held, within ten days of receipt of the request and will be binding.

(c) Fair hearings, as defined in these regulations, shall apply:

(1) Whenever a regional eligibility team declines to reauthorize a person for continued funding or there is a change in the level of care of a previously authorized individual, the regional eligibility team shall give thirty days notice in writing to the individual and such individual's parent, conservator, guardian, or other legal representative and the private residential facility in which the person lives. Such notice shall also inform such individual the reason for determination and of his right to contest the determination by submitting in writing a request for fair hearing under the provisions of this subsection.

(2) Request for a hearing shall be made to the commissioner in writing within fifteen days of receiving the notice required by this subsection.

(3) The hearing, if requested, shall be held within thirty days of the request with proper notification to all parties.

(4) The hearing shall be conducted in accordance with the provisions of Section 4-177 to 4-184 inclusive of the General Statutes.

(Effective June 28, 1994)

Sec. 17a-230-15. Respite

(a) Any private provider applying for funding from the department may request that one or more of the beds to be developed be designated as a respite bed.

(b) The department may at the time of approval for funding under Section 2 (b) authorize the private provider's request to establish a respite bed.

(c) Clients entering respite beds and requesting funding shall be previously determined eligible for respite by the regional eligibility team under Section 7 (f).

(d) For the purposes of funding, respite authorizations shall not be according to level of care determinations.

(e) Payment made to the provider shall be at a rate established by the department of income maintenance.

(f) For the purposes of rate setting, the utilization of the bed shall only be counted when a client occupies the bed.

(g) Payment for an authorized respite client shall be no more than 30 consecutive days and no more than a total of 90 days per year.

(Effective June 28, 1994)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Mental Retardation

Subject

Rights of Persons Under the Supervision of the Commissioner of Mental Retardation

Inclusive Sections

§§ 17a-238-1—17a-238-13

CONTENTS

Sec. 17a-238-1.	Definitions
Sec. 17a-238-2.	Corporal punishment
Sec. 17a-238-3.	Emergency procedures
Sec. 17a-238-4.	Seclusion
Sec. 17a-238-5.	Chemical restraint
Sec. 17a-238-6.	Use of therapies
Approval Procedures for use of Adversives for Persons Placed or Treated Under the Supervision of the Department of Mental Retardation	
Sec. 17a-238-7.	Preamble
Sec. 17a-238-8.	Definitions
Sec. 17a-238-9.	Prohibitions
Sec. 17a-238-10.	Approval process for behavioral support plans which include aversive procedures
Sec. 17a-238-11.	Emergency use of physical or mechanical restraint
Sec. 17a-238-12.	Department approved aversive procedures
Sec. 17a-238-13.	Approval process for training curricula, physical restraint procedures, restraint apparatus and forms of physical isolation

Rights of Persons Under the Supervision of the Commissioner of Mental Retardation

Sec. 17a-238-1. Definitions

For the purpose of Sections 17a-238-1 through 6 inclusive, the following definitions shall apply:

(a) **Department** and **Departmental** as used in these regulations refer to the Department of Mental Retardation.

(b) **Persons** or **clients** are individuals served by the Training Schools and Regional Centers under the supervision of the Commissioner of Mental Retardation.

(c) **Service** is any departmental program that provides: direct care and treatment; functional education; preacademic, academic, prevocational and vocational skills training; self-help skills training; therapy, counseling, recreation, and evaluations which include, but are not limited to, psychological, medical, social service, audiological and communication.

(d) **Corporal punishment** is the application of a painful stimulus to the body as a penalty for behavior, but does not include the contingent application of such a stimulus in an approved written behavior modification or behavioral therapy program which complies with federal and state regulations.

(e) **Therapy** is any of many methods utilized by many disciplines whose purpose is to enable the client to interact with and adapt to the environment so as to function in a manner which is adequate for his or her needs and for the development to full potential. These therapy methods include, but are not limited to, behavior modification and psychotropic drug therapy.

(f) **Restraint** is the use of any device or means to hold back, bind, tie, restrict, or otherwise prevent a client from doing something, and from which the client cannot voluntarily extricate himself or herself. Restraint shall include totally enclosed cribs. Supportive devices used in normative situations to achieve proper body position and balance shall not be considered to be restraints, provided that they are approved by a physician licensed to practice in the State of Connecticut.

(g) **Seclusion** is the placement of a client alone in a locked room, but does not include the contingent use of a time-out from positive reinforcement room when employed in an approved written behavior modification or behavior therapy program which complies with state regulations and departmental policy.

(h) **Force** is constraining or compelling the actions of another by physical means.

(i) **Habilitation** is the process by which the staff of the facility assists the client to acquire and maintain those life skills which enable the client to cope more effectively with the demands of that client's own person and environment, and to raise the level of the client's physical, mental and social efficiency. Habilitation includes, but is not limited to programs of formal, structured education and treatment.

(j) **Treatment** shall refer to and be synonymous with therapy.

(k) **Emergency intervention** as here defined refers to the actions staff shall take in response to a situation which threatens health or life as a result of self-injury and/or violent

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-238-2

Department of Mental Retardation

assaultive behavior toward others.

(l) **Staff** shall include anyone employed by the Department, the Training Schools, the Regional Centers and any other authorized person having direct contact with, or responsibilities for, clients.

(m) **An individual “plan of care”** is a written plan setting forth goals or behaviorally stated objectives and prescribing an integrated program of individually designed activities, experiences, training, or therapies necessary to achieve such goals or objectives. The overall objective of the plan is to attain or maintain the optimal physical, intellectual, emotional, social or vocational functioning of which the individual is presently or potentially capable. “Individual plan of care” and “individual program plan” are used interchangeably hereafter.

(n) **Training** as herein defined refers to a systematic and planned application of procedures in the form of a formal written behavior program for the purpose of helping a client acquire and/or maintain behaviors, skills and capabilities.

(o) **Chemical Restraints** as here defined are drugs such as tranquilizers or other psychopharmacologic agents which are used for the purpose of controlling or limiting behavior.

(Effective August 24, 1994)

Sec. 17a-238-2. Corporal punishment

(a) Staff shall not use corporal punishment on clients.

(Effective August 24, 1994)

Sec. 17a-238-3. Emergency procedures

(a) Staff shall not use restraint or force upon a person except as an emergency intervention or as an integral part of an individual program plan.

(b) Physical restraint shall be employed only when absolutely necessary to protect clients from injury to themselves or to others. Restraint shall not be employed as a punitive measure, for the convenience of staff, or as a substitute for program in accordance with Sec. 249.13 (b) (1) (xi) (A) through (E) of the Federal ICF/MR Standards.

(c) Force shall be employed only when absolutely necessary and only to the extent essential to protect clients from injury to themselves or to others. Force shall not be employed as a punitive measure for the convenience of staff, or as a substitute for program.

(Effective August 24, 1994)

Sec. 17a-238-4. Seclusion

(a) Staff shall not use seclusion, in accordance with Sec. 249.13 (b) (1) (x) of the Federal ICF/MR Standards.

(Effective August 24, 1994)

Sec. 17a-238-5. Chemical restraint

(a) Chemical restraints shall not be used as a punitive measure, for convenience of staff,

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-238-8

as a substitute for program, or in quantities that interfere with a client's habilitation program in accordance with Sec. 249.13 (b) (1) (xii) of the Federal ICF/MR Standards.

(b) The use of chemical restraints shall be authorized in writing by a licensed physician for accepted therapeutic reasons and for a specified period of time as an integral part of the client's habilitation program.

(c) The written authorization for chemical restraints shall specify the behavior to be controlled or limited and the data that are to be collected in order to assess progress toward the treatment goal.

(Effective August 24, 1994)

Sec. 17a-238-6. Use of therapies

(a) Staff shall utilize therapy procedures only when indicated by a client's habilitation program.

(b) The client's habilitation program shall indicate which therapies shall be used.

(c) Therapy programs shall be designed and supervised by staff who are qualified mental retardation professionals in accordance with Sec. 249.13 (h) (iii) of the Federal ICF/MR Standards, within their respective areas of professional competence.

(Effective August 24, 1994)

Approval Procedures for use of Adversives for Persons Placed or Treated Under the Supervision of the Department of Mental Retardation

Sec. 17a-238-7. Preamble

Notwithstanding any general statutes or regulations to the contrary, Sections 17a-238-7 to 17a-238-13, inclusive, establish comprehensive procedures for the development and review of behavioral support plans or courses of treatment, for persons placed or treated under the direction of the commissioner, which include the use of aversive procedures in accordance with subsection (b) of section 17a-238 of the Connecticut General Statutes. In establishing these procedural safeguards the department affirms its commitment to positive behavioral supports and therefore demands rigorous adherence to these procedures whenever programs and plans are proposed which include the use of aversive procedures.

(Effective November 17, 1994)

Sec. 17a-238-8. Definitions

For purposes of Sections 17a-238-7 thru 17a-238-13 the following definitions shall apply:

(1) "Aversive device" means an instrument used to administer an electrical shock or other noxious stimulus to an individual to modify undesirable behaviors.

(2) "Aversive procedure" means the contingent use of an event which may be unpleasant, noxious or otherwise cause discomfort to (1) alter the occurrence of a specific behavior or to (2) protect an individual from injuring himself or others and may include the use of physical isolation and mechanical and physical restraint.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-238-8

Department of Mental Retardation

(3) “Behavioral support plan” means a written document developed to address an individual’s behaviors which interfere with the implementation of the goals and objectives in the individual’s annual plan. If the use of aversive procedures to protect the individual from harming himself or others is reasonably anticipated to be needed, these specific procedures shall be included in the plan.

(4) “Commissioner” means the commissioner of mental retardation.

(5) “Department” means the department of mental retardation.

(6) “Emergency” means the demonstration of a serious behavioral problem which may adversely affect the health or safety of the individual or others and for which a behavioral support plan has not been developed or approved; or for which a previously designed behavioral support plan is not effective.

(7) “Functional analysis” means the systematic assessment of an individual’s behavior that yields: (1) an operational description of the undesirable behaviors; (2) the ability to predict the times and situations in which the undesirable behavior will occur across the full range of typical daily routines; (3) a definition of the function the undesirable behavior produces for the individual; (4) an understanding of the environmental, interpersonal, and other ecological factors that shall be considered in order to develop an effective positive programmatic response to the behavior.

(8) “Human rights committee” means a group of individuals who are not employees of the department, who provide monitoring to ensure the protection of legal and human rights of individuals with mental retardation.

(9) “Interdisciplinary team” means a group of people that includes the individual being served, his family, guardian or advocate, those people who work most directly with the individual in each of the professions, disciplines, or service areas that provide service to the individual, including direct care staff, and any other people whose participation is relevant to identifying the needs of the individual.

(10) “Mechanical restraint” means any apparatus used in an aversive procedure that restricts individual movement excluding mechanical supports designed by a physical therapist and approved by a physician that are used to achieve proper body position or balance and helmets used to protect an individual from injuries due to falls caused by seizures. Helmets, mitts and similar devices used to prevent self injury are considered mechanical restraints.

(11) “Physical isolation” means the process used in an aversive procedure whereby an individual is separated from others, usually by placement in a room or area alone.

(12) “Physical restraint” means the aversive procedure of physically holding an individual to restrict movement or to prevent the individual from harming himself or others.

(13) “Positive behavioral support” means an integrated approach to teach an individual adaptive and socially appropriate skills. Such supports may include teaching strategies and/or environmental supports to increase adaptive behaviors, and decrease maladaptive behaviors. Such supports should treat the individual in a respectful, age-appropriate manner, should be built into the individual’s daily schedule, and should occur in a natural context.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-238-10

The individual and his family, advocate and support staff should be involved in the design of the positive behavioral supports.

(14) “Program review committee” means a group of professionals, including a psychiatrist, assembled to review individual programs and behavior modifying medications to ensure that they are clinically sound, supported by proper documentation, and are being proposed for use in conformance with departmental policies.

(Effective November 17, 1994)

Sec. 17a-238-9. Prohibitions

(a) No behavioral support plan or course of treatment for any person placed or treated under the direction of the commissioner shall include the use of an aversive device which has not been tested for safety and efficacy and approved by the Federal Food and Drug Administration.

(b) No behavioral support plan or course of treatment prescribed for any person placed or treated under the direction of the commissioner shall include the use of aversive procedures except in accordance with Sections 17a-238-10 and 17a-238-11 of these regulations.

(c) No training curriculum for the use of aversive procedures, physical restraint procedure, mechanical restraint apparatus or certain forms of physical isolation which are not presently approved by the department may be used for any person placed or treated under the direction of the commissioner without prior approval in accordance with Section 17a-238-13 of these regulations.

(d) The use of a room specifically designed for physical isolation and the use of a locked door for any physical isolation are prohibited.

(Effective November 17, 1994)

Sec. 17a-238-10. Approval process for behavioral support plans which include aversive procedures

Aversive procedures shall be reviewed and approved as follows:

(a) The interdisciplinary team shall identify the need for a behavioral support plan.

(b) Staff with appropriate training and experience in positive behavioral supports shall be assigned to design and implement the plan. All plans shall include and emphasize components designed to increase positive behaviors and be based on a completed functional analysis.

(c) The functional analysis shall be:

(1) conducted by, or under the supervision of a person who has documented training in behavior analysis with an emphasis on positive behavioral support; and

(2) based on direct observation of the individual, interviews with significant others, and review of available data such as assessment reports prepared by other professionals.

(d) The functional analysis shall include:

(1) an interview with the individual or those who know him best;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-238-10

Department of Mental Retardation

(2) a systematic observation of the occurrence of the undesirable behavior over an extended period of time for an accurate definition and description of the frequency, duration and intensity;

(3) a systematic observation of the immediate antecedent events associated with each instance of the display of the undesirable inappropriate behavior;

(4) a systematic observation and analysis of the consequences following the display of the behavior to determine the function the behavior serves for the individual, i.e., to identify the specific environmental or physiological outcomes produced by the behavior;

(5) an analysis of the communicative intent of the behavior, identified in terms of what the individual is either requesting or protesting through the display of the behavior;

(6) an ecological analysis of the settings in which the behavior occurs most frequently. Factors to consider shall include the physical setting, the social setting, the activities and the nature of instruction, scheduling, the quality of communication between the individual and staff and other individuals, the degree of independence, the degree of participation, the amount and quality of social interaction, the degree of choice, and the variety of activities;

(7) a review of records for health and medical factors which may influence behaviors (e.g. medication levels, sleep cycles, health, diet, psychological or neurological factors); and

(8) a review of the history of the behavior to include the effectiveness of all previously used behavior supports and interventions.

(e) Behavioral Support Plan Development

A behavioral support plan based on the functional analysis and emphasizing positive behavioral interventions shall be developed and shall include:

(1) baseline data;

(2) evidence that the individual or others will be harmed more by the undesirable behavior continuing than by the application of the procedure;

(3) a statement from a physician that the proposed aversive procedure is not medically contraindicated;

(4) methods for increasing positive behaviors and decreasing undesirable behaviors;

(5) objective and specific definitions of the undesirable behaviors;

(6) methods for measuring the undesirable behaviors and positive behaviors to be learned or increased;

(7) consequences for the undesirable behaviors;

(8) a plan for reducing or eliminating the use of the aversive procedure;

(9) criteria for reducing or eliminating the use of the aversive procedures;

(10) the circumstances under which the aversive procedure shall be used and a procedure for supervising implementation of the intervention;

(11) who shall be responsible for monitoring the behavioral support plan;

(12) a graph or other data summary of both positive and undesirable behavior, over the life of the intervention;

(13) a plan for providing any staff training; and

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-238-10

(14) a plan for integration of the program in all settings as appropriate.

(f) The interdisciplinary team shall approve the behavioral support plan and designate the person who may authorize administration of the plan if the plan is approved. The plan author, the case manager and other necessary interdisciplinary team members shall present the proposed plan to the program review committee for review.

(g) The program review committee shall review all behavioral support plans using aversive procedures for clinical appropriateness. This review shall include:

(1) a comprehensive review of previous plans to ensure that positive or less aversive techniques have been tried and found to be ineffective or are not clinically appropriate; and that the aversive procedures are not being used due to lack of staff, inadequately trained staff, or lack of positive behavioral interventions;

(2) assurance that the plan is appropriate for the individual based on a functional analysis as defined in Section 17a-238-8 of these regulations;

(3) assurance that the plan includes:

(A) positive behavioral supports

(B) baseline data

(C) clearly defined objectives

(D) techniques

(E) data collection methods and reliability checks

(F) length of treatment

(G) review schedule

(H) plan for reduction in use of aversive procedures

(4) assurance that adequate and consistent staff and resources are available to implement the plan;

(5) assurance that the plan for training staff in the procedures to be used is appropriate and that staff training is documented; and

(6) assurance that the plan is implemented as designed.

(h) The individual, parent, guardian or advocate, or person familiar with the individual shall be encouraged to attend the program review committee meeting for the purpose of hearing the presentation and presenting any opposing views.

(i) The program review committee (including a representative from the human rights committee) shall recommend approval or disapproval of the plan to the regional or training school director.

(j) If the human rights committee representative finds that the plan or its review presents a human rights problem, he shall notify the regional or training school director who shall ensure a human rights committee review within thirty (30) days prior to approving any use of the procedure even on a temporary basis.

(k) If the human rights committee representative identifies no human rights problem, temporary approval may be recommended on behalf of the human rights committee.

(l) The plan and the program review committee's recommendations shall be sent to the human rights committee in all cases.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-238-11

Department of Mental Retardation

(m) The human rights committee shall review the plan and program review committee findings and provide a written recommendation to the regional or training school director within 30 days of receiving the plan from the program review committee.

(n) After considering the recommendations of the program review committee the regional or training school director shall, within ten (10) days, approve or disapprove the plan.

If the regional or training school director decides to approve the plan despite the program review committee or human rights committee recommendation for disapproval, the reason for the approval along with the plan and the committee's recommendations shall be sent to the commissioner. The commissioner shall concur with the plan approval before it may be implemented.

(o) Any plan that includes the use of an aversive device or provisions which inflict pain to affect an undesirable behavior of any individual which is recommended for approval by the program review committee, the human rights committee and the regional or training school director, shall require approval by the commissioner before implementation.

(Effective November 17, 1994)

Sec. 17a-238-11. Emergency use of physical or mechanical restraint

(a) Physical or mechanical restraint may be employed when an emergency exists in which a person placed or treated under the direction of the commissioner is in jeopardy of harming himself or others and approved individual programs are ineffective to control the situation.

(b) Nonaversive measures shall be attempted first to prevent escalation of the emergency. If such measures are ineffective, emergency use of physical or mechanical restraint may be necessary. No aversive procedure other than physical or mechanical restraint may be employed in an emergency.

(c) Each organization operated, licensed or funded by the department shall establish general written procedures to be used in emergencies. These procedures shall designate supervisory or professional staff who may authorize the use of physical or mechanical restraint in an emergency and shall identify the techniques, devices and equipment which may be used.

(d) A member of the program review committee shall be notified not later than the next working day and shall monitor any continuing use of physical or mechanical restraint until a program is formally approved and commences. Documentation of monitoring shall be maintained in the individual's record.

(e) Whenever physical or mechanical restraint is employed during an emergency, supervisory or professional staff shall examine the individual within twenty-four (24) hours and report any evidence of trauma or injury to the nurse or physician and to the regional or training school director.

(f) The interdisciplinary team, including the physician, shall, within three (3) working days of the use of emergency physical or mechanical restraint, review the individual and

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-238-13

his environment to determine if changes are required in his program including the continued use of physical or mechanical restraint or if other behavioral supports should be considered. The interdisciplinary team shall initiate design of a behavioral support plan and the approval process set forth in Section 17a-238-10 of these regulations within five (5) days of the interdisciplinary team review, if:

(1) the interdisciplinary team determines that the continued use of physical or mechanical restraint is necessary; or

(2) the interdisciplinary team proposes the use of other aversive procedures; or

(3) physical or mechanical restraint is used on an emergency basis three (3) or more times in a thirty (30) day period; or

(4) physical or mechanical restraint is used one or more times in three (3) consecutive thirty day (30) day periods.

(g) A report of the interdisciplinary team review, whatever the programmatic outcome, shall be submitted to the program review committee, the human rights committee and the regional or training school director.

(h) Each incident of physical or mechanical restraint used to address an emergency shall be reported in writing to the program review committee, the human rights committee and the regional or training school director within three days of the incident.

(i) Standing orders for the emergency use of mechanical restraint are prohibited.

(Effective November 17, 1994)

Sec. 17a-238-12. Department approved aversive procedures

(a) The implementation of the following department approved procedures shall be in accordance with Sections 17a-238-10 and 17a-238-11 of these regulations:

(1) The department's staff development division maintains a listing of currently approved training curricula in the use of aversive and physical restraint procedures.

(2) The department's staff development division maintains a listing of restraint apparatus approved by the department.

(3) The use of forms of physical isolation which are aversive, but not otherwise prohibited by these regulations, (e.g., the individual is prevented from leaving the area or room; or criteria are placed on the ending of isolation) are permitted by the department subject to the approval process set forth in Section 17a-238-10 of these regulations.

(b) The approval of any new procedure shall be in accordance with section 17a-238-13 of these regulations and the implementation of such new procedure shall be in accordance with sections 17a-238-10 and 17a-238-11 of these regulations.

(Effective November 17, 1994)

Sec. 17a-238-13. Approval process for training curricula, physical restraint procedures, restraint apparatus and forms of physical isolation

(a) Any proposals for the use of new training curricula, physical restraint procedures, restraint apparatus or forms of physical isolation not previously approved by the department

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-238-13

Department of Mental Retardation

shall be submitted in writing to the commissioner for review and approval.

(b) The commissioner shall appoint a committee of not more than five members all of whom shall be familiar with the department approved aversive procedures, two of whom shall be members of regional program review and human rights committees, and one who shall be a certified trainer in department approved procedures.

(c) The committee shall compare the proposal to those which are currently approved by the department and make a recommendation to the commissioner.

(d) The commissioner shall approve or disapprove the proposal based on the committee's recommendation. If the commissioner decides to approve a proposal over the committee's recommendation to disapprove, the reason for the approval shall be documented by the commissioner and sent to members of the committee.

(Effective November 17, 1994)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Mental Retardation

Subject

Unified School District #3

Inclusive Sections

§§ 17a-244-1—17a-244-8

CONTENTS

Sec. 17a-244-1.	Definitions (Repealed)
Sec. 17a-244-2.	Eligibility (Repealed)
Sec. 17a-244-3.	Compliance (Repealed)
Sec. 17a-244-4.	Responsibility (Repealed)
Sec. 17a-244-5.	Provision of services (Repealed)
Sec. 17a-244-6.	Administrative review (Repealed)
Sec. 17a-244-7.	Prioritization of services (Repealed)
Sec. 17a-244-8.	Staffing (Repealed)

Unified School District #3

Sec. 17a-244-1. Definitions (Repealed)

Repealed June 11, 2014.

(Effective June 22, 1992; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-244-2. Eligibility (Repealed)

Repealed June 11, 2014.

(Effective June 22, 1992; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-244-3. Compliance (Repealed)

Repealed June 11, 2014.

(Effective June 22, 1992; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-244-4. Responsibility (Repealed)

Repealed June 11, 2014.

(Effective June 22, 1992; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-244-5. Provision of services (Repealed)

Repealed June 11, 2014.

(Effective June 22, 1992; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-244-6. Administrative review (Repealed)

Repealed June 11, 2014.

(Effective June 22, 1992; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 17a-244-7. Prioritization of services (Repealed)

Repealed June 11, 2014.

(Effective June 22, 1992; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-244-8

Department of Mental Retardation

Sec. 17a-244-8. Staffing (Repealed)

Repealed June 11, 2014.

(Effective June 22, 1992; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

Agency
Department of Mental Retardation
Subject
Abuse and Neglect Registry
Inclusive Sections
§§ 17a-247e-1—17a-247e-9

CONTENTS

Sec. 17a-247e-1.	Definitions
Sec. 17a-247e-2.	Substantiation of abuse or neglect by authorized agencies
Sec. 17a-247e-3.	Contents of registry
Sec. 17a-247e-4.	Availability of information on the registry
Sec. 17a-247e-5.	Employer notification responsibilities
Sec. 17a-247e-6.	Employer hiring and retention practices
Sec. 17a-247e-7.	Responsibilities of the department
Sec. 17a-247e-8.	Hearing responsibilities and procedures
Sec. 17a-247e-9.	Removing a name from the registry

Abuse and Neglect Registry

Sec. 17a-247e-1. Definitions

As used in Sections 17a-247e-1 to 17a-247e-9, inclusive, of the Regulations of Connecticut State Agencies, the following definitions shall apply:

- (1) “Legal proceeding” means any action or course of action authorized by law.
- (2) “Party” means each person (A) whose legal rights, duties or privileges are required by statute to be determined by an agency proceeding and who is named or admitted as a party, (B) who is required by law to be a party in an agency proceeding or (C) who is granted status as a party under subsection 4-177a of the Connecticut General Statutes.
- (3) “Separated from employment” means that in lieu of or prior to being terminated from employment for abuse or neglect that is later substantiated, an employee resigns, abandons or otherwise leaves employment.
- (4) “Terminated from employment” means discharge from employment for abuse or neglect.
- (5) “Neglect” means the failure by an employee, through action or inaction, to provide a department client with the services necessary to maintain such client’s physical and mental health and safety.
- (6) “Failure by an employee” means the violation of a duty known to an employee, through action or inaction, which places a department client’s physical and mental health and safety in jeopardy.

(Adopted effective December 7, 1999; Amended December 10, 2002)

Sec. 17a-247e-2. Substantiation of abuse or neglect by authorized agencies

For the purposes of Sections 17a-247e-1 to 17a-247e-9, inclusive, of the Regulations of Connecticut State Agencies, the following are authorized to substantiate abuse or neglect:

- (a) Office of Protection and Advocacy for Persons with Disabilities pursuant to Sec. 46a-11a through Sec. 46a-13a, inclusive, of the Connecticut General Statutes;
- (b) Commissioner of the Department of Mental Retardation pursuant to Sec. 17a-210(a), of the Connecticut General Statutes;
- (c) Department of Children and Families pursuant to Sec. 17a-101, of the Connecticut General Statutes;
- (d) Department of Social Services pursuant to Sec. 17b-450, of the Connecticut General Statutes; and
- (e) Any other agency authorized in accordance with the Connecticut General Statutes to conduct abuse and neglect investigations and responsible for issuing or carrying out protective services for persons with mental retardation.

(f) Substantiation of the allegation(s) of abuse or neglect for purposes of subdivision (11) of Section 17a-247a of the Connecticut General Statutes by an authorized agency requires the following:

- (1) that the authorized agency conduct an independent investigation into the allegation(s) of abuse or neglect reported in accordance with Section 46a-11b of the Connecticut General

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-247e-3

Department of Mental Retardation

Statutes; or

(2) that the authorized agency independently monitor and evaluate the merits and adequacy of the investigation conducted by or on behalf of the employer or other investigative authority by (A) confirming the accuracy of witness statements, (B) confirming the sources, documentation and evidence relied upon in the investigation, and (C) conducting such supervision and review activities as may be sufficient, in the exercise of professional judgment by an investigator employed by the authorized agency and trained by the State of Connecticut, to confirm that the finding(s) are supported by a preponderance of the evidence;

(3) Following the completion of the procedures set forth in subdivisions (1) or (2) of this subsection, an authorized agency shall issue a written report or statement articulating: (A) the allegation(s) of abuse or neglect which are substantiated in accordance with the definitions set forth in Section 17a-247a of the Connecticut General Statutes; (B) a description of the procedures, as set forth in this section, used by the authorized agency in determining that the allegation(s) of abuse or neglect are substantiated; and (C) specific reference to the evidence upon which the authorized agency relied in substantiating the allegation(s) of abuse or neglect.

(Adopted effective December 7, 1999; Amended December 10, 2002)

Sec. 17a-247e-3. Contents of registry

The registry shall include, but not be limited to the:

- (a) names, addresses and Social Security numbers of those individuals terminated or separated from employment as a result of substantiated abuse or neglect;
- (b) date of termination or separation;
- (c) type of abuse or neglect; and
- (d) the name of any employer or authorized agency requesting information from the registry, the reason for the request and the date of the request.

(Adopted effective December 7, 1999; Amended December 10, 2002)

Sec. 17a-247e-4. Availability of information on the registry

(a) Inquiries regarding the registry shall be made on forms provided by the department and shall be sent by mail or facsimile.

(b) Information identified in Section 17a-247e-3 of the Regulations of Connecticut State agencies shall be available only to:

- (1) authorized agencies for the purpose of protective services determination; or
- (2) employers who employ individuals to provide services to a department client for purposes of employment decisions.

(c) The department shall limit responses to requests for identifying information from the registry to:

- (1) identification of the individual terminated or separated; and
- (2) type of abuse or neglect substantiated.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-247e-7

(d) Information shall be available through an automated response system, including telephone voice mail, developed by the department.

(Adopted effective December 7, 1999; Amended December 10, 2002)

Sec. 17a-247e-5. Employer notification responsibilities

(a) Not later than five business days following receipt of written notification by an authorized agency of the substantiation of abuse or neglect by an employee who has been terminated or separated from employment for such abuse or neglect, an employer shall submit to the department the name of such employee and such other information as the department may request.

(b) Notification of the Department of Mental Retardation shall be on forms provided by the department and include:

(1) documentation that the employee was terminated or separated from employment for abuse or neglect; and

(2) documentation of the substantiation of abuse or neglect by an authorized agency.

(c) Employers shall notify the department that an employee has been terminated or separated from employment when:

(1) abuse or neglect has been substantiated pursuant to subdivision (11) of Section 17a-247a of the Connecticut General Statutes; and

(2) the employer has been notified of the substantiation of abuse or neglect by an authorized agency pursuant to Section 17a-247e-2 of the Regulations of Connecticut State Agencies.

(Adopted effective December 7, 1999; Amended December 10, 2002)

Sec. 17a-247e-6. Employer hiring and retention practices

(a) Prior to hiring any individual, employers shall inquire as to whether the individual's name appears on the registry. The department shall respond by facsimile or phone to such inquiry within two (2) business days.

(b) No employer shall hire an individual who is listed on the registry.

(c) No employer, after receiving notice that an individual is listed in the registry, shall retain such individual as an employee.

(d) Employers shall notify the department of any employee for whom, as a result of an arbitration or a legal proceeding there is a finding that the employee was unfairly terminated from employment. Such notice shall be made within five (5) business days of the employer's receipt of notification of the final disposition of such proceedings.

(Adopted effective December 7, 1999; Amended December 10, 2002)

Sec. 17a-247e-7. Responsibilities of the department

(a) The department shall establish and maintain a registry of employees who have been terminated or separated from employment for substantiated abuse or neglect.

(b) The registry and information contained therein is confidential and not subject to

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-247e-8

Department of Mental Retardation

disclosure under the provisions of Section 1-210 of the Connecticut General Statutes. Information in the registry may only be released pursuant to a bona fide registry inquiry or as otherwise authorized by Section 17a-247d of the Connecticut General Statutes.

(c) The department shall make all forms identified in Sections 17a-247e-1 to 17a-247e-9, inclusive, of the Regulations of Connecticut State Agencies available to employers.

(d) The department shall conduct administrative hearings, in accordance with Sections 4-177 to 4-181a, inclusive of the Connecticut General Statutes governing contested cases, before placing any name upon the registry.

(Adopted effective December 7, 1999; Amended December 10, 2002)

Sec. 17a-247e-8. Hearing responsibilities and procedures

(a) Within forty-five (45) days following notification by an employer, during which the department will verify necessary information, including the substantiation of abuse or neglect, the department shall notify the employee by certified mail that his name has been submitted by his former employer for placement on the registry following a termination or separation from employment for substantiated abuse or neglect and that a hearing will be convened to determine whether the employee's name should be placed on the registry.

(b) Such notification shall include the date, time and location of the hearing specifying the allegation(s) of abuse or neglect substantiated by the authorized agency. Not less than two weeks prior to the hearing, the department shall make available to the employee, for review, inspection and copying, the investigation report, all documents included in the investigation file maintained by the employer or authorized agency, including but not limited to any statements by witnesses and interviews, except as otherwise protected by law from disclosure, any report or statement prepared in accordance with subsection (f), subdivision (3) of Section 17a-247e-2 of the Regulations of Connecticut State Agencies, and the contents of the administrative record maintained in accordance with Section 4-177 of the Connecticut General Statutes. Except for disclosure necessary for the identification of witnesses, personally identifying information about department clients, including client records, shall not be disclosed, except upon a determination by the hearing officer, balancing relevant interests, that such disclosure is necessary to the fair conduct of the hearing. Nothing in this section alters the rights of the parties to access to relevant documents in accordance with the Uniform Administrative Procedures Act, nor is any party prohibited from requesting that the hearing officer conduct an in camera review of any relevant document to resolve any issue concerning the privacy, confidentiality, or privileged status of the information contained herein.

(c) Hearing officers for the conduct of hearings concerning the placement of an employee's name on the registry shall be appointed by the commissioner. Hearing officers shall not be employees of the department.

(d) The hearing shall be conducted in accordance with Sections 4-177 to 4-181a, inclusive, of the Connecticut General Statutes. The hearing officer shall consider all relevant evidence within the scope of the hearing, except when properly excluded in accordance

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Retardation

§17a-247e-9

with Section 4-178 of the Connecticut General Statutes. The scope of any hearing convened pursuant to Sections 17a-247e-1 to 17a-247e-9, inclusive, of the Regulations of Connecticut State Agencies shall be limited to the following issues for which the department bears the burden of proof:

(1) whether the individual is or was an employee, as defined in Section 17a-247a of the Connecticut General Statutes;

(2) whether the individual was employed by an employer as defined in Section 17a-247a of the Connecticut General Statutes;

(3) whether the individual was terminated or separated from employment due to allegations of abuse or neglect as defined by Section 17a-247a of the Connecticut General Statutes, and Section 17a-247e-1 of the Regulations of Connecticut State Agencies;

(4) whether the allegations of abuse or neglect were substantiated by an authorized agency in accordance with the procedures set forth in Section 17a-247e-2 of the Regulations of Connecticut State Agencies; and

(5) whether the allegations of abuse or neglect, as defined in Section 17a-247a of the Connecticut General Statutes, that were substantiated are supported by a preponderance of evidence.

(e) Within ten (10) business days following the conclusion of the hearing, the hearing officer shall issue a proposed decision to the parties and the commissioner. The hearing officer may have a ten (10) day extension, upon approval of the commissioner, to issue a proposed decision.

(f) The parties shall have ten (10) business days following receipt of the proposed decision to submit written comments to the commissioner in support of or opposition to the proposed decision. Upon request and for good cause shown, the commissioner shall extend this time period for an additional period of time not to exceed thirty days.

(g) The commissioner shall issue a final decision, following the comment period established by subsection (f) of this section, to the parties and to the employer which provided notification to the department pursuant to Section 17a-247e-5 of the Regulations of Connecticut State Agencies. A party, other than the department, which is aggrieved by the final decision may appeal in accordance with the Uniform Administrative Procedures Act, Chapter 54, of the Connecticut General Statutes.

(h) If the final decision concludes that the employee was terminated or separated from employment for substantiated abuse or neglect, the name, address and social security number of such employee, along with other information set forth in Sections 17a-247e-1 to 17a-247e-9, inclusive, of the Regulations of Connecticut State Agencies, shall be added to the registry.

(Adopted effective December 7, 1999; Amended December 10, 2002)

Sec. 17a-247e-9. Removing a name from the registry

(a) The department shall remove an employee's name from the registry upon receipt of notification from an employer that an arbitration or a legal proceeding resulted in a finding

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-247e-9

Department of Mental Retardation

that the employee was unfairly terminated from employment.

(b) An employee whose name has been placed on the registry may, not less than five (5) years after the placement of his name on the registry for substantiated abuse, and not less than two (2) years after the placement of his name on the registry for substantiated neglect, and not more than once every two (2) years thereafter, request in writing to the commissioner that his name be removed from the registry for good cause shown.

(1) In determining whether good cause exists for removal of the employee's name from the registry, the commissioner shall consider all relevant factors, including but not limited to: (A) the nature of the substantiated abuse or neglect which resulted in the employee's name being placed on the registry; (B) the length of time since the incident(s) of substantiated abuse or neglect; (C) the rehabilitation of the employee since the incident(s) of substantiated abuse or neglect; and (E) the likelihood that the employee will commit future acts of abuse or neglect of persons with mental retardation.

(2) If the commissioner denies a request for removal of a name from the registry, the employee may request an administrative hearing, conducted in accordance with Sections 4-177 to 4-181a, inclusive, of the Connecticut General Statutes governing contested cases.

(3) At any hearing convened in accordance with this section, the hearing officer shall receive and consider evidence including but not limited to the factors set forth in subdivision (1) of this subsection for determining whether an employee's name should be removed from the registry.

(4) Within ten (10) business days following the conclusion of the hearing, the hearing officer shall issue a proposed decision to the parties and the commissioner. The hearing officer may have a ten (10) day extension, upon approval of the commissioner, to issue the proposed decision.

(5) The parties shall have ten (10) business days following receipt of the proposed decision to submit written comments to the commissioner in support or opposition to the proposed decision. Upon request and for good cause shown, the commissioner shall extend the time period not to exceed thirty (30) days.

(6) The commissioner shall issue a final decision, following the comment period, to the parties. A party, other than the department, which is aggrieved by the final decision may appeal in accordance with the Uniform Administrative Procedures Act, Chapter 54, of the Connecticut General Statutes.

(c) In the event the commissioner's final decision grants removal, the department shall remove the name of the employee from the registry within five (5) business days of such decision.

(d) When an employee's name is removed from the registry, the department shall notify the employee and all employers within five (5) business days of such action.

(Adopted effective December 7, 1999; Amended December 10, 2002)

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

Agency
Department of Developmental Services
Subject
Early Intervention Services for Infants and Toddlers and Their Families
Inclusive Sections
§§ 17a-248-1—17a-248-14

CONTENTS

Sec. 17a-248-1.	Definitions
Sec. 17a-248-2.	Referrals
Sec. 17a-248-3.	Eligibility
Sec. 17a-248-4.	Surrogate parents
Sec. 17a-248-5.	Notice of parental rights
Sec. 17a-248-6.	Records
Sec. 17a-248-7.	Written notice
Sec. 17a-248-8.	Mediation procedures to resolve individual child complaints
Sec. 17a-248-9.	Administrative proceeding to resolve individual child complaints
Sec. 17a-248-10.	System complaint resolution
Sec. 17a-248-11.	Financial liability definitions
Sec. 17a-248-12.	Insurance
Sec. 17a-248-13.	Schedule of contributions and insurance co-payments
Sec. 17a-248-14.	Adjustment to parent contributions and insurance co-payments

Early Intervention Services for Infants and Toddlers and Their Families

Sec. 17a-248-1. Definitions

As used in section 17a-248-1 to section 17a-248-10, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Administrative proceeding” means a formal procedure before an impartial decision maker appointed to hear evidence and render a decision final and binding on the parties unless reversed or modified on appeal.

(2) “Birth-to-three system” means the statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families.

(3) “Days” means calendar days.

(4) “Diagnosed condition expected to lead to a developmental delay” means those conditions, diagnosed by a physician, audiologist or speech pathologist, that are designated by the lead agency as having a high probability of resulting in a developmental delay.

(5) “Director” means the person designated by the commissioner of the lead agency as the person responsible for all statewide aspects of the birth-to-three system.

(6) “Impartial decision maker” means the person duly designated for the purpose of conducting an administrative proceeding pursuant to 34 CFR 303.430 to 303.432, inclusive.

(7) “Individualized Family Service Plan” or “IFSP” means a written plan for providing early intervention services to an eligible child and the child’s family.

(8) “Interim IFSP” means a temporary plan developed with parental consent for a child with a known developmental delay or disability who has apparent immediate needs for early intervention service delivery between initial identification of the child’s needs and the completion of the multidisciplinary evaluation and assessment. The interim IFSP shall include the name of the service coordinator and the early intervention services that have been determined to be needed immediately.

(9) “Lead agency” means the Department of Developmental Services, the public agency responsible for the administration of the birth-to-three system in collaboration with the participating agencies.

(10) “Mediation” means a voluntary, non-adversarial process by which a parent of a child and an early intervention program are assisted by a trained mediator who has been designated by the lead agency to provide mediation services to reach agreement regarding eligibility, the provision of early intervention services, or the failure of an early intervention program to act within a period required by 34 CFR 303.431.

(11) “Parent” has the same meaning as provided in section 17a-248 of the Connecticut General Statutes.

(12) “Personally identifiable” means information which includes, but is not limited to, (A) the name of the child, the parent, or other family member; (B) the address of the child, the parent, or other family member; (C) a personal identifier, such as the social security number of the child, parent, or other family member;

(D) a list or description of personal or physical characteristics or other information that

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-248-2

Department of Developmental Services

would make it possible to identify the child, the parent, or other family member with reasonable certainty.

(13) “Program” means an agency providing comprehensive, early intervention services to eligible children operated by, under contract with, or through an inter- agency agreement with the lead agency.

(14) “Record” means any information recorded in any way, maintained by a birth-to-three state-operated program, birth-to-three contractor or lead agency personnel. A record shall include any information recorded in any way including, but not limited to, handwriting, print, electronic, tape, film, microfilm, or microfiche.

(15) “Service coordination” means activities that assist and enable an eligible child and the child’s parent to understand a child’s rights and the procedural safe- guards afforded by the birth-to-three system and to receive services that are authorized by the birth-to-three system.

(16) “Significant developmental delay” means the child’s scores on an appropriate norm-referenced standardized diagnostic instrument are (A) two standard deviations below the mean in one area of development; or (B) one and one-half standard deviations below the mean in at least two areas of development. When the use of the standardized diagnostic instrument is not appropriate due to a child’s age or when a child requires significant adaptation to perform on a standardized instrument, the evaluator may substitute another procedure.

(17) “Surrogate parent” means a person appointed or designated to act as a parent for the child for the birth-to-three system when a child’s parents are unknown or unavailable.

(Effective June 29, 1998; Amended August 30, 2004; Amended April 19, 2010; Amended July 2, 2014)

Sec. 17a-248-2. Referrals

(a) All referrals shall be made through a single point of referral designated by the lead agency.

(b) Referrals made by an agency or by a person other than a child’s parent shall include sufficient information to contact the child’s parent. A child’s parent shall give verbal consent before a referral can be made to the birth-to-three system.

(Effective June 29, 1998; Amended April 19, 2010; Amended July 2, 2014)

Sec. 17a-248-3. Eligibility

A child shall be eligible for the birth-to-three system, if the child is:

- (1) experiencing a significant developmental delay in one or more of the following areas:
 - (A) cognitive development;
 - (B) physical development, including vision or hearing;
 - (C) communication development;
 - (D) social or emotional development;
 - (E) adaptive skills; or

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Developmental Services

§17a-248-4

(2) diagnosed as having a physical or mental condition that has a high probability of resulting in a significant developmental delay.

(Effective June 29, 1998; Amended August 30, 2004; Amended April 19, 2010; Amended July 2, 2014)

Sec. 17a-248-4. Surrogate parents

(a) The program shall protect the right of a parent to make decisions about the child's early intervention services, unless (1) the child is committed to the care of the Commissioner of Children and Families; (2) no parent can be identified; or (3) the Department of Children and Families cannot, after reasonable efforts, discover the whereabouts of a parent of the child.

(b) The director or the director's designee shall determine whether a child requires a surrogate parent.

(c) The director or the director's designee shall select a surrogate parent who is willing to serve in such capacity and who:

- (1) has no personal or professional interest that conflicts with the interests of the child;
- (2) has knowledge and skills that ensure adequate representation of the child;
- (3) is not an employee of any state agency;
- (4) is not a person or employee of a person providing early intervention services to the child or to any family member of the child; or
- (5) is not an employee of an agency caring for the child.

(d) A person who is paid to serve as a surrogate parent shall not be deemed to be an employee of a state agency.

(e) The program shall afford a surrogate parent the same rights and responsibilities as accorded to a parent by the birth-to-three system and shall represent a child in all matters related to:

- (1) evaluation of the child;
- (2) development and implementation of the IFSP, including annual evaluations and periodic reviews;
- (3) the ongoing provision of early intervention services;
- (4) the right to request mediation or an administrative proceeding in the event of a dispute; and
- (5) any other rights established in the birth-to-three system.

(f) A surrogate parent shall maintain the confidentiality of all information regarding the child, including written records in accordance with 34 CFR 99.2 to 99.37, inclusive.

(g) The lead agency shall develop a procedure for recruitment of qualified persons to serve as surrogate parents including, but not limited to, the recruitment of parents of children with disabilities to serve as surrogate parents.

(h) The lead agency, in collaboration with interested organizations, shall ensure that qualified persons receive training in the developmental needs, service options and rights of a child eligible for early intervention services and shall maintain a list of persons who have

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-248-5

Department of Developmental Services

received such training.

(i) The director or the director's designee shall terminate the appointment of a surrogate parent in the event that:

- (1) the surrogate parent is no longer willing or available to participate in that capacity;
- (2) the child is no longer in the custody of the Commissioner of Children and Families;
- (3) a parent becomes available; or
- (4) the surrogate parent fails to fulfill a surrogate parent's duties.

(j) When a termination of an appointment as a surrogate parent is due to the failure to fulfill a surrogate parent's duties, the surrogate parent may request in writing, a review of the termination, not later than ten (10) days after the date of receipt of the notice of termination of appointment. Not later than twenty (20) days after the date of receipt of the surrogate parent's request for review of the termination of appointment, the director or the director's designee shall send the surrogate parent written notice that his or her surrogate parent appointment has been reinstated or that the termination of the appointment has been upheld.

(k) In the event that the surrogate parent's appointment is terminated and the child continues to require the assistance of a surrogate parent, the director or the director's designee shall appoint a surrogate parent.

(l) Upon review of a child's IFSP and, at a minimum, upon annual review, the program shall determine whether any change in circumstances warrants review of the appointment of the child's surrogate parent. If the program determines that circumstances warrant the termination of the appointment of a child's surrogate parent and the appointment of a new surrogate parent for the child, the program shall make a request to the director or the director's designee, who shall take action to make the change in consultation with the Commissioner of Children and Families or other state agency, when appropriate.

(m) When a child enrolled in the birth-to-three system is turning three years of age and may be eligible for preschool special education services, the surrogate parent may give consent for the referral to the school district responsible for the child's education and for the child's initial evaluation by that school district. The local school district shall then request the appointment of a surrogate parent for the child from the State Department of Education (SDE).

(Effective June 29, 1998; Amended August 30, 2004; Amended April 19, 2010; Amended July 2, 2014)

Sec. 17a-248-5. Notice of parental rights

(a) Upon the first contact with the single point of referral for birth-to-three services, the lead agency's contractor shall provide the parent notice of the rights and entitlements afforded to parents and legal guardians under the birth-to-three system. The notice shall include an explanation of a parent's right to consent to or decline any early intervention service without jeopardizing any other early intervention service available under the law.

(b) Prior to the initial IFSP meeting and not less than annually thereafter, the program

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Developmental Services

§17a-248-7

shall give the parent information that summarizes a parent's rights under the birth-to-three system.

(Effective June 29, 1998; Amended April 19, 2010; Amended July 2, 2014)

Sec. 17a-248-6. Records

(a) Personally identifiable information shall be confidential and shall not be disclosed by any employee or contractor of the lead agency or early intervention program except in accordance with the provisions of 34 CFR 99.2 to 99.37, inclusive.

(b) If a child's parent and a child's program cannot agree on a request to amend the record of an eligible child, the child's program shall (1) inform the parent in writing of the program's decision, (2) inform the parent of a parent's right to place a statement in the record reflecting his or her views about its contents, and (3) inform the parent of the right to request, in writing, an administrative proceeding in accordance with section 17a-248-9 of the Regulations of Connecticut State Agencies.

(Effective June 29, 1998; Amended April 19, 2010; Amended July 2, 2014)

Sec. 17a-248-7. Written notice

(a) The agency shall provide written notice to a parent of a child who is eligible or who may be eligible to receive early intervention services not later than five (5) days prior to the agency proposing or refusing to (1) initiate or change the identification, evaluation, or placement of the child, or (2) provide appropriate early intervention services to the child and the child's family.

(b) The written notice shall inform the parent about:

- (1) the action that is being proposed,
- (2) the reasons for taking the action, and

(3) all procedural safeguards that are available pursuant to sections 17a-248-9 to 17a-248-10, inclusive, of the Regulations of Connecticut State Agencies.

(c) The notice shall be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it clearly is not feasible to do so. If the native language of the parent is not a written language, the agency shall ensure that:

(1) the notice is translated orally or by other means to the parent in the parent's native language,

(2) the parent understands the notice, and

(3) there is written documentation that the requirements of this section have been met.

(d) For a person with deafness or blindness, or for a person with no written language, the term native language means the mode of communication that normally is used by the person, such as sign language, Braille or oral communication.

(Effective June 29, 1998; Amended April 19, 2010; Amended July 2, 2014)

Sec. 17a-248-8. Mediation procedures to resolve individual child complaints

(a) A statewide mediation system shall be available to ensure parents and programs may voluntarily access a non-adversarial process for the resolution of complaints regarding the provision of early intervention services.

(b) The decision of the parent not to participate in mediation proceedings shall not prevent or delay the parent from pursuing an administrative proceeding as provided by section 17a-248-9 of the Regulations of Connecticut State Agencies.

(c) The lead agency shall appoint a qualified, impartial mediator upon written request from either a parent or a program. An impartial mediator shall not be an employee of any public agency, private agency or program involved in the provision of early intervention services or care of the child for whom the mediation has been requested. An impartial mediator shall not have a personal or professional interest that conflicts with his or her objectivity in the mediation proceedings.

(d) Any parent requesting mediation has the right to:

- (1) withdraw at any time from mediation;
- (2) withdraw at any time from mediation and request an administrative proceeding;
- (3) have the mediation conducted at a neutral, reasonably convenient site and at a reasonably convenient time; and
- (4) interpreter services or alternative communication services, if any are needed.

(e) When mediation results in successful negotiation of a partial or full agreement on areas in dispute between a parent and a program, the mediator shall:

- (1) document the terms of the negotiated agreement in writing and obtain the signatures of the parent and the program representative on the written agreement;
- (2) if applicable, list the unresolved issues and state only that no agreement was reached on these issues;
- (3) whenever practicable, provide the written agreement in the dominant language of the parent or in an alternative mode of communication;
- (4) ensure that the parent and program representative receive a copy of the written agreement; and
- (5) inform the director of the disposition of the mediation.

(f) The service coordinator from the early intervention program shall ensure that the terms of the written agreement are incorporated into the IFSP not later than five (5) working days after the date of receipt of the written document.

(g) Except as required by state and federal law, all statements made during a mediation and all documents prepared for a mediation shall remain confidential unless both parties agree to release that information. No such information shall be used in any subsequent due process proceeding without the consent of both parties.

(Effective June 29, 1998; Amended August 30, 2004; Amended April 19, 2010; Amended July 2, 2014)

Sec. 17a-248-9. Administrative proceeding to resolve individual child complaints

(a) The lead agency shall establish, implement and maintain an administrative proceeding process for the resolution of individual complaints regarding: (1) the evaluation, assessment and eligibility determination of a child; (2) the development, review and implementation of the IFSP; and (3) the parent's procedural rights and safeguards.

(b) A parent of a child who is eligible or who may be eligible for early intervention services may request, in writing, of the lead agency an administrative proceeding to review: (1) the evaluation, assessment and eligibility determination of a child; (2) the development, review and implementation of the IFSP; and (3) the parent's procedural rights and safeguards.

(c) The lead agency, upon receipt of a written request for an administrative proceeding in accordance with subsection (b) of this section, shall appoint an impartial decision maker, knowledgeable about the provisions of sections 17a-248 to 17a-248h, inclusive, of the Connecticut General Statutes; sections 17a-248-1 to 17a-248-14, inclusive, of the Regulations of Connecticut State Agencies; 20 USC 1431 to 1444, inclusive, and 34 CFR 303. The impartial decision maker shall schedule the administrative proceeding at a time and in a location reasonably convenient to the parent.

(d) An impartial decision maker shall not be an employee of any public or private agency or program involved in the provision of early intervention services or care of the child for whom the proceeding has been requested. An impartial decision maker shall not have a personal or professional interest that conflicts with his or her objectivity in the administrative proceeding. A person who is paid to serve as an impartial decision maker is not deemed to be an employee of a state agency.

(e) The impartial decision maker shall listen to the presentation of relevant viewpoints concerning the matter under review, examine all information relevant to the issues and seek to reach a timely resolution of the matter. The findings of fact, conclusions of law and decision shall be written without personally identifiable information concerning the child or the child's family. The impartial decision maker shall make a record of the proceedings.

(f) The record of the administrative proceeding shall be kept by the lead agency and shall include all notices, pleadings, and motions; evidence presented during the administrative proceeding; questions and offers of proof, objections thereto, and rulings thereon; any statements of matters officially noticed by the impartial decision maker; and any findings of fact, conclusions of law, decision, determination, opinion, order or report made by the impartial decision maker.

(g) Any parent requesting an administrative proceeding has the right to:

(1) be accompanied and advised by counsel and by persons with special knowledge or training with respect to early intervention services for eligible children;

(2) present evidence and confront, cross-examine and compel the attendance of witnesses;

(3) prohibit the introduction of any evidence at the administrative proceeding, which has not been disclosed to the parent at least five (5) days before the proceeding;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-248-10

Department of Developmental Services

- (4) obtain a written or electronic verbatim transcription of the proceedings;
- (5) obtain written findings of fact, conclusions of law and decisions;
- (6) have his or her child present at the proceeding; and
- (7) open the proceeding to the public.

(h) During the pendency of an administrative proceeding, (1) unless the parties otherwise agree, the eligible child shall continue to receive early intervention services currently being provided, and (2) if the proceeding involves an initial IFSP, the child shall receive those early intervention services that are not in dispute.

(Effective June 29, 1998; Amended August 30, 2004; Amended April 10, 2006; Amended April 19, 2010; Amended July 2, 2014)

Sec. 17a-248-10. System complaint resolution

(a) Any person or organization may file a written, signed complaint with the lead agency alleging a violation of one or more requirements of the federal Early Intervention Program for Infants and Toddlers with Disabilities or sections 17a- 248-1 to 17a-248-14, inclusive, of the Regulations of Connecticut State Agencies by (1) any agency that receives funds, by contract or otherwise, pursuant to the Infants and Toddlers with Disabilities part of the federal Individuals with Disabilities Education Act, or (2) other agencies that are involved in the early intervention system. The complaint shall state the facts on which the complaint is based.

(b) Not later than sixty (60) days after the date of receipt of the complaint, the lead agency shall:

- (1) conduct an independent on-site investigation, if it is determined by the lead agency that an on-site investigation is necessary;
- (2) give the complainant the opportunity to submit additional information, either orally or in writing, regarding the allegations in the complaint;
- (3) review all relevant information and make an independent determination as to whether the agency is violating a requirement of the federal Early Intervention Program for Infants and Toddlers with Disabilities or of sections 17a-248-1 to 17a- 248-14, inclusive, of the Regulations of Connecticut State Agencies; and
- (4) issue a written decision to the complainant that addresses each allegation in the complaint and contains:

- (A) findings of fact and conclusions; and
- (B) the reasons for the final decision.

(c) An extension of the sixty-day time limit under subsection (b) of this section shall be granted in the event exceptional circumstances exist with respect to a particular complaint as determined by the lead agency.

(d) Procedures for effective implementation of the lead agency's final decision, if needed, shall include technical assistance activities, negotiations, and corrective actions to achieve compliance.

(Effective June 29, 1998; Amended April 19, 2010; Amended July 2, 2014)

Sec. 17a-248-11. Financial liability definitions

As used in sections 17a-248-11 to 17a-248-14, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Adjusted gross income” means the total of adjusted earned and unearned income as shown on the parent’s most recent state income tax return or, in lieu of a state income tax return, a federal income tax return. In lieu of either a state or federal income tax return, the lead agency may approve an alternative means of reporting income.

(2) “Contribution” means an amount of money determined to be due and payable from a parent.

(3) “Family”, for purposes of determining family size, means a group of two or more persons related by birth, marriage, or adoption who live together.

(4) “Individualized Family Service Plan” or “IFSP” means a written plan for providing early intervention services to an eligible child and the child’s family.

(5) “IFSP early intervention services” means the early intervention services described in an IFSP excluding any services which are to be carried out at public expense. Services, which are to be carried out at public expense, are described in 34 CFR 303.521 and include, but are not limited to, evaluation, assessment, IFSP development and review, and service coordination.

(6) “Insurance” means third party coverage for the costs of health care services.

(7) “Insurance co-payment” means an amount of money due and payable from a parent who has insurance but does not assign to the lead agency the right of recovery used to defray the costs of early intervention services otherwise covered by a parent’s insurance policy.

(8) “Medicaid” means the program operated by the Department of Social Services pursuant to section 17b-260 of the Connecticut General Statutes and authorized by Title XIX of the Social Security Act.

(9) “Program” means an agency providing comprehensive early intervention services to an eligible child operated by, under contract with, or through an inter- agency agreement with the lead agency.

(10) “Uninsured parent” means a parent who does not have insurance coverage for his or her child.

