

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

Statutory Authority: 16 Delaware Code, Sections 2207 and 2208 (16 Del.C. §§2207 and 2208)

FINAL

ORDER

6001 Substance Abuse Facility Licensing Standards

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("DHSS") initiated proceedings to adopt amendments to the State of Delaware Regulations governing Licensing of Substance Abuse Facilities. The DHSS proceedings to amend the regulations were initiated pursuant to 29 **Delaware Code** Chapter 101 and authority as prescribed by 16 **Delaware Code**, Section 122 (3) p.

On October 1, 2007 (Volume 11, Issue 4), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Delaware Code** Section 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by October 31, 2007, after which time the DHSS would review information, factual evidence and public comment to the said proposed regulations.

Written comments were received during the public comment period and evaluated. The results of that evaluation are summarized in the accompanying "Summary of Evidence."

FINDINGS OF FACT:

Based on comments received, substantive and non-substantive changes were made to the proposed regulations. The Department finds that the proposed regulations, as amended and set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulations governing Licensing of Substance Abuse Facilities are adopted and shall become effective January 1, 2009, after publication of the final regulation in the *Delaware Register of Regulations*.

Vincent P. Meconi, Secretary, DHSS, September 11, 2008

SUMMARY OF EVIDENCE

State of Delaware Regulations Governing Licensing Standards For Substance Abuse Facilities

In accordance with Delaware Law, public notices regarding proposed Department of Health and Social Services (DHSS) Regulations governing Licensing Standards for Substance Abuse Facilities were published in the *Delaware State News*, the *News Journal* and the *Delaware Register of Regulations*. Written comments were received on the proposed regulations during the public comment period (October 1, 2007 through October 31, 2007).

Public comments and the DHSS (Agency) responses are as follows:

The following responses to the comments received on the proposed Substance Abuse Treatment Program Standards identify the organization or individual offering comment and/or recommendation. Where multiple organizations or individuals offered similar comments, reference is made to the additional organization or individual before the agency response is given.

The Governor's Advisory Council for Exceptional Citizens, the Delaware Developmental Disabilities Council and the State Council for Persons with Disabilities offered virtually identical comments and recommendations summarized below. DSAMH has considered each comment, found the comments to be helpful and instructive and have adopted some of the suggestions made.

First, it is unclear whether the regulations apply to children's facilities. The licensing statutes [Title 16 **Del.C.** §§2206(1), 2207, and 2208] authorize DHSS to adopt standards, in consultation with the DSCY&F, for adult and children's facilities. DHSS is also authorized to delegate to the DSCY&F the authority to issued regulations for children's facilities. There is no recital in the regulations that DSCY&F has been consulted. Moreover, all the references in the lengthy regulation are to DSAMH to the exclusion of DSCY&F. We identified only three references [§5.1.4.4.1.14; §5.1.7.1.1.2; §7.1.2.1.7] which suggest coverage of children's facilities since they require reporting of child abuse or neglect. DSAMH should clarify whether the standards apply to both adult and child facilities. If the standards do apply to children's facilities, DSAMH should consider revisions to address children. For example, residential facilities and some day programs should ensure that minors receive schooling. Cf. Title 16 **Del.C.** §5161(a)(12)[residential mental health facilities must ensure education of minors].

Agency Response: DSAMH would like to clarify that the standards do apply to children's facilities. The Division of Services for Children, Youth and their Families (DSCY&F) participated in the initial drafting of the standards. DSCY&F was also invited to review the final draft before the proposed regulations were published. Subsequent to the receipt of comments on the proposed regulations, DSAMH consulted with DSCY&F around education requirements. It was jointly determined that there was not a need to include regulations for education in these standards.

Second, the definition of "counseling" in §3.0 only permits "face-to-face interaction" between counselor and clients, family members, and significant others. The regulations include some minimum amounts of such "counseling". See, e.g., §§10.1.8, 11.1, and 12.1. Literally, the regulation may categorically preclude use of video-conferencing and tele-conferencing. Such modalities may be necessary to promote participation by family members and significant others. The Division should consider authorization of such modalities at least under some circumstances (e.g. family is distant or lacks transportation). Moreover, the Division may wish to clarify whether videoconferencing amounts to "face-to-face interaction".

Agency Response: "Face-to-face interaction(s)" would include videoconferencing as the interaction would be considered "face-to-face." While best practices would suggest that therapeutic contact is most beneficial when a professional counselor meets with a client and/or their family, programs that develop policies that include ongoing tele-conferencing would be eligible to apply for a waiver as per §4.15 of the proposed standards. DSAMH declines the recommendation to change the standard.

Third, we are pleased to note that the definition of "medical history" in §3.0 affirmatively references "head injuries". Given the "underidentification" of TBI, this merits endorsement.

Agency Response: As the addictions field becomes more sophisticated in treating individuals with co occurring disorders, providers have become more aware of the special needs of individuals with head injuries. DSAMH appreciates this recognition by the Council(s).

Fourth, §4.5.2.1 requires compliance with the ADA in license applications. Likewise, §7.1.1.3 requires compliance with ADA standards. These provisions merit endorsement.

Agency Response: DSAMH appreciates this response and the support of the Councils in this area.

Fifth, §4.13.4 there are some extraneous brackets "[]".

Agency Response: DSAMH has removed the extraneous brackets.

Sixth, §4.15.4 invariably requires any waiver granted by the Division to extend for the full term of the existing license, i.e., up to 2 years. This unnecessarily limits the Division's discretion. For example, there may be circumstances under which a short-term waiver would be more appropriate. DSAMH should consider adopting the approach reflected in DLTCRP regulations covering DDDS neighborhood homes, 16 **DE Admin. Code** 3310, §17.4. Section 17.4 provides as follows: "A waiver may be granted for a period up to the term of the license."

Agency Response: DSAMH agrees that provision for a short-term waiver should be clear. §4.15.4 has been modified to read: "A waiver granted under these regulations shall be in effect for the term of the applicant's license unless the approval of the waiver specifies a shorter term; all waivers not otherwise approved for a shorter term shall expire at the end of the term of license and new waiver(s) must be requested as part of the licensure renewal process in accordance with 4.15".

Seventh, at least in the context of residential facilities, it is preferable to require notice of the waiver request be shared with residents to permit input from persons who may be most affected. Compare 16 **DE Administrative Code** 3310, §17.1.4. No harm is done by promoting the opportunity for consumer input into waiver requests.

Agency Response: DSAMH agrees that consumer input can be valuable when a program requests a waiver. §4.15.1 has been modified to read:

"An application for a waiver from a requirement of these regulations shall be made in writing to the Division's Licensing Unit; it shall specify the regulation from which waiver is sought, demonstrate that each requested waiver is justified by substantial hardship, and describe the alternative practice(s) proposed. The waiver request shall be posted in a prominent place in the facility and outline a process approved by the Division whereby clients can offer comments and feedback specific to the waiver request. The Division's Licensing Unit shall make a recommendation of action on the application to the Division Director or designee after reviewing the waiver request and any consumer input. Only the Division Director shall grant waivers."

Eighth, §5.1.1.4 requires the facilities Governing Body to meet only once annually. If DSAMH wishes to promote an active, knowledgeable board, this standard may fall short of achieving that objective.

Agency Response: While DSAMH understands the rationale behind more frequent meetings of the Governing Body, the standard will apply to a wide variety of organizations both large and small. The proposed minimum standard allows programs flexibility in establishing Governing Body protocols that best meet their needs. DSAMH does not think the standard is in need of revision.

Ninth, Facilities are required to make mandated reports of child abuse [§§5.1.4.4.1.16; 5.1.7.1.1.2; and 7.1.2.1.7]. There is no comparable provision requiring reporting of abuse, mistreatment, neglect or financial exploitation as required by Title 16 **Del.C.** §2224. This oversight should be corrected.

Agency Response: DSAMH agrees and amended the standard in the final order to read: "5.1.4.4.1.16...Policies and procedures for making mandated reports of suspected child abuse or neglect in compliance with 16 **Del.C.** §§ 902 through 904 and 16 **Del.C.** § 2224..."; "5.1.7.1.1.2... reporting of cases of suspected child abuse or neglect in compliance with 16 **Del.C.** §§ 902 through 904 and 16 **Del.C.** § 2224..."

Tenth, There is an anomaly in §6.1. Section 6.1.2.1.1 requires the Clinical Director to have a "master's degree in counseling or a related discipline." Section 6.1.3.1.1 requires a Clinical Supervisor to have a bachelor's degree with "a major in chemical dependency, psychology, social work, counseling, or nursing." The "related discipline" standard applicable to the Clinical Director is ostensibly narrower than the educational background standards for the Clinical Supervisor (degree in chemical dependency, psychology, social work, counseling, or nursing). For example, could a Clinical Director qualify with a master's degree in nursing? DSAMH may wish to clarify "related discipline" by at least providing some specific examples of acceptable contexts of degrees.

(Russel Buskirk and Chris Devaney of Connections, Janice Sneed of Brandywine Counseling, Inc., David Parcher of Kent and Sussex County Counseling, Bruce Lorenz of Thresholds, Inc, Bruce Johnson on behalf of the Delaware Association for Addiction Counselors (DAADAC), David Parcher on behalf of the Delaware Certification Board (DCB), Steven Martin of the Center for Drug and Alcohol Studies: University of Delaware and Ms. Samantha Hurd offered similar recommendations)

Agency Response: DSAMH agrees and changed the standard in the final order to read:

6.1.2 Qualifications for the Position of Clinical Director

6.1.2.1 Each individual, hired or promoted, to the position of Clinical Director on or after the date these regulations become effective shall have, at a minimum:

6.1.2.1.1 A master's degree with a major in chemical dependency, psychology, social work, counseling, nursing or a related field of study and five (5) years of documented clinical experience in human services, at least three (3) years of which shall be in substance abuse services.

6.1.3 Qualifications for the Position of Clinical Supervisor

6.1.3.1 Each individual authorized, hired, or promoted, to provide clinical supervision on or after the date these regulations become effective shall have, at a minimum:

6.1.3.1.1 A Bachelor's Degree from an accredited college or university with a major in chemical dependency, psychology, social work, counseling, nursing or a related field of study and full certification as a certified alcohol and drug counselor (CADC) in the state of Delaware or by a nationally recognized organization in addictions counseling; or

6.1.3.1.2 A Bachelor's Degree from a accredited college or university with a major in chemical dependency, psychology, social work, counseling, nursing or a related field of study and five (5) years of documented clinical experience in the substance abuse treatment field.

Eleventh, §7.1.1.1 is problematic. It recites as follows: "No program shall deny any person equal access to its facilities or services on the basis of race, color, religion, ancestry, sexual orientation, gender expression, national origin or disability, unless such disability makes treatment offered by the program non-beneficial or hazardous. [emphasis supplied]"

The underlined exclusion is an inane standard which is not consistent with the ADA, §504, or the Equal Accommodations statute (Title 6 **Del.C.** Ch. 45). It is also inconsistent with §7.1.3.1. For example, it would authorize a program to deny services to a Deaf applicant since the Deaf applicant could not benefit from the existing program. Legally, the program must provide accommodations to ensure that its program is beneficial to the applicant with disabilities. In this example, the program should not be barring the Deaf client from admission. It should be providing a sign-language interpreter. Similarly, there is no "hazardous" exception in the ADA [28 C.F.R. §§35.149-35.150 (public entities); 28 C.F.R. §36.302(private entities)]. For example, it may be "hazardous" for a person with ambulatory limitations to climb a stairway to an upper floor location. However, rather than denying that person services, the provider should be providing accommodations (e.g. moving counseling session to ground floor). If a specialty program does not offer the type of treatment that a person with a disability seeks, the program is expected to make a referral to another program. See 28 C.F.R. §36.302(b). If an applicant poses a "direct threat" or "safety" risk to a private provider, that assessment must be made in the context of accommodations. [28 C.F.R. §§36.208 and 36.301].

David Parcher of Kent and Sussex County Counseling also commented:

It is not financially feasible to have the staff and expertise readily available to serve all populations. Most small or mid size programs are not able to afford the high cost of additional staff to provide specialized services. Additional funding needs to be in place.

Agency Response: DSAMH agrees. The final order is being changed to read as follows: "No program shall deny any person equal access to its facilities or services on the basis of race, color, religion, ancestry, sexual orientation, gender, gender expression, national origin, or disability."

Twelfth, §7.1.2.1.9 should be expanded to include a reference to advocates and advocacy agencies (See Title 16 **Del.C.** 2220(7).)

Agency Response: 7.1.2.1.9 is in keeping with federal confidentiality law CFR 42 (Part II) which does not allow for the sharing of information with advocates or advocate agencies without proper consent from the consumer. DSAMH declines this recommendation.

Thirteenth, §7.1 would benefit from the addition of a “catch all” provision requiring compliance with Title 16 **Del.C.** §2220. This would be consistent with §8.1.2.1.2.11.1, which requires programs to provide notice of such rights.

Agency Response: DSAMH agrees and changed §7.1.1.3 in the final order to read: “All agencies shall ensure that they comply with the federal Americans with Disabilities Act 28 U.S.C. §§12101 et seq.; 28 code of Federal Regulations, Part 36 (July 1991) and Title 16 **Del.C.** §2220.

Fourteenth, §§8.1.2 and 8.1.3 could be strengthened in the context of discharge planning. Compare in the mental health context, §5161(b)(4), which contemplates that the discharge plan be developed in consultation with anticipated post discharge providers. See also DLTRCP mental health group home regulations, 16 **DE Admin Code** 3305, §6.8.

Agency Response: DSAMH declines this recommendation at this time.

Fifteenth, requiring facilities to only maintain records for 12 months [§8.1.4] is too short. Contrast the DLTRCP mental health group home regulations [16 **DE Administrative Code** 3305, §8.1] which require records to be maintained for 7 years.

Agency Response: DSAMH agrees that the standard as written does not clearly convey its intent. §8.1.4 has been amended in the final order to read: “Programs shall provide a minimum of twelve (12) months of records up until and including the expiration date of the current license for the purposes of licensure audit. Programs shall develop a policy that clearly outlines timelines for record retention and storage for all records beyond the required audit period.

Sixteenth, there is an extraneous reference to §8.1.2.2 in the margin next to §10.1.6.

Agency Response: The reference to §8.1.2.2 is not extraneous, but refers the reader back to the standards outlining treatment plan development

Seventeenth, §12.4.2.2.1 authorizes restrictions on phone use. Such restrictions may be precluded by Title 16 **Del.C.** §2220(11).

Agency Response: Best practice policies and procedures take into consideration the benefits of each policy to the consumer. Programs may chose to restrict phone usage if the use would be considered dangerous or counter-therapeutic to a consumer (e.g. a consumer making or receiving phone calls from their drug dealer could cause harm to the consumer and other consumers who participate in treatment at the same program.) DSAMH does not think that permitting such limited restrictions would be precluded.

Eighteenth, §14.1.1.1.6 categorically precludes admission to opioid treatment services unless the applicant has been addicted at least 1 year. This categorical exclusion may unnecessarily limit provider clinical judgment and discretion. This provision should be deleted from the regulations.

Agency Response: §14.1.1.1.6 is in compliance with federal regulations for opioid treatment CFR 42 (Part VIII) §8.12(e)(1) which states: “...that the person is currently addicted to an opioid drug, and that the person became addicted at least 1 year before admission for treatment...” and applies specifically to Opioid Treatment Programs. DSAMH declines this recommendation.

Nineteenth, the rationale for precluding admission to opioid treatment services by someone released from a penal institution within 6 months [§14.2.1] may also unduly restrict provider discretion. For example, the applicant could have been in a penal institution (e.g. pre-trial pending release on bail) for only a few days.

Agency Response: DSAMH believes that a misreading of §14.2.1 may have resulted in this comment. Federal regulations require that a person become addicted at least one year before admission to an Opioid Treatment Program. §14.2.1 provides an exception to this requirement when clinically appropriate and is in compliance with federal regulations for opioid treatment CFR 42 (Part VIII) §8.12(e)(3) which states: “If clinically appropriate, the program physician may waive the requirement for a 1- year history of addiction under paragraph (e)(1) of this section, for patients released from a penal institution (within 6 months after release).”

Twentieth, in §14.7 it would be preferable to include a provision requiring that the applicant be provided with the specific reasons for denial of admission. Indeed, public entities would be required to provide such information as a matter of due process.

Agency Response: DSAMH agrees. §14.7 has been amended to add:

§14.7.2 The reasons for non admission must be made available in writing to the client upon request.

§14.7.2.1 Documentation of the written response to the non admitted client must be entered into the client file.

Twenty-first, §14.18.3 categorically bars admission of a client for more than 2 detoxification treatment episodes in 1 year. It is unclear why such a restriction would be included in a licensing standard. If an applicant wishes to “private pay” for detoxification, or an insurer will cover such costs, why should the State categorically preclude access to detoxification? If DSAMH wishes to impose such a standard for detoxification paid for by the State, it could do so by contract. Otherwise, providers should be allowed to exercise professional discretion.

Agency Response: §14.18.3 is specific to detoxification in an Opioid Treatment Program (OTP) for opioid consumers and is in compliance with federal regulations for Opioid treatment CFR 42 (Part VIII) §8.12(e)(4) which states: “Patients with two or more unsuccessful detoxification episodes within a 12-month period must be assessed by the OTP physician for other forms of treatment. A program shall not admit a patient for more than two detoxification treatment episodes in one year.” This restriction would not apply to licensed Detoxification programs. DSAMH declines this recommendation.

Finally, it is noted that there is an absence of standards in the context of criminal background checks and there is no references to the Adult Abuse Registry or the Child Abuse Registry in relation to hiring and maintaining staff. We highly recommend the inclusion of language that addresses these issues.

Agency Response: DSAMH agrees and added §5.1.6.3.6 in the final order to read: “Criminal background checks and previous, substantiated reports to the Adult Abuse and Child Abuse registries,”

Mr. Russel Buskirk and Mr. Chris Devaney of Connections, CSP, offered the following observations and recommendations summarized below. DSAMH has considered each comment, found the comments to be helpful and instructive.

A. Under §3.0 “Definitions”, where is the definition for “Program Director?” (Ms. Samantha Hurd also asked this question.)

Agency Response: DSAMH has reviewed the use of the term “Program Director” in the standards and the final order will be amended as follows: all reference to “Program Director” will be struck and replaced with Administrator.

B. Under §4.15.3: The standard states: “No waiver shall be granted for any requirement in §§ 6.1.2; 6.1.3 or 6.1.4 of these regulations. This will create undue hardship in a situation where an individual does not meet the norm. (David Parcher of Kent and Sussex County Counseling, Bruce Lorenz of Threshold, Inc., Jim Elder of CiviGenics and Ms. Samantha Hurd offered similar responses.)

Agency Response: DSAMH agrees. This restriction has been removed.

C. Under §§5.1.7.3.1 and 5.1.7.3.2 fifteen (15) hours specific to training and education in the treatment of alcohol and other drugs of abuse and six (6) hours specific to training and education in providing culturally competent services: Is this in addition to Certification/Licensure requirements?

Agency Response: DSAMH has taken this comment and subsequent discussion with commenters into consideration and has modified §§5.1.7.3.1 and 5.1.7.3.2 as follows. A §5.1.7.3.3 has been added. This is not in addition to the Certification/Licensure requirements applicable to private practitioners.

Ten (10) hours specific to training and education in the treatment of alcohol and other drugs of abuse; and
Three (3) hours specific to training and education in providing culturally competence services; and
Three (3) hours of training specific to ethics training and education.

D. Under 5.1.7.5 in regards to training in hepatitis; HIV/AIDS; Tuberculosis; and other sexually transmitted diseases: Will DSAMH Training office be able to accommodate clinical staff in having these subject/training areas available in the annual training catalogue? (David Parcher of Kent and Sussex County Counseling offered a similar response in regards to this training.)

Agency Response: The DSAMH Training office provides comprehensive training throughout the year on a variety of subjects which may include hepatitis, HIV/AIDS, Tuberculosis and other sexually transmitted diseases. DSAMH conducts a needs assessment and training is provided according to the identified needs of the field.

E. Under §6.0 is there any consideration for a person with a Bachelor's, CADC or certain amount of experience for the position of Clinical Director? (Michael Kriner of Gateway Foundation, Jim Elder of CiviGenics, Bruce Johnson of PACE, Inc and Ms. Samantha Hurd offered similar comments and recommendations.)

Agency Response: DSAMH acknowledges that there may be individuals with a Bachelor's Degree, CADC and five (5) years of experience who would be competent in meeting the responsibilities of the Clinical Director. In these cases, programs may request a waiver of this standard under §4.15.1.

F. Under §§6.0; 6.1.3.1; 6.1.4.1: Do the imposed time limits to meet the standard support the current needs of the work force and/or assist in securing long term employment stability for facilities? (David Parcher of Kent and Sussex County Counseling and on behalf of DCB, Bruce Lorenz of Thresholds, Steve Martin of the University of Delaware's Addiction Studies Department, Jim Elder of CiviGenics, Ms. Katherine Harding and Ms. Samantha Hurd offered similar comments.)

Agency Response: DSAMH agrees that the time limits do not meet the needs of the current or future work force and has amended the final order to remove the time limits. A "grandfathering" provision has been added as §6.1.6.

G. Under 6.1.4.1.1: Can there be further definition of "nationally recognized body in addictions counseling?" Would this include forensic counselors and counselors certified by the National Association for Alcohol and Drug Abuse Counselors (NAADAC) and National Counselor's Certification (NCC)? (David Parcher of Kent and Sussex County Counseling and on behalf of DCB, Bruce Lorenz of Thresholds, Inc. and Michael Kriner of Gateway Foundation offered similar comments.)

Agency Response: Nationally recognized body in addictions counseling would include forensic counselors, NAADC and NCC as well as any credential offered by a National organization that offers a certification specific to addictions counseling.

H. Under 6.1.5; Assistant Counselor: Can there be further clarification of "Assistant Counselor?"

Agency Response: "Assistant Counselor" is a term of art used to encompass a wide range of professionals who are beginners in the substance abuse treatment field. DSAMH realizes that the term can be confusing. The final order has been amended to strike "Assistant Counselor" from the standards and replace it with the term "Counselor II" to relate the position back to counseling functions within a program.

I. Under §6.1.5.2, reference is made to individuals with less than 5 years of experience as meeting the criteria for Assistant Counselor. Would that account for anyone else who generally wants to be an addictions/AODA counselor?

Agency Response: Assistant Counselor (now Counselor II) is the term used in these standards to accommodate the wide range of professionals who are beginners in the substance abuse treatment field.

J. Under §8.1.1.1.5: Records are to be updated within twenty-four (24) hours of delivery of services. Is there consideration for 48 or 72 hours in hardship situations or completion for Friday services for outpatient programs?

Agency Response: Documentation of services provided to or on behalf of the consumer should be completed as soon after provision of services as possible. DSAMH does not think this standard should be revised.

K. Under §8.1.2.1.2.19.1: "Signed by the counselor completing the assessment;" Can the Assistant Counselor perform this task?

Agency Response: §8.1.2.1.2.19.1 refers to the signatures of staff completing the assessment and would include the Assistant Counselor (Counselor II in the final order.)

L. Under §8.1.2.3.1 "treatment plans shall be reviewed and revised by the client and his/her primary counselor no less often than the intervals specified..." Can the Assistant Counselor complete this task.

Agency Response: The Assistant Counselor (Counselor II under the final order) completes this task under the supervision of the Clinical Supervisor.

M. Under §8.1.2.5.1 "primary counselor" is used as a descriptor. Does this apply to the Counselor position, Assistant Counselor position or both?

Agency Response: DSAMH agrees that this is in need of clarification. The final order has been amended to remove the word "primary".

N. Under §8.1.2.7.1 which states: "...the program shall complete a discharge summary within seventy-two (72) hours of discharge..." Is there a reason this has been decreased from 5 days (current standard) to 3 days? (Michael Kriner of Gateway Foundation made a similar comment.)

Agency Response: Documentation of services provided to or on behalf of the consumer should be completed as soon after provision of services as possible. This includes discharge planning and documentation which should be completed with the participation of the consumer. DSAMH does not think this standard should be revised.

O. Under §§8.1.2.7.2.6 & 8.1.2.7.2.7 there is reference to the summary of the client's progress toward meeting the treatment plan goals and a summary of the client's participation in treatment. Can the narrative include both?

Agency Response: §§8.1.2.7.2.6 & 8.1.2.7.2.7 specify the information to be captured in treatment planning documentation. A format that includes this information in a single narrative is acceptable.

P. Under §8.1.2.7.3.2 the discharge is to be completed by the "primary counselor." Does this apply to the Counselor position, Assistant Counselor position or both?

Agency Response: DSAMH agrees that this is in need of clarification. The final order has been amended to remove the word "primary".

Q. Under §8.1.3 programs are to provide a list of referral sources for the clients' various needs when the agency is unable to meet the needs internally. How is this to be documented?

Agency Response: §8.1.3 specifies the information to be captured in referral documentation. The specific format that includes this information is at the discretion of the program.

R. Under §8.1.4 programs are required to keep a minimum of twelve (12) months of records up and until the expiration date of the current license. This could be a significant volume of records particularly for outpatient programs.

Agency Response: Licensure audits are based on the review of documents completed up to one year prior to the current expiration date of the license and should be made available upon request by DSAMH. In order to clearly delineate between required records for annual audit and overall record retention, §8.1.3 4 has been amended as follows: "Programs shall provide a minimum of twelve (12) months of records up until and including the expiration date of the current license for the purposes of licensure audit. Programs shall develop a policy that clearly outlines timelines for record retention and storage for all records beyond the required audit period."

S. Under §9.1.2.3 facilities must provide "...restrooms for clients, visitors and staff..." Do these have to be separate bathrooms?

Agency Response: §9.1.2.3 requires the availability of restrooms for those individuals using the facility. Programs are free to choose how to provide these at their individual facility. There is no requirement for separate bathrooms for clients, for visitors, for staff.

T. Under §12.1.1.6 treatment planning required by 8.1.2.2 within seventy-two hours (72) of admission. How is this different from the initial treatment plan due within forty-eight (48) hours?

Agency Response: DSAMH agrees that the requirements for treatment plans are confusing. The final order as been amended as follows: §8.1.2.2 "An individual, Master Comprehensive Treatment Plan, developed in partnership with the client shall be completed..." Definitions for "Initial Treatment Plan, Master Comprehensive Treatment Plan and Periodic Treatment Plan Review/Revision have been added in §3.0.

U. Under §12.1.1.8 and in accordance with §8.1.2.3 treatment plan update and revision is due on the thirtieth (30) day and every thirty (30) days thereafter. In a thirty (30) day period consumer/clients will have had up to four treatment plans/reviews.

Agency Response: DSAMH agrees that the description of treatment planning is confusing. The final order has been amended to include the following definitions:

"Initial Treatment Plan means a preliminary plan that addresses short term goals the program plans to achieve in the earliest days of treatment. The initial treatment plan shall be in effect until the master comprehensive treatment plan has been developed.

Master Comprehensive Treatment Plan means a treatment plan that is formulated from the comprehensive assessment as outlined in §8.1.2.1.2.14. and in the format outlined in §8.1.2.2.1.

Periodic Treatment Plan Review/Revision is a process whereby the clinical supervisor and counselor review prior treatment plans and establish new goals based on the client's progress and/or changing needs through out treatment."

§8.1.2.2 has also been amended as follows: "An individual, Master Comprehensive Treatment Plan, developed in partnership with the client shall be completed..."

V. Under §12.2.4 a minimum of 1 hour of face-to-face supervision per week between the counselor and clinical supervisor is required. Can this occur individually or as a treatment team?

Agency Response: §12.2.4 outlines the minimum requirement for supervision of the clinical staff by the clinical supervisor. It is acceptable to meet this minimum standard in individual or group supervision or both.

W. Under §15.1.1.4 the frequency of treatment plan revision has increased from every 90 days to every 60 days. Is there clinical justification for this? (David Parcher of Kent and Sussex County Counseling, Janice Sneed of Brandywine Counseling, Inc., Bruce Lorenz of Thresholds, Inc., and Ms. Katherine Harding offered similar Observations.)

Agency Response: DSAMH agrees that the 90 day intervals for treatment plan revision remain acceptable. The final order has been amended to state: "Treatment plan revision...every ninety (90) days after the effective date of the initial treatment plan."

X. Under §15.1.1.5 a schedule for individual, group and family counseling is to be reviewed at the time of the treatment plan review. Do I document this as part of the treatment plan revision?

Agency Response: Yes. All services provided to the consumer are to be documented on the treatment plan and treatment plan review.

Y. Under §15.2 there is a requirement that all services offered at locations other than the program's main building meet the requirements of §9.0 (Client Rights) in full. Where does this apply?

Agency Response: The requirement under §15.2 applies to programs providing services away from the program's main building (e.g. in the case of a satellite site) and assure client rights are met in full when documentation is transported from one site to another.

Z. Under §§16.5.1.1.2 & 17.0 programs are required to be in compliance with §6.0. If an agency has CARF or JACHO accreditation, the agency must meet this standard. Will waivers be granted to providers that have Deemed Status?

Agency Response: DSAMH has amended §4.15 to allow agency's to request waiver for the requirements of §6.0. All programs, including those with Deemed Status, are eligible for waiver under §4.15.

AA. Under §15.1.1.1.1 how is a "good faith effort" to receive physicals to be documented.

Agency Response: Any attempt to request a physical from a primary care physician (PCP), including any written correspondence to the PCP, and/or any attempts to have the consumer acquire a physical exam should be documented in the clinical file.

Imad Jarwan of the Department of Corrections offered the following comments summarized below:

The Department of Corrections (DOC) operates substance abuse programs based on Therapeutic Community (TC) standards. The TC model of treatment advocates the use of recovering addicts as counselors to promote the use of addicts and ex-addicts and/or offenders in key leadership and counseling positions. The proposed education and training background for clinical staff provides a hardship to correction substance abuse programs as "... (program) graduates who have a Bachelor's Degree or a Master's Degree is very dim at best...based on the historical educational level of our TC graduates, it is near impossible to have a Key graduate who holds a Master's Degree. The following options are offered for consideration:

A. Apply the current Therapeutic Community Accreditation (TCA) standards to the DOC's substance abuse treatment programs in place of the proposed standards. (Steven Martin of the Center for Drug and Alcohol Studies: University of Delaware offered similar comment.)

