

CONTRACT FOR
TEACHING SERVICES

BETWEEN

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

AND

SHARON HILL

A) Introduction

1. This contract is entered into between the Delaware Department of Health and Social Services (the Department), Division of Substance Abuse and Mental Health (Division) and Sharon Hill (the Contractor).
2. The Contract shall commence on **February 28, 2011** and terminate on **June 30, 2011** unless specifically extended by an amendment, signed by all parties to the Contract. Time is of the essence. (Effective contract start date is subject to the provisions of Paragraph C 1 of this Agreement.)

B) Administrative Requirements

1. Contractor recognizes that it is operating as an independent Contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the Contractor's negligent performance under this Contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the Contractor in their negligent performance under this Contract.

2. The Contractor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this Contract. The Contractor is an independent contractor and is not an employee of the State.
3. During the term of this Contract, the Contractor shall, at its own expense, carry insurance with minimum coverage limits as follows:

	a) Comprehensive General Liability	\$1,000,000
and	b) Medical/Professional Liability	\$1,000,000/ \$3,000,000
or	c) Misc. Errors and Omissions	\$1,000,000/\$3,000,000
or	d) Product Liability	\$1,000,000/\$3,000,000

All contractors must carry (a) and at least one of (b), (c), or (d), depending on the type of service or product being delivered.

If the contractual service requires the transportation of Departmental clients or staff, the contractor shall, in addition to the above coverage, secure at its own expense the following coverage:

e) Automotive Liability (Bodily Injury)	\$100,000/\$300,000
f) Automotive Property Damage (to others)	\$ 25,000

4. Notwithstanding the information contained above, the Contractor shall indemnify and hold harmless the State of Delaware, the Department and the Division from contingent liability to others for damages because of bodily injury, including death, that may result from the Contractor's negligent performance under this Contract, and any other liability for damages for which the Contractor is required to indemnify the State, the Department and the Division under any provision of this Contract.
5. The policies required under Paragraph B3 must be written to include Comprehensive General Liability coverage, including Bodily Injury and Property damage insurance to protect against claims arising from the performance of the Contractor and the contractor's subcontractors under this Contract and Medical/Professional Liability coverage when applicable.

6. The Contractor shall provide a Certificate of Insurance as proof that the Contractor has the required insurance. The certificate shall identify the Department and the Division as the "Certificate Holder" and shall be valid for the contract's period of performance as detailed in Paragraph A 2.
7. The Contractor acknowledges and accepts full responsibility for securing and maintaining all licenses and permits, including the Delaware business license, as applicable and required by law, to engage in business and provide the goods and/or services to be acquired under the terms of this Contract. The Contractor acknowledges and is aware that Delaware law provides for significant penalties associated with the conduct of business without the appropriate license.
8. The Contractor agrees to comply with all State and Federal licensing standards and all other applicable standards as required to provide services under this Contract, to assure the quality of services provided under this Contract. The Contractor shall immediately notify the Department in writing of any change in the status of any accreditations, licenses or certifications in any jurisdiction in which they provide services or conduct business. If this change in status regards the fact that its accreditation, licensure, or certification is suspended, revoked, or otherwise impaired in any jurisdiction, the Contractor understands that such action may be grounds for termination of the Contract.

a) If a contractor is under the regulation of any Department entity and has been assessed Civil Money Penalties (CMPs), or a court has entered a civil judgment against a Contractor or vendor in a case in which DHSS or its agencies was a party, the Contractor or vendor is excluded from other DHSS contractual opportunities or is at risk of contract termination in whole, or in part, until penalties are paid in full or the entity is participating in a corrective action plan approved by the Department.

A corrective action plan must be submitted in writing and must respond to findings of non-compliance with Federal, State, and Department requirements. Corrective action plans must include timeframes for correcting deficiencies and must be approved, in writing, by the Department.

The Contractor will be afforded a thirty (30) day period to cure non-compliance with Section 8(a). If, in the sole judgment of the

Department, the Contractor has not made satisfactory progress in curing the infraction(s) within the aforementioned thirty (30) days, then the Department may immediately terminate any and/or all active contracts.

9. Contractor agrees to comply with all the terms, requirements and provisions of the Civil Rights Act of 1964, the Rehabilitation Act of 1973 and any other federal, state, local or any other anti discriminatory act, law, statute, regulation or policy along with all amendments and revision of these laws, in the performance of this Contract and will not discriminate against any applicant or employee or service recipient because of race, creed, religion, age, sex, color, national or ethnic origin, disability or any other unlawful discriminatory basis or criteria.
10. The Contractor agrees to provide to the Divisional Contract Manager, on an annual basis, if requested, information regarding its client population served under this Contract by race, color, national origin or disability.
11. This Contract may be terminated in whole or part:
 - a) by the Department upon five (5) calendar days written notice for cause or documented unsatisfactory performance,
 - b) by the Department upon fifteen (15) calendar days written notice of the loss of funding or reduction of funding for the stated Contractor services as described in Appendix B,
 - c) by either party without cause upon thirty (30) calendar days written notice to the other Party, unless a longer period is specified in Appendix A.

In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, models, maps, photographs, and reports or other material prepared by Contractor under this contract shall, at the option of the Department, become the property of the Department.

In the event of termination, the Contractor, upon receiving the termination notice, shall immediately cease work and refrain from purchasing contract related items unless otherwise instructed by the Department.

The Contractor shall be entitled to receive reasonable compensation as determined by the Department in its sole discretion for any satisfactory work completed on such

documents and other materials that are usable to the Department. Whether such work is satisfactory and usable is determined by the Department in its sole discretion.

Should the Contractor cease conducting business, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets, or shall avail itself of, or become subject to any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or protection of the rights of creditors, then at the option of the Department, this Contract shall terminate and be of no further force and effect. Contractor shall notify the Department immediately of such events.

12. Any notice required or permitted under this Contract shall be effective upon receipt and may be hand delivered with receipt requested or by registered or certified mail with return receipt requested to the addresses listed below. Either Party may change its address for notices and official formal correspondence upon five (5) days written notice to the other.

Contracts Unit

Division of Substance Abuse and Mental Health

Main Building/Room 179

1901 N. Dupont Highway

New Castle, DE 19720

To the Contractor at:

Sharon Hill

13. In the event of amendments to current Federal or State laws which nullify any term(s) or provision(s) of this Contract, the remainder of the Contract will remain unaffected.
14. This Contract shall not be altered, changed, modified or amended except by written consent of all Parties to the Contract.
15. The Contractor shall not enter into any subcontract for any portion of the services covered by this Contract without obtaining prior written approval of the

Department. Any such subcontract shall be subject to all the conditions and provisions of this Contract. The approval requirements of this paragraph do not extend to the purchase of articles, supplies, equipment, rentals, leases and other day-to-day operational expenses in support of staff or facilities providing the services covered by this Contract.

16. This entire Contract between the Contractor and the Department is composed of these several pages and the attached:

- Appendix A -- Division Requirements
- Appendix B --- Services Description
- Appendix C--- Contract Budget
- Attachment 1 -- Policy Memorandum 46
- Attachment 2 -- Cultural Competence Standards
- Attachment 3 -- Policy Memorandum 40
- Attachment 4 -- Policy Memorandum 36
- Attachment 5 -- Death Report Form

17. This Contract shall be interpreted and any disputes resolved according to the Laws of the State of Delaware. Except as may be otherwise provided in this contract, all claims, counterclaims, disputes and other matters in question between the Department and Contractor arising out of or relating to this Contract or the breach thereof will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the State of Delaware.

18. In the event Contractor is successful in an action under the antitrust laws of the United States and/or the State of Delaware against a vendor, supplier, subcontractor, or other party who provides particular goods or services to the Contractor that impact the budget for this Contract, Contractor agrees to reimburse the State of Delaware, Department of Health and Social Services for the pro-rata portion of the damages awarded that are attributable to the goods or services used by the Contractor to fulfill the requirements of this Contract. In the event Contractor refuses or neglects after reasonable written notice by the Department to bring such antitrust action, Contractor shall be deemed to have assigned such action to the Department.

19. Contractor covenants that it presently has no interest and shall not acquire any interests, direct or indirect, that would conflict in any manner or degree with the

performance of this Contract. Contractor further covenants that in the performance of this contract, it shall not employ any person having such interest.

20. Contractor covenants that it has not employed or retained any company or person who is working primarily for the Contractor, to solicit or secure this agreement, by improperly influencing the Department or any of its employees in any professional procurement process; and, the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working primarily for the Contractor, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this agreement. For the violation of this provision, the Department shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.
21. The Department shall have the unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other materials prepared under this Contract. Contractor shall have no right to copyright any material produced in whole or in part under this Contract. Upon the request of the Department, the Contractor shall execute additional documents as are required to assure the transfer of such copyrights to the Department.

If the use of any services or deliverables is prohibited by court action based on a U.S. patent or copyright infringement claim, Contractor shall, at its own expense, buy for the Department the right to continue using the services or deliverables or modify or replace the product with no material loss in use, at the option of the Department.
22. Contractor agrees that no information obtained pursuant to this Contract may be released in any form except in compliance with applicable laws and policies on the confidentiality of information and except as necessary for the proper discharge of the Contractor's obligations under this Contract.
23. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Contract shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Contract unless stated to be such in writing, signed by authorized representatives of all parties and attached to the original Contract.
24. If the amount of this contract listed in Paragraph C2 is over \$25,000, the Contractor, by their signature in Section E, is representing that the Firm and/or its

Principals, along with its subcontractors and assignees under this agreement, are not currently subject to either suspension or debarment from Procurement and Non-Procurement activities by the Federal Government.

C) Financial Requirements

1. The rights and obligations of each Party to this Contract are not effective and no Party is bound by the terms of this contract unless, and until, a validly executed Purchase Order is approved by the Secretary of Finance and received by Contractor, *if required by the State of Delaware Budget and Accounting Manual*, and all policies and procedures of the Department of Finance have been met. The obligations of the Department under this Contract are expressly limited to the amount of any approved Purchase Order. The State will not be liable for expenditures made or services delivered prior to Contractor's receipt of the Purchase Order.
2. Total payments under this Contract shall not exceed **\$7,200.00** in accordance with the budget presented in Appendix C. Payment will be made upon receipt of an itemized invoice from the Contractor in accordance with the payment schedule, if any. The contractor or vendor must accept full payment by procurement (credit) card and or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions. Contractor is responsible for costs incurred in excess of the total cost of this Contract and the Department is not responsible for such costs.
3. The Contractor is solely responsible for the payment of all amounts due to all subcontractors and suppliers of goods, materials or services which may have been acquired by or provided to the Contractor in the performance of this contract. The Department is not responsible for the payment of such subcontractors or suppliers.
4. The Contractor shall not assign the Contract or any portion thereof without prior written approval of the Department and subject to such conditions and revisions as the Department may deem necessary. No such approval by the Department of any assignment shall be deemed to provide for the incurrence of any obligations of the Department in addition to the total agreed upon price of the Contract.
5. Contractor shall maintain books, records, documents and other evidence directly pertinent to performance under this Contract in accordance with generally accepted

accounting principles and practices. Contractor shall also maintain the financial information and data used by Contractor in the preparation of support of its bid or proposal. Contractor shall retain this information for a period of five (5) years from the date services were rendered by the Contractor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Department shall have access to such books, records, documents, and other evidence for the purpose of inspection, auditing, and copying during normal business hours of the Contractor after giving reasonable notice. Contractor will provide facilities for such access and inspection.