(Effective June 29, 1998; Amended August 30, 2004; Amended April 19, 2010; Amended July 2, 2014)

Sec. 17a-248-12. Insurance

(a) Programs shall be responsible for billing insurance.

(b) A parent shall be responsible for the reimbursement of costs for IFSP early intervention services included in an eligible child’s IFSP from insurance and through parent contributions established in the schedule of contributions in subsection (a) of section 17a-248-13 of the Regulations of Connecticut State Agencies.

(c) No right of recovery shall be sought from a parent whose insurance policy is required to provide coverage for IFSP early intervention services pursuant to sections 38a-490a and

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-248-13

Department of Developmental Services

38a-516a of the Connecticut General Statutes.

(d) A parent who has an insurance policy that is not required to provide coverage for IFSP early intervention services pursuant to sections 38a-490a and 38a-516a of the Connecticut General Statutes may assign to the lead agency the right of recovery which the parent has against the parent's insurer for the cost of IFSP early intervention services for which the parent is liable. If a parent who has an insurance policy that is not required to provide coverage for IFSP early intervention services pursuant to sections 38a-490a and 38a-516a of the Connecticut General Statutes does not assign to the lead agency the right of recovery, the parent shall be charged a monthly insurance co-payment based on the schedule of insurance co-payments in subsection (b) of section 17a-248-13 of the Regulations of Connecticut State Agencies in addition to any contribution that applies to a parent whose insurance policy is required to provide coverage for IFSP early intervention services pursuant to sections 38a-490a and 38a-516a of the Connecticut General Statutes, an uninsured parent, or a parent who assigns to the lead agency the right of recovery. The total reimbursement from insurance and parent contributions shall not exceed the actual cost for IFSP early intervention services.

(e) An uninsured parent shall make a contribution to the lead agency based on the schedule of contributions in subsection (a) of section 17a-248-13 of the Regulations of Connecticut State Agencies.

(f) A parent who has an insurance policy and does not assign to the lead agency the right of recovery shall be charged a monthly insurance co-payment based on the schedule of insurance co-payments in subsection (b) of section 17a-248-13 of the Regulations of Connecticut State Agencies in addition to any contribution that applies to a parent whose insurance policy is required to provide coverage for IFSP early intervention services pursuant to sections 38a-490a and 38a-516a of the Connecticut General Statutes, an uninsured parent, or a parent who assigns to the lead agency the right of recovery.

(g) A parent of a child, who is eligible for Medicaid, shall not be required to make any contribution.

(Effective June 29, 1998; Amended August 30, 2004; Amended April 19, 2010; Amended July 2, 2014)

Sec. 17a-248-13. Schedule of contributions and insurance co-payments

(a) The schedule of contributions based on a sliding scale for a parent whose insurance policy is required to provide coverage for IFSP early intervention services pursuant to sections 38a-490a and 38a-516a of the Connecticut General Statutes, an uninsured parent, or a parent who assigns to the lead agency the right of recovery shall be as follows:

Adjusted Gross Monthly Contribution by Family Size Family Income

	3 or Fewer	4	5	6 or More
Less than \$45,000	\$0	\$0	\$0	\$0

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

<i>Department of Developmental Services</i>		<i>§17a-248-13</i>		
\$45,000 - \$55,000	\$24	\$16	\$8	\$8
\$55,001 - \$65,000	\$32	\$24	\$16	\$8
\$65,001 - \$75,000	\$40	\$32	\$24	\$16
\$75,001 - \$85,000	\$56	\$48	\$40	\$32
\$85,001 - \$95,000	\$104	\$96	\$88	\$80
\$95,001 - \$105,000	\$120	\$112	\$104	\$96
\$105,001 - \$125,000	\$152	\$144	\$136	\$128
\$125,001 - \$150,000	\$192	\$184	\$176	\$168
\$150,001 - \$175,000	\$232	\$224	\$216	\$208
\$175,001 - and above	\$272	\$264	\$256	\$248

(b) The schedule of insurance co-payments based on a sliding scale for a parent who has an insurance policy and does not assign to the lead agency the right of recovery shall be as follows:

**Adjusted Gross Monthly Insurance
Family Income Co-payment**

Less than \$45,000	\$ 0
\$45,000 - \$55,000	\$ 8
\$55,001 - \$65,000	\$ 8
\$65,001 - \$75,000	\$16
\$75,001 - \$85,000	\$32
\$85,001 - \$95,000	\$75
\$95,001 - \$105,000	\$75
\$105,001 - \$125,000	\$75
\$125,001 - \$150,000	\$75
\$150,001 - \$175,000	\$75
\$175,001 - and above	\$75

(c) The monthly contribution and, if applicable, insurance co-payment from a parent, in accordance with the schedules established in this section, shall begin with the first full calendar month of a child’s enrollment after IFSP early intervention services begin.

(d) A parent shall be liable for the monthly contribution and, if applicable, insurance co-payment for each full calendar month that their child is enrolled in the birth-to- three system after IFSP early intervention services begin and until the child exits the system. An additional monthly contribution and, if applicable, insurance co- payment shall not be required if the parent has more than one child enrolled in the birth-to-three system at the same time.

(e) The aggregate contributions made by a parent and a parent’s insurance shall not exceed the aggregate state cost of IFSP early intervention services received by their child and family.

(f) The State Interagency Birth-to-Three Coordinating Council shall review the schedule

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-248-14

Department of Developmental Services

of contributions and insurance co-payments at least once every three (3) years and shall make recommendations to the lead agency regarding the schedule of contributions and insurance co-payments.

(g) The lead agency or its designee shall be responsible for billing. When the amount owed by the parent is equal to or more than three (3) months of unpaid contributions and, if applicable, insurance co-payments, the lead agency shall notify the parent that IFSP early intervention services shall be suspended until such time as payment is made in full. A parent shall be notified in writing not later than ten (10) days prior to the suspension of services. At the time that IFSP early intervention services are suspended, the parent may elect to continue to receive only those services that the Individuals with Disabilities Education Act Part C requires to be provided at no cost to parents or the parent may withdraw from the birth-to-three system. Records of unpaid contributions and, if applicable, insurance co-payments shall be maintained by the lead agency or its designee and shall be due at any time that a child who has been withdrawn is re-enrolled or a child's sibling is enrolled. The parent shall not be required to make a contribution and, if applicable, insurance co-payment for any month in which no IFSP early intervention services are delivered. Services that are not cancelled by the family at least twenty-four hours prior to their scheduled time are considered to have been delivered.

(h) The lead agency or its designee shall conduct a reassessment of a parent's financial circumstances, not less than annually, or when the lead agency determines that a reassessment is warranted. The lead agency may adjust a parent's contribution and, if applicable, insurance co-payment for IFSP early intervention services based upon the reassessment.

(i) A parent has the right to have a reassessment at any time if there are significant changes affecting the determination of the parent's contribution and, if applicable, insurance co-payment. Such request for reassessment shall be made in writing.

(Effective June 29, 1998; Amended August 30, 2004; Amended April 19, 2010; Amended July 2, 2014)

Sec. 17a-248-14. Adjustment to parent contributions and insurance co- payments

(a) A parent may request in writing an adjustment of the family's adjusted gross income if there are one or more extraordinary expenditures that should be taken into account when calculating the contribution and, if applicable, insurance co- payment. Adjustments may be requested through the director or the director's designee as prescribed in this section. If such an adjustment is denied, the parent may request an administrative proceeding pursuant to section 17a-248-9 of the Regulations of Connecticut State Agencies.

(b) The lead agency may reduce a family's adjusted gross income from which the contribution and, if applicable, insurance co-payment is calculated, upon the written request of the parent and with the submission of appropriate documentation.

(c) The lead agency shall review requests submitted and, upon determination, a parent shall be notified of the decision.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Developmental Services

§17a-248-14

(d) A parent who is aggrieved by such a decision may request in writing through the director or the director's designee an administrative proceeding not later than thirty (30) days after the date of receipt of the notice of the lead agency's decision.

(e) The lead agency shall hold such proceeding not later than thirty (30) days after the date of receipt of a request for an administrative proceeding. The lead agency shall mail a notice, giving the time and place of the proceeding to the aggrieved parent, not later than ten (10) days prior to the date of the proceeding. A period of continuance, not to exceed twenty (20) days, may be granted.

(f) The aggrieved parent shall appear personally at the administrative proceeding and may have representation.

(g) A record shall be made of each administrative proceeding, but shall only be transcribed upon request.

(h) The administrative proceeding shall be conducted by the commissioner of the lead agency or the commissioner's designee.

(i) The lead agency shall render a final decision not later than ninety (90) days after the close of the administrative proceeding. Written notice of the final decision shall be sent to the aggrieved parent by the lead agency by certified mail.

(j) A parent shall continue to be billed at the original contribution and, if applicable, insurance co-payment amount until a request for adjustment of the contribution and, if applicable, insurance co-payment amount is approved either by the director or the director's designee or through the administrative proceeding.

(k) The lead agency, upon approval of an adjustment of the contribution and, if applicable, insurance co-payment amount, shall adjust a parent's contribution and, if applicable, insurance co-payment to reflect any overpayment or underpayment of contributions and, if applicable, insurance co-payments during the approval process and the administrative proceeding.

(Effective June 29, 1998; Amended August 30, 2004; Amended April 19, 2010; Amended July 2, 2014)

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

Agency

Department on Aging

Subject

Promotion of Independent Living for the Elderly Program

Inclusive Sections

§§ 17a-301-1—17a-301-12

CONTENTS

Sec. 17a-301-1.	Definitions
Sec. 17a-301-2.	Program operation
Sec. 17a-301-3.	Eligibility
Sec. 17a-301-4.	The coordination, assessment and monitoring process
Sec. 17a-301-5.	Community services
Sec. 17a-301-6.	Forms
Sec. 17a-301-7.	Reporting
Sec. 17a-301-8—17a-301-12.	Reserved

Promotion of Independent Living for the Elderly Program

Sec. 17a-301-1. Definitions

(a) “Applicant” means any person who seeks admission to the Promotion of Independent Living for the Elderly Program.

(b) “Assessment” means a comprehensive written evaluation of an individual’s health, social, psychological and economic status, degree of functional impairment and related service needs based on a uniform instrument prescribed by the Department on Aging and initiated by direct personal contact between a case manager and potential client.

(c) “Case Manager” means an Agency Nurse Team Member or an Agency Social Services Coordinator Team Member who meets the requirements set forth in Section 19-13-D94 of the Regulations of Connecticut State Agencies.

(d) “Client” means any individual admitted into or receiving care under the program.

(e) “Community Services” means a social or medical regimen which allows the individual to remain in his or her home. This includes, but is not limited to:

- (1) Adult day care;
- (2) Chore services;
- (3) Companion services;
- (4) Foster care;
- (5) Home delivered meals;
- (6) Home health aide services;
- (7) Homemaker services;
- (8) Mental health counselling;
- (9) Occupational therapy;
- (10) Personal care;
- (11) Physical therapy;
- (12) Respite care;
- (13) Skilled nursing care;
- (14) Transportation; and
- (15) Personal emergency response systems.

(f) “Coordination, Assessment and Monitoring (CAM) Agency” means an agency which:
(1) is licensed as such by the Department of Health Services (DOHS) pursuant to Section 19-13-D93 to 104 of the Regulations of Connecticut State Agencies; or

(2) meets all state licensure requirements; and

(3) has an agreement with the Department on Aging to conduct CAM functions on behalf of the Department.

(g) “Day” means calendar day.

(h) “Department” means the Connecticut State Department on Aging or its authorized agent.

(i) “Elderly” means 60 years of age or older.

(j) “Equal Access” means all eligible persons having the same access to program information, the same opportunity to apply for services, and, other than those who have

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-301-1

Department on Aging

been identified as members of priority subgroups identified by the Department, the same likelihood of acceptance into the program.

(k) “Inappropriate for the Program,” means that the individual does not meet the eligibility criteria identified in Section 17a-301-3 or meets one or more of the criteria for discharge as outlined in Section 17a-301-4 (f) of these regulations.

(l) “Informal supporters” means individuals who provide care on an unpaid basis.

(m) “Legally Liable Relative” means a family member identified in law or regulation as responsible for all or part of the cost of another individual’s care.

(n) “Legal Representative” means a conservator or other individual who has legal authority to act on behalf of a promotion of independent living client of applicant; such authority may include a durable power of attorney or a court-appointed guardianship.

(o) “Liquid Assets” means all resources readily convertible into cash, excluding all real property, and including but not limited to cash, bank accounts, stocks, certificates of deposit, credit union shares, present interests in estates and the cash value of life insurance or burial insurance if the total face value of all life insurance policies exceeds \$1,500.

(p) “Long Term Care Facility” (LTC) means a facility licensed by the Department of Health Services as a chronic and convalescent nursing home or rest home with nursing supervision and certified to participate in the Title XIX medical assistance program, as a nursing facility as evidenced by a Title XIX provider agreement. For the purposes of this regulation the term long term care facility does not include an Intermediate Care Facility specifically for the mentally retarded (ICF/MR) or any other residential or inpatient health care facility.

(q) “Person” means an elderly individual or his or her authorized representative including, but not limited to, relatives, guardians or conservators.

(r) “Plan of Care” means a written plan of community services which specifies for each applicant the type and frequency of all services required to maintain that person in the community, the service providers, the cost of services, and funding sources.

(s) “Planning and Service Area” (PSA) means a geographical portion of the State designated as a unit for the development of services by the Commissioner on Aging pursuant to Section 17a-304 of the Connecticut General Statutes.

(t) “Program” means the Promotion of Independent Living for the Elderly Program.

(u) “Related Party” means an entity which, to a significant extent, is associated with or affiliated with another by common ownership or control. Control of or by another entity exists where an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution. Common ownership exists when an individual or individuals possess significant ownership or equity in the provider or organization serving the provider. The Department refers to interpretations of 42 CFR 405.427, when determining whether parties are related.

(v) “Responsible Party” means a person who has been designated by the elderly individual to participate in the client’s plan of care as described in these regulations.

(w) “Risk of inappropriate institutionalization” means that the individual has a need for

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department on Aging

§17a-301-3

long term care services due to his or her functional or cognitive status but would be able to remain at home, without the creation of an unacceptable risk to the safety of the individual or others, if community services were provided.

(x) “Unacceptable Risk” means a situation which places an individual’s life or health in immediate jeopardy. In determining whether an unacceptable risk exists (such as may support a finding of ineligibility for program services, see Sections 17a-301-3a and 17a-301-4f herein), the CAM Agency shall take into account its agency’s professional standards, as well as the client’s needs and his or her informed viewpoint with regard to the potential risk.

(Effective June 2, 1992)

Sec. 17a-301-2. Program operation

(a) The Department shall contract in each PSA with one CAM agency for administration of the Program. Each CAM agency with which the Department has contracted will assume responsibility for the administration of the Program, including screening, determination of eligibility for admission, assessment and care planning, service procurement and quality assurance.

(b) Funds for the Program will be allocated to PSAs based on the proportion of the target population which resides in each PSA.

(c) The Program is not an entitlement program. Payments for services are limited to amounts appropriated by the Connecticut General Assembly, allocations from the Social Services Block Grant, and any other non-State funds which may be available to the Department. In the event that funding is insufficient to provide services to all eligible persons, the number of persons admitted to the Program will be limited to those for whom sufficient funding is available.

(d) The rate of payment for services, including case management, shall not exceed the rate established for such services by the Commissioner of Income Maintenance pursuant to Section 17-314c of the Connecticut General Statutes, or by the Commission on Hospitals and Health Care pursuant to Section 19a-151 (b) of the Connecticut General Statutes.

(e) The Department shall not enter into a contract with any CAM agency unless it is able to provide for necessary services for individuals who are non-English speaking, hearing impaired or who have other special needs.

(f) The Department and the CAM agency shall use their best efforts to insure that all eligible elderly persons have equal access to services.

(Effective June 2, 1992)

Notes: Section number corrected from 17-301-2 to 17a-301-2 on 2015-2-18 (February 18, 2015)

Sec. 17a-301-3. Eligibility

(a) To be eligible for the Program an individual must meet all the following criteria:

- (1) Be 60 years of age or older;
- (2) Be a resident of Connecticut;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-301-3

Department on Aging

(3) Be inappropriately institutionalized or at risk of inappropriate institutionalization as defined by these regulations based upon the individual's functional, psychological and social status;

(4) Have an income at or below 300 percent of the current maximum Supplemental Security Income benefit for an individual living independently or in the case of a married couple, 300 percent of the current maximum Supplemental Security Income benefit for a married couple living independently. Married applicants will be subject to the income provisions for single individuals if each spouse maintains a separate residence and neither spouse has access to, or receives support from, the other's income.

(b) Persons whose income levels are between 150 percent of the federal poverty level and the maximum income limit for the program or whose liquid assets are greater than the minimum community spouse protected amount as defined in the Connecticut Department of Income Maintenance Uniform Policy Manual must contribute towards the cost of their care on the basis of a fee scale specified by the Department. The Department may establish policies providing for exceptions to this requirement, limited to situations where combined co-payments and necessary living expenses exceed available income, circumstances make it impossible to collect copayments or the cost of collecting co-payments is greater than the sum of the required client payments.

(c) The Department may from time to time establish priorities which insure that persons with the greatest social and economic need receive timely assistance.

(d) Any individual applying for services on or after July 1, 1989, who may be eligible for medical assistance benefits pursuant to Section 17-134a of the Connecticut General Statutes and in need of medical services that could be covered by Medicaid shall, as a condition of participation in the program, apply for such benefits, cooperate with all application requirements, and accept such benefits if determined eligible.

(1) The Department may grant exceptions to this requirement, limited to situations in which a severe hardship exists and refusal to provide services will leave the individual unable to obtain services which are necessary to maintain physical and mental health. In order to be considered for such an exception, the applicant or the case manager must apply directly to the Commissioner on Aging stating the specific hardship conditions which exist. Examples of such hardship situations include: the applicant is mentally incompetent and is unable to take the steps necessary to complete the Medicaid application and no other responsible party has yet been designated, or legal proceedings prevent the individual's access to information necessary to complete an application.

(2) All exceptions will be valid for a period not to exceed two months. An extension may only be granted by the Department following a specific request for an extension which explains the reasons for the continued hardship. In general, all requests for exceptions and extensions must include a plan for subsequent application for Medicaid benefits. The decision to grant exceptions and extensions shall be at the sole discretion of the Department.

(Effective June 2, 1992)

Sec. 17a-301-4. The coordination, assessment and monitoring process

(a) **Screening.** Referrals shall be reviewed within 5 work days after they are received, using a form approved by the Commissioner on Aging.

(1) The CAM agency shall either schedule an assessment, place the applicant on a waiting list if available funding or workload do not permit immediate assessment, or reject the applicant as inappropriate for the program.

(2) In the event that an assessment is not scheduled, the individual shall be notified of the disposition of the application (waiting list or rejection) and the reasons for the action taken within 72 hours of screening by the CAM agency. The individual shall be referred to other agencies for assistance if appropriate.

(b) **Assessment.**

(1) An assessment is scheduled and shall be performed within seven days, if there is available funding and staff or when an individual's name has been reached on the waiting list.

(2) The assessment will be performed using the instrument specified by the Department to assess the functional, psychological, cognitive, social, environmental, financial and health status of the individual, and the extent to which informal supporters are available or active in the individual's care. The assessment shall be performed by a case manager.

(3) The CAM agency shall use its best efforts to obtain relevant information from any other health or social service agencies or professionals which have provided services or care to the individual. The CAM agency shall first obtain signed releases from the individual or responsible party.

(4) Upon completion of the assessment, the CAM agency shall discuss with the individual, or responsible party, the findings of the agency and send a written notice to the individual or responsible party making a referral. The notice shall state:

(A) Whether the individual is eligible for admission to the Program; or

(B) The reason for a determination of ineligibility if applicable;

(C) In the event of a determination of ineligibility, notice of appeal rights, including the procedure to be used and any deadlines and the name and telephone number of a person to contact for more information on the appeals process.

(c) **Individualized Plan of Care.**

(1) Upon admission into the Program, an individualized plan of care shall be developed for each client by the case manager assigned to the client. The plan of care shall include all services the client needs to safely remain in the community. The plan of care includes services to be provided by informal supporters and any services to be funded by third party payers.

(2) The case manager shall involve the client and any key informal supporters identified during the assessment in developing the plan of care. The client, or other responsible party, must indicate approval of the plan of care prior to implementation.

(3) The case manager shall determine which services will meet the needs of the client. When more than one type of service will equally meet the identified needs, the case manager

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-301-4

Department on Aging

shall choose the type with the lower cost. When more than one person or agency provides a necessary service of equal quality, the case manager shall choose the one offering the lower cost.

(4) The case manager shall obtain funding for necessary services from all third party funding sources available. Program funds will be used only when no other funding source is available. In no event shall the cost to the Department exceed 60 percent of the annualized weighed average daily rate for skilled and intermediate nursing care in Connecticut in effect on January 1st, as determined by the Commissioner of Income Maintenance.

(5) In the event that a person other than a legally liable relative agrees to assume responsibility for the client's share of the costs, amounts paid by such person shall not be counted as income to the client for the purposes of determining eligibility or required contributions.

(d) Individualized Plan of Care Implementation.

(1) Services other than assessment and case management will be obtained from community service providers.

(2) Services paid for with Program funds will be procured through subcontracts and individual service orders.

(3) The CAM agency shall not use Department funds to purchase community services from itself or any related parties.

(4) Services paid for through other funding sources will be arranged by the case manager, who will assist the client in completing applications and any necessary intake processes.

(e) Monitoring and Case Management.

(1) Clients who require ongoing case management shall be monitored by the case manager as follows:

(A) Reviewing the care plan at least every 60 days,

(B) Making a home visit to the client at least every six months to determine the appropriateness of the service plan and to assess changes in the client's condition. The case manager shall conduct a formal reassessment of the client's health, functional and financial status and service needs every twelve (12) months,

(C) monitoring service delivery, including reviewing provider reports and records of service delivery, and

(D) responding to changes in client needs as they occur, making appropriate changes in the type, frequency, cost or provider of services needed for the client to remain in the community.

(E) In accordance with any additional requirements established under the agency's licensure.

(2) Ongoing monitoring by a case manager may be suspended for a client who, at the time of the sixty (60) day care plan review, meets the following criteria:

(A) The client's functional and cognitive status have been determined to be stable (this can include the presence of chronic health problems if the conditions are under control and do not require intervention by a case manager), and

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department on Aging

§17a-301-4

(B) No changes in the total plan of care are anticipated during the following sixty (60) days with the exception of changes in the particular individuals who are providing care or scheduled terminations of short-term services, and

(C) The client or a legal representative has signed a consent form accepting the suspension of monitoring services and indicating that either the client or a responsible party will regularly monitor the client's needs and promptly report changes therein to the case manager.

(3) When ongoing monitoring by a case manager has been suspended, the client may continue to receive other home care services through this program. The department shall require renewals of service orders at least every six months and annual redeterminations of eligibility in order to continue services. If the client's condition becomes unstable and the client continues to reside in the community, the CAM agency shall reinstate monitoring services within seven days.

(f) **Discharge.**

(1) A client must be discharged from the Program under any of the following conditions:

(A) The client has been institutionalized in an acute or long term care facility for a period exceeding 90 days; or

(B) It has been determined that a client who has been institutionalized in an acute or long term care facility for less than 90 days will not be able to return to the community within that period of time; or

(C) The client is no longer eligible for the program (see Sec. 17a-301-3a); or

(D) The client's condition improves to the point where he or she is no longer in need of case management or other services funded by the department; or

(E) The client is admitted to the Nursing Home Preadmission Screening and Community Based Services Program or is enrolled in the Protective Services for the Elderly Program for 90 days or more; or

(F) The client or family fails to make mandatory co-payments; provided clients will not be discharged if: (1) a provider agrees to absorb the client's share of costs, or (2) if a charitable, religious or other non-state funding source agrees to make co-payments on the client's behalf, or (3) the client qualifies for an exception to the co-payment requirement as determined under Section 17a-301-3 of these regulations.

(G) The client takes up residence in another state.

(H) The client voluntarily withdraws from the program or refuses all services.

(2) The CAM agency will develop a discharge plan which ensures the continued well being of the client to the maximum extent possible.

(3) When a client is to be discharged, the client or responsible party will be given at least ten (10) days notice and will be notified of the reason for discharge and the client's right to appeal. The reason for discharge will be entered into the client's file with all relevant documentation.

(4) CAM agencies will have written discharge policies and will notify the client or responsible party of these policies at the time of admission.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-301-5

Department on Aging

(5) Nothing in these regulations shall be deemed to require the CAM agency or any provider to provide services if it has determined that continued participation would constitute an unacceptable risk to the safety the client or others.

(Effective June 2, 1992)

Sec. 17a-301-5. Community services

(a) Community services shall be included as part of the individualized plan of care developed by the CAM agency. The plan must specify the frequency and provider of such services. Services contained in the plan must be based upon documented needs found in the assessment or reassessment of the individual's needs and shall be provided only when needed in order to avoid inappropriate institutionalization.

(b) The Program shall not:

(1) Reimburse for personnel or services delivered by a person or agency required by the State of Connecticut to be licensed, certified or otherwise approved unless that person or agency can show satisfactory evidence of such licensing, certification or approval. In the event that a CAM agency purchases services from a provider not required to be licensed and which

is not otherwise subject to quality assurance regulation, the CAM agency shall take such reasonable measures as are necessary prior to purchase to ensure the quality of services delivered; or

(2) Pay any claim to a provider of community services which cannot produce adequate records to document such claim for payment; or

(3) Pay for any cancelled services; or

(4) Pay for a service when the client does not receive the service, notwithstanding any prior notice of cancellation requirement of the provider; or

(5) Reimburse for services not included in the individualized plan of care.

(c) Provider payments shall be made at the lowest of:

(1) The Provider's usual and customary charge to the public;

(2) The fee or rate established by any State agency having the authority to establish such fee or rate;

(3) The amount billed by the provider; or

(4) The fee or rate negotiated by the CAM agency.

(d) The commissioner may make money payments directly to persons entitled to receive payments for services under the department's jurisdiction if these persons had been receiving such payments prior to transfer from the department of human resources. The payments shall be made from available department on aging funds and at intervals determined by the commissioner.

(1) If the department makes direct money payments, there shall be no payment for any service not expressly authorized by the commissioner or her designee. There shall be no payment for any service incurred by, or paid by, the recipient prior to the date of payment authorization.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department on Aging

§17a-301-8—17a-301-12

(2) If the department makes direct money payments, the payment shall be for the gross amount of the service payment as authorized by the commissioner, with no deductions for social security (FICA), federal unemployment tax (FUTA) or state unemployment compensation tax (UC) payments.

(Effective June 2, 1992)

Sec. 17a-301-6. Forms

The Department on Aging shall promulgate a uniform assessment tool and all required Program-related forms.

(Effective June 2, 1992)

Sec. 17a-301-7. Reporting

All CAM agencies and community services providers shall comply with reporting and audit procedures established by the Department for purposes of monitoring and evaluating the Program.

(Effective June 2, 1992)

Sec. 17a-301-8—17a-301-12. Reserved

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

Agency
Department of Social Services
Subject
Community Services Policy Manual for Title III Programs of the Older Americans Act
Inclusive Sections
§§ 17a-306-1—17a-306-45

CONTENTS

Sec. 17a-306-1—17a-306-19.	Transferred
Manual of Fiscal Policies for Title III Programs of the Older Americans Act	
Sec. 17a-306-20.	Introduction
Sec. 17a-306-21.	Definitions—as used in this manual
Sec. 17a-306-22.	Scope and organization
Sec. 17a-306-23.	Principles and standards for financial management and accounting
Sec. 17a-306-24.	Program management
Sec. 17a-306-25.	Conflict of interest/code of conduct
Sec. 17a-306-26.	Personnel policies
Sec. 17a-306-27.	Property control
Sec. 17a-306-28.	Procurement practices and contracting
Sec. 17a-306-29.	General program income
Sec. 17a-306-30.	Cash requests, bank balances and check-handling procedures
Sec. 17a-306-31.	Financial reporting
Sec. 17a-306-32.	Substantiation of costs and allowable costs
Sec. 17a-306-33.	Cost allocation plan
Sec. 17a-306-34.	In-kind costs
Sec. 17a-306-35.	Line-item approvals
Sec. 17a-306-36.	Fiscal assessment of area agencies on aging and subgrantees
Sec. 17a-306-37.	Carry-over balance policies
Sec. 17a-306-38.	Audits
Sec. 17a-306-39.	Close-out procedures
Sec. 17a-306-40.	Miscellaneous
Sec. 17a-306-41—through 17a-306-44.	Reserved
Sec. 17a-306-45.	Index

Community Services Policy Manual for Title III Programs of the Older Americans Act

Sec. 17a-306-1—17a-306-19. Transferred

Transferred to Sec. 17b-423-1—17b-423-19, October 7, 1997

Manual of Fiscal Policies for Title III Programs of the Older Americans Act

Sec. 17a-306-20. Introduction

This regulation adopts the manual of fiscal policies in accordance with provisions of Chapter 54 of the Connecticut General Statutes.

(a) The Connecticut Department on Aging's Manual of Fiscal Policies has been prepared, updated, adopted as policy, and distributed by the Department in accordance with the requirements of Section 17a-306 of the Connecticut General Statutes. The manual contains policy regulations and substantive procedures for the grant administration of Title III of the Older Americans Act of 1965, as amended. It provides policies and standards for use by the Connecticut Department on Aging and the area agencies on aging in the administration of grants under Title III of the Older Americans Act.

(b) The purpose of the Manual of Fiscal Policies is to provide detailed information on the administration of grants of the Connecticut Department on Aging and its grantor/contractor agencies. The Manual should assist and guide Connecticut's area agencies on aging in the application of various Federal and state laws and regulations to programs operated under Title III of the Older Americans Act.

(c) The manual constitutes all current fiscal policies and standards that have been developed by the Connecticut Department on Aging, unless otherwise noted, through the time of issuance.

(Effective November 8, 1991)

Sec. 17a-306-21. Definitions—as used in this manual

(a) "Administration on Aging (AoA)" means the Federal agency established in the Office of the Secretary, Department of Health and Human Services as part of the Office of Human Development, charged with the responsibility for administering the provisions of the Older Americans Act except for Title V.

(b) "American Institute of Certified Public Accountants (AICPA)" means that organization which establishes financial, accounting, and auditing procedures to which accountants must adhere.

(c) "Area Agency on Aging" means an agency designated by the department to develop and administer an area plan in a planning and service area.

(d) "Area Plan" means the official planning document submitted by all Area Agencies on Aging to the Department for approval, which identifies measurable objectives and action steps to achieve those objectives, as well as describing all other functions of the Area Agency.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-21

Department of Social Services

(e) “Code of Federal Regulations (CFR)” means the federal regulations promulgated to establish uniform requirements for the administration of the Older Americans Act.

(f) “Commissioner” means the Commissioner on Aging of the Administration on Aging.

(g) “Connecticut Aging Network” consists of those organizations or divisions of organizations which provide services for the elderly of Connecticut on a not for profit basis.

(h) “Department (SDA)” means the Department on Aging of the State of Connecticut.

(i) “Elderly Nutrition Project (ENP)” means an entity that is awarded a subgrant or contract from an area agency to provide nutrition services under the area plan.

(j) “Financial Accounting Standards Board (FASB)” means that board designated by the AICPA to have the power to set accounting standards which specify generally accepted accounting principals.

(k) “Grant” means an award of financial assistance in the form of money or property in lieu of money by a grantor to an eligible recipient.

(l) “Grantee” means the government, nonprofit corporation or other legal entity to which a grant is awarded and which is accountable to the grantor for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the award document.

(m) “Grantor” means that agency, institution, or organization which is the awarding party with respect to a grant.

(n) “Job Training Partnership Act (JTPA)” means a federal labor program consisting of a public/private partnership between government and the private sector aimed to provide job training for economically disadvantaged persons seeking economic self sufficiency.

(o) “Management Information System (MIS)” means the state wide system of gathering statistical data on the delivery of social services to the elderly as presented by the State Plan.

(p) “Manual” means the Manual of Fiscal Policies for Title III Programs of the Older Americans Act.

(q) “Nonprofit” means that no part of the net earnings of the subject agency, institution, or organization passes, or may lawfully pass, directly or indirectly to the benefit of any corporate shareholder or private individual.

(r) “Older Americans Act (OAA)” means the Older Americans Act of 1965 as amended.

(s) “Recipient” means an organization receiving financial assistance to carry out a program.

(t) “Subgrantee” means the government, nonprofit corporation or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided. The subgrantee is the entire legal entity even if only a particular component of the entity is designated in the award document.

(u) “Subrecipient” means an organization receiving financial assistance, from a recipient, to carry out a program.

(v) “United States Department of Agriculture (USDA)” means a source of supplemental funding of elderly nutrition programs through commodities or cash.

(w) “United States Office of Management and Budget (OMB)” means that federal executive organization which produces circulars of administrative guidance for federally funded grantees.

(Effective November 8, 1991)

Sec. 17a-306-22. Scope and organization

The general organization of the Manual of Fiscal Policies is as follows:

(a) **Section 17a-306-20 Introduction**—provides a description of the purpose of the Manual of Fiscal Policies.

(b) **Section 17a-306-21 Definitions**—provides a glossary of words and phrases found in this Manual of Fiscal Policies which require clarification and/or definition.

(c) **Section 17a-306-22 Scope and Organization**—provides a list and short description of the individual sections of the Manual of Fiscal Policies.

(d) **Section 17a-306-23 Principles and Standards for Financial Management and Accounting**—sets forth the standards and principles for the organization of an area agency on aging’s accounting and accounting system.

(e) **Section 17a-306-24 Program Management**—describes those policy statements contained in the overall Manual of Fiscal Policies pertaining to fiscal management, plus a clarification.

(f) **Section 17a-306-25 Conflict of Interest/Code of Conduct**—to protect all personnel and safeguard the assets of agencies in the Connecticut aging network, presents a code of conduct to serve as a guide for area agencies on aging to adopt for procurement matters.

(g) **Section 17a-306-26 Personnel Policies**—sets forth those fiscal related policies pertaining to personnel, fringe benefits and travel reimbursement.

(h) **Section 17a-306-27 Property Control**—presents rules over the definition, inventory and disposition of equipment, furnishings and property.

(i) **Section 17a-306-28 Procurement Practices and Contracting**—spells out the elements of a process for the competitive award of contracts and grants as well as the essential policies under such a process.

(j) **Section 17a-306-29 General Program Income**—sets forth the Connecticut Department on Aging’s fiscal policies on the definition, treatment and use of program income and interest earned.

(k) **Section 17a-306-30 Bank Balances and Check-Handling Procedures**—reviews the Connecticut Department on Aging’s rules on how to request, safeguard and handle cash to comply with the U.S. Government’s rules in Treasury Circular 1075.

(l) **Section 17a-306-31 Financial Reporting**—specifies the Connecticut Department on Aging’s rules on the kind of reports to be submitted and their due dates. The fiduciary responsibility of the report signer is precisely defined.

(m) **Section 17a-306-32 Substantiation of Costs and Allowable Costs**—integrates the various Office of Management and Budget (OMB) Circulars that describe the cost principles in the allowability, allocability and reasonableness of costs and credits.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-23

Department of Social Services

(n) **Section 17a-306-33 Cost Allocation Plan**—authorizes area agencies on aging to directly allocate their indirect cost and describes how to accomplish this.

(o) **Section 17a-306-34 In-Kind Costs**—presents a discussion on the types of allowable in-kind costs and how to account for them.

(p) **Section 17a-306-35 Line-Item Approvals**—sets forth the Connecticut Department on Aging’s rules on the control of expenditures against the approved budget.

(q) **Section 17a-306-36 Fiscal Assessment of Area Agencies on Aging and Subgrantees**—presents the role of the Connecticut Department on Aging and the responsibility of area agencies on aging in the fiscal assessment of area agencies on aging and their subgrantees.

(r) **Section 17a-306-37 Carry-Over Balance Policies**—describes the Connecticut Department on Aging’s requirements for reauthorization of carry-over balances and the timing of spending of prior year’s funds.

(s) **Section 17a-306-38 Audits**—presents the Connecticut Department on Aging’s policy to upgrade the quality of audits in the Connecticut aging network by implementing the Single Audit as outlined in OMB Circular A-128, or A-133.

(t) **Section 17a-306-39 Close-Out Procedures**—describes the right of the Connecticut Department on Aging to suspend, terminate or close out grants and the handling of all assets and records.

(u) **Section 17a-306-40 Miscellaneous**—covers those important topics of insurance, release of information and privacy-act applicability not covered elsewhere in the Manual of Fiscal Policies.

(v) **Section 17a-306-41 through 17a-306-44 Reserved**

(w) **Section 17a-306-45 Index**

(Effective November 8, 1991)

Sec. 17a-306-23. Principles and standards for financial management and accounting

The purpose of this section is to set forth the principles and standards for the organization of an area agency on aging’s accounting and accounting system.

(a) **Basis of Accounting**

(1) Each grantee and subgrantee shall report program outlays and program income on the modified accrual basis. Accordingly, expenditures are recorded when a liability is incurred (i.e., when an invoice has been received or the amount can be readily estimated), but revenue is not recorded until actually earned by or is available to the grantee or subgrantee. “Available” means that the revenue is both recognizable and collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period.

(2) If the grantee or subgrantee presently maintains its accounting system on the cash basis, it must develop the necessary accrual information through analysis of pertinent documentation on hand. Appropriate worksheet entries can be made to convert the books of account under the cash basis to financial statement presentation under the accrual basis.

(3) Unbilled receivables arise when revenues have been recorded but the amounts (or

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§17a-306-23

portions thereof) cannot yet be billed pending receipt of the final notice of grant award. Unbilled receivables can specifically occur in relation to year-end U.S. Department of Agriculture (USDA) funding where the cost has been incurred, but billing cannot occur until authority for such reimbursement has been granted. Because such sums have been incurred, collection is assured and the amount is estimable, grantees and subgrantees should treat such costs as an unbilled receivable, with a related credit to revenues in the year in which such costs were incurred.

(b) Authority to Expend Federal and State Funds

(1) By virtue of the Connecticut Department on Aging's approval of an area agency on aging area plan and its execution of a contract for the distribution of funds, area agencies on aging are thereby granted authority to obligate funds under the approved plan for eligible activities, for the period covered by their plans. This authority to obligate funds under their approved plans is only extended for allowable and allocable costs which are also reasonable and net of all applicable credits.

(2) Area agencies on aging are to refer to the Federal cost principles applicable to their organization to ascertain if there are any prior approvals required from their granting agency. There are also other prior approvals required by virtue of their award of a grant from the Department on Aging or required by specific program legislation or regulation. The following is a minimum, but not necessarily an inclusive, list of these prior approvals:

(A) Change in Scope. Changes in the scope or objectives of the grant-supported activities.

(B) Restriction on Award. Undertaking any activities that are disapproved or restricted as a condition of the award.

(C) Change of Grantee Institution/Successor in Interest/Recipient Institution Name Change. Grantees of the Connecticut Department on Aging shall notify the Connecticut Department on Aging in writing of any pending change of grantee institution, successor in interest, or institution name change. In a change of grantee or successor in interest situation, the Connecticut Department on Aging will exercise its prerogative to determine whether to continue funding the existing project(s) under the new entity.

(D) Transferring Substantive Responsibility for Management of the area plan. Transferring to a third party, by contracting or any other means, the actual performance of substantive responsibility for the management of the grant.

(E) Carry-over of Funds from One Budget Period to Another.

(F) Extensions of the Budget/Project Period With or Without Additional Funds.

(G) Capital Expenditures. Capital expenditures for land or buildings. Also, such property acquired with Connecticut Department on Aging grant support may not be conveyed, transferred, assigned, mortgaged, leased or in any other manner encumbered by the grantee, without prior written approval of the Connecticut Department on Aging.

(H) Equipment. General and special-purpose equipment exceeding \$500 per unit.

(I) Salaries. Any changes which either increase or decrease salaries and/or the salary account.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-23

Department of Social Services

(J) Preagreement Costs Incurred Prior to the Effective Date of Any Grant Award.

(K) Consultant Fees. When the consulting agreement (1) constitutes a transfer of substantive management or administrative work to a third party, (2) results in a contract for management services that requires Connecticut Department on Aging or the Federal grantor agency's prior approval, or (3) is required by program regulations or other award terms.

(L) Need for Additional Funds.

(M) Closely Related Work. When salaries and/or other activities are being supported by two or more grant sources, area agencies on aging may request authority to charge the cost to the Title III grant for which the costs are originally approved, or to another Department on Aging project, provided all of the following conditions are met:

(i) The projects are programmatically related;

(ii) The projects are under the direction of the same project director;

(iii) There is no change in the scope of the individual grants involved;

(iv) The relating of costs will not be detrimental to the conduct of work approved under each individual award;

(v) The relatedness will not be used to circumvent terms and conditions of an individual award; and

(vi) Each funded project has the same completion date.

(N) Indemnification Against Third Parties.

(O) Transfer of Funds Between Construction and Nonconstruction.

(P) Travel Outside of the Continental United States.

(Q) Insurance. Contributions to a reserve fund for a self-insurance program and the cost of insurance on any U.S. Government-owned equipment requires prior approval.

(c) Cost Center Accountability

All costs for the operation of the area agency on aging approved in its annual plan shall be considered administrative and must adhere to the current federal limit.

In general, the following list of costs which are considered necessary for the overall administration of the agency shall be included in this category:

(1) The personnel expenses of administrative secretarial staff, the agency director, and fiscal and planning staff to the extent they are involved in activities of a general nature related to the overall operation of the area agency on aging. Such activities include personnel management or supervision by administrative staff that is not traceable to any specific service.

(2) Staff time devoted to planning activities, which are of a general nature and not assignable or allocable to a service such as: preparing testimony, addressing public hearings, conducting public hearings, overall agency program performance reviews and analysis of program effectiveness, and revision of agency objectives and plans as necessary.

(3) Staff time assigned to coordination activities (which may include joint planning with other agencies), assisting in the development of other agency programs to better serve the elderly; involvement in jointly funded activities and information sharing.

(4) Staff time spent in researching and acquiring other resources to be used for the

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§17a-306-23

development and expansion of services provided through the area plan.

(5) Providing travel expenses, meal allowances, etc., necessary to support Advisory Council activities.

(6) Staff travel expenses for personnel activities charged to the area agency on aging administration cost center.

(7) General agency personnel management and record keeping related to employee benefits, as well as developing and implementing agency personnel policies and such activities as staff orientation and training of a general nature.

(8) Financial management of the entire agency operation such as maintaining necessary journals, ledgers and accounts, making requisite bank deposits and withdrawals, invoicing and payment processing, payroll administration and preparing periodic financial reports that encompass the overall agency financial status.

(9) Activities involved in providing advocacy for older adults.

(10) Costs of office furniture, supplies, and equipment designated specifically for the administrative staff.

(11) Payments for the agency's annual audit.

(12) The costs of general liability insurance, fidelity bonds, etc.

(d) Chart of Accounts

Provided that area agencies on aging are able to comply with the nine standards for financial management systems in Attachment F of OMB Circular A-110, and the financial management standards contained in Title 45 Code of Federal Regulations Subpart 74.61, area agencies on aging shall adopt their own account structure based on their own external and internal reporting requirements.

(e) Elements of an Acceptable Financial Management System

(1) Title 45 Code of Federal Regulations Subpart 74.61 (b) requires that grantees or subgrantees have records that identify adequately the source and application of funds for grant or subgrant-supported activities. At a minimum, these records shall contain information pertaining to grant or subgrant awards, authorizations, obligations, unobligated balances, assets, outlays, income, and if the recipient is a government, liability.

(2) Special grant conditions may be more restrictive than those prescribed in Title 45 Code of Federal Regulations Part 74 imposed by the Connecticut Department on Aging on its subrecipients as needed when the Connecticut Department on Aging has determined its grantee:

(A) Is financially unstable.

(B) Has a history of poor performance, or

(C) Has a management system which does not meet the standards of Part 74.

(3) For the purpose of determining the adequacy of a subrecipient's financial management system, the Connecticut Department on Aging shall consider the following records maintained on a current basis to be minimum:

(A) General Journal,

(B) General Ledger,

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-23

Department of Social Services

- (C) Separate or combined Cash Receipts and Disbursements Journal or Voucher Register,
- (D) Payroll Register (if the agency has more than 10 employees),
- (E) Fixed Assets Register for all owned and leased property and equipment,
- (F) In-Kind Journal/Worksheets,
- (G) Project Cost Control Subsidiary Ledger/Worksheets, and
- (H) Bank statements reconciled within 15 working days of receipt.

(4) Grantees of the Connecticut Department on Aging may substitute the equivalent kind of records for those specified in C. above provided the substitute records meet the function for which those records have been required.

(f) Separate Fund for Equipment, Fixtures and Property

(1) Fixed assets should be recorded in a self-balancing group of accounts separate and distinct from the regular General Ledger accounts.

(2) To be classified as a fixed asset, a specific piece of property must possess three attributes: (1) tangible nature, (2) a useful life of two years or more, and (3) a value of \$500 or more.

(3) All fixed assets acquired, either by purchase from the Connecticut Department on Aging or local funding or donated to the area agency on aging, should be immediately recorded in the Fixed Assets Account Group. Purchased fixed assets are valued at cost. Donated fixed assets are recorded at their estimated fair value at the time received by the agency.

(4) Balance in the separate Fixed Assets Account Group is provided by the various asset accounts with their debit balances, offset by equity accounts with credit balances that show by their respective titles the sources from which the assets were acquired.

An example of the Fixed Assets Account Group is as follows:

Asset Accounts

Land

Buildings

Equipment

Equity Accounts

Investment in Fixed Assets—Federal

Investment in Fixed Assets—State

Investment in Fixed Assets—Local

(g) Area Agency on Aging Budgeting System

Area agencies on aging shall establish and maintain a budgeting system that compares the actual and budgeted amounts for each grant or subgrant. Periodically, but no less frequently than quarterly, the system shall be updated with actual cost experience versus originally estimated costs. This system shall also be able to forecast costs to the completion of the grant period.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§17a-306-23

(h) Accounting Standards

Grantees and subgrantees of the Connecticut Department on Aging shall observe the standards contained in this part.

(1) Capitalization of Equipment

All tangible personal property with a useful life of more than two years and a unit acquisition cost of \$500 or more shall be capitalized and depreciated over its useful life using the straight-line method of depreciation. All capitalized assets shall be maintained in the special fixed assets account group and are not to be included as an operating expense.

(2) Title to Acquired Equipment or Property

Title to all equipment with a unit acquisition cost of \$1,000 or more and property acquired as a direct cost with funds granted by the Connecticut Department on Aging shall vest with the Grantee. Provided, however, that such property shall not be transferred or otherwise disposed of without the prior approval of the Connecticut Department on Aging. Upon termination of such a grant, the grantee may arrange to retain such equipment or property by paying a fair and reasonable price therefor, or retain custody of such equipment or property, with the approval of the Department on Aging if service will be continued with other funding to older Americans. In all other circumstances such property as remains shall be transferred to the Department on Aging unless said department waives its interest therein, in writing.

(3) Accounting for Paid Absences

To be in conformance with generally accepted accounting principles, in general, and specifically Financial Accounting Standards Board Statement No. 43, the Connecticut Department on Aging requires the accrual method of recognition of entitlement for vacation, holidays and illness in the year earned, not the year when the entitlement was granted or in the year when it is actually taken. This entitlement, if authorized through approved agency personnel policies, shall not exceed a maximum accrual of 30 vacation days and 30 nonvested sick days. This unfunded contingent liability shall be reported in a note to the financial statements of the independent auditor's report. Grantee's or subgrantee's accrued liability should take into consideration probationary employee's entitlement to benefits and any material projected forfeiture of vacation time.

(A) Upon termination of a Fair Labor Standards Act-exempt employee, the Connecticut Department on Aging will not recognize or authorize payment for any accumulated but untaken compensatory time. This applies to both actual payment for earned, but unused compensatory time and to time taken off in lieu of paying for accumulated compensatory time.

(4) Self Insurance

(A) Authorization for self insurance is limited to the deductible amount of insurance policy coverage. Such deductible should be limited to an amount which would not cause undue hardship in the current administrative budget.

(B) There are three possible methods of computing self insurance costs.

(i) Compute "projected average loss" based on the cost or comparable cost of purchased

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-23

Department of Social Services

insurance based on competitive quotes,

(ii) Compute a “projected average loss” based on data reflecting the grantee’s or subgrantee’s experience and anticipated conditions in accordance with actuarial principles, or

(iii) Compute a self-insurance charge based on the actual amount of losses during an accounting period.

Methods (i) and (ii) are preferred for computing “projected average loss.”

(5) Consistency of Costing Practices

A grantee or subgrantee’s practices used in estimating costs in preparing its grant applications should be consistent with its accounting practices used in accumulating and reporting costs.

(6) Allocation of Indirect Costs

A grantee or subgrantee of the Connecticut Department on Aging shall have a written statement of accounting policies and practices for allocating costs to various programs, which shall be consistently applied. Costs should be allocated to cost objectives in reasonable proportion to the beneficial or casual relationships of the pooled costs to cost objectives.

(7) Unallowable Costs

Costs expressly unallowable or mutually agreed to be unallowable, including costs mutually agreed to be unallowable directly associated costs, shall be identified in separate accounts and excluded from a billing, claim or grant applicable to a grant, or contract with the Connecticut Department on Aging.

(8) Treatment of Any Deferred Compensation

The cost of deferred compensation shall be assigned to the cost accounting period in which the grantee or subgrantee incurs an obligation to compensate the employee. In the event no obligation is incurred prior to payment, the cost of deferred compensation shall be the amount paid and shall be assigned to the cost accounting period in which the payment is paid. The measurement of the amount of the cost of deferred compensation should be the present value of the future benefits to be paid by the grantee or subgrantee.

(9) Leases

(A) Grantees and subgrantees of the Connecticut Department on Aging shall observe rules regarding an operating lease vs. a capital lease, contained in Financial Accounting Standards Board Statement (FASB) No. 13. If, according to FASB 13, it is determined that a capital lease exists, a share of such lease payment will be capitalized and amortized over the life of the lease or the useful life of the asset, whichever is longer.

(B) In the case of long-term leases, the portion of any lease payments that represents the finance costs under an alternate acquisition shall be treated as an unallowable cost.

(C) The maximum amount of cost recovery on a lease with an affiliated division or subsidiary shall be the amount allowed had the grantee retained title. Thus, the cost of depreciation by the straight-line method, taxes, insurance and maintenance, excluding interest, are allowable.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§17a-306-23

(10) Credits

To the extent that credits accruing or received by the grantee or subgrantee of the Connecticut Department on Aging relate to allowable costs, they should be credited to the Connecticut Department on Aging as a cash refund. Credits will apply to the year in which the underlying cost occurred rather than in the year of credit receipt. In the case of credits of an immaterial amount, credits may be offset against the current year's costs.

(i) **Control of Inter-Fund Cost Transfers**

For all transfers of cost or program income from one program or fund to another, made on other than a contemporaneous basis, the area agency on aging will:

(1) Have available in its accounting records an appropriate written justification statement for any cost or program income transfer.

(2) Reflect the adjustment in its General Journal. All corrections are to be made by cross-out and new entry, with no erasures or whiteouts.

(j) **Use of Title III-C Funds Until USDA Reimbursement**

Title III-C of the Older Americans Act funds shall be used first in reimbursement for the cost of nutrition services. Nutrition funding from USDA should be used to reimburse Title III-C at the allotted annual rate. Even though funding from USDA has been late to reimburse elderly nutrition providers for the cost of these meals, it is the expectation of the Connecticut Department on Aging that elderly nutrition providers should provide the meals and use Title III-C funds until USDA reimbursement is obtained. Until a notice of grant award for USDA's share of the meal cost has been obtained, elderly nutrition providers shall treat those costs as unbilled receivables. Refer to Policy Statement 17a-306-23 (a) (3) for the purpose and nature of unbilled receivables.

(k) **Sound Internal Control Structure**

(1) Title 45 Code of Federal Regulations Subpart 74.61 (c) requires grantees and subgrantees to maintain effective control and accountability for all grant or sub-grantee cash, real and personal property covered by Subpart O of Part 74, and all other assets.

(2) Typically, grantees and subgrantees would normally observe the following, general internal control measures:

(A) No one person has complete authority over an entire financial transaction.

(B) Maintain a policy manual covering

(i) approval authority for financial transactions

(ii) guidelines for controlling expenditures, such as purchasing requirements and travel authorizations.

(C) Record all cash receipts or participant contributions immediately.

(D) Use special safeguards for cash collections, including: two-person count of receipts; receipts are kept in a locked box, safe or other secure location until deposited; deposit slips compared with receipts; employees handling cash be bonded.

(E) Deposit all cash receipts or participant contributions intact daily.

(F) Make all payments by serially numbered checks.

(G) All checks issued by an area agency on aging shall be signed by two authorized

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-23

Department of Social Services

officials, each of whom is independent of control of the other person.

(H) Use an imprest petty cash fund entrusted to a single custodian for all payments other than by check to be reimbursed no less frequently than monthly.

(I) Reconcile bank accounts monthly and retain copies of the reconciliations in the files.

(J) Use serially numbered revenue invoices, purchase orders and receiving reports.

(K) Issue checks to vendors only in payment of approved invoices that have been matched with purchase orders and receiving reports.

(L) Balance subsidiary ledgers for grant accounts with actual accounts no less frequently than monthly.

(M) Prepare trial balances monthly for submission of invoices and in sufficient detail to disclose significant variations in any category of revenue or expenses.

(3) Because of their relatively small size and the limit imposed by the administrative cost cap, area agencies on aging shall also adopt the following internal controls:

(A) All checks, irrespective of their dollar amount, will bear two signatures, one of which can be the Director's. No mechanical signatures will be accepted. Any cosigners must be organizationally independent of the Director.

(B) The Director of the area agency on aging will oversee and control all cash collections by regularly reviewing all cash counts used in intact deposits.

(C) The Director of the area agency on aging will closely examine and sign all financial reports furnished to the Connecticut Department on Aging.

(D) The Director of the area agency on aging will closely examine and initial all general journal entries.

(E) Someone other than the person who prepares the check or signs and cosigns the checks will reconcile the agency's bank statements, either on an ongoing basis or on a rotating basis. The bank statement will be delivered to this person unopened. In completing the reconciliation of the bank statement, the name of the payee and the endorsement on all checks will be compared with that in the check register or cash disbursements journal. The reconciliation will be completed within 15 days of receipt. The Director of the area agency on aging will review and initial each bank statement reconciliation. The reconciled bank statement will be maintained on file for a period of three years or until audited, but in any case a minimum of three (3) years.

(F) The area agency on aging will prepare a trial balance that balances within 15 days of month end. For the last month of the fiscal year, the trial balance will be completed within 45 days of year end.

(G) All checks made payable to the Director of the area agency on aging will be cosigned by a person above the level of the Director.

(H) Under no circumstances will the Director of the area agency on aging maintain any of, or make any entries in, the books of original entry.

(I) Liquidation of Obligation:

(1) Grantees and subgrantees of the Connecticut Department on Aging shall liquidate all obligations incurred under the Older Americans Act within 90 days of the end of the

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§17a-306-24

grant period. The Connecticut Department on Aging will consider written requests for waivers from this rule in the case of accrual accounting for compensated personal absences, for the annual audit fee or for contracts involving construction or renovation.

(2) For state-appropriated funds, the liquidation period for obligations shall be 30 days after the grant period.

(m) Area Agency on Aging Fiscal Manual

Area agencies on aging will prepare a complete, accurate and current set of written fiscal policies to be maintained in the form of an officially adopted manual. This manual will cover the area agency's own fiscal policies and those applicable to their subgrantees. This manual should be modeled after the Connecticut Department on Aging's Manual of Fiscal Policies and be completed within one year of adoption of this rule. As a minimum, this area agency on aging fiscal manual should provide for a description of each of the following accounting applications and the internal controls in place to safeguard the agency's assets for billings, receivables, cash receipts, purchasing, accounts payable, cash disbursements, payroll, inventory control, property and equipment, and general ledger. Each of the agency's fiscal activities for revenue/receipts disbursements and financial reporting should also be described.

(Effective November 8, 1991)

Sec. 17a-306-24. Program management

The purpose of this section is to describe those policy statements contained in the overall Manual of Fiscal Policies pertaining to fiscal management, and to present a few fiscal standards requiring clarification.

(a) Use of Other Federal Funds for Match

For the local match portion, area agencies on aging may use certain other Federal funding sources as authorized match. Such other Federal funds as general revenue sharing funds, and Legal Services Corporation funding may be used in this manner.

(b) Program Development and Coordination

(1) In general, the Connecticut Department on Aging will not fund program development and coordination activities as a cost of supportive services, until it has first spent the federally approved level for Area Agency administration. In addition, Area Agencies shall utilize all state funds provided for Area Agency administration prior to applying for any program development and coordination funds. Moreover, the Connecticut Department on Aging and its area agencies on aging will, consistent with their budgeting cycles, submit the details of their proposals to pay for program development and coordination as a cost of supportive services to the general public for review and comment.