Agency Response: DSAMH and DOC have discussed alternatives to the application of the proposed standards with respect to DOC programs. It has been determined that the best course at this time is to apply the proposed standards. DSAMH and DOC have agreed that, where necessary to accommodate the requirements of the corrections environment, DOC programs will request waivers as required and that DSAMH will consider reasonable alternative practices designed to maintain quality of care.

B. Exclude the DOC's substance abuse programs from the proposed educational requirements for providers.

Agency Response: DSAMH and DOC have discussed alternatives to the application of the proposed standards with respect to DOC programs. It has been determined that the best course at this time is to apply the proposed standards. DSAMH and DOC have agreed that, where necessary to accommodate the requirements of

the corrections environment, DOC programs will request waivers as required and that DSAMH will consider reasonable alternative practices designed to maintain quality of care.

C. Provide a statement that states that when DSAMH standard is in conflict with DOC's policies and procedures, the DOC's policies and procedures will supersede DSAMH standard.

Agency Response: DSAMH and DOC have discussed alternatives to the application of the proposed standards with respect to DOC programs. It has been determined that the best course at this time is to apply the proposed standards. DSAMH and DOC have agreed that, where necessary to accommodate the requirements of the corrections environment, DOC programs will request waivers as required and that DSAMH will consider reasonable alternative practices designed to maintain quality of care.

D. §§7.1.2.1.3 (right to participate in grievance procedure); 7.1.2.1.4 (informing a client that treatment is voluntary); 12.4.1.3 (Privacy for personal hygiene) and 12.4.1.7 (Space for solitude) present as a hardship for DOC substance abuse programs. (Jim Elder of Civigenics and Steve Martin of the University of Delaware Drug and Alcohol Studies Department offered a similar comment.)

Agency Response: DSAMH and DOC have discussed alternatives to the application of the proposed standards with respect to DOC programs. It has been determined that the best course at this time is to apply the proposed standards. DSAMH and DOC have agreed that, where necessary to accommodate the requirements of the corrections environment, DOC programs will request waivers as required and that DSAMH will consider reasonable alternative practices designed to maintain quality of care.

E. Keep the old standard (§12.0) which states: "Alcoholism or drug abuse treatment programs operating within a correctional institution shall comply with standards applicable to program type, and in accordance with established regulations of the Department of Corrections as appropriate."

Agency Response: DSAMH and DOC have discussed alternatives to the application of the proposed standards with respect to DOC programs. It has been determined that the best course at this time is to apply the proposed standards. DSAMH and DOC have agreed that, where necessary to accommodate the requirements of the corrections environment, DOC programs will request waivers as required and that DSAMH will consider reasonable alternative practices designed to maintain quality of care.

Jim Elder of Civigenics offered the following observations and recommendations summarized below. DSAMH has considered each comment, found the comments to be helpful and instructive and have, adopted some of the suggestions made.

A. There are some ambiguities about what is meant by Clinical Director and Clinical Supervisor. The distinction is not clear. (Steve Martin and Daniel O'Connell of the University of Delaware Drug and Alcohol Studies Department and Ms. Samantha Hurd offered similar comment.)

Agency Response: DSAMH agrees that the distinction between Clinical Director and Clinical Supervisor is not clear. The definition of Clinical Director in §3.0 has been amended as follows: "Clinical Director' means an individual who, by virtue of education, training, and experience meets the requirements of 6.1.2.1 of these regulations; and is authorized by the Administrator to provide clinical and administrative oversight of the treatment program. The Clinical Director may also serve as Clinical Supervisor when directed to do so by the agency's governing body."

The definition of Clinical Supervisor in §3.0 has been amended as follows: "Clinical Supervisor' means an individual who, by virtue of education, training and experience, satisfies the requirements of 6.1.3.1 of these regulations; and is authorized by the Administrator and/or the governing body to provide clinical supervision to all clinical staff."

B. §6.1.2.1.1 as written requires a Master' Degree. I would like DSAMH to add the following requirements for Clinical Director: 1.) Bachelor's Degree in Counseling, Behavioral Science, Human Services, Sociology, Education,

or Criminal Justice, 2,) a current CADCE certification and 3.) Five years of experience in the field. (Bruce Johnson of PACE and Ms. Samantha Hurd offered similar comment.)

Agency Response: DSAMH accepts the recommendation to expand credentialing for the position of Clinical Director. The final order has been amended as follows: "6.1.2.1.2: A Bachelor's Degree from an accredited college or university with a major in chemical dependency, psychology, social work, counseling, nursing or a related field, full certification as an alcohol and drug counselor and five (five) years of clinical experience in the substance abuse treatment field, including two years of management experience.

David Parcher, Executive Director of Kent and Sussex Counseling offered the following comments and recommendations summarized below. DSAMH has considered each comment, found the comments to be helpful and instructive and have, adopted some of the suggestions made.

A. §5.1.7.2 requires 30 hours of training annually instead of 20 hours which is the requirement for certification or professional clinical license. Providers are having difficulty meeting the current 20 hours of training per year. In addition, Six hours of cultural competence training is required under §5.1.7.3. This seems excessive. Who will review this to make sure it is alcohol and drug specific? (Howard Isenberg of Open Door, Inc., Michael Kriner of Gateway Foundation, Bruce Lorenz of Thresholds, Bruce Johnson of PACE, Inc. and David Parcher on behalf of the DCB offered similar comments.)

Agency Response: DSAMH agrees that the increase to 30 hours of training annually from 20 hours of training annually is excessive. The final order has been amended to read "Clinical supervisors and all staff providing counseling services to clients shall complete at least twenty (20) hours of training annually including: Ten (10) hours specific to training and education in the treatment of alcohol and other drugs of abuse; Three (3) hours specific to training and education in providing culturally competence services; and Three (3) hours of training specific to ethics training and education. (Note: Only §5.1.7.3, not §5.1.7.2, addresses hours of annual training; §5.1.7.3 has been amended accordingly.)

DSAMH's Licensing and Medicaid Certification Unit will be responsible for reviewing documentation to determine if training is alcohol and drug specific.

B. Requirements for §6.1.3.1.2 for Clinical Supervisor should be more stringent if a CADCE is not required. (David Parcher on behalf of DCB and Ms. Samantha Hurd offered similar comments.)

Agency Response: DSAMH agrees that the requirements for Clinical Supervisor are unclear. §6.1.3.1.2 has been amended as follows: "A Bachelor's Degree from an accredited college or university with a major in chemical dependency, psychology, social work, counseling, nursing or a related field of study and five (5) years of documented clinical experience in the substance abuse treatment field."

C. §6.1.4.1.3 appears to negate the importance of certification and the specific training and one on one supervision required to assure competence as a chemical dependency counselor.

(David Parcher on behalf of the Delaware Certification Board, Bruce Lorenz of Thresholds, Bruce Johnson of PACE, Inc and on behalf of the Delaware Association for Addictions Counselors and Ms. Samantha Hurd offered similar comments.)

Agency Response: DSAMH agrees that the requirements for Counselor I are unclear. §6.1.4.1.3 has been amended as follows: "Five (5) years of documented clinical experience working in the field of substance abuse treatment." DSAMH believes that this minimum requirement coupled with the required clinical supervision adequately assure competence as a chemical dependency counselor.

D. §8.1.2 will require additional data collected by the ASI and modification of the current face sheet. DSAMH reviewed paperwork burden with its contractual providers a couple of years ago. The proposed changes do not appear consistent with that effort.

Agency Response: DSAMH believes this to be a matter that is better addressed within the context of particular contract issues with its contracted providers.

E. §8.1.2 requires consent/disclosure regarding each medication (and its side effects) prescribed by the program physician. Would this apply to daily doses of methadone or suboxone or would consent/disclosure be completed just once?

Agency Response: In the case of medication consent/disclosure, the physician reviews the medication and its side effects before the first dose of the medication. Consent/disclosure is not needed for each dose of the medication.

F. §9.3.3 requires staff on site at all times who are trained in basic first aid and CPR. This will cause a financial burden. Would everyone on staff have to be trained?

Agency Response: Staff on site at all times who are trained in basic first aid and CPR provides assurances of appropriate intervention during medical emergencies. Programs are required to have at least one person available during hours of operation that have the mentioned training. DSAMH allows individual programs to determine whether or not they will train their entire staff.

G. §15.1.1.3 requires the treatment planning in accordance with §8.1.2.2 within thirty (30) days of admission or by the fourth (4) counseling session, whichever occurs first. Does this include group sessions? If so, it would present challenges in regard to getting the client actively involved in treatment and still complete the treatment plan by the fourth session.

Agency Response: The admission date referred to in §15.1.1.3 is established by the individual program. Treatment planning in accordance with §8.1.2.2 is required within 30 days of the established admission date, or by the fourth counseling session (whichever occurs first) and includes any treatment session that the consumer participates in as a part of their substance abuse treatment program. This may include group or individual treatment.

H. §14.0 (Opioid Treatment Services) requires testing for CBC, Hepatitis B, Hepatitis C and Tetanus immunization review. This will increase the cost of treatment per client significantly. (Janice Sneed of Brandywine Counseling, Inc. and Ms. Katherine Harding offered similar comments.)

Agency Response: In order to allow opioid program providers to establish standards of care for admission to opioid treatment DSAMH agrees that an amendment to §14.1.1.1.10 of the final order is needed. The amendment states: "Laboratory tests including serology and other tests deemed necessary by the program physician within 14 days of admission...". Some tests specified in the sub-sections to §14.1.1.1.10 in the proposed standards have been removed and subsections have been renumbered as necessary.

I. §14.1.1.2 requires assessment of each client every (90) days by the program physician. This will result in more paperwork and more tracking.

Agency Response: §8.12(4)(f)(4) of CFR 42 (Part II) (Federal Standards for opioid treatment) state: "Each patient accepted for treatment at an OTP shall be assessed initially and periodically by qualified personnel to determine the most appropriate combination of services and treatment." DSAMH will require assessment every 90 days in conjunction with clinical supervision and treatment plan review as per §15.1.1.4 of the amended final order.

J. §14.14.1.2 states that no client may receive more than two weeks of take homes. This is more restrictive than the federal guidelines (CFR 42 (Part II).) (Ms. Katherine Harding offered similar comments.)

Agency Response: DSAMH agrees that the proposed state standards should be consistent with federal regulations for opioid treatment. The final order has been amended to delete this restriction.

K. DSAMH had TRI review paperwork burden in an effort to reduce the burden on staff. This appears to conflict with that effort.

Agency Response: DSAMH believes this to be a matter that is better addressed within the context of particular contract issues with its contracted providers.

Michael Kriner, Community Director at Gateway Foundation offered the following comments and recommendations summarized below. DSAMH has considered each comment, found the comments to be helpful and instructive and have, adopted some of the suggestions made.

A. Should a counselor be doing the supervision of an intern? Wouldn't it be advisable for the clinical supervisor to supervise an intern?

Agency Response: At a minimum, a clinician should be responsible for the oversight of an intern. DSAMH acknowledges that many programs will assign supervision tasks to just the Clinical Supervisor. DSAMH also acknowledges that ultimately, the Clinical Supervisor is responsible for the overall clinical program.

B. "Licensed Practice Nurse" means a person licensed by the state of Delaware as a Practical Nurse. DSAMH should consider accepting nursing personnel who are licensed in states that are in the interstate compact.

Agency Response: DSAMH agrees that Practical Nurses licensed in states that participate in the National Licensure Compact (NLC) should be eligible for employment in Delaware substance abuse treatment programs. The final order will be amended to state: "'Licensed Practical Nurse' means a person licensed by the State of Delaware as a Practical Nurse or a person licensed by a state that participates in the National Licensure Compact (NLC)."

C. §5.1.4.2 requires that the Governing Body review and update the policy and procedure manual annually. We suggest that DSAMH allow a designee appointed by the Governing Body to review and update the policy and procedure manual annually.

Agency Response: DSAMH agrees that a Governing Body should have the authority to appoint a designee to review and update the policy and procedure manual annually. The final order has been amended to state: "The program's policies and procedures manual shall be reviewed at least annually by the governing body or its designee."

D. §6.1.1.2.1.2 requires two (2) years of management experience for individuals hired as program Administrators. Is management experience specific to management in substance abuse programs? We would suggest that management experience be specific to substance abuse programs.

Agency Response: The Governing Body will be responsible for making decisions about the type of management experience the program will accept for the position of Administrator. DSAMH declines this recommendation.

E. §6.1.3.1.1 requires a Clinical Supervisor to obtain a Bachelor's Degree from an accredited college or university...and full certification as an addictions counselor in the state of Delaware or nationally recognized body in addictions counseling. We believe that a person with a Master's Degree and a CADAC would qualify as a Clinical Supervisor.

Agency Response: The requirements for Clinical Supervisor as outlined in §6.1.3.1.1 are minimum requirements for the position of Clinical Supervisor. Individuals with credentials that exceed the minimum requirement, as in the example provided, would meet the standard for Clinical Supervisor.

F. §6.1.5 outlines the qualifications and background for an Assistant Counselor (someone who has worked in the addictions field for less than five years) and suggests that this individual is able to provide the same functions as a Counselor. We suggest that this position have limited duties and more training.

Agency Response: The Assistant Counselor (now Counselor II) outlines minimum standards for individuals who are new to the substance abuse treatment field. DSAMH acknowledges that the standard as written causes confusion and implies that the Counselor II position is equivalent to the Counselor position. To clearly outline the increased level of supervision required for the Counselor II position, §5.1.6.4.2 of the final order has been amended and states: "Documentation of Supervision as required in 6.1.5.2 and 6.1.5.3." §6.1.5 has been amended to include: "§6.1.5.2. The individual must receive clinical supervision by the Clinical Supervisor a minimum of one

(1) hour per every twenty (20) hours of clinical services provided to clients.” and “§6.1.5.3 The Clinical Supervisor must review all documentation developed by the Counselor II for accuracy and clinical appropriateness.”

G. §11.3.5 requires a counselor to be on site and available to clients at least eight (8) hours a day, seven (7) days per week and available on call twenty-four (24) hours a day. Would a supervisor suffice?

Agency Response: In considering this comment, DSAMH determined that §11.0 should be revised to Non-Residential Detoxification. §11.0 has been amended and the final order will state: “11.0 Standards Applicable to Non Residential Detoxification. §11.1 Services required as determined by the Division of Substance Abuse and Mental Health.” §§ 11.2 through 11.4 have been struck from the final order.

Bruce Lorenz, Executive Director of Thresholds, Inc., offered the following comments and recommendations summarized below. DSAMH has considered each comment, found the comments to be helpful and instructive and have, adopted some of the suggestions made.

A. §5.1.6.3.5.8 requires documentation of the staff member’s abilities to provide culturally competent services. While cultural competence is important this standard lends little clarity to determining competence. Beyond a statement asserting that the counselor is competent, how is this to be documented?

Agency Response: §§5.1.6.3.5.8; 5.1.7.1.1.6; 5.1.7.3.2; 5.1.8.3.1.1 and the definition section of the standards address cultural competence including documentation of staff’s competence (§5.1.6.3.5.8); agency policies and procedures providing training for staff (§5.1.7.1.1.6); required hours of annual training for each staff person in cultural competence (§5.1.7.3.2); and the agency’s responsibility to provide culturally competent clinical services including an agency self assessment to determine the cultural needs of the population that the agency serves (§§5.1.8.3.1.1 & 5.1.8.3.1.1.1) Documentation of how each standard is being met by the agency as well as documentation of staff training and consideration for culturally competent provision of services on the annual employee evaluation would all be acceptable means to document cultural competence.

B. §6.1.5.1.1 outlines the educational and experiential requirements for Assistance Counselor and refers the reader to §6.1.4. The referenced standard does not have an educational requirement.

Agency Response: DSAMH agrees that §6.1.4 does not identify educational requirements for the position of Assistant Counselor (Counselor II in the final order.) The final order has been amended to state: “§6.1.5.1.1 A person who does not meet the educational and experiential qualifications for the position of Counselor I as set forth in 6.1.4 may be employed as an Counselor II if the individual holds a minimum of a high school diploma or its equivalent and meets at least one of the following:”

C. §6.1.5.2 is accurate. “If someone waits around for five years they will qualify to meet the licensure standard.

Agency Response: DSAMH agrees that the requirements for Counselor I (“Counselor in the proposed order) and Counselor II (Assistant Counselor in the proposed order) are unclear. §6.1.4.1.3 has been amended as follows: “Five (5) years of documented clinical experience in the substance abuse treatment field.” §6.1.5.1.1.1 “The individual has less than five (5) years of documented clinical experience in the substance abuse treatment field.” DSAMH believes that this minimum requirement coupled with the required clinical supervision adequately assure competence as a chemical dependency counselor. The language in §6.1.5.2 as proposed has been deleted.

D. §17.5.1.1.1.7 references the reader to §5.1.9 of the standards. There is no §5.1.9 in the standards.

Agency Response: DSAMH agrees that the reference is erroneous. The final order has been amended and the reference to §5.1.9 has been deleted.

E. In §5.1.7, staff training and development should include training a familiarity with MRSA as part of the training on infectious diseases.

Agency Response: The proposed standards are minimum standards of care. Agencies are encouraged to remain up to date on infectious diseases, including MRSA that may require further training for staff. Specific infectious diseases have not been named, but are left to the discretion of the program to be determined as appropriate to the needs of the program. DSAMH declines this recommendation.

(Daniel O'Connell offered this additional comment.)

The new standards set a lofty goal for higher levels of education without means to attain it. Other states (e.g. Maryland) offered reimbursement of tuition or partial tuition for other professions when the minimum educational goal was raised. It would be prudent to provide a mechanism so that interested parties can more suitably attain the goal.

Agency Response: DSAMH agrees that the minimum educational requirements may present as challenging to substance abuse treatment professionals. DSAMH is not in a position at this time to offer reimbursement for individuals pursuing college degrees.

Ms. Samantha Hurd offered the following observations and recommendations summarized below. DSAMH has considered each comment, found the comments to be helpful and instructive and have, adopted some of the suggestions made.

A. §6.1.3.1.1. references a degree in Chemical Dependency as an acceptable degree program. However, I am not aware of this type of degree at the Bachelor's level. I would like DSAMH to consider replacing the Chemical Dependency degree with one that is accessible in Delaware at the Bachelor's level.

Agency Response: §6.1.3.1.1. is a list of degrees that may be obtained by professionals within and outside of the state of Delaware (e.g. Delaware Technical Community College offers degrees and certificates in chemical dependency counseling). It is not meant to be exhaustive, but rather offer guidance in the human service skills needed by individuals seeking to provide substance abuse treatment. We also note that this section has been amended to include "or a related field of study." DSAMH declines this recommendation.

B. The proposed standards could possibly omit the current CADC qualifications for Clinical Supervisor. I would like to suggest that DSAMH consider making the CADC mandatory for Clinical Supervisors.

Agency Response: DSAMH acknowledges the CADC credential as a respected credential and supports individuals who continue to work toward credentialing as a CADC. DSAMH also acknowledges the work force crisis in regards to the shrinking number of CADC's in the state of Delaware. DSAMH declines this recommendation.

C. §6.1.2 implies that Clinical Directors would report to Administrators as outlined in §6.1.1. Administrators have less of an educational requirement. I believe this to be incongruent to typical management hierarchy.

Agency Response: The educational requirements in §§6.1.1 and 6.1.2 reference positions that may require different skill sets and therefore, different educational requirements. For example, The Clinical Director's position requires education and background that prepares an individual to deliver and supervise clinical services to substance abusing consumers. Administrators may not be called upon to deliver clinical services. Ultimately, hiring for the position of Administrator and minimum qualifications within the program would be established by the program's Governing Body.

~~**DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH**~~
~~**RULES AND REGULATIONS**~~
~~**NON-SUBSTANTIVE SECTIONS 1.0 TO 4.0**~~
~~**LICENSURE STANDARDS**~~
~~**SUBSTANTIVE SECTIONS 5.0 TO 14.0**~~

1.0 ORGANIZATION AND ADMINISTRATION

1.1 ORGANIZATION

~~1.1.1The Division of Substance Abuse and Mental Health (DSAMH) is a part of the Department of Health and Social Services.~~

~~1.1.2The title of the individual in charge of DSAMH is Director of the Division of Substance Abuse and Mental Health.~~

~~1.1.3The Director of DSAMH has overall responsibility for the Division, and the functions of the Treatment Programs operated and contracted by the State of Delaware.~~

~~1.2 ADMINISTRATION~~

~~1.2.1The overall administrative operation of DSAMH Central Office is located in New Castle, Delaware. (Mailing Address: 1901 N. DuPont Highway, New Castle, Delaware 19720).~~

~~1.2.2The title of the individual in charge of DSAMH is Director of DSAMH.~~

~~1.2.3The Director DSAMH has overall responsibility for the administration of DSAMH, the supervision of DSAMH staff, community activities, and DSAMH budget.~~

~~1.2.4There are four management units within DSAMH Central Office.~~

~~1.3 ADMINISTRATIVE UNIT~~

~~1.3.1The title of the individual in charge of the Administrative Unit is Manager.~~

~~1.3.2The Administrative Unit is designed to perform the following functions:~~

- ~~a. fiscal/budget management and analysis.~~
- ~~b. budget planning and projections.~~
- ~~c. contract management.~~
- ~~d. accounts payable.~~
- ~~e. employee time and leave records.~~
- ~~f. capital improvement.~~
- ~~g. state/federal budgetary requests.~~
- ~~h.~~

~~1.4 EVALUATION AND QUALITY ASSURANCE UNIT~~

~~1.4.1The title of the individual in charge of the Evaluation and Quality Assurance Unit is Unit Director.~~

~~1.4.2The Evaluation and Quality Assurance Unit is designed to provide a check and balance system between program services and program planning via the following functions:~~

~~a. Quality Assurance: Monitoring of all state-operated and state-contracted mental health and drug/alcohol facilities; licensing of all programs or individuals who advertise themselves as providers of drug/alcohol services; special studies as needed; gather data related to the efficiency, effectiveness and productivity of all staff and programs; ensure compliance with accreditation requirements, and Medicare/Medicaid requirements.~~

~~b. Management Information System (MIS): including management reports, performance contracts, and special studies as required.~~

- ~~c. Program Evaluation.~~
- ~~d. Consultation to local programs on developing internal quality assurance system.~~
- ~~e. Ensure that quality assurance is developed both in hospitals and in community programs.~~
- ~~f. Data analysis.~~
- ~~g. Surveys.~~

~~1.5 PLANNING AND PROGRAM DEVELOPMENT UNIT~~

~~1.5.1The title of the individual in charge of the Planning and Program Development Unit is, Manager.~~

~~1.5.2The Planning and Program Development Unit is designed to perform the following functions:~~

- ~~a. Long range program planning process that includes both institutional and community services.~~
- ~~b. Development of federal and state goals and objectives.~~
- ~~c. Special studies which include new and innovative programs.~~
- ~~d. Providing technical assistance to the community.~~
- ~~e. Needs assessment~~
- ~~f. Mental health, alcohol and drug abuse planning.~~

- g. Staff requirements.
- h. Special Projects
Activities such as manpower development.
Programs of special interest to target populations (i.e. gambling, elderly, or prevention).
Press Releases.

1.6 TRAINING, MANPOWER AND PROFESSIONAL DEVELOPMENT UNIT

1.6.1 The title of the individual in charge of the Training, Manpower, and Professional Development Unit is, Manager.

1.6.2 The Training, Manpower and Professional Development Unit is designed to perform the following functions:

- a. Professional development will include: education, training, in-service of Division-wide employees.
- b. Ensuring that required professional certification is maintained for professional staff.
- c. The annual training plan with needs assessment.
- d. Responsibility for the development of specialized training needs.
- e. State Troubled Employees Program (STEP).
- f. Community Systems Programming/Housing.

2.0 PRACTICE AND PROCEDURE

2.1 UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT ACT

2.1.1 DSAMH will exercise the authority granted in Title 16 ~~Delaware Code~~ Chapter 22 in accordance with the rules of practice and procedures mandated by the Delaware Administrative Procedures Act, Title 29, ~~Del.C.~~ Ch. 101 except as provided in Title 16 ~~Del.C.~~ Ch. 22.

2.2 INFORMATION AVAILABILITY

2.2.1 The public may obtain and inspect such available information of DSAMH, as provided for in 16 ~~Del.C.~~ §2220, during regular business hours (8:00 a.m. — 4:30 p.m.) on Tuesdays, Wednesdays and Thursdays at its Central Office, 1901 N. DuPont Highway, New Castle, Delaware 19720. DSAMH will charge a fee of twenty cents (\$0.20) a page for any documents requested to be reproduced or copied. When making its documents and other materials available to the public, DSAMH may take reasonable precautions to preserve the integrity and security of such documents or materials.

2.2.2 Information may be requested or submitted by addressing correspondence to Licensing Officer, DSAMH, 14 Central Ave., New Castle, Delaware, 19720.

2.2.3 Information may be requested by telephone by calling a Licensing Officer: 302.255.9441.

3.0 LICENSURE

Under Chapter 22, DSAMH must establish standards for approved Public/Private Treatment Facilities providing care or lodgings for substance abusers. Licensure Standards are subject to periodic review and update by DSAMH in accordance with the Administrative Procedures Act and Departmental procedures.

The purpose of such licensing is, of course, to insure that all programs, which serve the substance abusing population, provide at least minimal acceptable levels of service to their clientele. The granting of a license to a program warrants that the program has successfully complied with all requirements for the operation of substance abuse program in its specific category of service. It should be noted that these standards are minimal standards and are directed at programmatic, rather than environmental factors. The facilities in which each program is housed must comply with all other local, state and federal requirements, which are applicable.

3.1 LICENSING AUTHORITY

3.1.1 The portions of Delaware State Law relating to the licensing of substance abuse treatment programs (16 Del.C. Chs.22) empower DSAMH to promulgate rules, regulations, and standards leading to the licensure of all substance abuse programs in the State.

3.1.2 Licensure shall not be required for those programs that provide alcohol and drug education in public or private schools as a matter of and in conjunction with a general education of students. Neither shall licensure be

~~required of law enforcement agencies, prevention programs, education programs or hospital-based programs, which provide substance abuse education and/or treatment in the course of their normal performance of duties.~~

~~3.2 DEFINITIONS~~

~~3.2.1 Unless otherwise indicated, the following definitions, listed alphabetically, shall apply to the procedures, rules, regulations, and standards described in these Rules and Regulations, and Licensure Standards:~~

~~Activities That client service component of a program designed to help an individual develop his or her creative, physical, and social skills through participation in various forms of recreational, art, and social media.~~

~~Administration Term relating to the general management and business aspects of the program rather than to the direct client services.~~

~~Admission That point in a patient's relationship with the program at which the intake process has been completed and the individual is entitled to receive the full services of the program.~~

~~Advisory Council A committee of individuals, the composition of which is representative of the community in which the program is located, and the sex, racial, ethnic, and economic characteristics of the program's target population. This Council reviews, comments upon, and makes recommendations concerning program policies and procedures stemming from, affected by, or related to such characteristics.~~

~~Aftercare The process of providing continued services to a client that support and increase the gains made during treatment.~~

~~Alcoholic Means any person who chronically, habitually or periodically uses alcoholic beverages to the extent that they injure his/her health or substantially interfere with his/her social or economic health.~~

~~Applicant Any drug abuse or alcoholism treatment or prevention program applying for a license or renewal thereof.~~

~~Approval The recognition of a program by DSAMH as authorized by statute.~~

~~Approved Facility Any program approved by DSAMH as a service provider, as defined in 16 Del.C. Subsection 2203 (2) and (3).~~

~~Assessment Those procedures by which a program evaluates an individual's strengths, weaknesses, and problems and needs so that a treatment plan can be developed.~~

~~Assessment and Referral Program A service provider with a staff, budget, facilities and other resources that functions under a defined set of policies and procedures to determine the needs of alcohol and/or drug abusing individuals and refers them to appropriate treatment resources. An assessment and referral program is often, though not necessarily, operated for the purpose of doing intake processing for several independent alcohol and/or drug abuse treatment programs or for one agency operating several programs.~~

~~Case Conference A meeting, attended by at least the case manager and clinical supervisor (staff representative[s] of the various client service components may be involved also), whose primary purpose is the review of a client's treatment plan in light of the progress he/she has made in meeting treatment goals.~~

~~Case Management The activity designed to ensure that the client's treatment plan is developed, regularly reviewed, and revised; that the client is receiving adequate services; and that his/her progress is being measured and recorded in the case record.~~

~~Case Manager The staff person who is primarily responsible for providing and coordinating services to clients, and for monitoring and documenting the clients' progress in treatment.~~

~~Certified Counselor Those counselors fully certified and/or approved by Delaware Alcohol and Drug Counselors Certification Board, Inc. In the State Merit System, a counselor who has been fully certified by that system.~~

~~Client An individual who is entitled to receive the full services of a program, and for whom a treatment plan has been or is being developed. A client receives services on a continuous or regularly scheduled basis.~~

~~Client Case Record The file kept on every client that contains the history of an individual's association with the program. This file usually includes the social, medical, alcohol and drug history, results of physical examinations and laboratory tests (if applicable), all other assessments, treatment plans, progress notes, medication records, and all correspondence dealing with the individual.~~

~~Client Service Any service that is designed to meet the client's treatment or rehabilitation needs.~~

Consultant—An individual who provides advice and services to a program upon request, usually through a contractual agreement. In the Licensure Standards, a consultant is classified as a program staff member.

Coordinator—An individual with responsibility for planning and supervising the activities of a client service component.

Counseling—The effort to utilize a client's personal resources in understanding problem areas, considering alternatives, and changing behaviors. The functions performed will generally fall in the following categories: a) screening/intake, b) orientation, c) assessment/evaluation, d) treatment planning, e) individual counseling, f) group counseling, g) family counseling, h) crisis intervention, i) case management, j) education/prevention, k) referral, l) reports and record keeping, m) consultation with other professionals, and n) client aftercare/follow-up.

Counselor—An individual who performs counseling functions.