6. The Contractor agrees that any submission by or on behalf of the Contractor of any claim for payment by the Department shall constitute certification by the Contractor that the services or items for which payment is claimed were actually rendered by the Contractor or its agents, and that all information submitted in support of the claims is true, accurate, and complete.
7. The cost of any Contract audit disallowances resulting from the examination of the Contractor's financial records will be borne by the Contractor. Reimbursement to the Department for disallowances shall be drawn from the Contractor's own resources and not charged to Contract costs or cost pools indirectly charging Contract costs.
8. When the Department desires any addition or deletion to the deliverables or a change in the services to be provided under this Contract, it shall so notify the Contractor. The Department will develop a Contract Amendment authorizing said change. The Amendment shall state whether the change shall cause an alteration in the price or time required by the Contractor for any aspect of its performance under the Contract. Pricing of changes shall be consistent with those prices or costs established within this Contract. Such amendment shall not be effective until executed by all Parties pursuant to Paragraph B 14.

D) Miscellaneous Requirements

1. *If applicable*, the Contractor agrees to adhere to the requirements of DHSS Policy Memorandum # 46, (PM #46, effective 3/11/05), and divisional procedures regarding the reporting and investigation of suspected abuse, neglect, mistreatment, misappropriation of property and significant injury of residents/clients receiving services, including providing testimony at any administrative proceedings arising from such investigations. The policy and procedures are included as Attachment # 1

to this Contract. It is understood that adherence to this policy includes the development of appropriate procedures to implement the policy and ensuring staff receive appropriate training on the policy requirements. The Contractor's procedures must include the position(s) responsible for the PM46 process in the provider agency. Documentation of staff training on PM46 must be maintained by the Contractor.

2. The Contractor, including its parent company and its subsidiaries, and any subcontractor, including its parent company and subsidiaries, agree to comply with the provisions of 29 Del. Code, Chapter 58: "Laws Regulating the Conduct of Officers and Employees of the State," and in particular with Section 5805 (d): "Post Employment Restrictions."
3. *When required by Law*, Contractor shall conduct child abuse and adult abuse registry checks and obtain service letters in accordance with 19 Del. Code Section 708; and 11 Del. Code, Sections 8563 and 8564. Contractor shall not employ individuals with adverse registry findings in the performance of this contract.
4. *If applicable*, the Contractor agrees to adhere to the requirements of DHSS Policy Memorandum # 40 (PM #40, effective 3/10/2008), and divisional procedures regarding conducting criminal background checks and handling adverse findings of the criminal background checks. This policy and procedure are included as Attachment # 3 to this Contract. It is understood that adherence to this policy includes the development of appropriate procedures to implement the policy and ensuring staff receive appropriate training on the policy requirements. The Contractor's procedures must include the title of the position(s) responsible for the PM40 process in the contractor's agency.
5. *If applicable*, the Contractor agrees to adhere to the requirements of DHSS Policy Memorandum # 36 (PM #36, effective 9/24/2008), and divisional procedures regarding minimal requirements of contractors who are engaging in a contractual agreement to develop community based residential arrangements for those individuals served by Divisions within DHSS. This policy and procedure are included as Attachment # 4 to this Contract. It is understood that adherence to this policy includes individuals/entities that enter into a contractual arrangement (*contractors*) with the DHSS/Division to develop a community based residential home(s) and apartment(s). Contractors shall be responsible for their subcontractors' adherence with this policy and related protocol(s) established by the applicable Division.

6. All Department campuses are tobacco-free. Contractors, their employees and sub-contractors are prohibited from using any tobacco products while on Department property. This prohibition extends to personal vehicles parked in Department parking lots.

E) Authorized Signatures:

For the Contractor:

Sharon Hill

Date

For the Department:

Rita M. Landgraf
Secretary

Date

For the Division:

Kevin A. Huckshorn
Director

Date

APPENDIX A

Division Requirements

The Contractor certifies, to the best of its knowledge and belief, that all services provided under this contract shall be in compliance with all the terms, requirements and provisions of:

I. Federal requirements

- A. The following Federal Mandates:
 - 1. The Drug-Free Workplace Act of 1988;
 - 2. The Americans with Disabilities Act (PL 101-336).
 - 3. P.L. 103-227, Sections 1041-1044, 20 U.S.C. Sections 6081-6084, also known as the Pro-Children Act of 1994.
 - 4. Title IX of the Education Amendment of 1972 (45 CFR 86) which provides, in general, that no person shall on the basis of sex be excluded from program participation.
 - 5. The Contractor agrees to maintain the confidentiality of all clients in accordance with 42 U.S.C. 290 dd-3 and/or 42 U.S.C. 290 ee-3.

- B. Capacity of treatment for intravenous substance abusers.
 - 1. Programs that receive funding under the grant and that treat individuals for intravenous substance abuse to provide to the State, upon reaching 90 percent of its capacity to admit individuals to the program, a notification of that fact within seven days. In carrying out this section, the Contractor shall establish a capacity management program which reasonably implements this section--that is, which enables any such program to readily report to DSAMH when it reaches 90 percent of its capacity--and which ensures the maintenance of a continually updated record of all such reports and which makes excess capacity information available to such programs.
 - 2. The Contractor shall ensure that each individual who requests and is in need of treatment for intravenous drug abuse is admitted to a program of such treatment not later than—

- (a) 14 days after making the request for admission to such a program; or
 - (b) 120 days after the date of such request, if no such program has the capacity to admit the individual on the date of such request and if interim services, including referral for prenatal care, are made available to the individual not later than 48 hours after such request.
3. In carrying out subsection (b), the Contractor shall establish a waiting list management program which provides systematic reporting of treatment demand. The Contractor shall establish a waiting list that includes a unique patient identifier for each injecting drug abuser seeking treatment including those receiving interim services, while awaiting admission to such treatment. For individuals who cannot be placed in comprehensive treatment within 14 days, the Contractor shall ensure that the program provide such individuals interim services as defined in Sec. 96.121 and ensure that the programs develop a mechanism for maintaining contact with the individuals awaiting admission. The Contractor shall also ensure that the programs consult the capacity management system as provided in paragraph (a) of this section so that patients on waiting lists are admitted at the earliest possible time to a program providing such treatment within reasonable geographic area.
4. In carrying out paragraph (b)(2) of this section the Contractor shall ensure that all individuals who request treatment and who can not be placed in comprehensive treatment within 14 days, are enrolled in interim services and those who remain active on a waiting list in accordance with paragraph (c) of this section, are admitted to a treatment program within 120 days. If a person cannot be located for admission into treatment or, if a person refuses treatment, such persons may be taken off the waiting list and need not be provided treatment within 120 days. For example, if such persons request treatment later, and space is not available, they are to be provided interim services, placed on a waiting list and admitted to a treatment program within 120 days from the latter request.
5. The Contractor shall carry out activities to encourage individuals in need of such treatment to undergo such treatment. The Contractor shall use outreach models that are scientifically sound, or if no such models are available which are applicable to the local situation, to use an approach which reasonably can be expected to be an effective outreach method. The model shall require that outreach efforts include the following:

- (a) Selecting, training and supervising outreach workers;
 - (b) Contacting, communicating and following-up with high risk substance abusers, their associates, and neighborhood residents, within the constraints of Federal and State confidentiality requirements, including 42 C.F.R. Part 2;
 - (c) Promoting awareness among injecting drug abusers about the relationship between injecting drug abuse and communicable diseases such as HIV;
 - (d) Recommend steps that can be taken to ensure that HIV transmission does not occur; and
 - (e) Encouraging entry into treatment.
6. All entities receiving Block Grant funds must follow procedures relating to the Human immune deficiency virus as approved or specified by DSAMH.

C. Requirements regarding tuberculosis.

1. Contractor shall follow procedures developed by the DSAMH in consultation with the State Medical Director for Substance Abuse Services, and in cooperation with the State Department of Health/Tuberculosis Control Officer, which address how the program—
 - (a) Will, directly or through arrangements with other public or nonprofit private entities, routinely make available tuberculosis services as defined in Sec. 96.121 to each individual receiving treatment for such abuse;
 - (b) In the case of an individual in need of such treatment who is denied admission to the program on the basis of the lack of the capacity of the program to admit the individual, will refer the individual to another provider of tuberculosis services; and
 - (c) Will implement infection control procedures established by the principal agency of a State for substance abuse, in cooperation with the State Department of Health/Tuberculosis Control Officer, which are designed to prevent the transmission of tuberculosis, including the following:
 - (1) Screening of patients;
 - (2) Identification of those individuals who are at high risk of becoming infected; and
 - (3) Meeting all State reporting requirements while adhering

to Federal and State confidentiality requirements,
including 42 CFR part 2; and

(d) will conduct case management activities to ensure that
individuals receive such services.

D. Treatment services for pregnant women.

1. The Contractor shall ensure that each pregnant woman who seeks or is referred for and would benefit from such services is given preference in admissions to treatment facilities receiving funds pursuant to the grant. In carrying out this section, the Contractor will provide preference to pregnant women. Programs which serve an injecting drug abuse population and who receive Block Grant funds shall give preference to treatment as follows:
 - (a) Pregnant injecting drug users;
 - (b) Pregnant substance abusers;
 - (c) Injecting drug users; and
 - (d) All others.
2. The Contractor will, in carrying out this provision publicize the availability to such women of services from the facilities and the fact that pregnant women receive such preference. This may be done by means of street outreach programs, ongoing public service announcements (radio/television), regular advertisements in local/regional print media, posters placed in targeted areas, and frequent notification of availability of such treatment distributed to the network of community based organizations, health care providers, and social service agencies.
3. The Contractor shall in carrying out paragraph (a) of this section require that, in the event that a treatment facility has insufficient capacity to provide treatment services to any such pregnant woman who seeks the services from the facility, the Contractor shall refer the woman to DSAMH EEU for referrals. This may be accomplished by establishing a capacity management program, utilizing a toll-free number, an automated reporting system and/or other mechanisms to ensure that pregnant women in need of such services are referred as appropriate. The Contractor shall maintain a continually updated system to identify treatment capacity for any such pregnant women and will establish a mechanism for matching the women in need of such services with a treatment facility that has the capacity to treat the woman.