(2) Program development is defined as those activities which entail the planning and development of services that actually result in implementation of a new service approach or new program. Coordination entails those series of discussions and meetings with other agencies or groups which achieves the acceptance of any new service approaches or new programs. Activities that lead toward, but do not actually result in, new service approaches

or programs should be considered area plan administration.

(Effective November 8, 1991)

Sec. 17a-306-25. Conflict of interest/code of conduct

To protect all personnel and safeguard the assets of agencies in the Connecticut aging network, this section presents a code of conduct to serve as a guide for area agencies on aging to adopt for procurement matters.

(a) Code of Conduct for Procurement Matters

Area agencies on aging shall adopt a written code of conduct that is no less stringent than the following:

“No employee, officer, member of the Board of Directors or agent of the area agency on aging shall participate in selection or in the award or administration of a contract or competitively awarded grant supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: an employee, officer, member of the Board of Directors, or agent; any member of his or her immediate family, his or her partner, or an organization that employs, or is about to employ, any of the above, has a financial or other interest in the organization selected for award.

The area agency on aging’s officers, employees, members of the Board of Directors or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors, grantees or potential grantees, or parties to subagreements. Area agencies on aging may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value, provided such level is not above \$25.00. To the extent permitted by State or local law or regulations, such standards of conduct shall provide for penalties, sanctions or other disciplinary actions for violation of such standards by the area agency on aging’s officers, members of the Board of Directors, employees or agents, or by contractors or grantees or their agents.”

(Effective November 8, 1991)

Sec. 17a-306-26. Personnel policies

This section sets forth those fiscal-related policies pertaining to personnel, fringe benefits and travel reimbursement.

(a) Clearance of Key Area Agency on Aging Personnel

The Board of Directors of the area agency on aging shall have the authority to hire and otherwise supervise the activities of the area agency on aging Executive Director. Any replacements to an area agency on aging Executive Director vacancy shall be hired using a job description developed in conjunction with the Connecticut Department on Aging.

(b) Biennial Survey of Salaries of Certain Employees

Once every two years, the area agency on aging shall conduct, have conducted or obtain data from a survey of the comparability of Fair Labor Standards Act exempt position holders in the local labor market. This survey data should be obtained from comparable human service organizations, with the approximate same number of employees and funding level

in the local geographic area. This survey should especially seek to obtain salary data from counterpart human service organizations such as the welfare agency, community action agency, JTPA-funded agency, local health and welfare agency, etc. The results of this salary survey should be used in periodically adjusting the agency's salaries and be maintained on file.

(c) Area Agency on Aging Compliance with the Federal Hatch Act

5 U.S.C. 1501-1508 relates to prohibitions on state or local government employees from influencing elections and taking part in political campaigns. Nonpartisan candidates and persons who exercise no functions in connection with the activity as well as individuals employed by an educational or research institute are exempt. As nonprofit organizations, area agency employees are also exempt from the Hatch Act.

(d) Taking Security Deposits and Making Payments on Behalf of Clients

Unless an area agency on aging has an approved program for such purposes and any such security deposits and payments are explicitly covered under the agency's fidelity bond coverage, all officers, employees, volunteers and agents shall be precluded from taking security deposits or from making payments on behalf of participants of programs funded under the Older Americans Act. In situations where such programs are provided for and explicitly covered under the agency's fidelity bond coverage, adequate safeguards shall be set in place and periodically policed.

(e) Reimbursement for Overtime Premium for Professionals

For Fair Labor Standards Act-exempt personnel, nothing higher than straight time at the regular rate of pay in the form of pay or compensatory time in lieu of pay shall be paid for overtime. For nonexempt personnel, a premium of 50% of the regular rate of pay shall be paid with the prior approval of the Connecticut Department on Aging with the exception of emergencies. In cases where approval cannot be obtained, an area agency on aging must use its own funds to cover such extra costs.

(f) Area Agency on Aging Out-of State Travel

Provided the costs for out-of-state travel are taken from the travel line item of the area agency on aging budget, area agencies on aging are not required to obtain prior approval from the Connecticut Department on Aging. In situations where funding is budgeted in other than the "travel" line item, it will be necessary to obtain prior written approval for out-of-state travel.

(g) Ceilings on Per Diem Rates for Travel in Continental United States

Area agencies on aging shall adopt uniform travel regulations adhering to reimbursement for expenses incurred on authorized agency travel not to exceed the daily reimbursement rate established for comparable personnel employed by the State of Connecticut.

(h) Support for Labor Distribution

(1) Charges to awards for salaries and wages, whether treated as direct costs or indirect costs, will be based on documented payrolls approved by a responsible supervisory official of the area agency on aging. The distribution of time worked must be supported by personnel activity reports.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-26

Department of Social Services

(2) Labor distribution reports should be prepared and controlled according to the following minimum standards:

(A) Employees, including subcontracted employees, performing in-house work are responsible for preparing their own timecards/timesheets.

(i) Employees must be provided clear instructions of the work to be performed and the grant to be charged.

(ii) Timecards/timesheets must be prepared in ink.

(iii) Timecards/timesheets must be filled out as work is performed, but no less often than daily.

(iv) All hours worked must be recorded on the timecards/timesheets.

(B) Timecards/timesheets must be signed by employees and the supervisor only after they are filled out.

(C) Corrections are to be made by cross-out and new entry, with no erasures or whiteouts.

(i) Corrections are to be initialed by the employee and supervisor.

(ii) An explanation must be provided for corrections.

(D) Distribution and collection of timecards and/or timesheets must be controlled.

(i) Only one card is to be prepared per employee per period.

(ii) Timecards/timesheets must be turned in to a designated timekeeping office or collected by an authorized person.

(E) Responsibility for distribution and collection of timecards/timesheets should be segregated from that for:

(i) Preparation and approval of time and attendance records.

(ii) Preparation and distribution of the payroll.

(iii) Monitoring performance to budgets.

(F) New employees must be fully indoctrinated on proper timecard/timesheet procedures. Employees must be made aware of their independent responsibility for accurate timecard/timesheet preparation.

(G) Periodic internal reviews are to be performed of the timekeeping system to assure compliance with system controls.

(H) Overtime hours are to be approved in advance and justification provided.

(I) A list of supervisors authorized to approve timecards/timesheets is to be maintained along with signature cards kept on file by the timekeeping office.

(i) Reasonable Fringe Benefit Elements

Individual fringe benefits elements are considered allowable provided that total compensation is reasonable for the service rendered. Besides those fringe benefits (i.e., Old-Age, Survivors, Disability and Health Insurance (OASDHI), unemployment compensation and workers' compensation), which employers in the State of Connecticut must maintain, the cost of pensions, medical care, term life insurance premiums, paid sick leave, vacation and holidays will be considered allowable, if reasonable in amount. Any other proposed fringe benefit must be submitted to the Connecticut Department on Aging for review and approval.

(j) Up-to-Date Job Description for all Title III-Funded Positions

For all paid and volunteer positions funded by Title III of the Older Americans Act, the area agency on aging shall maintain an up to date and complete job description. This job description should cover the scope of each position-holder's duties and responsibilities and minimum entry-level standards of performance. These job descriptions should be updated as job content changes or for any reorganization of duties or jobs.

(Effective November 8, 1991)

Sec. 17a-306-27. Property control

This section presents rules for the definition, inventory and disposition of equipment, furnishings and property.

(a) Title to Equipment Acquired with Connecticut Department on Aging Funds

(1) For all nonexpendable, tangible personal property having a useful life of more than two years and an original acquisition cost of \$500 or more per unit, and acquired with funds granted by the Connecticut Department on Aging, the area agency on aging should capitalize this equipment and depreciate it using the straight-line method over its useful life. The area agency on aging will also maintain an up-to-date listing of all such equipment and make it available to representatives of the Connecticut Department on Aging upon request.

(2) Area agencies on aging should maintain information on their subgrantees of all equipment acquired with funds granted by the Connecticut Department on Aging. This subgrantee information may be in the form of the original equipment purchase lists, periodic inventories or data maintained in a separate manual or automated database.

(b) Inventorying Acquired Equipment

Area agencies shall conduct or have conducted on an annual basis an inventory of all equipment acquired with funds granted by the Connecticut Department on Aging. Refer to Section 17a-306-25 (a) for the definition of all covered equipment.

(c) Title or Lien-Interest to Equipment or Property with Older Americans Act Funding

(1) Title to all equipment or property reimbursed as a direct cost under the Older Americans Act shall vest upon acquisition in the grantee or subgrantee respectively, without consideration as to whether the payment was from an advance of funds or a reimbursement of funds.

(2) In the case of equipment or property purchased on a fixed price or fixed unit rate contract awarded by an area agency on aging, a lien-interest shall be placed on such equipment or property until the contractor fulfills all terms and conditions of the award. Area agencies on aging shall incorporate such a provision in their standard terms and conditions for fixed-price or fixed-unit-rate contracts.

(d) Transferred Equipment or Property

Custody of equipment or property originally acquired with Older Americans Act funds may be transferred at program closeout with prior approval from the Connecticut Department on Aging in instances where the operation of the program serving older

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-27

Department of Social Services

Americans will be continued by the original or another agency with its own funds. When custody over such equipment or property is transferred, from one grantee to another, title to such equipment or property will reside with the transferee. In all circumstances where equipment or property are authorized to be maintained by a program, the title holding agency will be required to report annually on the status and condition of such equipment or property to the Area Agency on Aging.

(e) Control of USDA Commodities

To prevent unauthorized diversion, all elderly nutrition projects obtaining commodities from USDA shall conduct a periodic inventory of all USDA commodities and maintain a perpetual inventory system over such commodities.

(f) Purchase of Automated Data Processing Equipment

Prior approval for the purchase, rental-purchase agreement or other transfer of title method of purchase of any automated data processing (ADP) equipment, including the purchase of computer software, with a unit acquisition cost of \$500 or over with funding under the Older Americans Act must be obtained through the AOA Regional Office. Prior Federal approval is not applicable for the purchase of ADP services. All such requests for approval must first be forwarded to the Connecticut Department on Aging, which will submit them, in turn, to the AOA Regional Office.

(g) Auditor Review of Agency Inventory

In the course of the annual audit, the independent public accountant retained by the area agency on aging shall make provision in its audit procedures for test-checking the agency's inventory of transferred, acquired or leased equipment and property using Title III of the Older Americans Act funds.

(h) Treatment of Equipment and Property Acquired with Title III Older Americans Act Funding

(1) Title to all equipment as defined in Section 17a-306-25 (a) and property acquired with Title III of the Older Americans Act funds automatically vests with the grantee or subgrantee. Grantees and subgrantees must make suitable provision for transferring custody of such equipment or property to a successor grantee or the Area Agency on Aging.

(2) In those instances where a grantee or subgrantee of the Connecticut Department on Aging continues to operate a program for older Americans with funding other than from the Connecticut Department on Aging, it may request in writing, soon after closeout or termination of any award, that custody, and title, to such equipment or property shall be maintained. It is the prerogative of the Connecticut Department on Aging to grant such requests. If granted, the grantee or subgrantee of the Connecticut Department on Aging would still be expected to maintain sufficient control and care over such equipment or property, until returned to the Connecticut Department on Aging, and to report annually in writing the custody of such equipment or property to the Area Agency on Aging.

(3) Area agencies on aging shall include in any grant or contractual agreements with their subrecipients provision for notice to the Connecticut Department on Aging through the Area Agency on Aging concerning proposed disposition of equipment or property

acquired with Title III of the Older Americans Act funds, and of their grant recipient responsibility to return such equipment or property promptly upon grant/contract closeout or termination.

(Effective November 8, 1991)

Sec. 17a-306-28. Procurement practices and contracting

This section spells out the elements of a process for the competitive award of contracts and grants, as well as the essential policies under such a process.

A fundamental tenet of sound procurement practice is the guarantee of open and free competition. In general, all purchases of goods and services shall be based, where possible and practical, on competitive bids. Evidence of competition, or documentation of the reasons for a lack of competition, shall be maintained in the procurement and contracting records of the agency.

(a) Threshold for Competition

(1) As stated in Section 17a-306-28 (c), free and open competition should prevail in all awards—grant or contract—of over \$5,000.

(2) Even when a small-purchase arrangement or a purchase order will be employed for purchases of \$5,000 or less, competition among potential bidders or proposers should be sought to the maximum extent feasible. This can be achieved by telephone bids/quotes with written confirmation by the lowest, qualified bidder or by obtaining documented bids/quotes from all bidders/proposers.

(3) For minor, recurring purchases of under \$100, grantees and subgrantees of the Connecticut Department on Aging should periodically test the comparability of alternative vendors' prices.

(b) Grant Awards to Area Agencies on Aging

The Connecticut Department on Aging is authorized under Section 309 (a) of the Older Americans Act to award grants or contracts, or a combination of both, to a designated area agency on aging to administer programs under an approved area plan. The Connecticut Department on Aging has determined that the contract mechanism is the appropriate vehicle for making awards to area agencies on aging in furtherance of its purpose under its approved area plan.

(c) Use of Contracts and Grants by Area Agencies on Aging

(1) Area agencies on aging are authorized to award grants or contracts, or a combination of both, to further the goals under its approved area plan. As covered by Section 17a-306-28 (a), all grant or contract awards above \$5,000 shall be competitively awarded.

(2) The Federal Grant and Cooperative Agreement Act of 1977, as amended, should be consulted for guidance on when to award a grant or financial assistance award versus those instances where a contract or a procurement action would be preferable. In general, under a financial assistance award, its purpose is to advance the capacity or interests of the recipient, not the granting agency; the awarding agency does not direct work or approve deliverables; the granting agency acts as a resource and provides advice and guidance to

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-28

Department of Social Services

the recipient. Under grants, cost to the awarding party is not a controlling evaluation factor, provided total cost is within an acceptable range. Procurement actions are always entered into to meet an awarding party's need for a particular product or service and such agreements establish mutual rights and obligations of the awarding party as buyer and the contractor as the seller. Cost under contracts is usually the controlling factor in determining the successful bidder.

(3) To the extent practical, area agencies on aging should preclude mixing cost-reimbursement and fixed-price or fixed rate awards to the same provider for the same or similar service.

(d) Prior Approval of all Noncompetitive Grant or Contract Awards

(1) All subgrant and contract awards exceeding \$5,000 must be competitively awarded unless the area agency on aging obtains prior written approval from the Connecticut Department on Aging.

(2) All proposed sole-source contracts or where only one bid or proposal is received in which the aggregate expenditure is expected to exceed \$5,000 shall be subject to prior approval of the Connecticut Department on Aging.

(e) Authorized Types of Contracts and Solicitation Methods

(1) Area agencies on aging may award grants and/or contracts for the provision of services under Title III of the Older American Act. Irrespective of the type of contract awarded, area agencies on aging shall provide, to the maximum extent practical, open and free competition. Area agencies on aging may use fixed-price contracts, cost-reimbursement contracts, purchase orders or incentive contracts, or a combination of each, based on a determination by the area agency on aging of the contract type most appropriate for the procurement and for promoting the best interests of the program involved.

(2) In soliciting interest from potential contractors, area agencies on aging may use an invitation for bid (IFB), a request for proposal (RFP), or a request for quotation (RFQ). Under an invitation for bid, it is anticipated that the area agency on aging has a precise specification of the product or service to be rendered, does not intend to engage in discussion with potential bidders before the award, contemplates a fixed price contract and will make the award to the "lowest qualified bidder."

(3) Under an RFP, the area agency on aging may make a fixed price or a cost reimbursement award, intends to engage in negotiations or discussions with potential proposers, has a precise set of criteria of which price is secondary to technical factors and the specifications to which the proposer will be required to adhere are not that precise or specific.

(4) Under certain circumstances, an area agency on aging may request potential contractors to respond to an RFQ. Under an RFQ, the area agency on aging would not only want to know the proposer's price, but how the proposer intends to conduct the project and the staffing the proposer intends using. Unlike an IFB, the award would be based on technical factors, but price would still be uppermost in the award decision. Unlike an RFP, the technical factors for award are not as numerous or important.

(f) Restriction on Purchase or Order-Splitting

In attempting to circumvent the thresholds for required competition and advertising of bids or proposals, area agencies on aging shall not resort to breaking an entire product or service into its component parts and securing each through other-than-competitive means. The product or service should be bought “whole.”

(g) Connecticut Department on Aging Approval of Contracts with For-Profit Organizations

Section 212 of the Older Americans Act requires the approval of the Connecticut Department on Aging prior to entering into agreements with for-profit or commercial organizations. This statutory requirement does not apply to contracts with private or public non profit agencies or organizations.

(h) Cost Principles for Commercial Organizations

In the case of all negotiated contracts, awarding organizations are required to perform some form of cost analysis. In order to perform this analysis, as well as provide some guidance to commercial organizations on the appropriate cost principles, area agencies shall incorporate in all solicitations for negotiated contracts with commercial organizations the applicable cost principles: OMB Circular A-122 for nonprofit organizations, OMB Circular A-21 for educational institutions.

(i) Allowability of Profit on Contracts

On contracts, profit as well as loss may be earned in addition to incurring direct and indirect costs. For a cost-reimbursement contract, in order to charge for such a profit, it must have been originally bid. Nothing precludes a nonprofit as well as a for-profit organization from earning a profit on a contract.

(j) Reasonableness of Contractor Profit

The level of profit to be earned by a contractor shall be determined by the area agency on aging and depend on a contract-by-contract negotiation.

(k) Cost or Price Analysis of All Contract Awards

(1) Some form of price or cost analysis should be made in connection with every contract. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indices, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

(2) Support for all price or cost analyses conducted for contracts of over \$10,000 should be retained in the contract file for a period of three years from final contract payment, or until audited.

(l) Performance Based Contracting by Area Agencies on Aging

Guidance from the Administration on Aging provides that area agencies on aging should model performance-based payment systems for use in managing Title III funds awarded to local service providers.

(m) Use of Contract Reporting Elements Other Than in Statewide Management Information System (MIS)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-28

Department of Social Services

(1) Area agencies on aging and all grantees and contractors under all Title III programs are required to participate in the Statewide MIS unless a waiver is received from the Connecticut Department on Aging.

(2) When performance-based contracting is used, area agencies on aging shall reimburse contractors based on reconciled MIS statistics.

(3) Area agencies on aging, grantees and contractors may request a waiver from the requirement to conform to the MIS statistics when the service cannot be accurately measured by the MIS or the cost of collecting a statistic would far outweigh the benefit from collecting the data. Prior approval must be obtained from the Connecticut Department on Aging for any exception to Statewide MIS reporting or use of reconciled MIS results to reimburse contractors.

(n) Unauthorized Awards to Debarred, Suspended or High-Risk Grantees or Contractors

(1) Area agencies on aging will make awards only to responsible grantees or contractors possessing the ability to perform successfully under the terms and conditions of the proposed grant or procurement. Consideration will be given to such matters as the integrity of the grantee or contractor, compliance with public policy, record of past performance and financial and technical resources.

(2) Area agencies on aging must not make any award or permit any award (subgrant or contract) at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs.

(3) Area agencies on aging will require their proposed subrecipients and contractors at any tier to certify whether they have been excluded from participation in Federal assistance programs.

(4) If an area agency on aging believes that there are compelling reasons for making an award to a debarred, suspended or voluntarily excluded person in a particular area, the recipient may apply to the Connecticut Department on Aging for a waiver from this requirement. Such waivers will be granted only in unusual circumstances upon the written determination, by an authorized Connecticut Department on Aging Official, of the compelling reasons justifying the participation.

(o) Area Agency on Aging Contracts for an Administrative Function

Provided the area agency on aging does not transfer substantive responsibility for management of the area plan to a third party, as described in Section 17a-306-23 (b) (2) (D), all contracts, even those for an administrative function, must abide by Section 17a-306-28 (a), (c), (d), and (g). No other prior approvals are required for area agencies on aging contracts for an administrative function.

(p) Authority for Multiyear Awards

(1) Nothing precludes an area agency on aging from making a multiyear award provided it requests subsequent year's prices in the original solicitation, the resulting contract has a satisfactory performance clause and a funds availability clause. An optional-year contract is the contracting mechanism.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§17a-306-29

(2) The maximum period of time for a multiyear contract from the effective date of the contract to closeout shall be three years. Contracts for periods longer than three years shall be reprocured at the end of the three-year period through normal competitive processes.

(q) Use of Bid, Payment, Performance Bonds or Retainage

(1) Awards should only be made with responsible contractors. In instances where area agencies on aging would be taking undue risk to award a contract without such assurances, provided the imposition of a bonding requirement would not unduly limit the number of small or minority firms bidding, area agencies on aging should consider the requirement for bid, payment or performance bonds.

(2) To ensure the adequacy of performance of a product over an extended period, an area agency on aging should also consider a retainage in circumstances where the cost of a performance bond would be prohibitively expensive.

(r) Preference for Small Business and Minority Firm Awards of Grants and Contracts

It is the Connecticut Department on Aging's policy that a fair share of contracts and grants be awarded to small and minority business firms and nonprofit organizations. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. Refer to Section 9 (a) (1)-(6), Attachment O of OMB Circular A-102 as guidance on the kind of affirmative steps area agencies on aging should consider in their contracting activities.

(s) Contract and Competitive Grants Appeals Process

Area agencies on aging shall establish an appeals and hearing process to resolve disputes, claims or appeals involving contracts and competitively awarded grants. As a minimum, this process should describe:

- (1) Applicable procurement rules to be used in the process.
- (2) Designation of an impartial officer to hear and pass on the dispute, claim or appeal.
- (3) Form and timing of the claim to be filed.
- (4) Right of the claimant to counsel.
- (5) Hearing procedures.
- (6) Manner and timing of the hearing officer's opinion.
- (7) Right to appeal to the Connecticut Department on Aging.
- (8) Record retention and disposal of the hearing's record.

(Effective November 8, 1991)

Sec. 17a-306-29. General program income

The purpose of this section is to set forth the Connecticut Department on Aging's fiscal policies in the definition, treatment and use of program income and interest earned.

(a) Acceptable Methods for General Program Income

For Title III-B and C of the Older Americans Act, area agencies on aging are authorized to observe the cost sharing or matching alternative. Under this alternative, the income is used for allowable costs of the project or program but, in this case, the costs borne by the

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-29

Department of Social Services

income may count toward satisfying a cost-sharing or matching requirement. Therefore, the maximum percentage of Federal participation is applied to total allowable costs and third-party in-kind contributions. The income shall be used for current costs unless the granting agency authorizes deferral to a later period.

(b) Application to General Program Income of Profit from Fundraising, Fee-for Service, Entrepreneurial Opportunities and Ventures

Where income is derived from activities funded partially or completely by a grant or counted as a direct cost toward meeting cost sharing or matching requirement, it shall be considered program income.

(c) Treatment of Interest Earned on Advances

Provided an area agency on aging doesn't overrequest funds in violation of Treasury Circular 1075, interest earned on Title III funds passed through the Connecticut Department on Aging is the area agency on aging's own funds. Such funds may be used as cash match, to expand any approved program or in furtherance of any activity of benefit to the elderly and approved by its Board of Directors and contained in the area plan.

(d) Allowable Investment and Custody Policies

The investment of available Federal or state funds must be directed by two principles: (1) to protect all funds received from unreasonable loss or diminished value, and (2) to earn a reasonable return on funds not expected to be disbursed immediately. In furtherance of such principles, the following investments are authorized:

(A) Any interest bearing account that is fully insured by the Federal Deposit Insurance Corporation.

(B) NOW accounts.

(C) Treasury notes, bills and bonds, specifically, participation in funds wholly backed by U.S. Treasury notes, bills, and bonds.

(D) Certificates of Deposits (CDs) purchased from Connecticut chartered banks. CDs must be Any interest bearing account that is fully insured by the Federal Deposit Insurance Corporation.

(E) Participation in a cash management service administered by a Connecticut-chartered bank, which assures that all funds so invested are: (i) fully secured by direct obligations of the United States government, (ii) fully insured by the Federal Deposit Insurance Corporation.

(e) Timing of Spending General Program Income

To avoid any excessive accumulation of funds the Connecticut Department on Aging has determined that general program income earned shall be spent in the year in which it is earned. If it is earned near the end of the agency's fiscal year and the agency is unable to spend this income by then, it shall at least be spent before the expenditure of any Federal or state funds in the beginning of the next fiscal year.

(f) Special Internal Control Safeguards over Participant Contributions

Because of the cash nature of participant contributions, agencies should exert special safeguards over such funds. At a minimum, agencies receiving cash for participant

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§17a-306-30

contributions should employ one or all of the following precautions: (1) have two persons count all cash contributions; (2) deposit the amount intact; (3) deposits should be made on a daily basis; (4) until deposit, all cash contributions should be maintained in a secure place; (5) counts of cash should be regularly compared with the deposit receipts received from the bank; (6) for home-delivered meals, a combination of lock boxes in the vans and/or mailed contributions should be used with responsibilities for counting cash; (7) staff should be rotated periodically, if staffing permits, etc.

(Effective November 8, 1991)

Sec. 17a-306-30. Cash requests, bank balances and check-handling procedures

This section reviews the Connecticut Department on Aging's rules on how to safeguard and handle cash to comply with the U.S. Government's rules in Treasury Circular 1075. In general, it is the policy of the Connecticut Department on Aging to conform to the rules established by the U.S. Government with regard to its letter-of-credit privileges.

(a) **Maximum Authorized Bank Balance**

(1) General

Section 205.4 (a) of Treasury Circular 1075 states that "cash balances should be limited to the minimum amounts needed and should be timed to be incurred with actual, immediate cost requirements of the recipient organizations in carrying out the purposes of the approval program." Title 31 Code of Federal Regulations 205.7 provides that recipients not demonstrating a willingness or ability to establish procedures should be required to finance their operations with their own capital.

(b) **Rules on Cash Management by Area Agencies on Aging**

(1) General

Section 205.4 (e) of Treasury Circular 1075 states that "cash allowances made by primary recipient organizations to secondary recipient organizations should conform substantially to the same standards of timing and amount as cash advances by Federal program agencies to primary recipient organizations."

(2) It is the Connecticut Department on Aging's policy that area agencies on aging institute such procedures to minimize their cash balances on funding provided under Title III of the Older Americans Act. Accordingly, area agencies on aging shall tighten their forecasting of cash requirements from the Connecticut Department on Aging to closely coincide with their actual disbursement of such funds.

(c) **Authorized Methods of Payment**

(1) Treasury Circular 1075 and Attachment J of OMB Circular A-102 authorize the Connecticut Department on Aging to make grant payments through an advance by check or a reimbursement by check. An advance by check is a payment by a government check to a grantee upon its request before cash outlays are made by the recipient or through the use of predetermined payment schedules before payments are made by the grantee. A reimbursement by government check is a payment made to a grantee with a government check upon request for reimbursement from the grantee.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-30

Department of Social Services

(2) The method of advancing funds by government check will be used, in accordance with the provisions of Treasury Circular 1075, when the grantee meets all of the following requirements:

(i) When the area agency on aging has established or demonstrated to the Connecticut Department on Aging the willingness and ability to establish procedures that will minimize the time elapsed between the transfer of funds and their disbursement by the area agency on aging; and

(ii) When the area agency on aging's financial management system meets the standards for funds control and accountability prescribed in Subpart H of Title 45 Code of Federal Regulations Part 74.

(3) The reimbursement by government check method will be the preferred method when the grantee does not meet the requirements in either or both of subsection (2) (i) and (2) (ii) above.

(d) Accounting for the Source and Application of Funds

(1) General

Title 45 Code of Federal Regulations Subpart 74.61 (b) requires grantees and subgrantees to maintain "records which identify adequately the source and application of funds for grant or subgrant supported activities." This subpart further states "these records shall contain information pertaining to grant or subgrant awards, authorizations, obligations, unobligated balances, assets, outlays, income, and, if the recipient is a government, liabilities."

(2) Fund Accounting and Accounting by Fund

Area agencies on aging are free to adopt fund (encumbrance) accounting or to track costs and revenues by program (commonly called accounting by funds).

(3) Separate Bank Accounts

Provided area agencies on aging separately account for the source and application of funds by program, there is no requirement for use of a separate bank account for the deposit of grant or subgrant funds.

(e) Interest-Bearing Accounts

Recipients shall maintain funds provided by the Connecticut Department on Aging in interest-bearing accounts.

(f) Use of Title III-C Funds Until Reimbursed by USDA

(1) Only as it relates to late receipt of USDA funds, area agencies on aging are authorized to draw down funds under Title III-C of the Older Americans Act for use of that amount to be reimbursed by the USDA.

(2) (2) Normally, area agencies on aging may not use funds requested for one program for another program's cash requirements.

(g) Use of Minority-Owned Banks

Consistent with the state goal of expanding opportunities for minority business enterprises, grantees and subgrantees are encouraged to use minority-owned banks.

(h) Endorsement Requirement for Area Agencies on Aging Checks

(1) As stated in Section 17a-306-23 (k) (2) (G), all checks issued by an area agency on

aging shall be signed by two authorized officials, each of whom is independent of control of the other person.

(2) The practice of presigning blank checks is a specific violation of an agency's internal control.

(3) The use of check-signing machines or rubber stamps for either one or both of the signatures is not authorized in the Connecticut aging network.

(4) Except in the case of emergencies, payment of small dollar expenditures, under \$25.00, should be made from an imprest petty cash fund. The total amount of the fund shall not exceed \$300.00.

(i) Fidelity Bond Requirements

For all personnel handling cash or preparing or signing checks, the area agency on aging shall obtain a minimum of one-month's cashflow, including checks received, in blanket fidelity bond coverage.

(Effective November 8, 1991)

Sec. 17a-306-31. Financial reporting

The purpose of this section is to specify the Connecticut Department on Aging's rules on the kind of financial reports to be submitted and their due dates. The fiduciary responsibility of the report signer is precisely defined.

(a) Fiscal Reporting Requirements

(1) Area agencies on aging shall prepare and submit reports required by the Connecticut Department on Aging's General Letter on Fiscal Reporting Requirements, as amended.

(2) A Cash Transactions Report and an Outlays Report must be submitted for each fiscal year for which funds have not been closed out.

(3) All reports will be submitted as a package to the Business Management Division of the Connecticut Department on Aging with a duplicate of all reports submitted to the Community Services Division.

(b) Reconciliation of Billing Records and Official Books of Account

To the extent that an area agency on aging prepares billing records (including MIS records) other than the agency's official books of account, it shall reconcile these records no less frequently than monthly.

(c) Fiduciary Responsibilities of Key Personnel for Title III Funds

(1) Whoever, in any manner within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up any trick, silence or device of material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry shall be fined not more than \$10,000 or imprisoned not more than five years or both. 18 U.S.C. 1001.

(2) Whoever makes or presents to any person or office in the civil, military or general service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-32

Department of Social Services

false, fictitious or fraudulent shall be fined not more than \$10,000 or imprisoned not more than five years, or both. 18 U.S.C. 287.

(3) Any person who serves as a director, officer or trustee of a nonprofit organization qualified as a tax-exempt organization under Section 501 (c) of the Internal Revenue Code of 1954, as from time to time amended, and who is not compensated for such services on a salary or prorated equivalent basis, shall be immune from civil liability for damage or injury occurring on or after October 1, 1987, resulting from any act, error or omission made in the exercise of such person's policy or decision-making responsibilities if such person was acting in good faith and within the scope of such person's functions and duties, unless such damage or injury was caused by the reckless, wilful or wanton misconduct of such person, as provided in Section 52-557m of the Connecticut General Statutes.

(Effective November 8, 1991)

Sec. 17a-306-32. Substantiation of costs and allowable costs

The purpose of this section is to integrate the various OMB Circulars that describe the cost principles on the allowability, allocability and reasonableness of costs and credits.

(a) Participation in Statewide Automated MIS

(1) Area agencies on aging and all grantees and contractors under Title III programs are required to participate in the Statewide Automated MIS unless a waiver is approved by the Connecticut Department on Aging.

(2) Chargeback Rates for Participation in Statewide Automated MIS As a condition of receiving funds under its approved area plan, area agencies on aging will contribute their fair share of the cost of the Statewide Automated MIS based upon their proportion of the Federal share of total Title III funding.

(b) Verification Methods of Meals Served

(1) Accurate verifiable meal counts must be made to satisfy AOA eligibility standards, USDA reimbursement requirements, the MIS and generally accepted auditing standards.

(2) Verification systems for meals served will be instituted by Elderly Nutrition Projects to provide adequate documentation for meals served and safeguard the privacy of individuals.

(c) Allowable and Reasonable Costs Reimbursable under Title III of the Older Americans Act.

General Rule

As to cost principles, the various types of organizations are controlled by their own applicable OMB circular. OMB Circular A-122 sets forth the cost principles for nonprofit organizations, OMB Circular A-87 for government entities, and OMB Circular A-21 for educational institutions. Each type of organization shall observe the rules contained in its applicable circular as to those costs explicitly unallowable and those requiring prior approval. For the sake of bidding, costing and billing for their costs incurred, subrecipients should segregate any unallowable costs from their allowable and reasonable costs.

(1) Additional Unallowable Costs

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§17a-306-32

In addition to the cost principles contained in the OMB circulars, the Connecticut Department on Aging will consider the following costs to be unallowable:

(A) Alcoholic Beverages

Costs of alcoholic beverages are unallowable.

(B) Agency-Furnished Vehicles

That portion of the cost of agency-furnished vehicles that relates to personal use by employees (including transportation to and from work) is unallowable regardless of whether the cost is reported as taxable income to the employees.

(C) Membership in Social, Dining or Country Clubs Costs of membership, in social, dining or country clubs or other organizations having the same purposes are unallowable, regardless of whether the cost is reported as taxable income to the employees.

(D) Standard Commercial Airfare

Airfare costs in excess of the lowest customary standard, coach or equivalent airfare offered during normal business hours are unallowable except when such accommodations require circuitous routing, require travel during unreasonable hours, excessively prolong travel, result in increased cost that offset transportation savings, are not reasonably adequate for the physical or medical needs of the traveler or are not reasonably available to meet the requirements of the program.

(E) Cost of Promotional Items

The costs of souvenirs, models, imprinted clothing, buttons and other mementos provided at no cost to the recipient are unallowable.

(F) Membership in Civic and Community Organizations

Cost of memberships in civic and community organizations are unallowable unless such membership has a bona fide relationship to fulfilling the goals of the Older Americans Act.

(G) Contributions, Donations or Gifts

Contributions, donations or gifts, including cash, property and service, regardless of the recipient, are unallowable.

(H) Retroactive or Backdated Insurance

Premiums for retroactive or backdated insurance written to cover occurred or known losses are unallowable.

(I) Maximum Mileage Rate for Personal Automobiles

Reimbursement for use of personal automobiles above the mileage rate authorized by the State of Connecticut for state personnel, is nonreimbursable regardless of whether this additional amount is reported as taxable income to the employees.

(2) Allowable Costs with Prior Written Approval

The following costs shall require prior written approval from the Connecticut Department on Aging to be reimbursable under Title III of the Older Americans Act:

(A) Participant Medical Cost Reimbursement

No costs of medical services reimbursable under Federal or third-party health/medical insurance or other available sources may be reimbursed from Older Americans Act funds unless full documentation has been obtained for the unavailability of funds from any other

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-33

Department of Social Services

source and prior written approval obtained from the Connecticut Department on Aging.

(B) Participant Personal Moving Expenses

Title III funds of the Older Americans Act may not be used to pay for participant personal moving expenses without prior written approval from the Connecticut Department on Aging.

(Effective November 8, 1991)

Sec. 17a-306-33. Cost allocation plan

In this section, the Connecticut Department on Aging authorizes area agencies on aging to directly allocate their indirect costs and describes how to accomplish this.

(a) Authorization for a Cost Allocation Plan for Reimbursement of Area Agency on Aging Indirect Costs

(1) Normally, nonprofit organizations or agencies elect to charge their programs directly for all costs except those identified as “supporting services” costs. These organizations usually separate their costs into two basic categories:

(A) “Program Services,” which include direct functions such as community service activities, research, education and training; and

(B) “Supporting Services,” which include general administration and general expenses, and fund raising expenses. These two expense groups are usually separately disclosed in the financial statements.

(2) Many joint costs, such as depreciation, operation and maintenance of facilities, and telephone expenses, are prorated individually to each activity within program services (including projects performed under Federal awards) and to each activity within supporting services. Each joint cost would be prorated by using the most appropriate distribution base. The direct allocation method is acceptable provided each joint cost is prorated on a distribution base which is:

(A) Established in accordance with reasonable and consistently applied criteria,

(B) Adequately supported by current data of the organization, and

(C) Based on benefits received.

(3) The general administration and general expenses are allocated to Federal awards and other activities within program services and to fund raising by an indirect cost rate(s). The process of developing indirect cost rates under the direct allocation method is summarized below.

(A) Eliminate capital expenditures and unallowable costs identified in Attachment B of OMB Circular A-122.

(B) Compute the indirect cost rate by dividing the allowable general administration and general expenses by the rate base. The rate base would consist of program services and fund raising costs.

(4) Inasmuch as area agencies on aging do not provide services directly, such indirect costs should not be allocated to supportive services. Any allocations that can be made must be made among the general administrative expenses authorized under the separate funding sources: the various Titles of the Older Americans Act, Job Training Partnership Act, etc. It

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§17a-306-34

is to these cost objectives that indirect costs should be directly allocated. For such cost objectives, an area agency seeking reimbursement for its indirect costs should pinpoint each kind of indirect service provided or indirect cost incurred and allocate each cost or base representative of the beneficial or casual relationships of such cost to the underlying activity. For example, such representative indirect cost services and related bases could include:

Type of <u>Indirect Service</u>	Suggested <u>Bases of Allocation</u>
Accounting	Number of transactions processed
Auditing	Direct audit hours
Data processing	Machine hours (CPU)
Disbursing service	Number of checks written
Fringe benefits	Salaries using fringe benefit rate
Insurance	Dollar value of insurance premiums
Legal	Direct hours
Motor pool	Miles driven and/or days used
Office machines utilization	Direct hours
Office space use	Square feet of space occupied
Payroll	Number of employees
Personnel	Number of employees
Printing and reproduction	Direct hours, job basis, pages printed, etc.
Local telephone	Number of telephone instruments
Fidelity bonding	Employees subject to bond amount

Other indirect costs such as workers' compensation, office supplies, postage, training, recruiting, etc., shall be allocated in any way the area agency on aging believes to be equitable.

(5) Area agencies on aging seeking reimbursement for indirect costs using the direct allocation method shall prepare an allocation plan and submit it in connection with its annual plan as part of the agency's budget to the Connecticut Department on Aging.

(Effective November 8, 1991)

Sec. 17a-306-34. In-kind costs

This section presents a discussion on the types of allowable in-kind costs and how to account for them.

(a) Allowable Types of In-Kind Costs

(1) Required by most Federal grants, agencies are required to account for cost-sharing and matching, whether cash or in-kind. By definition, matching share is that portion of

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-34

Department of Social Services

allowable project costs not borne—covered by cash or in-kind contributions—by the Federal Government.

(2) Allowable costs to satisfy matching or cost-sharing requirements may include:

(A) Charges incurred by the grantee as project costs, including non-cash items such as depreciation or use charges.

(B) Project costs financed with cash contributed or donated to the grantee by non-federal third parties or in the case of Federal funds: General Revenue-Sharing, Legal Services Corporation and other Federal funds specifically authorized by law for matching.

(C) Project costs represented by services and real or personal property donated to the grantee by non-Federal third parties, provided such costs are:

(i) Identifiable from grantee records;

(ii) Not included as contributions for all other Federally assisted programs;

(iii) Necessary and reasonable for proper and efficient accomplishment of project objectives;

(iv) Allowable if the grantee itself was required to pay for them.

(3) Several items are not normally counted as in-kind:

(A) Goods and services normally available free in the community and which would be available whether you operated the project or not, e.g., CPR training, space in a community center, etc.

(B) Donated overtime of project staff whose regular working hours are paid with Federal funds.

(C) Value of space donated for meetings and other purposes in the homes of individuals, especially staff members.

(D) Outdoor space such as playgrounds, park space and undeveloped lots.

(4) Valuation of third-party, in-kind contributions:

(A) Volunteer services: unpaid services valued at rates paid by other activities of the agency should be consistent with those paid for similar work in the same labor market. Rates of employees of other agencies should be priced at the base compensation rate exclusive of fringe benefits and overhead costs. Refer to Section 17a-306-34 (b) for the maximum valuation rate for volunteer time unless an exemption has been approved by the Connecticut Department on Aging.

(B) Donated real or tangible personal property:

(i) Tangible personal property and donated real property (land and buildings): purchase price or fair market value at the time of transfer.

(ii) Donated use of property: valued as if the grantee has rented the property and has paid the property's fair rental value.

(iii) Grantees may be required to establish the value of real property through the use of an appraiser.

(C) Other charges: adequately supported and permissible. Charges must be reasonable and properly justified.

(b) **Valuation of In-Kind Contributions**

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§17a-306-34

Area agencies on aging shall not declare an hourly rate for volunteer time of more than \$10.00 an hour without Connecticut Department on Aging prior approval. This rate has been determined to be reasonable, based on the average state hourly wage value rate for volunteer services. In situations where an area agency on aging seeks approval of any higher in-kind volunteer hourly rate, it must submit an analysis based on the local labor market's rate. In-kind contributions for volunteer time should be listed under "Other Resources."

(c) Documentation for In-Kind Costs

Grantees and subgrantees of the Connecticut Department on Aging shall obtain the same kind of documentation, to be retained for the same period of time, as required for incurred costs. To the extent feasible and practical, the grantees and subgrantees shall obtain independently generated documentation for in-kind costs: timesheets or log-in sheets for donated labor, written verification of the value of donated equipment or space, etc.

(d) Methods of Accounting for In-Kind Costs

(1) There are three accepted methods of accounting for in-kind costs: (1) a book of original entry, (2) general journal entries supported by worksheets detailing the in-kind costs, and (3) worksheet entries without recording in-kind in the agency's official books of account.

(2) There is considerable concern that recording in-kind costs in the books of account could distort the financial position of the agency, especially when more than minimum match is reflected. On the other hand, a true picture of an agency's ability to achieve its mission would not be reflected if in-kind costs were not fully reflected.

(3) In situations where in-kind services, equipment or space represents a major element whereby the area agency on aging can achieve its overall mission, in-kind costs should be recorded in the books of account either in a special in-kind book of original entry or a general journal entry. Usually, when such costs represent at least 15% of the agency's total costs, reflecting such costs in its books of account is indicated. However, where in-kind services, equipment or space does not represent a major element in the agency achieving its program mission, it can merely be reflected as a worksheet entry without having it reflected in the agency's books of account.

(e) Accounting for Minimum Match vs. Accountability over Maximum Match

(1) The standard notice of grant agreement specifies the portion of the final award that represents the Federal share and relatedly the local share. Presently, 85% of the cost for services under Title III-B and C and 75% of the cost for administration of area plans are the Federal share, and 15% and 25%, respectively, the local shares.

(2) Area agencies on aging are required to supply only their portion of the cost of the program and nothing else.

(3) Because the level and valuation of in-kind services is frequently questioned by auditors, human service agencies accumulate more than the minimum match. Whereas it is wise for such agencies to accumulate and maintain accountability over more than minimum match, area agencies on aging are only required to account for and report minimum match

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-35

Department of Social Services

on their awards under the Older Americans Act.

(Effective November 8, 1991)

Sec. 17a-306-35. Line-item approvals

This section sets forth the Connecticut Department on Aging's rules on the control of expenditures against the approved budget.

(a) Line-Item Controls on Approved Budgets

(1) Area agencies on aging will conform to the line-item budgets submitted and approved as part of the annual plan.

(2) In instances where the original estimates are no longer realistic or when an area agency anticipates exceeding any budgetary line item by more than 10% of the total of the budgetary line item or \$500, whichever is greater, it should request, before the line item is exceeded, prior approval in writing for any such expenditures from the Connecticut Department on Aging.

(b) Within Line-Item Limits

(1) In instances where an area agency on aging does not expect to exceed the approved budget line item, it will still be restricted on the type of expenditures it may make by line item.

(2) Where there is expected to be lapsed or available funding in a line item, all additional out-of-state travel, salary increases and purchases of equipment, furnishings and property must be approved in writing by the Connecticut Department on Aging before such expenditures are incurred.

(Effective November 8, 1991)

Sec. 17a-306-36. Fiscal assessment of area agencies on aging and subgrantees

This section presents the role of the Connecticut Department on Aging and the responsibility of area agencies on aging in the fiscal assessment of area agencies on aging and their subgrantees.

(a) Annual Fiscal Assessment of Area Agencies on Aging

(1) The Connecticut Department on Aging is required to monitor the performance of grant-supported activities. More specifically, Section 307 (a) (8) of the Older Americans Act provides that the State agency will conduct periodic evaluations of activities and projects carried out under the State plan.

(2) The Connecticut Department on Aging will rely on two instruments as part of its comprehensive monitoring program.

(A) Fiscal assessment of all Connecticut Department on Aging-funded area agencies on aging.

(B) Annual audit and any follow-up thereto.

(3) The Connecticut Department on Aging will use both to assess an area agency on aging's progress on its annual plan and to monitor its follow-up on any diagnosed deficiencies.

(b) Area Agency on Aging Fiscal Assessment of Service Providers

(1) Title 45 Code of Federal Regulations Subpart 74.81 provides that recipients shall monitor subgrantee-supported activities. Section 306 (a) (6) (A) of the Older Americans Act provides that the area agency on aging will conduct periodic evaluations of activities carried out under the area plan.

(2) As a part of the annual area plan, area agencies on aging will develop a comprehensive program to monitor their subgrantees.

(3) The Connecticut Department on Aging, as the recipient under the State plan to the U.S. Department of Health and Human Services, will, on a test basis, check the progress of selected subgrantees and also assess the effectiveness of the area agency on aging's own monitoring activities.

(4) Area agencies on aging will maintain full documentation of all desk reviews conducted and field visits completed, and the results achieved by each.

(Effective November 8, 1991)

Sec. 17a-306-37. Carry-over balance policies

This section describes the Connecticut Department on Aging requirements for reauthorization of carry-over balances and the timing of spending down of prior year's funds.

(a) Prior Approval to Obligate Carry-Over Funds

Carry-over funds may represent obligated, but unspent funds, as well as funds not obligated at year end. For such funds to be available for expenditure in a subsequent fiscal year, the Connecticut Department on Aging must reauthorize, in the subsequent area plan, such funds for an area agency to obligate and expend. Authority for such reauthorization of funds must be requested by an area agency on aging. Approval of such carry-over funds will only be granted by the Connecticut Department on Aging for specific uses and for a delineated period of time.

(b) First-In, First-Out Method for Spenddown of Federal Fund

In order to minimize the number of separate-year reportings, area agencies on aging should, to the extent not inconsistent with the applicable cost principles, spenddown and closeout prior year's funding before spending down subsequent year's funds. In circumstances where implementation of this policy is not feasible, the area agency on aging should request from the Connecticut Department on Aging that any significant amounts of prior year's obligated, but unspent funds be reauthorized in a subsequent year.

(Effective November 8, 1991)

Sec. 17a-306-38. Audits

Subsection (b) of Section 7-396a of the General Statutes requires that any agreement for a State grant entered into between a State agency and a public or private agency shall provide for an audit of grant expenditures which is acceptable to such State agency. This section presents the Connecticut Department on Aging's policy on what constitutes an acceptable

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-38

Department of Social Services

audit. That is, to ensure the quality of audits in the Connecticut aging network, the Commissioner on Aging directs the Connecticut aging network to implement the Single Audit Act of 1984 and OMB Circular A-128, or OMB Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions, which ever is applicable.

(a) Agency Wide Audit, Requirement for

Each area agency on aging receiving \$100,000 or more of funding from the Connecticut Department on Aging will have conducted an annual audit in accordance with the Single Audit Act of 1984, P.L. 98-502, and OMB Circular A-128, or OMB Circular A-133 which ever is applicable. Moreover, independent public accountants conducting such audits will abide by the American Institute of Certified Public Accountant's (AICPA) Audit and Accounting Guide, Audits of State and Local Government Units, as revised.

(b) Area Agencies on Aging Retain Own Independent Public Accountants

(1) Area agencies on aging shall retain their own independent public accountant, sufficiently independent of those who authorize the expenditure of Federal funds, to produce unbiased opinions, conclusions or judgments. They shall meet the independence criteria described in the text of the U.S. Government Accounting Office publication, Government Auditing Standards, Standards for Audit of Governmental Organizations, Programs, Activities, and Functions.

(2) In arranging for audit services, area agencies on aging shall follow the procurement standards in Section 17a-306-28 of this manual. In particular, small audit firms and minority owned and controlled audit firms shall have the maximum practical opportunity to participate in audit contracts awarded under this section.

(3) In soliciting and retaining auditors to conduct the annual audit, area agencies on aging must make specific reference in their request for proposal and any resulting contract that the auditor would be required to conform its audit to the requirements in the Single Audit Act of 1984, P.L. 98-502, and OMB Circular A-128, or OMB Circular A-133 Audits of Institutions of Higher Education and other Nonprofit Institutions, whichever is applicable. This would relate to the scope of the audit, standardized audit report, reportable events, monitoring by the Connecticut Department on Aging and quality assurance review, access to audit workpapers, plan for corrective action and resolution of audit findings.

(4) The audit solicitation and any resulting contract for audit services shall make specific reference that "if it is determined that the contractor's audit work was unacceptable as determined by the Connecticut Department of Aging or a Federal supervisory agency, either before or after a draft or final report was issued because it did not meet the Connecticut Department on Aging's standards, the AICPA Standards or those promulgated by the Comptroller General of the United States, the contractor may, at the area agency's written request, be required to reaudit at its own expense and resubmit a revised audit report which is acceptable."

(5) Area agencies on aging are encouraged to award multiyear audit contracts of not longer than a three year duration provided they conform to the requirements in Section 17a-306-28 (p). At the end of such a multiyear contract, area agencies on aging will observe

competitive procedures in reprocurring audit services.

(c) Separate Area Agency on Aging Audit Committee

(1) It is recommended that area agencies on aging establish a separate committee of the Board of Directors to supervise the completion of the annual audit.

(2) The audit committee generally serves as liaison between the organization's Board of Directors and the auditor. The auditor should establish a working relationship with the audit committee and should inform its members of the result of the examination, particularly the discovery of material errors and irregularities, and any illegal acts or material weaknesses in internal accounting controls. The auditor may often be requested to attend meetings of the audit committee and to assist the committee in connection with its duties.

(d) Frequency of Audits and Due Date for Submission of Audit Reports

(1) The audit of area agencies on aging and their grantees and cost-reimbursement contractors shall be conducted no less frequently than annually.

(2) The audit report shall be submitted to the Connecticut Department on Aging within six months of the end of the agency's fiscal year. If for reasons within the control of the area agency on aging, this report cannot be submitted by that time, funding of the agency may be suspended by the Connecticut Department on Aging. Area agencies on aging shall make a written request for an extension of time for justifiable reasons beyond its control to the Connecticut Department on Aging before the expiration of the six month submission period. Such request shall be submitted with sufficient time for Connecticut Department on Aging review and approval.

(e) Audits of Service Providers

(1) Area agencies on aging shall ensure that all grantees and cost-reimbursement contractors receiving \$25,000 or more annually shall be audited. This audit will either be conducted by a service provider-selected auditor or by the area agency's independent public accountant. All audit reports of service providers shall be made available to the area agency on aging's auditor.

(2) For grantees and cost-reimbursement contractors receiving less than \$25,000 a year from the area agency on aging, the area agency may employ substitute means to satisfy itself that its subrecipient spent its funds in accordance with applicable laws and regulations. These substitute means could include, but not be limited to, audit by the area agency's accountant, program reviews, fiscal assessments, accounts examination, etc. The results of the agency's substitute means shall be documented and made available for review by representatives of the Connecticut Department on Aging for a period of three years after completion.

(f) Scope of Audit Report

The Single Audit provides that:

(1) The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

(2) The audit shall cover the entire operations of an agency or, at the option of that agency, it may cover departments, agencies or establishments that received, expended or

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-38

Department of Social Services

otherwise administered Federal financial assistance during the year. A series of audits of individual departments, agencies and establishments for the same fiscal year may be considered a single audit. The auditor shall determine whether:

(A) The financial statements of the agency, department or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles.

(B) The organization has internal accounting and other control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations.

(C) The organization has complied with laws and regulations that may have a material effect on its financial statements and on each major Federal assistance program.

(g) Area Agency on Aging Oversight of Service Provider Audits

(1) The area agency's auditor retained to conduct an audit of the agency should include in its audit report an opinion on the costs incurred by the area agency's subrecipients. This is normally accomplished by the area agency's auditor reviewing the subrecipients' unqualified audit report for the same period and otherwise satisfying himself or herself of the extent to which such audit report may be relied upon. Section 543.03 of the generally accepted auditing standards provides guidance to independent auditors when they either assume or not assume responsibility for another auditor's work.

(2) The area agency on aging should provide to its independent public accountant copies of all service providers' audits for an expression of an opinion on the overall agency's financial operations, including funding made available to its service providers.

(3) The area agency or its auditor shall review all service provider audits using the following guidance:

(A) In general, a determination should be made during the desk review of audited financial statements as to whether:

(i) The audit reports include financial statements and a schedule of Federal assistance, including footnotes of the recipient organization.

(ii) The financial statements cover the entire operations of the area agency, including all Federal funds known to have been received by the auditee.

(iii) The audit report:

(I) Identifies the statements examined and the period covered.

(II) Identifies the various programs under which the organization received Federal funds, and the total amount of the expenditures for each Federal program.

(III) States that the examination was made in accordance with the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions; and Guidelines for Financial and Compliance Audits of Federally Assisted Programs, issued by the Comptroller General.

(IV) Expresses an opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting principles and states the nature of any qualifications, if an unqualified opinion cannot be expressed.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§17a-306-38

(B) Report on Compliance

The auditor's report on compliance should contain a statement of positive assurance with respect to those items tested for compliance, including compliance with laws and regulations pertaining to financial reports and claims for advances and reimbursements; negative assurance on those items not tested; a summary of all instances of noncompliance; and an identification of total amounts questioned, if any, for each Federal assistance award, as a result of noncompliance.

(C) Report on Internal Control

The desk review should determine that the auditor's report on the study and evaluation of internal control systems identifies (1) the organization's significant internal accounting controls, and those controls designed to provide reasonable assurance that Federal programs are being managed in compliance with laws and regulations, and (2) the controls that were evaluated, the controls that were not evaluated, and the material weaknesses identified as a result of the auditor's evaluation.

(D) Comments on Other Matters

The desk review should determine whether the recipient has provided comments on the independent auditor's findings and recommendations and its corrective action plan to address the recommendations.

(E) Adequacy of Information Provided

The review should also determine whether the information provided by the auditor on findings identified in the report is sufficient to facilitate resolution by program officials. If the findings contain insufficient information to enable resolution by program officials, the area agency on aging should contact the recipient or subrecipient and arrange for corrective action.

(F) Further, qualified agency personnel should:

(i) Review the complete audit report and note any deviations in the report format from that prescribed in the audit contract scope of work.

(ii) Prove the clerical accuracy of all footings, extensions, etc., of all statistical data in the report.

(iii) Verify that all exhibits, schedules and supporting statements in the report are in agreement and reconcilable, where appropriate.

(iv) Review and evaluate the propriety of all questioned costs presented in the report and/or other management and internal control weaknesses.

(h) Audits of Commercial Organizations

(1) In general, the audit requirements in the various OMB circulars do not apply to commercial organizations.

(2) If an area agency intends to apply these rules on audits to a commercial organization receiving a cost-reimbursement contract, it must specify the audit requirement in the original solicitation, contractor's budget and resulting contract, or the area agency must arrange to have the records of the contractor audited by an area agency-retained auditor.

(3) Area agencies on aging normally will perform price or cost analysis of a commercial

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-39

Department of Social Services

organization's fixed-price or fixed-unit-rate bid or proposal. As such, post-awards audits would not normally be conducted of a commercial organization receiving a fixed-price or fixed-unit-rate contract provided the organization performed the contract according to its terms and conditions. However, area agencies may use other means, such as first-article testing, inspection, and/or program reviews, to determine if the funds are being spent properly by commercial organizations.

(i) Period for Audit Resolution

The Area Agency on Aging will ensure that appropriate corrective action, including settlement and payment of any unacceptable costs, is taken within six months after receipt of an acceptable audit report in instances of noncompliance with Federal or State laws and regulations.

(j) Access to Records

In addition to the head of the Federal-sponsoring agency and the Comptroller General of the United States, or any of their duly authorized representatives, the Commissioner, Connecticut Department on Aging, and the Auditors of Public Accounts, and their duly authorized representatives, shall have right of access to any pertinent books, documents, papers and records of the area agency on aging and their subgrantees and contractors to make audits, examinations, excerpts and transcripts.

(k) Final Audit Adjustments

(1) The area agency on aging shall submit its final fiscal report 45 days after the end of the grant period.

(2) Because the exact accruals and adjustments the audit or may make will not be known until after the auditor submits its audit report, the final fiscal report frequently differs from the audited financial figures. The carry-over balance estimated by the area agency will frequently be different from that available after the auditor reports the costs incurred.

(3) Any material differences between the costs and carry-over balance reported by the area agency on its final fiscal report and the auditor's reported figures shall be reported to the Connecticut Department on Aging. Such report shall be in the form of a revised final report covered by a letter to the Commissioner on Aging, with a copy to the Board of Directors of the Area Agency, explaining the differences. Any changes authorized by the Connecticut Department on Aging will be reflected in an adjustment of the area agency's area plan budget.