Crisis Intervention—Any activity that is aimed at alleviating acute emotional, behavioral and/or physical distress resulting from the individual's use of alcohol or drugs.

D.A.D.C.C.B.—Delaware Alcohol and Drug Counselors Certification Board, Inc.

Day Care Program—An outpatient setting providing vocational rehabilitation, counseling, and other alcohol and/or drug abuse related services to clients, generally on a structured basis of 8 hours a day, 5 days a week.

Demonstrated Experience—Evidence that job experience was gained by direct participation in a job activity comparable to that under consideration, that the experience was gained over a sufficiently long period of time for proficiency to have been gained, and that participation in such activity was supervised by qualified individuals.

Detoxification—The systematic reduction of the degree of physical dependence on alcohol or drugs in a medical or social setting milieu.

D.H.S.S.—Refers to the Department of Health and Social Services, State of Delaware.

Dietetics—That client service component dealing with clients' nutritional needs and involving the purchase of food and the planning, preparation, and serving of meals.

Discharge—That point at which an individual's active involvement with a program is terminated and he/she is no longer carried on program records as a client.

Division of DSAMH—The Division of Substance Abuse and Mental Health, Department of Health and Social Services, State of Delaware.

Documentation—A written record acceptable as evidence to demonstrate compliance with the Licensure Standards.

Drug Abuse—The use of drug, chemical, or substance (excluding alcohol in common usage) in such a manner that the adverse biological, psychological, or social consequences of such use outweigh the benefits.

Emergency Telephone Service—A telephone service providing crisis intervention, counseling, and information about alcohol and/or drugs, and on treatment resources.

Evaluation—A systematic process by which treatment or program outcomes are assessed in light of identified goals and objectives.

Executive Director—The individual appointed by the governing body to act on its behalf in the overall management of the program.

Facility—The physical area (grounds, building or portions thereof) under direct program administrative control where program functions take place.

Follow-up—The procedure by which a program determines the status of the services they provided.

Formal Agreement—A written contract, letter of agreement, or other document that defines the relationship between a program and an outside resource or individual.

Formal Relationship—A relationship governed by a formal agreement.

Formulary—A catalog of the pharmaceuticals approved for use in the program that list the names of the drugs, information regarding dosage, contraindications, and unit dispensing size.

Governor's Advisory Council—The appointed advisory council for DSAMH: Governor's Advisory Council on Alcoholism Drug Abuse and Mental Health.

Governing Body—The person or persons with the ultimate authority and responsibility for the overall operation of the program.

Guardian Any parent, trustee, legal committee, "guardian", conservator, or other person or agency charged by law with power to act on behalf of or have responsibility for the person of a patient or a client.

Halfway House These are identified as community based, peer-oriented residential settings that provide food, lodging, and supportive services in a chemical free environment for persons involved in a recovery process.

Informal Relationship Any understanding between a program and an outside resource to cooperate in a common venture without imposing binding responsibilities on either party.

Inspector Refers to a licensing officer or other person duly appointed by the Director DSAMH.

Intake The administrative and assessment process preceding admission by which a person is judged eligible to become a client.

Law Enforcement Related Agency Any court, correctional department, probation department, police department, or other organization with legal power to enforce compliance with federal, state, or local laws.

Legal Assistance That client service component of a program specializing in dealing with a client's criminal and/or civil problems.

Licensee Any program licensed by DSAMH.

Licensure Certification by DSAMH that a program is in compliance with the law, the rules and regulations of the Licensure Standards, and is authorized to operate an alcohol and/or drug program in the State of Delaware.

Medication Control That client service component of a program dealing with the storage, handling, accounting, prescribing, dispensing, and administering of drugs used by the program for therapeutic purposes.

Non-ambulatory Term referring to any individual essentially incapable of moving to safety during emergencies without assistance. This shall include such incapability as caused by physical or other restraint.

On-site Within the confines of the program's facilities.

Outside Resources An individual, agency, institution, or organization willing to provide services, facilities, equipment, supplies, funds, or personnel to the program or its clients.

Outpatient Program A service provider that offers counseling, and/or other alcohol and/or drug abuse related services to clients in an outpatient setting.

Outpatient Setting A setting in which clients are provided services while they continue to reside in their present environment.

Outreach The process of systematically interacting with a community for the purpose of identifying persons in need of services, alerting persons and their families to the availability and location of services and enabling persons to enter and accept program services.

Patient As stated in the Uniform Alcoholism Act, it is defined as a person who is an informal patient, a voluntary patient, a proposed patient or an involuntary patient. That is, any person who is a potential client or a client that has been admitted into treatment.

Policy A statement of the principles which guide and govern the activities, procedures and operations of a program.

Potential Applicant Any service provider that identifies itself, via the media, as providing drug abuse and/or alcoholism treatment or prevention services.

Procedure A series of activities designed to implement program goals and/or policy.

Program Any individual, public or private service provider, firm, corporation, partnership, society or association which represents itself either through name, advertisement, practice, or reputation to offer any service providing information, prevention, treatment, counseling, rehabilitation, or aftercare to alcoholics, drug abusers or drug dependent individuals.

Program Review That management component of a program having as its objective the determination of the degree to which the program is meeting its stated goals and the degree to which program resources are effectively utilized.

Qualified Physician An individual who has graduated from a school of medicine or osteopathy and who has a license to practice in Delaware.

Regulations The administrative procedures through which the licensure process occurs and with which both state licensing officials and local program operators must comply.

Rehabilitation The re-establishment of a client to a normal or optimal state of health and constructive activity by medical, physical, psychological therapy, counseling and/or other types of interventions.

Resident Any individual who is provided with sleeping quarters within a program facility.

Residential Program A service provider offering counseling, other alcohol and/or drug abuse related services and sleeping quarters to clients in a residential setting. A residential program temporarily removes the client from his/her present environment.

Residential Setting A setting in which clients are provided services while they reside within the program facilities. This includes 28 day, long term and halfway houses.

Setting The physical surroundings of a program which define how a program provides services, i.e. in residence or outpatient.

Social Services That client service component of a program organized to enhance the client's familiarity with social service resources and to aid him/her in relating to social institutions.

Staff Member Any individual who provides services to the program on a regular basis, whether as an employee, as a consultant or as a volunteer.

Standards Specifications representing the minimal characteristics of an alcoholism or drug abuse treatment or rehabilitation program, or prevention program, which are acceptable for the issuance of a license.

Target Population The persons, service providers (agencies), and/or organizations towards which the program services are aimed.

Treatment The broad range of emergency, outpatient, residential, and inpatient services, including diagnostic evaluation, counseling, medical, psychiatric, psychological, and social service care, which may be extended to alcohol or drug dependent persons and which are geared toward influencing the behavior of such an individual to achieve a state of rehabilitation.

Treatment Plan A written plan which documents the short, medium and long term interventions which will be taken to address the identified needs of the clients. A treatment plan may also state measurable, time limited, and specific client objectives.

3.3 DEFINITIONS Verbs used in these Rules and Regulations, and Licensure Standards

Triage A system of assigning priorities of medical treatment on the basis of urgency.

Vocational Rehabilitation That client service component of a program designed to assist the client in becoming a productive member of his/her community through the use of vocational assessment, job counseling, remedial and job training/retraining, job development, and job placement.

3.3.1 The attention of the program is drawn to the distinction between the use of the words, "shall", "must", "will", "should", and "may" in the Licensure Standards for Alcohol and Drug Programs.

- o Shall, Must or Will Term used to indicate a requirement, the only acceptable method under the present standards.

- o Should Term used to reflect the most preferable procedure, yet allowing for the use of effective alternatives.

- o May Term used to reflect an acceptable method that is recognized but not necessarily preferred.

4.0 LICENSE APPLICATION PROCEDURES

4.1 PUBLIC NOTIFICATION

4.1.1 All potential applicants for licensure or for renewal are responsible for familiarizing themselves with the requirements of the Delaware Licensure Standards, and the time limitations within which each applicant must submit this application. DSAMH will inform all potential applicants, via a letter, of these requirements in ample time for the applicant to file the application through established channels. Failure of DSAMH to make this notification, or of the delivery mechanism to properly deliver the notification, in no way relieves the potential applicant of his/her responsibility to keep himself/herself informed of licensure requirements.

4.2 LICENSE TYPES

4.2.1 Two types of licenses may be issued by DSAMH:

Provisional License: A Provisional License may be issued for up to eight (8) months [240 days], at the discretion of DSAMH, to an applicant who is in substantial compliance with the Licensure Standards, and the Rules

and Regulations. "Substantial compliance" is defined as that level of compliance wherein deficiencies can be corrected within an eight (8) month [240 days] period. A Provisional License shall not be renewed or extended.

Full License: A Full License may be issued when the applicant is found to be in compliance with the Licensure Standards, and Rules and Regulations. At their discretion, DSAMH may issue a one or a two year License. A one-year License may have contingencies attached, which must be corrected to the satisfaction of DSAMH in order for the applicant to retain the License. A two-year License will only be granted without contingencies. A Full License is renewable upon re-application provided the facility is still in compliance with the Standards.

4.3 PROCEDURE

4.3.1 The procedures by which specific potential applicants receive licensure notification will apply to potential applicants who fall in two categories:

Those programs which are not currently operating a licensed alcohol and/or drug abuse treatment or prevention program (during initial implementation of the licensure system, all applicants fall within this category).

Those applicants who are currently operating a licensed program and who are, thus, applying for License renewal.

4.3.2 Potential applicants in the first of these categories will be given notification. After initial licensure, all licensed programs will be notified, approximately 90 days prior to the expiration of their existing licenses. Failure of DSAMH to make this notification, or of the delivery mechanism to properly deliver the notification, in no way relieves the licensed program of his/her responsibility to re-apply within 90-120 days prior to termination of a License.

4.3.3 In addition to this notification procedure, DSAMH will be able to provide information and application forms, as requested by any person or program seeking information on licenses.

4.4 NUMBER

4.4.1 A single License will be issued for each qualifying substance abuse program location. The License shall delineate one or more categories of service(s) that the program is authorized to provide.

4.5 EXPIRATION

4.5.1 A Full License shall expire on the anniversary (one or two years) of initial issuance. Renewal of such License shall be issued only on application, as required herein. The renewal of a License shall be contingent upon demonstration of substantial continuation of the program operation for which the initial License was granted for the previously licensed year.

4.5.2 Failure to apply for and receive renewal of such License prior to the expiration date shall result in immediate termination of licensure.

4.6 APPLICATION FORM

4.6.1 The same application form is utilized for both initial licensure and renewal of an existing license. This form is available only through DSAMH. Each item must be completed, and the application must be typed or written legibly in ink.

4.6.2 In the event that a potential applicant should have difficulty in completing the form, or that a question of interpretation should arise, the program's director may contact a Licensing Officer, Licensing and Medicaid Certification, at the Division of Substance Abuse and Mental Health, (302) 255-9441, (302) 255-9442, (302) 255-9443, or (302) 255-9461 for assistance.

4.7 TIME FOR APPLICATION

4.7.1 It may be anticipated that it could take DSAMH up to 60 days from the time of receipt, to review and decide on an application. Consequently, all new applications shall be received by DSAMH at least 90 days prior to the anticipated start date.

4.7.2 Applicants for renewal shall submit their applications at least 90 (but not more than 120) days before the expiration of their current license.

4.7.3 If, during the time in which an application is being reviewed by DSAMH, a substantive change occurs in a program's nature, staffing, or location, the application should be immediately updated by notifying DSAMH, in writing, of the program alterations. In no case shall an application remain incomplete past 60 days prior to anticipated start date.

4.8 WAIVER

4.8.1 If an applicant believes that particular circumstances indicate that the waiving of individual licensure standards would be of benefit to the client community, he/she may request such waiver in writing, addressed to the Director DSAMH, stating the standard he/she wishes waived and the specific reasons for his/her request.

4.8.2 The Chief of DSAMH is the only one who has the authority to grant a waiver on a standard.

4.8.3 Applicants requesting a waiver will be notified that the waiver was granted or denied, in writing. If a waiver was denied the applicant will be asked to provide a plan for meeting the standard.

4.8.4 In the event that an applicant wishes to appeal the denial of a License due to failure to meet a standard, for which a waiver was denied, the procedure in Subsection 4.11.1. of this document shall be followed.

4.9 APPLICATION REVIEW

4.9.1 Each application received by DSAMH will be given a preliminary review to ensure that all information is complete. If additional information is required, DSAMH will send a written request specifying the additional information needed.

4.9.2 When all application form information is complete, DSAMH will conduct an on-site inspection of the applicant's program. During this scheduled visit, the inspector will meet with the Board President (or his/her designee), Program Director, and selected staff members. Additionally, selected clients and selected members of the community in which the program operates may be contacted.

4.9.3 Upon completion of his/her visit, the inspector will submit an inspection report describing the findings of his/her site visit. This inspection report, along with the application form will form the basis for the review process. No fee shall be charged by DSAMH for conducting an on-site inspection.

4.10 APPROVAL

4.10.1 Those applicants, whose applications are approved, will be notified of such approval by DSAMH's Licensing Officers.

4.10.2 This notification will be accompanied by a License, which contains two principal categories of information:

The first will describe the type and nature of services that the licensee is authorized to provide (e.g. residential program, emergency telephone service, etc.).

The second will represent the degree to which the approved application met the requirements for approval.

4.10.3 A Full License will be issued to an applicant whose application and program review indicated that its program meets at least 95% of the Licensure Standards, and Rules and Regulations.

4.10.4 An applicant whose program meets at least 85% of the Licensure Standards, and Rules and Regulations, and who may reasonably be expected to remedy the shortcomings readily, may be issued a Provisional License which authorizes him/her to operate for 140 to 240 days. Within the time specified on the Provisional License, the licensee must show evidence that the deficiencies noted by the Licensing Officer have been corrected. A second site visit by DSAMH Licensing Officer may be conducted to verify that the standard(s) have been met.

4.10.5 The License shall be posted in a prominent place.

4.11 DENIAL

4.11.1 If it is a decision to deny licensure to an applicant, such denial will be conveyed in writing to the applicant. In the letter notifying the applicant of the denial, the applicant will be informed of the precise reasons for denial and a provision for a fair hearing. The process for appeal differs depending on the type of service the applicant proposes to provide. Therefore, appeals shall be done in accordance with Title 16 of the Delaware Code Chapter 22 (Uniform Alcoholism and Intoxication Treatment Act).

4.12 SUSPENSION AND REVOCATION

4.12.1 DSAMH may suspend or revoke a license as per 16 ~~Del.C.~~ Ch. 22, or for any of the following reasons:

I. Violation by the program, its director, or staff, of any regulation or standard promulgated by DSAMH pertaining to alcohol and drug abuse program licensure.

II. Permitting, aiding, or abetting the commission of an unlawful act within the facilities maintained by the program, or permitting, aiding or abetting the commission of an unlawful act using drugs or alcohol provided by the program or its staff.

III. Practices or conduct on the part of the program found by DSAMH to be detrimental to the health or welfare of a participant in the program.

IV. Deviation from the originally licensed plan of operation, if, in the judgement of DSAMH, such deviation adversely affects the character, quality, or scope of services provided. This includes an inability to correct all the areas of contingencies.

4.12.2 When DSAMH determines that a licensed program has committed an act, or has engaged in conduct or practices, justifying suspension or revocation of licensure, the Director DSAMH shall notify the program by certified mail (return receipt requested), of DSAMH's intent to suspend or revoke the license. Such notices of intent shall contain the reasons for suspension or revocation and suggested corrective measure.

4.12.3 The process of appeal shall be the same as for denial in accordance with Title 16 ~~Del.C.~~ Ch.22 (Uniform Alcoholism and Intoxication Treatment Act).

4.13 NON-ASSIGNABILITY

4.13.1 When a program is discontinued, its current license is immediately void and shall be returned to DSAMH. A license issued by DSAMH for the operation of an alcohol and/or drug abuse program is not transferable and applies only to the original applicant program and the premises on which the program will operate.

4.13.2 Any person or other legal entity acquiring a previously licensed program shall submit a new application for licensure at least 60 days prior to transfer of program.

4.13.3 Any licensed person or legal entity desiring to expand or transfer to different premises must notify DSAMH 45 days prior to said action in order that the DSAMH may review the site change and determine appropriate action.

4.14 CLOSURE

4.14.1 A licensee shall, if possible, notify DSAMH of impending closure of its licensed program at least 45 days prior to such closure.

4.14.2 The licensee shall be responsible for the placement of clients and for preservation and delivery of all records to DSAMH.

4.14.3 Upon closure, the License shall be immediately returned to DSAMH by the licensee.

4.15 REINSTATEMENT OF REVOKED OR SUSPENDED LICENSE

4.15.1 When a License has been revoked or suspended, the licensee, if he/she has not previously had a license revoked or suspended may, at any time after the determination has become final, request a hearing for the purpose of showing that the reasons for the revocation or suspension of the license have been corrected and that the license should be reinstated.

4.15.2 No licensee who has previously had a License suspended or revoked may request a hearing to reinstate the license prior to one (1) year after the determination becomes final.

4.15.3 The request for hearings shall be in writing to DSAMH/DHSS.

4.16 CONFIDENTIALITY

4.16.1 All client records shall be kept confidential and shall be handled in compliance with Federal (P.L. 92-255 and P.L. 91-616) and State statutes and rules regarding confidentiality provisions as these rules apply to the records and identity of any individual who is or has been a client.

4.16.2 A program shall insure that all staff and clients, as part of their orientation, are made aware of these requirements.

4.16.3 A decision to disclose client information under any provisions of Federal or State rules which permits such disclosure, shall be made only by the Program Director or his/her designee with appropriately administered consent procedures.

4.17 FUNDING

4.17.1 The issuance of a License to any applicant shall not be construed as a commitment on the part of either the State or Federal government to provide funds to such licensed program.

4.18 INSPECTIONS

~~4.18.1 Each applicant or licensee agrees as condition of said application or license to permit properly designated representatives of DSAMH to enter and inspect any and all premises of programs for which a license has been applied for or issued. The purpose of such inspections shall be to verify information contained in the application or to assure compliance with all laws, rules and regulations relating thereto. Such inspections shall occur during the hours of operation of said facility or at any other mutually agreeable hour. The applicant or licensee agrees to permit properly designated representatives of DSAMH to audit and compile statistical data (subject to confidentiality restrictions) from all records maintained by the applicant or licensee.~~

~~4.18.2 Right of entry and inspection shall, under due process of law, extend to any premises which DSAMH has reason to believe is operating a drug and/or alcohol program.~~

~~4.18.3 No fee shall be charged by DSAMH for conducting such inspections.~~

5.0 STANDARDS APPLICABLE TO ALL ALCOHOL AND DRUG SERVICE PROVIDERS:

Rate each program as to level of compliance for each standard in this section. If a standard has been waived, or is not applicable please indicate this instead.

5.1 GOVERNING BODY/ADVISORY COUNCIL

~~5.1.1 Every program shall have a governing body or Advisory Council representative of the community.~~

~~5.1.2 The names, addresses, occupations, and relationship, of any board member, to any staff member shall be maintained by program management. This may be accomplished by keeping an updated copy, on file, of Form A of the Licensure Application.~~

~~5.1.3 Written by-laws which shall specify at least the following: its powers and duties; its officers; criteria for membership; types of membership and methods of selection; number of members; method for determination of a quorum; length of member's terms; frequency of meetings; attendance requirements; and the relationship of this body to the program and program staff.~~

~~5.1.4 Minutes of meetings shall be kept and shall include, but not be limited to the following items: date of meeting; names of members attending/absent (excused and unexcused); topics discussed, decisions reached and actions taken; and reports from committees and/or task forces.~~

5.2 STAFF COMPOSITION

~~5.2.1 The program shall have a written plan which clearly delineates the number and qualifications of its clinical, administrative, and support personnel as determined by at least the following: the size of the program; the clinical characteristics of the client population; the fundamental needs of the clients, the characteristics of the program's clients, e.g. adults, children, adolescents, male, female, etc.; the hours and days the program operates; and all applicable federal, state, and local laws and regulations.~~

~~5.2.2 A program using methadone in treatment of drug dependent persons shall not employ any person who is being treated using methadone.~~

5.3 RECORDS

~~5.3.1 A program shall maintain financial, and personnel records in a systematic fashion for a period of seven years.~~

~~5.3.2 A program shall maintain client case records in systematic fashion. Purging of clinical records shall be coordinated with DSAMH.~~

~~5.3.3 The program shall adhere to Federal Rules of Client Confidentiality. (42 U.S.C. 4582 and 21 U.S.C. 1175)~~

~~5.3.4 All client reporting systems and client filing systems shall be approved by DSAMH.~~

~~5.3.5 Clinical records shall include but not be limited to the following documentation:~~

~~5.3.5.1 Intake: Information gathered in the course of intake and assessment process shall be recorded on standardized form(s). Demographic, behavioral, medical, and legal information shall be included in this documentation. The documentation shall include a recommendation pertinent to the patient's needs for treatment. The completed form(s) shall become part of the client's case record. The form(s) shall be signed by the case manager conducting the interview, and by the clinical supervisor.~~

~~5.3.5.2Treatment Plan:~~ Every individual case record shall include a treatment plan outlining the following: the identified needs of the client; the short, medium and long term interventions which will be taken to address the identified needs of the client; frequency of counseling services to be provided; and a delineation of the supportive services needed by the client. A treatment plan may also state measurable, time limited, and specific client objectives. The treatment plan shall address those issues for which the client will be receiving treatment. An original treatment plan shall be developed within a reasonable period of time after admission, but not to extend beyond 30 days after admission to the program. The treatment plan shall be updated at a minimum of every 90 days in an outpatient setting, and every 30 days in a residential setting or on the 14th day in a 28-day residential program. Treatment plans shall be signed and dated by the case manager and clinical supervisor. The client's signature on the treatment plan is optional.

~~5.3.5.3Case Conferences:~~ Every individual case record shall be reviewed by the clinical supervisor and the case manager. The observations and recommendations resulting from this review shall be documented in the client record. Case conferences shall occur at least every 90 days in an outpatient setting, and every 30 days in a residential setting or on the 14th day in a 28-day residential program.

~~5.3.5.4Progress Notes:~~ Contacts made with the client and/or on behalf of the client shall be documented in the progress notes. Progress notes shall reflect the progress being made in meeting the current treatment plan. Progress notes shall include, but not be limited to, the following: date of contact/service, time spent, title of person providing the service, client's name, and a summary of the contact which should include facts, impressions and anticipated treatment.

~~5.3.5.5Summary of Monthly Client Activity:~~ The individual case record shall provide a monthly summary of services for the review, monitoring and evaluations of the treatment provided to the client.

~~5.3.5.6Discharge Summary:~~ Every individual case record shall include a discharge summary outlining the following: the reasons(s) for discharge, assessment of the problem that brought the individual to treatment, any unresolved problem(s), discharge/aftercare plans if clinically indicated, and follow up plan which should include forwarding address and/or phone number(s). The discharge summary shall be signed and dated by the client (if available), the case manager and the clinical supervisor. The discharge summary should be completed immediately upon discharge of a client but no later than five days after discharge.

~~5.3.5.7Client Reporting System:~~ The individual case record shall contain identifying data, including the following items: a) date of birth; b) sex; c) race or ethnic origin; d) education; e) marital status; f) employment status; g) date of admission; h) alcohol and/or drug history; and i) discharge date.

~~5.3.5.8Urinalysis:~~ Whenever urinalysis testing is performed, the results of such testing shall be documented in the client case record.

~~5.3.5.9Confidentiality Forms:~~ All client files shall contain a "General Statement of Confidentiality" which indicates that the client has been informed of the confidentiality regulations protecting client identity and records at the treatment facility. Other confidentiality forms should be filled out as appropriate, and in accordance with the requirements of the law.

~~5.3.6Authorized DSAMH personnel shall have access to program records for the purposes of monitoring, research, evaluation, or financial audit functions.~~

5.4 REPORTS

~~5.4.1A program shall furnish to DSAMH from time to time such regular and special reports as reasonably needed by the licensor to insure that licensing standards are being met.~~

5.5. EVALUATION

~~5.5.1All treatment service providers should provide for a mechanism to collect feedback from service recipients.~~

5.6 FACILITY STANDARDS

~~5.6.1The building(s) in which an alcohol and/or drug program is housed shall be in compliance with all applicable federal, state, and local codes, ordinances, rules, and amendments thereto (e.g. fire, health, and handicapped regulations).~~

~~5.6.2The building(s) in which the program is housed shall maintain written evidence of a valid report of inspections by the authority having jurisdiction (e.g. fire, health, handicapped regulations, etc.).~~

~~5.6.3The building(s) and grounds of the program shall be maintained in a clean and safe condition.~~

~~5.6.4The building(s) shall be appropriately furnished and in good repair such that the environment enhances the positive self image of the client, and preserves human dignity.~~

~~5.6.5The building(s) shall have rest rooms available to clients, visitors, and staff.~~

~~5.7 INTAKE PROCEDURES~~

~~5.7.1During intake, each patient shall be interviewed by a certified counselor. This interview shall include a complete personal history, legal history, alcohol and drug history, and any other relevant information.~~

~~5.7.2The intake procedure shall provide the basis for an individual treatment plan for each admitted client.~~

~~5.8 CERTIFICATION OF COUNSELING STAFF~~

~~5.8.1Drug and/or alcohol programs shall have all counselors certified by the Delaware Alcohol and Drug Counselor Certification Board, Inc. or the State Merit System, as meeting the minimum standards to practice in the field. Counselors having certification from other states must also have their certification approved by the D.A.D.C.C.B. in order to assure quality service.~~

~~5.8.2Staff members who are not certified and are performing any counseling functions (e.g. interns, volunteers, etc.) shall receive documented clinical supervision from a certified counselor.~~

~~5.8.3Staff who are not certified have five (5) years from the date the original license (Provisional or Full) has been granted or from the date of hire whichever comes later, to complete their certification. During the five-year period they must obtain an Associate level certification to show that they are working toward certification. The Personnel File shall show documentation that the hours of training are being completed.~~

~~5.9 ALCOHOL AND/OR DRUG ABUSE~~

~~5.9.1There shall be no unauthorized use of alcohol and/or drugs on or within the premises of any alcohol and/or drug program.~~

~~5.10MEDICAL SERVICES~~

~~5.10.1Non medical facilities shall have documentation that the program has access to medical services for the provision of emergency, inpatient and ambulatory services, as appropriate.~~

~~5.11SUPPORTIVE SERVICES~~

~~5.11.1Supportive services should be made available to all clients. These may include, but not be limited to, the following: continuing education, vocational counseling, and training, job development and placement, recreational services, etc.~~

~~5.11.2Provision of services to non-English populations: The program must provide for the equitable availability and delivery of services to those non-English speaking persons within the program's stated or recognized service delivery area.~~

~~5.12CLIENT AREA~~

~~5.12.1The program should provide an area which clients can use to meet with outside~~

~~5.12.2community service providers for other activities consistent with the program, e.g. A.A., Al-Anon.~~

~~5.13CLIENT FEES~~

~~5.13.1A notice of the fee schedule shall be posted in a prominent place in each facility stating the availability and location of the schedule. Fee schedules will show base prices for the principal services and any change that may occur in such price.~~

6.0 STANDARDS APPLICABLE TO LICENSED MEDICAL DETOXIFICATION SETTINGS:

~~Rate each medical detoxification setting as to level of compliance for each standard in this section. If a standard has been waived, or is not applicable please indicate this instead.~~

~~6.1 MEDICAL DETOXIFICATION~~

~~6.1.1The medical detoxification program shall provide twenty-four hour supervised care under the direction of a physician in a hospital or other suitably equipped medical setting designed for the diagnosis and/or treatment of medical problems derived from or associated with alcohol abuse, and/or alcoholism, and drug abuse.~~

~~6.2 OTHER APPLICABLE STANDARDS~~

~~6.2.1The facility shall comply with all appropriate federal, state, and local codes, laws and regulations pertaining to medically oriented environments, as defined above.~~

~~6.3 HOURS OF OPERATION~~

~~6.3.1The program shall operate seven days per week, twenty-four hours per day.~~

~~6.4 ADMISSION PROCEDURES~~

~~6.4.1Admission to a program shall be determined by a certified staff member upon examination of the potential client. This procedure shall include appropriate physical and laboratory tests as determined by the medical staff member and other federal or state laws.~~

~~6.5 ALCOHOL/DRUG SCREENING~~

~~6.5.1Testing for alcohol and/or drugs used should be conducted, on an as needed basis, under appropriate supervision, as soon as possible after admission.~~

~~6.6 CONTROLLED SUBSTANCES~~

~~6.6.1A detoxification program using controlled substances as a component of treatment shall comply with all federal, state, and local acts, rules and regulations pertaining to controlled substances.~~

~~6.7 CLIENT SERVICE~~

~~6.7.1In a medical detoxification setting a client shall receive a minimum of one face-to-face medical service contact in each 24 hour period during the client's stay in treatment.~~

~~6.8 MEDICAL STANDARDS~~

~~6.8.1A medical detoxification program shall be capable of effectively managing the physiological manifestations and distress associated with withdrawal.~~

~~6.8.2The program shall have standing orders for withdrawing clients. These orders shall cover the various forms of physical dependence expected to be encountered by the program.~~

~~6.8.3Medication shall be administered per all state and federal requirements.~~

~~6.9 STAFF COVERAGE~~

~~6.9.1There shall be a staff member on site during the program's hours of operation who has basic knowledge of the complications associated with withdrawal and who is legally permitted to administer drugs.~~

~~6.10 MEALS~~

~~6.10.1The program shall provide a dietetic component that addresses the nutritional needs of the client.~~

~~6.11 MEDICAL EVALUATION~~

~~6.11.1There shall be a documentation that an evaluation of the medical needs of the client has been conducted and/or reviewed by a physician within twenty-four hours of the client's entry into the detoxification program.~~

~~6.12 PHYSICIAN COVERAGE~~

~~6.12.1A detoxification program shall have a physician or physicians, licensed to practice medicine in the State of Delaware.~~

~~6.12.2This physician coverage shall provide on-site services as necessary and on-call services twenty-four (24) hours a day.~~

~~6.13 DISCHARGE PROCEDURES~~

~~6.13.1A client shall continue in the program until a medical determination is made that the client is medically detoxified. Discharge against medical advice shall be documented in the case record.~~

~~6.14 FACILITY CAPACITY~~

~~6.14.1Facilities shall have a client bed capacity sufficient to accommodate the stated program capacity.~~

~~6.15 DETOXIFICATION RECORDS~~

~~6.15.1A detoxification program shall keep records in accordance with all the subsections of section 5.3. Clinical records shall include both medical and social service documentation, and shall include but not be limited to: doctor's order sheet, physical exam documentation, progress notes, treatment plan, a brief medical history, drug history, social/ psychological evaluation, medical forms to monitor medication received and blood pressure readings, client service record, a client reporting system for admission/discharge, urinalysis and lab test reports (when appropriate) and confidentiality forms.~~

7.0 STANDARDS APPLICABLE TO LICENSED SOCIAL SETTING DETOXIFICATION SETTINGS:

Rate each social detoxification setting as to level of compliance for each standard in this section. If a standard has been waived, or is not applicable please indicate this instead.