4. The Contractor, in the case of each pregnant woman for whom a referral under paragraph (a) of this section is made to the State—
 - (a) will refer the woman to a treatment facility that has the capacity to provide treatment services to the woman; or
 - (b) will, if no treatment facility has the capacity to admit the woman, make available interim services, including a referral for prenatal care, available to the woman not later than 48 hours after the woman seeks the treatment services.
 5. Procedures for the implementation of this section shall be developed in consultation with the State Medical Director for Substance Abuse Services.
- E. The Contractor agrees that any and all experimentation with human subjects involving any physical or mental risk to those subjects shall be prohibited without the prior written approval of DSAMH, subject to all applicable laws, statutes, and regulations including, but not limited to, 42 U.S.C. Section 3515b (relating to prohibitions on funding certain experiments involving human participants), and voluntary, informed consent of each subject in writing. If the subject is a minor, or incompetent, a voluntary informed consent of his/her parents or legal guardian shall be required. The Contractor shall inform each potential subject prior to his/her consent that refusal of consent will not result in the loss of any benefits to which the subject is otherwise entitled from the federal government, State of Delaware, DSAMH, the Contractor or any third party insurer.
- F. The Contractor assures DSAMH that the Contractor or anyone employed by the Contractor has **not** been excluded from any federal or state health care program. The Contractor also assures DSAMH that the Contractor or anyone employed by the Contractor are **not** on the Cumulative Sanction List, List of Excluded Individuals/Entities (LEIE) or any other related database. The Contractor Agrees to notify DSAMH immediately if the Contractor or any of its employees are place on any database that excludes them from federal or state health care programs.
- G. Certification regarding lobbying – Contractors receiving federal funds exceeding \$100,000 in total costs (45 CFR Part 93) certify that:
1. No federal appropriated funds have been paid or will be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an Officer or employee of congress, or an employee of a

member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an Officer or employee of congress, or an employee of a Member of Congress in connection with the Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Contractor shall require that the language of this Certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This Certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of the certification is a prerequisite for making or entering into this transaction imposed by Sec 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

H. Certification Regarding Debarment and Suspension

Contractor certifies to the best of his or her knowledge and belief, that the applicant, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:

1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;
2. have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery,

bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph 2 of this certification; and
4. have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

II. State Requirements

- A. The Substance Abuse Treatment Act (16 Del. C; Chapter 22) as amended;
- B. The Contractor shall comply with 16 Del. C.; Chapter 9 regarding the reporting of suspected child abuse and/or neglect. Client confidentiality provisions of this contract shall not apply to reporting of child abuse and/or neglect in compliance with Delaware laws.
- C. The Contractor agrees to determine the applicability of 16 Del. Code Chapter 11; Sec. 1141 and 1142 (regarding criminal background checks and drug testing law relating to hiring of employees of nursing homes and similar facilities) to the services provided under this contract and, if applicable, to comply with all of the requirements therein.

III. Health Insurance Portability & Accountability Act (HIPAA)

DSAMH (Covered Entity) and Contractor (Business Associate) wish to comply with the provisions of 45 C.F.R. §160.101 et seq. ("Privacy Regulations") and 45 C.F.R. §164.308 et seq. ("Security Regulations") regarding the appropriate use and disclosure of Protected Health Information under this contract (Original Contract).

- A. Definitions. The terms used in this Business Associate Agreement ("Agreement") shall have the same meaning as those terms are used in HIPAA, 45 CFR § 160 et seq. and 45 CFR § 164.308 et seq.
- B. Permitted uses and Disclosures of Protected Health Information. Business Associate will not use or further disclose any Protected Health Information except in the provision of services to Covered Entity as specifically authorized under the Original Contract, including without limitation any

use or disclosure which would violate the provisions of the Privacy Regulations. Notwithstanding the foregoing, Business Associate may use and disclose Protected Health Information to provide data aggregation services related to the healthcare operations of Covered Entity. Business Associate may also use and disclose Protected Health Information in the proper management and administration of Business Associate and to carry out its legal responsibilities, provided that the use and disclosure is either required by law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of information has been breached.

C. Responsibilities of Business Associate. Business Associate will:

1. Not use or further disclose Protected Health Information other than as permitted or required by the Original Contract or as required by law, including without limitation, the Privacy Regulations and any applicable State law;
2. Protected Health Information other than as provided for in the Use appropriate safeguards to prevent use or disclosure of Original Contract;
3. Implement administrative, physical, and technical safeguards that reasonably protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.(d) Report to Covered Entity any use or disclosure of Protected Health Information not provided for in the Original Contract of which it becomes aware;
4. Ensure that any agents, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of, the Covered Entity agrees to the same restrictions and conditions that apply to Business Associate with respect to Protected Health Information. Further any agent or subcontractor must agree to implement reasonable and appropriate safeguards to protect electronic protected health information.
5. Make available for inspection and copying Protected Health Information to an individual about such individual in accordance with 45 C.F.R § 164.524;

6. Make available Protected Health Information to an individual about such individual for amendment and incorporate any amendments to Protected Health Information in accordance with 45 C.F.R. § 164.526;
7. Make available Protected Health Information required to provide an accounting of disclosures in accordance with 45 C.F.R. §164.528;
8. Make its internal practices, books, and records relating to the use an disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Secretary of HHS to whom the authority involved has been delegated for purposes of determining the Covered Entity's compliance with privacy Regulations; and
9. At termination of the Original Contract, if feasible, return all Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity that Business Associates still maintains in any form and retain no copies of such Protected Health information or, if return is not feasible, extend the protections of the Original Contract and this Agreement to the information and limit further uses and disclosures to those purposes that make the return of the protected Health Information infeasible.

D. Other Arrangements

1. If a business associate is required by law to perform a function or activity on behalf of a covered entity or to provide a service described in the definition of business associate as specified in §160.103 of this subchapter to a covered entity, the covered entity may permit the business associate to create, receive, maintain or transmit electronic protected health information on its behalf to the extent necessary to comply with the legal mandate without meeting the requirements of (a) (2) (1) of §164.314, provided that the covered entity attempts in good faith to obtain satisfactory assurances as required by paragraph (a)(2)(ii)(A) of §164.314, and documents the attempt and the reasons that these assurances cannot be obtained.
2. The covered entity may omit from its other arrangements authorization of the termination of the contract by the covered entity, as required by paragraph (a)(2)(i)(D) of §164.314 if such authorization is inconsistent with the statutory obligations of the covered entity or its business associate.

3. Termination of Agreement. This HIPAA Agreement and the Original Contract may be terminated by Covered Entity if Covered Entity determines that Business Associate has violated a material term of this Agreement. The provisions of Paragraphs 1 and 2 hereof shall survive any termination of this Agreement and/or the Original Contract.
4. Miscellaneous. This HIPAA Agreement contains the final and entire agreement of the parties and supersedes all prior and/or contemporaneous understandings and may not be modified or amended unless such modification is in writing and signed by both parties and their successors, administrators and permitted assigns. All personal pronouns used in this Agreement whether used in masculine, feminine or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa. Title of Paragraphs are utilized for convenience only and neither limit nor amplify the provisions of this Agreement itself. If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this affected thereby and shall be enforced to the greatest extent permitted by law.

IV. Department of Health and Social Services Requirements

- A. The Contractor shall ensure that its liability insurance extends coverage to such members of its governing and/or advisory boards as may be potentially liable for damages by virtue of their official position, service to, or otherwise apparent or presumed relationship to the Contractor and/or the services provided by the Contractor under the terms of this contract.
- B. The Contractor agrees to comply with the following Delaware Health & Social Services Policy Memorandums as applicable.
 1. Policy Memorandum # 5 Client Confidentiality
 2. Policy Memorandum # 7 – Client Service Waiting Lists
 3. Policy Memorandum # 24 – Safeguarding & Management of Resident/Client funds
 4. Policy Memorandum # 37 – Standard Ability to Pay Fee Schedule
 5. Policy Memorandum # 55 – Human Subjects Review Board

V. DSAMH Requirements

- A. Monitoring
 1. The Contractor agreed to comply with DSAMH's monitoring/audit protocol and to submit documents necessary to comply with such protocol.

2. Contractor shall have a documented process to investigate allegations of abuse and/or neglect.
3. The Contractor, if providing Non-Residential services under the terms of this contract to consumers/clients NOT covered by Department of Health and Social Services Policy Memorandum #46, shall establish and implement policy and standardized written procedures for the reporting, investigation and follow-up of all incidents involving suspected non-residential consumer/client abuse, neglect, mistreatment, financial exploitation or significant injury/death. The Contractor shall provide to DSAMH an annual report of all incidents involving suspected non-residential consumer/client abuse, neglect, mistreatment, financial exploitation or significant injury/death. The annual report shall summarize the number, type and outcome of all reported incidents.
4. The Contractor shall notify DSAMH of any and all deaths of consumers/clients receiving services under the terms of this contract as soon as possible following the Contractor's becoming aware of the death. All such reports shall be based on an internal review and/or investigation to determine the circumstances of the death. The report shall be made not more than two working days following the Contractor's becoming aware of the consumer/client death.

B. Licensing

1. The Contractor agrees to comply with DSAMH's Licensure Standards and to submit documents necessary to comply with such standards.
2. The Contractor must timely respond in writing to any DSAMH-initiated program licensure survey report findings and/or recommendations following receipt of DSAMH's written conveyance of such findings/recommendations to the Contractor.

C. Training and Education

The Contractor agrees to provide training and education opportunities for employees at all levels of the organization to meet the evolving needs of the fields of substance abuse and mental health services.

Training/education emphasis in the following areas:

Cultural Competence	Workforce Development
Suicide Prevention	All Hazard Preparedness and Response
Leadership/Management in a Recovery Environment	Administrative and Clinical Supervision
Ethics	Community/Other Program Collaboration
Evidence Based Practices	Trauma and Violence
Co-occurring with Emphasis on a Recovery Environment	HIV/AIDS & Hepatitis

D. Fiscal

1. If applicable, purchase of any individual unit of capital property with a value in excess of \$1,000 with funds wholly or in part from any cost reimbursement portion of this contract must have prior written approval from DSAMH. Title to any capital property acquired with funds wholly or in part from any cost reimbursement portion of this contract shall revert to DSAMH upon the termination of services provided under this or subsequent renewal contracts(s). With respect to capital property acquired with funds wholly or in part from any cost reimbursement portion of this Contract, the Contractor agrees to maintain detailed inventory of all such capital property and to submit a property inventory each quarter, indicating any new purchase(s) made during the quarter and a full inventory of all such property not later than thirty (30) days following the termination of this contract. The full inventory must indicate any loss, destruction or disposal of property appearing on any previous inventory. The contractor shall not transfer ownership of, sell, destroy, divert to use or purpose other than that of which purchased, or relocate such inventory items without prior written approval by DSAMH.
2. Upon notice given to the Contractor's Executive Director or his/her designee, representatives of DSAMH or other duly authorized State or Federal agency shall inspect, monitor, audit and/or evaluate the program's fiscal records or other material relative to this contract.
3. DSAMH agrees to provide funds for the Contractor's delivery of staff and services (as described in Appendix B in accordance with the approved budget (Appendix C). However, this provision is expressly subject to the understanding that DSAMH will not pay for services which: (1) have not been rendered, (2) cannot be verified as having been provided, according to standard DSAMH monitoring/audit

procedures, (3) have not been provided by DSAMH-approved agencies/programs, (4) have been provided to persons not authorized by DSAMH, (5) have been provided to persons of less than 18 years of age unless such persons have been approved in writing by DSAMH as eligible to receive services under this contract, (6) have been paid for by MEDICAID/MEDICARE, by other third-party payers and/or by or on behalf of the recipient of services, and/or (7) are a benefit offered as a covered service in any healthcare plan under which the client has been determined to be covered or for which the client has been found to be eligible unless such clients are specifically approved in writing by DSAMH as eligible to receive services under this contract.