(Effective November 8, 1991)

Sec. 17a-306-39. Close-out procedures

This section describes the right of the Connecticut Department on Aging in suspending, terminating or closing out grants, and the handling of all assets and records.

(a) Connecticut Department on Aging Right to Suspend or Terminate a Grant or Contract

(1) General

By suspension, the Connecticut Department on Aging means temporary withdrawal of

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§17a-306-39

the grantee's authority to obligate grant funds pending corrective action by the grantee/contractor or a decision to terminate the grant/contract. By termination, the Connecticut Department on Aging means permanent withdrawal of the grantee's/contractor's authority to obligate previously awarded grant or contract funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee. In the case of contractors, contractors may not voluntarily relinquish a contract without the right of the Connecticut Department on Aging to reprocur the goods or services and charge the original contractor for any additional costs the Connecticut Department on Aging incurs by virtue of the Contractor's decision to withdraw from the contract.

(2) Suspension

When a grantee or contractor has failed to comply with a material requirement in the terms and conditions of the grant or contract, the Connecticut Department on Aging shall, upon reasonable notice to the grantee or contractor, suspend the grant or contract in whole or in part. The notice of suspension will state the reasons for the suspension, any corrective action required, and the effective date. Suspensions ordered by the Connecticut Department on Aging shall remain in effect until the grantee or contractor has taken satisfactory corrective action, or has presented satisfactory evidence that such corrective action will be taken, or until termination of the grant or contract.

Typical of matters that could be the basis of a suspension are inadequacies in a grantee's or contractor's financial management system, delays in completing the annual audit, failure to adequately monitor or follow up its subgrantees, excessive delays in disbursing funds to a subrecipient, thereby undermining its ability to perform, and similar temporary problems.

(3) Termination

The Connecticut Department on Aging may terminate any grant or contract in whole or in part at any time before the time of expiration, in accordance with the provisions of the contract relating to termination, or whenever it determines that the grantee or contractor has materially failed to comply with the terms and conditions of the grant or contract. The Connecticut Department on Aging will promptly notify the grantee or contractor in writing of the determination and the reasons for the termination, together with the effective date.

Termination on other grounds can include: by mutual consent of the grantee or contractor and the Connecticut Department on Aging, or by notice from the grantee or contractor, setting forth the reasons and effective date of the termination. Matters over which the Connecticut Department on Aging will consider the basis for a cancellation include:

- (A) actual or potential for loss of life or limb;
- (B) substantial and continued non-performance by the grantee or contractor for reasons within its control;
- (C) inability or unwillingness by the grantee or contractor to fill key managerial positions, thereby undermining the capacity of the agency to meet its responsibilities under the grant;
- (D) actual or significant potential loss of material amounts of funds thereby indicating

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-39

Department of Social Services

the absence of an adequate structure of internal control;

(E) repeated suspensions for the same or similar deficiencies, etc.

In taking into consideration whether or not to terminate a grant or contract for other than life-safety reasons, the record the Connecticut Department on Aging compiles in notifying the grantee or contractor in writing of material deficiencies, adequate opportunity given for improvement and technical assistance offered, and the responsiveness and effectiveness of the grantee's or contractor's corrective actions will weigh heavily in the decision to terminate or not terminate.

(b) Follow-Up Actions to Grant or Subgrant Close-Out or Termination

(1) The provisions of Title 45 Code of Federal Regulations Subpart 74.111 shall be adhered to with regard to a grant or subgrant closeout. That is, in closing out grants, the following shall be observed:

(A) Upon request, the Connecticut Department on Aging shall promptly pay the grantee for all allowable reimbursable costs not covered by previous payments.

(B) The grantee shall immediately refund or otherwise dispose of, in accordance with instructions from the Connecticut Department on Aging, any unobligated balance of cash advanced to the grantee.

(C) The grantee shall submit, within 90 days of the date of expiration or termination, all financial, performance and other reports required by the terms of the grant. The Connecticut Department on Aging may extend the due date for any report upon receiving a justified request from the grantee.

(D) The Connecticut Department on Aging shall make a settlement for any upward or downward adjustment of the Federal share of costs, to the extent called for by the terms of the grant.

(c) Record Retention Requirements

(1) Title 45 of the Code of Federal Regulations Subpart 74.21 (a) requires that records shall be maintained for three years from the date the Connecticut Department on Aging submits to the U.S. Department of Health and Human Services its final expenditures report for the funding period.

(2) In the case of contractors and subcontractors under grants and subgrants, there should be a three-year record retention requirement from the date when final payment is made and all other pending matters are closed. Grantees and subgrantees of the Connecticut Department on Aging should include a provision in contracts under grants and subgrants for the three-year record retention period and for access to the contractor's records by the Connecticut Department on Aging, the Auditors of Public Accounts and the U.S. Government. This provision must also state that, if an audit, litigation, or other action involving the records is started before the end of the three-year period, the records must be retained until all issues arising from the action are resolved or until the end of the three-year period, whichever is later.

(3) In the case of personnel and related records, these must be treated in accordance with Schedule I Personnel Records: State Agencies issued by the Department of Public Records

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§17a-306-40

Administration, Connecticut State Library.

(Effective November 8, 1991)

Sec. 17a-306-40. Miscellaneous

This section covers those important topics of insurance, release of information and privacy act maintenance not covered elsewhere in the Manual of Fiscal Policies.

(a) **Minimum Insurance Requirements**

In general, Attachment B of OMB Circulars A-102 and A-110 and specifically Title 45 Code of Federal Regulations Subpart 74.15 provide that “no additional bonding and insurance requirements, including fidelity bonds, shall be imposed by the terms of the grant or subgrant.” Separate rules are imposed on projects involving construction and fidelity bond coverage. Thus, while the Connecticut Department on Aging may not impose as policy any additional requirements, the Department may make nonbinding suggestions that its subrecipients might consider in determining the scope and level of their insurance coverage, provided the costs of such insurance coverage are reasonable.

(1) Types and Levels of Insurance

As a guideline, subrecipients of the Connecticut Department on Aging should consider the following types and levels of insurance as minimum, either for themselves and/or their subgrantees or subcontractors, in their risk management programs:

(A)

Comprehensive liability \$1,000,000

(B)

Automobile for employees, volunteers, 1,000,000
or escorts

(C)

Fire and water damage Coverage for all items with acquisition cost of
greater than \$1,000

(D)

Directors’ and officers’ liability \$1,000,000 (with an adequate deductible level)

(E)

Theft Coverage for all items with acquisition cost of
greater than \$1,000

(F)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-41—through17a-306-44

Department of Social Services

Workers' compensation (G) To the extent required by state law

Product liability Adequate coverage for weatherization contractors, nutrition providers and caterers

(2) Keeping Down the Cost of Insurance

Subrecipients of the Connecticut Department on Aging should employ all practical means to keep down the cost of insurance, including, but not limited to, product liability, self insurance of reasonable risks, adequate but not excessive deductible levels for purchased insurance, and clustered insurance programs with other providers in the same or similar risk category.

(b) **Federal and State Freedom of Information Act Rules**

(1) The Federal Freedom of Information Act applies to agencies of the U.S. Government.

(2) In accordance with the State Freedom of Information Act, upon request area agencies on aging shall make all nonexempt information available within the required deadline.

(c) **Safeguards to Protect Certain Confidential Data**

For all client and confidential employee data, area agencies on aging and their subgrantees shall exert special safeguards to preclude the unauthorized release of such data. These restrictions shall include (1) access controls, (2) personnel controls and (3) system controls in accord with Sections 4-190 through 4-197 of the Connecticut General Statutes.

(Effective November 8, 1991)

Sec. 17a-306-41—through17a-306-44. Reserved

Sec. 17a-306-45. Index

-A-

Accounting:

For Paid Absences	Section 17a-306-23 (h) (3)
Standards	Section 17a-306-23 (h)
Principles and Standards for Financial Management	Section 17a-306-23
Source and Application of Funds, Accounting for	Section 17a-306-30 (d)

Area Agency on Aging:

Annual Fiscal Assessment of	Section 17a-306-36 (a)
Audit Committee	Section 17a-306-38 (c)
Budgeting System	Section 17a-306-23 (g)
Contracts for an Administrative Function	Section 17a-306-28 (o)
Contracts and Grants, Use of	Section 17a-306-28 (c)
Cost Allocation Plan	Section 17a-306-31

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§17a-306-45

Endorsement Requirement for Checks	Section 17a-306-30 (h)
Fiscal Assessment of Service Providers	Section 17a-306-36 (b)
Fiscal Manual	Section 17a-306-23 (m)
Independent Public Accountants, Retain Own	Section 17a-306-38 (b)
Oversight of Service Provider Audit	Section 17a-306-38 (g)
Audits	Section 17a-306-38
Access to Records	Section 17a-306-38 (j)
Accountants, Independent Public, Area Agencies on Aging Retain Own	Section 17a-306-38 (b)
Adjustments, Final Audit	Section 17a-306-38 (j)
Commercial Organizations, Audits of	Section 17a-306-38 (h)
Committee, Separate Audit	Section 17a-306-38 (c)
Due Date for submission of Audit Reports	Section 17a-306-38 (d)
Frequency	Section 17a-306-38 (d)
Period for Resolution	Section 17a-306-38 (i)
Scope of Report	Section 17a-306-38 (f)
Service Providers, Audits of	Section 17a-306-38 (e)
Single Audit Act, Requirements for	Section 17a-306-38 (a)
Authority to Expend Federal and State Funds	Section 17a-306-23 (b)
-B-	
Bank Balances	Section 17a-306-30
Endorsement Requirement for Checks	Section 17a-306-30 (h)
Interest-Bearing Accounts	Section 17a-306-30 (e)
Maximum Authorized	Section 17a-306-30 (a)
Minority-Owned Banks, Use of	Section 17a-306-30 (g)
Basis of Accounting	Section 17a-306-23 (a)
Budget, Line Item Controls	Section 17a-306-35 (a)
-C-	
Capitalization of Equipment	Section 17a-306-23 (h) (1)
Carry-Over:	
Balance Policies	Section 17a-306-37
Prior Approval to Obligated	Section 17a-306-37 (a)
Cash Requests	Section 17a-306-30
Cash Management Rules	Section 17a-306-30 (b)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

<i>§17a-306-45</i>	<i>Department of Social Services</i>
Chart of Accounts	Section 17a-306-23 (d)
Check-Handling Procedures	Section 17a-306-30
Authorized Methods of Payment	Section 17a-306-30 (c)
Endorsement Requirement for Checks	Section 17a-306-30 (h)
Clearance of Key Area Agency on Aging Personnel	Section 17a-306-26 (a)
Clients, Taking Security Deposits and Making Payments on Behalf of	Section 17a-306-26 (d)
Close-Out Procedures	Section 17a-306-39
Close-Out or Termination, Follow-up Actions to Grant or Sub-grantee	Section 17a-306-39 (b)
Confidential Data, Safeguards to Protect	Section 17a-306-40 (c)
Conflict of Interest/Code of Conduct	Section 17a-306-25
Contracts: (see Grants)	
Costs:	
Allocation Plan	Section 17a-306-33
Allowable Costs	Section 17a-306-33
Allowable Costs with Prior written Approval	Section 17a-306-33 (c) (2)
Center Accountability	Section 17a-306-23 (c)
In-Kind	Section 17a-306-35
Practices, Consistency of	Section 17a-306-23 (h) (5)
Reimbursable Allowable and Reasonable Costs	Section 17a-306-32 (c)
Substantiation of Costs	Section 17a-306-32
Unallowable Additional Costs	Section 17a-306-32 (c) (1)
Credits	Section 17a-306-23 (h) (10)
	-D-
Data Processing Equipment, Purchase of	Section 17a-306-27 (f)
Deferred Compensation, Treatment of	Section 17a-306-23 (h) (8)
Definitions	Section 17a-306-21
	-E-
Elements of an Acceptable Financial Management System	Section 17a-306-23 (e)
Equipment:	
Capitalization of	Section 17a-306-23 (h) (1)
Fixtures and Property Separate Fund for	Section 17a-306-23 (f)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services *§17a-306-45*

Inventory	Section 17a-306-27 (b)
Lien-Interest or Title to Property Acquired from Older Americans Act Funding	Section 17a-306-27 (c)
Title to	Section 17a-306-27 (a)
Acquired Equipment or Property	Section 17a-306-23 (h) (2)
Property Transferred	Section 17a-306-27 (d)
Property, Treatment of	Section 17a-306-27 (h)

-F-

Fidelity Bond Requirements	Section 17a-306-30 (i)
Financial Reporting (see Fiscal)	Section 17a-306-31
Fiduciary Responsibilities of Key Personnel for Title III Funds	Section 17a-306-31 (c)
Reconciliation of Billing Records and Official Books of Account	Section 17a-306-31 (b)
Reporting Requirements	Section 17a-306-31 (a)
First-In, First-Out Method for Spenddown of Federal Funds	Section 17a-306-37 (b)
Fiscal: (see Financial)	
Assessment by Area Agency on Aging of Service Providers	Section 17a-306-36 (b)
Assessment of Area Agencies on Aging and Subgrantees	Section 17a-306-36
Manual by Area Agency on Aging	Section 17a-306-23 (m)
Reporting Requirements	Section 17a-306-31 (a)
Freedom of Information Act, Federal and State Rules	Section 17a-306-40 (b)
Fringe Benefit Reasonable Elements	Section 17a-306-26 (i)

-G-

General Program Income	Section 17a-306-29
Grants:	
Appeals Process, Contract and Competitive Grants	Section 17a-306-28 (s)
Minority Firm and Small Business Awards, Preference for	Section 17a-306-28 (r)

-H-

Hatch Act, Area Agency on Aging Compliance with	Section 17a-306-26 (c)
---	------------------------

-I-

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-45

Department of Social Services

Income, Program:

Acceptable Methods	Section 17a-306-29 (a)
Allowable Investment and Custody Policies	Section 17a-306-29 (d)
Application of General Program Income to Profit from Fund	
Raising, Fee-for-Service, Entrepreneurial Opportunities and Ventures	Section 17a-306-29 (b)
Internal Control Safeguards over Participant Contributions	Section 17a-306-29 (f)
Timing of Spending Program	Section 17a-306-29 (e)
Treatment of Interest Earned on Advances	Section 17a-306-29 (c)

Indirect Costs:

Allocation of Authority for Plan	Section 17a-306-23 (h) (6)
	Section 17a-306-33 (a)

In-Kind Costs

Accounting Methods	Section 17a-306-34 (d)
Accounting for Minimum Match vs. Accountability over Maximum Match	Section 17a-306-34 (e)
Allowable Types	Section 17a-306-34 (a)
Documentation	Section 17a-306-34 (c)
Valuation of Contributions	Section 17a-306-34 (b)

Insurance:

Fidelity Bond Requirements	Section 17a-306-30 (i)
Keeping Down the Cost of	Section 17a-306-40 (a) (2)
Minimum Requirements	Section 17a-306-40 (a)
Self	Section 17a-306-23 (h) (4)
Types and Levels of	Section 17a-306-40 (a) (1)

Inter-Fund Cost Transfers, Control of	Section 17a-306-23 (i)
Internal Control Structure	Section 17a-306-23 (k)
Introduction	Section 17a-306-20
Inventory Review by Agency Auditor	Section 17a-306-27 (g)

-J - K-

Job Descriptions, Up to Date for All Title III-Funded Positions	Section 17a-306-26 (j)
---	------------------------

-L-

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§17a-306-45

Labor Distribution, Support for	Section 17a-306-26 (h)
Leases	Section 17a-306-23 (h) (9)
Line-Item: Approvals	Section 17a-306-35
Within Limits	Section 17a-306-35 (b)
Liquidation of Obligations	Section 17a-306-23 (1)

-M - N-

Management Information System (MIS):	
Reporting Elements Other Than (MIS)	Section 17a-306-28 (m)
Statewide Automated, Participation	Section 17a-306-32 (a)
Manual:	
Area Agency on Aging Fiscal Manual	Section 17a-306-23 (m)
Scope and Organization	Section 17a-306-22
Match, Use of Other Federal Funds	Section 17a-306-24 (a)
Meals Served, Methods of Verification	Section 17a-306-32 (b)
Minority Firm and Small Business's Grants and Contracts Awards, Preference for	Section 17a-306-28 (r)
Miscellaneous	Section 17a-306-40

-O-

Oversight by Area Agency on Aging of Service Provider Audits	Section 17a-306-38 (g)
Overtime Premium, Reimbursement	Section 17a-306-26 (e)

-P - Q-

Personnel Policies	Section 17a-306-26
Procurement:	
Appeals Process, Contract and Competitive Grants	Section 17a-306-28 (s)
Area Agencies on Aging:	
Administrative Function, Contracts for	Section 17a-306-28 (o)
Contracts and Grants Use of	Section 17a-306-28 (c)
Grant Awards to	Section 17a-306-28 (b)
Authority for Multi-year Awards	Section 17a-306-28 (p)
Authorized Types of Contracts and Solicitation Methods	Section 17a-306-28 (e)
Bond, Bid, Payment, Performance, or Retainage, Use of	Section 17a-306-28 (q)
Code of Conduct	Section 17a-306-25 (a)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-306-45

Department of Social Services

Cost Principles for Commercial Organizations	Section 17a-306-28 (h)
For-Profit Organizations, Approval of Contracts with	Section 17a-306-28 (g)
Minority Firm or Small Business, Preference for	Section 17a-306-28 (r)
Performance Based Contracting	Section 17a-306-28 (l)
Practices and Contracting	Section 17a-306-28 (l)
Price or Cost Analysis of All Contract Awards	Section 17a-306-28 (k)
Prior Approval of all Noncompetitive Grant or Contract Awards	Section 17a-306-28 (d)
Profit:	
Allowability	Section 17a-306-28 (i)
Reasonableness	Section 17a-306-28 (j)
Reporting Elements Other Than Statewide (MIS), Use of	Section 17a-306-28 (m)
Restriction on Purchases or Order Splitting	Section 17a-306-28 (f)
Threshold for Competition	Section 17a-306-28 (a)
Unauthorized Awards to Debarred, Suspended or High-Risk Grantees or Contractors	Section 17a-306-28 (n)
Program:	
Development and Coordination	Section 17a-306-24 (b)
Income	Section 17a-306-29
Management	Section 17a-306-24
Prior Approval:	
Noncompetitive Grant or Contract Awards	Section 17a-306-28 (d)
Obligate Carry-Over Funds	Section 17a-306-37 (a)
Property Control	Section 17a-306-27
	-R-
Record Retention Requirements	Section 17a-306-39 (c)
Reimbursement for Overtime Premium for Professionals	Section 17a-306-26 (e)
	-S-
Salaries of Certain Employees, Biennial Survey of	Section 17a-306-26 (b)
Suspend or Terminate a Grant or Contract	Section 17a-306-39 (a)
	-T-
Termination or Close-Out, Follow-up Actions to Grant or Subgrantee	Section 17a-306-39 (b)
Title to Acquired Equipment or Property	Section 17a-306-23 (h) (2)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services *§17a-306-45*

Title III-C Funds Until USDA Reimbursement, Use of Section 17a-306-23 (j)

Title III-C Funds Until USDA Reimbursement, Use of Section 17a-306-23 (j)

Travel:

 In Continental United States, Ceilings on Per Diem Section 17a-306-26 (g)
Rates

 Out-of-State Section 17a-306-26 (f)

-U - V-

USDA:

 Commodities, Control of Section 17a-306-27 (e)

 Reimbursement, Use of Title III-C Funds Until Section 17a-306i-21 (j),
Section 17a-306-30 (f)

-W - X - Y - Z-

(Effective November 8, 1991)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Aging

Subject

**Connecticut Pharmaceutical Assistance Contract to the Elderly and the Disabled
(ConnPACE)**

Inclusive Sections

§§ 17a-345-1—17a-345-111

CONTENTS

Sec. 17a-345-1—17a-345-110. Repealed

Other Administrative Provisions

Sec. 17a-345-111. Forms, handbooks and other materials (Repealed)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Aging

§

**Connecticut Pharmaceutical Assistance Contract to the Elderly and the Disabled
(ConnPACE)**

Sec. 17a-345-1—17a-345-110. Repealed

Repealed January 1, 2002.

See §§ 17b-262-684—17b-262-692.

Other Administrative Provisions

Sec. 17a-345-111. Forms, handbooks and other materials (Repealed)

Repealed June 11, 2014.

(Effective April 22, 1992; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

Agency
Department of Social Services
Subject
Management of Continuing Care Facilities
Inclusive Sections
§§ 17a-373-1—17a-373-11

CONTENTS

Sec. 17a-373-1—17a-373-11. Transferred

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Social Services

§

Management of Continuing Care Facilities

Sec. 17a-373-1—17a-373-11. Transferred

Transferred to Sec. 17b-533-1—17b-533-11, January 31, 1996

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department on Aging

Subject

A Patient's Right to Certain Information Prior to Treatment by a Physician, Establishing the Connecticut Medicare Assignment Program and a Task Force to Develop a Medicare Supplementary Catastrophic Health Coverage Plan

Inclusive Sections

CONTENTS

Sec. 17a-392-1.	Scope and authority
Sec. 17a-392-2.	Definitions
Sec. 17a-392-3.	Eligibility: Residence
Sec. 17a-392-4.	Eligibility: Medicare part B enrollment
Sec. 17a-392-5.	Eligibility: Income
Sec. 17a-392-6.	Income inclusions
Sec. 17a-392-7.	Income: Declaration and proof
Sec. 17a-392-8.	Physician participation
Sec. 17a-392-9.	Participation. Term
Sec. 17a-392-10.	Application process
Sec. 17a-392-11.	Application by an agent
Sec. 17a-392-12.	Certification
Sec. 17a-392-13.	Prohibited acts. Penalties
Sec. 17a-392-14.	Appeals

A Patient's Right to Certain Information Prior to Treatment by a Physician, Establishing the Connecticut Medicare Assignment Program and a Task Force to Develop a Medicare Supplementary Catastrophic Health Coverage Plan

Sec. 17a-392-1. Scope and authority

(a) This regulation is issued pursuant to Subsection (b) of Section 17a-392 of the Connecticut General Statutes, an act concerning a patient's right to certain information prior to treatment by a physician, establishing the Connecticut Medicare Assignment Program and a task force to develop a Catastrophic Health Coverage Plan.

(b) This regulation shall apply to all physicians licensed pursuant to Chapter 370 of the general statutes, all applicants for and recipients of a Connecticut medicare assignment card and all other eligible participants in the Connecticut Medicare Assignment Program, and the Department.

(Effective December 17, 1992)

Sec. 17a-392-2. Definitions

As used in Section 17a-392-1 to Section 17a-392-14, inclusive:

(a) The **ACT** means Chapter 319a Connecticut General Statutes.

(b) **Applicant** means a person who has applied for initial or continued participation in the program.

(c) **Application** means the forms and other data submitted by an applicant which may be used by the department to determine an applicant's eligibility to participate in the program.

(d) **Department** means the Department on Aging.

(e) **Medicare** means the Federal program of health insurance pursuant to Title XVIII of the Social Security Act of 1935, as amended.

(f) **Medicare Assignment Card** means the identification card issued pursuant to the act and these regulations for the purpose of participation in the program.

(g) **Pace** means the Pharmaceutical Assistance Contract to the elderly and disabled program administered by the department pursuant to Chapter 319e Connecticut General Statutes as amended.

(h) **Program** means the Connecticut Medicare Assignment Program administered by the department pursuant to Chapter 319g Connecticut General Statutes.

(Effective December 17, 1992)

Sec. 17a-392-3. Eligibility: Residence

(a) **Residence criteria.** An applicant must have resided within Connecticut for a period of at least 183 consecutive days immediately preceding the date the applicant's application to participate in the program is received by the Department. The applicant must have or intend to have a fixed place of abode in Connecticut with the present intention of maintaining a permanent home in Connecticut for the indefinite future. Included in this

section are persons residing in long-term care institutions located within Connecticut.

(b) **Documentation of Residence.** The burden of establishing proof of residence within Connecticut is on the applicant. Copies of the following documents, citing the applicant's name and address, may be submitted as such proof:

- (1) Social Security Administration Form 1099.
- (2) A copy of the applicant's current Social Security entitlement letter (SSA 2458).
- (3) Landlord's records and rent receipts; mortgage receipts.
- (4) Documentation of Property Tax Relief eligibility.
- (5) A completed and signed federal income tax return.

(c) **Other documentation.** If an individual does not have any of the documents listed in subsection (b), the individual may submit other documentation showing the applicant's name and address for consideration by the Department, including a driver's license or evidence of financial transactions, such as bank statements or credit card statements.

(d) **Institutional residents.** An applicant who resides in a chronic and convalescent nursing home, rest home with nursing supervision or other institution, may submit a sworn statement or certification of residence signed by a nursing home or institution official as proof of residency.

(e) **Change in residence.** If a program participant leaves Connecticut with the intent to establish domicile elsewhere, he or she becomes ineligible to participate in the program effective as of the date of exit from Connecticut and, in that event, his or her Connecticut Medicare Assignment Card shall be immediately returned to the department.

(Effective December 17, 1992)

Sec. 17a-392-4. Eligibility: Medicare part B enrollment

(a) To be eligible for the program an applicant must be enrolled in Medicare Part B, and must submit proof of such enrollment with any application for initial or continued participation in the program.

(b) Proof of an applicant's enrollment in Medicare Part B shall consist of one of the following:

1. A Medicare enrollment card;
2. A Social Security form 1099 showing premiums paid for Medicare Part B in the prior year;
3. An Explanation of Medicare Benefits for Medicare Part B services, issued within the preceding 12 months.
4. A letter from the Department of Health And Human Services attesting to eligibility issued within the preceeding 12 months; or
5. Such other documentation, at the discretion of the department, which may assist in verifying Medicare Part B enrollment.

(Effective December 17, 1992)

Sec. 17a-392-5. Eligibility: Income

(a) To be eligible for the program single applicants must have an annual income that does not exceed one hundred fifty percent of the qualifying income level established for PACE for single individuals by Section 17a-343 of the General Statutes, or as may be increased in regulations of the Commissioner on Aging pursuant to that Act.

(b) To be eligible for the program married applicants must have a combined annual income that does not exceed one hundred fifty percent of the qualifying income level established for PACE for married persons by Section 17a-343 of the General Statutes, or as may be increased in regulations of the Commissioner on Aging pursuant to that Act.

(c) 1. Individuals who are legally married but who live separate and apart, pursuant to a legal separation or separate maintenance agreement or because one or both members of the couple is permanently institutionalized, shall be subject to the qualifying income level for single applicants.

2. Amounts received by either spouse as separate maintenance shall be included as that person's income for the purpose of the program.

3. The income of married couples where one or both members reside in an institution will be apportioned to each spouse as it would be under the regulations governing eligibility for benefits under Title XIX of the Social Security Act in Connecticut (Medicaid).

4. The burden of proving qualification under this subsection (c) shall be on the applicant.

(Effective December 17, 1992)

Sec. 17a-392-6. Income inclusions

(a) Income for the program consists of adjusted gross income for purposes of federal income tax, plus any other income not subject to federal taxation including, but not limited to, the following:

(1) Wages, bonuses, commissions, fees, lottery winnings, taxable portion of annuities, interest, dividends, pensions (including Veteran's), net rent or proceeds from sales of property, etc.

(2) Nontaxable interest, including interest from tax exempt government bonds.

(3) Social Security or railroad retirement income.

(4) Any other income, including Supplemental Security Income, public assistance payments, and excludable portion of dividends per Internal Revenue Service Regulation.

(b) The following shall be deemed not to be income for the purpose of the program:

Casualty loss reimbursements by insurance companies; life insurance proceeds; income derived through volunteer service under the federal Domestic Volunteer Service Act of 1973, as amended (such as stipends earned under the Foster Grandparents Program, retired Senior Volunteer Program, Senior Companion Program, etc.); food stamp coupon allotment; grants for disaster relief; gifts, bequests, or inheritances (although any interest or other income produced by the principal of any gift, bequest, or inheritance must be included); proceeds of reverse annuity mortgages; emergency energy assistance payments.

(Effective December 17, 1992)

Sec. 17a-392-7. Income: Declaration and proof

(a) Each applicant shall declare his or her total annual income for the calendar year immediately preceding the year in which the applicant applies to participate in the program.

(b) An applicant shall be required to submit proof of income. This proof shall consist of a signed copy of a Federal Income Tax Return, or, if no return is filed, bank statements which show interest earned, statements received from trust accounts, dividend earning statements, and statements from the Social Security administration (Forms SSA 1099, SSA 2458) or a photocopy of a recent SSA check, or such other documents, at the discretion of the department, which may assist in verifying the type and amount of income.

(c) If an applicant has experienced a reduction in income from that shown in the prior years documentation and, as a result of such reduction, would be eligible for the program, the applicant may submit such additional documentation in support of the application as will accurately present his or her current status.

(d) Except as provided in subsection (c) of this section, income used to determine eligibility will be that received by an applicant during the calendar year immediately preceding the year in which an application or re-application is submitted.

(Effective December 17, 1992)

Sec. 17a-392-8. Physician participation

(a) A physician who agrees to perform any Medicare-covered services for any individual who presents either a Connecticut Medicare Assignment Card or a valid PACE identification card and proof of enrollment in Medicare Part B, to the physician, physician's staff, or hospital intake worker shall not charge or collect from such an individual any amount in excess of the reasonable charge for that service as determined by the United States Secretary of Health and Human Services pursuant to Title XVIII of the Social Security Act, as amended. The term "Medicare-covered services" as used in this section does not include either types of services specifically excluded from Medicare coverage, or services for which coverage limitations have been reached.

(Effective December 17, 1992)

Sec. 17a-392-9. Participation. Term

(a) Eligibility for and participation in the program is established when a valid program application is approved, and remains in effect until the expiration date stated on the Connecticut Medicare assignment card, unless such card is revoked earlier.

(b) A valid PACE identification card together with proof of participation in Medicare Part B, shall be treated as a Connecticut Medicare assignment card issued pursuant to the act, for all purposes under the act and these regulations, until the expiration date stated on the PACE card, and no person having a PACE identification card shall be required to make separate application for a Connecticut Medicare assignment card in order to obtain benefits under the act.

(c) The eligibility effective date and expiration date shall appear on the face of the

Medicare Assignment Card issued by the department to eligible applicants. Such expiration date shall not extend beyond the second anniversary of the eligibility effective date.

(d) A program participant may request a redetermination of eligibility by completing and submitting an application to the Department prior to the expiration date on his or her Connecticut Medicare assignment card. Eligibility will continue without interruption if an applicant completes and submits an application establishing eligibility pursuant to the Act and these regulations at least 45 days prior to the expiration date. If an application form establishing eligibility is not submitted by that date, eligibility will be established upon the department's approval of a later filed application.

(Effective December 17, 1992)

Sec. 17a-392-10. Application process

(a) 1. An applicant is responsible for completing the application forms legibly and accurately, answering all questions fully, and presenting to the department all necessary documentation in regard to residence, income, and enrollment in Medicare Part B.

2. An applicant is also responsible for the following:

- i. Reading the certification and authorization statement on the application form.
- ii. Signing or marking the application form.
- iii. Obtaining the signature or mark of the spouse, if the income of the spouse is included, and the signature of the preparer, if any, on the application form.
- iv. Submitting the completed application forms to the Department.
- v. Assisting the department in securing evidence which corroborates the applicant's statements when necessary.

(b) Applicants who do not consent to and assist with a review by the department of information submitted by the applicant, may be denied eligibility.

(c) Applicants who anticipate an immediate need for medical care which would be covered under the program may request expedited processing of their applications by the Department. Any such request shall be made in writing and shall contain a signed statement by the applicant, that he or she is in immediate need of medical care. When expedited processing is requested as provided herein, the Department will make an eligibility determination within three (3) business days of receipt of the application.

(Effective December 17, 1992)

Sec. 17a-392-11. Application by an agent

(a) In those instances where an applicant is adjudicated incompetent, the Department will accept the court-appointed guardian, or other lawful representative, as an authorized agent for the purpose of filing an application on behalf of the applicant.

(b) In those instances where an applicant is physically incapable of filing an application on his own behalf, any one of the following persons duly designated by the applicant, or any other lawful representative, may file an application on his or her behalf:

1. A close relative by blood or marriage, such as a parent, spouse, son, daughter, brother

or sister.

2. A representative payee designated by the Social Security Administration.

3. A representative of a public/private social service agency of which the applicant is a client, who has been designated by the agency to so act.

(Effective December 17, 1992)

Sec. 17a-392-12. Certification

The applicant must certify that all of the answers to the questions and items on the application form are true and accurate to the best of the applicant's knowledge. This certification shall be dated, signed, or marked by the applicant and spouse, if the income of the spouse is included, and the preparer of the form, if other than the applicant, before the application can be processed.

(Effective December 17, 1992)

Sec. 17a-392-13. Prohibited acts. Penalties

(a) No person shall make or cause to be made a false statement or misrepresentation of a material fact in any application or other documentation submitted to the department, or to any physician from whom services are sought under the provisions of the act or these regulations.

(b) No person shall attempt to secure for himself or for another person any benefit under the act or these regulations by concealing or failing to disclose information which would result in the rejection of an application for eligibility for the program.

(c) The Department may revoke and demand the immediate surrender of any card which has been issued based on a violation of the conditions stated in (a) or (b) above. No person shall fail to surrender a Connecticut Medicare assignment card to the department, immediately, upon request by the department to do so.

(d) Nothing herein contained shall be deemed either to create a right of action or to limit any right of action which a physician may have, against any individual who has improperly received benefits under the act or these regulations.

(Effective December 17, 1992)

Sec. 17a-392-14. Appeals

(a) Any applicant who has submitted a complete application, including all required documentation, and been denied participation in the program, may file a written appeal of the denial with the Department within fifteen (15) days of the date the denial letter was issued by the Department. Any such written appeal shall include a statement explaining why a denial should not have been issued.

(b) The Department will respond to any appeal request made in accordance with this section within fifteen (15) days of its filing.

(Effective December 17, 1992)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Departments of Human Resources and Aging

Subject

Protective Services for the Elderly

Inclusive Sections

§§ 17a-430-1—17a-430-9

CONTENTS

Sec. 17a-430-1—17a-430-9. Transferred

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Departments of Human Resources and Aging

§

Protective Services for the Elderly

Sec. 17a-430-1—17a-430-9. Transferred

Transferred to Sec. 17b-461, June 10, 1998

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Mental Health

Subject

Personal Data

Inclusive Sections

§§ 17a-451(c)-1—17a-451(c)-5

CONTENTS

Sec. 17a-451(c)-1.	Definitions
Sec. 17a-451(c)-2.	General nature and purpose of personal data systems
Sec. 17a-451(c)-3.	Maintenance of personal data
Sec. 17a-451(c)-4.	Disclosure of personal data
Sec. 17a-451(c)-5.	Procedure for contesting the content of personal data

Personal Data

Sec. 17a-451(c)-1. Definitions

As used in Sections 17a-451 (c)-1 to 17a-451 (c)-5, inclusive:

(a) “Category of personal data” means the classifications of personal information set forth in the Personal Data Act, Conn. Gen. Stat. Sec. 4-190 (9), as may be amended from time to time.

(b) “Department” means the Department of Mental Health and its divisions and facilities as defined in Conn. Gen. Stat. Sec. 17a-450 (a) and (b), as may be amended from time to time, the Regional Offices, and the Commissioner and her/his designees.

(c) “Other data” means any information which because of name, identifying number, mark or description can be readily associated with a particular person.

(d) “Patient/Client” means any individual who is receiving treatment or service(s) or who has received treatment or service(s) in/through any facility operated by the Department of Mental Health, either directly or under contract, or in/through a grantee agency of the Department of Mental Health or who has requested information regarding treatment or services.

(e) Definitions contained in Conn. Gen. Stat. Sec. 4-190, as may be amended from time to time, shall apply to these regulations.

(Effective March 4, 1993)

Sec. 17a-451(c)-2. General nature and purpose of personal data systems

The Department of Mental Health maintains the following personal data systems:

(a) Personnel Records

(1) Personnel records are maintained at the Department facility which employs the individual or which has the individual on its payroll for administrative purposes. A directory listing sites where personnel records are kept is located at the Department of Mental Health, Personnel Unit, 90 Washington Street, Hartford, Connecticut, 06106.

(2) Personnel records are maintained in both manual and automated forms.

(3) The purpose of the personnel records system is to provide data necessary for personnel and payroll management activities and/or to satisfy the requirements of state or federal laws.

(4) The title and business address of the Department official responsible for this system of records and to whom requests for disclosure or amendment of the records in the system should be directed may be obtained from the directory referred to in subsection (1) above.

(5) Routine sources of data in these records may include applicants for employment, employees, previous employers, references, and other state agencies.

(6) Personal data in these records are maintained under authority of Conn. Gen. Stat. Secs. 5-193 to 5-269, inclusive, and 54-142k (k), as may be amended from time to time.

(7) Categories of personal data maintained in this system may include birth date, sex, race, educational history, licensure/certification, employment history, financial information, medical or emotional condition or history, family or other relationships, administrative

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-451(c)-2

Department of Mental Health

investigation material, disciplinary action, reputation or character information and conviction records.

(8) Categories of other data maintained in this system may include address, phone number and social security number.

(9) These records are maintained on applicants for employment and on current and former employees of the Department.

(10) These records are routinely used by employees of the Department who are assigned responsibility for personnel, payroll and employment-related activities.

(b) Fiscal Services Records

(1) Fiscal services records are maintained at the Department facility which provides fiscal services to the individual DMH site. A system directory listing the sites where fiscal records are kept is located in the Department of Mental Health, Fiscal Services Unit, 90 Washington Street, Hartford, Connecticut, 06106.

(2) Fiscal services records are maintained in both manual and automated forms.

(3) The purpose of the fiscal services records system is to maintain vendor payment records, personal services contracts, reimbursement records for employee travel expenses, records of private donations, patient accounts, activity fund, general welfare fund, and to reflect activities required to secure federal and state funding for programs of the Department and its grantees.

(4) The title and business address of the Department official responsible for this system of records and to whom requests for disclosure or amendment of the records in the system should be directed may be obtained from the system directory referred to in subsection (1) above.

(5) Routine sources of data in these records may include donors, vendors, employees, patients/clients, contractors, grantees and other state and federal agencies.

(6) Personal data in these records are maintained under authority of Conn. Gen. Stat. Secs. 17a-450, as may be amended from time to time.

(7) Categories of personal data maintained in this system may include birth date, educational history, licensure/certification, employment history, financial information, and medical condition.

(8) Categories of other data maintained in this system may include address, telephone number, social security number, employee number, provider information, fee amount, case number, patient/client account number, and information pertaining to Department application for and receipt of state and federal payments.

(9) These records are maintained on current and former donors, vendors, contractors, grantees, patients/clients and employees.

(10) These records are routinely used by employees of the Department who are assigned responsibility to manage the grants, contracts, vendor payments, donations and employee travel reimbursements for the Department.

(c) Affirmative Action Records

(1) Affirmative action records are maintained at the Department facility employing the

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health

§17a-451(c)-2

individual or providing treatment or services to the individual. A directory listing sites where affirmative action records are kept is located in the Department of Mental Health, Affirmative Action and Patients' Rights Unit, 90 Washington Street, Hartford, Connecticut, 06106.

(2) Affirmative action records are maintained in both manual and automated forms.

(3) The purpose of the system is to provide data for monitoring and revising Department affirmative action plans and implementing affirmative action discrimination, patients' rights and sexual harassment complaint procedures.

(4) Affirmative action records are the responsibility of the Mental Health Chief of Affirmative Action and Patients' Rights, Department of Mental Health, 90 Washington Street, Hartford, Connecticut 06106, to whom all requests for disclosure or amendment of the records should be addressed.

(5) Routine sources of data in these records may include patients/clients, family members, friends, employees, health care or other service providers, grantee agencies and other state agencies.

(6) Personal data in these records are maintained under authority of Conn. Gen. Stat. Secs. 46a-51 to 46a-104, inclusive, as may be amended from time to time, and the appurtenant Regulations, as may be amended from time to time.

(7) Categories of personal data maintained in this system may include birth date, age, sex, race, educational history, employment history, medical or emotional condition or history, family or personal relationships, patient/client complaints, discrimination and/or sexual harassment complaints, and administrative investigation material.

(8) Categories of other data maintained in this system may include patient/client identification number, social security number, address and telephone number.

(9) These records are maintained on current and former patients/clients and employees of the Department.

(10) These records are routinely used by affirmative action staff in affirmative action/equal employment opportunity monitoring and complaint resolution and in investigation and resolution of patients' rights violations.

(d) Patient/Client Records

(1) Patient/client records are located at the Department facility which provides treatment or services to the particular individual. A directory listing sites where patient/client records are kept is located in the Office of the Commissioner, Department of Mental Health, 90 Washington Street, Hartford, Connecticut, 06106.

(2) Patient/client records are maintained in both manual and automated forms.

(3) The patient/client records system serves several purposes including: collecting preliminary demographic and clinical data to determine appropriateness and/or eligibility of an individual for treatment or services, as well as logging the episodes of service from initial request to final disposition; documenting admission, diagnosis, treatment planning, treatment process, care, service delivery, discharge, and case management of patient/client; documenting quality assurance monitoring of treatment planning and service delivery;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-451(c)-3

Department of Mental Health

providing complete demographic and clinical data on patient/client; and providing a baseline of information for billing purposes.

(4) The personal data records in this system are the responsibility of the Commissioner, Department of Mental Health, 90 Washington Street, Hartford, Connecticut 06106. The title and business address of the Department official to whom requests for disclosure or amendment of the records in the system should be directed may be obtained from the directory referred to in subsection (1) above.

(5) Routine sources of data in these records may include the patient/client, family members, friends, health care and other service providers, treatment staff, other state or federal agencies, and the judicial system.

(6) Personal data in this system are maintained under the authority of Conn. Gen. Stat. Secs. 17a-450, 52-146d through 52-146j, 17a-615 through 17a-618, 54-91a, 54-142k, and 17-134x; as may be amended from time to time; and Sec. 1919 of the Federal Social Security Act, as may be amended from time to time.

(7) Categories of personal data maintained in this system may include birth date, sex, social and family history; education; employment history; financial, medical and emotional condition or history; personal relationships; reputation or character information; treatment and discharge plans; legal status; and name of legal representative or conservator, if applicable; complaints, incident reports and investigation materials; criminal investigation records; and provider information.

(8) Categories of other data maintained in this system may include social security number, case number, patient/client identification number, correspondence, referral sources, demographic admissions data, and names of staff members authorized to access the records.

(9) These records are maintained on current and former patients/clients.

(10) These records are routinely used by staff who are assigned care and treatment planning and responsibilities for the patients/clients, by staff who have quality assurance monitoring responsibilities, and by staff who have responsibility for administrative reporting of census, diagnosis, demographic data and billing information.

(Effective March 4, 1993)

Sec. 17a-451(c)-3. Maintenance of personal data

(a) Records for each personal data system are maintained in accordance with schedules prepared by the Connecticut State Library, Department of Public Records Administration and retention schedules approved by the Public Records Administrator as authorized by Conn. Gen. Stat. Sec. 11-8a, as may be amended from time to time. Retention schedules are on file in the Personnel Office at the Office of the Commissioner and at each Department facility. They may be examined during the normal business hours, which are 8:30 a.m. to 4:30 p.m. at the Office of the Commissioner and 8:00 a.m. to 4:00 p.m. at the facilities.

(b) Personal data will not be maintained unless relevant and necessary to accomplish the lawful purposes of the Department. Where the Department finds irrelevant or unnecessary public records in its possession, the Department shall dispose of the records in accordance

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health

§17a-451(c)-3

with its records retention schedule and with the approval of the Public Records Administrator pursuant to Conn. Gen. Stat. Sec. 11-8a, as may be amended from time to time, or, if the records are not disposable under the records retention schedule, request permission from the Public Records Administrator to dispose of the records under Conn. Gen. Stat. Sec. 11-8a, as may be amended from time to time.

(c) The Department shall collect and maintain all records with accurateness and completeness.

(d) Insofar as it is consistent with the needs and mission of the Department, it shall, wherever practical, collect personal data directly from the person to whom a record pertains.

(e) When an individual is asked to supply personal data to the Department, the Department shall disclose to that individual, upon request:

(1) the name of the Department and division within the Department requesting the personal data;

(2) the legal authority under which the Department is empowered to collect and maintain the personal data;

(3) the individual's rights pertaining to such records under the Personal Data Act and the Department regulations;

(4) the known consequences arising from supplying or refusing to supply the requested personal data;

(5) the proposed use to be made of the requested personal data.

(f) Department employees involved in the operations of the Department's personal data systems will be informed of the provisions of the Personal Data Act and the Department's Regulations, the Freedom of Information Act and any other state or federal statute or regulations concerning maintenance or disclosure of personal data kept by the Department.

(g) All Department employees shall take reasonable precautions to protect personal data under their custody from the danger of fire, theft, flood, natural disaster and other physical threats.

(h) The Department shall incorporate by reference the provisions of the Personal Data Act and Regulations promulgated thereunder in all contracts, agreements or licenses for the operation of a personal data system or for research, evaluation and reporting of personal data for the Department or on its behalf.

(i) The Department shall ensure that personal data requested from any other state agency is properly maintained.

(j) Only Department employees who have a specific need to review personal data records for lawful purposes of the Department will be entitled to access to such records under the Personal Data Act.

(k) The Department will keep a written up-to-date list of individuals entitled to access to each of the Department's personal data systems.

(l) The Department will ensure against unnecessary duplication of personal data records. In the event it is necessary to send personal data records through interdepartmental mail, such records will be sent in envelopes or boxes sealed and marked "confidential."

(m) The Department will ensure that all records in manual personal data systems are kept under lock and key and, to the greatest extent practical, are kept in controlled access areas.

(n) Where automated personal data systems records are maintained, the Department will:

(1) to the greatest extent practical, locate automated equipment and records in a limited access area;

(2) to the greatest extent practical, require visitors to such area to sign a visitor's log and permit access to said area on a bona-fide need-to-enter basis only;

(3) to the greatest extent practical, ensure that regular access to automated equipment is limited to operations personnel;

(4) utilize appropriate access control mechanisms to prevent disclosure of personal data to unauthorized individuals.

(Effective March 4, 1993)

Sec. 17a-451(c)-4. Disclosure of personal data

(a) Within four (4) business days of receipt of a written request for disclosure of personal data, the Department shall mail or deliver to the requesting individual a written response, in plain language, informing her/him as to whether or not the Department maintains personal data on that individual, the category and location of the personal data maintained on that individual and procedures available to review the records, including the records kept under subsection (h) of this section.

(b) Except where nondisclosure is required or specifically permitted by law, the Department shall disclose to any person upon written request all personal data concerning that individual which is maintained by the Department. The procedures for disclosure shall be in accordance with Conn. Gen. Stat. Secs. 1-15 through 1-21k, as may be amended from time to time. If the personal data is maintained in coded form, the Department shall transcribe the data into a commonly understandable form before disclosure.

(c) The Department is responsible for verifying the identity of any person requesting access to her/his own personal data.

(d) The Department is responsible for ensuring that disclosure made pursuant to the Personal Data Act does not disclose any personal data concerning persons other than the person requesting the information.

(e) The Department may refuse to disclose to a person medical, psychiatric or psychological data on that person if the Department determines that such disclosure would be detrimental to that person.

(f) In any case where the Department refuses disclosure, it shall advise that person of her/his right to seek appropriate relief, including judicial relief, pursuant to the Personal Data Act.

(g) If the Department refuses to disclose medical, psychiatric or psychological data to a person based on its determination that disclosure would be detrimental to that person and nondisclosure is not mandated by law, the Department shall, at the written request of such

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health

§17a-451(c)-5

person, permit a qualified medical doctor to review the personal data contained in the person's record to determine if the personal data should be disclosed. If disclosure is recommended by the person's medical doctor, the Department shall disclose the personal data to such person; if nondisclosure is recommended by such person's medical doctor, the Department shall not disclose the personal data and shall inform such person of the judicial relief provided under the Personal Data Act.

(h) The Department shall maintain a complete log of each person, individual, agency or organization who has obtained access to or to whom disclosure has been made of personal data under the Personal Data Act, together with the reason for each such disclosure or access. This log must be maintained for not less than five years from the date of such disclosure or access or for the life of the personal data record, whichever is longer.

(Effective March 4, 1993)

Sec. 17a-451(c)-5. Procedure for contesting the content of personal data

(a) Any person who believes that the Department is maintaining inaccurate, incomplete or irrelevant personal data concerning her/him may file a written request with the Department for correction of said personal data.

(b) Within 30 days of receipt of such request, the Department shall give written notice to that person that it will make the requested correction, or if the correction is not to be made as submitted, the Department shall state the reason for its denial of such request and notify the person of her/his right to add her/his own statement to her/his personal data records.

(c) Following such denial by the Department, the person requesting such correction shall be permitted to add a statement to her/his personal data record setting forth what that person believes to be an accurate, complete and relevant version of the personal data in question. Such statements shall become a permanent part of the Department's personal data system and shall be disclosed to any individual, agency or organization to which the disputed personal data is disclosed.

(Effective March 4, 1993)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Mental Health and Addiction Services

Subject

Fair Hearing Policy

Inclusive Sections

§§ 17a-451(t)-1—17a-451(t)-19

CONTENTS

Sec. 17a-451(t)-1.	Definitions
Sec. 17a-451(t)-2.	Applicability
Sec. 17a-451(t)-3.	Posting
Sec. 17a-451(t)-4.	Notice
Sec. 17a-451(t)-5.	Filing of grievances
Sec. 17a-451(t)-6.	Grievance review procedure
Sec. 17a-451(t)-7.	Accelerated grievances
Sec. 17a-451(t)-8.	Requests for continuation of mental health or substance use disorder services
Sec. 17a-451(t)-9.	Further review
Sec. 17a-451(t)-10.	Eligibility for a hearing
Sec. 17a-451(t)-11.	Request for a hearing
Sec. 17a-451(t)-12.	Scheduling and notice of hearing
Sec. 17a-451(t)-13.	Resolution of request for hearing
Sec. 17a-451(t)-14.	Conduct of proceedings
Sec. 17a-451(t)-15.	Witnesses and testimony
Sec. 17a-451(t)-16.	Exhibits
Sec. 17a-451(t)-17.	Subpoenas
Sec. 17a-451(t)-18.	Record of proceedings
Sec. 17a-451(t)-19.	Final decision

Fair Hearing Policy

Sec. 17a-451(t)-1. Definitions

As used in sections 17a-451 (t)-1 to 17a-451 (t)-19, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Client” means a person with a psychiatric disability, a substance use disorder, or both, who has received mental health or substance use disorder services, is receiving mental health or substance use disorder services, or is seeking to receive mental health or substance use disorder services from a covered service provider;

(2) “Client rights officer” means a person designated by a covered service provider to receive and investigate client grievances;

(3) “Commissioner” means the Commissioner of the Department of Mental Health and Addiction Services (DMHAS);

(4) “Covered service provider” means any DMHAS program or facility that provides direct mental health services, substance use disorder services or both, and any person or entity that has a contract with DMHAS to provide direct mental health, substance use disorder services or both;

(5) “DMHAS” means the Department of Mental Health and Addiction Services;

(6) “Final decision” means a final decision as defined in section 4-166 of the Connecticut General Statutes;

(7) “Final determination” means a written decision by an official designated by the Commissioner which constitutes the final administrative action by DMHAS after further review of a grievance filed by a client;

(8) “Further review” means a process, requested by the client or by a person authorized by law to act on behalf of the client, by which an official designated by the Commissioner examines the written decision of the head of the covered service provider on a grievance;

(9) “Grievance” means any client complaint which states that a covered service provider or staff member of a covered service provider has denied, involuntarily reduced or terminated mental health or substance use disorder services, except that sections 17a-451 (t)-1 to 17a-451 (t)-19, inclusive, do not apply to matters assigned to the exclusive jurisdiction of the Psychiatric Security Review Board;

(10) “Hearing officer” means a person appointed by the Commissioner to preside over a fair hearing and to provide the Commissioner with a proposed decision. Such person may be an employee of DMHAS;

(11) “Mental health service” means any service or treatment provided by a covered service provider to a client for the purpose of arresting, reversing, ameliorating, or stabilizing the client’s psychiatric disability, that includes but shall not be limited to: counseling, case management, psychiatric treatment, medication, crisis intervention, vocational services, residential services, peer supports, recovery support services, and recreational and social services, but excludes special education;

(12) “Substance use disorder service” means any service or treatment provided by a covered service provider to a client for the purpose of arresting, reversing, ameliorating or

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-451(t)-2

Department of Mental Health and Addiction Serv-

stabilizing the client's substance use disorder, that includes but shall not be limited to: medical, psychiatric and biopsychosocial assessments, detoxification, opioid substitution therapy, individual, group and family counseling; peer counseling; vocational counseling; case management and recovery support services, but excludes special education.

(Effective August 3, 1998; Amended June 29, 2012)

Sec. 17a-451(t)-2. Applicability

Only those covered service providers supported partially or in full with DMHAS funds are subject to sections 17a-451 (t)-1 to 17a-451 (t)-19 inclusive of the Regulations of Connecticut State Agencies. The Commissioner may determine that a mental health or substance use disorder service offered by a covered service provider shall be exempt from sections 17a-451 (t)-1 to 17a-451 (t)-19 inclusive of the Regulations of Connecticut State Agencies, if the Commissioner makes a written finding that:

- (1) DMHAS funding to the covered service provider for such mental health or substance use disorder service does not exceed 20% of its budget; and
- (2) The covered service provider has an adequate procedure for the redress of grievances relating to such mental health or substance use disorder service.

(Effective August 3, 1998; Amended June 29, 2013)

Sec. 17a-451(t)-3. Posting

All covered service providers shall prominently post a summary version of this regulation, in a form provided by the Commissioner, together with the name and telephone number of the relevant client rights officer, and a list of available advocacy programs, in every unit, mental health or substance use disorder service location, and client lounge operated by the covered service provider.

(Effective August 3, 1998; Amended June 29, 2012)

Sec. 17a-451(t)-4. Notice

If a covered service provider denies, involuntarily reduces or terminates a mental health or substance use disorder service, then the covered service provider shall provide the client with a written notice of the action taken and the reason for such action. The notice shall also inform the client of the following procedures available to the client if the client is dissatisfied with the action:

- (1) Filing a grievance as specified in section 17a-451 (t)-5 of the Regulations of Connecticut State Agencies;
- (2) Filing an accelerated grievance as specified in section 17a-451 (t)-7 of the Regulations of Connecticut State Agencies; and
- (3) Filing a request for continuation of mental health or substance use disorder services as specified in section 17a-451 (t)-8 of the Regulations of Connecticut State Agencies.

(Effective August 3, 1998; Amended June 29, 2012)

Sec. 17a-451(t)-5. Filing of grievances

(a) A written grievance may be filed by a client or by a person authorized by law to act on behalf of the client with the client rights officer. Except as provided under section 17a-451 (t)-7 of the Regulations of Connecticut State Agencies, a grievance shall be filed not later than forty-five calendar days after the receipt of notice of the action complained of, unless good cause is shown for a late filing, as determined by the client rights officer. A grievance may be withdrawn at any time. Withdrawal of a grievance shall not affect any covered service provider corrective action begun under section 17a-451 (t)-6 of the Regulations of Connecticut State Agencies.

(b) Each covered service provider shall designate a person to serve as a client rights officer. A covered service provider may designate another covered service provider's client rights officer to serve as its client rights officer. A covered service provider may also designate another person to act as a client rights officer, if the originally designated client rights officer is not available. A person employed by the covered service provider as a patient advocate shall not serve as a client rights officer.

(c) A grievance shall be filed in writing with the client rights officer. Upon request, staff members of a covered service provider shall assist clients in preparing written grievances and submitting them to the client rights officer. A copy of all records concerning a grievance shall be kept by the client rights officer.

(d) The client rights officer shall provide written notice to all clients filing a grievance of available advocacy programs and the client's right to select an advocate of his or her choice to assist in pursuing the grievance, subject to the provisions of subsection (e) of this section. If a client selects an advocate to assist in pursuing the grievance, the client shall provide the client rights officer with written notice of the client's selection and the client shall sign a consent to disclose information and records protected by state and federal law to the advocate.

(e) A covered service provider may disapprove an advocate selected by the client who is receiving mental health or substance use disorder services from the same covered service provider on the ground that it is clinically detrimental.

(Effective August 3, 1998; Amended June 29, 2012)

Sec. 17a-451(t)-6. Grievance review procedure

(a) Not later than seven days after the filing of a grievance, the client rights officer shall acknowledge receipt of the grievance. The client rights officer shall interview the client and other appropriate persons, examine all relevant records, and take any other action necessary to review the grievance. A client rights officer may designate another member of the covered service provider's staff to review a grievance in an attempt to resolve a grievance, but ultimate responsibility for the written proposals and reports as specified in subsection (e) and (f) of this section shall be that of the client rights officer's. Except as specified in subsections (c) and (e) of this section and section 17a-451 (t)-7 of the Regulations of Connecticut State Agencies, the grievance review, disposition and, if necessary, decision of

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-451(t)-6

Department of Mental Health and Addiction Serv-

the head of the covered service provider shall be completed not later than twenty-one calendar days after receipt of a grievance, unless the head of the covered service provider authorizes an additional fifteen calendar days, with written notice to the client.