7.1 SOCIAL SETTING DETOXIFICATION

~~7.1.1 Social setting detoxification is defined as the provision of counseling and other supportive non-medical services, in a residential setting, to alcohol and/or drug intoxicated clients.~~

7.2 MEDICAL SERVICES

~~7.2.1 There shall be 24-hour coverage by staff trained in triage.~~

~~7.2.2 There shall be documented agreements with local ambulance service(s) and emergency room(s) for the provision of emergency medical services to clients.~~

7.3 ADMINISTRATION OF MEDICATION

~~7.3.1 There shall be no administration of prescription or non-prescription drugs until the client has been examined by a physician or a physician has been consulted.~~

7.4 RECORDS

~~7.4.1 The social setting detoxification facility shall adhere to all of section 5.3 of these Standards. In addition there shall be on each client:~~

~~7.4.1.1 a brief medical history including, at a minimum, a history of heart and liver disease, convulsions and delirium tremens.~~

~~7.4.1.2 documentation that the pulse and blood pressure is monitored and recorded at least three times daily for the first 72 hours.~~

~~7.4.1.3 documentation that a social evaluation is performed within 72 hours of admission.~~

7.5 OTHER APPLICABLE STANDARDS

~~7.5.1 The social setting detoxification facility shall adhere to all those standards set forth in Section 8.0: Standards Applicable to Licensed Residential Settings, except 8.7 Client Services.~~

7.6 CLIENT SERVICES

~~7.6.1 In a social setting detoxification setting a client shall receive a minimum of one face-to-face counseling contact in each 24-hour period during the client's stay in treatment.~~

8.0 STANDARDS APPLICABLE TO LICENSED RESIDENTIAL SETTINGS:

Rate each residential setting as to level of compliance for each standard in this section. If a standard has been waived, or is not applicable please indicate this instead.

8.1 RESIDENTIAL TREATMENT

~~8.1.1 The residential setting shall be designed to provide a variety of diagnostic services on both a scheduled and non-scheduled basis to alcohol and/or drug abusing persons whose physical and emotional status warrant that they be provided with sleeping quarters.~~

8.2 OTHER APPLICABLE STANDARDS

~~8.2.1 A residential setting shall comply with applicable Delaware State Board of Health Regulations pertaining to residential homes.~~

8.3 HOURS OF OPERATION

~~8.3.1 A residential setting shall function seven days per week, twenty-four hours per day.~~

8.4 ADMISSION PROCEDURES

~~8.4.1 Each new admission or readmission shall have had a physical examination performed by qualified medical personnel within 90 days prior to admission or within five days subsequent to admission.~~

8.5 ALCOHOL/DRUG SCREENING

~~8.5.1 Testing for alcohol and/or drug use should be conducted, on a randomly scheduled basis, under appropriate supervision, as indicated by clients' needs.~~

8.6 MEDICATION

~~8.6.1A residential setting using a medication as a component of treatment shall comply with all federal, state and local acts, rules and regulations pertaining to controlled substances and other chemicals.~~

~~8.7 CLIENT SERVICES~~

~~8.7.1In a residential program, a client shall receive a minimum of five 50-minute counselor/client face-to-face service contacts during a seven (7) day period.~~

~~8.7.2In a halfway house, a client shall receive a minimum of one 50-minute counselor/client face-to-face service contact during a seven (7) day period.~~

~~8.8 STAFF COVERAGE~~

~~8.8.1In a residential program, there shall be a staff member, knowledgeable in crisis intervention and counseling, on-site twenty-four (24) hours per day.~~

~~8.8.2In a halfway house, there shall be a staff member, knowledgeable in crisis intervention and counseling, on-call twenty-four (24) hours per day.~~

~~8.9 MEALS~~

~~8.9.1A residential setting shall ensure that a dietetic component provides for the nutritional needs of the clients.~~

9.0 STANDARDS APPLICABLE TO LICENSED OUTPATIENT SETTINGS:

Rate each outpatient setting as to level of compliance for each standard in this section. If a standard has been waived, or is not applicable please indicate this instead.

9.1 OUTPATIENT TREATMENT

9.1.1The outpatient setting shall be designed to provide a variety of primary drug and/or alcohol treatment services on a scheduled basis. This shall be for alcohol and/or drug-abusing persons and their families whose physical and emotional status allows them to function in their usual environments.

9.2 OTHER APPLICABLE STANDARDS

9.2.1An outpatient setting shall comply with all appropriate federal, state, and local codes and other laws and regulations.

9.3 HOURS OF OPERATION

9.3.1Outpatient programs shall operate no less than five days per week, at least eight hours per day. The schedule shall include at least eight hours per week outside the hours of 9:00 a.m. to 5:00 p.m.

9.3.2Outpatient methadone programs shall comply with Federal Methadone Regulations.

9.3.3Daycare programs shall operate a minimum of 5 days per week at least eight hours per day.

9.4 ADMISSION PROCEDURES

9.4.1Each new admission or re-admission should have a physical examination performed by qualified medical personnel or should have evidence that such a physical examination was performed within 90 days prior to admission, or within two weeks following admission.

9.5 ALCOHOL/DRUG SCREENING

9.5.1Testing for alcohol and/or drug use should be conducted, on a randomly scheduled basis, under appropriate supervision, as indicated by clients' needs.

9.6 MEDICATION

9.6.1An outpatient setting using medication as a component of treatment shall comply with all federal, state, and local acts, rules, and regulations pertaining to controlled substances and other chemicals.

9.7 CLIENT SERVICES

9.7.1At an outpatient program, a client shall receive a minimum of one 50-minute counselor/client face-to-face service contact per month.

9.7.2At a daycare program, a client shall receive a minimum of one 50-minute counselor/client face-to-face service contact daily.

9.8 STAFF COVERAGE

9.8.1A staff member who is knowledgeable in crisis intervention shall be on-site during the programs hours of operation.

9.9 MEALS (DAYCARE)

9.9.1A daycare program shall ensure that a dietetic component provides for at least one nutritionally balanced meal each day.

10.0 STANDARDS APPLICABLE TO LICENSED EMERGENCY TELEPHONE SERVICE:

Rate each emergency telephone service as to level of compliance for each standard in this section. If a standard has been waived, or is not applicable please indicate this instead.

10.1 EMERGENCY TELEPHONE SERVICE

10.1.1 An emergency telephone service shall be designed to provide crisis intervention counseling, information on treatment resources, and information on alcohol and drugs.

10.2 OTHER APPLICABLE STANDARDS

10.2.1 An emergency telephone service shall comply with all appropriate federal, state, and local codes and other laws and regulations.

10.3 HOURS OF OPERATION

10.3.1 An emergency telephone service should operate seven days per week, for no less than 12 hours per day. These hours shall be at times which have been identified as time of greatest need via a survey or needs assessment.

10.4 STAFF

10.4.1 Telephone staff may consist of volunteers from the community.

10.4.2 Telephone staff shall have completed a formal training program and shall demonstrate familiarity with:

- emergency treatment resources
- available treatment programs
- alcohol and drug information
- human relations and interaction techniques

11.0 STANDARDS APPLICABLE TO LICENSED PREVENTION ACTIVITIES/PROJECTS:

Rate each prevention activities/projects as to level of compliance for each standard in this section. If a standard has been waived, or is not applicable please indicate this instead.

11.1 PREVENTION ACTIVITIES

11.1.1 Activities which are carried out in a manner consistent with the range of activities defined as Prevention Activities in Section 3.0 shall be considered to be subject to the Standards in this Section without regard to their potential relationship to other types of programs or facilities.

11.2 OTHER APPLICABLE STANDARDS

11.2.1 Prevention activities shall comply with all appropriate federal, state, and local codes ordinances, laws and regulations.

11.3 GOALS AND OBJECTIVES

11.3.1 Prevention activities shall have written goals and objectives that are consistent with the definition of these activities. These shall be measurable and time-limited, and shall designate the person(s) responsible for their completion.

11.4 NEEDS ASSESSMENT

11.4.1 Prevention activities shall provide written documentation of a needs assessment process which indicates a need for the types of services to be provided.

11.4.2 Documentation of the needs assessment process shall include the instrument(s) utilized and the results/problem statements. Where a needs assessment (other than one conducted by the project itself) is utilized, the project shall present documentation that the results were verified as accurate and current. This verification shall include a sample of the instrument utilized, the methodology, the population/areas surveyed and the figures/statements upon which conclusions/problems are predicated.

11.5 TARGET POPULATIONS

~~11.5.1 Target populations consistent with the service to be provided shall be clearly defined.~~

~~11.6 INTERAGENCY COORDINATION~~

~~11.6.1 Prevention projects shall provide written documentation of interagency coordination, which shall include, but not be limited to, one or more of the following:~~

- ~~cooperative venture~~
- ~~co-sponsorship of activities~~
- ~~joint meetings of staff to share resources~~
- ~~on-going communications between projects~~

~~11.7 CAPABILITY OF SERVICE PROVISION~~

~~11.7.1 Prevention projects shall be capable of providing information and/or experience in the following areas:~~

- ~~Personal and interpersonal growth skills~~
- ~~Alcohol and/or drug specific information~~
- ~~Awareness of alternatives to alcohol and/or drug abuse~~

~~11.8 PUBLIC RELATIONS PROHIBITION~~

~~11.8.1 Prevention projects shall not solely provide public relation services for other service components.~~

~~11.9 PREVENTION ACTIVITY RECORDS~~

~~11.9.1 Prevention projects shall maintain records on the number of individuals served in each prevention activity.~~

~~11.9.2 These records shall be maintained on standardized record forms selected for use within the project and approved by DSAMH.~~

~~11.9.3 The following standards shall be substituted for individual elements of Section 5.3 (Records) as indicated:~~

~~a. for 5.3.2 A program shall maintain prevention activity records in a systematic fashion. Purging of such activity records shall be coordinated with DSAMH.~~

~~b. for 5.3.4 All activity reporting systems shall be approved by DSAMH.~~

~~c. for 5.3.5 Activity records shall include, but not be limited to, the following documentation:~~

~~o Services Provided: The services provided shall be documented by categories. As applicable, these shall include, but not be limited to, the following categories:~~

- ~~Information Materials~~
- ~~number of materials distributed~~
- ~~number of materials printed~~
- ~~number of times audio-visual materials are loaned~~
- ~~number attending the session~~
- ~~date the service was provided~~
- ~~name(s) of person(s) requesting the service~~

~~Speakers Engagements~~

- ~~topics presented~~
- ~~number attending~~
- ~~date the service was provided~~
- ~~name(s) of speaker(s)~~

~~Training Events~~

- ~~number of participants~~
- ~~date the training was provided~~
- ~~name(s) of training leader(s)~~

~~Other Events~~

- ~~number of media events and media campaigns provided~~

~~number of Health Fairs or exhibits provided~~

~~number of events provided (specifying types of events)~~

~~Technical Assistance—The service(s) provided to an individual and/or organization which helps them identify their needs or assists them in developing products (programs, materials, projects, etc.) to meet those needs.~~

~~number of hours provided~~

~~areas of assistance (i.e. program development program support, community organization/development)~~

~~date service was provided~~

~~name of individual(s) providing service~~

~~Rationale for Delivery of Services~~

~~source of request/initiation of activity~~

~~type of request/activity~~

~~outcome expected from request/activity~~

~~o Planning of Activities: There shall be documentation of the planning process for all prevention activities. These plans shall be reviewed by program management.~~

~~o Follow up: Whenever follow-ups are conducted these activities shall be documented.~~

~~11.10 INTAKE PROCEDURES~~

~~11.10.1 Section 5.7 (Intake Procedures), inclusive, is not applicable to Prevention Activities.~~

~~11.11 CERTIFICATION OF STAFF~~

~~11.11.1 Section 5.8 (Certification of Staff) is not applicable to Prevention Services.~~

~~11.12 CLIENT AREA~~

~~11.12.1 Section 5.12 (Client Area) is not applicable to Prevention Services.~~

12.0 STANDARDS APPLICABLE TO CORRECTIONAL INSTITUTIONS

~~Alcoholism or drug abuse treatment programs operating within a correctional institution shall comply with standards applicable to program type and in accordance with established regulations of the Department of Corrections, as appropriate.~~

13.0 SPECIAL PROGRAMS

~~A license may be issued at the discretion of the Chief, for special programs which offer significant potential benefit to drug abusers, alcohol abusers or alcoholics, and which do not fall into any of the program categories described in these Standards.~~

13.0 SPECIAL PROGRAM – STANDARDS APPLICABLE TO DUI EDUCATION PROGRAMS

13.1 DUI EDUCATION PROGRAMS

~~13.1.1 DUI Education Programs shall be designed to provide drug and/or alcohol education services on a scheduled basis to individuals adjudicated in violation of 21 Del. C. 4177.~~

13.2 OTHER APPLICABLE STANDARDS

~~13.2.1 DUI Education Programs shall comply with 21 Del.C. 4177 pertaining to Driving While Intoxicated and 42 USC 290 dd 3 and 42 USC 290 ee 3 pertaining to the confidentiality of alcohol and drug patient records, respectively. Program shall insure that they are in compliance with any other applicable federal, state, and local codes, laws, and regulations.~~

~~13.2.2 DUI Education Programs shall comply with Licensure Standard 5.0 (Standards Applicable to all Alcohol and Drug Service Providers)~~

~~13.2.3 DUI Education Programs shall comply with Licensure Standard 14.0 (Standards Applicable to Policy and Procedure Manual – excluding (14.1.4.6))~~

13.3 HOURS OF OPERATION

~~13.3.1DUI Education Programs shall establish and publish regular days and hours of operation.~~

~~13.4INTAKE AND ADMISSION POLICY AND PROCEDURE~~

~~13.4.1Program shall clearly define intake and admission policy and procedure and admission criteria.~~

~~13.4.2Program shall define criteria for readmission in the case of a participant discharged for non-compliance or non-completion.~~

~~13.5DISCHARGE POLICY AND PROCEDURE~~

~~13.5.1Program shall define its policy and procedure on discharge. This shall include discharge or satisfactory completion and discharge for non-compliance.~~

~~13.6PROGRAM SERVICES~~

~~13.6.1Program shall clearly define the numbers, length, and content of all sessions and indicate the objectives, rationale, and methodology for each phase of the educational program. Content of sessions shall include information on other drugs as well as alcohol.~~

~~13.6.2There shall be, at a minimum, pre and post testing to measure participants' attitudinal change and knowledge acquisition.~~

~~13.7LIAISON WITH THE COURT AND DUI SYSTEM~~

~~13.7.1Program shall define the policy and procedure (with required forms) for the following:~~

~~Referrals into the program from the Court and the DUI Evaluation/Referral Agency.~~

~~Methods for handling in appropriate referrals into the Program (e.g. where participant has a drug or alcohol addiction)~~

~~Reports on participant progress to be furnished to other agencies~~

~~13.8CLIENT FEE SCHEDULE~~

~~13.8.1Program shall clearly publicize its fee schedule~~

~~13.8.2Program shall establish criteria for payment in hardship cases, if applicable.~~

~~13.0SPECIAL PROGRAM – STANDARDS APPLICABLE TO DUI OUTPATIENT REHABILITATION PROGRAMS:~~

~~Rate each DUI Outpatient Rehabilitation Program as to level of compliance for each standard in this section. If a standard has been waived, or is not applicable please indicate this instead.~~

~~13.1DUI OUTPATIENT REHABILITATION PROGRAMS~~

~~13.1.1DUI Outpatient Rehabilitation Programs shall be designed to provide drug and/or alcohol treatment services on a scheduled basis to individuals adjudicated in violation of 21 Del.C. §4177.~~

~~13.2OTHER APPLICABLE STANDARDS~~

~~13.2.1DUI Outpatient Rehabilitation Programs shall comply with 21 Del.C. §4177 pertaining to Driving While Intoxicated and 42 USC 290 dd 3 and 42 USC 290 ee 3 pertaining to the confidentiality of alcohol and drug patient records, respectively. Programs shall insure that they are in compliance with any other applicable federal, state and local codes and laws and regulations.~~

~~13.2.2DUI Outpatient Rehabilitation Programs shall comply with Licensure Standard 5.0 (Standards Applicable to all Alcohol and Drug Service Providers).~~

~~13.2.3DUI Outpatient Rehabilitation Programs shall comply with Licensure Standards 14.0 (Standards Applicable to Policy and Procedure Manual –excluding 14.1.4.6)~~

~~13.3HOURS OF OPERATION~~

~~13.3.1DUI Outpatient Rehabilitation Programs shall operate no less than 5 days per week, at least 8 hours per day. The schedule shall include at least 8 hours per week outside the hours of 9:00 a.m. to 5:00 p.m.~~

~~13.4INTAKE AND ADMISSION POLICY AND PROCEDURE~~

~~13.4.1Program shall clearly define intake and admission policy and procedure and admission criteria.~~

~~13.4.2A policy and procedure for clients NOT admitted to the program shall be defined.~~

~~13.4.3 Program shall define criteria for readmission in the case of a client discharged for non-compliance.~~

~~13.4.4 Program shall define its policy and procedure regarding clients on waiting list.~~

~~13.5DISCHARGE POLICY AND PROCEDURE~~

~~13.5.1 Program shall define its policy and procedure on discharge. This policy and procedure shall include criteria for satisfactory" and "unsatisfactory" ("at risk") program completion, as well as "non-compliance."~~

~~13.6 PROGRAM SERVICES~~

~~13.6.1 Services shall be clearly defined in terms of a continuity of services beginning with identification, admission, treatment and discharge and shall reflect an awareness of the total DUI system. Services shall include educational and therapy group sessions, individual sessions, and family sessions, as appropriate.~~

~~13.6.2 Minimum length and frequency of different type of sessions shall be stated. Minimum total program duration shall also be stated.~~

~~13.6.3 In the case of educational sessions, minimum program content shall be spelled out, and shall include the use of chemicals and driving.~~

~~13.6.4 Program shall utilize a method or methods for measuring the individual client's pre and post attitudinal change, and acquisition of alcoholism knowledge.~~

~~13.6.5 Where a program is treating non DUI, as well as DUI client cases, the program shall insure through careful documentation that the specific needs of the DUI client are being addressed.~~

~~13.7 LIAISON WITH THE LARGER DUI SYSTEM~~

~~13.7.1 Program shall carefully define its reporting relationship with other DUI system agencies. This reporting shall include, but not be limited to:~~

~~Evaluation reports, BAC, test scores, etc., to be sent to the program as part of the admission process.~~

~~Reports on client progress to be furnished to other agencies.~~

~~13.8 CLIENT FEE SCHEDULE~~

~~13.8.1 Program shall clearly publicize its fee schedule.~~

~~13.8.2 Program shall establish and publicize criteria for payment in hardship or indigent cases.~~

~~13.0 SPECIAL PROGRAM — STANDARDS APPLICABLE TO DUI OFFENDER EVALUATION/REFERRAL PROGRAMS:~~

~~Rate each DUI Offender Evaluation/Referral Program as to level of compliance for each standard in this section. If a standard has been waived, or is not applicable please indicate this instead.~~

~~13.1 DUI OFFENDER EVALUATION/REFERRAL PROGRAMS~~

~~13.1.1 DUI Offender Evaluation/Referral Programs shall comply with the definition of "Assessment and Referral Program" (Licensing Standards §3.2 Definitions) and shall be designed to provide screening, evaluation, referral and tracking services for individuals adjudicated to be in violation of 21 Del.C. §4177.~~

~~13.2 APPLICABLE LAWS AND REGULATIONS~~

~~13.2.1 DUI Offender Evaluation/Referral Programs shall comply with 21 Del.C. §4177, as appropriate.~~

~~13.2.2 DUI Offender Evaluation/Referral Programs shall comply with 42 USC 290 dd 3 and 42 USC 290 ee 3, pertaining to the confidentiality of drug and alcohol patient records, respectively.~~

~~13.2.3 DUI Offender Evaluation/Referral Programs shall comply with other applicable federal, state and local codes, laws and regulations.~~

~~13.3 OTHER APPLICABLE STANDARDS~~

~~13.3.1 DUI Offender Evaluation/Referral Programs shall comply with Licensing Standard 14.0 STANDARDS APPLICABLE TO POLICY AND PROCEDURE MANUAL except for §14.1.4.5 Program Service Management and §14.1.4.6 Prevention Activity Management.~~

~~13.4 HOURS OF OPERATION~~

~~13.4.1 DUI Offender Evaluation/Referral Programs shall operate no less than five days per week, at least eight hours per day. The schedule shall include at least eight hours per week outside the hours of 9:00 a.m. to 5:00 p.m.~~

~~13.5 PROGRAM SERVICES~~

~~13.5.1 Program shall describe in detail methods for receiving referrals, conducting evaluation (within 7 days of receipt from the court), referring clients to treatment and education programs, and tracking referral outcomes.~~

~~13.5.2 Program shall define its intake process in terms of content and duration.~~

~~13.5.3 Program shall have a policy and procedure regarding clients referred inappropriately for evaluation.~~

~~13.5.4 Program shall have a policy and procedure regarding individuals unable to be evaluated within a reasonable time and placed on a "waiting list".~~

~~13.5.5 Program shall utilize some or all of the following data in the screening, assessment, and referral process:~~

~~The individual's driving record as documented by Division of Motor Vehicle records.~~

~~The individual's previous treatment history, if any. This may be accessed through DSAMH Management Information System.~~

~~An objective, standardized, nationally accepted screening instrument such as Michigan Alcohol Screening Test (MAST) or the Mortimer Filkins Test for Identifying Problem Drinking Drivers.~~

~~Blood Alcohol Content at the time of the DUI arrest (.20 plus should be considered especially significant).~~

~~Client self-admission of a drinking problem.~~

~~Medical, legal-economic, family, or social difficulties indicative of an alcohol problem.~~

~~13.5.6 Screening, evaluation, referral, and tracking methodologies shall be uniform and consistent among all units providing these services.~~

~~13.5.7 Program shall establish criteria for referring individuals to the various drug and alcohol treatment programs.~~

~~13.5.8 Program shall establish a tracking process, which will, at a minimum, provide information regarding the client's status of acceptance into the treatment and/or education program to which the client was referred; client's discharge and fee payment status.~~

~~13.5.9 Program shall establish a standardized client record-keeping system that will, at a minimum, document demographic, evaluation, referral, and fee payment data.~~

~~13.5.10 Program shall have policies and procedures regarding client rights. Such policies shall be designed to enhance the dignity of all clients and enhance their rights as human beings. Policies shall minimally address confidentiality and a client's review of his/her own record.~~

~~13.5.11 Any client fee payment schedule shall be clearly posted.~~

~~13.6 LIAISON WITH OTHER AGENCIES~~

~~13.6.1 Program shall define its liaison with agencies of the criminal justice system (and other DUI-related agencies, including Division of Motor Vehicle) that make referrals to it. This definition shall include the minimum documentation required by the Program to accompany the referral. Further, the Program shall define a system of client progress reporting to other appropriate agencies. The provider must respond to telephone inquiries from user agencies.~~

~~13.7 STAFF TRAINING~~

~~13.7.1 Program shall have staff trained, in evaluation methodologies, performing evaluations. Such staff may also be certified as counselors by the D.A.D.C.C.B.~~

~~13.7.2 Program shall be required to provide summary reports of activity from time to time to appropriate agencies requesting such information.~~

~~13.0 SPECIAL PROGRAM - STANDARDS APPLICABLE TO DRUG EARLY INTERVENTION PROGRAMS~~

~~13.1 DRUG EARLY INTERVENTION PROGRAMS~~

~~13.1.1 Drug Early Intervention Programs shall be designed to provide drug education services on a scheduled basis to eligible individuals. The programs may provide other early intervention services. Eligibility shall be determined by DE law and/or individual program admission criteria.~~

~~13.2 OTHER APPLICABLE STANDARDS~~

~~13.2.1Drug Early Intervention Programs should comply with 42 USC 290 dd 3 and 42 USC 290 ee 3 pertaining to the confidentiality of alcohol and drug patient records, respectively. Program shall ensure that they are in compliance with any other applicable federal, state, and local codes, laws, and regulations.~~

~~13.2.2Drug Early Intervention Programs shall comply with Licensure Standard 5.0 as follows: 5.1, 5.2, 5.3, (1,2,4), 5.3.5.7, 5.3.6, 5.4, 5.5, 5.6, 5.9, 5.11.2.~~

~~13.2.3Drug Early Intervention Programs shall comply with Licensure Standard 14.0 (excluding 14.1.4.6).~~

~~13.3TIME AND PLAGE OF OPERATION~~

~~13.3.1Drug Early Intervention Programs shall establish and publish a schedule of times and places for holding classes.~~

~~13.4INTAKE AND ADMISSION POLICY AND PROCEDURE~~

~~13.4.1Program shall clearly define intake and admission policy and procedure and admission criteria.~~

~~13.4.2Program shall define criteria for readmission in the case of a participant discharged for non-compliance or non-completion.~~

~~13.5DISCHARGE POLICY AND PROCEDURE~~

~~13.5.1Program shall define its policy and procedure on discharge. This shall include discharge for satisfactory completion and discharge for non-compliance.~~

~~13.6PROGRAM SERVICES~~

~~13.6.1Program shall clearly define the numbers, length, and content of all sessions and indicate the objectives, rational, and methodology for each phase of the educational program. Content of sessions shall include information on alcohol as well as other drugs.~~

~~13.6.2There shall be, at a minimum, pre and post testing to measure participants' attitudinal change and knowledge acquisition.~~

~~13.7LIAISON WITH OTHER AGENCIES~~

~~13.7.1Program shall define the policy and procedure (with required forms) for the following:~~

~~Referrals into and out of the Program~~

~~Methods for handling inappropriate referrals into the Program (e.g. where participant has a drug or alcohol addiction)~~

~~Methods for handling individuals who need follow up treatment following Program discharge~~

~~Reports on participant progress to be furnished to other agencies~~

~~13.8CLIENT FEE SHCEDULE~~

~~13.8.1Program shall clearly publicize its fee schedule~~

~~13.8.2Program shall establish criteria for payment in hardship cases, if applicable~~

~~13.9STAFF QUALIFICATIONS~~

~~13.9.1Program shall define staff qualifications for providing drug education services.~~

~~13.9.2Program shall ensure that staff meet these qualifications.~~

14.0STANDARDS APPLICABLE TO POLICY AND PROCEDURE MANUAL: Rate each program as to level of compliance for each standard in this section. If a standard has been waived, or is not applicable please indicate this instead.

~~14.1POLICY AND PROCEDURE MANUAL~~

~~14.1.1The program shall assure that a written manual of its policies and procedures, which describes its regulations, principles and guidelines, is prepared, regularly revised, and updated annually or as necessary.~~

~~14.1.2The Manual shall be available to staff for inspection.~~

~~14.1.3A mechanism shall be established for notifying employees of changes in policies and procedures.~~

~~14.1.4The Policy and Procedure Manual shall have written policies and procedures in the following areas:~~

~~14.1.4.1Introduction: The introduction shall contain: a) the purpose of the manual; b) the organization of the manual; c) the distribution of the manual; d) the procedures for developing and amending policies and~~

procedures; and c) a program description, which would include: 1) history, 2) program service philosophy and goals, 3) current capacity and services provided, 4) funding sources, and 5) interagency and community relations.

14.1.4.2 Administrative Management

A. Agency or Organization Type (public, private, non-profit, private profit, other)

B. Implications—This section would include:

1) articles of incorporation, 2) tax exempt status, 3) directives, and 4) other.

C. Governing Body or Advisory Council This section would include: 1) membership requirements: a) dues, fees, attendance, b) recruitment and selection, and c) community and/or agency representation, 2) organization, positions and committees, 3) By-laws, 4) written records and reports, 5) responsibilities: a) role in authorization of checks, and contracts (if applicable), b) delegation of authority to Program Director, and c) role in employee grievances and appeals, 6) table of organization of the Governing Body or Advisory Council.

D. Parent/Umbrella Organization (if applicable) This section would include: 1) relationship to program, and 2) table of organization depicting parent organization, other programs under the jurisdictions of the parent organization, and lines of authority.

E. Program's Table of Organization This section would include an organizational chart with the following information: 1) name of functional units, 2) title for each authorized position, 3) lines of authority, and 4) labeling of part time, volunteer, and consultant positions.

F. Management Functions—This section would include: 1) program planning: a) written annual program objectives with action steps, time frames, and staff responsible for its completion, and b) process for informing all staff and governing body of the annual program objectives; 2) communication: a) staff meetings which are scheduled by job functions (whenever applicable), and b) staff meeting minutes indicating the date, time, place of meeting, staff attending, staff absent, major items of business discussed, and time adjourned.

14.1.4.3 Financial Management

A. Funding Sources—A summary of total program funding and a breakdown of approximate amount of funding by individual funding source(s).

B. Accounting System—This section would include: 1) method of accounting:

a) type of accounting system used (i.e. cash or accrual method), b) the accounting period (i.e. fiscal year), c) chart of accounts, that is, a description of the categories of accounts, the numeric and word components and the topical organization of the accounting system, 2) accounting records: a description of the types of records maintained (i.e. general ledger, journals, subsidiary ledgers, checkbooks, petty cash, and payroll records), 3) supporting documentation: types of supporting documentation which are maintained, i.e. paid and unpaid invoices, bank statements, accounts payable and funds receivable, records, timesheets, payroll registers, proof of payroll tax payments, canceled checks, etc., and 4) financial statements: the type, frequency and distribution of financial statements such as the balance sheet, statement of income and expenditures, etc.

