IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA Plaintiff, v. THE STATE OF IOWA; THOMAS J. VILSACK, Governor of the State of Iowa Defendants.	)	CIVIL NO. _____

SETTLEMENT AGREEMENT

The United States and the State of Iowa agree to settle this matter on the terms and conditions set forth below in this Settlement Agreement.

A. This case was instituted by the United States pursuant to the Civil Rights of Institutionalized Persons Act ("CRIPA"), 42 U.S.C. § 1997.

B. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345.

C. Venue is appropriate pursuant to 28 U.S.C. § 1391(b).

D. The United States is authorized to institute this civil action by 42 U.S.C. § 1997a and has met all prerequisites for the institution of this civil action prescribed by the statute, provided, however, that if this agreement is never finalized, the State reserves the right to challenge the United States' authorization to institute this action.

E. The Defendants are the State of Iowa and the Honorable Thomas J. Vilsack, Governor of the State of Iowa, in his official capacity as Governor. Collectively, the Defendants shall hereinafter in the Settlement Agreement and Plan be referred to

as "the State." The collective residents of both the Woodward and Glenwood Resource Centers ("Resource Centers") will hereinafter in the Settlement Agreement be referred to as "residents."

F. Woodward and Glenwood are institutions covered by CRIPA and operated by the State to provide habilitation and other protections, supports and services to persons with mental retardation and other developmental disabilities. The State has authority and responsibility for the operation of Woodward and Glenwood and is responsible for the implementation of this Settlement Agreement.

G. On March 22, 1999, the Attorney General of the United States, by and through the Assistant Attorney General, Civil Rights Division, notified the Governor of the State of Iowa, the Attorney General of the State of Iowa, the Director of the Iowa Department of Human Services, and the Superintendents of Woodward and Glenwood, of her intention to investigate allegations of unconstitutional and unlawful conditions at Woodward and Glenwood pursuant to CRIPA.

H. Following an investigation, on July 9, 2002, the Attorney General of the United States, by and through the Assistant Attorney General, Civil Rights Division, informed the Governor of the State of Iowa, the Attorney General of the State of Iowa, the Director of the Iowa Department of Human Services, and the Superintendents of Woodward and Glenwood that the Attorney General had reasonable cause to believe that persons residing in or confined to Woodward and Glenwood were being subjected to conditions that deprived them of their legal rights and of their rights, privileges, and immunities secured by the Constitution of the United States.

I. After notification of the initial investigation in 1999, and continuing from time to time thereafter, the State voluntarily undertook initiatives to address outstanding concerns with regard to the protections, services, and supports provided at Woodward and Glenwood.

J. The State has at all times denied that conditions at Woodward and Glenwood violate the constitutional or federal statutory rights of residents at Woodward and Glenwood. The State further maintains that it currently is adhering to many of the policies and practices set forth in the Plan, discussed in paragraph Q, that is incorporated herein by reference, and the

State maintains that the fact that a particular policy or practice is included in the Plan is not to be construed as evidence by any person or party that the State is not following that policy or practice.

K. The State maintains that as a matter of State policy, the State has at all times aspired to provide a level of care to Woodward and Glenwood residents in excess of what it regards as a minimal level of care required by the Constitution and federal law.

L. The parties entering into this Settlement Agreement recognize the constitutional and legal interests of the residents of Glenwood and Woodward, and for the purpose of avoiding protracted and adversarial litigation, agree to the provisions set forth herein.

M. In entering into this Settlement Agreement, State officials do not admit any violation of the Constitution or of any law, and this Settlement Agreement and Plan may not be used as evidence of liability in any other civil or criminal proceeding.

N. The provisions of this Settlement Agreement are a lawful, fair, and appropriate resolution of this case.

O. This Settlement Agreement, voluntarily entered into, shall be entered by the United States District Court for the Southern District of Iowa.

P. This Settlement Agreement shall be applicable to and binding upon all of the parties, their officers, agents, employees, assigns, and successors.

Q. The parties jointly have agreed upon a plan (hereinafter called the "Plan"), filed simultaneously herewith, to address outstanding concerns that impact or have impacted residents. The provisions of the Plan are incorporated in their entirety into this Settlement Agreement as if fully set forth, word-for-word, herein.