(b) The client rights officer shall, with the client's permission, permit the client's advocate to assist the client at any grievance meeting that is held with the client to attempt to resolve the grievance. The client rights officer may reschedule a grievance meeting if the client is unable to attend due to circumstances beyond the client's control. Efforts shall be made by all parties to limit rescheduling to not more than one time.

(c) If, at any time during the grievance inquiry, the client rights officer reasonably suspects a violation of a DMHAS work rule (for DMHAS facilities), a covered service provider personnel policy, or a criminal statute, the client rights officer shall immediately refer the suspected violation to the appropriate entity for investigation. Upon referral, the client rights officer shall provide written notice to the client and the client's advocate, if applicable, of the referral and that a representative from the referred entity may contact the client to arrange an interview. The client rights officer shall cooperate with any investigation, conducted by the referred entity. While the referred entity investigates a suspected violation, the client rights officer shall defer review unless a portion of the grievance may be resolved without interfering with the referred entity's investigation. If a portion of the grievance may be resolved while the referred entity conducts its investigation of a suspected violation, the client rights officer shall review the remainder of the grievance as specified in subsections (a) through (f) inclusive of this section. If the client rights officer deferred his or her review of the grievance while the referred entity investigated the suspected violation, once the referred entity's investigation of the suspected violation is concluded, the client rights officer shall resume the grievance review as specified in subsections (a) through (f) inclusive of this section.

(d) The client rights officer shall check periodically on the status of any referral made under subsection (c) of this section. Upon the conclusion of the investigation by the appropriate authority, the client rights officer shall provide written notice to the client and the client's advocate if applicable, stating that the process has been completed.

(e) Unless a referral under subsection (c) of this section has been made, the client rights officer shall attempt to mediate the client's grievance between the client and the covered service provider, or take any action likely to assist the parties in resolving the grievance. The client rights officer shall encourage all parties to accept an informal resolution. If the client rights officer believes that an informal resolution is possible, the client rights officer shall prepare a written proposal which summarizes the nature of the dispute and the proposed informal resolution. Such written proposal shall not contain any information about other clients unless such disclosure is required or permitted by law. The client rights officer shall inform the client that the client has not more than ten business days, after receipt of such written proposal, in which to accept the proposed informal resolution, in whole or in part and sign the written proposal which shall terminate the grievance, or to request a formal decision by the covered service provider on the grievance, or to withdraw the grievance.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-451(t)-8

The time during which a client is considering a proposed informal resolution shall not be counted towards the time periods under subsection (a) of this section. Failure of the client to respond in writing to a proposed informal resolution not later than ten business days after its receipt shall be treated as a withdrawal of the grievance, unless good cause for reinstatement of the grievance is shown.

(f) If there is no proposed resolution, or if the proposed resolution is not agreed to by the client, the client rights officer shall prepare a written report of the grievance inquiry, and present it to the head of the covered service provider or the covered service provider's designee, and to the client. The client and the client's advocate shall be given the opportunity to present additional material and, upon request, to appear in person before the head of the covered service provider or such designee. The head of the covered service provider shall provide a written decision to the client, including a statement of any action to be taken and the client's right to further review.

(Effective August 3, 1998; Amended June 29, 2012)

Sec. 17a-451(t)-7. Accelerated grievances

(a) An accelerated grievance may be filed by a client or a person authorized by law to act on the client's behalf regarding, (1) the involuntary reduction or termination of opioid substitution therapy, or (2) the termination of substance use disorder services consisting of inpatient treatment scheduled for a period of not more than thirty calendar days. Such grievance shall comply with the requirements of section 17a-451 (t)-5 of the Regulations of Connecticut State Agencies except that it shall be filed not later than five business days after the receipt of notice of the action complained of as specified in section 17a-451 (t)-4 of the Regulations of Connecticut State Agencies.

(b) An accelerated grievance shall be processed as specified in section 17a-451 (t)-6 of the Regulations of Connecticut State Agencies except that the inquiry, disposition, and if necessary the decision of the head of a covered service provider or covered service provider's designee shall be completed not later than five business days after the receipt of the grievance, unless the head of the covered service provider or such designee authorizes, and the client or person authorized by law to act on the client's behalf consents in writing, to additional time for completion, in increments of not more than five business days.

(Effective August 3, 1998; Amended June 29, 2012)

Sec. 17a-451(t)-8. Requests for continuation of mental health or substance use disorder services

(a) If a covered service provider or the covered service provider's designee terminated mental health or substance use disorder services without an offer of modified mental health or substance use disorder services, then a request for continuation of mental health or substance use disorder services may be filed by a client or a person authorized by law to act on the client's behalf. The request for continuation of mental health or substance use disorder services shall be filed in writing with the Commissioner or the Commissioner's

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-451(t)-9

Department of Mental Health and Addiction Serv-

designee not later than five business days after the receipt of notice of the termination of mental health or substance use disorder services.

(b) The Commissioner or the Commissioner's designee shall issue a decision regarding the request for continuation of mental health or substance use disorder services, not later than five business days after receiving the written request. The Commissioner or the Commissioner's designee may order the continuation, modification, or termination of the mental health or substance use disorder service. The Commissioner or the Commissioner's designee shall consider the clinical needs of the client and the potential for any risk of harm to the client, or others or to property. The Commissioner or the Commissioner's designee may modify any order entered as specified in this section at any time based on these same considerations.

(c) Any order entered as specified in this section shall automatically expire upon the occurrence of any one of the following events:

- (1) Implementation of an informal resolution, or
- (2) Withdrawal of the grievance, or
- (3) Fifteen business days elapse after the client's receipt of the written decision of the head of the covered service provider and further review is not requested, or
- (4) Thirty calendar days elapse after the date of the mailing of the final determination and a fair hearing is not requested, or
- (5) A request for a hearing is disposed of as specified in section 17a-451 (t)-13 of the Regulations of Connecticut State Agencies, or
- (6) A final decision is issued by the Commissioner.

(Effective August 3, 1998; Amended June 29, 2012)

Sec. 17a-451(t)-9. Further review

(a) A client may request the Commissioner or the Commissioner's designee to conduct a further review of a decision of a covered service provider not later than fifteen business days after the client's receipt of the covered service provider's decision, unless the time is extended by the Commissioner or the Commissioner's designee for good cause shown. If a decision of a covered service provider is not more than seven business days overdue, the client may treat it as a denial and request further review. Additionally, if the covered service provider fails to implement an informal resolution that was agreed to by the client, and where such failure is not due to the client's action or inaction, the client may request further review. A request for further review shall be in writing, and shall state what decision of the covered service provider is being reviewed and the grounds upon which the request is based.

(b) Upon receipt of the request for further review, the Commissioner's designee shall conduct such additional investigation as the Commissioner's designee determines is necessary, receive additional information from the parties, and may convene a conference of all parties to be held not later than twenty-one calendar days after the receipt of the request for further review. If the grievance cannot be informally resolved the Commissioner's designee shall issue a written decision not later than fifteen calendar days after the date of

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-451(t)-13

the conference, or not later than twenty-one calendar days after receipt of the request for further review, if no conference is held. The written decision of the Commissioner's designee shall serve as DMHAS' final determination.

(c) If the final determination results in the denial, involuntary reduction or termination of mental health or substance use disorder services, it shall include a statement informing the client that the client may request a hearing as specified in section 17a-451 (t)-10 to 17a-451 (t)-19, inclusive, of the Regulations of Connecticut State Agencies.

(Effective August 3, 1998; Amended June 29, 2012)

Sec. 17a-451(t)-10. Eligibility for a hearing

Any client who has received an unfavorable final determination from DMHAS and (a) requested and was denied a mental health or substance use disorder service from a covered service provider, or (b) received mental health or substance use disorder services that were involuntarily reduced or terminated, may request a hearing as specified in sections 17a-451 (t)-10 to 17a-451 (t)-19, inclusive, of the Regulations of Connecticut State Agencies.

(Effective August 3, 1998; Amended June 29, 2012)

Sec. 17a-451(t)-11. Request for a hearing

A request for a hearing shall be mailed to the Commissioner not later than thirty calendar days after the date of mailing of the final determination. A request for a hearing shall identify the mental health or substance use disorder service that has been denied, involuntarily reduced or terminated, and shall specify the date of the final determination on the matter.

(Effective August 3, 1998; Amended June 29, 2012)

Sec. 17a-451(t)-12. Scheduling and notice of hearing

Upon receipt of a request for a hearing, the Commissioner shall designate a hearing officer. The hearing officer shall schedule a hearing to be held not later than forty-five calendar days after the date of the request, provided that if a request for an expedited hearing is made by a party, the hearing officer shall attempt to expedite the hearing if the hearing officer determines that a delay would be significantly damaging to that party. The hearing officer shall acknowledge a client's request for a hearing in writing and provide the client and the client's advocate, if applicable, written notice of the hearing. The notice of the hearing shall comply with the requirements of section 4-177 of the Connecticut General Statutes. If the matter involves a covered service provider, the covered service provider shall be notified by the hearing officer that it may participate in the hearing. The hearing officer, upon notice to the covered service provider, DMHAS, the client, and the client's advocate, if any is known, may reschedule the hearing.

(Effective August 3, 1998; Amended June 29, 2012)

Sec. 17a-451(t)-13. Resolution of request for hearing

(a) A request for a hearing shall be resolved pursuant to section 4-177 of the Connecticut

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-451(t)-14

Department of Mental Health and Addiction Serv-

General Statutes in one or more of the following ways:

(1) The client's withdrawal of the request for hearing. The withdrawal shall be voluntary, in writing to the Commissioner and made at any time prior to the hearing. The withdrawal shall be acknowledged in writing by the hearing officer and shall be the final action on the complaint.

(2) Dismissal of the request by the hearing officer. This action may be taken, if:

(A) The client fails to appear at the designated time and place; or

(B) The issue is resolved prior to or during the hearing by voluntary agreement of both parties.

(3) Final decision by the Commissioner after receiving a proposed decision from the hearing officer following a hearing.

(b) Nothing in this section shall preclude the issuance of any necessary interim order by the hearing officer during the pendency of the proceedings.

(Effective August 3, 1998; Amended June 29, 2012)

Sec. 17a-451(t)-14. Conduct of proceedings

The hearing shall be conducted as a contested case under the provisions of Chapter 54 of the Uniform Administrative Procedure Act, sections 4-166 to 4-189, inclusive, of the Connecticut General Statutes. The client has the burden of proving by a preponderance of evidence that the final determination from DMHAS does not comply with state and federal law or is clearly erroneous.

(Effective August 3, 1998; Amended June 29, 2012)

Sec. 17a-451(t)-15. Witnesses and testimony

All witnesses shall be under oath. The client may act as a witness on the client's own behalf, and may bring additional witnesses. DMHAS and any affected covered service provider may present any appropriate witness.

(Effective August 3, 1998; Amended June 29, 2012)

Sec. 17a-451(t)-16. Exhibits

If a witness wishes to retain possession of a document, a copy of the original may be admitted, or the hearing officer may dictate the relevant portions into the record.

(Effective June 29, 2012)

Sec. 17a-451(t)-17. Subpoenas

The hearing officer shall have the power to compel, by subpoena, the attendance and testimony of witnesses and the production of books and papers.

(Effective June 29, 2012)

Sec. 17a-451(t)-18. Record of proceedings

A mechanical recording of the proceedings shall be made for use by the hearing officer

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-451(t)-19

in preparing the proposed decision and shall be made available to any party upon request.

(Effective June 29, 2012)

Sec. 17a-451(t)-19. Final decision

Upon conclusion of the hearing, the hearing officer shall prepare a proposed written decision and shall mail it to the parties by certified mail, return receipt requested, as well as providing it to the Commissioner. The proposed decision shall contain a statement of the reasons for the proposed decision and a finding of facts and conclusions of law on each issue of fact or law necessary to the proposed decision. Any party may, not later than fifteen calendar days after the mailing of the proposed decision, provide the Commissioner with written argument in support of, or in opposition to, said proposed decision, and may request the opportunity for oral argument. The Commissioner shall render a final decision which may, in whole or in part, accept, modify or reject the proposed decision.

(Effective June 29, 2012)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Department of Mental Health and Addiction Services

Subject

General Assistance Behavioral Health Program

Inclusive Sections

§§ 17a-453a-1—17a-453a-19

CONTENTS

Sec. 17a-453a-1.	Scope
Sec. 17a-453a-2.	Definitions
Sec. 17a-453a-3.	Eligibility
Sec. 17a-453a-4.	Covered behavioral health services
Sec. 17a-453a-5.	Limitations, exclusions and non-payment of behavioral health services
Sec. 17a-453a-6.	Prior authorization review
Sec. 17a-453a-7.	Continued stay authorization review
Sec. 17a-453a-8.	Alternative authorization review
Sec. 17a-453a-9.	Recovery and discharge planning
Sec. 17a-453a-10.	Quality management
Sec. 17a-453a-11.	Provider application
Sec. 17a-453a-12.	Provider credentials
Sec. 17a-453a-13.	Provider contract
Sec. 17a-453a-14.	Administration of contracted providers' claims for payment
Sec. 17a-453a-15.	Provider claim for payment grievance process
Sec. 17a-453a-16.	Audit
Sec. 17a-453a-17.	Administrative hearing to appeal audit recovery or progressive sanctions
Sec. 17a-453a-18.	Appeals and fair hearings
Sec. 17a-453a-19.	Out-of-network providers

General Assistance Behavioral Health Program

Sec. 17a-453a-1. Scope

These regulations are issued pursuant to subsection (b) of section 17a-453a of the Connecticut General Statutes and govern the operation of the behavioral health managed care program for eligible recipients of medical services under the state-administered general assistance program.

(Adopted effective December 7, 2009)

Sec. 17a-453a-2. Definitions

As used in sections 17a-453a-1 to 17a-453a-19, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Acute care services” means short-term inpatient treatment for a psychiatric disability, substance use disorder or both and includes the following covered behavioral health services: acute psychiatric hospitalization, medically managed inpatient detoxification and medically monitored residential detoxification;

(2) “ASAM PPC-2R” means the American Society of Addictions Medicine Patient Placement Criteria, Second Revision;

(3) “Authorized representative” means a person designated by an individual or a person authorized by law to act on behalf of an individual;

(4) “Behavioral health services” means services designed for the treatment of persons with psychiatric disabilities, substance use disorders or both;

(5) “CARF” means the Commission on Accreditation of Rehabilitation Facilities;

(6) “Certified alcohol and drug counselor” means a person that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;

(7) “CFR” means the Code of Federal Regulations;

(8) “Clinical contact” means communication with direct observation of an individual in order to establish a therapeutic relationship and assist with the amelioration of identified problems;

(9) “Clinical risk” means the potential for injury or harm to self, others or property;

(10) “Commissioner” means the commissioner of the Department of Mental Health and Addiction Services (DMHAS);

(11) “Contracted provider” means a provider that is credentialed and has a contract with DMHAS to provide a covered behavioral health service under the general assistance behavioral health program as established pursuant to section 17a-453a of the Connecticut General Statutes;

(12) “Co-occurring disorder” means a concurrent psychiatric disability and substance use disorder;

(13) “Critical incident” means any event that has serious effects on an individual or others;

(14) “Designated agent” means an organization under contract with DMHAS to provide

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-2

Department of Mental Health and Addiction Serv-

utilization management, process providers' claims for payment or provide other support services necessary for the operation of the general assistance behavioral health program established pursuant to section 17a-453a of the Connecticut General Statutes;

(15) "Discharge plan" means the written summary of an individual's behavioral health services needs, developed in order to arrange for appropriate care after discharge or upon transfer from one level of care to another;

(16) "DMHAS" or "department" means the state of Connecticut Department of Mental Health and Addiction Services;

(17) "DPH" means the state of Connecticut Department of Public Health;

(18) "DSS" means the state of Connecticut Department of Social Services;

(19) "DSM-IV" means the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition;

(20) "EMS-ID" means the unique identifier assigned to each individual applying for or receiving general assistance under Department of Social Services' (DSS) programs;

(21) "Eligible recipient" means an individual eligible for medical services under the state-administered general assistance program, pursuant to section 17b-192 of the Connecticut General Statutes, and in need of behavioral health services, as determined by DMHAS;

(22) "Emergency medical services" means services delivered to individuals suffering from medical emergencies, including psychiatric or substance use disorder emergencies. Emergency medical services include the detection and reporting of medical emergencies; initial care, transportation and care for individuals en route to health care facilities; medical treatment for the acutely ill and severely injured within emergency departments and referrals to continued care;

(23) "Facility" means the physical structure, building or portions thereof in which mental health or substance use treatment services or both are delivered;

(24) "GABHP" means the general assistance behavioral health program established pursuant to section 17a-453a of the Connecticut General Statutes;

(25) "General hospital" means a facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;

(26) "Individualized treatment" means treatment designed to meet a particular individual's needs, guided by a recovery plan that is directly related to a specific assessment of the individual;

(27) "Joint Commission" means the entity formerly known as the Joint Commission on Accreditation of Healthcare Organizations (JCAHO);

(28) "Level of care" means a discrete set of behavioral health services as specified in the ASAM PPC-2R or other DMHAS-authorized level-of-care placement criteria;

(29) "Licensed behavioral health professional" means a person that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations and who has experience in the treatment of psychiatric disabilities, substance use disorders or both.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-2

(30) “Medical coverage” means a plan or program that pays for medically necessary behavioral health services;

(31) “Medical necessity” or “medically necessary” means appropriate and necessary for the symptoms, diagnosis or treatment of a psychiatric disability or substance use disorder or both, as specified in DSM-IV or its successor, ASAM PPC-2R or its successor or other DMHAS authorized level-of-care placement criteria;

(32) “Panel or profile test” means certain multiple laboratory tests performed on a single specimen;

(33) “Prior authorization” means the process of obtaining prior approval from the designated agent to deliver a covered behavioral health service;

(34) “Private freestanding mental health day treatment facility” means a facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;

(35) “Private freestanding psychiatric hospital” means a facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;

(36) “Provider” means a person or entity that delivers behavioral health services;

(37) “Psychiatrist” means an individual that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;

(38) “Psychologist” means an individual that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;

(39) “Recovery” means a process of restoring or developing a positive and meaningful sense of identity apart from one’s psychiatric disability or substance use disorder and then rebuilding one’s life within the limitations imposed by that disability or disorder;

(40) “Recovery plan” means a written plan that directly relates to an individual’s biopsychosocial assessment and that is developed with the involvement of the individual or his or her authorized representative as specified in section 17a-453a-9 of the Regulations of Connecticut State Agencies. A recovery plan also may be referred to as a treatment plan;

(41) “Rehabilitation” means the restoration of an optimum state of health by medical, psychological and social means for the specific purpose of reducing the use of substances or mitigating the effects of substance use disorders;

(42) “Relapse” means a recurrence of psychoactive substance use by an individual who has previously achieved and maintained abstinence for a significant period of time beyond withdrawal;

(43) “SAMHSA” means the Substance Abuse and Mental Health Services Administration of the U.S. Department of Health and Human Services;

(44) “State-operated facility” means a hospital or other facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations, that delivers treatment for individuals with psychiatric disabilities or substance use disorders or both and that is operated in whole or in part by the state of Connecticut; and

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-3

Department of Mental Health and Addiction Serv-

(45) “Substance use disorders services” means services delivered for the care and treatment of individuals with substance use disorders that include medical, psychiatric and biopsychosocial assessments; individual, group and family counseling; peer counseling; vocational counseling and education groups.

(Adopted effective December 7, 2009)

Sec. 17a-453a-3. Eligibility

(a) In order to be eligible for covered behavioral health services under the GABHP, the individual shall:

(1) Be determined eligible by DSS for medical services pursuant to section 17b-192 of the Connecticut General Statutes;

(2) Be determined by DMHAS staff or the designated agent to need covered behavioral health services available through the GABHP established pursuant to section 17a-453a of the Connecticut General Statutes. Such determination shall be based upon an evaluation of medical necessity that includes, but is not limited to, evaluation of:

(A) The individual’s mental status;

(B) Problems identified by the individual; and

(C) The individual’s history of behavioral health services; and

(3) Meet the criteria for a diagnosis of one or more psychiatric disabilities, substance use disorders or both as specified in the following range of DSM-IV diagnostic codes:

(A) 291.1 to 292.9, inclusive; or

(B) 295.0 to 315.9, inclusive, except for diagnosis 307.89, Pain Disorder Associated with a Medical Condition.

(b) An individual who receives a covered behavioral health service and who does not satisfy the requirements of subsection (a)(1) of this section at the time he or she receives the covered behavioral health service may be eligible under GABHP established pursuant to section 17a-453a of the Connecticut General Statutes, provided that:

(1) The individual is subsequently determined by DSS to be eligible retroactively for medical services to a date that includes the date on which the covered behavioral health service was delivered;

(2) A contracted provider requests prior authorization from the designated agent before delivering the covered behavioral health service; and

(3) All other requirements of this section are met.

(Adopted effective December 7, 2009)

Sec. 17a-453a-4. Covered behavioral health services

The following behavioral health services shall be covered behavioral health services within the GABHP:

(1) Acute psychiatric hospitalization: A medically necessary, inpatient behavioral health service delivered in a private freestanding psychiatric hospital, general hospital or state-operated facility that meets and maintains all applicable licensing and certification

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-4

requirements of federal and state statutes or regulations pertaining to treatment of a psychiatric disability or co-occurring disorder, where an individual's admission is the result of a serious or dangerous condition that requires rapid stabilization of psychiatric symptoms. Acute psychiatric hospitalization is used when 24-hour medical and nursing supervision are required to deliver intensive evaluation, medication titration, symptom stabilization and intensive, brief treatment. Acute psychiatric hospitalization may be delivered to individuals committed under a Physician's Emergency Certificate (PEC), pursuant to section 17a-502 of the Connecticut General Statutes, and may occur on a locked psychiatric unit;

(2) Ambulatory detoxification: A medically necessary, non-residential behavioral health service delivered in a private freestanding psychiatric hospital, general hospital, state-operated facility or other facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations pertaining to ambulatory chemical detoxification. Ambulatory detoxification uses prescribed medication to alleviate physical or psychological effects experienced by an individual as a result of withdrawal from a specific psychoactive substance and shall be delivered only after an evaluation has been conducted and a determination has been made that the individual is medically able to tolerate an outpatient detoxification. Ambulatory detoxification shall involve an assessment of needs, including those related to recovery supports and motivation of the individual regarding his or her continuing participation in the treatment process. Individuals shall receive a minimum of one (1) hour per week of substance use disorders services;

(3) Ambulatory detoxification with on-site monitoring: A medically necessary, non-residential behavioral health service delivered in a private freestanding psychiatric hospital, general hospital, state-operated facility or other facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations pertaining to ambulatory chemical detoxification. Ambulatory detoxification with on-site monitoring shall deliver psychiatric and other behavioral health services that address the individual's problems as identified through a comprehensive biopsychosocial assessment. Ambulatory detoxification with on-site monitoring uses prescribed medication to alleviate physical or psychological effects experienced by an individual as a result of withdrawal from a specific psychoactive substance and shall be delivered only after an evaluation has been conducted and a determination has been made that the individual is medically able to tolerate an outpatient detoxification. Ambulatory detoxification with on-site monitoring shall involve an assessment of individual needs, including those related to recovery supports and motivation of the individual regarding his or her continuing participation in the treatment process. Individuals shall receive a minimum of one (1) hour of substance use disorders services per week;

(4) Chemical maintenance treatment: A medically necessary, non-residential behavioral health service delivered in a facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations pertaining to chemical maintenance treatment. Chemical maintenance treatment involves regularly scheduled

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-4

Department of Mental Health and Addiction Serv-

administration of SAMHSA-approved medication, prescribed at individual dosages and shall include a minimum of one (1) clinical contact per month. More frequent clinical contacts shall be delivered if indicated in the individual's recovery plan;

(5) Initial intake evaluation: The first evaluation of an individual to determine whether it is medically necessary for the individual to be admitted to a covered behavioral health service;

(6) Intensive outpatient-mental health: A medically necessary, non-residential behavioral health service delivered in a private freestanding psychiatric hospital, general hospital, a state-operated facility or other facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations pertaining to psychiatric outpatient services for adults. Each individual shall receive three (3) to four (4) hours per day, three (3) to five (5) days per week (i.e., a minimum of nine (9) hours per week) of individualized treatment that includes at least one (1) individual or group therapy session per day. Treatment shall focus on reducing symptoms, improving functioning, maintaining the individual in the community, preventing relapse and reducing the likelihood that care may be required in a more restrictive setting;

(7) Intensive outpatient-substance use: A medically necessary, non-residential behavioral health service delivered in a private freestanding psychiatric hospital, general hospital, state-operated facility or other facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations pertaining to intensive outpatient-substance use services. Each individual shall receive three (3) to four (4) hours per day, three (3) to five (5) days per week (i.e., a minimum of nine (9) hours per week) of individualized treatment that includes at least one (1) individual or group therapy session per day. Treatment shall focus on relapse prevention and the individual's ability to manage his or her recovery;

(8) Intensive residential treatment: A medically necessary, residential behavioral health service delivered in a private freestanding psychiatric hospital, general hospital, state-operated facility or other facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations. Intensive residential treatment shall be delivered in a 24-hour setting to treat individuals with substance use disorders who require an intensive rehabilitation program. Intensive residential treatment is delivered within a fifteen (15) to thirty (30) day period and includes a minimum of thirty (30) hours of substance use disorder services per week;

(9) Intermediate or long-term treatment or care: A medically necessary, residential behavioral health service delivered in a facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations pertaining to intermediate or long-term treatment or care and rehabilitation. Each individual shall receive substance use disorder services to address significant problems with his or her behavior and functioning in major life areas due to a substance use disorder and to reintegrate such individual into the community. Intermediate or long-term treatment or care shall be delivered in a structured recovery environment and shall comply with the following

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-4

applicable requirements:

(A) If the facility is licensed for and delivers intermediate or long-term residential treatment, a minimum of twenty (20) hours per week of substance use disorder services shall be delivered to each individual;

(B) If the facility is licensed for care and rehabilitation and delivers long-term care, a minimum of twenty (20) hours of substance use disorder services shall be delivered to each individual per week; and

(C) If the facility is licensed for intermediate or long-term residential treatment and delivers transitional or halfway-house services, a minimum of four (4) hours per week of substance use disorder services shall be delivered to each individual;

(10) Laboratory services: Specimen testing and analysis used to establish the diagnosis and treatment of behavioral health disorders and delivered by a facility that is:

(A) Certified pursuant to the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 CFR 943; and

(B) Licensed by DPH as a clinical laboratory pursuant to section 19a-30 of the Connecticut General Statutes;

(11) Matrix intensive outpatient: A medically necessary, non-residential, evidence-based, sixteen (16) week individualized behavioral health service that is delivered in a facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations pertaining to outpatient treatment. Matrix intensive outpatient is designed to give individuals with substance use disorders the knowledge, structure, and support to enable them to achieve abstinence from substances and initiate recovery;

(12) Medically managed inpatient detoxification: A medically necessary, inpatient behavioral health service delivered in a private freestanding psychiatric hospital, state-operated facility or general hospital that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations pertaining to the treatment of substance use disorders, where the individual's admission is the result of a serious or dangerous condition that requires rapid treatment for a substance use disorder. Medically managed inpatient detoxification is used when on-site, 24-hour medical and nursing supervision are required to deliver intensive evaluation, medication titration, symptom stabilization and intensive, brief treatment. Medically managed inpatient detoxification shall deliver evaluation for substance use disorders and withdrawal management. For individuals who have co-occurring disorders, psychiatric assessment and management shall be available. Medically managed inpatient detoxification may be delivered to patients committed under a Physician's Emergency Certificate (PEC), pursuant to section 17a-684 of the Connecticut General Statutes;

(13) Medically monitored residential detoxification: A medically necessary, inpatient behavioral health service delivered in a state-operated facility or in a facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations pertaining to residential detoxification and evaluation that involves treatment of a substance use disorder. Medically monitored residential detoxification shall be used

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-4

Department of Mental Health and Addiction Serv-

when 24-hour medical and nursing supervision are required. Medically monitored residential detoxification shall deliver 24-hour substance use evaluation and withdrawal management;

(14) Observation bed-mental health: A medically necessary, inpatient behavioral health service delivered in a private freestanding psychiatric hospital, state-operated facility or general hospital that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations pertaining to supervised stabilization, clinical monitoring and, when necessary, laboratory testing to facilitate the formulation of an appropriate diagnosis and suitable treatment of an individual who is in urgent need of care and treatment for a psychiatric disability. Observation beds may be used for no more than twenty-three (23) hours before discharge or transfer to another level of care is required;

(15) Observation bed-substance use: A medically necessary, inpatient behavioral health service delivered in a private freestanding psychiatric hospital, general hospital, state-operated facility or residential detoxification facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations pertaining to supervised stabilization, clinical monitoring and, when necessary, laboratory testing to facilitate the formulation of an appropriate diagnosis and suitable treatment program for an individual who is in urgent need of care and treatment for a substance use disorder. Observation beds may be used for no more than twenty-three (23) hours before discharge or transfer to another level of care is required;

(16) Outpatient-mental health: A medically necessary, non-residential behavioral health service delivered in a general hospital, psychiatric outpatient clinic for individuals, private freestanding psychiatric hospital, state-operated facility or other facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations pertaining to the evaluation, diagnosis and treatment of individuals;

(17) Outpatient-substance use: A medically necessary, non-residential behavioral health service delivered in a private freestanding psychiatric hospital, general hospital, state-operated facility or other facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations pertaining to outpatient treatment that includes, but is not limited to, professionally directed evaluation, treatment and recovery support activities that shall be delivered in regularly scheduled sessions, usually weekly, but no less frequently than every thirty (30) days;

(18) Partial hospitalization-mental health: A medically necessary, non-residential behavioral health service delivered in a general hospital, private freestanding psychiatric hospital, state-operated facility or private freestanding mental health day treatment facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations pertaining to intensive psychiatric treatment services. Partial hospitalization-mental health shall deliver to each individual a minimum of four (4) hours per day, three (3) to five (5) days per week (i.e., a minimum of twelve (12) hours per week) of individualized treatment based on a recovery plan that includes at least one (1) individual

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-5

or group session per day. Partial hospitalization-mental health may be delivered on a day, evening or weekend schedule. Partial hospitalization-mental health is designed to serve individuals with significant impairments resulting from psychiatric disabilities to avert hospitalization, thereby increasing an individual's level of independent functioning; and

(19) Partial hospitalization-substance use: A medically necessary, non-residential behavioral health service delivered in a general hospital, private freestanding psychiatric hospital, state-operated facility or other facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations pertaining to day or evening treatment that includes, but is not limited to, access to psychiatric, medical and laboratory services for individuals recently discharged from an inpatient facility or whose admission to inpatient care might be averted by treatment in a day or evening program. Partial hospitalization-substance use delivers to each individual a minimum of four (4) hours per day, three (3) to five (5) days per week (i.e., a minimum of twelve (12) hours per week) of substance use disorder services, based on an individualized recovery plan that includes at least one individual or group therapy session per day.

(Adopted effective December 7, 2009)

Sec. 17a-453a-5. Limitations, exclusions and non-payment of behavioral health services

(a) **Limitations:** The following limitations shall apply:

(1) DMHAS payment for outpatient therapy shall be limited to one (1) session per contracted provider, per day, for each eligible recipient for each of the following therapies, unless additional behavioral health services are authorized in advance by the designated agent:

- (A) Individual therapy;
- (B) Group therapy; or
- (C) Family therapy;

(2) Unless authorized in advance by the designated agent, medication management delivered by the same practitioner, on the same day, for the same eligible recipient and for the principal purpose of medication monitoring or management shall not be paid separately from individual or group therapy;

(3) Group therapy sessions shall be limited to a maximum of twelve (12) individuals per group session, excluding the supervising clinician(s); education groups shall be limited to a maximum of twenty-four (24) individuals per group session, excluding the supervising professional(s);

(4) DMHAS payment for the following shall be limited to one (1) each for each eligible recipient during a twelve (12) month period, if authorized in advance by the designated agent:

- (A) Neuropsychological testing; or
- (B) Psychological testing;
- (5) Contracted providers of chemical maintenance treatment shall deliver behavioral

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-5

Department of Mental Health and Addiction Serv-

health services at their licensed facility location, unless otherwise authorized in advance by DMHAS;

(6) DMHAS payment for laboratory services shall be limited to one (1) unit per allowable laboratory service per eligible recipient per day, unless authorized by the designated agent;

(7) DMHAS payment for initial intake evaluations conducted by contracted providers shall only be considered when:

(A) The individual is eligible for medical services pursuant to section 17b-192 of the Connecticut General Statutes at the time of the initial intake evaluation or is found to be eligible retroactively for such benefits on the date on which the initial intake evaluation occurred;

(B) The eligible recipient does not begin treatment in a level of care, other than outpatient-mental health or outpatient-substance use, with the same contracted provider not later than ten (10) calendar days after the date of his or her initial intake evaluation;

(C) The contracted provider registers the procedure not later than fifteen (15) calendar days after the date of the initial intake evaluation;

(D) The contracted provider has not received payment for an initial intake evaluation for the same eligible recipient within the previous six (6) months; and

(E) The contracted provider has neither sought nor received payment for emergency room behavioral health services on the same day as the date of the initial intake evaluation.

(b) **Excluded services:** The following shall be excluded under the GABHP:

(1) Any behavioral health services delivered to an eligible recipient with a primary diagnosis which is outside the range of DSM-IV diagnostic codes of 291.1 to 292.9, inclusive; 295 to 307.88, inclusive or 307.90 to 315.9, inclusive;

(2) Behavioral health services that DMHAS determines to be experimental in nature;

(3) Behavioral health services that the designated agent determines are not medically necessary;

(4) Behavioral health services which the designated agent determines to be similar or identical that are delivered to the same eligible recipient;

(5) Behavioral health services, consultation or information delivered over the telephone;

(6) Activities that DMHAS determines are primarily for vocational or educational guidance that relate solely to a specific employment opportunity, job skill, work setting or development of an academic skill;

(7) Therapies, treatments or procedures that relate to transsexual or gender-change medical or surgical procedures; and

(8) Activities, treatment or items delivered to an eligible recipient for which the contracted provider does not usually charge others.

(c) DMHAS shall not pay a contracted provider of inpatient or residential services for the following:

(1) The day of discharge or transfer, unless the eligible recipient is discharged or transferred on the same day as he or she is admitted;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-6

(2) A leave of absence or pass from an inpatient or residential facility that occurs without staff permission or against staff advice;

(3) A leave of absence or pass from an inpatient or residential facility with staff permission, if the absence is longer than 24 hours, unless authorized in advance by the designated agent; and

(4) Emergency room behavioral health services delivered on the same day as an acute psychiatric hospital admission or a medically managed inpatient detoxification admission to the same facility.

(d) DMHAS shall not pay a contracted provider for the following:

(1) Electroconvulsive therapy, unless delivered by a licensed psychiatrist and pre-authorized by the designated agent;

(2) Hypnosis, unless delivered by a licensed psychiatrist or psychologist and pre-authorized by the designated agent;

(3) Psychological or intelligence testing, unless delivered by a licensed psychologist and pre-authorized by the designated agent;

(4) Neuropsychological testing, unless delivered by a licensed psychologist and preauthorized by the designated agent;

(5) Behavioral health services delivered by a staff member who is not a licensed behavioral health professional or who is not a Connecticut certified alcohol and drug counselor, unless the following conditions are met:

(A) The individual is employed by or under contract with a licensed facility whose medical director or clinical supervisor has determined that the staff member is qualified to deliver behavioral health services to eligible recipients;

(B) For acute psychiatric hospitalization, intensive outpatient-mental health, observation bed-mental health, outpatient-mental health and partial hospitalization-mental health only, the individual is actively pursuing behavioral health licensure and is under the direct supervision of licensed behavioral health professional with at least two (2) years of experience in the delivery of behavioral health treatment services; and

(C) The supervising clinician has signed the eligible recipient's recovery plan;

(6) Behavioral health services delivered by staff of a licensed facility at a location other than that which is specified on the facility's license;

(7) Any laboratory service delivered by a laboratory that is not in compliance with the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 CFR 493; and

(8) Individual laboratory tests, where it is determined by DMHAS that a panel or profile test should be conducted instead.

(Adopted effective December 7, 2009)

Sec. 17a-453a-6. Prior authorization review

(a) The prior authorization review shall determine whether covered behavioral health services are medically necessary and determine the appropriate level of care. Contracted providers shall obtain prior authorization from the designated agent by contacting the

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-6

Department of Mental Health and Addiction Serv-

designated agent by telephone before admitting a potentially eligible or eligible recipient to a covered behavioral health service, except that contracted providers shall obtain authorization for covered outpatient services as specified in section 17a-453a-8 of the Regulations of Connecticut State Agencies.

(b) The contracted provider shall provide the designated agent with the following information for the purpose of prior authorization review of covered behavioral health services requested for a potentially eligible or eligible recipient:

- (1) Identifying information;
- (2) DSM-IV provisional or admitting diagnosis or diagnoses;
- (3) Level of care requested;
- (4) Clinical presentation of the potentially eligible or eligible recipient and justification for the requested covered behavioral health service, including such factors as mental status, natural supports and strengths;
- (5) Recovery plan objectives;
- (6) Current symptoms of a psychiatric disability, a substance use disorder or both;
- (7) Clinical risk assessment and relapse potential;
- (8) Medication(s) used;
- (9) Substance(s) used;
- (10) Whether the potentially eligible or eligible recipient is voluntarily agreeing to treatment;
- (11) Legal status of the potentially eligible or eligible recipient, if known;
- (12) Potentially eligible or eligible recipient's preference for a covered behavioral health service and contracted provider;
- (13) Treatment location;
- (14) Provisional discharge or aftercare plan or both;
- (15) Projected date of discharge;
- (16) Name of the potentially eligible or eligible recipient's primary care physician, if any; and
- (17) All other information that the designated agent may require.

(c) The designated agent may require a DMHAS designated mobile crisis team or another organization identified by DMHAS to collect information necessary for prior authorization of acute psychiatric hospitalization, following a face-to-face evaluation of the potentially eligible or eligible recipient.

(d) The decision regarding prior authorization shall be rendered by the designated agent not later than three (3) hours after the receipt of all information that the designated agent determines is necessary and sufficient to render a decision.

(e) Upon completion of the review, the designated agent shall:

- (1) Authorize the requested covered behavioral health service for a specific number of days or sessions of treatment over a specified time period;
- (2) Authorize a different covered behavioral health service than requested; or
- (3) Deny authorization, when the information received by the designated agent does not

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-7

demonstrate that the requested covered behavioral health service is medically necessary.

(f) Prior authorization of a covered behavioral health service is not a guarantee that DMHAS will pay a contracted provider's claim for payment.

(Adopted effective December 7, 2009)

Sec. 17a-453a-7. Continued stay authorization review

(a) The continued stay authorization review shall determine whether previously authorized covered behavioral health services continue to be medically necessary. If a contracted provider determines that additional care may be needed beyond that which has been authorized for a potentially eligible or eligible recipient, the contracted provider shall contact the designated agent by telephone not less than four (4) hours prior to the expiration of the existing authorization for acute care services and not more than forty-eight (48) hours prior to the expiration of the existing authorization for other covered behavioral health services in order to obtain a continued stay authorization.

(b) The contracted provider shall furnish all information that may be requested by the designated agent for the purpose of determining continued stay authorization of covered behavioral health services requested for a potentially eligible or eligible recipient, including, but not limited to, the following:

- (1) Identifying information;
- (2) DSM-IV current diagnosis or diagnoses;
- (3) Level of care requested;
- (4) Clinical presentation of the potentially eligible or eligible recipient and justification for the requested covered behavioral health service, including such factors as mental status, natural supports and strengths;
- (5) Recovery plan objectives;
- (6) Current symptoms of mental illness or substance use disorders or both;
- (7) Clinical risk assessment and relapse potential;
- (8) Medication(s) used;
- (9) Substance(s) used;
- (10) Whether the potentially eligible or eligible recipient is voluntarily agreeing to treatment;
- (11) Legal status of the potentially eligible or eligible recipient, if known;
- (12) Potentially eligible or eligible recipient's preference for a covered behavioral health service and contracted provider;
- (13) Treatment location;
- (14) Provisional discharge or aftercare plan or both;
- (15) Projected date of discharge;
- (16) Name of the potentially eligible or eligible recipient's primary care physician, if any; and
- (17) All other information that the designated agent may require.

(c) The decision regarding continued stay authorization shall be rendered by the

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-8

Department of Mental Health and Addiction Serv-

designated agent not later than three (3) hours after the receipt of all information that the designated agent determines is necessary and sufficient to render a decision.

(d) Upon completion of the review, the designated agent shall:

(1) Authorize the requested covered behavioral health service for a specific number of days or sessions of treatment over a specified time period;

(2) Authorize a different covered behavioral health service than requested; or

(3) Deny authorization when the information received by the designated agent does not demonstrate that the requested covered behavioral health service is medically necessary.

(e) Continued stay authorization of a covered behavioral health service is not a guarantee that DMHAS will pay a contracted provider's claim for payment.

(Adopted effective December 7, 2009)

Sec. 17a-453a-8. Alternative authorization review

(a) Web-based registration or outpatient treatment review (OTR) submission shall be the alternative methods to prior authorization review and continued stay review. The web-based registration and OTR submission shall be in the format as determined by DMHAS or its designated agent.

(b) The alternative authorization review shall be designed to determine whether the following covered behavioral health services are medically necessary:

(1) Outpatient-substance use;

(2) Outpatient-mental health; and

(3) Chemical maintenance treatment.

(c) The contracted provider shall furnish such information as may be requested by the designated agent for the purpose of alternative authorization review of the designated covered behavioral health services requested for a potentially eligible or eligible recipient, including, but not limited to, the following:

(1) Identifying information;

(2) DSM-IV current diagnosis or diagnoses;

(3) Level of care requested;

(4) Clinical presentation of the potentially eligible or eligible recipient and justification for the requested covered behavioral health service, including such factors as mental status, natural supports and strengths;

(5) Recovery plan objectives;

(6) Current symptoms of psychiatric disability or substance use disorders or both;

(7) Clinical risk assessment and relapse potential;

(8) Medication(s) used;

(9) Substance(s) used;

(10) Whether the potentially eligible or eligible recipient is voluntarily agreeing to treatment;

(11) Legal status of the potentially eligible or eligible recipient, if known;

(12) Potentially eligible or eligible recipient's preference for a covered behavioral health

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-9

service and contracted provider;

(13) Treatment location;

(14) Provisional discharge or aftercare plan or both;

(15) Projected date of discharge;

(16) Name of the potentially eligible or eligible recipient's primary care physician, if any; and

(17) All other information that the designated agent may require.

(d) The decision regarding alternative authorization shall be rendered by the designated agent not later than five (5) business days after the date of receipt of all information that the designated agent determines is necessary and sufficient to render a decision.

(e) Upon completion of the alternative authorization review, the designated agent shall:

(1) Authorize the requested covered behavioral health service for a specific number of days or sessions of treatment over a specified time period;

(2) Authorize a different covered behavioral health service than requested; or

(3) Deny authorization when the information received by the designated agent does not demonstrate that the requested covered behavioral health service is medically necessary.

(f) A contracted provider shall submit a written request to the designated agent to obtain authorization for an initial intake evaluation, not more than fifteen (15) calendar days following the initial evaluation, and only if the potentially eligible or eligible recipient does not begin treatment with the contracted provider not later than ten (10) calendar days after the date of his or her initial intake evaluation.

(g) Alternative authorization of a covered behavioral health service specified in this section will not guarantee that DMHAS will pay providers' claims for payment.

(Adopted effective December 7, 2009)

Sec. 17a-453a-9. Recovery and discharge planning

Except for those providing laboratory services, all contracted providers shall meet the following requirements:

(a) The contracted provider shall develop a recovery plan with each eligible recipient:

(1) The recovery plan shall be developed with participation from the eligible recipient or, if the eligible recipient does not participate in its development, shall contain a written explanation as to why the eligible recipient did not participate; and

(2) The recovery plan shall reflect:

(A) The eligible recipient's preferences, interests, strengths and areas of health;

(B) Specific outcomes that the eligible recipient desires related to the eligible recipient's preferences, interests, strengths and areas of health;

(C) Activities, supports and covered behavioral health services that may assist with the achievement of the eligible recipient's desired outcomes;

(D) Regularly scheduled review and, if necessary, revision of the recovery plan; and

(E) Review by, and signatures of the eligible recipient, counselor or clinician responsible for the development of the recovery plan with the eligible recipient, and his or her supervisor

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-9

Department of Mental Health and Addiction Serv-

if the counselor or clinician is not licensed or certified.

(b) The contracted provider shall develop a discharge plan with each eligible recipient:

(1) The discharge plan shall be developed with participation from the eligible recipient or, if the eligible recipient does not participate in its development, shall contain a written explanation as to why the eligible recipient did not participate; and

(2) Discharge plan review: Contracted providers are required to participate in a discharge plan review for all eligible recipients admitted into the following covered behavioral health services:

- (A) Acute psychiatric hospitalization;
- (B) Medically managed inpatient detoxification;
- (C) Medically monitored residential detoxification;
- (D) Intensive residential treatment; and
- (E) Intermediate or long-term treatment or care.

(c) Except when the eligible recipient leaves the facility unexpectedly, the contracted provider shall contact the designated agent to request a discharge review not more than two (2) business days, and not less than four (4) hours, before the eligible recipient's scheduled departure:

(1) Reviews of unexpected discharges shall be conducted not later than one (1) business day following the date of the eligible recipient's discharge. If an eligible recipient leaves a facility but is expected to return, the contracted provider may delay the discharge review until either the eligible recipient returns or a decision is made to discharge the eligible recipient. The contracted provider shall conform with generally accepted standards of professional practice regarding the duration of time such contracted provider shall delay a discharge decision for an eligible recipient who left the program unexpectedly and has not returned; and

(2) The discharge plan review for an eligible recipient shall include the following:

- (A) Identifying information;
- (B) DSM-IV discharge diagnosis;
- (C) Progress made toward the accomplishment of treatment objectives;
- (D) Clinical presentation at the time of discharge, including such items as his or her mental status and response to treatment;
- (E) Clinical risk and relapse potential;
- (F) Medication(s) used during the present treatment episode;
- (G) Circumstances of discharge, including whether the eligible recipient left upon completion of treatment or under some other discharge status and the details of that status;
- (H) Involvement in recovery and discharge planning;
- (I) Details of the discharge or aftercare plan or both for the eligible recipient, including the level of care recommended by the discharging contracted provider and details of arrangements made to secure that care;
- (J) Living arrangement(s) and address upon discharge; and
- (K) Arrangements for any medication(s) that may be needed by the eligible recipient

following discharge.

(Adopted effective December 7, 2009)

Sec. 17a-453a-10. Quality management

(a) **Compliance with confidentiality requirements:** The contracted provider shall comply with all state and federal requirements pertaining to the communication, storage, dissemination, and retention of confidential information regarding potentially eligible or eligible recipients with a psychiatric disability, a substance use disorder or both, including the Health Insurance Portability and Accountability Act (HIPAA); 45 CFR 164, 42 CFR 2; and 17a-688(c) and Chapter 899 of the Connecticut General Statutes; and other such laws and regulations as may apply. In addition, the contracted provider shall assume responsibility for obtaining any release of information that may be necessary to meet contractual data transmittal and behavioral health service coordination requirements specified in sections 17a-453a-1 to 17a-453a-19, inclusive, of the Regulations of Connecticut State Agencies.

(b) **Critical incident reporting:** Except for providers of laboratory services, a contracted provider shall report every critical incident to the DMHAS Office of the Commissioner in the form and manner specified by the department.

(c) **Other reporting requirements:** The contracted provider shall submit to DMHAS or its designated agent timely and accurate information in the format specified by DMHAS or its designated agent. This information includes, but is not limited to, the following:

- (1) Demographic data regarding the eligible recipients served;
- (2) Descriptions of the covered behavioral health services delivered;
- (3) Descriptions of the contracted provider's staff sufficient for DMHAS to assess the agency's cultural competency;
- (4) Treatment outcomes;
- (5) Results of risk assessment screenings; and
- (6) A critical incident review summary, including recommendations, in the format and manner specified by the department.

(Adopted effective December 7, 2009)

Sec. 17a-453a-11. Provider application

(a) In order to be considered for participation in the GABHP, a provider shall request in writing an application packet from the designated agent. The application packet shall be completed by the provider and shall include all information required by DMHAS.

(b) DMHAS shall require, at a minimum, the following information from a provider:

- (1) Name, address, telephone number and contact person;
- (2) Age groups and genders treated;
- (3) Staff licenses, competencies and language(s) spoken;
- (4) Problems and disorders treated;
- (5) Level(s) of care offered and capacity for each;
- (6) Treatment specialties; and

(7) A copy of the state-required facility license(s).

(c) The provider shall complete the application and return it to the designated agent not more than thirty (30) calendar days after the date of receipt. If a provider does not submit a completed application within the required time frame, DMHAS, at its sole discretion, may decide not to accept the provider's application.

(Adopted effective December 7, 2009)

Sec. 17a-453a-12. Provider credentials

(a) The provider credentialing process is described as follows:

(1) The purpose of the credentialing process is for DMHAS to determine if a provider applying to participate in the GABHP has the requisite qualifications.

(2) The credentialing process shall include the assessment and validation of qualifications of providers to determine whether the provider is qualified to offer specific levels of care and meets the credentialing requirements specified for those levels of care in this section. If DMHAS determines that a provider has not met the required qualifications as specified in this section, DMHAS shall not contract with the provider under the GABHP.

(3) The designated agent shall collect and review documentation that includes, but is not limited to:

(A) Status of facility or professional licensure, certification or accreditation;

(B) Experience in providing behavioral health services to individuals;

(C) Evidence of adequate malpractice insurance coverage; and

(D) Descriptions detailing programmatic and staffing information for each behavioral health service and level of care proposed for credentialing.

(4) The designated agent shall review the credentials of each provider for each behavioral health service or level of care that the provider proposes to deliver and shall make a recommendation to DMHAS. DMHAS shall decide whether the provider meets the credentialing qualifications necessary to offer the proposed behavioral health service(s) or level(s) of care.

(5) The provider shall be required to submit to the designated agent additional information or clarification, if any discrepancies or questions are identified.

(6) The provider shall be required to meet all credentialing criteria as specified in this section. If any of the credentialing criteria are not met, the provider shall be denied participation in the GABHP.

(7) Any provider that has been sanctioned by DSS for violations while participating in the Medicaid program shall not be credentialed for the GABHP.

(8) DMHAS shall notify the provider in writing of the outcome of the credentialing process. If DMHAS determines that the provider meets the requisite credentialing qualifications as specified in this section, then DMHAS may initiate the contracting process as specified in section 17a-453a-13 of the Regulations of Connecticut State Agencies.

(b) A provider that is denied participation in the GABHP may request reconsideration of such denial. Such request shall be submitted in writing to the commissioner not more

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-12

than ten (10) calendar days following the date of receipt of the denial notice.

(c) Credentialing criteria that providers shall meet to qualify to deliver covered behavioral health services under the GABHP are as follows:

(1) Acute psychiatric hospitalization as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:

(A) Acute psychiatric hospitalization shall be delivered in a facility that:

(i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;

(ii) Except as provided by state law, maintains professional liability insurance coverage of at least three million dollars (\$3,000,000) per occurrence and ten million dollars (\$10,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability; and

(iii) Is Joint Commission-accredited.

(B) If this behavioral health service is located in a general hospital, the hospital shall deliver acute psychiatric hospitalization on a psychiatric unit that is separate and distinct from a medical unit.

(C) Acute psychiatric hospitalization shall include the following staff, licensed by the state of Connecticut and employed by or under contract with the facility in which acute psychiatric hospitalization operates:

(i) A medical director;

(ii) A board-certified or board-eligible psychiatrist;

(iii) A psychologist;

(iv) Social workers;

(v) A physician on site 24 hours per day, seven (7) days per week; and

(vi) Registered nurses on site 24 hours per day, seven (7) days per week.

(D) Acute psychiatric hospitalization components shall include:

(i) The ability to conduct an admission 24 hours per day, seven (7) days per week;

(ii) Diagnostic evaluation, including screening for a co-occurring substance use disorder, a biopsychosocial assessment and a risk assessment;

(iii) A medical history and physical examination conducted upon admission;

(iv) Medication evaluation and monitoring;

(v) Medical management and monitoring of coexisting medical problems, except that life support systems or a full array of medical services are not required;

(vi) Appropriate observation and precautions for individuals who may be suicidal;

(vii) Development of a recovery plan for each individual;

(viii) Individual and group therapy and, when indicated, family therapy;

(ix) Rehabilitative social and recreational therapies, when indicated;

(x) Laboratory services, when indicated; and

(xi) Discharge planning that helps ensure the continuation of appropriate treatment.

(2) Ambulatory detoxification as specified in section 17a-453a-4 of the Regulations of

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-12

Department of Mental Health and Addiction Serv-

Connecticut State Agencies:

(A) Ambulatory detoxification shall be delivered in a facility that:

(i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations.

(ii) Except as provided by state law, maintains professional liability insurance coverage of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability; and

(iii) Is Joint Commission or CARF-accredited or has a licensed physician with experience in providing behavioral health services for substance use disorders, who is responsible for supervising all medical services and is credentialed by DMHAS as specified in the credentialing criteria contained in this section;

(B) Ambulatory detoxification shall include a clinical supervisor with authority over all behavioral health services. The clinical supervisor shall have a minimum of a master's degree in the behavioral health services field and at least three (3) years of full-time work experience in substance use disorders treatment, be licensed by the state of Connecticut or certified as appropriate in his or her respective discipline and be employed by or under contract with the facility in which the behavioral health service is operated;

(C) The organization operating ambulatory detoxification shall deliver emergency psychiatric and emergency medical services or maintain written agreements enabling immediate access for individuals, when needed, to facilities that offer such care; and

(D) Ambulatory detoxification components shall include:

(i) Initial evaluation, including screening for co-occurring psychiatric disabilities;

(ii) A physical examination by a physician, physician's assistant or nurse practitioner as part of the initial assessment;

(iii) Individual assessment and medication or non-medication methods of detoxification;

(iv) Medical supervision and management of substance withdrawal as indicated by a licensed physician and inclusive of laboratory assessments;

(v) One (1) hour of substance use disorder services per week;

(vi) Significant other or family involvement in the detoxification process, when appropriate;

(vii) Development of a recovery plan for each individual;

(viii) Laboratory services, when indicated;

(ix) The ability to provide or assist in accessing transportation for individuals who are unable to drive safely for legal or medical reasons or who otherwise lack transportation;

(xi) Discharge planning that helps ensure the continuation of appropriate treatment and movement through the recovery continuum;

(xii) Referral to self-help programs; and

(xiii) Adequate testing for or analysis of drugs of abuse as specified in applicable state and federal statutes and regulations;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-12

(E) Substance use disorder services performed by a staff member who is not a licensed behavioral health professional or Connecticut certified alcohol and drug counselor shall meet the following conditions:

- (i) The staff member is employed by or under contract with the facility;
- (ii) The medical or clinical supervisor has determined that the staff member is qualified to deliver behavioral health services; and
- (iii) The staff member is under the direct supervision of a licensed behavioral health professional with at least two (2) years of experience in the provision of behavioral health services or a Connecticut certified clinical supervisor.

(3) Ambulatory detoxification with on-site monitoring as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:

(A) Ambulatory detoxification with on-site monitoring shall be delivered in a facility that:

- (i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;
- (ii) Except as provided by state law, maintains professional liability insurance coverage of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability; and
- (iii) Is Joint Commission or CARF-accredited or has a licensed physician with experience in providing behavioral health services for substance use disorders, who is responsible for supervising all medical services delivered by the program and is credentialed by DMHAS in accordance with credentialing criteria contained in this section;

(B) Ambulatory detoxification with on-site monitoring shall include a clinical supervisor with authority over all behavioral health services. The clinical supervisor shall have a minimum of a master's degree in a behavioral health services field, at least three (3) years of full-time work experience in substance use disorder treatment, be licensed by the state of Connecticut or certified as appropriate in his or her respective discipline and be employed by or under contract with the facility.