4. The Contractor shall charge fees and will be expected to make reasonable efforts to collect such fees from all liable first and/or third party payer(s) for non-Medicaid clients receiving services for which reimbursement/payment is requested from DSAMH under terms of this contract. The maximum fee so charged to Non-Medicaid clients for Program Services shall not exceed the Fee-for-Service rate paid by Medicaid for services provided to Medicaid clients, except that such maximum fee limitation shall be waived with respect to billings made to third-party payers (legitimate and generally recognized insurance carriers) which have recognized and approved an alternate fee structure. The disposition of any such fees collected will be subject to further written agreement between the Contractor and DSAMH. In the absence of such further agreement, all such fees shall be returned to DSAMH on or before the termination date of this contract. A current listing of Accounts Receivable must be maintained, and a copy forwarded to DSAMH on request, indicating Accounts Receivable Outstanding and Uncollected. Notice of a Fee Schedule shall be posted in a prominent place in each facility stating the availability and location of the schedule. The fee schedule will show base prices for the principal services and any change that may occur in such prices. The fee schedule shall be available for public inspection and a copy shall be furnished to the Internal Revenue Service upon request. The Contractor further agrees to provide DSAMH such policies as pertain to fee schedules, collection of fees and understandings with patients or patents' families concerning third party liability.
5. The Contractor shall not refuse service provided under the terms of this contract to any individual on the basis of such individual's inability to pay for service in whole or in part.
6. Upon termination or expiration of this contract all unexpended cost reimbursement funds involved on an accrual based system will be returned to DSAMH, Department of Health and Social Services.

7. In the event of loss of funding or reduction of funding available to DSAMH for services purchased under the terms of this contract, and in lieu of termination of the contract in its entirety, DSAMH and the Contractor may mutually agree to negotiate a reduction in funding and services and amend this contract in a manner consistent with the nature, amount and circumstances of the loss or reduction of funds.
8. The Contractor shall establish and implement policy and procedure to assure that client income, insurance status, and related ability-to-pay for services can be timely determined following initial contact. Clients whose income is determined to be less than ten percent (10.0%) in excess of that level which would qualify them for benefits under Medicaid/Medicare eligibility guidelines in Delaware must be advised and encouraged to apply for such benefits. DSAMH may withhold, deny, or request return of payments made to the Contractor for services provided to clients: a) whose income is determined to be less than ten percent (10.0%) in excess of that level which would qualify them for benefits under the Medicaid program in Delaware and who have not applied for such benefits within sixty (60) days of admission into the program offered by the Contractor under the terms of this contract OR, b) who have not appropriately enrolled to receive benefits with thirty (30) days after having been determined to be eligible for Medicaid benefits.
9. The Contractor's financial records must adequately reflect all direct and indirect administrative and service costs expended in the performance of this contract. The funds received and expended under this contract shall be accounted for and recorded by the Contractor in order to permit auditing and accounting for all expenditures in conformity with the terms and provision of this contract and State and Federal laws and regulations.
10. The Contractor's fiscal records and accounts, including those involving other programs which, by virtue of cost or material resources sharing, are substantially related to this contract, shall be subject to audit by duly authorized federal and state officials.
11. The Contractor must have an annual audit, conducted by an independent auditor, and provide DSAMH with a copy of the most recently completed annual audit, including any related financial statements and management letters, not later than November 1 of the original term of this contract and any extensions thereof, as applicable. Any DSAMH initiated audit shall neither obviate the need for, nor restrict the Contractor from conducting required annual corporate

audit(s). Financial statements are to be prepared in accordance with appropriate generally accepted accounting principles. Contractor audits must be performed in accordance with generally accepted auditing principles and, when required, comply with the requirements of the (Federal) Office of Management and Budget (OMB) Circular A-133.

12. The Contractor agrees to monitor all expenditures of funds by any subcontractor, including verification of services rendered. The Contractor understands it shall be accountable for all sources of funds and all expenditures of funds for all agencies/programs receiving any funds under the provisions of this contract.
13. Both DSAMH and the Contractor understand and agree that any budget that is part of this contract is presented in mutual realization that costs associated with program operation and related activities are good faith estimates and that this contract will be subject to administrative line-item budget adjustments as actual costs are determined provided that the contractor requests, and DSAMH approves, such adjustments prior to their implementation. Line-item adjustment requests and approvals must be documented in writing for adjustments in excess of 10% per category.
14. The Contractor acknowledges that DSAMH required all entities receiving in excess of \$499,999.99 per annum (cumulative) in State payments through contracts with DSAMH and/or Medicaid payments for DSAMH-related services must obtain/retain accreditation from an accreditation body recognized by and acceptable to DSAMH. The Contractor further acknowledged and agrees that any failure to obtain/retain required accreditation will be considered good cause under the termination provisions of this contract.

E. General

1. The Contractor agrees to provide the staff and services (as described in Appendixes) and to seek reimbursement for services provided according to the terms and conditions set forth in this contract. Delaware residents shall be given priority over residents of other states in determining eligibility for services provided under this contract.
2. The Contractor agrees to acknowledge in any communication involving the public, the media, the legislature or others outside of DSAMH that the services provided under the terms of this contract are

funded by and are part of the system of public services offered by DSAMH.

3. The Contractor agrees to participate in the DSAMH reporting and identification system and to use such forms as are approved/required by or supplied by DSAMH. Any modifications to the approved forms must have prior authorization from DSAMH.
4. The Contractor agrees to maintain such participant record systems as are necessary and required by DSAMH and/or federal mandate to document services. Program record systems shall be compatible with existing DSAMH systems, including the management information system (MIS), be based on project objectives and measure and track the movement of clients through the program.
5. The Contractor agrees to provide DSAMH copies of such records, statistics and other data required for research, evaluation, client follow-up, training needs assessment and program or financial monitoring or audit.
6. DSAMH retains the specific right of access to all treatment records, plans, reviews and essentially similar materials that relate to the services provided to clients/consumers under the terms of this contract. DSAMH shall be entitled to make and retain possession of copies of any treatment records, plans, reviews and essentially similar materials which relate to the services provided to clients/consumers under the terms of this contract and the contractor shall not restrict DSAMH from such possession.
7. All services provided by the Contractor under the terms of this contract must be made available to all persons who can be reasonably expected to meaningfully participate in and benefit from such services. Services shall not be withheld from any individual solely on the basis of that individual's mental or emotional illness (es) or the adequate and appropriate medical measures to control said illness (es).
8. The Contractor shall have a disaster response plan in conjunction with DSAMH's Planning, Evaluation and Program Development Unit and to coordinate with DSAMH in the event that implementation of either the Contractor's or DSAMH's disaster response plan is required.

The disaster preparedness and response plan is to be all-hazards. The disaster plan is to be implemented for internal (to the Contractor) events and for events external to the Contractor but which also impact Contractor operations. The all-hazard disaster plan must include

provisions for continuity of operations plans (COOP). COOP addresses planning for events that create a significant staff reduction and or staff response/availability such as but not limited to pandemic influenza.

Copies of the Contractor's all-hazard disaster preparedness and response plan are to be submitted as an appendix to DSAMH's disaster preparedness and response plan. Updated plans are to be submitted upon execution of contracts, at contract renewals, and contract extensions.

9. The Contractor agrees that no employee, board member, or representative of the Contractor, either personally or through an agent, shall solicit the referral of clients to any facility or program in a manner, which offers or implies an offer of rebate to persons referring clients or other fee-splitting inducement. This applies to contents of fee-schedules, billing methods, or personal solicitation. No person or entity involved in the referral of clients may receive payment or other inducement by a facility/program or its representatives.
10. The Contractor and DSAMH mutually understand and agree that DSAMH may at any time elect to seek another provider to provide the services required by this contract. In the event that DSAMH selects another provider, the Contractor agrees and shall be required to cooperate fully in the development and execution of an orderly and coordinated close-out of the Contractor's program operation to ensure the continuity of appropriate client care during the transition to another service provider.
11. The Contractor agrees to apportion the delivery of services as described in Appendix B in a manner which will assure the reasonable availability of services throughout the term of this contract and to exercise management practices sufficient to facilitate such availability. DSAMH reserves the right to delay or withhold payment for services delivered in a manner which appears to significantly threaten such reasonable availability of services throughout the term of this contract provided, however, that subject to other applicable provisions of this contract, such delayed or withheld payments will not be denied unless payment would result in total payments for services in excess of contract amount.
12. The Contractor shall develop and periodically update a Cultural Competence Plan (CC Plan) to be submitted to DSAMH on request.

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Appendix A

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Such plan shall address all components set forth in DSAMH's cultural competence standards as presented as an attachment to this contract.

Appendix B

Scope of Service

The Teacher is responsible for providing an educational atmosphere where adult learners have the opportunity to fulfill their potential for intellectual growth. This person is responsible for organizing and implementing an instructional program that will result in students achieving academic success in accordance with state standards.

Primary Responsibilities:

- Implements instructional activities that contribute to a climate where adult learners are actively engaged in meaningful learning experiences.
- Identifies, selects, and modifies instructional resources to meet the needs of the students with varying backgrounds, learning styles, and special needs.
- Assist in assessing changing curricular needs and offers plans for improvement.
- Maintains effective and efficient record keeping procedures.
- Communicates effectively, both orally and writing, with students, and other professionals on a regular basis.
- Collaborates with peers to enhance the instructional environment.
- Models professional and ethical standards when dealing with students, parents and peers.
- Demonstrates gains in student performance.
- Participates in training and presentations related to care of client as related to position.
- Meets professional obligations through efficient work habits such as :meeting deadlines, honoring schedules, coordinating
- Performs other duties and responsibilities as assigned by their supervisor. All work responsibilities are subject to having performance goals and /or targets established as part of the annual performance review.

Education and Certification Requirements

- Bachelor's Degree or Higher
- State of Delaware Teaching License (Adult Education preferred)

APPENDIX C

Contract Budget

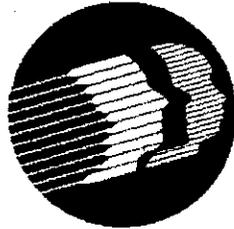
AMOUNT PER SESSION \$90

SESSIONS PER WEEK 4

NUMBER OF WEEKS 20

MAXIMUM CONTRACT AMOUNT \$7,200.00

ATTACHMENT 1



DELAWARE HEALTH AND SOCIAL SERVICES

DHSS Policy Memorandum 46 August 2009

Subject: Injury to Clients

I. PURPOSE

- a. To protect the right of residents/clients of Delaware Health and Social Services (DHSS) facilities to be free from abuse, neglect, mistreatment, financial exploitation or significant injury.
- b. To require that each Division that has, or contracts for the operation of, residential facilities establish standardized written procedures for the reporting, investigation and follow up of all incidents involving suspected resident/client abuse, neglect, mistreatment, financial exploitation, or significant injury.
- c. To require that all DHSS residential facilities comply with The Patient Abuse Law (Title 16, Chapter 11, section 1131, et seq.) and Title 29, Chapter 79, sections 7970 and 7971 (Attachments I and II); and that all Medicaid and/or Medicare certified long term care facilities and Intermediate Care Facilities for Mental Retardation (ICF/MR) comply with the federal regulations (42 CFR) and State Operations Manual for such facilities. In addition, all residential facilities and Medicaid and/or Medicare certified long term care facilities and Intermediate Care Facilities for Mental Retardation (ICF/MR) comply with Title 11, Chapter 94, Victims Bill of Rights, Subchapter I and Subchapter II. Compliance with Title 11, Chapter 5, Subchapter V Offenses Relating to Children and Incompetants, Subpart A Child Welfare; Sexual Offenses is required by all facilities that provide residential and/or inpatient services to children.
- d. To require that all DHSS residential facilities comply with all applicable state and federal statutes, rules and regulations pertaining to suspected abuse, neglect, mistreatment, financial exploitation, or significant injury. Applicable statutes include Title 11, Chapter 5, Subchapter II Offenses Against the Person, Subpart A Assaults and Related Offenses.