C. Budgeting This section would include: 1) overall budget responsibilities such as preparation, review and approval, and review and adjustment, 2) procedures for preparing the overall program budget such as procedures for developing program goals and objectives, procedures for estimating the cost of each objective or goal, cost categories to be included in the budget (i.e. salaries, fringe benefits, rent, supplies, travel, etc.), procedures for estimating the projected income of the organization, comparison of projected income to the expense of achieving the objectives or goals, preparation of the final proposed budget and budget review and approval, 3) preparing budget for separate funding sources, and 4) procedures for periodic budget review and adjustment (i.e. preparing comparisons of budgeted vs. actual expense data monthly and quarterly).

D. Processing of Funds—This section would include: 1) receipt of funds, (i.e. procedures for receiving, recording and depositing incoming funds), 2) disbursement of funds, that is a description of the cash disbursement system to include: a) supporting documentation, b) authorizing signatures and c) check writing procedures.

E. Purchasing: This section would include: 1) the purchase order, (i.e. purpose and uses of the purchase order), and information required on the purchase order, and 2) purchasing procedures: a) transactions requiring purchase orders, b) bid solicitations—specifying the amounts requiring written bids, and the amounts requiring telephone bids, c) purchasing process, (i.e. initiating the purchase order, purchase order approval,

~~coordination with the accounting office, processing the purchase order, receipt and inspection of goods, and preparing payment to the supplier).~~

~~F. Payroll—This section would include: 1) preparation process (manual or automated), 2) payroll period (weekly, monthly, etc.), 3) payroll records: a) time sheets, b) payroll register, and c) employee's individual earnings records, 4) payroll authorizations: a) approval of time sheets, and b) signatures required on payroll checks, and 5) payroll taxes.~~

~~G. Petty Cash Procedures—This section would include: 1) allowable uses of the petty cash fund, 2) forms and procedures for using the petty cash fund, 3) maximum balance of funds maintained in petty cash, 4) limits on individual transactions, and 5) procedures for reconciling and replenishing the petty cash fund.~~

~~H. Billing for Services—This section would include: 1) procedures for determining fees per unit or day of service, 2) sliding fee scale: a) statement of fee schedule to be used by the program, b) statement indicating procedure for informing the clients of fee schedule, and for determining the amount to be paid by the client and c) statement indicating how client fees are going to be documented, 3) procedures for billing clients, i.e. statement indicating the procedure for documenting, for each client, the dates services were received and the units of service provided, 4) procedures for billing third party payers, and 5) procedures for handling delinquent accounts.~~

~~I. Internal Controls—The internal management mechanisms for safeguarding the assets of the organizations and for preventing and detecting errors. This section would include: 1) separation of functional responsibilities, 2) accurate and complete books of account, 3) financial reports, 4) proper documentation, 5) annual audit, and 6) bonding information for employees handling monetary transactions.~~

~~J. Non-Profit Corporation Data—This section would include: 1) fidelity bond, 2) insurance policies (i.e. property, liability, vehicle, etc.), 3) IRS Form 501 C regarding tax exempt status, 4) IRS Form 4161 regarding Social Security waiver, 5) IRS Form 990 regarding return of organization exempt from tax, 6) IRS Form 941 regarding "Quarterly Report of Federal Withholding", 7) Delaware "Annual Franchise Tax Report", 8) Delaware Unemployment Compensation and Disability Insurance Reports and Payment Data, 9) Delaware Forms (UC8, UC8A) W-1, W-3—Report of State Withholding, and 10) contracts for purchased services, e.g. rent.~~

~~14.1.4.4 Personnel Management (State operated programs shall comply with the Merit System)~~

~~A. Staff Selection Procedures—This section would include:~~

~~1) policies concerning eligibility of applicants:~~

~~a) equal employment procedures to include compliance with:~~

~~(1) Vocational Rehabilitation Act of 1973, Sections 503 and 504 prohibiting discrimination against the handicapped.~~

~~(2) Title VII of the Civil Rights Act of 1964 prohibiting discrimination on the basis of race, color, creed, sex or national origin.~~

~~(3) Age Discrimination Act of 1975 prohibiting discrimination based on age.~~

~~(4) Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 prohibiting discrimination against the disabled and Vietnam Era veterans.~~

~~b) nepotism~~

~~c) employment of ex-addicts and clients of methadone maintenance programs~~

~~2) personal interviews~~

~~3) responsibility for staff selection~~

~~4) probationary period for new employees~~

~~5) levels of employee status (e.g. part time, full time, permanent, probationary, volunteer, consultant, etc.)~~

~~B. Employee Performance and Behavior—This section would include:~~

~~1) competence in performing assigned tasks (i.e. responsibility, punctuality, maintaining confidentiality, accountability, etc.)~~

~~2) rules of conduct (no use of illicit drugs, etc.)~~

~~3) code of ethics~~

~~4) use of the telephone for private purposes~~

~~5) expressing opinions on agency policy~~

6) protection of personal property

7) other employment

C. Staff Supervision

1) nature of ongoing staff monitoring and supervision

2) employee evaluation procedures (i.e. schedule, content, procedures, filing in personnel file, and employee rights to see, sign and add comments on evaluation, etc.)

3) probation and other disciplinary measures for employees to include definitions and procedures

4) assistance for troubled employees to include a policy statement and procedures

D. Termination of Employment

1) procedures for termination of employee

2) resignation of employees

3) amount of notice required

E. Grievance and Appeals Procedures

F. Staff Training and Development (Training Plan)

1) orientation documentation shall include a review of the policy and procedure manual and all other activities pertinent to the orientation process

2) in-service training provided by the program and DSAMH

3) workshops, conferences and coursework:

a) policy of the program toward use of normal working hours

b) reimbursements of fees and other expenses

G. Personnel Files These shall contain job title, documentation of completed training, documentation of orientation, documentation of performance evaluation, documentation of current salary or pay grade, resume and/or job application, staff statement of confidentiality and documentation of certification of counselors.

H. Work Hours This would include hours of program operation, shifts, overtime compensation, and procedure for applying for compensation.

I. Wages This would include salaries, salary scales, salary increases, cost of living adjustments, and payroll procedures.

J. Use of personal automobile for program activities.

K. Reimbursement for travel and other work related expenses.

L. Employee Benefits

1) eligibility for benefits

2) leave of absence (i.e. vacation, sick, bereavement, administrative, military service, jury duty, other civic duty, educational, maternity and other types of leave with and without pay)

3) paid holidays

4) social security

5) workmen's compensation

6) unemployment compensation

7) health insurance

8) life insurance

9) pension

10) other

M. Promotions and Demotions

N. Agency Utilization of Volunteers

O. Job Descriptions

1) functional job descriptions for part-time, full-time, volunteers and consultants (state-operated programs must have functional job descriptions in addition to the Merit System descriptions)

2) ~~State Merit System job description (for state-operated programs)~~

14.1.4.5 Program Service Management

A. ~~Definition of Target Population~~

B. ~~Treatment Procedures~~

1) ~~program operations this should include a facility description, hours of operations, daily schedule and appointments-~~

2) ~~outreach this shall include a written plan describing goals and objectives and documentation of outreach activities (i.e. outreach log)~~

3) ~~admission/discharge criteria this shall include admission criteria, and discharge criteria (a medical detoxification facility shall have a policy and procedure governing clients leaving against medical advice (AMA))~~

4) ~~intake/admission procedures this shall include:~~

a) ~~overview (including Screening and Evaluation Team review for programs funded under DSAMH)~~

b) ~~orientation~~

c) ~~assignment to primary case manager~~

d) ~~fees~~

5) ~~treatment process this shall include:~~

a) ~~overview (include sample chart)~~

b) ~~intake~~

(1) ~~acceptance~~

(2) ~~referral shall include an updated list of referral sources and resources~~

6) ~~treatment services (as applicable): individual counseling, group counseling, family counseling, intervention/evaluation, educational groups, educational intervention, daily living skills, resocialization activities, medical supervision, mental health services, etc.~~

7) ~~supportive services (as applicable): educational, vocational development, legal services, childcare and parental development, community referrals, transportation, etc.~~

8) ~~methadone management procedures (as applicable): general program rules, urine surveillance collection, dispensing methadone, take home education, dosage levels, dosage adjustment, methadone storage and security, methadone accountability, other medication, etc.~~

9) ~~emergency and special procedures (as applicable): drug overdose, hospitalized clients, arrest of clients, incarcerated clients, psychiatric problems, medication control, etc.~~

10) ~~medical services (as applicable): physical examinations (availability and requirements), and other types of services (how these are made available)~~

11) ~~urinalysis (as applicable): criteria for use and frequency of testing~~

C. ~~Clinical Record Keeping~~

1) ~~general purpose and uses of client case records~~

2) ~~contents of the client case records (includes when forms are completed, by whom and how often):~~

a) ~~intake/assessment information (intake interview forms, physical examinations, medical histories and psychosocial history forms)~~

b) ~~consent forms~~

c) ~~release of information forms (as applicable)~~

d) ~~treatment plans and updates~~

e) ~~summary of monthly activity~~

f) ~~progress notes~~

g) ~~case conference documentation~~

h) ~~correspondence~~

- i) discharge summaries
- j) aftercare plans
- k) follow-up (as applicable)
- l) General Statement of Confidentiality
- m) urinalysis reports (as applicable)
- n) physical exams (as applicable)
- o) laboratory reports (as applicable)
- p) medication record (as applicable)
- q) client reporting system (i.e. admission/discharge form)
- 3) maintenance of the client case records
 - a) initiation/preparation of the record
 - b) organization of files (file format: including a sample format)
 - c) access to files
 - d) closing and storing client case records-
 - identifies what materials are to be maintained in closed client files
 - specifies the circumstances under which a case record is to be closed
 - includes definitions of "completion of treatment" and "inactive cases"
 - specifies the length of time closed client case records must be maintained in storage
 - indicates that client records shall be maintained at least on microfilm
 - if client records are to be destroyed after microfilming they must be burned or shredded

- e) periodic review of individual client records for completeness and appropriateness
- 4) confidentiality requirements
 - a) file security and disposition/transfer of records-
 - b) release of information
- 5) special administrative record keeping procedures (as applicable)
 - a) cross-index files
 - b) tickler file
 - c) client admission/discharge log
 - d) monthly client management reports

D. Assignment of Caseloads

- 1) shall indicate the policy and procedure for assigning caseloads.

E. Client Service Contacts

- 1) shall indicate how the frequency of client contacts will be determined.
- 2) shall indicate what the program's expectation is in reference to frequency of contacts.
- 3) shall indicate what the program's expectation is in reference to the minimum length of contacts per type of service provided.

F. Case Conferences

- 1) shall indicate the policy and procedure concerning clinical case review
- 2) shall indicate the policy and procedure concerning documentation review
- 3) shall indicate the policy and procedure concerning the use of consultation services from a mental health professional

G. Client's Rights

- 1) the policies and procedures shall be designed to enhance the dignity of all clients and to protect their rights as human beings
- 2) shall indicate how these are to be presented to clients.

- 3) shall indicate how this presentation is to be documented.
- 4) use of physical restraints or seclusion (as applicable)
- 5) there shall be a policy, which allows for review by a client of his/her own case record
 - a) client review of his/her own case record is recorded within the record
 - b) the policy shall address the confidential nature of information received from sources other than program staff or client (i.e. this confidentiality shall be protected)
 - c) the policy shall require that a treatment staff member be present during a client's review of his/her case record

14.1.4.6 Prevention Activity Management

- A. Definition of Target Population
- B. Prevention Services Procedure
 - 1) program operations: facility description, hours of operation, daily schedule, and appointments
 - 2) outreach
 - 3) services recipient criteria: eligibility criteria and disqualifying criteria.
 - 4) service initiation procedures
 - 5) prevention activity process:
 - a) overview
 - b) initiation request: acceptance and referral
 - c) development of an activity
 - d) follow-up procedures
 - 6) prevention services:
 - a) modalities utilized
 - b) settings utilized
 - c) activities conducted
 - 7) supportive services:
 - a) treatment referrals
 - b) cooperative service agencies
- G. Activity Record Keeping
 - 1) general purposes and uses of prevention activity records
 - 2) contents of prevention activity records: services provided, planning documentation, correspondence (as applicable) and follow up documentation.
 - 3) maintenance of the prevention activity records
 - a) initiation/preparation of the record (includes when forms are completed, by whom and how often)
 - b) organization of files
 - c) access to files
 - d) storing files
 - 4) confidentiality requirements (as applicable):
 - a) file security and disposition/transfer of records
 - b) release of information
 - 5) special administrative record keeping procedures
 - a) cross-index files
 - b) tickler file
 - c) registration log
 - d) monthly prevention activity reports
- D. Assignment of Duties

- 1) shall indicate how duties are assigned.
- E. Participant Rights (as applicable)
 - 1) ~~the policies and procedures shall be designed to enhance the dignity of all participants and to protect their rights as human beings~~
 - 2) shall indicate how these are to be presented to participants.
 - 3) shall indicate how the presentation of these rights is to be documented.

6001 Substance Abuse Facility Licensing Standards

1.0 Purpose

The Department is issuing these regulations to promote the health and well being of consumers/clients receiving services in substance abuse treatment facilities located within the State of Delaware. They are not intended to limit additional contract standards for substance abuse treatment facilities and programs with which a service provider may be expected to comply.

2.0 Authority and Applicability

The Department is authorized by 16 **Del.C.**, Ch. 22 to license and regulate substance abuse treatment facilities. These regulations shall apply to any facility as defined in 16 **Del.C.**, Ch. 22, and address the minimum acceptable standards and programmatic conditions for consumers/clients receiving services in substance abuse treatment facilities. No organization or entity shall manage or operate a substance abuse treatment facility within the State of Delaware unless it has been so licensed by the Department.

3.0 Definitions

The following words and terms, when used in these regulations, shall have the following meaning unless the context clearly indicates otherwise:

“Adjunct and alternative therapy” means a specific modality of therapy based on a specific valid body of knowledge, provision of which requires specific credentials. Examples include, but are not limited to, Psychodrama; Art Therapy; Music Therapy; Acupuncture; Massage Therapy; EMDR; etc.

“Administrator” means an individual who is authorized by the governing body to provide overall management of the agency.

“Admission” means the point in a client’s relationship with a program when the intake process has been completed and the program begins to provide additional services.

“Advisory Council” means a group of individuals approved by the governing body, to provide community input and recommendations to the governing body.

“Agency” means any partnership, corporation, association, or legal entity except for an individual practitioner, that provides, is seeking to provide, or holds itself out as providing alcohol and/or other drug treatment or rehabilitation services. An agency may operate more than one program.

“Applicant” means any agency that has submitted a written application for a license to operate an alcohol and/or other drug abuse treatment or rehabilitation program in Delaware.

“Assistant Counselor” means an individual who, by virtue of education, training, and experience, satisfies the requirements of 6.1.5.1 of these standards.

“Client” means an individual who receives, or has received services from an agency.

“Client Record” means the official legal written file for each client containing all the information required by these regulations, and maintained to demonstrate compliance with these regulations.

“Clinical Director” means an individual who, by virtue of education, training, and experience, satisfies the requirements of 6.1.2.1 of these regulations and is authorized by the ~~[program director~~ **Administrator]** to provide clinical oversight of the treatment program. **[The Clinical Director may also serve as Clinical Supervisor when directed to do so by the agency’s governing body.]**

“Clinical Supervisor” means an individual who, by virtue of education, training, and experience, satisfies the requirements of 6.1.3.1 of these regulations; and is authorized by the ~~[program director Administrator and/or the governing body]~~ **to provide clinical supervision [for all clinical staff]**.

“Continuing care” means those services recommended to the client upon discharge from a program that support and increase the gains made during the client’s treatment at that program.

“Counseling” means the process in which a Counselor **[I]** or ~~[assistant-counselor Counselor II]~~ works with a client, family, significant other, or a group of clients, families or significant others, to assist them to understand issues, consider alternatives, and change behaviors.

- Individual counseling is the face-to-face interaction between a Counselor **[I]** or ~~[assistant-counselor Counselor II]~~ and an individual client for a specific therapeutic purpose.
- Family counseling is the face-to-face interaction between a Counselor **[I]** or ~~[assistant-counselor Counselor II]~~ and the family member(s)/significant other(s) of a client for a specific therapeutic purpose.
- Group counseling is the face-to-face interaction between a Counselor **[I]** or ~~[assistant-counselor Counselor II]~~ and two or more clients or clients’ families/significant others for a specific therapeutic purpose.

“Counselor **[I]”** means an individual who, by virtue of education, training, and experience meets the requirements of 6.1.4.1 of these regulations **[and functions under the supervision of a Clinical Supervisor]**.

“Counselor **[II]”** means an individual who, by virtue of education, training and experience, meets the requirements of 6.1.5.1 of these standards and functions under the supervision of a Clinical Supervisor.]

“Cultural Competence” means acceptance and respect for difference, continuing self-assessment regarding culture, careful attention to the dynamics of difference, continuous expansion of cultural knowledge and resources, and a variety of adaptations to service models in order to better meet the needs of minority populations. Culturally competent agencies work to hire unbiased employees, seek advice and consultation from the minority community, and actively decide what they are and are not capable of providing to minority clients. (March, 1989, Towards a Culturally Competent System of Care, Volume 1, National Technical Assistance Center for Children’s Mental Health, Georgetown University Child Development Center, p. 17.)

“Day” unless otherwise specified, one (1) day is a calendar day.

“Deemed status” means a licensure standing approved by DSAMH and bestowed upon programs that have been accredited by an accreditation body approved by DSAMH. Programs that have been granted Deemed Status will be inspected in accordance with Section 4.3.2 of these standards.

“Designee” means the person who is delegated tasks, duties, and responsibilities when such designation is permitted by these regulations.

“Discharge” means the point at which a client’s active involvement with an agency is terminated.

“Division/DSAMH” means the Delaware Division of Substance Abuse and Mental Health within the Delaware Department of Health and Social Services.

“Division Director” means the Director of the Delaware Division of Substance Abuse and Mental Health within the Delaware Department of Health and Social Services, or his/her designee.

“Documentation” means a written record acceptable as evidence to substantiate compliance with these regulations.

“DSM” means the Diagnostic and Statistical Manual of Mental Disorders, most recent edition, as published by the American Psychiatric Association.

“Facility” means the physical area, grounds, building(s) or portions thereof, under direct program administrative control.

“Follow-up” means the process for determining the status of an individual who has been referred to an outside resource for services or who has been discharged from services OR the process for determining an agency’s compliance with these standards after an agency audit has been completed.

“Governing Body” means the individual or individuals responsible for the overall management of an agency, responsible for ensuring compliance with 5.0 of these regulations.

["Initial Treatment Plan" means a preliminary plan that addresses the short term goals the program plans to achieve in the earliest days of treatment. The initial treatment plan shall be in effect until the Master Comprehensive Treatment Plan (MCTP) has been developed.]

“Intake” means the gathering of personally identifying and clinical data required to determine whether a client should be admitted to a program.

“Intern” means a student who performs counseling functions under the supervision of a **[Counselor Clinical Supervisor]**.

“License” means the document issued by the Division that authorizes a program to provide alcohol and/or other drug treatment or rehabilitation.

“Licensed Nurse” means a Registered Nurse or a Licensed Practical Nurse.

“Licensed Practical Nurse” means a person licensed by the State of Delaware as a Practical Nurse **[or a person licensed by a state that participates in the National Licensure Compact (NLC)]**.

“Licensure” means the process by which the Division determines whether or not a program is in compliance with these regulations.

["Master Comprehensive Treatment Plan" means a treatment plan that is formulated from the comprehensive assessment as outlined in §8.1.2.1.2.14 and in the format outlined in §8.1.2.2.1.]

“Medical history” means history of and any treatment of allergies, head injuries, nervous disease/disorders, seizure disorder, or delirium tremens, surgery, major accidents, fractures, venereal diseases, cardiovascular, respiratory, endocrine, gastrointestinal diseases or disorders, and gynecological-obstetrical history, including current involvement in prenatal care.

“Nurse Practitioner” means a person licensed by the State of Delaware as a Nurse Practitioner **[or a person licensed by a state that participates in the National Licensure Compact (NLC)]**.

["Periodic Treatment Plan Review/Revision" is a process whereby the clinical supervisor and counselor review prior treatment plans and establish new goals based on the client's progress and/or changing needs through out treatment.]

“Physician” means a person licensed to practice medicine in the State of Delaware.

“Physician Assistant” means a person licensed by the State of Delaware as a Physician Assistant.

“Policy” means a statement of the principles that guide and govern the activities, procedures and operations of a program.

“Procedure” means a series of activities designed to implement the policies of a program.

“Program” means the location or facility where an agency provides or offers to provide any of the various modalities of service when such services are provided or offered on a regularly scheduled basis. Clinical participation records of clients are EITHER stored on-site OR readily available to staff in electronic format using computer hardware that is installed or regularly available on-site.

“Protocols” means a written rule developed by an agency to govern specific procedures or certain activities.

“Provisional License” means the document issue by the Division that authorizes a program to provide alcohol and/or other drug treatment or rehabilitation for up to two hundred forty (240) days when the applicant is not in compliance with these regulations or is applying for licensure for the first time.

“Public place” means an area accessible to clients, employees or visitors; the main entry or hallway; the reception area or foyer; or the dining or multipurpose room.

“Qualified Medical Personnel” means a physician, physician's assistant, or nurse practitioner, licensed by the State of Delaware.

“Quality Assurance” means the process of objectively and systematically monitoring and evaluating the quality and appropriateness of client care to identify and resolve identified issues.

“Readmission” means the point in a client’s relationship with an agency when a client has been discharged, subsequently reapplied for admission, intake has been completed, and the agency begins to provide services again.

“Registered Nurse” means a person licensed by the State of Delaware as a registered nurse [or a person licensed by a state that participates in the National Licensure Compact (NLC)].

“Shall” means a mandatory procedure, the only acceptable method under these regulations.

“Signature/Signed” means, at a minimum, the writers’ first initial, last name, title or credentials and date [or an authentic digital signature].

“Significant other” means an individual, whether or not related by blood or marriage, on which another individual relies for support.

“Staff” means full-time and part-time employees, consultants and volunteers, students/interns.

“Treatment” means the process a client undergoes to understand his or her alcohol or drug use and change his or her behavior.

“Volunteer” means a person who, without direct financial compensation, provides services to a program.

“Waiver” means the exemption from compliance with a requirement of these regulations.

4.0 License Application Procedures

4.1 Applicability

4.1.1 Any entity seeking to operate an alcohol and/or other drug abuse treatment or rehabilitation program shall be licensed in accordance with these regulations for each program it seeks to operate. Each facility’s license shall list one or more categories of service that the facility is authorized to provide and the facility’s location.

4.1.1.1 Program categories for which licenses may be issued are:

4.1.1.1.1 ~~[Medically-monitored Residential]~~ Detoxification.

4.1.1.1.2 ~~[Clinically-managed Non-Residential]~~ Detoxification.

4.1.1.1.3 Outpatient Treatment.

4.1.1.1.4 Opioid treatment.

4.1.1.1.5 Residential Treatment.

4.1.1.1.6 Transitional residential treatment.

4.2 Application Procedures

4.2.1 The Division shall supply an application packet to all applicants upon request.

4.2.2 All persons and agencies applying for the first time for a license shall schedule a meeting with Division staff for the purpose of receiving needed technical assistance regarding the licensure criteria and procedures.

4.2.3 A separate application shall be completed for each program at each location at which an agency intends to operate a substance abuse program.

4.2.4 The applicant may withdraw the application at any time by notifying the Division in writing.

4.3 Required Information

4.3.1 An applicant for licensure shall submit the following information on forms provided by the Division:

4.3.1.1 Name and address of the applicant;

4.3.1.2 Name, address and qualifications of the agency director, ~~[program—director Administrator]~~ and/or partners, including copies of the professional licenses each has been issued by the State of Delaware;

4.3.1.3 Articles of incorporation and bylaws, and/or partnership agreement;

4.3.1.4 Name and address, occupation and place of employment, of the ~~[program—director Administrator]~~, board members, advisory board members, and officers.

4.3.1.5 A chart of the staff organization with names and qualifications;

- 4.3.1.6 A description of the services to be provided by the program, including a statement of the program philosophy, goals, and objectives and a description of the methodology for each service element;
 - 4.3.1.7 A copy of the program's complete proposed policies and procedures manual if the application is for initial licensure;
 - 4.3.1.8 Documentation of applicable insurance coverage, including protection of the physical and financial resources of the program; coverage for all people, buildings and equipment; professional and general liability insurance; workers' compensation; fidelity bonding sufficient to cover all client funds, property and interests; and automobile insurance when vehicles owned by the program are used for client transportation;
 - 4.3.1.9 A floor plan for any facility not previously licensed;
 - 4.3.1.10 For residential and detoxification facilities, the maximum client capacity requested; and
 - 4.3.1.11 A copy of the program's business license, if required.
 - 4.3.2 Applicants applying for Deemed Status shall meet all standards as outlined in Sections 16.0 and 17.0 (as applicable) of these standards.
 - 4.3.3 Applicants shall supply all information requested on the application. The completed application shall be accompanied by a \$15.00 fee in accordance with 16 Del.C. §2205. The Division shall not consider any application until it is properly completed.
- 4.4 Application Processing
 - 4.4.1 The Division shall determine whether an application is complete and shall notify the applicant in writing if additional information is required to complete the application or determine the applicant's compliance with these regulations.
 - 4.4.2 The Division shall investigate and consider each completed application. An applicant for renewal shall submit its completed application at least ninety (90), but not more than one hundred and twenty (120), days before its current license expires.
- 4.5 Investigations and Inspections
 - 4.5.1 By applying for or accepting a license, an applicant or licensee authorizes the Division and its representatives to conduct the inspections and investigations necessary to determine compliance with applicable licensing standards.
 - 4.5.2 Agencies applying for licensure shall have the following information available for inspection by the Division:
 - 4.5.2.1 Materials demonstrating compliance with all related Federal, State and local statutes, ordinances, rules and regulations [e.g., fire, health, building, American's with Disabilities Act] applicable to the facility being licensed.
 - 4.5.2.2 A copy of the program's policies and procedures manual as required in 5.1.4;
 - 4.5.2.3 Materials demonstrating compliance with the relevant sections of Part III, Provisions Regarding Modalities of these regulations; and
 - 4.5.2.4 Materials demonstrating compliance with all other applicable licensing authorities and accreditation authorities when applicable.
 - 4.5.3 Investigations and inspections may include on-site inspections of the program and its operation; inspection and copying (in accordance with 42 CFR Part 2 and HIPAA 45 CFR Parts 160 and 164) of program records, clinical records and other documents maintained by the program; and acquisition of other information, including otherwise privileged or confidential information from any other persons who may have information bearing on the applicant's or licensee's compliance or ability to comply with these regulations.
 - 4.5.4 The Division shall review, update and when necessary, amend these regulations no less than every three (3) years.
- 4.6 Division Report
 - 4.6.1 Upon completion of any inspection, the Division shall compile a Survey Summary Report citing strengths and deficiencies in meeting these standards.

4.6.2 The Division shall schedule an exit interview with each program for review of the Survey Summary Report.

4.7 Corrective action plans

4.7.1 Within ten (10) working days after the receipt of a survey summary report, the program shall submit a corrective action plan to the Division, unless otherwise directed by the Division.

4.7.2 The corrective action plan shall include a description of the corrective measures the program will take to address the regulation cited in the survey summary report, a target date for implementation of each corrective measure, and a description of the preventive measures implemented to ensure ongoing compliance with these regulations.

4.7.3 The Division may perform follow-up on-site inspections to review the implementation of corrective action plan(s).

4.8 Actions on applications for licensure

4.8.1 On the basis of the information supplied by the applicant and any other information acquired during its investigation and inspection, the Division may take any one of the following actions:

4.8.1.1 Issue or renew a full license for a period of up to two years when the Division determines a program is in substantial compliance with Chapter 22 of Title 16 **Del.C.**, and these regulations, and/or has been granted Deemed Status or

4.8.1.2 Issue or renew a full license for a period of up to one year when the Division determines a program is in compliance with Chapter 22 of Title 16 **Del.C.**, and these regulations;

4.8.1.3 Issue or renew a full license for a period of up to one year when the Division determines a program that has been granted Deemed Status is not in compliance with Chapter 22 of Title 16 **Del.C.**, and these regulations or regulations set forth by the accreditation body; or

4.8.1.4 Issue a provisional license for up to two hundred forty (240) days when the applicant is not in compliance with Chapter 22 of Title 16 **Del.C.**, or regulations set forth by the accreditation body upon which Deemed Status has been granted (when applicable) and the applicant's failure to meet the requirements of Chapter 22 of Title 16 **Delaware Code** and these regulations does not jeopardize the health, safety and well-being of clients. The Division may issue one renewal of a provisional license for a period not to exceed two hundred forty (240) days. (The Division's decision to issue a provisional license instead of a full license is final and not subject to administrative appeal;) or

4.8.1.5 Issue a temporary license for up to ninety (90) days when additional time is required by the Division to inspect or investigate the applicant, additional time is required by the applicant to undertake remedial measures or complete a corrective action plan, when the applicant's failure to meet the requirements of Chapter 22 of Title 16 **Delaware Code**, and these regulations does not jeopardize the health, safety and well-being of clients. A temporary license is not renewable and shall expire automatically without notice or hearing. (The Division's decision to issue a temporary license instead of a full or provisional license is final and not subject to administrative appeal,) or

4.8.1.6 Revoke, suspend or deny a license in accordance with 4.9 and 4.10.

4.8.2 The Division may issue a single renewal of a license, for no longer than the term of the current license, without an on site inspection by the Division.

4.8.3 The Division shall notify the applicant by mail, phone, email or any combination of the above of its licensure decision.