(C) The organization operating the ambulatory detoxification with on-site monitoring shall deliver emergency psychiatric and emergency medical services or maintain written agreements enabling immediate access for its individuals, when needed, to facilities that offer such care;

- (D) Ambulatory detoxification with on-site monitoring components shall include:
- (i) Initial evaluation, including screening for a co-occurring psychiatric disability;
 - (ii) A physical examination by a physician, physician's assistant or nurse practitioner as part of the initial assessment;
 - (iii) Individual assessment, medication or non-medication methods of detoxification;
 - (iv) Medical supervision and management of substance withdrawal as indicated by a licensed physician and inclusive of laboratory assessments;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-12

Department of Mental Health and Addiction Serv-

- (v) A minimum of one (1) hour of substance use disorder services per week;
 - (vi) Significant other or family involvement in the withdrawal process when appropriate;
 - (vii) Development of a recovery plan for each individual;
 - (viii) Laboratory services, when indicated;
 - (ix) The ability to deliver or assist in accessing transportation for individuals who are unable to drive safely for legal or medical reasons or who otherwise lack transportation;
 - (x) Discharge planning that helps ensure the continuation of appropriate treatment and movement through the recovery continuum;
 - (xi) Referral to self-help programs; and
 - (xii) Adequate testing for or analysis of drugs of abuse as specified in applicable state and federal statutes and regulations;
- (E) Ambulatory detoxification with on-site monitoring shall have a licensed nurse on site during all hours of operation; and
- (F) Ambulatory detoxification with on-site monitoring shall have available psychiatric and other behavioral health services for problems identified through a comprehensive biopsychosocial assessment;
- (G) Substance use disorder services performed by a staff member who is not a licensed behavioral health professional or Connecticut certified alcohol and drug counselor shall meet the following conditions:
- (i) The staff member is employed by or under contract with the facility;
 - (ii) The medical or clinical supervisor has determined that the staff member is qualified to deliver behavioral health services; and
 - (iii) The staff member is under the direct supervision of a licensed behavioral health professional with at least two (2) years of experience in the provision of behavioral health services or a Connecticut certified clinical supervisor.
- (4) Chemical maintenance treatment as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:
- (A) Chemical maintenance treatment shall be delivered in a facility that:
- (i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;
 - (ii) Except as provided by state law, maintains professional liability insurance coverage of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability;
 - (iii) Meets conditions for the use of methadone or other SAMHSA-approved medications in chemical maintenance treatment of opiate dependence, as specified in 21 CFR 291 and other applicable federal regulations; and
 - (iv) Is Joint Commission, CARF-accredited or accredited by the Council on Accreditation or has a clinical supervisor with authority over all behavioral health services. The clinical supervisor shall have a minimum of a master's degree in a behavioral health

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-12

services-related field and at least three (3) years of full-time work experience in substance use disorders, be licensed by the state of Connecticut or certified, as appropriate in his or her respective discipline and be employed by or under contract with the facility in which chemical maintenance treatment is operated.

(B) The organization operating chemical maintenance treatment shall deliver emergency psychiatric and emergency medical services or maintain written agreements enabling immediate access for its individuals, when needed, to facilities that offer such care;

(C) Chemical maintenance treatment components shall include:

(i) Initial intake evaluation, including screening for a co-occurring psychiatric disability;

(ii) A medical history and physical examination conducted by a physician or other appropriate medical personnel;

(iii) Laboratory services;

(iv) A minimum of one (1) clinical contact per individual per month;

(v) Medication evaluation and management;

(vi) A complete biopsychosocial assessment;

(vii) Development of a recovery plan for each individual;

(viii) Daily administration of methadone at least six (6) days per week or administration as appropriate of another SAMHSA-approved medication; ability to dispense doses for off-premises consumption as appropriate;

(ix) Psycho-educational programming;

(x) Discharge planning that helps ensure the continuation of appropriate treatment;

(xi) Adequate testing for or analysis of drugs of abuse as specified in applicable federal and state statutes and regulations;

(xii) Vocational or pre-vocational planning; and

(xiii) Referral to self-help programs;

(D) Chemical maintenance programs shall have the ability to gradually increase to or maintain medication at a therapeutic and stable level in order to block the effects of opiates for individuals receiving such care;

(E) The facility shall have a written medication diversion plan in place that assists in the identification and management of inappropriate diversion of take-home medications; and

(F) Substance use disorder services performed by a staff member who is not a licensed behavioral health professional or a Connecticut certified alcohol and drug counselor shall meet the following conditions:

(i) The staff member is employed by or under contract with the facility;

(ii) The medical or clinical supervisor has determined that the staff member is qualified to deliver behavioral health services; and

(iii) The staff member is under the direct supervision of a licensed behavioral health professional with at least two (2) years of experience in the provision of behavioral health services or a Connecticut certified clinical supervisor.

(5) Initial intake evaluation as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-12

Department of Mental Health and Addiction Serv-

(A) The initial intake evaluation shall be conducted in a facility that meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations to offer any behavioral health service.

(B) The provider shall obtain the following information from the individual to conduct the initial intake evaluation:

- (i) Demographic information;
- (ii) Clinical presentation, including problems and needs;
- (iii) History of psychiatric disability, substance use disorder or both and history of treatment, if any;
- (iv) Other disability and treatment, if any;
- (v) Current prescription medications and history of medications prescribed;
- (vi) Current substance use and history of substances used previously;
- (vii) Risk assessment and relapse potential;
- (viii) Legal status; and
- (ix) All other relevant information.

(6) Intensive outpatient-mental health as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:

(A) Intensive outpatient-mental health shall be in a facility that:

(i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;

(ii) Except as provided by state law, maintains professional liability insurance coverage of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability;

(iii) Is Joint Commission or CARF-accredited or has a board-certified or board eligible psychiatrist who is responsible for supervising all medical services. If intensive outpatient-mental health is operated by a non-profit mental health agency, the psychiatrist shall be credentialed by DMHAS in accordance with credentialing criteria as specified in this section; and

(iv) Includes a clinical supervisor with authority over all behavioral health services who is licensed in a behavioral health services field and has at least three (3) years of full-time work experience in mental health treatment;

(B) Intensive outpatient-mental health shall include at least three licensed behavioral health professionals;

(C) The organization shall deliver emergency psychiatric and emergency medical services or maintain written agreements enabling immediate access for its individuals, when needed, to facilities that offer such care;

(D) Intensive outpatient-mental health shall include:

(i) Initial intake evaluation, including screening for a co-occurring substance use disorder;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-12

- (ii) Diagnostic evaluation and risk assessment;
 - (iii) Individual and group therapy and, when indicated, family therapy;
 - (iv) A complete biopsychosocial assessment;
 - (v) Development of a recovery plan for each individual;
 - (vi) Psycho-educational programming;
 - (vii) Psychological testing, when indicated;
 - (viii) Medication evaluation and management;
 - (ix) Discharge planning that helps ensure the continuation of appropriate treatment; and
 - (x) Referral to self-help programs;
- (E) Intensive outpatient-mental health shall deliver to each individual three (3) to four (4) hours per day, three (3) to five (5) days per week, of programming that includes not less than one (1) individual or group therapy session per day; and
- (F) Any behavioral health services, other than psycho-educational programming, performed by a staff member who is not a licensed behavioral health professional shall meet the following conditions:
- (i) The staff member is employed by or under contract with the facility;
 - (ii) The medical director or clinical supervisor has determined that the staff member is qualified to deliver behavioral health services; and
 - (iii) The staff member is under the direct supervision of a licensed behavioral health professional with at least two (2) years of experience in the provision of behavioral health services and is actively pursuing a DPH professional license in a behavioral health discipline.
- (7) Intensive outpatient-substance use as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:
- (A) Intensive outpatient-substance use shall be in a facility that:
- (i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;
 - (ii) Except as provided by state law, maintains professional liability insurance coverage of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability; and
 - (iii) Is Joint Commission or CARF-accredited or has a clinical supervisor with authority over all behavioral health services. The clinical supervisor shall have a minimum of a master's degree in a behavioral health services field, at least three (3) years of full-time work experience in substance use disorders treatment, be licensed by the state of Connecticut or certified, as appropriate in his or her respective discipline and be employed by or under contract with the facility;
- (B) Intensive outpatient-substance use shall include drug and alcohol abuse counselors or other staff in related fields with experience in treatment of substance use disorders;
- (C) The organization shall deliver emergency psychiatric and emergency medical

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-12

Department of Mental Health and Addiction Serv-

services or maintain written agreements enabling immediate access for individuals, when needed, to facilities that offer such care;

(D) Intensive outpatient-substance use components shall include:

- (i) Initial intake evaluation, including screening for a co-occurring psychiatric disability;
- (ii) A complete biopsychosocial assessment;
- (iii) Development of a recovery plan for each individual;
- (iv) Orientation and referral to a self-help program;
- (v) Psycho-educational programming;
- (vi) Individual, group and, when indicated, family counseling;
- (vii) Discharge planning that helps ensure the continuation of appropriate treatment; and
- (viii) Adequate testing for or analysis of drugs of abuse as specified in applicable federal and state statutes and regulations.

(E) Intensive outpatient-substance use shall deliver to each individual three (3) to four (4) hours per day, three (3) to five (5) days per week, of substance use disorders services based on an individualized recovery plan inclusive of at least one (1) individual or group therapy session per day; and

(F) Any behavioral health services performed by a staff member who is not a licensed behavioral health professional or Connecticut certified alcohol and drug counselor shall meet the following conditions:

- (i) The staff member is employed by or under contract with the facility;
- (ii) The medical director or clinical supervisor has determined that the staff member is qualified to deliver behavioral health services; and
- (iii) The staff member is under the direct supervision of a licensed behavioral health professional with at least two (2) years of experience in the provision of behavioral health services or a Connecticut certified clinical supervisor.

(8) Intensive residential treatment as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:

(A) Intensive residential treatment shall be in a facility that:

- (i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;
- (ii) Except as provided by state law, maintains professional liability insurance coverage of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability; and
- (iii) Is Joint Commission or CARF-accredited or has a clinical supervisor with authority over all behavioral health services;

(B) Intensive residential treatment shall include the following staff, licensed by the state of Connecticut or certified as appropriate in their respective disciplines and employed by or under contract with the facility:

- (i) A clinical supervisor with authority over all behavioral health services, who shall

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-12

have a minimum of a master's degree in a behavioral health services field and at least three (3) years of full-time work experience in substance use disorders treatment and be licensed by the state of Connecticut or certified, as appropriate in his or her respective discipline; and

(ii) A sufficient number of staff to meet the needs of individuals;

(C) Any behavioral health services performed by a staff member who is not a licensed behavioral health professional or a Connecticut certified alcohol and drug counselor shall meet the following conditions:

(i) The staff member is employed by or under contract with the facility;

(ii) The medical director or clinical supervisor has determined that the staff member is qualified to deliver behavioral health services; and

(iii) The staff member is under the direct supervision of a licensed behavioral health professional with at least two (2) years of experience in the provision of behavioral health services or a Connecticut certified clinical supervisor.

(D) The organization operating intensive residential treatment shall deliver emergency psychiatric and emergency medical services or maintain written agreements enabling immediate access for individuals, when needed, to facilities that offer such care; and

(E) Intensive residential treatment shall include:

(i) Initial intake evaluation, including screening for a co-occurring psychiatric disability;

(ii) A complete biopsychosocial assessment;

(iii) Development of a recovery plan for each individual;

(iv) Intensive residential treatment shall deliver to each individual a minimum of thirty (30) hours per week of substance use disorder services;

(v) Orientation and referral to a self-help program;

(vi) Discharge planning that helps ensure the continuation of appropriate treatment;

(vii) Adequate testing for or analysis of drugs of abuse as specified in applicable federal and state statutes and regulations; and

(viii) Vocational and pre-vocational planning.

(9) Intermediate or long-term treatment or care as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:

(A) Intermediate or long-term treatment or care shall be in a facility that:

(i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;

(ii) Except as provided by state law, maintains professional liability insurance coverage of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability; and

(iii) Is Joint Commission or CARF-accredited or has a clinical supervisor with authority over all behavioral health services. The clinical supervisor shall have a minimum of a master's degree in a behavioral health services field and at least three (3) years of full-time

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-12

Department of Mental Health and Addiction Serv-

work experience in substance use disorder treatment, be licensed by the state of Connecticut or certified, as appropriate in his or her respective discipline and be employed by or under contract with the facility.

(B) Intermediate or long-term treatment or care shall deliver emergency psychiatric and emergency medical services or maintain written agreements enabling immediate access for individuals, when needed, to facilities that offer such care.

(C) Intermediate or long-term treatment or care shall include:

- (i) Initial intake evaluation, including screening for a co-occurring psychiatric disability;
- (ii) A biopsychosocial assessment;
- (iii) Development of a recovery plan for each individual;
- (iv) Orientation and referral to a self-help program;
- (v) Discharge planning that helps ensure the continuation of appropriate treatment;
- (vi) Adequate testing for or analysis of drugs of abuse as specified in applicable federal and state statutes and regulations; and

(vii) Vocational and pre-vocational planning and one of the following shall be delivered to each individual:

(I) A minimum of twenty (20) hours per week of substance use disorders services by facilities licensed for intermediate and long-term treatment and identified as delivering intermediate and long-term residential treatment; or

(II) A minimum of twenty (20) hours per week of substance use disorders services by facilities licensed for care and rehabilitation and identified as providing long-term care; or

(III) A minimum of four (4) hours per week of substance use disorder services by facilities licensed for intermediate and long-term treatment and identified as providing transitional or halfway house services.

(D) Any behavioral health services performed by a staff member who is not a licensed behavioral health professional or a Connecticut certified alcohol and drug counselor shall meet the following conditions:

- (i) The staff member is employed by or under contract with the facility;
- (ii) The medical director or clinical supervisor has determined that the staff member is qualified to deliver behavioral health services; and
- (iii) The staff member is under the direct supervision of a licensed behavioral health professional with at least two (2) years of experience in the provision of behavioral health services or a Connecticut certified clinical supervisor.

(10) Laboratory services as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:

(A) Specimen testing and analyses used to establish diagnosis and treatment of behavioral health disorders shall be delivered by a facility that is:

- (i) Certified pursuant to the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 CFR 493; and
- (ii) Licensed as a clinical laboratory as specified in sections 19a-36-D20 to 19a-36-D38, inclusive, of the Regulations of Connecticut State Agencies.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-12

(11) Matrix intensive outpatient as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:

(A) Matrix intensive outpatient shall be in a facility that:

(i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;

(ii) Except as provided by state law, maintains professional liability insurance coverage of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability; and

(iii) Is Joint Commission or CARF-accredited or has a clinical supervisor with authority over all behavioral health services. The clinical supervisor shall have a minimum of a master's degree in a behavioral health services field and at least three (3) years of full-time work experience in substance use disorders treatment, be licensed by the state of Connecticut or certified, as appropriate in his or her respective discipline and be employed by or under contract with the facility.

(B) Matrix intensive outpatient shall include alcohol and drug abuse counselors or other staff in related fields with experience in treatment of substance use disorders, who are licensed by the state of Connecticut or certified as appropriate in their respective disciplines and are employed by or under contract with the facility;

(C) Matrix intensive outpatient shall deliver emergency psychiatric and emergency medical services or maintain written agreements enabling immediate access for individuals, when needed, to facilities that offer such care;

(D) Matrix intensive outpatient components shall include:

(i) Initial intake evaluation, including screening for a co-occurring psychiatric disability;

(ii) A biopsychosocial assessment;

(iii) Development of a recovery plan for each individual;

(iv) Individual sessions that are scheduled weekly and consist of eight (8), one-hour meetings for the first two months, followed by one (1), one-hour meeting for the next two months;

(v) Early recovery skills groups that meet twice weekly and consist of eight (8), one-hour group sessions during the first month of treatment;

(vi) A recovery group that meets once weekly and consists of twelve (12), ninety-minute group sessions for the first three months;

(vii) A family education group that meets once weekly and consist of twelve (12), ninety-minute group sessions for the first three months;

(viii) A social support group that meets weekly and consists of ninety-minute group sessions, beginning at week thirteen;

(ix) Adequate testing for or analysis of drugs of abuse as specified in applicable federal and state statutes and regulations;

(x) Referral to a self-help program; and

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-12

Department of Mental Health and Addiction Serv-

(xi) Discharge planning that helps ensure the continuation of appropriate treatment; and
(E) Any substance use disorder services performed by a staff member who is not a licensed behavioral health professional or Connecticut certified alcohol and drug counselor shall meet the following conditions:

- (i) The staff member is employed by or under contract with the facility;
- (ii) The medical director or clinical supervisor has determined that the staff member is qualified to deliver behavioral health services; and
- (iii) The staff member is under the direct supervision of a licensed behavioral health professional with at least two (2) years of experience in the provision of behavioral health services or a Connecticut certified clinical supervisor.

(12) Medically managed inpatient detoxification as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:

(A) Medically managed inpatient detoxification shall be in a facility that:

- (i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;
- (ii) Except as provided by state law, maintains professional liability insurance coverage of at least three million dollars (\$3,000,000) per occurrence and ten million dollars (\$10,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability; and
- (iii) Is Joint Commission or CARF-accredited.

(B) Medically managed inpatient detoxification shall deliver emergency psychiatric services or maintain written agreements enabling immediate access for individuals, when needed, to facilities that offer such care;

(C) Medically managed inpatient detoxification shall include:

- (i) Initial intake evaluation, including screening for a co-occurring psychiatric disability;
- (ii) The ability to conduct an admission 24 hours per day, seven (7) days per week;
- (iii) A medical history and physical examination conducted upon admission, inclusive of laboratory testing;
- (iv) Diagnostic evaluation and risk assessment;
- (v) Medical management and monitoring of substance withdrawal;
- (vi) Individual, group and, when indicated, family therapy;
- (vii) A biopsychosocial assessment;
- (viii) Development of a recovery plan for each individual;
- (ix) Appropriate observation and precautions for individuals who may be suicidal;
- (x) Referral to a self-help program;
- (xi) Medical management and monitoring of co-existing medical problems; and
- (xii) Discharge planning that helps ensure the continuation of appropriate treatment.

(D) Medically managed inpatient detoxification shall include the following staff, licensed by the state of Connecticut or certified as appropriate in their respective disciplines:

- (i) A medical director;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-12

- (ii) A social worker or counselor experienced in the treatment of substance use disorders;
 - (iii) A physician on site 24 hours per day, seven (7) days per week;
 - (iv) A registered nurse on site 24 hours per day, seven (7) days per week; and
 - (v) A pharmacist.
- (13) Medically monitored residential detoxification as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:
- (A) Medically monitored residential detoxification shall be in a facility that:
 - (i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;
 - (ii) Except as provided by state law, maintains professional liability insurance coverage of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability; and
 - (iii) Is Joint Commission or CARF-accredited or has a physician with experience in providing substance use disorder services, who is responsible for supervising all medical services. The physician shall be credentialed by DMHAS in accordance with credentialing criteria as specified in this section.
 - (B) Medically monitored residential detoxification shall include the following staff, licensed by the state of Connecticut or certified as appropriate in their respective disciplines and who are employed by or under contract with the facility:
 - (i) A clinical supervisor with authority over all behavioral health services, who has a minimum of a master's degree in a behavioral health services field and at least three (3) years of full-time work experience in substance use disorders treatment and who is licensed by the state of Connecticut or certified as appropriate in his or her respective discipline and employed by or under contract with the facility;
 - (ii) A registered nurse on site 24 hours per day, seven (7) days per week;
 - (iii) A physician who is on-call during those hours when a physician is not physically present;
 - (iv) A physician eligible to be certified by the American Board of Psychiatry or Neurology or a licensed clinical psychologist;
 - (v) A pharmacist; and
 - (vi) A social worker or counselor experienced in the treatment of substance use disorders.
 - (C) Medically monitored residential detoxification shall deliver emergency psychiatric and emergency medical services or maintain written agreements enabling immediate access for individuals, when needed, to facilities that offer such care;
 - (D) Medically monitored residential detoxification shall include:
 - (i) Initial intake evaluation, including screening for a co-occurring psychiatric disability;
 - (ii) Screening and initial evaluation by a registered nurse;
 - (iii) Medical supervision and management of withdrawal from a substance, as indicated by a licensed physician and inclusive of laboratory assessments;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-12

Department of Mental Health and Addiction Serv-

- (iv) Individual, group and, when indicated, family therapy;
 - (v) A biopsychosocial assessment;
 - (vi) Development of a recovery plan for each individual;
 - (vii) Referral to a self-help program;
 - (viii) Psycho-educational programming; and
 - (ix) Discharge planning that helps ensure the continuation of appropriate treatment.
- (E) Any behavioral health services performed by a staff member who is not a licensed behavioral health professional or a Connecticut certified alcohol and drug counselor shall meet the following conditions:
- (i) The staff member is employed by or under contract with the facility;
 - (ii) The medical or clinical supervisor has determined that the staff member is qualified to deliver behavioral health services; and
 - (iii) The staff member is under the direct supervision of a licensed behavioral health professional with at least two (2) years of experience in the provision of behavioral health services or a Connecticut certified clinical supervisor.
- (14) Observation bed-mental health as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:
- (A) Observation bed-mental health shall be in a facility that:
 - (i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;
 - (ii) Except as provided by state law, maintains professional liability insurance coverage of at least three million dollars (\$3,000,000) per occurrence and ten million dollars (\$10,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound dedicated trust or account funded for the purpose of covering professional liability; and
 - (iii) Is Joint Commission-accredited;
 - (B) Observation bed-mental health shall deliver emergency psychiatric and emergency medical services or maintain written agreements enabling immediate access for individuals, when needed, to facilities that offer such care;
 - (C) Observation bed-mental health includes the following staff, licensed by the state of Connecticut or certified as appropriate in their respective disciplines:
 - (i) A board-certified or board-eligible psychiatrist, who is responsible for supervising all medical services; and
 - (ii) A registered nurse and other licensed or certified behavioral health professionals.
 - (D) Observation bed-mental health shall deliver to each individual up to twenty-three (23) hours of supervised stabilization, clinical monitoring and, when necessary, laboratory testing to facilitate the formulation of an appropriate diagnosis and suitable disposition for individuals in urgent need of care; and
 - (E) Observation bed-mental health components shall include:
 - (i) The ability to conduct an admission 24 hours per day, seven (7) days per week;
 - (ii) Crisis intervention, as required;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-12

(iii) Initial intake evaluation, including screening for a co-occurring substance use disorder;

(iv) Diagnostic evaluation and risk assessment;

(v) A medical history and physical examination conducted upon admission;

(vi) Medication evaluation and management;

(vii) Appropriate observation and precautions for individuals who may be suicidal;

(viii) Laboratory services, when indicated; and

(ix) Discharge planning that helps ensure the continuation of appropriate treatment.

(15) Observation bed-substance use as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:

(A) Observation bed-substance use shall be in a facility that:

(i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;

(ii) Except as provided by state law, maintains professional liability insurance coverage of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability;

(iii) Is Joint Commission or CARF-accredited or has a physician with experience in providing substance use disorders services, who is responsible for supervising all medical services. The physician shall be credentialed by DMHAS in accordance with credentialing criteria as specified in this section.

(B) Observation bed-substance use shall include the following staff, licensed by the state of Connecticut or certified as appropriate in their respective disciplines and employed by or under contract with the facility:

(i) A registered nurse;

(ii) An alcohol and drug counselor; and

(iii) A clinical supervisor with authority over all services, who has a minimum of a master's degree in a behavioral health field and at least three (3) years of full-time work experience in substance use disorders treatment and is licensed by the state of Connecticut or certified, as appropriate in his or her respective discipline and employed by or under contract with the facility.

(C) The organization operating observation bed-substance use shall deliver emergency psychiatric and emergency medical services or maintain written agreements enabling immediate access for individuals, when needed, to facilities that offer such care;

(D) Observation bed-substance use shall deliver to each individual up to twenty-three (23) hours of supervised stabilization, clinical monitoring and, when necessary, laboratory testing to facilitate the formulation of an appropriate diagnosis and suitable disposition for individuals in urgent need of care;

(E) Observation bed-substance use components shall include:

(i) Crisis intervention, as required;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-12

Department of Mental Health and Addiction Serv-

(ii) Initial intake evaluation, including screening for a co-occurring psychiatric disability;
(iii) Diagnostic evaluation and risk assessment;
(iv) Medication evaluation and management;
(v) Discharge planning that helps ensure the continuation of appropriate treatment;
(vi) Laboratory services, when indicated; and
(vii) A physical examination and medical history conducted upon admission; and
(F) Any behavioral health services performed by a staff member who is not a licensed behavioral health professional or a Connecticut certified alcohol and drug counselor shall meet the following conditions:

(i) The staff member is employed by or under contract with the facility;
(ii) The medical director or clinical supervisor has determined that the staff member is qualified to deliver behavioral health services; and
(iii) The staff member is under the direct supervision of a licensed behavioral health professional with at least two (2) years of experience in the provision of behavioral health services or a Connecticut certified clinical supervisor.

(16) Outpatient-mental health as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:

(A) Outpatient-mental health shall be in a facility that:

(i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;

(ii) Except as provided by state law, maintains professional liability insurance coverage of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability; and

(iii) Is Joint Commission or CARF-accredited or has a board-certified or board-eligible psychiatrist who is responsible for supervising all behavioral health services. If outpatient-mental health is operated by a nonprofit psychiatric facility, the psychiatrist shall be credentialed by DMHAS as specified in this section.

(B) Outpatient-mental health shall include a clinical supervisor with authority over all behavioral health services, who is licensed by the state of Connecticut in a behavioral health services field and has at least three (3) years of full-time work experience in mental health treatment.

(C) The facility operating outpatient-mental health shall deliver emergency psychiatric and emergency medical services, or maintain written agreements enabling immediate access for individuals, when needed, to facilities that offer such care;

(D) Outpatient-mental health components shall include:

(i) Initial intake evaluation, including screening for a co-occurring substance use disorder;

(ii) Diagnostic evaluation and risk assessment;

(iii) Individual and group therapy and, if indicated, family therapy;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-12

- (iv) A complete biopsychosocial assessment;
 - (v) Development of a recovery plan for each individual;
 - (vi) Psychological testing, when indicated;
 - (vii) Medication evaluation and management;
 - (viii) Discharge planning that helps ensure the continuation of appropriate treatment;
- and

(ix) Referral to self-help programs.

(E) Any behavioral health services performed by a staff member who is not a licensed behavioral health professional shall meet the following conditions:

- (i) The staff member is employed by or under contract with the facility;
- (ii) The medical director or clinical supervisor has determined that the staff member is qualified to deliver behavioral health services; and
- (iii) The staff member is under the direct supervision of a licensed behavioral health professional with at least two (2) years of experience in the provision of behavioral health services and is actively pursuing a DPH license in a behavioral health discipline.

(17) Outpatient-substance use as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:

(A) Outpatient-substance use shall be in a facility that:

- (i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;
- (ii) Except as provided by state law, maintains professional liability insurance coverage of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability; and
- (iii) Is Joint Commission or CARF-accredited or has a clinical supervisor with authority over all behavioral health services. The clinical supervisor shall have a minimum of a master's degree in a behavioral health services field and at least three (3) years of full-time work experience in substance use disorders treatment, be licensed by the state of Connecticut or certified, as appropriate in his or her respective discipline and be employed by or under contract with the facility.

(B) Outpatient-substance use shall include Connecticut certified alcohol and drug abuse counselors or other staff in related fields with experience in treatment of substance use disorders, who are licensed by the state of Connecticut or certified as appropriate in their respective disciplines and employed by or under contract with the facility;

(C) The organization operating outpatient-substance use shall deliver emergency psychiatric and emergency medical services or maintain written agreements enabling immediate access for individuals, when needed, to facilities that offer such care;

(D) Outpatient-substance use components shall include:

- (i) Initial intake evaluation, including screening for a co-psychiatric disability;
- (ii) A biopsychosocial assessment;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-12

Department of Mental Health and Addiction Serv-

- (iii) Development of a recovery plan for each individual;
- (iv) Individual and group therapy and, when indicated, family therapy;
- (v) Referral to a self-help program;
- (vi) Discharge planning that helps ensure the continuation of appropriate treatment; and
- (vii) Adequate testing for or analysis of drugs of abuse as specified in applicable federal and state statutes and regulations.

(E) Any behavioral health services performed by a staff member who is not a licensed behavioral health professional or a Connecticut certified alcohol and drug counselor shall meet the following conditions:

- (i) The staff member is employed by or under contract with the facility;
- (ii) The medical director or clinical supervisor has determined that the staff member is qualified to deliver behavioral health services; and
- (iii) The staff member is under the direct supervision of a licensed behavioral health professional with at least two (2) years of experience in the provision of behavioral health services or a Connecticut certified clinical supervisor.

(18) Partial hospitalization-mental health as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:

(A) Partial hospitalization-mental health shall be in a facility that:

- (i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;
- (ii) Except as provided by state law, maintains professional liability insurance coverage of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability; and
- (iii) Is Joint Commission or CARF-accredited or has a board-certified or board-eligible psychiatrist who is responsible for supervising all behavioral health services. The psychiatrist shall be credentialed by DMHAS as specified in this section.

(B) Partial hospitalization-mental health shall include the following staff, licensed by the state of Connecticut or certified as appropriate in their respective disciplines and employed by or under contract with the facility:

- (i) A clinical supervisor who is licensed by the state of Connecticut in a behavioral health services field and has at least three (3) years of full-time work experience in mental health treatment;
- (ii) A registered nurse or other licensed behavioral health professionals;
- (iii) Staff from the disciplines of nursing, psychology, social work and occupational therapy;
- (iv) Other behavioral health professionals available on a full-time, part-time or consultative basis, as may be appropriate to individual needs.

(C) The organization operating partial hospitalization-mental health shall deliver emergency psychiatric and emergency medical services or maintain written agreements

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-12

enabling access for individuals, when needed, to facilities that offer such care;

(D) Partial hospitalization-mental health components shall include:

(i) Initial intake evaluation, including screening for a co-occurring substance use disorder;

(ii) Diagnostic evaluation and risk assessment;

(iii) A biopsychosocial assessment;

(iv) Individual and group therapy and, when indicated, family therapy;

(v) Rehabilitative social and recreational therapies;

(vi) Development of a recovery plan for each individual;

(vii) Laboratory services, when indicated;

(viii) Pre-vocational and vocational planning;

(ix) Medication evaluation and management;

(x) Psycho-educational and self-help programming; and

(xi) Discharge planning that helps ensure the continuation of appropriate treatment.

(E) Any behavioral health services other than psycho-education and self-help programming performed by a staff member who is not a licensed behavioral health professional shall meet the following conditions:

(i) The staff member shall be employed by or under contract with the facility;

(ii) The medical director or clinical supervisor has determined that the staff member is qualified to deliver behavioral health services; and

(iii) The staff member is actively pursuing behavioral health licensure and is under the direct supervision of a licensed behavioral health professional with at least two (2) years of experience in the provision of behavioral health services; and

(F) Partial hospitalization-mental health shall deliver to each individual a minimum of four (4) hours per day, three (3) to five (5) days per week, of programming based on an individualized recovery plan that includes not less than one (1) individual or a minimum of one (1) group therapy session per day.

(19) Partial hospitalization (day or evening treatment)-substance use as specified in section 17a-453a-4 of the Regulations of Connecticut State Agencies:

(A) Partial hospitalization (day or evening treatment)-substance use shall be in a facility that:

(i) Meets and maintains all applicable licensing and certification requirements of federal and state statutes or regulations;

(ii) Except as provided by state law, maintains professional liability insurance coverage of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in aggregate or, if self-insured, provides documentation that it maintains a fiscally sound, dedicated trust or account funded for the purpose of covering professional liability; and

(iii) Is Joint Commission or CARF-accredited or has a licensed physician with experience in providing services for substance use disorders who is responsible for supervising all behavioral health services and is credentialed by DMHAS in accordance

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-12

Department of Mental Health and Addiction Serv-

with credentialing criteria contained in this section.

(B) Partial hospitalization (day or evening treatment)-substance use shall include a clinical supervisor with authority over all behavioral health services, who has a minimum of a master's degree in a behavioral health services field and at least three (3) years of full-time work experience in substance use disorders treatment, who is licensed by the state of Connecticut or certified as appropriate in his or her respective disciplines and employed by or under contract with the facility;

(C) The organization operating Partial hospitalization (day or evening treatment)-substance use shall deliver emergency psychiatric and emergency medical services or maintain written agreements enabling immediate access for individuals, when needed, to facilities that offer such care;

(D) Partial hospitalization (day or evening treatment)-substance use shall deliver to each individual a minimum of four (4) hours per day, three (3) to five (5) days per week, of programming, inclusive of at least one (1) individual or group therapy session per day;

(E) Partial hospitalization (day or evening treatment)-substance use components shall include:

- (i) Initial intake evaluation, including screening for a co-occurring psychiatric disability;
- (ii) A biopsychosocial assessment;
- (iii) Development of a recovery plan for each individual;
- (iv) Individual and group therapy and, when indicated, family therapy;
- (v) Psycho-educational programming;
- (vi) Vocational or pre-vocational planning;
- (vii) Orientation and referral to a self-help program;
- (viii) Discharge planning that helps ensure the continuation of appropriate treatment;

and

(ix) Adequate testing for or analysis of drugs of abuse as specified in applicable federal and state statutes and regulations.

(F) Any behavioral health services performed by a staff member who is not a licensed behavioral health professional or a Connecticut certified alcohol and drug counselor shall meet the following conditions:

- (i) The staff member is employed by or under contract with the facility;
- (ii) The medical director or clinical supervisor has determined that the staff member is qualified to deliver behavioral health services; and
- (iii) The staff member is under the direct supervision of a licensed behavioral health professional with at least two (2) years of experience in the provision of behavioral health services or a Connecticut certified clinical supervisor.

(d) Credentialing criteria for practitioners with medical responsibility.

(1) Any physician responsible for providing medical supervision in a level of care for which the provider is seeking to be credentialed shall apply for separate credentials.

(2) The physician applicant shall:

(A) Hold a current, valid and unrestricted license to practice medicine in the state of

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-12

Connecticut;

(B) Be certified by the American Society of Addiction Medicine (ASAM) or have at least two (2) years of experience in the treatment of substance use disorders (for substance use disorder treatment services only);

(C) Maintain professional liability insurance coverage of one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in aggregate;

(D) Possess a current Drug Enforcement Administration (DEA) certificate; and

(E) Not be subject to any current Medicaid or Medicare sanctions.

(3) As part of the credentialing process, DMHAS shall consider the following factors when determining the physician applicant's suitability to participate in the GABHP:

(A) Any malpractice claim(s) made against the physician applicant that has (have) been settled or otherwise resolved, whether or not a lawsuit was filed in relation to the claim(s);

(B) Any lawsuit, other than a malpractice lawsuit, that is related to the physician applicant's competency to practice or to the physician applicant's conduct in the course of his or her practice, filed against the physician applicant or settled, adjudicated or otherwise resolved;

(C) Insofar as permitted by law, any record of criminal convictions;

(D) Any discipline imposed on the physician applicant for violation of the rules, bylaws or standards of practice of any governmental authority, health care facility, group practice or professional association or society;

(E) Whether the physician applicant's privilege to possess, dispense or prescribe a controlled substance has been surrendered, suspended, revoked, denied or restricted by any state or federal agency;

(F) Whether the physician applicant withdrew a medical license application or was denied a medical license for any reason;

(G) Whether any professional liability insurance carrier terminated, restricted, limited, imposed a surcharge or co-payment or placed any condition(s) on the physician applicant's professional liability insurance related to his or her professional conduct or competency or whether the physician applicant ever voluntarily terminated, restricted or limited his or her insurance coverage related to an inquiry from the liability insurance carrier;

(H) Whether the applicant has been diagnosed with a medical condition that limits or impairs his or her ability to practice medicine;

(I) Whether the applicant engaged in the use of chemical substance(s) in a way that interferes with his or her ability to practice medicine; and

(J) Whether the applicant participated in continuing education related to his or her area of practice.

(e) **Re-credentialing.**

(1) DMHAS shall re-credential contracted providers every two (2) years. The re-credentialing process shall include updates of information collected in the original credentialing process and review of additional data that includes, but is not limited to:

(A) Eligible recipient complaints;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-13

Department of Mental Health and Addiction Serv-

- (B) Results of quality reviews and contracted provider profiles;
 - (C) Results of utilization management activities;
 - (D) Results of eligible recipient satisfaction surveys;
 - (E) Re-verification of hospital privileges;
 - (F) Re-verification of current licensure or certification or both;
 - (G) Re-verification of current malpractice and liability insurance or self-funding resources; and
 - (H) Updates on insurance claims, if any.
- (2) Any contracted provider who has been sanctioned by DSS for violations while participating in the Medicaid program shall not be re-credentialed for the GABHP.

(Adopted effective December 7, 2009)

Sec. 17a-453a-13. Provider contract

(a) DMHAS, in its sole discretion, may extend an offer to contract with a provider who has been credentialed for covered behavioral health services under the GABHP.

(1) A provider who has been credentialed for a covered behavioral health service may not participate in the GABHP unless the provider has executed a contract with DMHAS to deliver a covered behavioral health service to eligible recipients. The contract shall specify the terms and conditions that shall govern the GABHP and to which the contracted provider must adhere in order to participate in the GABHP.

(2) DMHAS shall not pay for covered behavioral health services that are delivered to eligible recipients in the absence of a fully executed contract with DMHAS, unless covered behavioral health services were delivered by an out-of-network provider as specified in section 17a-453a-19 of the Regulations of Connecticut State Agencies.

(b) DMHAS may terminate a contract with a contracted provider after giving the contracted provider a thirty (30) calendar days written notification or such notice as otherwise required by law and regulation. The commissioner, in his or her sole discretion, may terminate the contracted provider's contract for reasons that include, but are not limited to, the following:

- (1) Loss, revocation, suspension, surrender or non-renewal of any credential required by section 17a-453a-12 of the Regulations of Connecticut State Agencies, such as the contracted provider's facility license or any other credential required as a condition of eligibility;
- (2) The contracted provider has a diminished ability to provide covered behavioral health services legally, including disciplinary action by a governmental agency or licensing board that impairs the contracted provider's ability to practice;
- (3) Loss of Drug Enforcement Administration (DEA) certification;
- (4) Failure to comply with DMHAS credentialing and re-credentialing requirements and criteria as specified in section 17a-453a-12 of the Regulations of Connecticut State Agencies;
- (5) Failure to notify DMHAS of any event that would affect or modify the information

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-13

contained in the contracted provider's application for participation in the GABHP;

- (6) Disciplinary action by any other state, governmental agency or licensing board; and
- (7) Termination of, or failure to maintain, adequate malpractice insurance coverage.

(d) **Termination reconsideration process:**

(1) A provider terminated from participation in the GABHP may request reconsideration of such termination. Such request shall be submitted in writing to the commissioner not more than ten (10) calendar days after the date of receipt of such termination notice;

(2) The commissioner, in his or her sole discretion, shall determine whether to reinstate a provider;

(3) The commissioner may reinstate a provider to participate in the GABHP. Such participation may be subject to conditions and limitations as determined by DMHAS.

(4) Following a decision to terminate a contracted provider's participation or upon the expiration of the ten (10) calendar day period for the provider to request reconsideration of termination, the commissioner shall publish a notice of termination in the Connecticut Law Journal. The commissioner may take any steps necessary to inform the public of the provider's termination from the GABHP.

(e) The commissioner may seek to terminate a contracted provider's contract after giving the contracted provider thirty (30) calendar days' written notice, based upon any of the following circumstances:

(1) Fraud, such as, the contracted provider:

(A) Presents a false claim for payment;

(B) Accepts payment for goods or services delivered that exceeds the amount due for the goods or covered behavioral health services delivered to eligible recipients;

(C) Solicits to deliver or delivers covered behavioral health services for any eligible recipient, knowing that such eligible recipient is not in need of such covered behavioral health services;

(D) Accepts from any person or source other than the GABHP any additional compensation in excess of the amount authorized as specified in section 17a-453a-14 of the Regulations of Connecticut State Agencies; or

(E) Presents a claim for payment to DMHAS or its designated agent for covered behavioral health services that were not delivered to an eligible recipient;

(2) Failure to comply with the terms and conditions established in the contract;

(3) Failure to comply with DMHAS quality management and utilization review, as specified in section 17a-453a-10 of the Regulations of Connecticut State Agencies;

(4) Failure to deliver covered behavioral health services to eligible recipients in an ethical manner;

(5) Neglect of or failure to perform contracted provider duties as specified in the contract with DMHAS;

(6) Failure to implement corrective action required by DMHAS as the result of an audit as specified in section 17a-453a-16 of the Regulations of Connecticut State Agencies; and

(7) Any other breach of the contracted provider's GABHP contract that is not corrected

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-14

Department of Mental Health and Addiction Serv-

by the contracted provider not later than thirty (30) calendar days after receipt of notice from DMHAS or its designated agent.

(f) If the commissioner seeks to terminate a contracted provider's contract for any reason as specified in subsection (e) of this section, the contracted provider may request an administrative hearing as specified in section 17a-453a-17 of the Regulations of Connecticut State Agencies.

(g) The contract is effective through the date specified in the contract and, if not renewed, it is considered expired without prejudice to the provider.

(Adopted effective December 7, 2009)

Sec. 17a-453a-14. Administration of contracted providers' claims for payment

(a) Contracted providers shall only be paid for covered behavioral health services that:

(1) Are delivered to eligible recipients; and

(2) The contracted provider received all applicable prior authorization, continued stay authorization and alternative authorization as specified in sections 17a-453a-6 through 17a-453a-8 of the Regulations of State Agencies, concerning the delivery of covered behavioral health services to eligible recipients.

(b) Contracted providers' claims for payment shall only be considered for covered behavioral health services that:

(1) Are delivered during time period in which the individual was determined eligible by DSS for medical services pursuant to section 17b-192 of the Connecticut General Statutes; or

(2) Are delivered during the time period in which the individual was determined retroactively eligible by DSS for medical services pursuant to section 17b-192 of the Connecticut General Statutes.

(c) The contracted provider shall verify that DSS has determined the individual eligible for medical services pursuant to section 17b-192 of the Connecticut General Statutes, unless the contracted provider is submitting a claim for payment as specified in (b)(2) of this section.

(d) Each claim for payment shall contain evidence that the contracted provider complied with all applicable prior authorization, continued stay authorization and alternative authorization requirements as specified in sections 17a-453a-6 through 17a-453a-8 of the Regulations of the Connecticut State Agencies.

(e) The contracted provider shall file claims for payment not later than 180 calendar days after the date on which the covered behavioral health services were delivered, unless there is a delay due to the need for coordination of benefits or DMHAS finds other good cause. If the contracted provider is unable to file a timely claim for payment because DSS has not determined an individual's eligibility for medical services pursuant section 17b-192 of the Connecticut General Statutes, then the contracted provider shall file a claim for payment not later than 365 calendar days after the date on which the covered behavioral health services were delivered.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-14

(f) Acceptance of a contracted provider's claim for payment shall not be a guarantee of payment.

(g) The designated agent shall accept any claims forms approved by DMHAS, including but not limited to, the CMS-1500 (formerly HCFA-1500) and the UB-92 forms.

(h) Contracted providers shall submit claims for payment that contain all information necessary to match the invoice with the covered behavioral health services delivered and, if applicable, authorization data including, but not limited to, the following:

- (1) Individual's name and address;
- (2) Individual's EMS-ID number or Social Security number;
- (3) Individual's DSM-IV diagnosis;
- (4) Date(s) of covered behavioral health service;
- (5) Type of covered behavioral health service delivered to the individual;
- (6) Contracted provider's name and address;
- (7) Contracted provider's I.D. number; and
- (8) Covered behavioral health service authorization number, if applicable.

(i) **Payment of contracted providers' claims:**

(1) Contracted providers' claims shall be paid in accordance with rates as specified by DMHAS;

(2) DMHAS may establish rates for the payment of covered behavioral health services by using rate setting methods including, but not limited to, the following:

- (A) A per-session, per-diem, per-unit of time (hour, minute) or per-episode rate;
- (B) A negotiated rate with a specific contracted provider for a particular covered behavioral health service or level of care;
- (C) An established per capita rate;
- (D) Rates for eligible recipients in related diagnostic groups; and
- (E) Bundled rates for a defined group of covered behavioral health services.

(3) In order to participate in the GABHP, the contracted provider shall agree to accept the rates set by DMHAS;

(4) The contracted provider shall be paid at the rate established by DMHAS for each covered behavioral health service or at the billed rate, whichever is lower;

(5) The contracted provider shall not be paid for excluded or unauthorized behavioral health services; and

(6) The contracted provider shall not bill the eligible recipient for covered behavioral health services.

(j) DMHAS shall not make payments to a contracted provider for appointments missed by an eligible recipient. A contracted provider shall not bill an eligible recipient for missed appointments.

(k) **Coordination of Benefits:**

(1) Coordination of benefits shall be the responsibility of each contracted provider.

If the contracted provider identifies that an eligible recipient has other medical coverage for covered behavioral health services, the contracted provider shall seek payment first from

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-15

Department of Mental Health and Addiction Serv-

the other medical coverage. The contracted provider shall submit documentation to the designated agent, substantiating either the amount of payment that was made by the other medical coverage or that payment was denied due to exclusion of coverage. When the other medical coverage is lower than the full DMHAS payment for the covered behavioral health service, DMHAS shall pay the difference between the other medical coverage and the DMHAS rate for the covered behavioral health services;

(2) Any payment made by DMHAS to a contracted provider for covered behavioral health services delivered to an eligible recipient who has been or is subsequently found to be eligible for any other medical coverage shall be subject to recovery by DMHAS for payments made for behavioral health services that are covered by the other medical coverage. Upon determination that an eligible recipient has other medical coverage, any payment made by DMHAS for the behavioral health service shall, at the department's discretion, either be withheld from any payment due the contracted provider or refunded to DMHAS by the contracted provider. If the other medical coverage payment is lower than the DMHAS payment, the contracted provider may retain the portion of the DMHAS payment that represents the difference between the full DMHAS payment and the payment made by the other medical coverage, upon submission of appropriate documentation to the designated agent; and

(3) Any payment made to a contracted provider by DMHAS for covered behavioral health services delivered to an eligible recipient who is or is subsequently found to be ineligible for the GABHP as a result of a determination of eligibility for Medicaid shall be subject to recovery by DMHAS to the extent that the eligible recipient's Medicaid eligibility overlaps with the period for which covered behavioral health services were delivered and to the extent that the covered behavioral health services are reimbursable under the Medicaid program. Upon determination of an individual's Medicaid eligibility, any payment made by DMHAS for the covered behavioral health service shall, at the discretion of DMHAS, either be withheld from any payment due the contracted provider or refunded to DMHAS by the contracted provider.

(Adopted effective December 7, 2009)

Sec. 17a-453a-15. Provider claim for payment grievance process

(a) If a contracted provider's claim for payment is denied by the designated agent, the contracted provider may file a claim for payment grievance with the designated agent. Contracted providers may initiate a first-level claim for payment grievance to the designated agent not later than thirty (30) calendar days after the date of the denial decision. The first-level claim for payment grievance shall not include any right to an administrative hearing from either DMHAS or its designated agent.

(b) DMHAS or its designated agent shall notify the contracted provider in writing of its first-level claim for payment grievance decision not later than thirty (30) calendar days following the date of receipt of all information as determined necessary by DMHAS to render a decision.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-16

(c) Contracted provider may initiate a second-level claim for payment grievance. The second-level claim for payment grievance shall be submitted in writing directly to DMHAS not later than seven (7) calendar days following the date of the first-level claim for payment grievance denial decision. The second-level claim for payment grievance shall be submitted in writing and accompanied by all information as determined necessary by DMHAS to render a decision on the second-level claim for payment grievance.

(d) DMHAS shall neither accept, nor review, a second-level claim for payment grievance that does not conform with the submission requirements as specified in this section, unless the designated agent has failed to respond to the contracted provider within the time frame as specified in this section.

(e) Any second-level claim for payment grievance decision issued by DMHAS shall be final and shall conclude the grievance process. The second-level claim for payment grievance shall not include any right to an administrative hearing from either DMHAS or its designated agent.

(Adopted effective December 7, 2009)

Sec. 17a-453a-16. Audit

(a) DMHAS or its designated agent may conduct audits of a contracted provider's clinical, programmatic, fiscal or other records to verify the accuracy of the contracted provider's claims for payment and the contracted provider's compliance with state and federal law and the contracted provider contract. Audits shall be conducted when care has been authorized, claims have been paid or when DMHAS deems it necessary to carry out its responsibilities under state or federal law.

(b) Audits may include, but are not limited to, review of the following:

- (1) The contracted provider's claim(s) for payment;
- (2) The covered behavioral health services delivered by the contracted provider to an eligible recipient;
- (3) The contracted provider's credentialing or re-credentialing information;
- (4) The contracted provider's information supplied to DMHAS regarding a request for reconsideration of contract termination;
- (5) The contracted provider's compliance with state and federal law and the provider contract; and
- (6) Whether the contracted provider has engaged in any fiscal irregularities.

(c) The contracted provider shall maintain records and permit DMHAS access to records as follows:

- (1) All financial records related to delivery of covered behavioral health services to eligible recipients for a period of not less than three (3) years after the date of expiration or termination of the GABHP contract;
- (2) Eligible recipient's medical, behavioral health service or other records;
- (3) Fiscal records and financial statements;
- (4) Copies of all eligible recipients records in order to carry out its audit responsibilities;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-16

Department of Mental Health and Addiction Serv-

and

(5) A copy of any audit report prepared by an organization other than DMHAS.

(d) Audit methodology:

DMHAS shall select the contracted providers to audit, define the scope of the audit and establish the frequency of audits based on consideration of factors that may include, but are not limited to, any the following:

- (1) Quality of clinical documentation;
- (2) Volume of claims for payment submitted or paid;
- (3) Type of claims for payment submitted or paid;
- (4) Quality-of-care concerns;
- (5) Service type;
- (6) Geographic area; and
- (7) Such other factors as deemed appropriate by DMHAS.

(e) Audit Resolution:

(1) When the audit is completed, DMHAS shall send the contracted provider a copy of the draft audit report. The contracted provider shall be given the opportunity to meet with a DMHAS representative in an exit conference to discuss the findings noted in the draft audit report;

(2) During the exit conference, the contracted provider may submit additional documentation to DMHAS as a result of the findings noted in the draft audit report or the contracted provider may request to submit such documentation subsequent to the exit conference. The contracted provider shall submit all such documentation to DMHAS not later than thirty (30) calendar days after the exit conference. DMHAS shall not consider documentation that is not submitted on time; and

(3) DMHAS shall send the contracted provider a copy of the final audit report with DMHAS's recommendations and a statement of the proposed audit adjustments, if any.

(f) Corrective Action:

(1) Not later than ten (10) business days after receipt of the DMHAS final audit report, the contracted provider shall submit to DMHAS a corrective action plan to address adverse audit findings, if any, included in the DMHAS final audit report. The corrective action plan shall contain the following elements:

- (A) The name, address and telephone number of the contracted provider's staff person responsible for ensuring that corrective action is implemented;
- (B) A detailed description of the corrective action planned; and
- (C) The anticipated completion date of the corrective action.

(2) If the DMHAS final audit report includes information that indicates a threat to the health or welfare of an eligible recipient, the contracted provider shall initiate corrective action not more than 24 hours following such notification; and

(3) If the contracted provider does not agree with the audit findings or believes corrective action is not required, then the corrective action plan may include a statement to that effect and specific reasons in support of such opinion.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-17

(g) Recovery of overpayment:

(1) If audit adjustments require recovery of excess payments made to the contracted provider, DMHAS may adjust any payment currently due the contracted provider by DMHAS or its designated agent; and

(2) If audit adjustments require recovery of excess payments made to a contracted provider who is not currently under contract with DMHAS, recovery shall be sought in an action brought by the state of Connecticut against the contracted provider.

(h) Progressive sanctions for non-compliance with GABHP standards:

A contracted provider who, as a result of an audit, is found to be out of compliance with the provisions as specified in sections 17a-453a-1 to 17a-453a-19, inclusive, of the Regulations of Connecticut State Agencies shall be subject to progressive sanctions as may be determined by the commissioner, including but not limited to, the following:

(1) Reduction in the number of referrals made to the contracted provider for one or more levels of care;

(2) Reduction in the capacity for which DMHAS contracts with the contracted provider for one or more levels of care;

(3) Suspension of referrals made to the contracted provider for one or more levels of care;

(4) Termination of the contracted provider's credentials for one or more levels of care;

(5) Termination of the contracted provider's contract under the GABHP; and

(6) Such other sanctions as the commissioner deems appropriate.

(Adopted effective December 7, 2009)

Sec. 17a-453a-17. Administrative hearing to appeal audit recovery or progressive sanctions

(a) Contracted providers have a right to an administrative hearing as follows:

(1) The contracted provider is subject to recovery of payments following an audit conducted by DMHAS or its designated agent as specified in section 17a-453a-16 of the Regulations of Connecticut State Agencies;

(2) The contracted provider is subject to progressive sanctions following an audit conducted by DMHAS or its designated agent as specified in section 17a-453a-16 of the Regulations of Connecticut State Agencies; and

(3) The commissioner has determined that the contracted provider's participation in the GABHP should be terminated for any of the reasons as specified in section 17a-453a-13(e) of the Regulations of Connecticut State Agencies.

(b) The contracted provider may request an administrative hearing in accordance with the following:

(1) For administrative hearing requests following a DMHAS audit where the contracted provider is subject to recovery of payment for an audit adjustment or progressive sanctions, the contracted provider's request for an administrative hearing shall be submitted in writing to the commissioner and contain a clear and concise statement of the issues the contracted

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-17

Department of Mental Health and Addiction Serv-

provider seeks to address relating to the audit and, when applicable, the audit adjustment that is being sought by DMHAS. This request shall be submitted not more than (30) calendar days after the mailing date of notification from DMHAS of its intent to recover the audit adjustment or impose progressive sanctions on the contracted provider;

(2) For administrative hearing requests made by a contracted provider when the commissioner has determined that the contracted provider's contract to participate in the GABHP should be terminated for any of the reasons as specified in section 17a-453a-13(e) of the Regulations of the Connecticut State agencies, the contracted provider's request for an administrative hearing shall:

(A) Be submitted in writing to the commissioner, not more than thirty (30) calendar days after the mailing of notification from the commissioner of the decision to terminate the contracted provider's contract; and

(B) Contain a clear and concise statement of the issues that the contracted provider seeks to address.

(c) The commissioner may appoint an administrative hearing officer to provide the commissioner with a recommended decision.

(d) As soon as possible following receipt of an administrative hearing request the administrative hearing officer shall schedule an administrative hearing to be held not more than forty-five (45) calendar days after the date of the request, provided that if a request for an expedited hearing is made by a party, the administrative hearing officer shall attempt to expedite the administrative hearing if the administrative hearing officer determines that a delay would be significantly damaging to that party. An administrative hearing request shall be acknowledged by letter from the administrative hearing officer to the contracted provider, containing notice of the administrative hearing pursuant to section 4-177(b) of the Connecticut General Statutes.

(e) A request for an administrative hearing shall be disposed of only by one of the following definitive actions:

(1) Withdrawal of the request by the person who made it. This action shall be voluntary and may be made at any time prior to the administrative hearing by a written statement of withdrawal addressed to the commissioner. The withdrawal shall be acknowledged in writing by the administrative hearing officer and shall be the final action on the complaint.

(2) Dismissal of the request by the administrative hearing officer. This action may be taken if:

(A) The contracted provider fails to appear at the designated time and place, or

(B) The issue is resolved prior to or during the administrative hearing by voluntary agreement of both parties.

(3) Final decision by the commissioner after receiving a proposed decision from the administrative hearing officer following an administrative hearing. Nothing in this section shall preclude the issuance of any necessary interim order by the administrative hearing officer during the proceedings.

(f) The administrative hearing shall be conducted as a contested case under the provisions

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-18

of Chapter 54 of the Uniform Administrative Procedure Act, sections 4-166 to 4-189, inclusive, of the Connecticut General Statutes. The contracted provider has the burden of proving by a preponderance of the evidence that a DMHAS decision as specified in section 17a-453a-17(a) does not comply with state or federal law or is clearly erroneous.

(g) All witnesses shall be under oath. The contracted provider may act as a witness on his or her own behalf and may bring additional witnesses. DMHAS and its designated agent may present witnesses.

(h) If a witness elects to retain possession of a document, a copy of the original may be admitted.

(i) The administrative hearing officer shall have the power to compel, by subpoena, the attendance and testimony of witnesses and the production of books and papers.

(j) The administrative hearing record shall consist of the administrative hearing request, notices issued by the administrative hearing officer, the transcript or recording of testimony, exhibits, all papers and requests filed in the proceeding, and the administrative hearing decision.

(k) Upon conclusion of the administrative hearing, the administrative hearing officer shall prepare a proposed written decision and shall mail it to the parties by certified mail, return receipt requested, as well as providing it to the commissioner. The proposed decision shall contain a statement of the reasons for the decision and a finding of facts and conclusions of law on each issue of fact or law necessary to the decision. Any party may, not more than fifteen (15) calendar days after the mailing of the proposed decision, provide the commissioner with written argument in support of, or in opposition to, the proposed decision and may request the opportunity for oral argument. The commissioner shall render a final decision which may, in whole or in part, modify or reject the proposed decision. A contracted provider aggrieved by the decision may appeal to the Superior Court pursuant to the provisions of section 4-183 of the Connecticut General Statutes.

(Adopted effective December 7, 2009)

Sec. 17a-453a-18. Appeals and fair hearings

There are two (2) types of appeals that an individual may file with DMHAS or its designated agent:

(a) First-level appeal.

(1) A first-level appeal may be filed by the individual or his or her authorized representative. The first-level appeal shall be filed with the designated agent not later than seven (7) calendar days after the decision by the designated agent to deny, reduce or terminate covered behavioral health services, unless good cause is shown for late filing as determined by the designated agent. A first-level appeal is not a “contested case” pursuant to section 4-166(2) of the Connecticut General Statutes.