II. SCOPE

- a. This policy applies to anyone receiving services in any residential facility operated by or for any DHSS Division, excluding any facilities/programs in which the only DHSS contract is with the DHSS Division of Social Services Medicaid Program.
- b. This policy is not intended to replace additional obligations under federal and/or state laws, rules and regulations.

III. DEFINITIONS

- a. Abuse shall mean:
 1. Physical abuse the unnecessary infliction of pain or injury to a resident or client. This includes, but is not limited to, hitting, kicking, pinching, slapping, pulling hair or any sexual molestation. When any act constituting physical abuse has been proven, the infliction of pain shall be assumed.
 2. Emotional abuse - This includes, but is not limited to, ridiculing or demeaning a resident or client, cursing or making derogatory remarks towards a resident or client, or threatening to inflict physical or emotional harm to a resident or client.
- b. Neglect shall mean:
 1. Lack of attention to the physical needs of the resident or client including, but not limited to, toileting, bathing, meals, and safety.
 2. Failure to report client or resident health problems or changes in health problems or changes in health condition to an immediate supervisor or nurse.
 3. Failure to carry out a prescribed treatment plan for a resident or client.
 4. A knowing failure to provide adequate staffing (where required) which results in a medical emergency to any patient or resident where there has been documented history of at least 2 prior cited instances of such inadequate staffing within the past 2 years in violation of minimum maintenance of staffing levels as required by statute or regulations promulgated by the department, all so as to evidence a willful pattern of such neglect. (Reference 16 DE Code, §1161-1169)
- c. Mistreatment shall mean the inappropriate use of medications, isolation, or physical or chemical restraints on or of a resident or client.
- d. Financial exploitation shall mean the illegal or improper use or abuse of a client's or resident's resources or financial rights by another person, whether for profit or other advantage.
- e. Significant Injury is one which is life threatening or causes severe disfigurement or significant impairment of bodily organ(s) or functions which cannot be justified on the basis of medical diagnosis or through internal investigation.

- f. Assault (including sexual assault) as defined in Del.Code Title 11 § 611, § 612 and § 613.
- g. Attempted Suicide shall mean an intentional attempt at the taking of one's own life.
- h. SANE – Sexual Assault Nurse Examiner.
- i. Residential Facility shall include any facility operated by or for DHSS which provides supervised residential services, including Long Term Care licensed facilities, group homes, foster homes, and community living arrangements.
- j. Long Term Care Facility is any facility operated by or for DHSS which provides long term care residential services and the Delaware Psychiatric Center.
- k. High managerial agent is an officer of a facility or any other agent in a position of comparable authority with respect to the formulation of the policy of the facility or the supervision in a managerial capacity of subordinate employees.

IV. RESPONSIBILITIES

- a. The Director, or his/her designee of each Division within the scope of this policy, is hereby designated as an official DHSS designee under the State Mandatory Patient Abuse Reporting Law.
- b. Each Division will develop written procedures consistent with the standards contained in this policy and which will be activated immediately upon discovery of any suspected abuse, neglect, mistreatment, financial exploitation or significant injury of or to a client of a residential or long-term care facility. These procedures must clearly outline the reporting chain from the witness to the Division Director, and other appropriate parties, to require the expedient relay of information within the required time frames.
- c. These standardized procedures shall also apply when the preliminary inquiry suggests that the assault, significant injury, suspected abuse, neglect, suicide attempt, mistreatment or financial exploitation may have been caused by a staff member of the residential facility, whether on or off the grounds of the residential facility. Suspicion of facility/program negligence (including inadequate supervision resulting in client-client altercations) and incidents involving abuse by persons who are not staff members of the residential facility shall also be reported.
- d. The standardized procedures shall be approved by the appropriate Division Director prior to implementation. The Division Director or designee shall forward a copy of the approved procedures to the Chief Policy Advisor, Office of the Secretary, and other appropriate agencies.
- e. Each Division will require that the standards established in this policy are incorporated in all residential operational procedures and all residential contracts. Each Division shall require that all residents and providers of these programs be informed of their specific rights and responsibilities as defined in the Division's written procedures.

- f. Each Division shall require that all levels of management understand their responsibilities and obligations for taking and documenting appropriate corrective action.
- g. Each Division shall require appropriate training of all staff and contract providers in the PM 46 policy and procedures. Such training shall also include the laws prohibiting intimidation of witnesses and victims (11 Del. C., sections 3532 through 3534) and tampering with a witness or physical evidence (11 Del. C., sections 1261 through 1263 and section 1269).
- h. Each Division shall develop quality assurance/improvement mechanisms to monitor and oversee the implementation of the PM 46 policy and procedures.
- i. Each Division must ensure that all employees of, or contractors for, residential facilities shall fully cooperate with PM 46 investigations.

V. STANDARDS/PROCEDURES

Standard and consistent implementation of this Department policy is required. Each Division's written procedures shall include the following:

- a. Employee(s) of the residential facility, or anyone who provides services to residents/clients of the facility, who have reasonable cause to believe that a resident/client has been assaulted, abused, mistreated, neglected, subjected to financial exploitation, or has received a significant injury, or attempted suicide shall:
 - 1. Take actions to assure that the residents/client(s) will receive all necessary medical attention immediately, including calling '911' for transportation to the hospital, especially in the cases of assault, sexual assault, and serious physical injury. In the cases of sexual assault, a SANE examination should be completed at the hospital.
 - 2. Take action to report all crimes to the police through the '911' call system. All victims of crimes must be offered the ability to access victim advocate services, either through the police agency or other agencies. Victim advocates can be contacted by calling 1-800-VICTIM1 (1-800-842-8461). The Delaware Helpline can provide advocate information and Contactlifeline can provide confidential accompaniment to the hospital in cases of sexual assault.
 - 3. Take actions to protect the residents/client(s) from further harm.
 - 4. Report immediately to the Division of Long Term Care Residents Protection (if the incident occurred in a long term care facility or if the client was a resident of a long term care facility); and to the Department of Services for Children, Youth and Their Families/Division of Family Services (if the client is a minor, as required under 16 Del. C., section 903). It is essential that the reporting person ensure that the report be made to the appropriate division designee immediately.
 - 5. Report immediately to the facility/program director and the Division's designated recipient(s) of PM 46 reports.

6. Follow up the verbal report with a written initial incident report to the persons/agencies named in (a) 3 and (a) 4 (above) within 48 hours.
- b. In addition to the above named persons, any other person may make a report to a staff person of the facility or to the Division director or his/her designee. Such a report shall trigger activities under V(a), items 1 through 5.
- c. Each written initial report of assault, suspected abuse, neglect, mistreatment, financial exploitation, attempted suicide, or significant injury (completed by the reporting employee) must include:
 1. The name and gender of the resident or client.
 2. The age of the resident or client, if known.
 3. Name and address of the reporter and where the reporter can be contacted.
 4. Any information relative to the nature and extent of the assault, abuse, neglect, mistreatment, financial exploitation, attempted suicide, or significant injury.
 5. The circumstances under which the reporter became aware of the assault, abuse, neglect, mistreatment, financial exploitation, attempted suicide, or significant injury.
 6. The action taken, if any, to treat or otherwise assist the resident or client.
 7. Any other information that the reporter believes to be relevant in establishing the cause of such assault, abuse, neglect, mistreatment, financial exploitation, attempted suicide, or significant injury.
 8. A statement relative to the reporter's opinion of the perceived cause of the assault, abuse, neglect, mistreatment, financial exploitation, attempted suicide, or significant injury (whether a staff member or facility program negligence).
- d. The Division's designated recipient of PM 46 reports shall report all allegations of assault, abuse, neglect, mistreatment, financial exploitation, attempted suicide, and significant injury, to the Office of the Secretary; the Office of the Attorney General/Medicaid Fraud Control Unit (for Medicaid and/or Medicare certified long term care facilities); the appropriate state licensing agency for the program, if applicable; and the Division Director or designee, within 24 hours of receiving notification of such. In instances where a suspected crime has been committed, the police must be notified immediately and they will take the lead in the investigation of the suspected crime.
- e. In instances where there is immediate danger to the health or safety of a resident/client from abuse, mistreatment or neglect; any sexual assault or alleged sexual assault; any physical abuse that leads to injury; any allegations of verbal abuse; any allegations of vandalism; any allegations of financial exploitation; any suicide; any assault or alleged assault, any suspected criminal action; or if a resident/client has died because of suspected assault, abuse, mistreatment, neglect, suicide, or significant injury, the Division Director or his/her designee shall immediately notify the appropriate police agency. The Division of Long Term Care

Residents Protection, and the Office of the Secretary, shall be notified if the police were contacted. Further, the Division Director or his/her designee shall notify the Office of the Attorney General/Medicaid Fraud Control Unit, the Office of the Secretary, the Chief Medical Examiner, if a resident/client has died because of suspected assault, abuse, mistreatment, neglect, suicide, significant injury, or as a result of any cause identified by 29 Del. C., section 4706 and Title 11, Chapters 5 and 94. In accordance with Title 16 § 5162, the Division Director or his/her designee shall notify the Community Legal Aid Society, Inc within seventy-two hours of the date of any patient or resident death.

- f. The Division Director or his/her designee shall review the initial incident report and initiate an investigation into the allegations contained in the report. The investigation, with a written report, shall be made within 24 hours, if the Division has reasonable cause to believe that the resident's/client's health or safety is in immediate danger from further assault, abuse, neglect, attempts of suicide, or mistreatment. Otherwise, the investigation and written Investigative Report, up to and including the Division Director's or designee's signed review of the report, shall be made to the Division of Long Term Care Residents Protection (DLTCRP) within 10 days. This timeframe may be extended by DLTCRP if extenuating facts warrant a longer time to complete the investigation. If the facility is a Medicaid-Medicare certified long-term care facility, or an ICF/MR facility, the report of suspected assault, abuse, neglect, mistreatment, financial exploitation, attempted suicide, or significant injury shall be sent to the appropriate authorities, as required in the respective regulations under 42 CFR, within 5 working days of the incident.
- g. The investigative process shall be confidential and not subject to disclosure both pursuant to 24 Del. C., section 1768 and because it is privileged under the governmental privilege for investigative files. Each Investigative Report shall be labeled as confidential and privileged, pursuant to 24 Del. C., section 1768. Each investigation shall include the following:
 1. A visit to the facility or other site of incident.
 2. A private interview with the resident or client allegedly abused, neglected, mistreated, whose finances were exploited or whose injury was significant.
 3. Interviews with witnesses and other appropriate individuals.
 4. A determination of the nature, extent and cause of injuries, or in the case of exploited finances, the nature and value of the property.
 5. The identity of the person or persons responsible.
 6. All other pertinent facts.
 7. An evaluation of the potential risk of any physical or emotional injury to any other resident or client of that facility, if appropriate.