4.9 Access by the Division

4.9.1 A program is subject to review, which may include on site inspection, with or without notice, by the Division.

4.9.2 The Division's right to monitor shall include complete access to all clients and staff, and board members, and to all client, staff, financial and administrative program records needed for the purposes of monitoring or evaluation of the program's compliance with these regulations, financial auditing or for research. The Division may review and copy records in accordance with 42 CFR Part 2 and HIPAA 45 CFR parts 160 and 164.

4.10 Nonassignability; Change in circumstances; Posting

- 4.10.1 A license for the operation of a substance abuse program applies to both the applicant program and the premises upon which the program operates. Licenses are not transferable, remain the property of the Division, and shall be returned upon request.
- 4.10.2 A program's current license shall be posted in a public place at its facility.
- 4.10.3 The Division issues each license on the basis of information available to it on the date the license is issued. An applicant or licensee shall give written notice to the Division of any change of program name, ownership, governing authority, premises or location a minimum of thirty (30) days before such change takes effect. The Division will determine within fifteen (15) days whether a new application is required.
- 4.10.4 Any person or entity acquiring a licensed substance abuse program shall apply for a new license in accordance with these regulations.
- 4.10.5 A licensee shall notify the Division in writing sixty (60) days prior to a voluntary closure of any program it is operating. The notice shall detail how the licensee will comply with 8.1.1.2.
- 4.10.6 The licensee shall provide written notice to clients no less than thirty (30) days prior to closure and shall make reasonable efforts to place clients in appropriate programs.

4.11 Relationship to funding

- 4.11.1 The issuance of a license to a program is not a commitment of the Division to fund the program.

4.12 Reasons for denial, suspension or revocation of license

- 4.12.1 A license may be denied, suspended or revoked for one or more of the following reasons:

- 4.12.1.1 When an applicant or program submits false information to the Division for licensing purposes;
- 4.12.1.2 When an applicant or program fails to cooperate with the Division in connection with a licensing inspection or investigation;
- 4.12.1.3 When an applicant or program has deviated from the category of service listed on its license;
- 4.12.1.4 When an applicant or program fails to be in compliance with the requirements of these regulations for the types of services for which application was made or for which the program was licensed, as outlined in 4.8.
- 4.12.1.5 When an applicant or program fails to implement the corrective action plan it submitted pursuant to 4.7, unless the Division approves an extension or modification of the corrective action plan;
- 4.12.1.6 When an applicant or program has violated any part of Title 16 **Del.C.**, Chapter 22 or these regulations;
- 4.12.1.7 When an applicant or program has a history of, or currently demonstrates, financial insolvency, such as
 - 4.12.1.7.1 Filing for bankruptcy;
 - 4.12.1.7.2 Being subjected to foreclosure, eviction for failure to pay rent, or termination of utility services for failure to pay bills; or
 - 4.12.1.7.3 Failing to pay such taxes as employment or social security in a timely manner.
- 4.12.1.8 When the applicant is in violation of a safety or sanitation law or regulation and fails to correct the violation;
- 4.12.1.9 When the applicant, its governing body or owner participates in, condones or is associated with fraud, deceit, coercion, misrepresentation or any other illegal act;
- 4.12.1.10 When the applicant, or any of its personnel or governing body violate professional ethics;
- 4.12.1.11 When the applicant, or any of its personnel or governing body, permits, aids or abets the commission of an unlawful act within its facilities or permits, aids or abets the commission of an unlawful act involving chemical substances within the program; or
- 4.12.1.12 When the applicant, or any of its personnel or governing body, has participated in, condoned, associated with or knows or should have known and has permitted the

continuation of any other practice that jeopardizes the safety or health or well being of any client.

4.13 Procedure when a license is denied, suspended or revoked

4.13.1 In accordance with 16 Del.C. §2208, when the Division determines that an applicant or licensee fails to meet minimum compliance with the requirements of these regulations for the types of services for which application was made or for which the program was licensed or has committed an act or engaged in conduct or practices justifying denial, suspension or revocation of licensure:

4.13.1.1 The Division shall notify the applicant or licensee by certified mail, return receipt requested, of its intent to deny, suspend or revoke the license. The "Notice of Intended Action" shall include the particular reason(s) for the proposed action and provision for a fair hearing.

4.13.2 Within ten (10) days after receipt of the "Notice of Intended Action," an applicant or licensee may request a hearing by delivering a written request to the Division Director in person or by certified mail, return receipt requested. If no such request is made within ten (10) days, the Secretary of the Department shall proceed to deny, revoke or suspend said license as set forth in the notice of proposed action.

4.13.3 Within fifteen (15) days after receipt of an applicant's or licensee's request for a hearing, the Division Director shall issue a "Notice of Hearing" to the applicant or licensee and to the public. The "Notice of Hearing" shall include a statement of the time, place and nature of the hearing, a statement of the legal authority and jurisdiction under which the hearing is to be held; a reference to the particular provisions of the statutes and rules involved; and a short and plain statement of the matters asserted.

4.13.4 All hearings conducted under this subsection shall be governed by procedures authorized by rules of the Department; the Department or its agent may take testimony concerning any matter within its jurisdiction and may administer oaths, summons or subpoenas for any witness and subpoenas duces tecum, which shall be served and returned as provided by law.

4.13.5 At the hearing, the applicant or licensee shall have the right to cross-examine witnesses against it, produce witnesses in its favor and to appear personally or by counsel.

4.13.6 All hearings shall be open to the public and a full record and transcript of the proceedings shall be prepared. The Secretary of the Department shall make a determination, which shall specify the Department's findings of fact and conclusions. A copy of the determination shall be sent by certified mail, return receipt requested, or be personally served upon the applicant or licensee.

4.13.7 Copies of the transcription may be obtained by any interested party on payment of the cost of preparing such copies.

4.14 Procedure for reinstatement of suspended or revoked license

4.14.1 If the licensee has not previously had a license revoked or suspended under these rules, it may, at any time after the suspension or revocation determination is final, request a hearing for the purpose of showing that the reasons for revocation or suspension of the license have been corrected and that the license should be reinstated.

4.14.2 No licensee who has previously had a license suspended or revoked under these rules may request a hearing to reinstate the license prior to one year after the determination becomes final.

4.14.3 The request for a hearing shall be in writing and shall be delivered to the Secretary of the Department in person or by certified mail, return receipt requested.

4.14.4 Any hearing conducted under this subsection shall not operate to stay or supersede any decision revoking or suspending a license.

4.14.5 Hearings under this subsection shall be conducted in accordance with 29 Del.C. §§100 and 101 and 4.13 of these regulations.

4.15 Waiver

4.15.1 An application for a waiver from a requirement of these regulations shall be made in writing to the Division's Licensing Unit; it shall specify the regulation from which waiver is sought, demonstrate that each requested waiver is justified by substantial hardship, and describe the alternative

- practice(s) proposed. [The waiver request shall be posted in a prominent place in the facility and outline a process approved by the Division whereby clients can offer comments and feedback specific to the waiver request.] The Division's Licensing Unit shall make a recommendation of action on the application [after reviewing the waiver request and any client input] to the Division Director or designee. Only the Division Director shall grant waivers.
- 4.15.2 No waiver shall be granted if such action would result in an activity or condition that would endanger the health, safety or well-being of a client.
- 4.15.3 ~~[No waiver shall be granted to any requirement in 6.1.2, 6.1.3, or 6.1.4 of these regulations. RESERVED.]~~
- 4.15.4 A waiver granted under these regulations shall be in effect for the term of the applicant's license[; ~~if a waiver is required for an additional period of time, it shall be requested as part of the licensure renewal process in accordance with 4.15.~~ unless the approval of the waiver specifies a shorter term. All waivers not otherwise approved for a shorter term shall expire at the end of the term of the license and new waiver(s) must be requested as part of the licensure renewal process in accordance with 4.15.]
- 4.15.5 An adverse decision by the Division on a request for a waiver may be appealed in accordance with 4.13.
- 4.15.6 The granting of a waiver does not constitute a modification of any requirement of these regulations.
- 4.15.7 Licensees shall notify the Division within ten (10) working days when a waiver granted by the Division is no longer needed.
- 4.15.8 The Division Director may revoke a waiver when the alternative practice proposed in the application for waiver is determined to be ineffectual.
- 4.15.9 The Division Director may revoke the waiver when the program fails to implement the alternative practice as proposed in the application for waiver.

Part II--General Provisions

5.0 Standards Applicable to all Facilities and Programs

5.1 Governance

5.1.1 Governing Body/Advisory Council.

- 5.1.1.1 Every community-based agency shall have a governing body and/or advisory council that includes representatives of the population it serves.
- 5.1.1.2 The governing body shall be legally responsible for overseeing all management and operations of the agency and for ensuring compliance with applicable laws and regulations by approving all of the agency's staffing, documentation and overall operations:
- 5.1.1.2.1 Written by-laws;
- 5.1.1.2.2 Mission;
- 5.1.1.2.3 Goals;
- 5.1.1.2.4 Policies and Procedures; and
- 5.1.1.2.5 Budget.
- 5.1.1.3 The authority and duties of the governing body shall include:
- 5.1.1.3.1 Ensuring that the agency director, ~~program directors~~ Administrators], clinical supervisors and counselors employed by the agency meet the requirements of 6.1 of these regulations.
- 5.1.1.3.2 Establishing and reviewing:
- 5.1.1.3.2.1 policies and procedures governing the overall management of the program including:

- 5.1.1.3.2.1.1 policies and procedures manual; (5.1.4).
 - 5.1.1.3.2.1.2 fiscal management policies and procedures; (5.1.5).
 - 5.1.1.3.2.1.3 personnel policies and procedures; (5.1.6.2), and 5.1.1.3.2.1.4 compliance with these regulations.
 - 5.1.1.4 The Governing Body will meet, at a minimum, one (1) time per year. Documentation of its annual review shall be entered into the minutes of its meeting.
 - 5.1.2 Meetings and minutes of meetings.
 - 5.1.2.1 Minutes of all meetings shall include:
 - 5.1.2.1.1 Names of members who attended;
 - 5.1.2.1.2 Names of members absent;
 - 5.1.2.1.3 Date of meeting;
 - 5.1.2.1.4 Topics discussed and decisions reached.
 - 5.1.2.2 The minutes shall be available for review by the Division.
 - 5.1.3 Administrative Staff
 - 5.1.3.1 Administrator
 - 5.1.3.1.1 The governing body shall appoint an agency director.
 - 5.1.3.1.2 The qualifications, authority, and duties of the agency director shall be defined in writing.
 - 5.1.3.1.3 The Governing body shall ensure that, at the time of employment, the agency director is familiar with the job description and job responsibilities of the position, these regulations, and the agency's policies and procedures as maintained in compliance with 5.1.4.
 - 5.1.4 Policies and procedures manual:
 - 5.1.4.1 Each program shall have a manual of written policies from which written procedures have been derived to address operations and services. The program's policies and procedures manual shall be:
 - 5.1.4.1.1 A complete document;
 - 5.1.4.1.2 Readily available to staff.
 - 5.1.4.2 The program's policies and procedures manual shall be reviewed at least annually by the governing body [or its designee].
 - 5.1.4.3 The review shall be documented in the meeting minutes.
 - 5.1.4.4 The manual shall include:
 - 5.1.4.4.1 A statement of program philosophy and goals, including:
 - 5.1.4.4.1.1 geographical area to be served;
 - 5.1.4.4.1.2 population to be served;
 - 5.1.4.4.1.3 types of services offered;
 - 5.1.4.4.1.4 organization chart.
 - 5.1.4.4.1.5 Policies and procedures to ensure compliance with 5.1.5, Fiscal management;
 - 5.1.4.4.1.6 Policies and procedures to ensure compliance with 5.1.6.2, Personnel;
 - 5.1.4.4.1.7 The intake procedures
 - 5.1.4.4.1.8 The assessment procedure established by the ~~[program—director~~ Administrator] in compliance with 8.1.2.1.2.14.
 - 5.1.4.4.1.9 Referral criteria policies and procedures.
 - 5.1.4.4.1.10 Admission criteria policies and procedures;
 - 5.1.4.4.1.11 Discharge criteria policies and procedures that specify conditions under which clients may be involuntarily discharged, including client behavior that constitutes grounds for discharge by the program.

- 5.1.4.4.1.12 Established procedures consistent with 42 CFR §2.12(c)(5) and HIPAA 45 CFR parts 160 and 164 that staff shall follow when discharging a client involved in the commission of a crime on the premises of the program or against its staff, including designation of the person who shall make a report to the appropriate law enforcement program;
- 5.1.4.4.1.13 Established procedures consistent with 42 CFR Part 2 and HIPAA 45 CFR parts 160 and 164 that staff shall follow when a client leaves against medical or staff advice and the client may be dangerous to self or others;
- 5.1.4.4.1.14 Confidentiality policy and procedures that comply with 42 CFR Part 2 and HIPAA 45 CFR parts 160 and 164;
- 5.1.4.4.1.15 Policies and procedures in regard to completion and utilization of all forms used by the program;
- 5.1.4.4.1.16 Policies and procedures for making mandated reports of suspected child abuse or neglect in compliance with 16 **Del.C.** §§902 through 904, and 42 CFR § 2.12(c)(6);
- 5.1.4.4.1.17 Policies and procedures for communicating with law enforcement personnel when a client commits or threatens to commit a crime on program premises or against program personnel, in compliance with 42 CFR § 2.12(c)(5) and HIPAA 45 CFR parts 160 and 164;
- 5.1.4.4.1.18 Policies and procedures for mandated reporting of infectious or contagious diseases, in compliance with state law and 42 CFR Part 2 and HIPAA 45 CFR Parts 160 and 164;
- 5.1.4.4.1.19 Medication policies and procedures, in compliance with the Delaware State Boards of Medical Practice, Nursing, and Pharmacy;
- 5.1.4.4.1.20 Policies and procedures, as applicable, for the collection of urine specimens;
- 5.1.4.4.1.21 Policies and procedures for responding to medical emergencies;
- 5.1.4.4.1.22 Policies and procedures regarding clients' rights
- 5.1.4.4.1.23 Code of ethics; and
- 5.1.4.4.1.24 Policies and procedures for reporting any violations of law or codes of ethics to the appropriate certification and/or licensure boards.
- 5.1.5 Fiscal management policies and procedures and record keeping
 - 5.1.5.1 Each program shall establish written policies and procedures regarding fiscal management that shall be maintained in compliance with generally accepted accounting principles.
- 5.1.6 Personnel policies and procedures.
 - 5.1.6.1 Each program shall develop and maintain a written personnel manual that shall include:
 - 5.1.6.1.1 Staff rules of conduct consistent with due process including:
 - 5.1.6.1.2 Examples of conduct that constitute grounds for disciplinary action;
 - 5.1.6.1.3 Examples of unacceptable performance that constitute grounds for disciplinary action;
 - 5.1.6.1.4 Policies and procedures on mental health, and alcohol and drug abuse problems of staff (including staff member assistance policies and procedures);
 - 5.1.6.1.5 Safety and health of staff, including:
 - 5.1.6.1.6 Rules about any required medical examinations and rules about communicable diseases that could affect the health or safety of the program's clients or staff.
 - 5.1.6.2 Each agency shall maintain a separate personnel file for each staff member in a manner that ensures the privacy of agency staff.
 - 5.1.6.3 The personnel file shall include at a minimum:
 - 5.1.6.3.1 the name and telephone number of a person the agency can contact in an emergency;

- 5.1.6.3.2 The current job title and job description signed by the staff member;
- 5.1.6.3.3 Either:
 - 5.1.6.3.3.1 an application for employment signed by the staff member; or
 - 5.1.6.3.3.2 a resume;
- 5.1.6.3.4 A copy of the staff member's license and/or current alcohol or other drug counselor certification.
- 5.1.6.3.5 The results of reference investigations and verification of experience, training and education, including:
 - 5.1.6.3.5.1 primary source verification of the staff member's educational degree certificate(s), based on job description;
 - 5.1.6.3.5.2 primary source verification of the staff member's license(s), and/or certification(s), as applicable, based on job description;
 - 5.1.6.3.5.3 A statement signed by the staff member acknowledging that s/he understands the requirements of 42 USC §290dd-2, 42 CFR Part 2 and HIPAA 45 CFR parts 160 and 164;
 - 5.1.6.3.5.4 Documentation of the staff member's annual written performance evaluation;
 - 5.1.6.3.5.5 any disciplinary actions taken against the staff member;
 - 5.1.6.3.5.6 formal corrective action taken, that:
 - 5.1.6.3.5.6.1 the staff member has signed;
 - 5.1.6.3.5.6.2 his/her immediate supervisor has signed;
 - 5.1.6.3.5.7 A copy of the staff member's training plan, as required in 5.1.7.1;
 - 5.1.6.3.5.8 Documentation of the staff member's abilities to provide culturally competent services; and
 - 5.1.6.3.5.9 Documentation of in-service training and continuing education as required by 5.1.7.
- [5.1.6.3.6 Criminal background checks and previous, substantiated reports to the Adult Abuse and Child Abuse registries,]**
- 5.1.6.4 ~~[Assistant Counselors'~~ **Counselor II's]** personnel files shall also include:
 - 5.1.6.4.1 Documentation that the ~~[Assistant-Counselor~~ **Counselor II]** is working toward meeting the requirements of 6.1.5; and
 - 5.1.6.4.2 Documentation of Supervision as required in ~~[42-2.4~~ **6.1.5.2 and 6.1.5.3]**.
- 5.1.6.5 Records documenting all required staff member health clearances, including any medical test results required by agency policy shall be made available to the Division upon request.
- 5.1.7 Staff training and development
 - 5.1.7.1 Each program shall establish a written staff training and development plan. The plan shall include:
 - 5.1.7.1.1 An orientation curriculum, that will ensure that all staff are familiar with the agency policies and procedures, and have a working knowledge of at least the following:
 - 5.1.7.1.1.1 personnel policies and procedures, regarding the health and safety of staff, established in compliance with 5.1.6.1.5;
 - 5.1.7.1.1.2 program policies and procedures regarding the reporting of cases of suspected child abuse or neglect in compliance with 16 Del.C. §§902 through 904 **[and 16 Del.C. §2224]**;
 - 5.1.7.1.1.3 program policies and procedures regarding client's rights established in compliance with 7[.0], as applicable;
 - 5.1.7.1.1.4 instruction and training in the elements of the fire plan in compliance with 9.2;

- 5.1.7.1.1.5 program policies and procedures regarding the obligation to report violations of law and applicable codes of ethics to the appropriate certification and/or licensure boards, established in compliance with 5.1.4.4.1.24.
 - 5.1.7.1.1.6 program policies and procedure regarding the training of all staff regarding culturally competent practices.
 - 5.1.7.2 Programs shall annually establish an individual training plan for each staff member based on the staff member's skill level, education, experience, current job functions, and job performance.
 - 5.1.7.3 Clinical supervisors and all staff providing counseling services to clients shall complete at least ~~[thirty (30)]~~ twenty (20)] hours of training annually, including:
 - 5.1.7.3.1 ~~[Fifteen (15)]~~ Ten (10)] hours specific to training and education in the treatment of alcohol and other drugs of abuse; and
 - 5.1.7.3.2 ~~[Six (6)]~~ Three (3)] hours specific to training and education in providing culturally competence services.
 - [5.1.7.3.3 Three (3) hours of training specific to ethics training and education.]**
 - 5.1.7.4 Adjunctive and Alternative Therapies
 - 5.1.7.4.1 Every program utilizing any modalities of adjunct or alternative therapy shall ensure:
 - 5.1.7.4.1.1 Adjunctive or Alternative Therapies are approved by the ~~[program director]~~ Administrator] or designee prior to utilization;
 - 5.1.7.4.1.2 individuals providing the services of Adjunctive or Alternative Therapies have received specific training and/or credentials applicable to each modality;
 - 5.1.7.5 All staff, trainees and volunteers shall receive training within the first year of employment about:
 - 5.1.7.5.1 Hepatitis;
 - 5.1.7.5.2 HIV/AIDS;
 - 5.1.7.5.3 Tuberculosis;
 - 5.1.7.5.4 Other sexually transmitted diseases;
 - 5.1.8 Quality Assurance
 - 5.1.8.1 Every agency shall have a written quality assurance plan.
 - 5.1.8.2 The plan shall be reviewed and revised annually.
 - 5.1.8.3 The quality assurance plan shall provide for the review of:
 - 5.1.8.3.1 Clinical services to include:
 - 5.1.8.3.1.1 The provision of culturally competent services including:
 - 5.1.8.3.1.1.1 An annual self assessment that focuses on the needs of the community which the agency serves;
 - 5.1.8.3.2 Professional services;
 - 5.1.8.3.3 Administrative services;
 - 5.1.8.3.4 Infection Control; and
 - 5.1.8.3.5 Environment of Care.
 - 5.1.8.4 The results of quality assurance review shall document:
 - 5.1.8.4.1 The problem(s) identified;
 - 5.1.8.4.2 The recommendations made;
 - 5.1.8.4.3 The action(s) taken;
 - 5.1.8.4.4 The individual(s) responsible for implementation of actions; and
 - 5.1.8.4.5 Any follow-up.
 - 5.1.8.5 Every agency shall develop and implement performance indicators and assess outcome measures.

- 5.1.8.6 Every program shall provide a mechanism to collect opinions from service recipients regarding the quality of service provided. Information shall be submitted to the appropriate committee for quality assurance review.

6.0 Standards Applicable to all Facilities and Programs

6.1 Staff Qualifications

6.1.1 Qualifications for the Position of Administrator

- 6.1.1.1 Each agency shall have an administrator responsible for the overall management of the agency and/or program and staff.

- 6.1.1.2 Each administrator hired or promoted on or after the date these regulations become effective shall have at a minimum:

- 6.1.1.2.1 A Bachelor's Degree from an accredited college or university with at least 5 years of documented experience in human services including:

- 6.1.1.2.1.1 at least two (2) years of experience in substance abuse treatment; and

- 6.1.1.2.1.2 at least two (2) years of management experience.

6.1.2 Qualifications for the Position of Clinical Director

- 6.1.2.1 Each individual, hired or promoted, to the position of Clinical Director on or after the date these regulations become effective shall have, at a minimum:

- 6.1.2.1.1 A master's degree [with a major in chemical dependency, psychology, social work], [in] counseling, [nursing] or a related [discipline field of study] and five (5) years of documented [clinical] experience in human services, at least three (3) years of which shall be in substance abuse services; [or

- 6.1.2.1.2 A Bachelor's Degree from an accredited college or university with a major in chemical dependency, psychology, social work, counseling, nursing or a related field, full certification as an alcohol and drug counselor and five (5) years of clinical experience in the substance abuse treatment field, including two years of management experience.]

6.1.3 Qualifications for the Position of Clinical Supervisor

- 6.1.3.1 Each individual authorized, hired, or promoted, to provide clinical supervision on or after the date these regulations become effective shall meet one of the following:

- 6.1.3.1.1 A Bachelor's Degree from an accredited college or university with a major in chemical dependency, psychology, social work, counseling, or nursing [or a related field of study] and full certification as a certified alcohol and drug counselor (CADC) in the state of Delaware or by a nationally recognized organization in addictions counseling; or

- 6.1.3.1.2 A Bachelor's Degree from a accredited college or university with a major in chemical dependency, psychology, social work, counseling, or nursing [or a related field of study] and five (5) years of documented [clinical] experience in the substance abuse treatment field.

- [6.1.3.2 Individuals hired prior to the date these regulations become effective who do not meet the requirements of 6.1.3 shall be within full compliance with these regulations within three (3) years of the effective date.]**

6.1.4 Qualifications for the Position of Counselor [I]

- 6.1.4.1 Each individual hired or promoted on or after the date these regulations become effective shall meet one of the following requirements:

- 6.1.4.1.1 Full certification as a certified alcohol and drug counselor (CADC) in the state of Delaware; or

- 6.1.4.1.2 Full certification by a nationally recognized body in addictions counseling; or

- 6.1.4.1.3 Five (5) years of [documented clinical] experience working in the field of substance abuse treatment.

~~[6.1.4.2 Individuals hired prior to the date these regulations become effective who do not meet the requirements of 6.1.4 shall be within full compliance with these regulations within three (3) years of the effective date.]~~

6.1.5 ~~[Assistant Counselor~~ Counselor II]

6.1.5.1 Qualifications for the Position of ~~[Assistant Counselor~~ Counselor II]

6.1.5.1.1 A person who does not meet the educational and experiential qualifications for the position of Counselor ~~[I]~~ as set forth in 6.1.4 may be employed as ~~[an assistant a Counselor II]~~ if the ~~[requirements of at least one of the following paragraphs are met]~~ individual holds a minimum of a high school diploma or its equivalent and meets at least one of the following:]

6.1.5.1.1.1 The individual has ~~[worked in the substance abuse treatment field for less than five years]~~ has less than five (5) years of documented clinical experience working in the substance abuse treatment field.]

6.1.5.1.1.2 The individual is a student enrolled in a course of study while completing a practicum or internship;

6.1.5.1.1.3 The individual is working toward full certification in addictions counseling by the Delaware Certification Board or a nationally recognized organization in addictions counseling.

6.1.5.2 ~~[Individuals hired prior to the date these regulations become effective who do not meet the requirements of 6.1.5 shall be in full compliance with these standards within five (5) years of their effective date.]~~ The individual must receive clinical supervision by the Clinical Supervisor a minimum of one (1) hour per every twenty (20) hours of clinical services provided to clients.

6.1.5.3 The Clinical Supervisor must review all documentation developed by the Counselor II for accuracy and clinical appropriateness.

6.1.6 Individuals appropriately hired, authorized or promoted to function as a Clinical Director, Clinical Supervisor or Counselor I or II prior to the date these regulations become effective and who met the standard(s) for such functions existing prior to the date these regulations become effective, but who do not meet the requirements set forth in this section, may continue to function in their current role as a Clinical Director, Clinical Supervisor or Counselor I or II.]

7.0 Standards Applicable to all Facilities and Programs

7.1 Clients' Rights

7.1.1 Nondiscrimination policy

7.1.1.1 No program shall deny any person equal access to its facilities or services on the basis of race, color, religion, ancestry, sexual orientation, gender expression, national origin, or disability~~[, unless such disability makes treatment offered by the program non-beneficial or hazardous].~~

7.1.1.2 No program shall deny any person equal access to its facilities or services on the basis of age or gender, except those programs that specialize in the treatment of a particular age group (such as adolescents) or gender (such as mothers and infants).

7.1.1.3 All agencies shall ensure that they comply with the federal Americans with Disabilities Act, 28 U.S.C. §§12101 et seq. and 28 Code of Federal Regulations, Part 36 (July 1991) **[and 16 Del.C. §2220].**

7.1.2 Enumerated Rights

7.1.2.1 All agencies shall ensure that clients' rights are fully protected, including the following:

7.1.2.1.1 To be free from retaliation for exercising any enumerated right.

- 7.1.2.1.2 To file a grievance or complaint with the program in accordance with its policy and procedures. Procedures for receiving, investigating, hearing, considering, responding to and documenting grievances shall:
 - 7.1.2.1.2.1 Include a procedure for receipt of grievances from clients or persons acting on their behalf;
 - 7.1.2.1.2.2 Provide for the investigation of the facts supporting or disproving the grievance;
 - 7.1.2.1.2.3 Identify the staff responsible for receipt and investigation of grievances;
 - 7.1.2.1.2.4 Be posted in a public place;
- 7.1.2.1.3 Participate, and/or have others of his/her choice participate, in an informed way in the grievance process.
- 7.1.2.1.4 To be informed that participation in treatment is voluntary, except as provided in 16 Del.C. §§2211, 2212, 2213 and 2215.
- 7.1.2.1.5 To refuse service, except as provided in 16 Del.C. §§2211, 2212, 2213 and 2215. If consequences, such as termination from other services, may result from such refusal, that fact shall be:
 - 7.1.2.1.5.1 Documented in the client's file.
- 7.1.2.1.6 To be free of any exploitation or abuse by any program personnel or any member of the governing body.
- 7.1.2.1.7 To be assured that any incident of abuse; neglect or mistreatment will be reported in accordance with 5.1.4.4.1.16.
- 7.1.2.1.8 To communicate with legal counsel.
- 7.1.2.1.9 To confidentiality of all records, correspondence and information relating to assessment, diagnosis and treatment in accordance with 42 U.S.C. § 290dd-2, 42 CFR Part 2 and HIPAA 45 CFR parts 160 and 164.
- 7.1.2.1.10 To review his/her own records in accordance with 42 U.S.C. § 290dd-2, 42 CFR Part 2 and HIPAA 45 CFR parts 160 and 164.
- 7.1.2.1.11 Client request for review and a summary of the review if granted shall be documented in the client's record.
- 7.1.2.2 Participation in experimental or research programs
 - 7.1.2.2.1 No client shall participate in any experimental or research project without the full knowledge, understanding and written consent of that client (and/or legal guardian, when appropriate).
 - 7.1.2.2.2 All experimental or research projects shall be conducted in full compliance with applicable state and federal laws, regulations and guidelines.
- 7.1.3 Barriers to treatment:
 - 7.1.3.1 The program shall make reasonable modifications in policies, practices and procedures and/or provide assistive services to accommodate clients who are unable to participate in treatment due to language, cultural, literacy barriers or disabilities[~~, unless doing so would fundamentally alter the nature of the services offered~~].

8.0 Standards Applicable to all Facilities and Programs

8.1 Clinical records

8.1.1 Maintenance of client records

8.1.1.1 Programs shall:

8.1.1.1.1 Maintain a record for each client that is

8.1.1.1.1.1 accurate,

8.1.1.1.1.2 legible and

8.1.1.1.1.3 signed by the staff member who provided the service.