(2) A first-level appeal shall be filed in writing with all supporting records. All records relating to a first-level appeal shall be kept confidential, unless disclosure is otherwise required by law or authorized in writing by the individual.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-19

Department of Mental Health and Addiction Serv-

(3) DMHAS or its designated agent shall send written notice of the first-level appeal decision by the designated agent to the individual or his or her authorized representative and to the contracted provider not later than seven (7) calendar days after the designated agent has determined it has received all information necessary to render a decision.

(4) If the designated agent fails to issue a decision within seven (7) calendar days, the individual or his or her authorized representative may treat it as a denial and request further review under the second-level appeal.

(b) Second-level appeal.

(1) The individual or his or her authorized representative may file a second-level appeal of a first-level appeal decision that denies, reduces or terminates covered behavioral health services. The second-level appeal shall be filed with DMHAS not later than seven (7) calendar days after the first-level appeal decision, unless good cause is shown for a late filing, as determined by DMHAS. A second-level appeal is not a “contested case” within the meaning of section 4-166(2) of the Connecticut General Statutes.

(2) The second-level appeal shall be filed in writing with all supporting records. All records relating to the second-level appeal shall be kept confidential, unless disclosure is otherwise required by law or authorized in writing by the individual.

(3) The individual or his or her authorized representative and the contracted provider shall be sent written notice of the second-level appeal decision of DMHAS not later than seven (7) calendar days after DMHAS has determined it has received all information necessary to render a decision.

(4) DMHAS shall neither accept nor review a written second-level appeal if a first-level appeal submitted to the designated agent is still being reviewed within the time period permitted by this section.

(5) DMHAS shall notify the contracted provider and the individual or his or her authorized representative of its second-level appeal decision not later than seven (7) business days after DMHAS determines it has received all information necessary to render a decision.

(c) Fair Hearing. Any individual who requested covered behavioral health services from the designated agent and had the covered behavioral health services denied or, if delivered, reduced or terminated without the individual’s consent and who has received an unfavorable second-level appeal from DMHAS, may request a fair hearing. The process for such a hearing shall be the same as specified in sections 17a-451 (t)-1 to 17a-451 (t)-15, inclusive, of the Regulations of Connecticut State Agencies.

(Adopted effective December 7, 2009)

Sec. 17a-453a-19. Out-of-network providers

(a) An out-of-network provider is a provider who does not have an executed contract with DMHAS to participate in GABHP. An out-of-network provider only may deliver covered behavioral health services to eligible recipients, as specified in this section.

(b) Covered behavioral health services: Out-of-network providers are eligible for payment under GABHP for acute care services only.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Department of Mental Health and Addiction Services

§17a-453a-19

(c) Service limitations, exclusions, and non-reimbursable services:

(1) Out-of-network providers shall be subject to all service limitations, exclusions and non-reimbursable services that apply to contracted providers as specified in section 17a-453a-5 of the Regulations of Connecticut State Agencies.

(2) DMHAS shall not pay an out-of-network provider for any covered behavioral health services except for a maximum of four (4) acute care services delivered to an eligible recipient in a calendar year.

(d) **Prior authorization review:** Out-of-network providers shall comply with all prior authorization review requirements that apply to contracted providers as specified in section 17a-453a-6 of the Regulations of Connecticut State Agencies.

(e) **Continued stay authorization review:** Out-of-network providers shall comply with all continued stay authorization review requirements that apply to contracted providers as specified in section 17a-453a-7 of the Regulations of Connecticut State Agencies.

(f) **Recovery and Discharge Planning:** Out-of-network providers shall comply with all recovery and discharge planning requirements that apply to contracted providers as specified in section 17a-453a-9 of the Regulations of Connecticut State Agencies.

(g) **Quality management:** Out-of-network providers shall comply with all quality management requirements that apply to contracted providers as specified in section 17a-453a-10 of the Regulations of Connecticut State Agencies.

(h) **Provider Application Process:** Out-of-network providers shall comply with all provider application process requirements that apply to contracted providers as specified in section 17a-453a-11 of the Regulations of Connecticut State Agencies.

(i) Credentialing process:

(1) An out-of-network provider shall only be credentialed to deliver acute care services.

(2) An out-of-network provider that delivers five (5) or more acute care services to an eligible recipient in a calendar year shall comply with the credentialing requirements for the levels of care delivered as specified in section 17a-453a-12 of the Regulations of Connecticut State Agencies; and

(3) An out-of-network provider who delivers acute care services to eligible recipients shall be licensed in the state in which the acute care service is delivered.

(j) **Administration of out-of-network providers' claims for payment:** An out-of-network provider who delivers more than four (4) acute care services to an eligible recipient without a contract with DMHAS shall not be paid under the GABHP. Out-of-network providers shall comply with all other claims administration requirements that apply to contracted providers as specified in section 17a-453a-14 of the Regulations of Connecticut State Agencies.

(k) **Provider claim for payment grievance process:** Out-of-network providers shall comply with all provider claim grievance requirements that apply to contracted providers as specified in section 17a-453a-15 of the Regulations of Connecticut State Agencies.

(l) **Audit:** Out-of-network providers shall comply with all audit requirements that apply to contracted providers as specified in section 17a-453a-16 of the Regulations of

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-453a-19

Department of Mental Health and Addiction Serv-

Connecticut State Agencies.

(m) **Administrative hearing to appeal audit recovery or progressive sanctions:** Out-of-network providers shall comply with all fair hearing regulations, when applicable, to appeal audit recovery or progressive sanctions requirements as specified in section 17a-453a-17 of the Regulations of Connecticut State Agencies.

(Adopted effective December 7, 2009)

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

Agency
Department of Mental Health and Addiction Services

Subject
Treatment by Prayer Alone

Inclusive Sections
§§ 17a-543(i)-1—17a-543(i)-3

CONTENTS

Sec. 17a-543(i)-1.	Application procedures
Sec. 17a-543(i)-2.	Review procedures
Sec. 17a-543(i)-3.	Exclusions

Treatment by Prayer Alone

Sec. 17a-543(i)-1. Application procedures

Any person admitted to an inpatient facility for the treatment of a mental illness, except a person committed for the restoration of criminal competency under section 54-56d of the Connecticut General Statutes, who wishes to be treated by prayer alone in accordance with the principles and practices of a church or religious denomination, may make application in writing to the facility.

(a) The application must state that the person's sincere religious beliefs require that he or she be treated by prayer alone and that a duly accredited practitioner or ordained minister, priest or rabbi of such church or religious denomination is available to provide such treatment.

(b) The application must be signed by both the person and the proposed clergyperson who will provide such treatment and shall outline the nature and frequency of the treatment to be provided, the expected outcome, and the expected length of treatment.

(Adopted effective July 23, 1999)

Sec. 17a-543(i)-2. Review procedures

(a) Upon receipt of an application filed in accordance with section 17a-543(i)-1 of the Regulations of Connecticut State Agencies, the facility shall appoint a licensed physician of an appropriate specialty to conduct an evaluation of the person. Such physician shall prepare a written report, which shall contain his or her conclusion as to whether, based on the person's past history and/or current condition, there is a serious risk of harm to the person or to others if the person is permitted to be treated by prayer alone.

(b) The head of the facility shall then notify the person in writing of his or her decision to permit or not to permit treatment by prayer alone.

(Adopted effective July 23, 1999)

Sec. 17a-543(i)-3. Exclusions

No person authorized under section 17a-543(i)-1 through 17a-543(i)-2, inclusive, of the Regulations of Connecticut State Agencies to be treated by prayer alone shall be subject to any form of involuntary medical, psychological or psychiatric treatment unless:

(a) Emergency treatment is ordered under the provisions of section 17a-543(b) of the Regulations of Connecticut State Agencies;

(b) The head of the facility makes a finding in writing that the clergyperson designated to provide such treatment has failed to provide the treatment described in the application submitted under subsection 17a-543(i)-1 of the Regulations of Connecticut State Agencies; or

(c) The head of the facility has withdrawn such authorization, based on a physician's report that, since the time of the original authorization, the person's condition has changed

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-543(i)-3

Department of Mental Health and Addiction Serv-

and there now exists a serious risk of harm to the person or to others.

(Adopted effective July 23, 1999)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Psychiatric Security Review Board

Subject

General Operations and Procedures

Inclusive Sections

§§ 17a-581-1—17a-581-59

CONTENTS

Sec. 17a-581-1.	Procedure governed
Sec. 17a-581-2.	Definitions
Sec. 17a-581-3.	Waiver of rules
Sec. 17a-581-4.	Construction
Sec. 17a-581-5.	Date of filing
Sec. 17a-581-6.	Official address
Sec. 17a-581-7.	Chair
Sec. 17a-581-8.	Chair. Power and duties
Sec. 17a-581-9.	Executive director. Powers and duties
Sec. 17a-581-10.	Scheduling
Sec. 17a-581-11.	Special meeting
Sec. 17a-581-12.	Agenda
Sec. 17a-581-13.	Repealed
Sec. 17a-581-14.	Time of hearings
Sec. 17a-581-15.	Notice
Sec. 17a-581-16.	Information contained in notice
Sec. 17a-581-17.	Examination of the acquittee
Sec. 17a-581-18.	Request for hearing
Sec. 17a-581-19.	Application for temporary leave
Sec. Sec.17a-581-20.	Notification to state's attorney of hospital's application or commissioner of mental retardation's application for temporary leave
Sec. 17a-581-21.	Application for conditional release
Sec. 17a-581-22.	Elements of conditional release plan
Sec. 17a-581-23.	Presiding officer
Sec. 17a-581-24.	Hearings
Sec. 17a-581-25.	Appearance for acquittee
Sec. 17a-581-26.	Legal interns
Sec. 17a-581-27.	Acquittee's right to representation

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Sec. 17a-581-28.	Acquittee appearing pro se
Sec. 17a-581-29.	Acquittee's right to review record; exceptions
Sec. 17a-581-30.	Evidence considered, admissibility
Sec. 17a-581-31.	Objections to evidence
Sec. 17a-581-32.	Motion practice
Sec. 17a-581-33.	Executive session
Sec. 17a-581-34.	Minutes and transcriptions
Sec. 17a-581-35.	Witnesses and documents; subpoena
Sec. 17a-581-36.	Testimony given on oath
Sec. 17a-581-37.	Standards and burdens of proof
Sec. 17a-581-38.	Burden of going forward
Sec. 17a-581-39.	Continuance of hearing
Sec. 17a-581-40.	Use of restraints
Sec. 17a-581-41.	Principal issues before the board
Sec. 17a-581-42.	Victim statement
Sec. 17a-581-43.	Application to reopen a hearing or reconsider a decision
Sec. 17a-581-44.	Confinement in maximum security
Sec. 17a-581-45.	Decision
Sec. 17a-581-46.	Memorandum of decision
Sec. 17a-581-47.	Appeals of decisions
Sec. 17a-581-48.	Conditional release acceptance by acquittee
Sec. 17a-581-49.	Out-of-state conditional release order
Sec. 17a-581-50.	Enforcement of board orders
Sec. 17a-581-51.	Affidavit recommending order of termination of conditional release
Sec. 17a-581-52.	Reasonable grounds for termination of conditional release
Sec. 17a-581-53.	Procedure for execution of revocation order
Sec. 17a-581-54.	Preparation of conditional release plans
Sec. 17a-581-55.	Reports
Sec. 17a-581-56.	Transfers by department of mental health or department of mental retardation
Sec. 17a-581-57.	Notification of AWOL
Sec. 17a-581-58.	Petitions for declaratory rulings
Sec. 17a-581-59.	Personal data

General Operations and Procedures

Sec. 17a-581-1. Procedure governed

These rules and regulations will govern practice and procedures before the Psychiatric Security Review Board as authorized by Sections 17a-580 through 17a-602 of the General Statutes.

(Effective May 21, 1992)

Sec. 17a-581-2. Definitions

(a) As used in Section 17a-581-1 through Section 17a-581-57 inclusive, the following definitions shall apply unless otherwise required by a specific statute.

(1) “PSRB” or “Board” means the Psychiatric Security Review Board of the State of Connecticut established by Sections 17a-581 of the General Statutes.

(2) “Acquittee” means any person who is found not guilty by reason of mental disease or defect pursuant to Section 53a-13 of the General Statutes and placed under the jurisdiction of the PSRB by the Court, or any person who was found not guilty by mental disease or defect, or guilty but not criminally responsible, pursuant to Section 53a-13 of the General Statutes and who, on July 1, 1985, was subject to Court supervision pursuant to Section 53a-47 of the General Statutes.

(3) “Court” means the Superior Court.

(4) “Hospital” or “hospital for mental illness” means any public or private hospital, retreat, institution, house, or place in which a mentally ill or drug dependent person is received or detained as an acquittee, but does not include any correctional institution of the state.

(5) “Mental illness” means any mental illness or mental disease as defined by the current Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association and as may hereafter be amended. This definition includes any mental illness in a state of remission which may become active with reasonable medical probability.

(6) “Danger to self or to others” means the risk of imminent physical injury to others or self, and also includes the risk of loss or destruction of the property of others.

(7) “Temporary leaves” means any period of time authorized by the Board pursuant to Section 17a-587 of the General Statutes, during which an acquittee is off the grounds of the hospital for therapeutic purposes and is not accompanied by hospital staff or an acquittee is temporarily out of the custody of the Commissioner of Mental Retardation for therapeutic purposes.

(8) “Conditional release” means release from a hospital or custody of the Commissioner of Mental Retardation with supervision and treatment provided on an outpatient basis as designated and ordered by the PSRB. A conditionally released acquittee remains under the jurisdiction of the PSRB.

(9) “Person who should be conditionally released” means an acquittee who is mentally ill or mentally retarded to the extent that his final discharge would constitute a danger to himself or others but who can be adequately controlled with available supervision and

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-581-2

Psychiatric Security Review Board

treatment on conditional release.

(10) “Person who should be confined” means an acquittee who is mentally ill or mentally retarded to the extent that his discharge or release from the hospital on conditional release would constitute a danger to himself or others, and who cannot be controlled adequately with available supervision and treatment on conditional release.

(11) “Person who should be discharged” means an acquittee who is not mentally ill or mentally retarded to the extent that his discharge would constitute a danger to himself or others.

(12) “Psychiatrist” means a physician specializing in psychiatry and licensed under the provisions of Sections 20-9 to 20-12, inclusive, of the General Statutes.

(13) “Psychologist” means a clinical psychologist licensed under the provisions of Sections 20-186 to 20-195, inclusive, of the General Statutes.

(14) “State’s Attorney” means the State’s Attorney for the judicial district wherein the acquittee was found not guilty by reason of mental disease or defect pursuant to Section 53a-13 of the General Statutes.

(15) “Superintendent” means any person, body of persons or corporation, or the designee of any such person, body of persons or corporation, which has the immediate supervision, management and control of a hospital for mental illness and the acquirtees therein.

(16) “Quorum” means a majority of Board members.

(17) “Statutory hearing” or “hearing” means a procedure of the Board which is conducted as a contested case pursuant to Chapter 54 of the General Statutes in which an application for temporary leave, conditional release, confinement, modification or revocation of conditional release, discharge, continued confinement or a review of status pursuant to Sections 17a-580 through 17a-602, inclusive, of the General Statutes is heard by the Board.

(18) “Administrative meeting” means any meeting of the Board where a quorum is present for the purpose of considering Board administrative and policy matters.

(19) “Conference” means a process other than a hearing of the Board where a quorum is present and an application for a temporary leave, an application for or motion for consideration of discharge, or a petition for order of continued commitment is considered by the Board. Conference decisions will be based upon the Board’s consideration of the administrative records from prior proceedings concerning the particular acquittee, as well as the information contained in the application, motion or petition before the Board.

(20) “Conditional Release Supervisor” means the person or agency designated by the PSRB to supervise and report to the PSRB on the progress of the acquittee and conformance by the acquittee to the conditional release plan.

(21) “Conditional Release Provider” means the person or agency designated by the PSRB to treat the acquittee while on conditional release. This person or agency shall report to the PSRB.

((22))

(Effective May 21, 1992)

Sec. 17a-581-3. Waiver of rules

Where good cause appears, the Chair or presiding Board member may permit deviation from these rules, except where precluded by statute.

(Effective May 21, 1992)

Sec. 17a-581-4. Construction

These rules shall be construed liberally by the Chair or presiding Board member to secure a just, speedy determination of the issues presented.

(Effective May 21, 1992)

Sec. 17a-581-5. Date of filing

All correspondence, applications for hearings, orders or decisions, and notifications of hearings will be considered filed or received by the Board on the date marked received by that office, or on the date issued by that office or postmarked by that office if sent by certified mail.

(Effective May 21, 1992)

Sec. 17a-581-6. Official address

The official address of the PSRB shall be 90 Washington Street, Hartford, CT 06106.

(Effective May 21, 1992)

Sec. 17a-581-7. Chair

The Chair shall be appointed by the Governor.

(Effective May 21, 1992)

Sec. 17a-581-8. Chair. Power and duties

The Chair shall have the power and duties established by law and such other powers and duties necessary for the performance of the office. These shall include, but not be limited to the following:

- (1) Preside at hearings or meetings.
- (2) Designate another Board member to preside when appropriate.
- (3) Make rulings on procedural matters.
- (4) Call special meetings of the Board.
- (5) Order the revocation of an acquittee's conditional release pending a hearing.

(Effective May 21, 1992)

Sec. 17a-581-9. Executive director. Powers and duties

The Executive Director, the official designate of the Board, shall officially represent the Board and shall perform other duties including but not limited to:

- (1) Supervising work operations of the Board's staff.
- (2) Preparing the budget for approval by the Board.

- (3) Implementing Board policies and decisions.
- (4) Informing the Board of the status of persons under its jurisdiction.
- (5) Presenting to the Board all matters requiring Board action.
- (6) Performing other duties as authorized or requested by the Board.
- (7) Issuing subpoenae and subpoenae duces tecum on behalf of the Board.
- (8) Signing Board Memoranda of Decision on behalf of the Board.

(Effective May 21, 1992)

Sec. 17a-581-10. Scheduling

The Board shall meet at least twice every month unless the Chair determines that there is not sufficient business before the Board to warrant a meeting at the scheduled time.

(Effective May 21, 1992)

Sec. 17a-581-11. Special meeting

The Board may hold special meetings at times and places specified by the call of the Chair or of a majority of the members of the Board.

(Effective May 21, 1992)

Sec. 17a-581-12. Agenda

The agenda for administrative meetings shall be developed by the Chair and the Executive Director prior to the meeting. Public notice shall be given in accordance with Chapter 3 of the General Statutes.

(Effective May 21, 1992)

Sec. 17a-581-13. Repealed

Repealed January 22, 1988.

Sec. 17a-581-14. Time of hearings

The types of hearings and time frame for such hearings are as follows:

(1) Initial commitment hearing pursuant to Section 17a-583 of the General Statutes. An initial commitment hearing will be held within 90 days of the order committing the acquittee to the Board's jurisdiction by the Court or, absent good cause shown, at the next regularly scheduled meeting if the Court recommends conditional release.

(2) Two-year hearing pursuant to Section 17a-585 of the General Statutes. A hearing in which the status of the acquittee is reviewed will be held not less than once every two years.

(3) Temporary leave hearing pursuant to Section 17a-587 of the General Statutes. A hearing may be held by the Board concerning a superintendent's or Commissioner of Mental Retardation's application for an order authorizing temporary leave and shall be held if requested by the State's Attorney within 10 days of his receipt of the application as sent by the PSRB.

(4) Conditional release or request for recommendation of discharge hearing pursuant to

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Psychiatric Security Review Board

§17a-581-14

Section 17a-588 (a) and Section 17a-592 (a) of the General Statutes. An application for conditional release or recommendation of discharge pursuant to Sections 17a-588 (a) and 17a-592 (a) may be made by a party designated in those sections at any time. A hearing shall be held within 60 days but not less than 30 days from the receipt by the Board of such an application or recommendation.

(5) Conditional release hearing pursuant to Section 17a-588 (b) of the General Statutes. An acquittee, or another person acting on behalf of the acquittee, may apply for an order of conditional release once in every six month period beginning with the date of the initial commitment hearing before the Board. A hearing on a first application of this type need not be held any sooner than 90 days after the initial commitment hearing. Hearings on subsequent requests will be held within 60 days of the filing of the application.

(6) Modification of conditional release order hearing pursuant to Section 17a-591 of the General Statutes. A hearing on an application of a conditionally released acquittee or a person or agency responsible for the supervision or treatment of a conditionally released acquittee for modification of the conditional release order shall be held within 60 days of the Board's receipt of the application. Unless the conditional release order has been summarily modified pursuant to subsection (a) of Section 17a-594 of the General Statutes, an application by an acquittee for modification of a conditional release order shall not be filed more often than once every six months from the date of the filing of the next preceding application for modification.

(7) Modification or revocation of conditional release hearing pursuant to Section 17a-594 of the General Statutes. When the Board or its Chair, acting pursuant to Section 17a-594 of the General Statutes, has modified or terminated a conditional release and ordered the return of the acquittee to the hospital or to the Commissioner of Mental Retardation, a hearing to determine the mental condition of the acquittee will be held within 30 days after the PSRB receives notice of the return of the acquittee to the hospital or to the Commissioner of Mental Retardation.

(8) Application for discharge hearing pursuant to Section 17a-593 of the General Statutes. Upon receipt of notice from the Court of an acquittee's application for discharge, the Board shall file a report on the application within 90 days to the Court. The Board may hold a hearing prior to filing its report.

(9) Continued confinement hearing pursuant to Section 17a-593 of the General Statutes. Upon receipt of notice from the Court of a petition of the State's Attorney for continued confinement, the Board shall file a report on the petition within 90 days to the Court on the petition. The Board may hold a hearing prior to filing its report.

(10) Consideration of recommendation of discharge hearing pursuant to Section 17a-592 (b) of the General Statutes. Upon deciding to consider whether to recommend the discharge of an acquittee pursuant to Section 17a-592 (b) of the General Statutes, the Board may order a hearing held and shall order a hearing held if the State's Attorney files a request for hearing with the Board within 10 days of his receipt of notification of the Board's decision to consider whether to make such a recommendation. Any such hearing shall be held within

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-581-15

Psychiatric Security Review Board

60 days of the Board's decision to consider whether to recommend the discharge of an acquittee.

(Effective May 21, 1992)

Sec. 17a-581-15. Notice

Written notice of a hearing shall be given to the following persons or agencies within a reasonable time or as required pursuant to Section 17a-586 through 17a-602, inclusive, of the General Statutes.

- (1) The acquittee.
- (2) Attorney representing the acquittee.
- (3) State's Attorney.
- (4) The victim, if the Court or the Board finds that the victim requests notification. (5) Conditional release supervisor and provider if the acquittee is conditionally released.
- (6) Any other person requesting notification.
- (7) Hospital superintendent if the acquittee is confined in a hospital.
- (8) Commissioner of Mental Retardation if the acquittee is in custody of said commissioner.

(Effective May 21, 1992)

Sec. 17a-581-16. Information contained in notice

Written notice shall contain the following:

- (1) Statement of time, place and location of the hearing.
- (2) Statement of the issues to be considered.
- (3) Reference to the particular sections of the statutes and regulations involved.
- (4) Statement of legal authority and jurisdiction under which the hearing is to be held.
- (5) Statement of rights of the acquittee at the hearing, including the following:
 - (A) Right to appear at all proceedings, except Board deliberations.
 - (B) Right to cross-examine all witnesses appearing to testify at the hearing.
 - (C) Right to subpoena witnesses and documents as provided in Section 17a-595 of the General Statutes.
 - (D) Right to legal counsel and, if indigent, to have counsel provided without cost, pursuant to the provisions of Chapter 887 of the Connecticut General Statutes.
 - (E) Right to examine all documents and reports under consideration by the Board.

(Effective May 21, 1992)

Sec. 17a-581-17. Examination of the acquittee

Pursuant to Section 17a-596 of the General Statutes, prior to any hearing before the Board concerning discharge, conditional release or confinement of the acquittee, the PSRB, the acquittee or acquittee's counsel, and the State's Attorney may at their own expense each choose a psychiatrist or psychologist to examine the acquittee.

- (a) The examination report shall be filed with the PSRB, and shall include an opinion as

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Psychiatric Security Review Board

§17a-581-21

to (1) the mental condition of the acquittee, (2) whether the acquittee presents a danger to self or others and the degree of any danger, (3) what type(s) of treatment and supervision the acquittee requires to be controlled.

(b) To facilitate examination the PSRB may order the acquittee temporarily confined in any hospital or other suitable facility for the purposes of examination.

(c) The State's Attorney and/or the acquittee or their counsel shall file written notice of intent to conduct an examination and file the examination report with the Board.

(d) If the acquittee is indigent, the acquittee or the acquittee's attorney may file a written request for the Board to appoint a psychiatrist or psychologist to examine the acquittee. The Board or designee shall approve or deny the request.

(Effective May 21, 1992)

Sec. 17a-581-18. Request for hearing

Any party authorized by Sections 17a-580 through 17a-602, inclusive of the General Statutes may apply for a hearing before the PSRB in accordance with Sections 17a-580 through 17a-602, inclusive of the General Statutes, by submitting an application for hearing to the PSRB office. If the application is from any party other than the acquittee, a report setting forth the facts supporting the request shall accompany such an application.

(Effective May 21, 1992)

Sec. 17a-581-19. Application for temporary leave

An application for a temporary leave shall be submitted in writing to the PSRB by the superintendent or the Commissioner of Mental Retardation when such leave would be therapeutic for the acquittee and would not pose a danger to the acquittee or others. The application shall state the purpose, the proposed conditions of the pass and be signed by the superintendent and the treating psychiatrist or the Commissioner of Mental Retardation.

(Effective May 21, 1992)

Sec. Sec.17a-581-20. Notification to state's attorney of hospital's application or commissioner of mental retardation's application for temporary leave

Upon receipt of an application for a temporary leave pursuant to Sec. 19 of these regulations, the PSRB will notify and send to the State's Attorney a copy of the application. The State's Attorney must file a request for hearing within ten days of receipt of that notification of the application for temporary leave if he objects to the granting of temporary leave.

(Effective May 21, 1992)

Sec. 17a-581-21. Application for conditional release

An application for conditional release as provided for in Section 17a-588 of the General Statutes, shall include an application for an order for conditional release. An application by the superintendent or Commissioner of Mental Retardation or a report on an acquittee's

application by the superintendent or Commissioner shall set forth the facts and a verified proposed conditional release plan if the opinion is that the acquittee is a person who should be conditionally released.

(Effective May 21, 1992)

Sec. 17a-581-22. Elements of conditional release plan

(a) A conditional release plan shall include, but not be limited to, proposals which address the following concerns:

(1) Housing: Housing must be available for the acquittee. PSRB may require 24 hour supervised housing, supervised group home, foster care, housing with relative, or independent housing.

(2) Mental Health or Mental Retardation Treatment: Mental health or mental retardation treatment, if needed, must be available in the community. The proposed provider of treatment must have had an opportunity to evaluate the acquittee and the proposed conditional release plan and to be heard before the PSRB. The provider must have agreed to provide the necessary treatment to the acquittee. The provider shall report to the PSRB on treatment progress and any changes in the acquittee's mental condition.

(3) Conditional Release Supervision: A person or agency must be available to supervise an acquittee in the community. The proposed supervisor must have had the opportunity to evaluate the acquittee, the proposed conditional release plan and to be heard before the Board. The supervisor must monitor the acquittee's compliance with the conditions of his/her release. The supervisor shall report to the PSRB on the acquittee's progress and shall report any violations to the PSRB. A proposed supervisor may be the Office of Adult Probation, a clergyman, a social service professional, staff from the Department of Mental Health, or Department of Mental Retardation or any other qualified or appropriate person or agency.

(4) Special Conditions: Special conditions may be imposed, including, but not limited to, the following: no consumption of alcohol, taking of antabuse, observation by designated individual of each ingestion of medication, submitting to drug screen tests, no driving, vocational activities, day treatment, attending school or working.

(b) In its review of a conditional release plan, the PSRB shall determine whether the concerns listed above are addressed in a manner adequate and necessary to insure public safety.

(Effective May 21, 1992)

Sec. 17a-581-23. Presiding officer

During hearings of the Board, the Chair or acting Chair shall preside. The Chair shall designate the order of presentation and questioning. The Chair shall also determine the scope of questioning and may set time limits to avoid unnecessary cumulative evidence.

(Effective May 21, 1992)

Sec. 17a-581-24. Hearings

Hearings shall be conducted as contested cases in accordance with Chapter 54 of the Connecticut General Statutes. The rules of evidence shall be as prescribed in Section 4-178 of the Connecticut General Statutes, Section 17a-596 of the General Statutes and these regulations.

(Effective May 21, 1992)

Sec. 17a-581-25. Appearance for acquittee

An attorney who is not the attorney of record from the original Court commitment hearing shall file an appearance for the acquittee with the PSRB prior to representation of the acquittee before the PSRB.

(Effective May 21, 1992)

Sec. 17a-581-26. Legal interns

An eligible legal intern may appear before the PSRB if all applicable provisions of Sections 67 through Section 75 of the Connecticut Practice Book have been satisfied.

(Effective May 21, 1992)

Sec. 17a-581-27. Acquittee's right to representation

(a) In connection with any PSRB proceeding, an acquittee who is indigent has the right to public defender services pursuant to the provisions of Chapter 887 of the Connecticut General Statutes, without cost.

(Effective May 21, 1992)

Sec. 17a-581-28. Acquittee appearing pro se

When an acquittee waives the right to be represented at a PSRB hearing by an attorney, the Board shall take such written or oral testimony as it deems necessary and decide whether the acquittee is capable of understanding the proceedings and is capable of understanding the nature of his/her refusal to be represented by an attorney. If the PSRB determines the acquittee is not capable of appearing pro se, the Board will notify the counsel of record.

(Effective May 21, 1992)

Sec. 17a-581-29. Acquittee's right to review record; exceptions

Acquittees shall receive written notice of the hearing and directly, or through their attorney, a statement of their rights in accordance with Section 17a-580 through 17a-602, inclusive, of the General Statutes. All material which the Board intends to consider in connection with the hearing, subject to the provisions of subsection (1) below, shall be disclosed to the acquittee's attorney or the acquittee, if proceeding pro se, as soon as they are available. Materials not available prior to the hearing shall be made available to the acquittee's attorney or the acquittee, if not represented, at the hearing.

(1) All material which is in the possession of the Board and is relevant and pertinent to

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-581-30

Psychiatric Security Review Board

the acquittee and issues before the Board shall be made a part of the record unless an objection to any such material is raised by a party before the Board and sustained by the Chair or acting Chair.

(2) Any material excluded from the record by reason of an objection which is sustained pursuant to subsection (1) may be marked for purposes of identification and shall be separated from the record material.

(Effective May 21, 1992)

Sec. 17a-581-30. Evidence considered, admissibility

The PSRB shall consider and make part of the administrative record all evidence available to it which is material, relevant and reliable. Such evidence may include, but is not limited to:

- (1) The record of trial.
- (2) Information contained in the acquittee's Court file.
- (3) Information supplied by the State's Attorney or any interested party, including the acquittee.
- (4) Information concerning the acquittee's mental condition.
- (5) The entire psychiatric and criminal history of the person, including pertinent motor vehicle records.
- (6) Psychiatric or psychological reports concerning the acquittee ordered by the Board or ordered by the Court.
- (7) Psychiatric or psychological reports concerning the acquittee written by the psychiatrist or psychologist chosen by the State's Attorney or the acquittee.
- (8) Testimony of witnesses.

(Effective May 21, 1992)

Sec. 17a-581-31. Objections to evidence

Objections to evidence may be raised by any party to a Board hearing. The Chair or acting Chair shall rule on questions of evidence.

(Effective May 21, 1992)

Sec. 17a-581-32. Motion practice

Any party bringing a motion before the Board shall submit five copies of the motion and memorandum of law to the Board and one copy to each party of record one week prior to the hearing date on which the motion will be heard.

(Effective May 21, 1992)

Sec. 17a-581-33. Executive session

The Board may go into Executive Session, closing the meeting or hearing to the public upon an affirmative vote of two-thirds of the Board members present and voting for a

specified purpose allowed under Chapter 3 of the Connecticut General Statutes.

(Effective May 21, 1992)

Sec. 17a-581-34. Minutes and transcriptions

(a) Minutes shall be kept which reflect Board action taken at an administrative meeting and any decision made at a conference or hearing of the Board.

(b) All Board hearings, except Board deliberations, shall be recorded by manual or electronic means which can be transcribed. Such recordings shall be the only record of the hearings made by the Board.

(c) A transcript of the recorded proceedings shall be made available at cost to a party to the proceedings upon request.

(Effective May 21, 1992)

Sec. 17a-581-35. Witnesses and documents; subpoena

(a) Documents or physical evidence may be subpoenaed as provided in Section 17a-595 of the General Statutes, at the request of any party to the hearing upon a proper showing of the general relevance and reasonable scope of the documentary or physical evidence sought, or upon the Board's own motion.

(b) Witnesses shall be subpoenaed by the Board or its designated representative at the request of any party or upon the Board's own motion.

(c) Witnesses with a subpoena other than the parties or state officers or state employees shall receive fees and mileage, as prescribed by law, for witnesses in civil actions. If the Board or its designated representative certifies that the testimony of a witness was relevant and material, any person who has paid fees and mileage to such witness shall be reimbursed by the Board.

(d) If any person, agency or facility fails to comply with a subpoena issued by the Board or fails to testify regarding any matter on which he may be lawfully interrogated, the Board or its designated representative shall apply to a judge of the Superior Court in order to compel obedience by proceedings for contempt as provided in Section 17a-595 (d) of the General Statutes.

(Effective May 21, 1992)

Sec. 17a-581-36. Testimony given on oath

The PSRB shall take testimony of a witness upon oath or affirmation of the witness administered by an authorized person.

(Effective May 21, 1992)

Sec. 17a-581-37. Standards and burdens of proof

(a) The standard of proof on all issues at hearings of the PSRB shall be the preponderance of the evidence.

(b) On any hearing held pursuant to a request, petition or application, the burden of proof

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-581-38

Psychiatric Security Review Board

shall be upon the party who has submitted the request, petition or application.

(c) In any hearing held upon the Board's own motion, any party seeking a change in an existing order or the current status of an acquittee shall have the burden of proof.

(Effective May 21, 1992)

Sec. 17a-581-38. Burden of going forward

The party which has the burden of proof shall also have the burden of going forward with the evidence.

(Effective May 21, 1992)

Sec. 17a-581-39. Continuance of hearing

Upon the request of any party, or on its own motion, the Board may, to obtain additional information or testimony or for other good cause shown, continue a hearing for a reasonable period of time not to exceed 60 days.

(Effective May 21, 1992)

Sec. 17a-581-40. Use of restraints

(a) The Board prefers to have acquittees appear at hearings without physical restraints. If, in the judgment of the acquittee's physician, the acquittee might need restraining, the Board prefers to have staff attending the hearing with the acquittee rather than use of physical restraints. However, the final decision on use of restraints lies with the physician.

(b) Any attorney objecting to the acquittee appearing with restraints at the hearing may raise the issue and ask for testimony from the physician.

(Effective May 21, 1992)

Sec. 17a-581-41. Principal issues before the board

At any hearing before the Board, issues considered shall be limited to those relevant to the purposes of the hearing and included in the notice of hearing. A request to raise new issues shall be made to the Board in writing ten days prior to the hearing. If the Board at its discretion grants a request to raise new issues, it may continue the hearing to consider the issues and obtain additional evidence and testimony.

(Effective May 21, 1992)

Sec. 17a-581-42. Victim statement

The victim, as defined by Section 17a-601 of the General Statutes, shall have the right to be present at any hearing, and to make a statement at the hearing, expressing his/her opinion(s) on the matter before the Board. The victim may submit such a statement in writing prior to the hearing to be entered into the record if the victim is not present at the hearing.

(Effective May 21, 1992)

Sec. 17a-581-43. Application to reopen a hearing or reconsider a decision

A party may apply to the PSRB for the reopening of a previously closed proceeding or reconsideration of a decision for good cause shown within 10 days of the issuance of a memorandum of decision. Upon such application the Board at its discretion may reopen any matter previously closed and vacate any order made thereon.

(Effective May 21, 1992)

Sec. 17a-581-44. Confinement in maximum security

The Board may order a person confined in a maximum security setting if the Board finds that the acquittee poses a danger to self or others such that a maximum security setting is required.

(Effective May 21, 1992)

Sec. 17a-581-45. Decision

(a) A quorum of the Board shall be present and voting for the purpose of rendering a decision.

(b) A majority of concurring votes (affirmative or negative) is required to make a Board decision.

(c) Any Board member not present for the hearing may participate and vote on the decision after stating that he has read the entire hearing transcript and all hearing exhibits.

(Effective May 21, 1992)

Sec. 17a-581-46. Memorandum of decision

(a) All decisions of the PSRB shall be written and signed by the Chair or the Executive Director on behalf of the PSRB.

(b) Each memorandum of decision shall state the Board's findings of fact, conclusions of law and order.

(c) All memoranda of decision shall be mailed, certified mail, return receipt requested to all parties in the case.

(Effective May 21, 1992)

Sec. 17a-581-47. Appeals of decisions

Any Board order of confinement or conditional release issued pursuant to Section 17a-584 (2) or (3) of the General Statutes, and any Board order concerning an application for temporary leave issued pursuant to Section 17a-587 of the General Statutes, may be appealed to the Superior Court pursuant to Section 4-183 of the Connecticut General Statutes. The Board shall give notice of the right to judicial review to the acquittee, counsel for the acquittee and the State's Attorney.

(Effective May 21, 1992)

Sec. 17a-581-48. Conditional release acceptance by acquittee

The acquittee must sign an agreement to a conditional release order before such an order is in effect.

(Effective May 21, 1992)

Sec. 17a-581-49. Out-of-state conditional release order

The Board may consider and approve a conditional release plan which permits the acquittee to reside out of state.

(Effective May 21, 1992)

Sec. 17a-581-50. Enforcement of board orders

The Board may apply to the Court for an appropriate order of enforcement when its directive to an agency or person is not followed.

(Effective May 21, 1992)

Sec. 17a-581-51. Affidavit recommending order of termination of conditional release

Upon the recommendation of the staff of the PSRB and receipt of an affidavit specifying noncompliance with an order of the Board or a change in the acquittee's mental status, the Chair or the Board may order the person returned to a hospital or custody of Commissioner of Mental Retardation for evaluation and treatment through an order of termination of conditional release.

(Effective May 21, 1992)

Sec. 17a-581-52. Reasonable grounds for termination of conditional release

Reasonable grounds for termination of a conditional release include, but are not limited to:

- (1) The acquittee has violated terms of the conditional release plan.
- (2) The acquittee's mental condition has changed.
- (3) The acquittee has absconded from the Board's jurisdiction.
- (4) The community resources required by the conditional release order are no longer available.

(Effective May 21, 1992)

Sec. 17a-581-53. Procedure for execution of revocation order

After an order of termination has been signed by the Chair or the Board, the written order is sufficient warrant for any peace officer to take the acquittee into custody and transport the acquittee as directed by the order. Written orders of termination shall be executed by a sheriff, a municipal police officer, a constable who performs criminal law enforcement duties, an adult probation officer appointed under Connecticut General Statutes, Section 54-104, or any other peace officer as defined in Section 53a-3 (9) of the Connecticut General

Statutes.

(Effective May 21, 1992)

Sec. 17a-581-54. Preparation of conditional release plans

When hospital staff or Commissioner of Mental Retardation feels that an acquittee is ready for conditional release, it is the responsibility of the hospital or Commissioner to develop the plan and confirm all elements of the plan.

(Effective May 21, 1992)

Sec. 17a-581-55. Reports

(a) The superintendent of any hospital for mental illness in which an acquittee has been confined or Commissioner of Mental Retardation with whom an acquittee has been placed pursuant to order of the Board, or the person or agency responsible for the supervision or treatment of a conditionally released acquittee, shall submit to the Board at least every six months a written report with respect to the mental condition of the acquittee. Such reports shall include but are not limited to: the acquittee's current mental condition, diagnosis, medication, current treatment, status regarding danger posed to self or others, long-term treatment plans and any recommendations for any modification of the existing Board order.

(b) PSRB shall furnish copies of the report pursuant to subsection (a) to the counsel for the acquittee and the State's Attorney.

(c) The superintendent of any hospital for mental illness in which an acquittee has been confined or Commissioner of Mental Retardation with whom an acquittee has been placed pursuant to order of the Board, or the person or agency responsible for the supervision or treatment of a conditionally released acquittee, shall submit any reports on an acquittee as deemed necessary by the Board.

(Effective May 21, 1992)

Sec. 17a-581-56. Transfers by department of mental health or department of mental retardation

(a) In the absence of an order of the Court or the Board, no acquittee shall be involuntarily transferred from a nonmaximum security setting to a maximum security setting unless the continued presence of the acquittee in a nonmaximum security setting poses an immediate threat to the safety or well-being of any person.

(b) The PSRB will hold a hearing on a transfer of an acquittee for whom a maximum security confinement order has not been issued by the Court or the Board which results in the confinement of the acquittee in a maximum security setting in the following cases:

(1) A hearing will be held at the next regularly scheduled PSRB meeting date following a transfer if the acquittee does not voluntarily agree to the transfer and sign a waiver to a hearing.

(2) A hearing will be held if the acquittee who voluntarily agreed to the transfer and waived the initial hearing remains in maximum security confinement for more than six

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-581-57

Psychiatric Security Review Board

months.

(3) A hearing will be held if within the first six months of maximum security confinement an acquttee who voluntarily agreed to the transfer requests a transfer to a less restrictive setting and the Department of Mental Health staff or Commissioner of Mental Retardation does not recommend such a transfer.

(c) The Department of Mental Health or Commissioner of Mental Retardation will inform the PSRB in writing of all transfers of acquttees within seven days.

(1) If an acquttee is voluntarily transferred to Whiting Forensic Institute, a copy of the voluntary consent and hearing waiver statement must be forwarded to the PSRB within seven days.

(2) Notice to the PSRB of an involuntary transfer to Whiting Forensic Institute must be made by the next working day.

(3) Transfers between hospitals of the same restrictive setting type may occur without any PSRB action. PSRB must be notified of the transfer within seven days.

(d) Where an acquttee has an order from the Court or the PSRB specifying confinement in a maximum security setting that acquttee cannot be transferred without approval of the PSRB or the Court.

(Effective May 21, 1992)

Sec. 17a-581-57. Notification of AWOL

The superintendent or Commissioner of Mental Retardation shall immediately notify the PSRB of an acquttee going AWOL, i.e. being out of the custody of the hospital or being out of the custody of the Commissioner of Mental Retardation without permission.

(Effective May 21, 1992)

Sec. 17a-581-58. Petitions for declaratory rulings

(a) Scope.

(1) These regulations set forth the Psychiatric Security Review Board's rules governing the form and content of petitions for declaratory rulings, and Board proceedings on such petitions. Petitions for declaratory rulings may be filed on: (A) The validity of any regulation of the Board, and (B) The applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision, as defined in Connecticut General Statutes, Section 4-166 (3), on a matter within the jurisdiction of the Board. Any petition for a declaratory ruling not falling in one of these two categories shall be rejected in writing by the Board as not being the proper subject for a petition for a declaratory ruling.

(b) Form and Content of Petitions.

(1) General. All petitions for declaratory rulings shall be addressed to the Executive Director of the Board, and either mailed or hand delivered to the Board's office. All petitions shall be signed by the person filing the petition, unless represented by an attorney, in which case the attorney may sign the petition. The petition shall include the address of the person filing the petition, and the address of the attorney, if applicable.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Psychiatric Security Review Board

§17a-581-58

(2) **Petitions on Validity of Regulation.** A petition for a declaratory ruling on the validity of a regulation must contain the following:

- (A) The section number and text of the regulation;
- (B) The specific basis for the claim of invalidity of the regulation; and
- (C) An argument by the petitioner in support of the claim of invalidity, with a suggested remedy.

Any petition filed which merely requests a ruling of the validity of a regulation, without a detailed claim of invalidity, shall be rejected by the Board as incomplete.

(3) **Petitions on Applicability of Statute, Regulation, or Final Decision to Specific Circumstances.** A petition seeking a declaratory ruling on the applicability of a statute, regulation or final decision on a matter within the jurisdiction of the Board to specified circumstances shall contain the following:

- (A) The specific statute, regulation, or final decision upon which the ruling is sought;
- (B) A brief explanation of why the petitioner believes that the particular statute, regulation, or final decision is within the jurisdiction of the Board;
- (C) A detailed description of the specified circumstances upon which the petition is based; and

(D) An argument by the petitioner as to why the petitioner believes that the particular statute, regulation, or final order either is or is not applicable to the specified circumstance.

Any petition failing to identify the statute, regulation, or final decision in question, or failing to adequately describe the specified circumstances will be rejected in writing by the Board as incomplete.

(c) Notice.

The agency shall within thirty days after the receipt of such petition provide written notice of the filing of the petition (1) to all persons required by any law to receive notice, (2) to all persons who have requested notice of the filing of such petitions on the subject matter of the petition, and (3) to all persons who have requested notice of the filing of any such petitions with the agency. The notice required by this subsection shall not be required where the agency has rejected the filing of a petition as inappropriate or incomplete in accordance with subsections (a) or (b) of this section.

(d) Rights of Persons to Proceeding.

(1) **Petitioner as Party.** The petitioner is automatically a party to any proceeding on the petition by virtue of having filed said petition, and need not seek designation as a party from the Board.

(2) **Additional Parties.** Any person, whether or not they have received notice of the petition, may file a petition to become a party within forty-five days from the date of filing of the petition. If the petition to become a party sets forth facts demonstrating that the petitioner's legal rights, duties or privileges will be specifically affected by the declaratory ruling to be issued, the Board shall grant the petition and designate the petitioner as a party.

(3) **Intervenors.** Any person, whether or not he or she has received notice of the petition, may file a petition to become an intervenor within forty-five days from the date of filing of

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-581-59

Psychiatric Security Review Board

the petition. If the petition sets forth facts demonstrating that the petitioner's participation is in the interest of justice and will not impair the orderly conduct of the proceedings, the Board shall grant the petition and designate the petitioner as an intervenor. In addition, any person who files a petition for party status who fails to make the requisite demonstration for party status, may be granted intervenor status. If the Board conducts a hearing, it has the discretion to limit the participation of intervenors in such hearing, including the rights to inspect and copy records, to introduce evidence and to cross-examine, so as to promote the orderly conduct of the proceedings.

(e) Agency Proceedings on Petitions.

(1) Agency Action. Within sixty days after the filing of a complete petition for a declaratory ruling, the Board shall do one of the following, in writing:

(A) Issue a declaratory ruling in accordance with the request in the petition containing the names of all parties to the proceeding, the particular facts upon which it is based, and the reasons for the conclusions contained therein;

(B) Order that the matter be the subject of a hearing as a contested case;

(C) Notify the parties that a declaratory ruling shall be issued by a date certain;

(D) Decide not to issue a declaratory ruling and initiate regulation-making proceedings;

or

(E) Decide not to issue a declaratory ruling, stating the reasons for its action.

(2) Notice. A copy of all rulings or actions taken under subsection (e) of this section shall be promptly delivered to the petitioner and other parties personally or by United States mail, certified or registered, postage prepaid, return receipt requested.

(3) Hearing. If the Board conducts a hearing in a proceeding for a declaratory ruling, the provisions of subsection (b) of Connecticut General Statutes, Section 4-177c, Section 4-178 and Section 4-179 shall apply to the hearing.

(4) Effective Date. Declaratory rulings shall be effective when personally delivered or mailed or on such later date specified by the Board in the ruling except that for purposes of any appeal from the declaratory ruling, the date of personal delivery or mail shall control.

(5) Contested Case Appeals. Declaratory rulings shall have the same status and binding effect as an order in a contested case, and shall be a final decision in a contested case for the purposes of appeals in accordance with Connecticut General Statutes, Section 4-183.

(6) Failure to Act. If the Board does not issue a declaratory ruling on a complete petition within 180 days after the filing of the petition, or within such longer period as agreed to by the parties, the Board shall be deemed to have decided not to issue a ruling.

(7) Record. The Board shall keep a record of the proceeding as provided in Connecticut General Statutes, Section 4-177.

(Effective July 2, 1993)

Sec. 17a-581-59. Personal data

(a) Definitions.

(1) The following definitions shall apply to these regulations:

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Psychiatric Security Review Board

§17a-581-59

(A) “Category of Personal Data” means the classifications of personal information set forth in the Personal Data Act, Connecticut General Statutes, Section 4-190 (9).

(B) “Other Data” means any other information which because of name, identifying number, mark or description can be readily associated with a particular person.

(C) “Agency” means Psychiatric Security Review Board.

(2) Terms defined in Connecticut General Statutes, Section 4-190 shall apply to Section 17a-581-59 of these regulations.

(b) General Nature and Purpose of Personal Data Systems.

(1) The Psychiatric Security Review Board maintains the following personal data systems:

(A) Acquittee records.

(i) Acquittee records are maintained under the authority of Connecticut General Statutes, Sections 17a-581 through 17a-602.

(ii) Acquittee records are maintained for the purpose of carrying out the agency responsibilities pursuant to Connecticut General Statutes, Sections 17a-580 through 17a-602.

(iii) Records are maintained in both automated and manual form.

(iv) All records are maintained at the office of the Psychiatric Security Review Board, 86 Cedar Street, Hartford, CT 06106.

(v) The Executive Director of the agency is the official responsible for maintaining the records.

(vi) The following categories of personal data may be maintained in acquittee records: medical, psychiatric, psychological, emotional condition and history, criminal history, family and personal history, finances, education and work history, court files.

(vii) The following categories of other data may be maintained in acquittee records:

(aa) Transcripts of Psychiatric Security Review Board hearings

(bb) Memoranda of Board Decisions

(cc) Counsel of record

(dd) Addresses

(viii) Routine sources of information retained in acquittee records are: the Department of Mental Health, hospitals, courts, the Department of Public Safety, State’s Attorneys, Public Defenders.

(ix) Persons on whom records are maintained are acquirtees as defined by Connecticut General Statutes, Sections 17a-580 and 17a-602.

(x) All the requests for personal data shall be directed to the Executive Director of the agency at 90 Washington Street, Hartford, CT 06106.

(xi) Acquittee records are routinely used for the purposes of evidence at board hearings, to make decisions regarding the placement of acquirtees, and to monitor acquirtees.

Users include the employees of the Psychiatric Security Review Board, the board members, the counsel for the acquittee, State’s Attorney or employees of that office and others authorized by law.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-581-59

Psychiatric Security Review Board

(xii) Acquittee records are retained in accordance with a records retention schedule adopted pursuant to Connecticut General Statutes, Section 11-8a, a copy of which is available from the Psychiatric Security Review Board office during normal business hours.

(B) Victim Notification Records.

(i) Victim notification records are maintained under the authority of Connecticut General Statutes, Section 17a-601.

(ii) Victim records are maintained for the purpose of carrying out agency responsibilities pursuant to Connecticut General Statutes, Section 17a-601.

(iii) Records are maintained in both automated and manual form.

(iv) All records are maintained at the office of the Psychiatric Security Review Board, 86 Cedar Street, Hartford, Connecticut 06106.

(v) The Executive Director of the agency is the official responsible for maintaining the records.

(vi) The following categories of personal data may be maintained in victim notification records: medical records, police investigation records.

(vii) The following categories of other data may be maintained in victim notification records:

(aa) Addresses

(bb) Phone numbers.

(viii) Routine sources of information retained in victim notification records are the Superior Court and State's Attorneys.

(ix) Persons on whom records are maintained are victims as defined by Connecticut General Statutes, Section 17a-601.

(x) All requests for personal data shall be directed to the Executive Director of the agency at 90 Washington Street, Hartford, CT 06106.

(xi) Victim notification records are routinely used for the purpose of notifying victims of hearings, board actions and the escape of acquittees. The users of the victim notification records are the employees of the Psychiatric Security Review Board and other persons authorized by law.

(xii) Victim notification records are retained in accordance with a records retention schedule adopted pursuant to Connecticut General Statutes, Section 11-8a, a copy of which is available from the Psychiatric Security Review office during normal business hours.

(C) Maintenance of Personal Data.

(i) Personal data shall not be maintained unless relevant and necessary to accomplish the lawful purposes of the agency. Where the agency finds irrelevant or unnecessary public records in its possession, the agency shall dispose of the records in accordance with its records retention schedule and with the approval of the Public Records Administrator as per Connecticut General Statutes, Section 11-8a, or, if the records are not disposable under the records retention schedule, request permission from the Public Records Administrator to dispose of the records under Connecticut General Statutes, Section 11-8a.

(ii) The agency shall collect and maintain all records with accurateness and

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Psychiatric Security Review Board

§17a-581-59

completeness.

(iii) Insofar as it is consistent with the needs and mission of the agency, the agency, wherever practical, shall collect personal data directly from the person to whom a record pertains.

(iv) Agency employees involved in the operations of the agency's personal data systems will be informed of the provisions of:

(aa) The Personal Data Act, Connecticut General Statutes, Sections 4-190 through 4-197;

(bb) The agency's regulations adopted pursuant to Connecticut General Statutes, Section 4-196;

(cc) The Freedom of Information Act, Connecticut General Statutes, Sections 1-7 through 1-21k; and

(dd) Any other state or federal statute or regulations concerning maintenance or disclosure of personal data kept by the agency.

(v) All agency employees shall take reasonable precautions to protect personal data under their custody from the danger of fire, theft, flood, natural disaster and other physical threats.

(vi) The agency shall incorporate by reference the provisions of the Personal Data Act, Connecticut General Statutes, Sections 4-190 through 4-197, and regulations adopted thereunder in all contracts, agreements or licenses for the operation of personal data system or for research, evaluation and reporting of personal data for the agency or on its behalf.

(vii) The agency shall have an independent obligation to insure that personal data requested from any other agency are properly maintained.

(viii) Only agency employees or their lawful representative who have a specific need to review personal data records for lawful purposes of the agency shall be entitled to access to such records under the Personal Data Act, Connecticut General Statutes, Section 4-190 through 4-197.

(ix) The agency shall keep a written up-to-date list of individuals entitled to access to each of the agency's personal data systems.

(x) The agency shall insure against unnecessary duplication of personal data records. In the event it is necessary to send personal data records through interdepartmental mail, such records will be sent in envelopes or boxes sealed and marked "confidential."

(xi) The agency shall insure that all records in manual personal data systems are kept under lock and key and, to the greatest extent practical, are kept in controlled access areas.

(xii) With respect to automated personal data systems:

(aa) The agency shall, to the greatest extent practical, locate automated equipment and records in a limited access area.

(bb) To the greatest extent practical, the agency shall require visitors to such area to sign a visitor's log and permit access to said area on a bona-fide need-to-enter basis only.

(cc) The agency, to the greatest extent practical, shall insure that regular access to automated equipment is limited to the operations personnel.

(dd) The agency shall utilize appropriate access control mechanisms to prevent disclosure of personal data to unauthorized individuals.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-581-59

Psychiatric Security Review Board

(D) Disclosure of Personal Data.

(i) Within four business days of receipt of a written request therefore, the agency shall mail or deliver to the requesting individual a written response in plain language, informing him/her as to whether or not the agency maintains personal data on that individual, the category and location of the personal data maintained on that individual and procedures available to review the records.

(ii) Except where nondisclosure is required or specifically permitted by law, the agency shall disclose to any person upon written request all personal data concerning that individual which is maintained by the agency. The procedures for disclosure shall be in accordance with Connecticut General Statutes, Sections 1-15 through 1-21k. If the personal data is maintained in coded form, the agency shall transcribe the data into a commonly understandable form before the disclosure.

(iii) The agency is responsible for verifying the identity of any person requesting access to his/her own personal data.

(iv) The agency is responsible for ensuring that disclosure made pursuant to the Personal Data Act, Connecticut General Statutes, Sections 4-190 through 4-197, is conducted so as not to disclose any personal data concerning persons other than the person requesting the information.

(v) The agency may refuse to disclose to a person medical, psychiatric or psychological data on the person if the agency determines that such disclosure would be detrimental to that person.

(vi) In any case where the agency refuses disclosure, it shall advise that person of his/her right to seek judicial relief pursuant to the Personal Data Act, Connecticut General Statutes, Sections 4-190 through 4-197.

(vii) If the agency refuses to disclose medical, psychiatric or psychological data to a person based on its determination that disclosure would be detrimental to that person and nondisclosure is not mandated by law, the agency shall, at the written request of such person, permit a qualified medical doctor to review the personal data contained in the person's record to determine if the personal data should be disclosed. If disclosure is recommended by the person's medical doctor, the agency shall disclose the personal data to such person; if nondisclosure is recommended by such person's medical doctor, the agency shall not disclose the personal data and shall inform such person of the judicial relief provided under the Personal Data Act, Connecticut General Statutes, Sections 4-190 through 4-197.

(viii) The agency shall maintain a complete log of each person, individual, agency or organization who has obtained access or to whom disclosure has been made of personal data, together with the reason for each such disclosure or access. This log shall be maintained for not less than five years from the date of such disclosure or access or for the life of the personal data record, whichever is longer.