- h. A written report (Investigative Report) containing the information identified in V (g) shall be completed within the time frames identified in V (f) and shall include a summary of the facts resulting from the investigation. (Attachment 3)
- i. The Investigative Report shall be sent to the facility director and to the Division Director or designee. The Facility Director and the Division Director or designee shall review the report. If the incident is serious, the
Division Director must review the incident with the Department Secretary prior to the completion of the report. The Facility Director and the Division Director or designee shall indicate in writing their concurrence or non concurrence with the report. If the facts show that there is a reasonable cause to believe that a resident/client has died as a result of the abuse, neglect, mistreatment, or significant injury, the Division Director or designee shall immediately report the matter to the Office of the Attorney General/Medicaid Fraud Control Unit, the Division of Long Term Care Residents Protection, and the Office of the Secretary.
- j. All Investigative Reports shall be forwarded by the reporting division, forthwith, to the Division of Long Term Care Residents Protection. The Division of Long Term Care Residents Protection shall complete the investigation by making a determination of findings and documenting their conclusions.
- k. If a determination is made at the Division level (upon consultation with the Division of Management Services, Human Resources office) that discipline is appropriate, the Investigative Report shall be forwarded to the Human Resources office. Human Resources shall determine the appropriate level of discipline, forward their recommendations to the Office of the Secretary and to the originating division for implementation, and proceed as appropriate.
- l. The Office of the Secretary shall be informed by the Division of Long Term Care Residents Protection, in writing, of the results of the investigation, including the findings and recommendations, within 5 days following the completion of the investigation.
- m. The Division Director or designee shall notify the appropriate licensing or registration board, if the incident involved a licensed or registered professional, and the appropriate state or federal agency, including the appropriate state licensing agency of the program, if applicable, upon a finding of: 1) assault, abuse, mistreatment, neglect, financial exploitation, attempted suicide, or significant injury; 2) failure to report such instances by a licensed or registered professional; or 3) failure by a member of a board of directors or high managerial agent to promptly take corrective action.
- n. The Division Director or designee shall notify the employee, resident/client, the guardian of the resident/client, if applicable, and the incident reporter of the results of the facility-based case resolution, unless otherwise prohibited by law. They shall also advise the parties of the fact that there is a further level of review that will occur through the Division of Long Term Care Residents Protection and/or the Office of the Attorney General/Medicaid Fraud Control Unit.

- o. The Division of Long Term Care Residents Protection shall, at the conclusion of their review of the case, notify the DHSS employee (or the agency director for contract providers), the resident/client, or the guardian of the resident/client, if applicable, and the originating Division Director or designee, of the substantiated or unsubstantiated status of the case, unless otherwise prohibited by law. The Division of Long Term Care Residents Protection shall also notify the Office of the Attorney General/Medicaid Fraud Control Unit of all substantiated cases.

VI. IMPLEMENTATION

- a. This policy shall be effective immediately (upon the completion of mandatory departmental training).
- b. In carrying out this policy, all parties must protect the confidentiality of records and persons involved in the case, and may not disclose any Investigative Report except in accordance with this policy.

VII. EXHIBITS

- a. Attachment 1 - Delaware Code, Title 16, Chapter 11, Sections 1131-1140.
- b. Attachment 2 - Delaware Code, Title 29, Chapter 79, Sections 7970-7971.
- c. Attachment t 3 - Investigative Report form
- d. Attachment 4 – Delaware Code, Title 11, Chapters 5 and 94.

Rita M. Landgraf August 2009

Rita M. Landgraf, Secretary

ATTACHMENT # 2

Delaware Health and Social Services Division of Substance Abuse and Mental Health



Cultural Competence Standards

Guiding Principles

Culturally competent agencies:

- ❖ **Accept and respect cultural differences**
- ❖ **Continually self-assess their own institutional culture**
- ❖ **Pay careful attention to the dynamics of difference**
- ❖ **Continually expand their cultural knowledge and resources**
- ❖ **Adapt service models to meet the needs of under-represented populations**
- ❖ **Provide consumer driven services**
- ❖ **Embrace equal access and non-discriminatory practices in service delivery**

*State of Delaware Standards
for
Culturally Appropriate Services in Behavioral Health Care*

1. Behavioral health programs should ensure that consumers receive from all staff, effective, understandable, and respectful care that is provided in a manner compatible with their cultural health beliefs and preferred language.
2. Behavioral health programs should implement strategies to recruit, retain, and promote at all levels of the organization a diverse staff and leadership that are representative of the demographic characteristics of the service area.
3. Behavioral health programs should ensure that staff, at all levels and across all disciplines, receive ongoing education and training in culturally appropriate service delivery.
4. Behavioral health programs must make a good-faith effort to offer and provide language assistance services, including bilingual staff and/or interpreter services.
5. Behavioral health programs must make a good-faith effort to make available easily understood patient/consumer related materials and to post signs in the language(s) of the commonly encountered groups and/or groups represented in the service area.
6. Behavioral health programs must develop, implement, and promote a written strategic plan that outlines clear goals, policies, operational plans, and management accountability/oversight mechanisms to provide culturally appropriate services.
7. Behavioral health programs should conduct initial and ongoing self-assessments and are encouraged to integrate cultural related measures into their internal audits, performance improvement programs, consumer feedback, and outcomes-based evaluations.
8. Behavioral health programs should ensure that data on the individual consumer's race, ethnicity, religious beliefs, sexual orientation, and spoken and written language are collected in the health records, integrated into the organization's management information systems, and periodically updated.
9. Behavioral health programs should maintain a current demographic and cultural profile of the community it serves as well as a needs assessment to accurately plan and implement services that respond to the cultural characteristics of the service area.
10. Behavioral health programs should develop partnerships with communities to facilitate consumer and community involvement in designing and implementing culturally related activities.

11. Behavioral health programs should ensure that conflict and grievance resolution processes are culturally sensitive and capable of identifying, preventing, and resolving cross-cultural conflicts or complaints by consumers.

1. Behavioral health organizations should ensure that consumers receive from all staff, effective, understandable, and respectful care that is provided in a manner compatible with their cultural health beliefs and preferred language.

The intent of this standard is to ensure that:

- All consumers receiving health care services experience culturally and, to the extent possible, linguistically competent encounters with an organization's staff. Culturally competent care strives to overcome cultural, language, and communication barriers;
- The values, preferences, and expressed needs of the patient/consumer are respected. Cultural competence includes being able to recognize and respond to health-related beliefs and cultural values, disease incidence and prevalence, and treatment efficacy;
- Resources and procedures for communicating clinical and administrative information in the consumers preferred language are in place.

Ways to operationalize this standard include:

- Ensure that all staff and personnel receive cross-cultural education and training;
- Assess staff skills in providing culturally competent care through testing, direct observation, and monitoring the patient/consumer satisfaction with the individual/staff personnel encounter;
- Include performance reviews or other evaluations in the organizations' self assessment;
- Ensure that this standard is reflected in organization policies.

2. Behavioral health programs should implement strategies to recruit, retain, and promote at all levels of the organization a diverse staff and leadership that are representative of the demographic characteristics of the service area.

The intent of this standard is to:

- Acknowledge the practical difficulties in achieving full racial, ethnic, and cultural parity within the workforce;
- Emphasize commitment and a good-faith effort rather than a specific outcome;
- Focus not on numerical goals or quotas, but rather on the continuing efforts of an organization to design, implement, and evaluate strategies for recruiting and retaining a diverse staff as well as continual quality evaluation of improvements in this area;
- Define diverse staff as being representative of the diverse demographic population of the service area and includes the following:
 - Leadership of the organization;
 - Governing boards;
 - Clinicians;
 - Support staff;
 - Contract and affiliated personnel; and,
 - Administrative personnel.

Ways to operationalize this standard include:

- Incorporate into organizations' mission statements, strategic plans, and goals;
- Continually assess staff demographics as well as demographic data from the community to ensure that staff adequately reflect that population;
- Develop strategies such as incentives, mentoring programs, and partnerships with local schools and employment programs to build diverse workforce capacity.

3. Behavioral health programs should ensure that staff at all levels and across all disciplines receive ongoing education and training in culturally appropriate service delivery.

The intent of this standard is to:

- Provide adequate education and training.

Ways to operationalize this standard include:

- Provide training based on:
 - Sound educational (i.e. adult learning) principles;
 - Include pre-and post-training assessments;
 - Conduct training by appropriately qualified individuals;
 - Verify that staff at all levels and in all disciplines participate in ongoing CME - or CEU- accredited education or other training in culturally competent service delivery or make arrangements for such training to be made available to staff.
- Tailor training objectives for relevance to the particular functions of the trainees and the needs of the specific populations served, and, over time, include the following topics:
 - Elements of effective communication among staff and consumers of different cultures and different languages, including how to work with interpreters and telephone language services;
 - Strategies and techniques for the resolution of racial, ethnic, sexual orientation, or cultural conflicts between staff and consumers;
 - Behavioral health programs' written language access policies and procedures, including how to access interpreters and translated written materials.
 - The applicable provisions of:
 - Title VI of the Civil Rights Act of 1964; 42 U.S.C. 2000d, 45 C.F.R. 80.1 et seq. (including Office for Civil Rights Guidance on Title VI of the Civil Rights Act of 1964, with respect to services for (LEP) individuals (65 FR 52762-52774, August 30, 2000).
 - Behavioral health programs' complaint/grievance procedures;
 - Impact of poverty and socioeconomic status, race and racism, ethnicity, religious beliefs, sexual orientation and sociocultural factors on access to care, services utilization, quality of care, and health outcomes;
 - Effects of cultural, race, sexual orientation, and ethnic differences among consumers and staff upon health outcomes, patient satisfaction, and clinical management of preventable and chronic diseases and conditions.

4. Behavioral health programs must make a good-faith effort to offer and provide language assistance services, including bilingual staff and/or interpreter services.

The intent of this standard is to:

- Make language services available to each individual with limited English proficiency who seeks services;
- Include services for the deaf, hard of hearing, late deafness and deafblind;
- Eliminate the practice of using family and friends to provide interpretation services.

Ways to operationalize this standard include:

- Maintain a list of bilingual staff who can communicate directly with consumers in their preferred language as the first preference;
- Provide face-to-face interpretation by trained staff when direct communication by bilingual staff is not present;
- Identify volunteer or contract interpreters;
- Use telephone interpreter services as a supplemental system when an interpreter is needed instantly, or when services are needed in an unusual or infrequently encountered language.

5. Behavioral health programs must make a good-faith effort to make available easily understood patient/consumer related materials and to post signs in the language(s) of the commonly encountered groups and/or groups represented in the service area.

The intent of this standard is to:

- Ensure that written materials routinely provided in English to applicants, consumers, and the public are available in commonly encountered languages other than English;
- Translate materials that are essential to consumers accessing and making educated decisions about health care.

Ways to operationalize this standard include:

- Develop resources of relevant patient-related materials including
 - Applications;
 - Consent forms; and
 - Medical or treatment instructions.
- Identify commonly encountered languages that are used by a significant number or percentage of the population in the service area;
- Provide signs in commonly encountered languages that describe a variety of patient rights, the availability of conflict and grievance resolution process, and directions to facility services;
- Create materials in commonly encountered languages that are responsive to different levels of acculturation as well as the levels of literacy of consumers;
- Provide notice of the availability of oral translation of written material to individuals who cannot read;
- Develop materials for individuals with sensory, developmental, and/or cognitive impairments;
- Ensure that written material is not used as substitutes for oral interpretation;
- Develop policies and procedures to ensure development of quality non-English signage and patient-related materials that are appropriate for their target audience.

6. Behavioral health programs must develop, implement, and promote a written strategic plan that outlines clear goals, policies, operational plans, and management accountability/oversight mechanisms to provide culturally appropriate services.

The intent of this standard is to:

- Help the organization define and structure activities, policy development, and goal setting relevant to culturally appropriate services;

- Allow the agency to identify, monitor, and evaluate system features that may warrant implementing new policies or programs consistent with overall mission.