- 8.1.1.1.2 Maintain a standardized client record-keeping system, with client records that are uniform in format and content;
- 8.1.1.1.3 Establish and maintain a system that permits easy identification of and access to individual client records by authorized program staff;
- 8.1.1.1.4 Comply fully with the provisions of 42 U.S.C. § 290dd-2 and 42 CFR Part 2 and HIPAA 45 CFR parts 160 and 164;
- 8.1.1.1.5 Update each record within twenty-four (24) hours of delivery of a service unless otherwise specified in these regulations.
- 8.1.1.2 Any program that discontinues operations, or is merged with, or acquired by another program is responsible for ensuring compliance with the requirements of 42 CFR § 2.19, and HIPAA 45 CFR parts 160 and 164 whichever is applicable. The program shall document in writing to the Division:
 - 8.1.1.2.1 How it will adhere to 42 CFR § 2.19 and HIPAA 45 CFR parts 160 and 164 at the time it notifies the Division of the program closure in accordance with 4.10.5 of these regulations; and
 - 8.1.1.2.2 How it will adhere to 8.0 of these regulations.
- 8.1.2 Content of Client records
 - 8.1.2.1 A record shall be established for each client upon admission and shall include:
 - 8.1.2.1.1 A Consent to Treatment form signed by the client and, if the client is a minor, the client's parent or guardian, except as provided in 16 Del.C. §2210(b).
 - 8.1.2.1.2 An up-to-date face sheet including the client's:
 - 8.1.2.1.2.1 date of admission;
 - 8.1.2.1.2.2 name;
 - 8.1.2.1.2.3 address;
 - 8.1.2.1.2.4 telephone number;
 - 8.1.2.1.2.5 gender;
 - 8.1.2.1.2.6 date of birth;
 - 8.1.2.1.2.7 the client's significant medical history documenting:
 - 8.1.2.1.2.7.1 current medical conditions;
 - 8.1.2.1.2.7.2 any medications the client is currently prescribed;
 - 8.1.2.1.2.7.3 any medications the client is currently taking;
 - 8.1.2.1.2.7.4 allergies.
 - 8.1.2.1.2.8 the name and telephone number of the person to contact in an emergency;
 - 8.1.2.1.2.9 an attached Consent to Release Information form permitting the program to make that contact;
 - 8.1.2.1.2.10 Appropriate Consent to Release Information forms.
 - 8.1.2.1.2.11 Documentation, signed by the client:
 - 8.1.2.1.2.11.1 Acknowledging receipt of the notice of clients' rights;
 - 8.1.2.1.2.11.2 Acknowledging his/her understanding of the agency's agreement with the confidentiality requirements of 7.1.2.1.9;
 - 8.1.2.1.2.11.3 Acknowledging receipt of the program's procedures when an emergency occurs outside of the program's hours of operation.
 - 8.1.2.1.2.12 Copies of any laboratory reports and drug tests ordered by the program.
 - 8.1.2.1.2.13 Informed consent regarding prescribed pharmacotherapy obtained from the client prior to delivery of the medication prescription.
 - 8.1.2.1.2.14 Results of the client's assessment, including the client's:
 - 8.1.2.1.2.14.1 mental health status;
 - 8.1.2.1.2.14.2 psychiatric history;

- 8.1.2.1.2.14.3 medical history (including allergies);
- 8.1.2.1.2.14.4 education;
- 8.1.2.1.2.14.5 work history;
- 8.1.2.1.2.14.6 criminal justice history;
- 8.1.2.1.2.14.7 substance use history, including:
 - 8.1.2.1.2.14.7.1 types;
 - 8.1.2.1.2.14.7.2 quantity;
 - 8.1.2.1.2.14.7.3 route;
 - 8.1.2.1.2.14.7.4 frequency of substances used;
 - 8.1.2.1.2.14.7.5 age of first use;
 - 8.1.2.1.2.14.7.6 date of last use;
 - 8.1.2.1.2.14.7.7 duration and patterns of use, including:
 - 8.1.2.1.2.14.7.7.1 periods of abstinence; and
 - 8.1.2.1.2.14.7.7.2 previous treatment episodes and type of discharge;
- 8.1.2.1.2.14.8 reason(s) for seeking treatment;
- 8.1.2.1.2.14.9 identification and evaluation of the client's needs
- 8.1.2.1.2.14.10 Family History including:
 - 8.1.2.1.2.14.10.1 psychiatric history;
 - 8.1.2.1.2.14.10.2 use of alcohol and other drugs by family members and significant others;
- 8.1.2.1.2.15 Copies of all correspondence related to the client;
- 8.1.2.1.2.16 A diagnostic assessment summary of the client's status that addresses the client's:
 - 8.1.2.1.2.16.1 strengths;
 - 8.1.2.1.2.16.2 limitations; and
 - 8.1.2.1.2.16.3 goals;
- 8.1.2.1.2.17 Indicates which issues and areas of clinical concern are to be:
 - 8.1.2.1.2.17.1 treated;
 - 8.1.2.1.2.17.2 deferred; or
 - 8.1.2.1.2.17.3 referred;
- 8.1.2.1.2.18 Includes the client's:
 - 8.1.2.1.2.18.1 primary language;
 - 8.1.2.1.2.18.2 cultural background;
 - 8.1.2.1.2.18.3 attitudes toward alcohol and other drug use; and spiritual or religious beliefs;
- 8.1.2.1.2.19 the rationale for placement recommendations; and is:
 - 8.1.2.1.2.19.1 signed by the counselor completing the assessment;
 - 8.1.2.1.2.19.2 reviewed, as indicated by the signature of the clinical supervisor; and
 - 8.1.2.1.2.19.3 Is completed prior to the development of the comprehensive treatment plan.
- 8.1.2.1.2.20 Name, address and telephone number of most recent primary care provider.

8.1.2.2 An individualized ~~[written treatment plan]~~ **Master Comprehensive Treatment Plan**, developed in partnership with the client, shall be completed no later than the time required in these regulations for the modality for which the program is licensed.

8.1.2.2.1 The treatment plan shall:

- 8.1.2.2.1.1 identify the date the plan is to be effective;

- 8.1.2.2.1.2 identify the client's:
 - 8.1.2.2.1.2.1 strengths;
 - 8.1.2.2.1.2.2 weaknesses; and
 - 8.1.2.2.1.2.3 any limitations that could be a barrier to treatment.
- 8.1.2.2.1.3 address the issue(s) to be treated as derived from the assessment process;
- 8.1.2.2.1.4 identify long term treatment goals based on the assessment of the client;
- 8.1.2.2.1.5 identify short term treatment goals based on the assessment of the client;
- 8.1.2.2.1.6 identify objectives that:
 - 8.1.2.2.1.6.1 address the goals
 - 8.1.2.2.1.6.2 are specific;
 - 8.1.2.2.1.6.3 are measurable;
 - 8.1.2.2.1.6.4 are time limited; and
 - 8.1.2.2.1.6.5 specify the treatment regimen, including:
 - 8.1.2.2.1.6.5.1 which services and/or activities will be used to achieve each treatment plan objective;
 - 8.1.2.2.1.6.6 the frequency of each service and/or activity;
- 8.1.2.2.1.7 be signed by:
 - 8.1.2.2.1.7.1 the client;
 - 8.1.2.2.1.7.2 the staff who developed the treatment plan; and
 - 8.1.2.2.1.7.3 the clinical supervisor;
- 8.1.2.3 Periodic Treatment Plan Review/Revision
 - 8.1.2.3.1 Treatment plans shall be reviewed and revised by the client and his/her **[primary]** counselor no less often than the intervals specified for the modality for which the program is licensed and shall address the issues remaining to be treated as derived from and treatment plan review.
- 8.1.2.4 Progress notes
 - 8.1.2.4.1 Each contact made with or on behalf of the client shall be documented in the client file; and
 - 8.1.2.4.1.1 Be written to include:
 - 8.1.2.4.1.1.1 the type(s) of service provided;
 - 8.1.2.4.1.1.2 the date of the service(s) provided;
 - 8.1.2.4.1.1.3 the length of the service(s) provided; and
 - 8.1.2.4.1.1.4 a description of the client's response to the session including:
 - 8.1.2.4.1.1.4.1 facts:
 - 8.1.2.4.1.1.4.1.1 a description of the service and/or activity; and
 - 8.1.2.4.1.1.4.1.2 the client's participation in the service and/or activity;
 - 8.1.2.4.1.1.4.2 clinical impressions:
 - 8.1.2.4.1.1.4.2.1 the counselor's assessment of the client's response or lack of response to the service and/or activity; and
 - 8.1.2.4.1.1.4.2.2 the client's progress or lack of progress toward achieving the objectives prescribed in the treatment plan;
 - 8.1.2.4.1.1.4.3 plan for future sessions:
 - 8.1.2.4.1.1.4.3.1 anticipated implementation, by the counselor, of services and/or activities as prescribed in the treatment plan.
- 8.1.2.5 Clinical Supervision
 - 8.1.2.5.1 The clinical supervisor shall review each individual client record with the client's **[primary]** Counselor as often as necessary, and ~~[no less often than at the intervals specified by each modality for which the program is licensed]~~ in conjunction

with treatment plan review and revision and no less often than at the intervals specified by each modality for which the program is licensed].

8.1.2.5.2 The clinical supervisor shall provide specific, written clinical recommendations on how to proceed with the case.

8.1.2.5.3 The clinical supervisor shall sign the review.

8.1.2.6 Discharge Plan

8.1.2.6.1 In anticipation of successful completion or planned interruption of a client's treatment, the treatment staff and client shall jointly develop a discharge plan.

8.1.2.7 Discharge Summary

8.1.2.7.1 For every client that is discharged, the program shall complete a discharge summary within seventy-two (72) hours of **[the a planned]** discharge **[and within ninety-six (96) hours of an unplanned discharge]**.

8.1.2.7.2 The narrative discharge summary shall include the client's:

8.1.2.7.2.1 name;

8.1.2.7.2.2 discharge address;

8.1.2.7.2.3 discharge telephone number;

8.1.2.7.2.4 admission date;

8.1.2.7.2.5 discharge date;

8.1.2.7.2.6 a summary of the client's progress toward treatment plan objectives;

8.1.2.7.2.7 a summary of the client's participation in treatment;

8.1.2.7.2.8 the reasons for discharge;

8.1.2.7.2.9 any unresolved issues;

8.1.2.7.2.10 recommendations regarding the need for additional treatment services;

8.1.2.7.3 When the discharge is planned, the discharge summary shall be signed by:

8.1.2.7.3.1 the client

8.1.2.7.3.2 the **[primary]** counselor, and

8.1.2.7.3.3 the clinical supervisor.

8.1.3 Programs shall provide a list of referral sources for the client's various needs when the agency is unable to meet the client's needs internally. The agency shall be responsible for assisting the client in enrolling in services at other agencies.

8.1.4 Programs shall provide a minimum of twelve (12) months of records up until and including the expiration date of the current license **[for the purposes of licensure audit. Programs shall develop a policy that clearly outlines timelines for record retention and storage for all records beyond the required audit period]**.

9.0 Standards Applicable to all Facilities and Programs

9.1 Facility Standards

9.1.1 Unless otherwise specified programs shall be in compliance with the regulations in this section.

9.1.2 Each agency shall provide facilities that:

9.1.2.1 provide privacy of communications between clients and staff members;

9.1.2.2 provide waiting areas and meeting spaces that are welcoming to diverse populations and cultures;

9.1.2.3 Include rest rooms for clients, visitors and staff.

9.1.3 Agencies shall maintain up-to-date documentation verifying that they have a certificate of occupancy and meet applicable federal, state and local building, zoning, fire, safety and accessibility requirements.

9.1.4 Agencies shall maintain facilities in neat and clean condition, and eliminate any hazardous conditions that endanger the health or safety of clients, visitors or staff.

- 9.1.5 Agencies shall not permit tobacco use in program facilities.
- 9.1.6 Agencies shall post a current fee schedule in a public place within the facility.
- 9.1.7 Agencies shall post hours of operation in a public place within the facility.
- 9.2 Fire Prevention and Safety
 - 9.2.1 Agencies shall display up to date certificates or approval/inspection by Fire Department authorities whenever this is required/available in the specific community where the program is located.
- 9.3 Emergency policies and procedures.
 - 9.3.1 Each agency shall establish a plan of action in the event of emergencies or disasters, based on the program's capability and limitations. The plan shall include provisions:
 - 9.3.1.1 For responding to severe weather, loss of power or water or other natural disaster;
 - 9.3.1.2 For evacuation plans with specific primary and alternative evacuation routes;
 - 9.3.1.3 For posting evacuation routes in areas visible to staff, clients and visitors;
 - 9.3.1.4 For responding to accidents that result in injury or death;
 - 9.3.1.5 Governing how available resources will be used to continue client care;
 - 9.3.1.6 Governing how the program will effectively activate community resources to prevent or minimize the consequences of a disaster;
 - 9.3.1.7 Concerning staff preparedness and the designation of roles and functions;
 - 9.3.1.8 Concerning criteria for the cessation of nonessential services and client transfer determinations; and
 - 9.3.1.9 Governing how it will protect the safety of clients and staff and the security of its records.
 - 9.3.2 All treatment programs shall develop procedures for handling a client who is exhibiting behavior that is threatening to the life or safety of the client or others.
 - 9.3.3 All treatment programs shall have a staff member on site at all times trained in:
 - 9.3.3.1 Crisis intervention; and
 - 9.3.3.2 The standard Red Cross first aid class and CPR certification, or its equivalent.

Part III--Provisions Regarding Modalities

10.0 Standards Applicable to ~~Medically Monitored Residential Detoxification (Freestanding Detox)~~

- 10.1 Services Required:
 - 10.1.1 In addition to the requirements applicable to all programs, a Medically Monitored Residential Detoxification program shall provide:
 - 10.1.1.1 Meals in accordance with 12.3.
 - 10.1.1.2 Housing in accordance with 12.4.
 - 10.1.1.3 Admission assessment by qualified medical personnel or licensed nurse prior to admission to determine need for detoxification.
 - 10.1.2 There shall be no administration of prescription or non-prescription drugs until qualified medical personnel have examined the client, or qualified medical personnel have been consulted.
 - 10.1.3 Physical examination conducted by qualified medical personnel within twenty-four (24) hours of admission.
 - 10.1.4 A medical care plan within twenty-four (24) hours of admission based on the findings of the physical examination in 10.1.3.
 - 10.1.5 Within Seventy-two (72) hours of admission, assessment in accordance with 8.1.2.1.2.14.
 - 10.1.6 Within seventy-two (72) hours of admission, treatment planning in accordance with 8.1.2.2.
 - 10.1.7 Treatment plan review/revision in accordance with 8.1.2.3.
 - 10.1.7.1 by the 7th day, and
 - 10.1.7.2 every 5th day thereafter.

10.1.8 For those clients not medically restricted individual counseling that shall include at least one (1) thirty-minute (30) counseling session per day led by a ~~[counselor or assistant counselor]~~ **Counselor I or Counselor II**].

10.1.9 Group counseling that shall include at least one (1) sixty-minute (60) counseling session per day with a Counselor **I**] or ~~[assistant counselor]~~ **Counselor II**].

10.1.10 Emergency medical and hospital services at a licensed hospital, as needed.

10.2 Required Additional Policies and Procedures

10.2.1 The program shall have protocols developed and supported by a physician knowledgeable in addiction medicine setting forth:

10.2.1.1 A medication policy that complies with 5.1.4.4.1.19.

10.2.1.2 The protocol staff should take to respond to medical complications throughout the detoxification process.

10.2.1.3 The circumstances under which medical intervention is required.

10.3 Operation, Staffing and Staff Schedules

10.3.1 The program shall operate seven (7) days per week, twenty-four (24) hours per day.

10.3.2 The program shall have written affiliation agreements for the provision of services required by this section, when those services are not provided in house.

10.3.3 A physician(s) shall provide on-site services as necessary and on-call services twenty-four (24) hours a day.

10.3.4 When clients are present, there shall be qualified medical personnel or a licensed nurse on site who has knowledge of the complications associated with withdrawal.

10.3.5 When clients are present, there shall be staff on duty and awake at all times.

10.3.6 A counselor shall be available on site to clients at least eight (8) hours a day, seven (7) days a week and available on call twenty-four (24) hours a day.

10.4 Monitoring and documenting the client's condition

10.4.1 Upon admission, the program shall record:

10.4.1.1 Client's blood pressure;

10.4.1.2 Client's pulse;

10.4.1.3 Client's respiration;

10.4.1.4 Presence of bruises, lacerations, cuts or wounds;

10.4.1.5 Any medications carried by the client or found on the client's person.

10.4.1.6 Documentation, at a frequency prescribed by Qualified Medical Personnel, but no less than three times in the first eight hours after admission of:

10.4.1.6.1 Blood Pressure;

10.4.1.6.2 Pulse;

10.4.1.6.3 Respiration;

10.4.1.6.4 Type and amount of fluid intake;

10.4.1.6.5 Physical state, including the presence of tremors, ataxia, or excessive perspiration, restlessness, and sleep disturbances;

10.4.1.6.6 Mental state, including the presence of confusion, hallucinations, and orientation to person, place, and time;

10.4.1.6.7 Emotional state, including the presence of anxiety, depression.

11.0 Standards Applicable to ~~[Clinically Managed Non-]~~Residential Detoxification

[Services ~~[R]~~required as determined by the Division of Substance Abuse and Mental Health.

11.1.1 In addition to the requirements applicable to all programs, a Clinically Managed detoxification program shall provide:

11.1.1.1 Meals in accordance with 12.3.

- ~~11.1.1.2 Housing in accordance with 12.4.~~
- ~~11.1.1.3 Admission assessment to verify need for detoxification by qualified medical personnel or licensed nurse prior to admission.~~
- ~~11.1.2 Physical examination conducted by qualified medical personnel within twenty-four (24) hours of admission.~~
- ~~11.1.3 A medical care plan within twenty four (24) hours of admission based on the findings of the physical examination in 11.1.2.~~
- ~~11.1.4 Within Seventy two (72) hours of admission, assessment in accordance with 8.1.2.1.2.14.~~
- ~~11.1.5 Prior to discharge, a plan for referring client to the next level of care in accordance with his/her current needs.~~
- ~~11.1.6 Treatment plan in accordance with 8.1.2.2:~~
 - ~~11.1.6.1 by the 7th day and~~
 - ~~11.1.6.2 Treatment plan review/revision in accordance with 8.1.2.3 every 5th day thereafter.~~
- ~~11.1.7 For those clients not medically restricted, one (1) thirty minute (30) individual counseling session per day.~~
- ~~11.1.8 For those clients not medically restricted one (1) sixty minute (60) group counseling session per day.~~
- ~~11.1.9 Emergency medical and hospital services at a licensed hospital, as needed.~~
- ~~11.2 Required Policies and Procedures~~
 - ~~11.2.1 A clinically managed detoxification program shall have protocols developed and supported by a physician knowledgeable in addiction medicine setting forth:~~
 - ~~11.2.1.1 The conditions under which a physician should review the client's addiction history and initial assessment during the admission process.~~
 - ~~11.2.1.2 A medication policy that complies with 5.1.4.4.1.19.~~
 - ~~11.2.1.3 The steps staff should take to respond to medical complications throughout the detoxification process.~~
 - ~~11.2.1.4 The circumstances under which medical intervention is required.~~
- ~~11.3 Operation, Staffing and Staff Schedules~~
 - ~~11.3.1 The program shall operate seven (7) days per week, twenty four (24) hours per day.~~
 - ~~11.3.2 The program shall have written affiliation agreements for the provision of services required by this section, when these services are not available in house.~~
 - ~~11.3.3 When clients are present, there shall be qualified medical personnel or a licensed nurse on site who has knowledge of the complications associated with withdrawal.~~
 - ~~11.3.4 When clients are present, there shall be staff on duty and awake at all times.~~
 - ~~11.3.5 A counselor shall be on site and available to clients at least eight (8) hours a day, seven (7) days per week and available on call twenty four (24) hours a day.~~
 - ~~11.3.6 There shall be a physician on call at all times.~~
- ~~11.4 Monitoring and documenting the client's condition~~
 - ~~11.4.1 There shall be documentation, at a frequency prescribed by qualified medical personnel, but no less than three times in the first eight (8) hours after admission of:~~
 - ~~11.4.1.1 Physical state, including the presence of tremors, ataxia, or excessive perspiration, restlessness, and sleep disturbances;~~
 - ~~11.4.1.2 Mental state, including the presence of confusion, hallucinations, and orientation to person, place, and time;~~
 - ~~11.4.1.3 Emotional state, including the presence of anxiety and/or depression.]~~

12.0 Residential Treatment

12.1 Services Required

12.1.1 In addition to the requirements applicable to all programs, a Residential Treatment program shall provide:

- 12.1.1.1 Medical assessment by qualified medical personnel on the day of admission.
- 12.1.1.2 A physical examination ~~[in accordance with 8.1.2.1.2.1.7]~~ within seventy-two (72) hours of admission, unless the client presents a copy of a physical examination completed by qualified medical personnel within ninety (90) days prior to admission.
- 12.1.1.3 A TB test and urine drug screen within seventy-two (72) hours of admission or documentation of a TB test performed within one (1) year prior to admission.
- 12.1.1.4 An initial treatment plan within forty-eight (48) hours of admission.
- 12.1.1.5 Assessment in accordance with 8.1.2.1.2.14 within forty-eight (48) hours of admission.
- 12.1.1.6 The treatment planning required by 8.1.2.2 within seventy-two (72) hours of admission.
- 12.1.1.7 Treatment plan review/revision and update in accordance with 8.1.2.3 on the fourteenth (14) day after the effective date of the first treatment plan.
- 12.1.1.8 Treatment plan review/revision and update in accordance with 8.1.2.3 on the thirtieth (30) day and every thirty (30) days thereafter.
- 12.1.1.9 A schedule for individual counseling in accordance with the clients individual needs that is reviewed and updated at the time of the treatment plan review.
- 12.1.1.10 A schedule for group and family counseling in accordance with the clients individual needs that is reviewed and updated at the time of the treatment plan review.

12.2 Hours of Operation, Staffing and Staff Schedules

- 12.2.1 Residential programs shall operate twenty-four (24) hours per day, seven (7) days per week.
- 12.2.2 There shall be staff on duty and awake at all times.
- 12.2.3 A counselor shall be on site at least eight (8) hours a day, seven (7) days a week and available on call twenty-four (24) hours a day.
- 12.2.4 Counselor[s I's] and ~~[assistant counselor]~~ Counselor II's] shall meet face-to-face with clinical supervisors a minimum of one (1) hour per counselor per week for clinical supervision.

12.3 Nutritional Services

- 12.3.1 Programs shall establish a written plan for meeting the basic nutritional needs, as well as any special dietetic needs, of clients. Plans shall:
 - 12.3.1.1 include a varied and nutritious diet of at least three (3) meals a day, seven (7) days per week;
 - 12.3.1.2 include snacks as part of the overall dietary plan;
 - 12.3.1.3 include food substitutions, (as applicable);
 - 12.3.1.4 be reviewed by a registered dietitian annually and when they are changed.

12.4 Facility Standards

- 12.4.1 All residential programs shall provide:
 - 12.4.1.1 Separation of sleeping quarters serving male and female clients;
 - 12.4.1.2 Separation of bathroom facilities serving male and female clients;
 - 12.4.1.3 Privacy for personal hygiene;
 - 12.4.1.4 Secure closet and storage space for clients' personal property;
 - 12.4.1.5 Security for valuables, including an inventory and receipt system;
 - 12.4.1.6 Laundry facilities for clients; and
 - 12.4.1.7 Space for solitude.
- 12.4.2 All agencies operating residential programs shall ensure that in addition to the clients' rights enumerated in 7.0, these additional clients' rights are fully protected:
 - 12.4.2.1 The right to visitation with family and friends, subject to written visiting rules and hours established by the program, except as provided in this subsection.

12.4.2.2 The right to conduct private telephone conversations, subject to written rules and hours established by the program, except as provided in this subsection.

12.4.2.2.1 The ~~[program director Administrator]~~ or designee may impose limitations on any of the, visitation and/or phone call procedures when in the judgment of the ~~[program director Administrator]~~, such limitations are therapeutically necessary. Limitations shall be recorded in the client's record.

12.4.3 The right to send and receive uncensored and unopened mail. Program may require the client to open mail or package(s) in the presence of program staff for inspection.

12.4.4 The right to wear his/her own clothing subject to written program rules.

12.4.5 The right to bring personal belongings, subject to limitation or supervision by the program.

12.4.6 The right to communicate with their personal physician.

12.4.7 The right to practice their personal religion or attend religious services, within the program's policies and written policies for attendance at outside religious services.

13.0 Transitional residential treatment

13.1 Services Required

13.1.1 In addition to the requirements applicable to all programs, a Transitional residential treatment program shall provide:

13.1.1.1 Meals in accordance with 12.3.

13.1.1.2 Housing in accordance with 12.4.

13.1.1.3 Physical Examination by qualified medical personnel within seventy-two (72) hours of admission unless the client has had a physical examination completed by qualified medical personnel within ninety-days (90) prior to admission.

13.1.1.4 Within seven (7) days of admission, Assessment in accordance with 8.1.2.1.2.14.

13.1.1.5 Within seven (7) days of admission, Treatment planning in accordance with 8.1.2.2.

13.1.1.6 Treatment plan review/revision in accordance with 8.1.2.3 every thirty (30) days.

13.1.1.7 A schedule for individual counseling in accordance with the clients individual needs that is reviewed and updated at the time of the treatment plan review.

13.1.1.8 A schedule for group and family counseling in accordance with the clients individual needs that is reviewed and updated at the time of the treatment plan review.

13.1.1.9 Medical evaluation and consultation by a licensed physician, as needed.

13.1.1.10 Emergency medical and hospital services at a licensed hospital, as needed.

13.1.2 Operation, Staffing and Staff Schedules

13.1.2.1 The program shall operate twenty-four (24) hours per day, seven (7) days per week.

13.1.2.2 The program shall have written affiliation agreements for the provision of services required by, when these services are not provided in house.

13.1.2.3 When clients are present, there shall be staff on site and on duty at all times.

13.1.2.4 A counselor shall be available to clients twenty-four (24) hours a day, seven (7) days per week.

14.0 Opioid Treatment Services:

In addition to these standards, all programs providing Opioid treatment services shall be in full compliance with Federal Regulations regarding Opioid treatment.

14.1 Services Required

14.1.1 A program offering Opioid treatment (OTP) services may provide its clients with a variety of treatment services. It shall provide the services required of residential programs in 12.0 and/or the services required of outpatient programs in 15.0 in addition to the following services:

14.1.1.1 An initial screening, documentation of which shall include:

14.1.1.1.1 Verification of an applicant's identity, including:

- 14.1.1.1.1.1 name;
- 14.1.1.1.1.2 address;
- 14.1.1.1.1.3 date of birth;
- 14.1.1.1.1.4 government issued photographic identification.

14.1.1.1.2 Determination of current physiologic dependence and/or history of dependence upon opium, morphine, heroin or any derivative or synthetic drug of that group, in accordance with DSM criteria, by medical examination performed by qualified medical personnel. Documentation to support that determination shall include:

- 14.1.1.1.3 Program physician statement that treatment is medically necessary;
- 14.1.1.1.4 The five-axis DSM diagnosis (most current DSM edition.);
- 14.1.1.1.5 A description of behavior(s) supportive of a diagnosis of dependence;
- 14.1.1.1.6 Determination by qualified medical personnel that the person became addicted at least one (1) year before admission to treatment;
- 14.1.1.1.7 Completion of a urine drug screen provided that when Opioid dependence is verified through other indicators, a negative urinalysis shall not preclude admission to the program; and
- 14.1.1.1.8 Determination of the duration of substance dependence.

14.1.1.1.9 A physical examination by qualified medical personnel that shall:

- 14.1.1.1.9.1 Include documentation of the client's general appearance with a focus on the clinical signs and symptoms of addiction;
- 14.1.1.1.9.2 Document vital signs;
- 14.1.1.1.9.3 Include a complete medical history;
- 14.1.1.1.9.4 Include the client's family medical history;
- 14.1.1.1.9.5 Include medications currently being taken;
- 14.1.1.1.9.6 Be completed prior to admission; and
- 14.1.1.1.9.7 Be completed annually thereafter.