(ix) When an individual is asked to supply personal data to the agency, the agency shall disclose to that individual, upon request:

(aa) The name of the agency and division within the agency requesting the personal data;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Psychiatric Security Review Board

§17a-581-59

(bb) The legal authority under which the agency is empowered to collect and maintain the personal data;

(cc) The individual's rights pertaining to such records under the Personal Data Act, Connecticut General Statutes, Sections 4-190 through 4-197, and agency regulations;

(dd) The known consequences arising from supplying or refusing to supply the requested personal data; and

(ee) The proposed use to be made of the requested personal data.

(E) Contesting the Content of Personal Data Records.

(i) Any person who believes that the agency is maintaining inaccurate, incomplete or irrelevant personal data concerning him/her may file a written request with the agency for correction of said Personal data.

(ii) Within 30 days of receipt of such request, the agency shall give written notice to that person that it will make the requested correction, or if the correction is not to be made as submitted, the agency shall state the reason for its denial of such request and notify the person of his/her right to add his/her own statement to his/her personal data records.

(iii) Following such denial by the agency, the person requesting such correction shall be permitted to add a statement to his or her personal data record setting forth what that person believes to be an accurate, complete and relevant version of the personal data in question. Such statements shall become a permanent part of the agency's personal data system and shall be disclosed to any individual, agency or organization to which the disputed personal data is disclosed.

(Effective July 2, 1993)

Regulations of Connecticut State Agencies
TITLE 17a. Social & Human Services & Resources

Agency
Alcohol and Drug Abuse Commission
Subject
Maintenance and Disclosure of Personal Data
Inclusive Sections
§§ 17a-636-1—17a-636-62

CONTENTS

Sec. 17a-636-1.	Definitions
Sec. 17a-636-2.	General nature and purpose of personal data
Sec. 17a-636-3.	Maintenance of personal data
Sec. 17a-636-4.	Disclosure of personal data
Sec. 17a-636-5.	Contesting the content of personal data records

Description of Agency and Rules of Practice

Sec. 17a-636-6—17a-636-10.	Reserved
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Description of Organization

Sec. 17a-636-11.	Description
Sec. 17a-636-12.	Public information
Sec. 17a-636-13—17a-636-20.	Reserved

Rules of Practice

ARTICLE ONE

General Provisions

Part 1

Scope of Rules

Sec. 17a-636-21.	Procedure governed
------------------	--------------------

Part 2

Construction of the Rules

Sec. 17a-636-22.	Definitions
Sec. 17a-636-23.	Construction and amendment

Part 3

Formal Requirements

- Sec. 17a-636-24. Principal office
- Sec. 17a-636-25. Date of filing
- Sec. 17a-636-26. Extensions of time
- Sec. 17a-636-27. Signatures
- Sec. 17a-636-28. Identification of communications
- Sec. 17a-636-29. Copies of documents and other papers filed in proceedings
- Sec. 17a-636-30. Effect of filing, public records
- Sec. 17a-636-31. Service

ARTICLE TWO

Hearing Procedures for Contested Cases

Part 1

Hearing – General Provisions

- Sec. 17a-636-32. Purpose of hearing
- Sec. 17a-636-33. Designation of presiding officer
- Sec. 17a-636-34. Commencement of contested case
- Sec. 17a-636-35. Place of hearings
- Sec. 17a-636-36. Notice of hearing

Part 2

Parties, Intervention and Participation

- Sec. 17a-636-37. Designation of parties
- Sec. 17a-636-38. Designation of an intervenor
- Sec. 17a-636-39. Participation by persons admitted to participate as inter-venors
- Sec. 17a-636-40. Procedure concerning added parties
- Sec. 17a-636-41. Status of party and of intervenor as party in interest
- Sec. 17a-636-42. Notice of appearance

Part 3

Hearings – Procedure

- Sec. 17a-636-43. General provisions
- Sec. 17a-636-44. Witnesses, subpoenas, and production of records
- Sec. 17a-636-45. Rights of parties at hearings

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

- Sec. 17a-636-46. Examination of witnesses
- Sec. 17a-636-47. Rules of evidence
- Sec. 17a-636-48. Filing of added exhibits and testimony
- Sec. 17a-636-49. Ex parte communication
- Sec. 17a-636-50. Uncontested disposition of case
- Sec. 17a-636-51. Record in a contested case
- Sec. 17a-636-52. Transcription
- Sec. 17a-636-53. Final decision in a contested case
- Sec. 17a-636-54. Reconsideration or modification of final decision
- Sec. 17a-636-55. Indexing of written orders and final decisions

ARTICLE THREE

Regulations

- Sec. 17a-636-56. General rules
- Sec. 17a-636-57. Form of petition

ARTICLE FOUR

Declaratory Rulings and Rulemaking

- Sec. 17a-636-58. General rules
- Sec. 17a-636-59. Form of petition for declaratory rulings
- Sec. 17a-636-60. Procedure after petition for declaratory ruling filed

ARTICLE FIVE

Miscellaneous Provisions

- Sec. 17a-636-61. Investigative hearings
- Sec. 17a-636-62. Procedures

Maintenance and Disclosure of Personal Data

Sec. 17a-636-1. Definitions

(a) The following definitions shall apply to sections 17a-636-1 to 17a-636-5, inclusive:

(1) “Category of Personal Data” means the classifications of personal information set forth in the Personal Data Act, Connecticut General Statutes section 4-190 (9).

(2) “Commission” means the Connecticut Alcohol and Drug Abuse Commission.

(3) “Other Data” means any information which because of name, identification number, mark or description can be readily associated with a particular person.

(4) “Patient/Client” means any individual who is receiving treatment or services or who has received treatment or services in any facility operated by the Connecticut Alcohol and Drug Abuse Commission either directly or under contract, or who has requested information regarding treatment or services. State employees receiving services from the Employee Assistance Program are considered clients of the Commission.

(b) Definitions contained in Connecticut General Statutes section 4-190 shall apply to sections 17a-636-1 to 17a-636-5, inclusive.

(Effective March 4, 1991)

Sec. 17a-636-2. General nature and purpose of personal data

The Connecticut Alcohol and Drug Abuse Commission maintains the following personal data systems:

(a) **Personnel Records**

(1) Personnel records for central office employees of the Commission are maintained at 999 Asylum Avenue, Hartford, Connecticut.

(2) Personnel records for Blue Hills Hospital employees are located at Blue Hills Hospital, 51 Coventry Street, Hartford, Connecticut.

(3) Personnel records for Eugene T. Boneski Chemical Treatment Center employees are maintained at the Eugene T. Boneski Chemical Treatment Center, Route 12, Norwich, Connecticut.

(4) Personnel records for Dutcher Chemical Dependence Treatment Center employees are maintained at the Dutcher Chemical Dependence Treatment Center, 1 Holmes Drive, Middletown, Connecticut.

(5) Personnel records for Berkshire Woods Chemical Dependence Treatment Center employees are maintained at the Berkshire Woods Chemical Dependence Treatment Center, Mile Hill Road, Newtown, Connecticut.

(6) A system directory of personnel records is located in the Office of the Personnel Administrator, 999 Asylum Avenue, Hartford, Connecticut.

(7) Personnel records are maintained in automated and manual form.

(8) The purpose of the system is to provide data necessary for personnel/payroll management activities and/or as required by Federal and State law.

(9) Personnel records are the responsibility of the Personnel Officer in each of the Commission’s treatment facilities and the Personnel Officer of the central office

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-636-2

Alcohol and Drug Abuse Commission

respectively. Personnel systems are overseen by the Personnel Administrator, 999 Asylum Avenue, Hartford, Connecticut. All requests for disclosure or amendment of these records should be directed to the Personnel Administrator, 999 Asylum Avenue, Hartford, Connecticut.

(10) Routine sources of information contained in personnel records include the employee, previous employers of the employee, references provided by the applicant, the employee's supervisor, the Comptroller's Office and Department of Administrative Services, Division of Personnel.

(11) Categories of personal data maintained in personnel files may include, but are not necessarily limited to:

(A) payroll information such as longevity payments, designation of compensation plan, rate of pay, salary, history, deductions;

(B) employment information such as starting date, title of position, employee transfer and termination information, performance appraisal, and records of disciplinary action;

(C) educational credentials;

(D) medical or emotional condition or history; and

(E) reputation and character.

(12) Categories of other data include name, address, telephone number, employee number, social security number, date of birth, designation of status as veteran, racial/ethnic designation, handicapped designation as appropriate, and general correspondence related to personnel matters such as requests for employment verification.

(13) Personnel records are used by the personnel department and other administrative/supervisory staff as required to record and document the performance of personnel and payroll management activities within the Commission.

(14) Personnel records are maintained on all classified and unclassified employees of the Commission and on applicants for employment.

(15) Personal data in personnel records are collected, maintained and used under the authority of the State Personnel Act, Connecticut General Statutes section 5-193 et seq.

(b) Payroll Records

(1) Payroll records for all Commission employees, except those employed at Blue Hills Hospital, are maintained in the Fiscal Office of the Commission located at 999 Asylum Avenue, Hartford, Connecticut. These records are the responsibility of the Chief Fiscal Officer of the Commission. All requests for disclosure or amendment of the records in the system, except those of Blue Hills Hospital, should be directed to the Chief Administrator of Fiscal Services of the Commission.

(2) Payroll records for employees at Blue Hills Hospital are maintained in the Business Office, Blue Hills Hospital, Hartford, Conn. These records are the responsibility of the Fiscal Administrative Manager of Blue Hills Hospital. All requests for the disclosure or amendment of records in the system for Blue Hills Hospital employees should be directed to the Fiscal Administration Manager of Blue Hills Hospital.

(3) Payroll records are maintained in automated and manual form.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Alcohol and Drug Abuse Commission

§17a-636-2

(4) The purpose of the system is to facilitate the Commission's activities regarding payroll, budgeting, cost accounting, personnel planning and compliance with State and Federal reporting requirements.

(5) Routine sources of information in payroll records may include the employee, the employee's supervisor, attendance sheets, contracts, the Comptroller's Office, Department of Administrative Services, Division of Personnel and Labor Relations, and insurance carriers.

(6) Categories of personal data maintained in payroll files may include:

(A) financial information such as salary records, longevity payments, compensation plan, rate of pay, deductions, salary history and garnishment of wages and payments related to garnishment; and

(B) employment information such as starting date, job classification and bargaining unit, attendance information, vacation, sick and personal leave days accrued and used, title of position, and contracts.

(7) Categories of other data may include name, address, social security number, date of birth, telephone number, marital status, insurance and retirement information, military service, correspondence regarding payroll and benefits matters.

(8) Records are maintained for all current and former Commission employees.

(A) Payroll records are used by the Fiscal Department staff:

(B) to plan payroll and calculate budgets;

(C) to process promotions, reclassifications, transfers to other state agencies and retirements;

(D) to maintain personnel documents required by, but not necessarily limited to the following entities: the Comptroller's Office and Department of Administrative Services, Division of Personnel, group insurance carriers.

(9) Payroll data are collected, maintained and used under authority of the State Personnel Act, Connecticut General Statutes section 5-193 et seq.

(c) Patient/Client Records

(1) All patient/client records, except employee assistance program client records, are located in the facility providing treatment or services to the particular individual, including Blue Hills Hospital, 51 Coventry Street, Hartford; Eugene T. Boneski Chemical Dependence Treatment Center, Route 12, Norwich; Dutcher Chemical Dependence Treatment Center, 1 Holmes Drive, Middletown; Berkshire Woods Chemical Dependence Treatment Center, Mile Hill Road, Newtown; or at a records storage facility which shall be identified in a system directory which lists the storage facility site locations. Such system directory shall be located at 999 Asylum Avenue, Hartford, in the custody of the Chief Fiscal Officer.

(2) Records are maintained in automated and manual form.

(3) The purpose of this system is to document the diagnosis, treatment planning, treatment process and response of the client.

(4) Patient/client records are the responsibility of the Superintendent, or his designee, of the facility that is providing or has provided treatment to the patient/client. All requests

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-636-2

Alcohol and Drug Abuse Commission

for the disclosure or amendment of the records in the system should be directed to the Superintendent, or his designee.

(5) Routine sources of data may include interviews, examinations, observations and/or evaluations of the patient/client, information provided by family members, public and private health care providers, social workers, other professionals and other state agencies.

(6) Categories of personal data maintained in patient/client records may include, but are not necessarily limited to:

- (A) medical condition and history which includes the use of alcohol or other drugs;
- (B) psychiatric/psychological condition and history;
- (C) family and personal relationships;
- (D) legal status, including relevant legal documents;
- (E) employment information such as employment status, education, occupation, and employer and income;
- (F) treatment and discharge information, including treatment plans, physicians, orders, laboratory test results, progress notes, discharge plan, nature of the discharge, and referrals.

(7) Categories of other data include name, address, telephone number, date of birth, sex, racial/ethnic designation, social security number, and insurance information such as primary and secondary source, and type of insurance;

(8) Records are used by the individual hospital staff to reflect treatment planning and services provided to or on behalf of patients/clients and their families.

(9) Personal data in patient/client records are collected, maintained and used under authority of section 17-155k et seq of the Connecticut General Statutes and 42 C.F.R. (Code of Federal Regulations) Part 2.

(d) Employee Assistance Program (EAP)

(1) All EAP client records are located in the Employee Assistance Program, 999 Asylum Avenue, Hartford, Connecticut.

(2) Records are maintained in automated and manual form.

(3) The purpose of this system is to document the diagnosis, treatment planning, treatment process and response of the EAP client.

(4) EAP client records are the responsibility of the attending EAP counselor. All requests for the disclosure or amendment of the records in the system should be directed to the EAP supervisor at 999 Asylum Avenue, Hartford, Connecticut.

(5) Routine sources of data may include interviews, examinations, observations and/or evaluations of the patient/client, information provided by family members, public and private health care providers, social workers, other professionals and other state agencies.

(6) Categories of personal data maintained in EAP client records may include, but are not necessarily limited to:

- (A) job performance information such as a description of performance deficiencies and presenting problems;
- (B) salary, length of employment, place of employment and job description;
- (C) source of referral, such as self, employer/supervisor, labor union or other;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Alcohol and Drug Abuse Commission

§17a-636-3

- (D) medical and emotional condition or history;
- (E) family or personal relationships; and
- (F) treatment referrals.

(7) Categories of other data include name, address, telephone number, date of birth, racial/ethnic designation, social security number, and health insurance information.

(8) Records are used by the EAP staff to reflect treatment planning and services provided to or on behalf of EAP clients and their families.

(9) Personal data in EAP client records are collected, maintained and used under authority of section 17-155k et seq of the Connecticut General Statutes and 42 C.F.R. (Code of Federal Regulations) Part 2.

(Effective March 4, 1991)

Sec. 17a-636-3. Maintenance of personal data

(a) Personal data shall not be maintained unless relevant and necessary to accomplish the lawful purposes of the Commission. Where the Commission finds irrelevant or unnecessary public records in its possession, the Commission shall dispose of the records in accordance with its record retention schedule and with the approval of the Public Records Administrator as per Connecticut General Statutes section 11-8a, or, if the records are not disposable under the records retention schedule, request permission from the Public Records Administrator to dispose of the records under Connecticut General Statutes section 11-8a.

(b) The Commission shall collect and maintain all records with accurateness and completeness.

(c) Insofar as it is consistent with the needs and mission of the Commission, the Commission shall, whenever practical, collect personal data directly from the person to whom a record pertains.

(d) Commission employees involved in the operations of the Commission's personal data systems shall be informed of the provisions of: (i) the Personal Data Act; (ii) the Commission's regulations adopted pursuant to Connecticut General Statutes section 4-196; (iii) the Freedom of Information Act and (iv) any other state or federal statute or regulations concerning maintenance or disclosure of personal data kept by the Commission.

(e) All Commission employees shall take reasonable precautions to protect personal data under their custody from the danger of fire, theft, flood, natural disasters and other physical threats.

(f) The Commission shall incorporate by reference the provisions of the Personal Data Act and regulations promulgated thereunder in all contracts, agreements or licenses for operation of a personal data system or for research, evaluation and reporting of personal data for the Commission or on its behalf.

(g) The Commission shall insure that personal data requested and received from any other agency is maintained in conformance with Connecticut General Statutes section 4-190, et seq.

(h) Only Commission employees who have a specific need to review personal data

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-636-4

Alcohol and Drug Abuse Commission

records for lawful purposes of the Commission shall be entitled to access to such records under the Personal Data Act.

(i) The Commission shall maintain a written up-to-date list of individuals entitled to access to each of the Commission's personal data systems.

(j) The Commission shall insure against unnecessary duplication of personal data records. In the event it is necessary to send personal data records through interdepartmental mail, such records shall be sent in envelopes or boxes sealed and marked "confidential."

(k) The Commission shall insure that all records in manual personal data systems are kept under lock and key and, to the greatest extent practical, are kept in controlled access areas.

(l) With respect to automated personal data systems, the Commission shall:

(1) to the greatest extent practical, locate automated equipment and records in a limited access area;

(2) to the greatest extent practical, require visitors to such area to sign a visitor's log and permit access to said area on a bona-fide need-to-enter basis only;

(3) to the greatest extent practical, insure that regular access to automated equipment is limited to operations personnel;

(4) utilize appropriate access control mechanisms to prevent disclosure of personal data to unauthorized individuals.

(m) Records for each personal data system are maintained in accordance with schedules prepared by the Connecticut State Library, Department of Public Records Administration and records retention schedule as approved by the Public Records Administrator as authorized by section 11-8a of the Connecticut General Statutes. Retention schedules shall be maintained on file at the Central Office of the Commission and may be examined during normal business hours.

(n) When an individual is asked by the Commission to supply personal data about him/herself, the Commission, upon request, shall disclose to that individual:

(1) the name of the division within the Commission requesting the personal data;

(2) the legal authority under which the Commission is empowered to collect and maintain the personal data;

(3) the individual's rights pertaining to such records under the Personal Data Act and Commission regulations;

(4) the known consequences arising from supplying or refusing to supply the requested personal data;

(5) the proposed use to be made of the requested personal data.

(Effective March 4, 1991)

Sec. 17a-636-4. Disclosure of personal data

(a) The Commission shall not disclose to the public personal records of a confidential or private nature except as required under state and federal law.

(b) Within four business days of receipt of a written request therefore, the Commission

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Alcohol and Drug Abuse Commission

§17a-636-5

shall mail or deliver to the requesting individual a written response in plain language, informing him/her as to whether or not the Commission maintains personal data on that individual, the category and location of the personal data maintained on that individual and procedures available to review the records.

(c) Except where non-disclosure is required or specifically permitted by law, the Commission shall disclose to any person upon written request all personal data concerning that individual which is maintained by the Commission. The procedures for disclosure shall be in accordance with Connecticut General Statutes sections 1-15 through 1-21k, inclusive. If the personal data is maintained in coded form, the Commission shall transcribe the data into commonly understandable form before disclosure.

(d) The Commission is responsible for verifying the identity of any person requesting access to his/her own personal data.

(e) The Commission is responsible for ensuring that disclosure made pursuant to the Personal Data Act is conducted so as not to disclose any personal data concerning persons other than the person requesting the information.

(f) The Commission may refuse to disclose to a person medical, psychiatric or psychological data on that person if the Commission determines such disclosure would be detrimental to that person.

(g) In any case where the Commission refuses disclosure, it shall advise that person of his/her right to seek judicial relief pursuant to the Personal Data Act.

(h) If the Commission refuses to disclose medical, psychiatric or psychological data to a person based on its determination that disclosure would be detrimental to that person and nondisclosure is not mandated by law, the Commission shall, at the written request of such person, permit a qualified medical doctor to review the personal data contained in the person's record to determine if the personal data should be disclosed. If disclosure is recommended by such person's medical doctor, the Commission shall disclose the personal data to such person; if nondisclosure is recommended by such person's medical doctor, the Commission shall inform such person of the judicial relief provided under the Personal Data Act.

(i) The Commission shall maintain a complete log of each person, individual, agency or organization who has obtained access or to whom disclosure has been made of personal data under the Personal Data Act, together with the reason for each such disclosure or access. This log must be maintained for not less than five years from the date of such disclosure or access or for the life of the personal data record, whichever is longer.

(Effective March 4, 1991)

Sec. 17a-636-5. Contesting the content of personal data records

(a) Any person who believes that the Commission is maintaining inaccurate, incomplete or irrelevant personal data concerning him/her may file a written request with the official of the Commission who is responsible for maintaining such records for correction of said personal data.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-636-6—17a-636-10

Alcohol and Drug Abuse Commission

(b) Within thirty (30) days of receipt of such request, the official of the Commission who is responsible for maintaining the records shall give written notice to that person that the Commission will make the requested correction, or if the correction is not to be made as submitted, the official of the Commission shall state the reason for the Commission's denial of such request and notify the person of his/her right to add his/her own statement to his/her personal data records.

(c) Following such denial by the Commission, the person requesting such correction shall be permitted to add a statement to his/her personal data records setting forth what that person believes to be an accurate, complete and relevant version of the personal data in question. Such statements shall become a permanent part of the Commission's personal data system and shall be disclosed to any individual, agency or organization to which the disputed data is disclosed.

(Effective March 4, 1991)

Description of Agency and Rules of Practice

Sec. 17a-636-6—17a-636-10. Reserved

Description of Organization

Sec. 17a-636-11. Description

(a) The Alcohol and Drug Abuse Commission is the designated Single State Agency for alcohol and drug abuse problems in Connecticut. The Commission operates under the authority of Connecticut General Statutes sec. 17a-634 and is a part of the Department of Mental Health for administrative purposes only.

(b) The Executive Director is responsible for organizing and directing the Commission staff in carrying out the duties assigned to and by the Commission. He is assisted by a Deputy Director.

(c) At the direction of the Commission, the Executive Director and staff fulfill the following major functions:

(1) planning and developing a comprehensive State Plan for dealing with alcohol and drug abuse;

(2) awarding state and federal funds to programs which provide prevention and treatment services and monitoring the use of those funds;

(3) overseeing the performance of programs funded by the agency and providing technical assistance to such programs to improve service delivery;

(4) identifying new service needs and developing programs to meet them;

(5) coordinating service delivery with other state and federal agencies;

(6) coordinating state-wide drug and alcohol abuse prevention activities and assisting in developing and implementing prevention programs;

(7) planning, developing, implementing and coordinating a comprehensive statewide training system for personnel in alcohol and drug programs and related services;

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Alcohol and Drug Abuse Commission

§17a-636-22

(8) developing employee assistance and alcoholism programs and working with state agencies and business and industry to provide counseling services to employees;

(9) collecting, tabulating, analyzing and distributing data related to alcohol and drug abuse;

(10) establishing standards for, contracting with, and monitoring programs providing services to participants in the Pretrial Alcohol Education System.

(Effective June 1, 1992)

Sec. 17a-636-12. Public information

(a) The public may obtain information or make submissions or requests by writing to the Commission office at 999 Asylum Avenue, Hartford, Connecticut 06105.

(b) A compilation of all regulations, written policy statements, rulings, forms and instructions are available at the Commission office.

(Effective June 1, 1992)

Sec. 17a-636-13—17a-636-20. Reserved

Rules of Practice

ARTICLE ONE

General Provisions

Part 1

Scope of Rules

Sec. 17a-636-21. Procedure governed

These regulations define the rules of practice before the Alcohol and Drug Abuse Commission and set forth the nature and requirements of all formal and informal procedures available under the applicable laws of the state of Connecticut.

(Effective June 1, 1992)

Part 2

Construction of the Rules

Sec. 17a-636-22. Definitions

As used in these regulations

(a) “Commission” means the Connecticut Alcohol and Drug Abuse Commission.

(b) “Contested case” means a proceeding in which the legal rights, duties, privileges of a party are required by statute to be decided by the Commission after an opportunity for a hearing or in which a hearing is in fact held.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-636-23

Alcohol and Drug Abuse Commission

(c) “Executive Director” means the executive director of the Connecticut Alcohol and Drug Abuse Commission or his designee.

(d) “Person” means any individual, partnership, corporation, association, governmental subdivision, or public or private organization.

(e) “Petition” means a formal, written request for the Commission to adopt regulations or for a declaratory ruling.

(f) “Presiding officer” means any person designated by the Commission to preside at a hearing.

(g) “Respondent” means any person against whom a complaint has been brought which asserts a violation of a statute or regulation properly coming under the jurisdiction of the Commission.

(Effective June 1, 1992)

Sec. 17a-636-23. Construction and amendment

These rules shall be construed liberally by the Commission to secure a just, speedy and inexpensive determination of the issues presented. Amendments and additions to these rules may be adopted by the Commission by being duly promulgated as regulations in accordance with Chapter 54 of the General Statutes.

(Effective June 1, 1992)

Part 3

Formal Requirements

Sec. 17a-636-24. Principal office

The principal office of the Commission is located at 999 Asylum Avenue, Hartford, Conn. The office is open from 8:30 a.m. to 4:30 p.m. each weekday except Saturdays, Sundays and holidays.

(Effective June 1, 1992)

Sec. 17a-636-25. Date of filing

All orders, decisions, findings of fact, correspondence, motions, petitions, applications and any other document governed by these rules shall be deemed to have been filed or received on the date on which they are issued or received by the Commission at its principal office, or the date postmarked if sent by certified mail.

(Effective June 1, 1992)

Sec. 17a-636-26. Extensions of time

At the discretion of the Commission, for good cause shown, any time limit prescribed or allowed by these rules may be extended. All requests for extension shall be made before

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Alcohol and Drug Abuse Commission

§17a-636-31

the expiration of the period originally prescribed or as previously extended.

(Effective June 1, 1992)

Sec. 17a-636-27. Signatures

Every request, application, notice, motion, petition, brief and memorandum addressed to the presiding officer, the executive director or Commission shall be signed by the person filing.

(Effective June 1, 1992)

Sec. 17a-636-28. Identification of communications

Communications should embrace only one matter and should contain the name and address of the sender. When the subject matter pertains to a proceeding pending before the Commission, sufficient information must be provided to enable identification of the proceeding in question. Failure to supply such information shall result in rejection and return of the communication.

(Effective June 1, 1992)

Sec. 17a-636-29. Copies of documents and other papers filed in proceedings

In addition to the original, there shall also be filed three (3) copies for the use of the Commission, unless the filing of a greater or lesser number of such copies is directed by the Commission or presiding officer.

(Effective June 1, 1992)

Sec. 17a-636-30. Effect of filing, public records

(a) The filing with the Commission of any complaint, petition or other request of any nature whatsoever shall not relieve any person of the obligation to comply with any statute of the state of Connecticut or any regulation or order of the Commission.

(b) Any request, petition, or application filed for the purpose of securing from the Commission any final decision or other action authorized by law shall be part of the public records of the Commission as defined by statute.

(Effective June 1, 1992)

Sec. 17a-636-31. Service

(a) **General rule.** Service of all documents and other papers filed in all proceedings, including but not limited to motions, petitions, applications, notices, briefs, and exhibits shall be by personal delivery or by first class mail, except as hereinafter provided.

(b) **On whom served.** All documents and other papers shall be served by the person filing the same on every party in the proceeding and all such additional persons as the Commission shall direct.

(c) **Service by the Commission.** A copy of any document or other paper served at the direction of the Commission or presiding officer, showing the addresses to whom the

document or other paper was mailed shall be placed in the Commission's files and shall be prima facie evidence of such service and the date thereof.

(d) **Service as written notice.** Written notice of all orders, decisions or authorizations, issued by the Commission shall be given to the party or parties affected thereby and to such other person as the Commission or presiding officer may deem appropriate by personal service upon such persons or by first class mail, as the Commission or presiding officer determines.

(Effective June 1, 1992)

ARTICLE TWO

Hearing Procedures for Contested Cases

Part 1

Hearing – General Provisions

Sec. 17a-636-32. Purpose of hearing

The purpose of the hearing in a contested case shall be to provide to all parties an opportunity to present evidence and argument on all issues to be considered by the agency.

(Effective June 1, 1992)

Sec. 17a-636-33. Designation of presiding officer

The Commission may in its discretion designate a sole presiding officer or a hearing panel for the purpose of conducting the hearing on the complaint as provided herein. No individual who has carried out the function of an investigator in a contested case may serve as the presiding officer or a hearing officer in that case.

(Effective June 1, 1992)

Sec. 17a-636-34. Commencement of contested case

When a hearing is required by law as to any person, the contested case shall commence on the date of filing of the request, application or petition for purposes of C.G.S. secs. 4-174 to 4-182.

(Effective June 1, 1992)

Sec. 17a-636-35. Place of hearings

All hearings shall be at the principal office, unless a different place is designated by statute or by the direction of the Commission or the presiding officer.

(Effective June 1, 1992)

Sec. 17a-636-36. Notice of hearing

(a) **Person notified.** The Commission shall give written notice of a hearing in any

pending matter to all persons designated as parties, to all persons who have been permitted to participate as intervenors, to all persons otherwise required by statute to be notified, and to such other persons as have filed with the Commission their written request for notice of hearing in the particular matter. Written notice shall be given to such additional persons as the Commission or presiding officer shall direct. The Commission or presiding officer may give such public notice of the hearing as the Commission or presiding officer shall deem appropriate.

(b) **Contents of notice.** Notice of a hearing shall include but not be limited to: (1) a statement of the time, place and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and regulations involved; and (4) a short and plain statement of matters asserted. If the agency or party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

(Effective June 1, 1992)

Part 2

Parties, Intervention and Participation

Sec. 17a-636-37. Designation of parties

(a) **Designation as party.** The Commission or presiding officer will designate as parties those persons whose legal rights, duties or privileges are being determined in the contested case and any persons whose participation as a party is then deemed necessary to the proper disposition of such proceeding. All other persons proposing to be named or admitted as parties shall apply for such designation in the manner hereinafter described. No other person shall be or have standing as a party in the proceeding.

(b) **Filing of petition.** Any person that proposed to be admitted as a party to any proceeding shall file a written petition to the Commission or presiding officer and mail copies to all parties, at least 5 days before the date of the hearing. The five day requirement of this subsection may be waived by the Commission or the presiding officer at any time before or after commencement of the hearing on a showing of good cause.

(c) **Contents of petition.** The petition to be designated a party shall state: (1) the name and address of the petitioner; (2) facts that demonstrate that the petitioner's legal rights, duties or privileges shall be specifically affected by the agency's decision in the contested case; (3) the contention of the petitioner concerning the issue of the proceeding; (4) the relief sought by the petitioner; (5) the statutory or other authority therefor; (6) a summary of any evidence that the petitioner intends to present in the event the petition is granted; and (7) that the petitioner has mailed copies of this petition to all parties at least five days prior to the hearing.

(Effective June 1, 1992)

Sec. 17a-636-38. Designation of an intervenor

(a) **Request to participate.** Prior to the commencement of oral testimony in any hearing in a contested case, any person may request permission from the presiding officer to participate in the hearing as an intervenor. Such person shall file a written petition with the presiding officer and mail copies to all parties, at least 5 days before the date of the hearing. The five day requirement of this subsection may be waived by the Commission or presiding officer at any time before or after commencement of the hearing on a showing of good cause.

(b) **Contents of requests.** The request of the proposed intervenor shall: (1) state such person's name and address; (2) state the facts that demonstrate that the petitioner's participation is in the interest of justice and will not impair the orderly conduct of the proceedings; (3) describe the manner and extent to which that person proposes to participate in the hearing; (4) describe the manner in which such participation will furnish assistance to the presiding officer in resolving the issues of the case; and (5) summarize any evidence that person proposes to offer.

(c) **Designation as intervenor.** The presiding officer shall determine whether and to what extent the proposed intervenor may participate in the hearing, taking into account whether such participation will furnish assistance to the presiding officer in resolving the issues of the contested case. The presiding officer may grant the request to intervene if such officer finds that the proposed participation as an intervenor is in the interest of justice and will not impair the orderly conduct of the proceedings.

(Effective June 1, 1992)

Sec. 17a-636-39. Participation by persons admitted to participate as intervenors

The intervenor participation shall be limited to those particular issues, that stage of the proceeding, and that degree of involvement in the presentation of evidence and argument that the presiding officer shall permit at the time such intervention is allowed, and thereafter by express order upon further application by the said intervenor.

(Effective June 1, 1992)

Sec. 17a-636-40. Procedure concerning added parties

(a) **During hearing.** In addition to the designation of parties in the initial notice and in response to petition, the presiding officer may add parties at any time during the pendency of any hearing upon the presiding officer's finding that the legal rights, duties or privileges of any person will be determined by the decision of the presiding officer after the hearing or that the participation of such person as a party is necessary to the proper disposition of the contested case.

(b) **Notice of designation.** In the event that the presiding officer thus designates or admits any party after service of the initial notice of hearing in a contested case, the presiding officer shall give notice thereof to all parties theretofore designated or admitted. The form of the notice shall be a copy of the order of the presiding officer naming or admitting such

added party and a copy of any petition filed by such added party requesting designation as a party. Service of such notice shall be in the manner provided in these rules.

(Effective June 1, 1992)

Sec. 17a-636-41. Status of party and of intervenor as party in interest

(a) **Party as party in interest.** By the decision of a contested case the Commission shall dispose of the legal rights, duties and privileges of each party designated or admitted to participate as a party in the proceeding. Each such party is deemed to be a party in interest who may be aggrieved by any final decision, order or ruling of the Commission or presiding officer.

(b) **Status of a non-party that has been admitted to participate.** No grant of leave to participate as a non-party or as an intervenor shall be deemed to be a determination by the Commission or presiding officer that the person admitted to intervene is a party in interest who may be aggrieved by any final decision, order or ruling of the Commission or presiding officer unless such grant of leave explicitly so states.

(Effective June 1, 1992)

Sec. 17a-636-42. Notice of appearance

Each person, or their duly authorized representative, authorized to participate in a contested case as a party or as an intervenor shall file a written notice of appearance with the presiding officer.

(Effective June 1, 1992)

Part 3

Hearings – Procedure

Sec. 17a-636-43. General provisions

(a) **Order of presentation.** Order of presentation shall be determined by the presiding officer at the time of the hearing.

(b) **Limiting number of witnesses.** To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue in the course of any hearing.

(c) **Prefiling of testimony.** The presiding officer may require any party or other participant that proposes to offer substantive, technical or expert testimony to prefile such testimony in written form before or during the public hearing as the presiding officer shall direct. Such prefiled written testimony may subsequently be received in evidence.

(d) **Improper conduct.** The presiding officer may exclude from the hearing room or from further participation in the proceedings any person who engages in improper conduct during the hearing.

(Effective June 1, 1992)

Sec. 17a-636-44. Witnesses, subpoenas, and production of records

The presiding officer in a contested case shall have the power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation. The presiding officer may subpoena witnesses and may require the production of records, papers and documents pertinent to such inquiry. If any person disobeys such process or refuses to answer any pertinent question put to him by the presiding officer or to produce any records or papers pursuant thereto, the Commission may apply to the Superior Court for the Judicial District of Hartford-New Britain, or to any judge of said court, if the same is not in session, setting forth such disobedience to process or refusal to answer.

(Effective June 1, 1992)

Sec. 17a-636-45. Rights of parties at hearings

All parties to a hearing may call, examine and cross-examine witnesses and introduce papers, documents or other evidence into the record of the proceedings subject to the ruling of the Commission. All parties shall be afforded the opportunity to inspect and copy relevant and material records, papers, and documents not in the possession of the party, except as otherwise provided by federal law or any other provision of the General Statutes.

(Effective June 1, 1992)

Sec. 17a-636-46. Examination of witnesses

Witnesses at all hearings shall be examined orally under oath or affirmation and a record of the proceedings shall be made by the presiding officer.

(Effective June 1, 1992)

Sec. 17a-636-47. Rules of evidence

The following rules of evidence shall be followed in the admission of testimony and exhibits in all hearings held under Chapter 54, C.G.S.

(a) **General.** Any oral or documentary evidence may be received, but the presiding officer shall, as a matter of policy, exclude irrelevant, immaterial, or unduly repetitious evidence. The presiding officer shall give effect to the rules of privilege recognized by Connecticut where appropriate to the conduct of the hearing.

(b) **Written testimony.** The presiding officer may permit any party to offer testimony in written form. All prepared written testimony shall be received in evidence with the same force and effect as though it were stated orally by the witnesses, provided that each such witness shall be present at the hearing at which such prepared written testimony is offered, shall adopt such testimony under oath, and shall be made available for cross examination as directed by the presiding officer. Prior to its admission, such written testimony shall be subject to objection by the parties.

(c) **Documentary evidence. copies.** Documentary evidence should be submitted in original form, but may be received in the form of copies or excerpts at the discretion of the presiding officer. Upon request by any party an opportunity shall be granted to compare the

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Alcohol and Drug Abuse Commission

§17a-636-49

original if available, which shall be produced for this purpose by the person offering such copy as evidence.

(d) **Cross-examination.** Cross-examination may be conducted as the presiding officer deems necessary for a full and true disclosure of the facts.

(e) **Facts noticed. committee records.** The Commission or presiding officer may take administrative notice of judicially cognizable facts, including the records and prior decisions and orders of the Commission in accordance with C.G.S. sec. 4-180a (b). Any exhibit admitted as evidence by the Commission or presiding officer in a prior hearing may be offered as evidence in a subsequent hearing and admitted as an exhibit therein; but the presiding officer shall not deem such exhibit to be judicially cognizable in whole or in part and shall not consider any facts set forth therein unless such exhibit is duly admitted as evidence in the contested case being heard. No written order or final decision may be relied on as precedent by the Commission unless it has been made available for public inspection and copying, and also indexed by name and subject, pursuant to sec. 17a-636-44 of these regulations.

(f) **Facts noticed. procedure.** The presiding officer may take notice of generally recognized technical or scientific facts within the Commission's special knowledge. Parties shall be afforded an opportunity to contest the material so noticed by being notified before or during the hearing, or by an appropriate reference in the preliminary reports or otherwise of the material noticed. The presiding officer shall nevertheless employ the Commission's experience, technical competence, and specialized knowledge in evaluating evidence presented at the hearing for the purpose of making its finding of facts and arriving at a decision in any contested case.

(Effective June 1, 1992)

Sec. 17a-636-48. Filing of added exhibits and testimony

Upon order of the Commission or presiding officer before, during or after the hearing any party shall prepare and file added exhibits and written testimony. Such added exhibits and testimony shall be deemed to be an offer of evidence and shall be subject to such comment, reply, and contest as due process shall require.

(Effective June 1, 1992)

Sec. 17a-636-49. Ex parte communication

(a) Unless required for the disposition of ex parte matters authorized by law, neither the Commission members nor any hearing officer nor any person designated as a presiding officer shall communicate directly or indirectly with any person or party concerning any issue of fact or law involved in any contested case that has been commenced under these rules, except upon notice and opportunity for all parties to participate.

(b) Any hearing officer or any person designated as a presiding officer and the executive director may severally communicate with each other ex parte and may have the aid and advice of such members of the Commission staff as are assigned to assist them in such

contested case. The names of the Commission staff so assigned shall be made part of the hearing record. This rule shall not be construed to preclude such routine communications as are necessary to permit the Commission staff to investigate facts, to conduct informal conferences, and to audit the applicable records of any party in a contested case at any time before, during, and after the hearing thereof.

(Effective June 1, 1992)

Sec. 17a-636-50. Uncontested disposition of case

Unless precluded by law, any contested case may be resolved by stipulation, agreed settlement or consent order upon order of the Commission. Upon such disposition, a copy of the order of the Commission shall be served on each party.

(Effective June 1, 1992)

Sec. 17a-636-51. Record in a contested case

The record in a contested case shall include: (1) written notices related to the case; (2) all petitions, pleadings, motions and intermediate rulings; (3) evidence received or considered; (4) questions and offers of proof, objections and rulings thereon; (5) the official transcript, if any, of proceedings relating to the case, or, if not transcribed, any recording or stenographic record of the proceedings; (6) proposed final decisions and exceptions thereto; and (7) the final decision.

(Effective June 1, 1992)

Sec. 17a-636-52. Transcription

Oral proceedings or any part thereof shall be transcribed on request of any party. The requesting party shall pay the cost of such transcription or part thereof. Within thirty days after the service of an appeal to the superior court, or within such further time as may be allowed by the court, the agency shall transcribe any portion of the record that has not been transcribed and transmit to the reviewing court the original or certified copy of the entire record of the proceedings appealed, which shall include the agency's findings of fact and conclusions of law, separately stated. By stipulation of all parties to such appeal proceedings, the record may be shortened.

(Effective June 1, 1992)

Sec. 17a-636-53. Final decision in a contested case

(a) The presiding officer shall proceed with reasonable dispatch to conclude any pending matter and shall submit a proposed final decision to the Commission. The Commission shall render a final decision in all contested cases within 90 days following the close of evidence and filing of briefs, whichever is later, in such proceeding.

(b) All decisions and orders of the Commission concluding a contested case shall be in writing or orally stated on the record, and if adverse to a party, shall include the commission's findings of fact and conclusions of law necessary to its decision. The

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Alcohol and Drug Abuse Commission

§17a-636-56

Commission shall state in the final decision the name of the party and the most recent mailing address provided by the party or his authorized representative.

(c) The final decision shall be delivered promptly to each party or his authorized representative in the manner required by these rules of practice and by Chapter 54, C.G.S. The final decision shall be effective when personally delivered or mailed or on a later date specified by the Commission.

(Effective June 1, 1992)

Sec. 17a-636-54. Reconsideration or modification of final decision

(a) Within 15 days after the personal delivery or mailing of the final decision, a party in a contested case may file with the Commission a petition for reconsideration in accordance with sec. 4-181a, C.G.S. Within 25 days of the filing of the petition, the Commission shall decide whether to reconsider the final decision. Failure of the Commission to make that determination shall constitute a denial of the petition.

(b) Within 40 days of the personal delivery or mailing of the final decision, the Commission, regardless of whether a petition for reconsideration has been filed, on its own initiative may decide to reconsider the final decision.

(c) If the Commission chooses to reconsider the final decision pursuant to subsection (a) or (b) of this section, it shall proceed within a reasonable time to conduct any necessary additional hearings and to render a decision modifying, affirming, or reversing the final decision.

(d) At any time, on the showing of changed conditions, the Commission may conduct proceedings to consider reversing or modifying the final decision. The parties who were subject to the original final decision or their successors if known, and the intervenors shall be notified and given the opportunity to participate in the proceedings. All such proceedings will be conducted in accordance with these rules of practice.

(Effective June 1, 1992)

Sec. 17a-636-55. Indexing of written orders and final decisions

The Commission shall index all written orders and final decisions by name and subject and shall make them available for public inspection and copying to the extent required by Chapter 3, C.G.S. No written order or final decision may be relied on as precedent by the Commission unless it has been so indexed and made available to the public for inspection and copying.

(Effective June 1, 1992)

ARTICLE THREE

Regulations

Sec. 17a-636-56. General rules

These rules set forth the procedure to be followed by the Commission in the disposition

of a request concerning the promulgation, amendment, or repeal of regulations.

(Effective June 1, 1992)

Sec. 17a-636-57. Form of petition

Requests by interested persons shall be submitted to the Commission in writing, signed by the petitioner. Each such request shall contain: (1) the name and address of the petitioner and the name and address of any agent or counsel, if applicable; (2) the text of the proposed regulations, amendment or repeal; (3) the reasons for the proposal; and (4) an explanation of the person's interest in the particular subject matter. Within 30 days of receipt of the request, the Commission shall either deny it in writing, stating its reasons for denial or initiate regulation-making proceedings.

(Effective June 1, 1992)

ARTICLE FOUR

Declaratory Rulings and Rulemaking

Sec. 17a-636-58. General rules

These rules set forth the procedure to be followed by the Commission in the disposition of requests for declaratory rulings as to the validity of any regulation, or the applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision on a matter within the jurisdiction of the Commission.

Such a ruling of the Commission disposing of a petition for a declaratory ruling shall have the same status as any decision or order of the Commission in a contested case.

(Effective June 1, 1992)

Sec. 17a-636-59. Form of petition for declaratory rulings

(a) Any person may petition the Commission or the Commission may on its own initiate a proceeding for declaratory ruling as to the validity of any regulation, or the applicability to specified circumstances of a provision of the General Statutes, a regulation, or a final decision on a matter with the agency, provided that a petition to contest any regulation on the ground of non-compliance with the procedural requirements of Chapter 54 C.G.S. may only be filed within two years from the effective date of the regulation. Such petition shall be addressed to the Commission and be sent by mail or delivered in person during normal business hours. Petitioner must file with the Commission an original and five (5) copies of the petition.

(b) If the Commission determines that a declaratory ruling will not be rendered, the Commission shall within sixty (60) days thereafter notify the person so inquiring that the petition has been denied and furnish a statement of the reasons on which the Commission relied in so deciding.

(c) A petition for declaratory ruling shall contain the following sections in the order indicated here:

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Alcohol and Drug Abuse Commission

§17a-636-60

(1) A statement of the questions being presented for a ruling, expressed in the terms and circumstances of the specific request but without unnecessary detail. This statement shall identify the statute, regulation, or final decision which is the basis for the petition and shall identify the particular aspects thereof and special circumstances to which the question of validity or applicability is directed.

(2) A statement of the facts material to the consideration of the questions presented.

(3) A statement of the position of the petitioner with respect to the questions being presented.

(4) An argument amplifying the reasons relied upon for the petitioner's position, including any appropriate legal citations, must be included with the petition or be in an attached brief.

(5) A signature by the petitioner or legal representative, his address, telephone number and facsimile machine telephone number, if any, of the petitioner or legal representative, if applicable.

(d) The date for the filing of any petition shall be the date the petition is received by the Commission in the form prescribed by this regulation. Only complete petitions filed in conformance with this section will be considered by the Commission.

(Effective June 1, 1992)

Sec. 17a-636-60. Procedure after petition for declaratory ruling filed

(a) Within thirty (30) days after the receipt of a petition for a declaratory ruling, the Commission shall give notice to all persons to whom notice is required by any provision of law and to all persons who have requested notice of declaratory ruling petitions on the subject matter of the petition.

(b) If the Commission deems a hearing necessary or helpful in determining any issue concerning the request for declaratory ruling, the Commission may schedule such hearing and give notice thereof as shall be appropriate.

(c) Within forty-five (45) calendar days of the submission of the complete petition for a declaratory ruling, persons wishing to be admitted to the proceeding as parties or intervenors shall file a petition with the Commission. Such persons, in submitting their position and evidence in the declaratory ruling proceeding, shall comply with the other provisions of these regulations concerning the form, content and filing procedures for a petition. If the Commission conducts a hearing, the Commission or designated hearing officer or presiding officer has the discretion to limit the participation of intervenors in such hearing, including the rights to inspect and copy records, to introduce evidence and to cross-examine, so as to promote the orderly conduct of the proceedings.

(d) Within sixty (60) days after the receipt of a petition for a declaratory ruling, the Commission in writing shall: (1) issue a ruling declaring the validity of a regulation or the applicability of a provision of the General Statutes, the regulation, or the final decision in question to the specified circumstances; (2) order the matter set for specified proceedings; (3) agree to issue a declaratory ruling by a specified date; (4) decide not to issue a

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-636-61

Alcohol and Drug Abuse Commission

declaratory ruling or initiate regulation-making proceedings, under C.G.S. section 4-169, on the subject; or (5) decide not to issue a declaratory ruling, stating the reasons for this action.

(e) A copy of all rulings and any actions taken under this section shall be promptly delivered to the petitioner and other parties personally or by the United States mail, certified or registered, postage prepaid, return receipt requested.

(f) A declaratory ruling shall contain the names of all parties to the proceeding, the particular facts on which it is based and the reasons for its conclusion.

(g) A declaratory ruling shall be effective when personally delivered or mailed or on such later date specified by the agency in the ruling. It shall have the same status and binding effect as an order issued in a contested case.

(h) If the agency conducts a hearing in a proceeding for declaratory ruling, the provisions of C.G.S. sec 4-177c (b), C.G.S. sec. 4-178 and C.G.S. sec. 4-179 shall apply to the hearing, except that if the Commission delegates to the presiding officer or hearing officer the power to render final decision directly, he or she may do so.

(i) If the Commission renders a declaratory ruling, a copy of the ruling shall be sent personally or by the United States mail, certified or registered, postage prepaid, return receipt requested to the person requesting it and to that person's attorney, if applicable, and to any other person who has filed a written request for a copy with the Commission.

(j) If the Commission does not issue a declaratory ruling within one hundred eighty days (180) after the filing of a petition therefore, the Commission shall be deemed to have decided not to issue such a ruling.

(k) Any time requirement in this section may be extended with the agreement of the petitioner.

(l) The Commission shall keep a record of the proceeding as provided in C.G.S. sec. 4-177.

(Effective June 1, 1992)

ARTICLE FIVE

Miscellaneous Provisions

Sec. 17a-636-61. Investigative hearings

The Commission may hold investigative hearings for the purpose of: (1) ascertaining compliance with any statute or regulation within the agency's jurisdiction to administer or enforce; or (2) receiving information concerning any matter which reasonably may be the subject of regulation by the Commission. The Commission shall provide reasonable notice of such hearing to all interested persons and the general public.

(Effective June 1, 1992)

Sec. 17a-636-62. Procedures

The rules of notice, practice and procedure regarding contested cases as described above

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Alcohol and Drug Abuse Commission

§17a-636-62

shall govern any hearing held in the course of such investigation.

(Effective June 1, 1992)

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Agency

Alcohol and Drug Abuse Commission

Subject

Group Homes for Recovering Substance Abusers

Inclusive Sections

§§ 17a-647-1—17a-647-9

CONTENTS

Sec. 17a-647-1.	Definitions
Sec. 17a-647-2.	Program description
Sec. 17a-647-3.	Use of loans, restrictions
Sec. 17a-647-4.	Sponsoring organization
Sec. 17a-647-5.	Group home residents
Sec. 17a-647-6.	Eligibility and application process
Sec. 17a-647-7.	Repayment, interest
Sec. 17a-647-8.	Default
Sec. 17a-647-9.	Oversight

Group Homes for Recovering Substance Abusers

Sec. 17a-647-1. Definitions

For the purpose of sections one (1) through nine (9) of these regulations, inclusive:

- (a) “Commission” means the Connecticut Alcohol and Drug Abuse Commission.
- (b) “Executive director” means the executive director of the Connecticut Alcohol and Drug Abuse Commission.
- (c) “Group home” means a residence established by a group of four (4) or more individuals who:
 - (1) are sponsored by a private, non-profit organization; and
 - (2) are recovering from substance abuse problems; and
 - (3) join together with the intention of receiving funds pursuant to Public Act 89-290 for the purpose of establishing or enhancing a place of residence.
- (d) “Sponsoring organization” means any private, non-profit organization that makes application to the commission for a loan pursuant to Public Act 89-290.

(Effective September 27, 1990)

Sec. 17a-647-2. Program description

The Anti-Drug Abuse Act of 1988, Public Law 100-690, as amended, established a program entitled Group Homes for Recovering Substance Abusers. The program directs each state to establish a revolving loan fund to provide loans, not to exceed \$4,000 each, to sponsoring organizations who shall convey the proceeds of any such loans to groups of four or more individuals who are recovering from alcohol or drug abuse problems for the purpose of establishing or enhancing group homes.

(Effective September 27, 1990)

Sec. 17a-647-3. Use of loans, restrictions

- (a) Only group homes which are sponsored by a private, non-profit sponsoring organization may receive the proceeds of a loan.
- (b) Loans may be used for costs associated with the establishment of a group home. Such costs may include, but are not limited to, security deposits, first month’s rent, facility modifications, furniture, or the purchase of amenities which foster healthy group living. Loans shall not be used for the purchase of the prospective dwelling.
- (c) A sponsoring organization may apply for more than one loan if the organization intends to sponsor more than one group home. Only one loan shall be granted for each group home.
- (d) Each property which is used for the purpose of establishing a group home shall be suitable in size and accessibility for the residents of the group home.
- (e) The rent for the property shall be at or below fair market value for the surrounding area.

(Effective September 27, 1990)

Sec. 17a-647-4. Sponsoring organization

(a) Any sponsoring organization which receives a loan shall convey the entire proceeds of the loan to a group home that is established and governed in a manner which is consistent with the federal Anti-Drug Abuse Act of 1988, Public Law 100-690, as amended, and with these regulations.

(b) The sponsoring organization shall certify that the group home which receives the proceeds of a loan has established, through a majority vote, written house rules. Such rules shall include, but are not necessarily limited to the following:

(1) The criteria and method by which new residents shall be accepted into the group home.

(2) A requirement that any potential resident of the home shall be informed of the house rules and shall agree in writing to abide by such rules prior to acceptance into the group home.

(3) A prohibition against the use of alcohol or any illegal drug in the group home and a requirement that any resident of the group home who violates such prohibition shall be expelled from the housing.

(4) A requirement that each resident of the group home pay an established share of the cost of operating the home.

(5) A method of allocating each resident's proportional share of operating expenses.

(c) The sponsoring organization shall have the right of access to the premises of the home and any financial records of the home.

(Effective September 27, 1990)

Sec. 17a-647-5. Group home residents

(a) Residents of the group home shall have successfully completed a treatment program and shall be free from alcohol and/or drug use for a minimum of thirty (30) days.

(b) Costs of the housing, including fees for rent, utilities and repayment of the loan in accordance with section 7 of these regulations, shall be paid by the residents of the group home.

(c) Residents of the group home shall collectively have sufficient income to pay all such costs of the housing.

(d) Each group home shall establish an independent checking account for the purpose of transacting the group home's financial affairs.

(Effective September 27, 1990)

Sec. 17a-647-6. Eligibility and application process

(a) Any sponsoring organization that intends to establish or sponsor a group home for four or more recovering substance abusers is eligible to apply for a loan.

(b) Application shall be made on a form provided by the commission. Such forms are available upon request. Completed application forms shall be submitted to the executive director.

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

Alcohol and Drug Abuse Commission

§17a-647-8

(c) The sponsoring organization shall provide, at its own expense, an audit of its previous year's accounts.

(d) If a specific rental property for the group home has not been secured at the time of application, the sponsoring organization shall have ninety (90) days from the date of approval of the loan to secure a property.

(1) A ninety (90) day extension to this requirement may be granted by the executive director if the sponsoring organization requests such in writing and can demonstrate that there has been, and continues to be, an ongoing search for a suitable rental property.

(2) Such extensions shall only be granted when accompanied by a statement that, to the best of the sponsoring organization's knowledge, the prospective residents of the group home continue to be free from alcohol and/or drug use.

(e) The executive director shall notify the sponsoring organization in writing of the approval or denial of the loan.

(Effective September 27, 1990)

Sec. 17a-647-7. Repayment, interest

(a) There shall be a written loan agreement between the sponsoring organization and the commission.

(b) The term of the loan shall be no more than two (2) years.

(c) The proceeds of the loan shall be used in accordance with the guidelines for such loans issued by the Secretary of the Department of Health and Human Services of the federal government pursuant to the requirements of Public Law 100-690.

(d) Repayment of the loan shall be the responsibility of the sponsoring organization and shall be made in no more than twenty-four (24) monthly installments and in accordance with the terms of the loan agreement.

(e) Each loan shall bear interest at a rate determined by the commission, which shall not exceed six (6) per cent per year.

(f) The commission may, from time to time, modify the applicable interest rate on new loans. Loans previously awarded shall remain at their existing rate.

(g) A late penalty of five (5) per cent of the amount of any monthly payment shall be charged for any payment received more than fifteen (15) days after the due date of such payment.

(Effective September 27, 1990)

Sec. 17a-647-8. Default

(a) A loan shall be in default if a payment is more than one month overdue.

(b) If a loan is, or has been in default, the executive director may request, at his option, immediate repayment of the outstanding loan balance, or receive payment for the past due amount and require the sponsoring organization to submit a monthly financial report of the group home to the executive director.

(c) In the event that the group home fails to succeed, the state may forgive the outstanding

Regulations of Connecticut State Agencies

TITLE 17a. Social & Human Services & Resources

§17a-647-9

Alcohol and Drug Abuse Commission

loan balance if, in its determination, the sponsoring organization has provided a good faith effort to ensure the success of the home.

(d) The sponsoring organization shall address any request for loan forgiveness to the executive director. The executive director shall conduct an investigation and make a recommendation on the request to the commission. If the commission approves the request, it shall forward its recommendation to the Attorney General, pursuant to Section 3-7 (a) of the Connecticut General Statutes.

(Effective September 27, 1990)

Sec. 17a-647-9. Oversight

(a) In order to monitor the effectiveness of the program, the executive director may require periodic reports from the sponsoring organization for any group home established with assistance from the loan fund, including after the loan is repaid.

(b) During the period that the loan is outstanding, commission staff shall have access to the premises of the group home in order to ensure compliance with the terms and conditions of the loan agreement.

(c) The commission staff shall have access to financial records pertaining to the establishment and operation of any group home. Records which are required include, but are not necessarily limited to:

(1) Verification that the entire proceeds of the loan were conveyed by the sponsoring organization to the group home and the purpose for which the funds were used.

(2) Any financial records of the group home which pertain to transactions for which the loan proceeds were used.

(3) The checking account records of the group home.

(4) Data pertaining to the success or failure of residents of the group home to remain free from the use of alcohol and/or drugs.

(5) The financial books and records of the sponsoring organization which pertain to the loan.

(Effective September 27, 1990)