Ways to operationalize this standard include:

- Ensure that the strategic plan is developed by staff who are knowledgeable and sensitive to cultural issues.

7. Behavioral health programs should conduct initial and ongoing self-assessments and are encouraged to integrate cultural related measures into their internal audits, performance improvement programs, consumer feedback, and outcomes-based evaluations.

The intent of this standard is to:

- Determine the degree to which the organization has made progress in implementing all standards;
- Identify opportunities for improvement, develop action plans, and design programs and activities;
- Focus on the capacities, strengths, and weaknesses of the organization in meeting these standards.

Ways to operationalize this standard include:

- Obtain baseline and updated information that can be used to define service needs;
- Integrate cultural and linguistic competence-related measures into existing quality improvement activities will also help institutionalize a focus on these standards within the organization.

8. Behavioral health programs should ensure that data on the individual consumer's race, ethnicity, religious beliefs, sexual orientation, and spoken and written language are collected in the health records, integrated into the organization's management information systems, and periodically updated.

The intent of this standard is to:

- Identify characteristics of population groups within a service area;
- Ensure appropriate monitoring of consumer needs, utilization, quality of care, and outcomes;
- Prioritize allocation of organizational resources;
- Improve service planning to enhance access and coordination of care;
- Understand that written language refers to the consumer's preference for receiving health-related materials;
- Assure that health care services are provided equitably.

Ways to operationalize this standard include:

- Collect data from consumers at the first point of contact by personnel who are culturally competent in the data collection process;
- Inform consumers about the purpose of collecting data on race, ethnicity, religious beliefs, sexual orientation, and language;
- Emphasize that data are confidential and will not be used for discriminatory purposes;
- Collect information on language to identify the individual consumer's preferred mode of communication;
- Use accurate and reliable data to develop language services that facilitate consumers receiving care in a timely manner;
- Include dialects used by deaf, hard of hearing, late deafness and deafblind consumers in data collection;

- Agree that no consumer should be required to provide information about race, religious beliefs, sexual orientation, or ethnicity nor be denied services for choosing not to share such information;
- Maintain all consumer data according to the highest standards of ethics, confidentiality, and privacy, and not for discriminatory purposes.

9. Behavioral health programs should maintain a current demographic and cultural profile of the community it serves as well as a needs assessment to accurately plan and implement services that respond to the cultural characteristics of the service area.

The intent of this standard is to:

- Ensure that behavioral health programs obtain and maintain relevant data to continue to understand their communities;
- Plan and implement services in response to the cultural characteristics of the service area.

Ways to operationalize this standard include:

- Use a variety of methods and information sources to maintain data on the cultural characteristics of people in the service area;
- Use both qualitative and quantitative methods to determine cultural factors related to consumer needs, attitudes, behaviors, health practices, and concerns about using health care services as well as the surrounding community resources, assets and needs.

10. Behavioral health programs should develop partnerships with communities to facilitate consumer and community involvement in designing and implementing culturally related activities.

The intent of this standard is to:

- View responsive service delivery to a community as a collaborative process that is informed and influenced by community interests, expertise, and needs;
- Design and improve services with attention to community needs and desires so they are more likely to be used by consumers, thus leading to responsive, efficient, and effective care.

Ways to operationalize this standard include:

- Actively consult consumers and community representatives to involve them in service design and delivery activities;
- Solicit consumer input on organizational policies, evaluation mechanisms, marketing, communication strategies, and staff training programs;
- Consult and collaborate with community organizations, providers, and leaders for the purposes of partnering on outreach; building networks; providing service referrals; identifying educational opportunities; and enhancing public relations.

11. Behavioral health programs should ensure that conflict and grievance resolution processes are culturally sensitive and capable of identifying, preventing, and resolving cross-cultural conflicts or complaints by consumers.

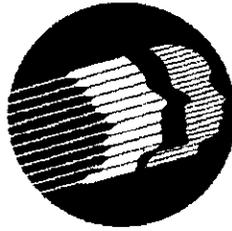
The intent of this standard is to:

- Require behavioral health programs to anticipate and be responsive to the cross-cultural differences that arise between consumers, the organization and its staff;
- Ensure that vulnerable populations, whose differences may not be readily identified, understood, accommodated or respected, are protected from difficulty in accessing services, denial of services, or outright discriminatory treatment.

Ways to operationalize this standard include:

- Ensure that policies, programs, and individuals responsible for addressing complaints and grievances are culturally sensitive and representative of the diverse population;
- Provide cultural competence training to staff who handle complaints and grievances or other legal or ethical conflict issues;
- Provide notice in other languages about the right of each patient/consumer to file a complaint or grievance;
- Provide the contact name and number of the person responsible for disposition of a grievance;
- Offer ombudsperson services;
- Include oversight and monitoring of these culturally related complaints/grievances as part of the overall quality assurance program for the institution;
- Use informal and formal procedures such as focus groups, staff-peer observation, and medical record reviews to identify and address potential conflicts.

ATTACHMENT 3



DELAWARE HEALTH AND SOCIAL SERVICES

POLICY MEMORANDUM NUMBER 40 March 10, 2008

Subject: Criminal Background Check Policy

I. Purpose

Delaware Health and Social Services is committed to providing a safe and secure environment for our patients, residents and employees. Additionally, the Delaware Code (Title 16, sec. 1141) requires criminal background checks of all individuals seeking work in long term care facilities. To that end, it is the policy of DHSS to conduct criminal background checks for all persons hired or promoted into any permanent or temporary position with any long term care or psychiatric facility operated by the DHSS. The Delaware Psychiatric Center is licensed as a hospital and while the Code does not require criminal background checks for employees of the DPC, long standing policy and practice mandates a criminal background check on all prospective employees at the Psychiatric Center.

II. Scope

This policy applies to all applicants and employees of the five facilities operated by DHSS. Under this policy, a criminal background check is required for any current employee who applies for another position within a DHSS facility or laterally transfers or promotes into another position within any DHSS facility. In addition, a criminal background check can be conducted on an employee if an employee takes a voluntary demotion or where there is a reasonable suspicion that a staff person has been recently been involved in criminal activity.

If an applicant has been convicted of any crime, a review of the individual's complete record must be considered prior to permanent hire. If an applicant has been convicted of a disqualifying crime as enumerated by regulations promulgated by the Division of Long Term Care Residents Protection (DLTCRP) in accordance with Delaware Code, Title 16, sec. 1141(b)(e), that applicant is

deemed unsuitable for employment, unless the time parameters surrounding the conviction(s) have eliminated that automatic bar to employment. See Addendum A for a list of disqualifying crimes and conviction time parameters.

This policy covers all full-time and part-time permanent, limited term, temporary and casual/seasonal positions providing direct care, or serving within the facilities operated by DHSS. This policy also applies to all positions and temporary positions filled directly by contractors, vendors, and other entities providing services at DHSS facilities

III. Policy

A criminal background check will be conducted for all newly-hired employees for positions within DHSS facilities. The Division of Long Term Care Residents Protection (DLTCRP) is responsible for completing a criminal background check and review of the Adult Abuse Registry. Once the review has been completed, the DLTCRP will send a letter to the facility's Human Relations Representative outlining the applicant's status. A facility director may extend an offer of employment to an applicant prior to the completion of the criminal background check but that offer is conditional until the Director of Management Services or his/her designee reviews the criminal background check and determines that no adverse action will be taken based upon information contained in that report.

Although a disqualification is possible, a previous conviction does not automatically disqualify an applicant from consideration from employment within a DHSS facility. The Director of Human Resources and the Division Director or designee will together consider the following factors in determining whether a candidate is eligible for employment with DHSS:

1. the relevance of the conviction to the duties and responsibilities of the position for which selected;
2. the nature of the conviction(s);
3. the age of the candidate when the illegal activity occurred;
4. the dates of the convictions; and
5. the candidate's record since the date(s) of the conviction(s).

A pardon has no impact on a conviction. It may, however, be used as a consideration in the criteria above. However, if an applicant fails to reveal any previous conviction, he/she will be disqualified from employment in that or any other position at DHSS for falsification of an application.

If the facility director desires to retain the applicant, he or she may forward a request through the Director of Management Services for final consideration by the Cabinet Secretary.

IV. Procedure

When a hiring manager reaches the final selection stage in the hiring process, the applicant will be given a "DHSS Terms and Conditions of Employment" form authorizing the DLTCRP to conduct a criminal background check. The applicant is then sent to the state police for fingerprinting and initiation of the criminal background check process. The hiring manager then sends the completed and signed form to Human Resources staff person for the respective facility. Human Resources will submit the request to DLTCRP for processing. Refusal to provide a completed and signed DHSS Terms and Conditions of Employment form will be considered sufficient grounds to discontinue any employment consideration for that candidate.

When the investigation is complete, the DLTCRP will submit a report on each applicant to the facility's HR representative. If the criminal background check reveals a criminal history, HR will review and notify the facility director.

The facility director or designee will conduct an additional inquiry to determine the nature of the offense(s) and other circumstances surrounding the criminal record. It is expected that the investigation of an applicant will not take longer than ten days to complete. Applicant information is confidential personnel information, and all parties having access to this information will maintain it as confidential.

If adverse action is contemplated, based on information revealed in the criminal background report, the HR representative will inform the hiring manager and or HR Director to implement due process proceedings. The hiring manager will in turn notify the employee immediately verbally and in writing.

V. Responsibility

It shall be the responsibility of the affected Division Directors to ensure that they, their staff and contractors adhere to the procedures outlined in this policy as written.

It shall be the responsibility of contractors and vendors to conduct criminal backgrounds checks on their employees prior to their assignment to a DHSS facility.

VI. Implementation

This policy is effective immediately.

Vincent P. Meconi, Secretary

Date

Attachment:

Addendum A, List of Disqualifying Crimes and Conviction Time Parameters

**DEPARTMENT OF HEALTH & SOCIAL SERVICES
CRIMINAL BACKGROUND CHECK UNIT
DISQUALIFYING CRIMES
CONVICTION/TIME PARAMETERS**

531. Attempt to Commit a crime: Attempt to commit a crime is an offense of the same grade and degree as the most serious offense, which the accused is found guilty of attempting. Use same disqualifying time limit as charge attempted.