14.1.1.1.10 Laboratory tests including [serology and other tests deemed necessary by the program physician within 14 days of admission]:

- 14.1.1.1.10.1 complete blood count and differential;
- 14.1.1.1.10.2 investigation of the organ systems for infectious diseases including:
 - 14.1.1.1.10.2.1 ~~[serological tests for syphilis]~~ documentation of administration and results of intracutaneous PPD within the twelve (12) months prior to admission];
 - 14.1.1.1.10.2.2 ~~[serological tests for other STDs, as appropriate]~~ documentation of the results of the intracutaneous PPD within the twelve (12) months prior to admission];
 - 14.1.1.1.10.2.3 ~~[routine urinalysis]~~ chest x-ray if intracutaneous PPD results are positive];
 - 14.1.1.1.10.2.4 ~~[microscopic urinalysis, as appropriate]~~ HIV testing should be encouraged, with the client's signed consent];
 - 14.1.1.1.10.2.5 ~~[hepatic function panel]~~ a biological test for pregnancy for all women of child-bearing age];
 - 14.1.1.1.10.2.6 ~~[hepatitis B antigen and surface antibody]~~ tetanus immunization review];
 - ~~[14.1.1.1.10.2.7 ~~hepatitis C;~~~~
 - 14.1.1.1.10.2.[87] documentation of administration and results of intracutaneous PPD within the twelve (12) months prior to admission;

- 14.1.1.1.10.2.~~[98]~~ documentation of the results of the intracutaneous PPD within the twelve (12) months prior to admission;
 - 14.1.1.1.10.2.~~[409]~~ chest x-ray if intracutaneous PPD results are positive;
 - 14.1.1.1.10.2.~~[4410]~~ HIV testing should be encouraged, with the client's signed consent;
 - 14.1.1.1.10.2.~~[4211]~~ a biological test for pregnancy for all women of child-bearing age;
 - 14.1.1.1.10.2.~~[4312]~~ tetanus immunization review;
 - 14.1.1.1.10.3 Completed within fourteen (14) days of admission;
 - 14.1.1.1.10.4 Completed annually thereafter.
- 14.1.1.2 An assessment of each client every ninety (90) days conducted by the program physician. The physician's documentation of this assessment shall include:
 - 14.1.1.2.1 An evaluation of the client's progress in treatment;
 - 14.1.1.2.2 The appropriateness of the client's treatment plan, as indicated by the physician's dated signature;
 - 14.1.1.2.3 Review current medication(s) and dosage(s) to include:
 - 14.1.1.2.3.1 review of appropriateness of and need for continued use of each medication;
 - 14.1.1.2.3.2 presence of side effects, unusual effects, or contra-indications;
 - 14.1.1.2.3.3 use of multiple medications and drug interactions;
 - 14.1.1.2.3.4 determination of the client's need to be seen face to face by the physician;
 - 14.1.1.2.3.5 Re-writing all orders for the client's medication(s) and dosage~~[s(s)]~~.
 - 14.1.1.2.3.6 Individual, group and family counseling appropriate to the client's needs.
- 14.2 Special admission populations (where the absence of physiological dependence shall not be an exclusion criterion with a clinically justifiable admission) shall include:
 - 14.2.1 Persons recently released from a penal institution; (within six (6) months after release.)
 - 14.2.2 Pregnant clients; (Program physician shall certify pregnancy)
 - 14.2.3 Previously treated clients; (Up to two (2) years after discharge)
 - 14.2.4 Adolescents, provided that:
 - 14.2.4.1 Individuals under the age of 18 have had two documented attempts at short-term medically supervised withdrawal (detoxification) or drug-free treatment to be eligible for maintenance treatment;
 - 14.2.4.2 in addition to the consent of the client, Individuals under 18 years old, unless otherwise permitted by 16 Del.C. §2210 to consent to treatment, have had a parent or legal guardian complete and sign the agency's consent to Methadone Treatment.
- 14.3 Admission procedures in addition to the admission procedures described in 8.1.2.
 - 14.3.1 If an applicant for Opioid treatment services has been discharged within seven (7) years from treatment at another OTP, the admitting program shall document that a good faith effort was made to review whether or not the client is enrolled in any other OTP.
 - 14.3.2 A client enrolled in another program shall not be permitted to enroll in treatment in any other OTP except in exceptional circumstances as determined by the medical director. Exceptions shall be:
 - 14.3.2.1 Noted in the client's record.
- 14.4 Client Orientation
 - 14.4.1 In addition to the requirements of 8.1.2.1.2.11 OTPs shall inform clients of:
 - 14.4.1.1 The facts concerning the use of Methadone, Buprenorphen, Levo-alpha-acetyl-methadol (LAAM) or other Opioid treatment medications dispensed by the program, including, but not limited to:
 - 14.4.1.1.1 an explanation of the interaction between the Opioid treatment medication(s) dispensed by the program and other medications, medical procedures and food;

- 14.4.1.1.2 any potential adverse reactions, including those resulting from interactions with other prescribed or over-the-counter pharmacological agents, other medical procedures and food; and
- 14.4.1.1.3 the importance of notifying the client's primary care physician of their admission to and discharge from the program;
- 14.4.1.1.4 The facts concerning the withdrawal from the use of Methadone, Buprenorphen, LAAM, or other Opioid treatment medications dispensed by the program, including, but not limited to:
- 14.4.1.1.4.1 policies and procedures regarding voluntary, involuntary, and against medical advise withdrawal from Opioid treatment medications;
- 14.4.1.1.4.2 an explanation of the potential interaction between withdrawal from the Opioid treatment medication(s) dispensed by the program and other medications, medical procedures and food;
- 14.4.1.1.4.3 any potential adverse reactions as a result of withdrawal from Opioid treatment medications, including those resulting from interactions with other prescribed or over-the-counter pharmacological agents, other medical procedures and food; and
- 14.4.1.1.4.4 the importance of notifying the client's primary care physician of withdrawal from the program.
- 14.4.2 The program's drug-screening procedure;
- 14.4.3 The program's Opioid treatment medication dispensing procedure, including the days and hours of operation;
- 14.4.4 The program's rules including non-compliance, and discharge procedures, to include administrative Opioid treatment medication withdrawal;
- 14.4.5 The signs and symptoms of overdose and when to seek emergency assistance;
- 14.4.6 The emergency procedures maintained by the program as required in ~~[5.1.4.4.9]~~ 5.1.4.4.1.21 shall be available twenty-four (24) hours per day.
- 14.4.7 Safe storage practices for take-home Opioid treatment medications;
- 14.4.8 The financial aspects of treatment, including the consequences of nonpayment of required fees.
- 14.4.9 Upon admission, the program shall issue each client a photo identification card.
- 14.5 Client Re-admissions
- 14.5.1 A client re-admitted to the same program within thirty (30) days need not receive a medical examination and laboratory tests if s/he received a medical examination and laboratory tests within the previous year.
- 14.5.2 All other requirements of this section, governing the screening and admission of applicants for Opioid treatment, shall apply to individuals seeking readmission to Opioid treatment.
- 14.6 Client Transfers
- 14.6.1 A client transferring to a different program, need not receive a repeat medical examination and laboratory tests if:
- 14.6.1.1 all of the information in 14.3.1 has been completed within the past year, and
- 14.6.1.2 all of the information in 14.3.1 is provided to the receiving program, by the transferring program, prior to admission of the client.
- 14.6.2 The receiving program physician shall have a transfer summary directly from the transferring program that includes:
- 14.6.2.1 a medical summary that indicates any significant medical problems;
- 14.6.2.2 current dosage;
- 14.6.2.3 dosage regimen for the past twelve (12) months.

14.6.3 All other requirements of 14.0 governing the screening, admission, annual physical examination, and annual laboratory tests required of applicants for Opioid treatment, shall apply to individuals transferring to a OTP, effective as of the date of admission.

14.6.4 The receiving program shall document disclosure of its prescriptive practices and dosing policy to the transferring program at the initial contact regarding transfer of a client.

14.7 Non-admissions

14.7.1 Programs shall maintain documentation identifying the following:

14.7.1.1 Each person who was screened or assessed for admission but not admitted;

14.7.1.2 The reason(s) for each non-admission;

14.7.1.3 The specific referrals the program made for each person who was screened or assessed for admission but not admitted.

[14.7.2 The reasons for non admission must be made available in writing to the client upon request.

14.7.2.1 Documentation of the written response to the non admitted client must be entered into the client file.]

14.8 Programs that plan to relocate shall:

14.8.1 Inform clients of the date of the move;

14.8.2 Inform clients of the new program location; and

14.8.3 Facilitate transfers of those clients for whom the new program location is not convenient.

14.9 Hours of Operation, Staffing, and Staff Orientation

14.9.1 OTPs shall operate six (6) days per week, with at least two (2) hours of medicating time accessible daily outside the hours of 8 a.m. to 5 p.m. Monday through Friday, and three (3) hours on Saturday or Sunday.

14.9.2 Each OTP shall post medication dispensing and counseling hours in a public place within the facility.

14.9.3 Each OTP shall have the services of licensed medical personnel. Staff shall include:

14.9.3.1 A designated medical director, who is a physician, responsible for the administration of all medical services performed by the program and for compliance with all federal, state and local laws, rules and regulations regarding medical treatment of narcotic dependence;

14.9.3.2 At all times when the clinic is open, if a physician is not on site, a physician shall be available for consultations and emergency attendance;

14.9.3.3 Prior to services delivery, in addition to training requirements in 5.1.7.1, OTPs shall provide new staff orientation, including:

14.9.3.3.1 clinical and pharmacotherapy issues,

14.9.3.3.2 overdose, and other emergency procedures,

14.9.3.3.3 provision of services to special populations such as adolescents, pregnant women, and senior citizens.

14.10 Minimum urine drug screen testing Drug Abuse Testing

14.10.1 In addition to the initial urine drug screening required in ~~[14.1.1-14.2.3]~~ 14.1.1.1.7] the program shall adhere to the following schedule:

14.10.1.1 Three (3) random screens on each client during the first ninety (90) days;

14.10.1.2 Nine (9) additional random screens during the next nine months;

14.10.1.3 Eight (8) random screens on each client in maintenance treatment for each subsequent year; and

14.10.1.4 Monthly random screens on each client receiving a six (6) day supply of take home Opioid treatment medication.

14.10.2 The program shall place any client who has a positive urine drug screen back on the urine drug screen schedule set forth in 14.10 beginning with 14.10.1.1.

- 14.10.3 Clients' urine samples shall be tested for any other drugs or alcohol, as indicated by the client's use patterns, or that are heavily used in the locale.
- 14.10.4 Programs shall utilize only laboratories licensed by Federal and State regulatory authorities.
- 14.10.5 Urine testing Drug abuse testing shall be used as a clinical tool for the purposes of diagnosis and in the development of treatment plans.
- 14.10.6 Urine drug screen Drug abuse test results shall not be used as the sole criterion to involuntarily discharge any client.
- 14.10.7 Programs shall place clients transferring from other OTPs on urine surveillance schedule in accordance with subsection 14.10.1.
- 14.11 Administration of Opioid treatment medication
 - 14.11.1 No dose of Opioid treatment medication shall be administered until the client has been identified and the dosage compared with the currently ordered and documented dosage level.
 - 14.11.2 Only a licensed professional authorized by law may administer or dispense Opioid treatment medication.
 - 14.11.3 Ingestion shall be observed and verified by the personnel authorized to administer the Opioid treatment medication.
 - 14.11.4 There shall be only one client in the dispensing area at a time.
 - 14.11.5 A physician shall obtain a detailed history of drug use within the last twenty-four (24) hours prior to initial dose, and,
 - 14.11.5.1 Determine the client's initial dosage after a physical examination;
 - 14.11.5.2 The initial dose of Methadone shall not exceed thirty (30) mg.;
 - 14.11.5.3 Additional medication shall not be administered, unless:
 - 14.11.5.3.1 after three (3) hours of observation, the physician documents in the client's record that the initial dose did not suppress opiate abstinence symptoms; and
 - 14.11.5.3.2 the physician writes orders for additional medication.
 - 14.11.5.4 The initial total daily dose of Methadone for the first day shall not exceed forty (40) mg., unless the physician documents justification for a higher dosage in the client record that forty (40) mg did not suppress opiate abstinence symptoms.
 - 14.11.5.5 The initial dose of any other Opioid treatment medications shall not exceed federal regulations, guidelines or medical protocol.
 - 14.11.5.6 The program physician shall justify any deviations from dosages, frequencies, and conditions of usage described in the approved product labeling.
- 14.11.6 A physician shall determine all subsequent dosage levels and shall:
 - 14.11.6.1 Document each order change on the physician's medication orders;
 - 14.11.6.2 Sign each order change; and
 - 14.11.6.3 Date the order.
- 14.11.7 Programs shall dispense Methadone in an oral form, in accordance with federal and state law and regulations in containers conforming to 42 CFR (Part VIII) Section 12.(i)(5).
- 14.11.8 Any Opioid treatment medication error or adverse drug reaction shall be reported promptly to the medical director and an entry made in the client's record.
- 14.11.9 The medical director shall ensure that significant adverse drug reactions are reported to the Federal Food and Drug Administration and to the manufacturer in a manner that does not violate the client's confidentiality.
- 14.11.10 Each program shall develop a written emergency procedure to be implemented in the case of an employee strike, fire or other emergency situation that would stop or substantially interfere with normal dispensing operations. The emergency procedure shall comply with 9.3 and also include:
 - 14.11.10.1 Arrangements with a security provider for immediate security of Opioid treatment medications;

- 14.11.10.2 Written agreements, updated annually, with back-up licensed professionals authorized by law, for the coverage of dispensing and other medical needs if regular personnel are not available;
 - 14.11.10.3 A reliable system for confirming the identities of clients before dispensing; and
 - 14.11.10.4 Written agreements, updated annually, for the use of an alternate program, hospital or other site for dispensing during an emergency period.
 - 14.12 Opioid treatment medication schedules; Unsupervised or "take-home use":
 - 14.12.1 Treatment program decisions on dispensing unsupervised or "take-home" medications shall be determined by the medical director. The medical director shall consider the following criteria to determine whether a patient is responsible in handling drugs for unsupervised use.
 - 14.12.1.1 Regularity of program attendance;
 - 14.12.1.2 Absence of recent abuse of drugs, including alcohol;
 - 14.12.1.3 Regularity of clinic attendance;
 - 14.12.1.4 Absence of serious behavioral problems at the clinic.
 - 14.12.1.5 Absence of known recent criminal activity (e.g. drug and drug related arrests, etc....)
 - 14.12.1.6 Progress in meeting treatment plan goals;
 - 14.12.1.7 Length of time in treatment;
 - 14.12.1.8 Responsibility in the handling, and plan for the safe storage, of take home Opioid treatment medications;
 - 14.12.1.9 Stability of the client's home environment and social relationships.
 - 14.12.1.10 When it is determined that a patient is responsible in handling Opioid drugs, the Federal Regulations for take home privileges shall be applied.
 - 14.12.2 OTPs shall maintain current procedures adequate to identify the theft or diversion of take-home medications, including:
 - 14.12.2.1 labeling containers with the OTP's name, address, and telephone number; and
 - 14.12.2.2 requiring patients to come to the clinic on a randomly scheduled basis for drug testing and checking the amount of take-home medication used to that point.
 - 14.12.3 Programs shall also ensure that take-home supplies are packaged in a manner that is designed to reduce the risk of accidental ingestion, including child-proof containers.
 - 14.13 Revocation of take-home privileges.
 - 14.13.1 The program medical director will determine if a client's conduct warrants revocation or suspension of take-home privileges.
 - 14.13.1.1 Documentation of the rational for revoking or suspending take-home privileges will be entered into the client's record by the medical director.
 - 14.14 Exceptions.
 - 14.14.1 If, in the judgment of the program physician:
 - 14.14.1.1 a client has a physical disability that interferes with his or her ability to conform to the applicable mandatory attendance schedule, the program physician may permit a reduced attendance schedule, provided that the physician comply with 14.12.1 and documents reasons for permitting take home medication.
 - 14.14.1.2 a client is unable to conform to the applicable mandatory attendance schedule because of exceptional circumstances such as illness, personal or family crises, travel, or other hardship, the program physician may permit a temporarily reduced schedule, provided that the client is responsible in handling Opioid treatment medications. In such cases, the program physician shall record or verify the rationale for the exception in the client's record and date and sign the record. ~~[No client may receive more than a two (2) week supply of Opioid treatment medication at any one time.]~~
 - 14.14.2 Employed clients may apply for an exception to these requirements if the dispensing hours of the clinic conflict with working hours of the client. In such cases, the client may receive take-home

medications after verifying work hours through reliable means, provided that the physician complies with 14.12.1 and documents reasons for permitting take home medication.

14.14.3 Any client who transfers from one (1) OTP to another shall be eligible for placement on the same take-home schedule. Before initiating take-home privileges for a client transferring from other maintenance treatment programs, the program physician shall comply with subsection 14.12.1 and documents reasons for permitting take home medication.

14.15 Voluntary Medical withdrawal from Opioid treatment Medication

14.15.1 Voluntary medical withdraw from Opioid treatment medication shall include:

14.15.1.1 A request signed and dated by the client, for voluntary medication withdrawal.

14.15.1.2 Documentation of the physician's rationale for initiation of withdrawal.

14.15.1.3 Documentation of the physician's rationale for continuing the withdrawal if there is any change in the physician's orders.

14.15.1.4 Documentation signed and dated by the client, that the withdrawal will be discontinued and maintenance resumed at the client's request.

14.15.1.5 A biological test for pregnancy for all women of child-bearing age prior to the initiation of withdrawal.

14.15.1.6 Revision of the treatment plan with an increase in counseling and other support services in relation to medication dosage changes.

14.15.1.7 Provisions for continuing care after the last dose of Opioid treatment medication.

14.16 Withdraw against medical advice

14.16.1 Withdrawal against medical advice shall include:

14.6.1.1 Documentation of all efforts taken by staff members to discourage initiation and continuation of withdrawal against medical advice.

14.6.1.2 Documentation of the reasons the client is seeking withdrawal against medical advice.

14.17 Involuntary withdrawal:

14.17.1 Involuntary withdrawal from an Opioid treatment medication shall be conducted in accordance with a dosage reduction schedule prescribed by the physician.

14.17.2 Clients being involuntarily discharged shall be referred to other treatment, as clinically indicated.

14.17.3 OTPs shall document the reasons for initiation of involuntarily withdrawal in the client's record.

14.17.4 Prior to the beginning of involuntary withdrawal, efforts should be documented regarding referral or transfer of the client to a suitable, alternative treatment program.

14.17.5 Involuntary withdrawal shall be considered a planned discharge and shall comply with ~~8.1.2.10~~ 8.1.2.7] regarding the planned discharge of a client.

14.17.6 Documentation during withdrawal shall include:

14.17.6.1 Documentation by the physician of the schedule for withdrawal and any changes made to the schedule by the physician during the withdrawal.

14.17.6.2 Counseling designed to promote the continuation of services following medical withdrawal.

14.18 Detoxification treatment

14.18.1 An OTP shall maintain procedures that are designed to ensure that qualified medical personnel admit clients to short- or long-term detoxification treatment.

14.18.2 Patients with two or more unsuccessful detoxification episodes within a twelve (12) month period shall be assessed by the OTP physician for other forms of treatment.

14.18.3 A program shall not admit a client for more than two (2) detoxification treatment episodes in one year.

14.19 Pregnant Clients

14.19.1 In addition to the other requirements of this section, for pregnant clients the following shall apply:

14.19.1.1 OTPs shall provide priority in initiating treatment.

- 14.19.1.2 The physician shall document in the client record all clinical findings supporting the certification of the pregnancy prior to the administration of an initial dose of Opioid treatment medication.
- 14.19.1.3 The initial dose of Methadone shall not exceed 40 mg.
- 14.19.1.4 The program physician shall evaluate dosing of pregnant women weekly during the last trimester of the pregnancy.
- 14.19.1.5 If there is simultaneous use of alcohol and/or other drugs the program shall document:
 - 14.19.1.5.1 Education of the client regarding the potential impact of substance use on the fetus.
 - 14.19.1.5.2 Attempts to encourage the client to cease use of substances other than those prescribed by a physician.
 - 14.19.1.5.3 Referrals made to appropriate levels of care.
- 14.19.1.6 Pregnant clients shall be given the opportunity for prenatal care either by the program or by referral to appropriate health care providers.
- 14.19.1.7 The program shall document all attempts to assist the client with obtaining prenatal care.
- 14.19.1.8 The program shall offer prenatal instruction on:
 - 14.19.1.8.1 Education on fetal development;
 - 14.19.1.8.2 Care for the newborn;
 - 14.19.1.8.3 Breastfeeding;
 - 14.19.1.8.4 Effects of maternal drug use on the fetus;
 - 14.19.1.8.5 Information on parenting;
 - 14.19.1.8.6 Importance of sound maternal nutritional practices.
- 14.19.2 OTP's shall give priority to pregnant women seeking admission to treatment.
- 14.19.3 OTP's shall maintain current policies and procedures that reflect the special needs of patients who are pregnant. Prenatal and other gender specific services shall be provided either by the OTP or by referral to appropriate health care providers.
- 14.19.4 Medical withdrawal of the pregnant, Opioid – addicted woman from Opioid treatment medication is not indicated or recommended. No pregnant client shall be involuntarily medically withdrawn from an Opioid treatment medication.
- 14.19.5 Pregnant individuals who choose to withdraw from treatment against medical advice shall do so under the direct supervision of the program physician in conjunction with an obstetrician who can monitor the effects on the fetus.
- 14.19.6 If a pregnant client refuses direct treatment, referral for treatment, or referral for other services, the program physician shall have the client acknowledge said refusal in writing. Documentation of the refusal shall be recorded in the client's record.
- 14.19.7 The program physician shall request the physician, hospital, or program to which the individual is referred, to provide reports of prenatal care, and a summary of the delivery and treatment outcome for the client and baby. Documentation of the request(s) shall be included in the client's record.
- 14.19.8 Within three (3) months after termination of the pregnancy, the program physician shall evaluate the individual's treatment status and document whether she should remain in the comprehensive maintenance program or be detoxified.
- 14.20 Programs shall be accredited by an accreditation body approved by SAMSHA and registered with the DEA, as required.

15.0 Outpatient Treatment

15.1 Services Required

- 15.1.1 In addition to the requirements applicable to all programs, an Outpatient Treatment program shall provide:
 - 15.1.1.1 Documentation of a physical examination by qualified medical personnel within ninety (90) days prior to admission.

- 15.1.1.1.1 When documentation of a physical examination by qualified medical staff is not made available to the program, the program shall document a good faith effort in referring the client for a physical and/or efforts made to obtain documentation of a physical.
 - 15.1.1.2 Assessment in accordance with 8.1.2.1.2.14 within thirty (30) days of admission.
 - 15.1.1.3 Treatment planning in accordance with 8.1.2.2 within thirty (30) days of admission or by the fourth (4th) counseling session, whichever occurs first.
 - 15.1.1.4 Treatment plan review/revision in accordance with 8.1.2.3 every ~~[sixty (60)]~~ ninety (90) days after the effective date of the first treatment plan.
 - 15.1.1.5 A schedule for individual, group and family counseling in accordance with the clients individual needs that is reviewed and updated at the time of the treatment plan review.
 - 15.2 Any time that services are offered at locations other than the program's main building, the program will assure that all requirements of 9.0 of these regulations are met in full.

Part IV-- Provisions Regarding Deemed Status

16.0 Commission on Accreditation of Rehabilitation Facilities (CARF)

16.1 Deemed Status Categories

- 16.1.1 Programs with Three-Year Accreditation will qualify for a [two] (2) year license.
- 16.1.2 Programs with One-Year Accreditation will qualify for a [one] (1) year license or less (at the discretion of the Division Director).
- 16.1.3 Programs with Provisional Accreditation will qualify for Deemed Status at the discretion of the Division Director.
- 16.1.4 Programs with Provisional Accreditation must submit all corrective action reports prepared for CARF to DSAMH at the same time they are submitted to CARF.
- 16.1.5 Programs with Provisional Accreditation must submit copies of progress reports prepared for CARF to DSAMH at the time they are sent to CARF until the program is granted a Three-Year or One-Year Accreditation. Deemed Status will be re-evaluated annually when the program holds Provisional Accreditation status and is not guaranteed year to year.
- 16.1.6 Programs that are accredited as part of a merger, consolidation or acquisition must submit verification that CARF will extend accreditation to the new entity.

16.2 Notification of Audit:

- 16.2.1 Programs must inform DSAMH of all CARF visits whether announced or unannounced. The [DSAMH] Licensing ~~[and Medicaid Certification]~~ Unit should be notified in writing of a scheduled visit no less than 30 days prior to the visit. The Licensing and Medicaid Certification Unit should be notified by phone or email of an unannounced visit within 24 hours of the first day of the visit.

16.3 Reporting to DSAMH

- 16.3.1 Programs must notify DSAMH of any immediate threat to life that is discovered by CARF during the visit within 24 hours of the day the threat to life is discovered.
- 16.3.2 Programs must report all other *significant events* to DSAMH within 24 hours accompanied by the investigation report; action plan and action plan follow up activity reports prepared according to CARF guidelines.
- 16.3.3 Programs must submit to DSAMH any corrective action to address significant events at the same time they are submitted to CARF.
- 16.3.4 Programs must submit to DSAMH any other correspondence required by CARF during the course of the Accreditation period and/or between each CARF review.

16.4 Deemed Status Revocation

- 16.4.1 DSAMH can revoke Deemed Status standing at any time, but specifically when:
 - 16.4.1.1 A program is unsuccessful in receiving Three-Year, One-Year, or Provisional Accreditation from CARF;

- 16.4.1.2 In response to a significant event;
 - 16.4.1.3 When reporting to DSAMH does not occur in accordance with the time table established above;
 - 16.4.1.4 Following a survey by DSMAH when it is determined that the program is not operating under the CARF guidelines and/or DSAMH licensure standards.
- 16.4.2 Once revoked, a program must wait **[one]** (1) year before reapplying for Deemed Status. DSAMH must conduct a site review before restoring Deemed Status.
- 16.5 Program Exemptions:
 - 16.5.1 Programs are exempt from the Division of Substance Abuse and Mental Health standards for Substance Abuse Treatment Programs with the exception of:
 - 16.5.1.1 **Standards Applicable to all Programs:**
 - 16.5.1.1.1 Section 5.0: Programs with Deemed status must be in compliance with the following subsections of section 5.0:
 - 16.5.1.1.1.1 Subsection 5.1.3.1;
 - 16.5.1.1.1.2 Subsections 5.1.6.3.5.3., 5.1.6.3.5.5., 5.1.6.3.5.6., 5.1.6.3.5.7., 5.1.6.3.5.8., 5.1.6.3.5.9;
 - 16.5.1.1.1.3 Subsection 5.1.6.4;
 - 16.5.1.1.1.4 Subsection 5.1.6.5;
 - 16.5.1.1.1.5 Subsection 5.1.7.4.
 - 16.5.1.1.2 Section 6.0: Programs must be in compliance with all of section 6.0.
 - 16.5.1.1.3 Section 8.0: Programs with Deemed Status are exempt from sub-section 8.1.2 of section 8.0. When client records are reviewed, DSAMH will accept documents in section 8.1.2 in the format accepted by CARF. Programs must be in compliance with all other subsections of section 8.0.
 - 16.5.1.1.4 Section 9.0: Programs must be in compliance with standard 9.1.5: "smoke free facility".
 - 16.5.1.2 Standards Applicable to Specific Settings and Modalities
 - 16.5.1.2.1 Programs must be in compliance with all standards specific to the modality for which the program is being licensed with the exception of:
 - 16.5.1.2.1.1 Section 14: Opioid Treatment: Opioid Treatment programs with Deemed Status are exempt from all requirements of section 14 with the exception of:
 - 16.5.1.2.1.1.1 Subsection 14.3;
 - 16.5.1.2.1.1.2 Subsection 14.4;
 - 16.5.1.2.1.1.3 Subsection 14.9;
 - 16.5.1.2.1.1.4 Subsection 14.11;
 - 16.5.1.2.1.1.5 Subsections 14.12 through 14.20.

17.0 Joint Commission on the Accreditation of Healthcare Organizations (JCAHO)

- 17.1 Deemed Status Categories:
 - 17.1.1 Programs with Full Accreditation will qualify for a **[two]** (2) year license.
 - 17.1.2 Programs with Provisional Accreditation will qualify for a **[one]** (1) year license or less (at the discretion of the Division Director).
 - 17.1.3 Programs with Conditional Accreditation will qualify for Deemed Status at the discretion of the Division Director.
 - 17.1.4 Programs with Provisional Accreditation must submit all corrective action reports prepared for JCAHO to DSAMH at the same time they are submitted to JCAHO.
 - 17.1.5 Programs with Conditional Accreditation must submit copies of progress reports prepared for JCAHO to DSAMH at the time they are sent to JCAHO until the program is granted a Three-Year

or One-Year Accreditation. Deemed Status will be re-evaluated annually when the program holds Provisional Accreditation status and is not guaranteed year to year.

- 17.1.6 Programs that are accredited as part of a merger, consolidation or acquisition must submit verification that JCAHO will extend accreditation to the new entity.

17.2 Notification of Audit:

- 17.2.1 Programs must inform DSAMH of all JCAHO visits whether announced or unannounced. The [DSAMH] Licensing [~~and Medicaid Certification~~] Unit should be notified in writing of a scheduled visit no less than 30 days prior to the visit. The Licensing and Medicaid Certification Unit should be notified by phone or email of an unannounced visit within 24 hours of the first day of the visit.

17.3 Reporting to DSAMH

- 17.3.1 Programs must notify DSAMH of any immediate threat to life that is discovered by JCAHO during the visit within 24 hours of the day that the threat to life is discovered.
- 17.3.2 Programs must report all *sentinel events* to DSAMH within 24 hours accompanied by the root cause analysis, action plan and action plan follow up activity reports prepared according to JCAHO guidelines.
- 17.3.3 Programs must submit to DSAMH any corrective action to address *sentinel events* at the same time they are submitted to JCAHO.
- 17.3.4 Programs must submit to DSAMH any other correspondence required by JCAHO during the course of the Accreditation period and/or between each JCAHO review.

17.4 Deemed Status Revocation

- 17.4.1 DSMAH can revoke Deemed Status standing at any time, but specifically when:

- 17.4.1.1 A program is unsuccessful in receiving Accreditation, or Provisional Accreditation from JCAHO;
- 17.4.1.2 In response to a sentinel event;
- 17.4.1.3 When reporting to DSAMH does not occur in according with the time table established above;
- 17.4.1.4 Following a survey by DSMAH when it is determined that the program is not operating under the JCAHO guidelines and/or DSAMH licensure standards.

- 17.4.2 Once revoked, a program must wait 1 year before reapplying for Deemed Status. DSAMH must conduct a site review before restoring Deemed Status.

17.5 Program Exemptions:

- 17.5.1 Programs are exempt from the Division of Substance Abuse and Mental Health standards for Substance Abuse Treatment Programs with the exception of:

- 17.5.1.1 Standards Applicable to all Programs:

- 17.5.1.1.1 Section 5.0:

- 17.5.1.1.1.1 Subsection 5.1.2.1;

- 17.5.1.1.1.2 Subsection 5.1.4;

- 17.5.1.1.1.3 Subsection 5.1.7.1;

- 17.5.1.1.1.4 Subsection 5.1.7.2;

- 17.5.1.1.1.5 Subsection 5.1.7.3;

- 17.5.1.1.1.6 Subsection 5.1.8;

- ~~[17.5.1.1.1.7 Subsection 5.1.9.]~~

- 17.5.1.2 Section 6.0: Programs must be in compliance with all of section 6.0.

- 17.5.1.3 Section 8.0: Programs with Deemed Status are exempt from sub-section 8.1.2 of section 8.0. When client records are reviewed, DSAMH will accept documents in section 8.1.2. in the format accepted by JCAHO. Programs must be in compliance with all other subsections of section 8.0.

- 17.5.2 Section 9.0: Programs with Deemed Status are exempt from all standards in section 9.0. with the exception of 9.1.5. "smoke free facility".

17.6 Standards Applicable to Specific Settings and Modalities

17.6.1 Programs must be in compliance with all standards specific to the modality for which the program is being licensed with the exception of:

17.6.1.1 Section 14.0: Opioid Treatment: Opioid Treatment programs with Deemed Status are exempt from all requirements of section 14.0 with the exception of:

17.6.1.1.1 Subsection 14.3:

17.6.1.1.2 Subsection 14.4:

17.6.1.1.3 Subsection 14.9:

17.6.1.1.4 Subsection 14.11:

17.6.1.1.5 Subsections 14.12 through 14.20.

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