502. Solicitation 2 nd	513. Conspiracy 1 st	631. Criminally negligent homicide
503. Solicitation 1 st	602b Aggravated Menacing	632. Manslaughter
512. Conspiracy 2 nd	604. Reckless Endangering 1 st Degree	633. Murder/abuse/neglect 2 nd Degree
601. Offensive Touching (If against Law Enforcement, Emergency, Medical or Corrections personnel) Class A Misdemeanor Only	605. Abuse of Pregnant Female in 2 nd Degree	634. Murder/abuse/neglect 1 st Degree
603. Reckless Endangering 2 nd	606. Abuse of a Pregnant Female in 1 st Degree	635. Murder 2 nd Degree
611. Assault 3 rd	612. Assault 2 nd	636. Murder 1 st Degree
621. Terroristic Threatening (Felony or Misdemeanor)	613. Assault 1 st	645. Promoting Suicide
625. Unlawfully administer drugs – Misdemeanor	614. Assault on a sports official 2 nd Offense	768. Unlawful sexual contact in 2 nd Degree
626. Unlawfully administer controlled substance, narcotic drugs.	615. Assault by Abuse or Neglect (Felony)	769. Sexual contact in 1 st
651. Commit Abortion (Other than Therapeutic, that causes miscarriage)	629. Vehicle Assault 1 st	770. Sexual penetration 3 rd or Rape 4 th Degree
785. Interference w/custody	630. Vehicle Homicide 2 nd	771. Sexual penetration 2 nd or Rape 3 rd Degree
801. Arson in 3 rd	630A Vehicle Homicide 1 st	772. Sexual penetration 1 st or Rape 2 nd Degree
804b2. Reckless burning \$1,500 or more in damage	782. Imprisonment 1 st	773. Sexual intercourse 3 rd or Rape 1 st Degree
811. Criminal Mischief \$1,500.00 or more damage	783. Kidnapping 2 nd	776. Sexual Extortion
824. Burglary in 3 rd	783A. Kidnapping 1 st	777. Bestiality
828. Possess Burglary Tools	802. Arson in 2 nd	778. Continuous sexual abuse of a child
840. Shoplifting \$1,000 or more	803. Arson in 1 st	779. Dangerous crime against child
841. Theft (over \$1,000)	825. Burglary in 2 nd	780. Female genital mutilation
842. Theft; lost or mislaid property; mistaken delivery \$1,000 or more	826. Burglary in 1 st	
	831. Robbery in 2 nd	
5 YEARS		10 YEARS
843. Theft; False pretense \$1,000 or more	832. Robbery in 1 st	
844. Theft; false promise \$1,000 or more	835. Carjacking 2 nd Degree	

845. Theft of Services \$1,000 or more	836. Carjacking 1 st Degree
848. Misapplication of property over \$1,000	846. Extortion
849. Theft or rented property \$1,000 or more	1108. Sexual exploitation of a child
850. Possess/deal in device for unlawfully taking telecommunication services.- Over 5 devices	1109. Dealing in material depicting a child in a prohibited sexual act.
851. Receive Stolen Property – over \$1,000	1112A. Sexual solicitation of a child
854. Identity Theft	1250. Offenses against law-enforcement animals
859. Larceny of livestock	1253. Escape after conviction
860. Possession of Shoplifters Tools	1254. Assault in Detention Facility
861. Forgery 1 st & 2 nd Degree -Felonies	1256. Promoting prison contraband; deadly wpn.
862. Possession of Forgery Devices	1302. Riot
876. Tamper with public records in 1 st Degree	1304. Hate Crimes
878. Issuing false certificate	1312A. Stalking
900. Issuing Bad check –over \$1,000	1338. Bombs, incendiary devices, Molotov cocktails and explosive devices
903. Unlawful use of credit card (\$1,000 or more)	1339. Adulteration (Causing Injury or Death)
907A. Criminal impersonation, accident related	1353. Promoting prostitution in 1 st Degree
907B. Criminal impersonation of a police officer	1442. Carrying a concealed deadly weapon
908. Concealing a will	1444. Possessing a destructive weapon
911. Fraudulent conveyance of public lands	1445. Unlawfully dealing with a dangerous weapon. (If (4) or (5) violated)
912. Fraudulent receipt of public lands	1447. Possession of deadly weapon during commission of a felony
913. Insurance Fraud	1447A. Possession of a firearm during commission of a felony
913A. Health Care Fraud	1449. Wearing body armor during commission of a felony
916. Home Improvement fraud – 2 nd offense	1455. Engaging in a firearms transaction on behalf of another
917. New home construction fraud – over \$1,000	1503. Racketeering
920. Transfer of recorded sounds.	3533. Aggravated Act of Intimidation
932. Unauthorized access of computer Over \$500.00	4751. Controlled Narcotic substance- Possess, deliver, manufacturer with intent to deliver
933. Theft of Computer Services Over \$500.00	4752. Controlled Non-Narcotic substance
934. Interruption of computer services Over \$500.00	4752A. Delivery of noncontrolled substance
5 YEARS	10 YEARS
935. Misuse of computer system information Over \$500.00	4753A. Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, LSD or designer drugs
936. Destruction of computer equipment) over \$500.00	4754A. Possession and delivery of noncontrolled prescription drug
937. Unrequested or unauthorized electronic mail or use of network or software to cause same. Damage over \$500.0	4755. Distribute, dispense a controlled substance. Maintain dwelling, vehicle etc.
938. Failure to promptly cease electronic communications upon request. Damage over \$500.00	4756. Schedule I & II violations as registrant

1001. Bigamy	4757. Disposal – hypodermic syringe or needle
1100. Dealing in children	4761. Distribution narcotics to minors
1102. Endangering the welfare of a child. (Felony if death or serious injury occurs)	4761A. Purchase narcotics from minors
1111. Possession of Child Pornography	4767. Distribution, delivery or possession of controlled substance within 1,000 feet of a school property
1201. Bribery	4768. Distribution, delivery or possession of controlled substance within 300 feet of a park or recreation area
1203. Receiving a bribe	4771(b) Deliver, possess with intent to deliver, convert, manufacture, convey sell or offer sale of Drug Paraphernalia knowing will be used to plant, grow, manufacture, process, pack, inject, ingest, inhale or otherwise introduce into human body a controlled substance.
1222. Perjury 2 nd Degree	4771 (c) Delivery to a minor of Drug Paraphernalia
1223. Perjury 1 st Degree	Title16/1136. Abuse, Mistreatment, Neglect of a Patient
1239. Wearing a disguise during commission of a felony	Title 31/3913. Abuse, Neglect, exploit, mistreat an infirm adult
1240. Threats to a Public Official	
1244b. Hindering Prosecution (If acts of Felony original charge)	
1248b. Obstructing control and suppression of Rabies during state of emergency	
1249. Abetting the violation of drivers license restrictions 2 nd Offense	
1252. Escape from Detention facility 2 nd Degree	
1259. Sexual relations in detention facility	
1260. Misuse of prisoner mail – 2 nd offense	
1261. Bribing a witness	
1262. Witness receiving bribe	
1263. Tampering with a witness	
1263A. Interfering with a child witness	
5 YEARS	10 YEARS
1264. Bribing a juror	
1265. Juror receiving bribe	
1269. Tampering with physical evidence	
1312. Aggravated Harassment	
1325. Cruelty to animals resulting in death or serious injury	
1326. Animals fighting and baiting	
1335(a)(6). Violation of Privacy	
1351. Promoting prostitution in 3 rd Degree	
1352. Promoting prostitution in 2 nd Degree	
1361. Obscenity	
1448. Possession and purchase of deadly weapons by a person prohibited.	

1450. Receiving a stolen firearm	
1451. Theft of a firearm	
1454. Giving a firearm to a person prohibited	
1457. Possession of a weapon in a Safe School and Recreation Zone	
1458. Removing a firearm from the possession of a law enforcement officer	
1459. Possession of a weapon with a removed, obliterated or altered serial number	
3532. Act of intimidation; class E felony	
4753. Possess, use or consume controlled substance, which is a narcotic drug without valid prescription. - Misdemeanor	
4754. Possess, use or consume controlled or counterfeit substance not a narcotic drug without valid prescription - Misdemeanor	
4771. (a) Possession of Drug Paraphernalia Class A Misdemeanor	
Any other Felony, not listed above, if convicted within last five years	

DESIGNED 05/04/1999 - 02/01/2000

*UPDATED: 03/24/2000, 01/05/00, 10/26/01, 01/18/02, 01/24/03, 07/31/03, 12/24/03, 10/22/04,
08/16/05, 10/15/06*

KEN THOMPSON

Investigative Administrator

ATTACHMENT 4



DELAWARE HEALTH AND SOCIAL SERVICES

Policy Memorandum 36

September 24, 2008

Subject: Standardized Requirements During the Development Phase of Community Based Residential Homes for the DHSS/Division

I. Background:

DHSS has funded and supported community based residential homes and supervised apartments, for people with disabilities, for many years. The DHSS believes that community based residential options provide individuals with more opportunities to become valued citizens, develop self-worth and self-direction and engage in lifestyles that are healthy and productive. Community based residential homes support the mission of the DHSS; "To improve the quality of life for Delaware's citizens by promoting health and well-being, fostering self-sufficiency, and protecting vulnerable populations."

II. Purpose:

The purpose of this policy is to delineate minimal requirements of contractors who are engaging in a contractual agreement to develop community based residential arrangements for those individuals served by Divisions within DHSS. This policy seeks to enhance the transparency of the operations within DHSS Divisions and their contractors.

III. Application:

This policy applies to all DHSS Divisions who support community based housing to individuals qualified to receive their services. The policy also applies to individuals/entities that enter into a contractual arrangement (*contractors*) with the DHSS/Division to develop a community based residential home(s) and apartment(s). Contractors shall be responsible for their subcontractors' adherence with this policy and related protocol(s) established by the applicable Division.

IV. Procedures:

1. Contractors shall obtain written approval from the DHSS/Division prior to their acquisition of a site selected for development.

2. Contractors shall develop community based residential homes and supervised apartments efficiently and within a timely manner so as to avoid excessive delays for the individuals planning to transition into the home.
3. Contractors shall ensure that the development site does not present safety hazards to residents or neighbors or create appearances that degrade neighboring properties.
4. Contractors shall adhere to the Fair Housing Act which makes discrimination unlawful for "protected" persons with disabilities (i.e., treated less favorably than people without disabilities). Community based residential homes and supervised apartments shall meet the design and construct requirements set forth in the Fair Housing Act.
5. Contractors shall adhere to all applicable local and state housing codes, including zoning laws, permitting procedures and historical preservation requirements.
6. Contractors shall secure all applicable business licenses, certificates and insurance coverage prior to the development of a community based residential housing. They shall further ensure that the aforementioned remain active.
7. Contractor shall obtain the required licensing/certification and Fire Marshal inspection prior to occupancy.
8. The Contractor's conduct shall mirror community standards, ethical principles and professional standards. Business practices shall not degrade the individuals who will live in the community based residential home, the DHSS or the Division or be cause for community insult or offense.
9. The applicable Division shall monitor housing contract standards with the Contractor, to ensure compliance.
10. The applicable Division(s) shall monitor compliance with standards/regulations associated with the development of housing, environment and safety issues.
11. The applicable Division's Quality Assurance/Improvement unit shall serve as a resource to the Contractor re: issues concerning residential licensing/certification and occupancy readiness.

V. Responsibility

1. Each Division who supports community based residential homes and supervised apartments shall develop procedures/protocols that are consistent with this DHSS policy and make such procedures/protocols available to Contractors of community based residential homes.
2. Contractors with the DHSS/Division are responsible for ensuring that subcontractors they employ adhere to the requirements set forth in this policy and the applicable Division's procedures/protocol.

VI. Effective:

This policy shall be effective immediately.

Vincent P. Meconi
Secretary

<p>(cont'd)</p> <p><input type="checkbox"/> COMPLICATION OF CHRONIC/ACUTE MEDICAL CONDITION</p> <p><input type="checkbox"/> WITHIN 7 DAYS OF A RESTRICTIVE INTERVENTION</p> <p><input type="checkbox"/> UNKNOWN CAUSE</p>	<p>(cont'd)</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>															
<p>PRIMARY CLINICAL / MEDICAL DIAGNOSES AT</p> <p>AXIS I:</p>	<p>TIME OF DEATH:</p> <p>AXIS II:</p>															
<p>AXIS III:</p>	<p>AXIS IV:</p>															
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