R. In order to monitor the State's implementation of the Settlement Agreement, the United States and its consultative experts shall regularly conduct compliance reviews to ensure that the State has implemented and continues to implement all measures required by this Settlement Agreement. The United States shall make its consultative experts and agents available for technical assistance following such reviews. In order to assist in the implementation of the Plan, the United States recognizes that the

Plan will require the retention of, and review by, consultative experts by the State.

S. The United States and its agents shall have the right to request, inspect, and review facility records, resident charts and other documents, conduct interviews with residents outside the presence of staff consistent with this Settlement Agreement (unless the resident requests otherwise), and observe activities normally associated with providing protections, services, and supports to residents that are necessary to assess the State's compliance and/or implementation efforts with this Settlement Agreement and Plan. The United States will submit requests for documents in writing at or near the time of the request. The United States and its agents may obtain copies of all documents, records, and materials relevant to compliance and/or implementation of the Settlement Agreement and Plan. The State shall provide any requested documents, records and materials to the United States as soon as possible, but no later than within 20 business days of the request. At the discretion of the employee, any staff member may request that an attorney be present during an interview with a United States representative and/or agent. The United States may receive unsolicited calls or contacts from State personnel outside the presence of State representatives. The United States shall endeavor to interview employees onsite at the facility only after it provides reasonable notice to the State. However, nothing in this Settlement Agreement and Plan shall abridge the whistleblower rights of State employees or contractors under law or limit the ability of the United States to participate in related interactions with State employees or contractors. The United States agrees to provide the State with reasonable notice of any visit or inspection, although the parties agree that no notice shall be required in an emergency situation where the life, immediate health, or immediate safety of resident(s) is at issue. Such access shall continue until this action is dismissed.

T. Within 90 days from the Court's entry of this Settlement Agreement as an order, the State shall provide DOJ with an initial status report regarding its compliance with this Settlement Agreement. Within 180 days from entry of this order, the State shall provide DOJ with a second status report regarding its compliance with this Settlement Agreement. Within one year of the Court's entry of this Settlement Agreement, and within every 180 days thereafter (so long as this agreement remains in effect), the State shall provide DOJ with a status report regarding its compliance with this Settlement Agreement. Each status report shall provide:

(1) a description of the State's status in complying with each and every provision of this Settlement Agreement and the steps taken to achieve compliance with each and every provision of this Settlement Agreement during the period since the last status report; and

(2) all relevant documents that demonstrate the State's compliance with this Settlement Agreement, including, but not limited to, policies, procedures, protocols, training materials, and curriculum vitae.

U. (1) Except where there is an emergency situation where the life, immediate health, or immediate safety of resident(s) is at issue, if the United States maintains that the State has failed to carry out the requirements of this Settlement Agreement, the United States shall notify the State with specificity of any instance in which it maintains that the State has failed to carry out the requirements of this Settlement Agreement. With the exception of conditions or practices that pose an immediate and serious threat to the life, health, or safety of resident(s), the State shall have 30 days from the date of a deficiency notice from the United States to cure the claim of non-compliance before the United States may file any compliance motion with the Court. During this period, the parties shall coordinate and shall discuss areas of disagreement and attempt to resolve outstanding differences. If the parties reach an agreement that varies from the Plan, the new agreement shall be reduced to writing, signed, and filed with the Court for approval.

(2) If the parties fail to reach an agreement, the United States may seek specific performance of the Settlement Agreement and Plan in the first instance; however, if a Court Order for specific performance is issued, nothing shall limit the ability of the United States to seek other enforcement remedies in subsequent court submissions with regard to the Court's Order for specific performance.

(3) The United States agrees that in this case it will not seek a finding of, or sanction for, contempt against either the State of Iowa or any State officials unless an order for specific performance has been entered and is thereafter violated in such a manner as to make such a finding or sanctions appropriate.

V. The purpose of the Settlement Agreement and the incorporated Plan is that the State will be able to achieve desired outcomes for and provide the necessary protections, supports, and services to the residents of Woodward and Glenwood. The parties agree that the Settlement Agreement will be terminated and the case

dismissed four years and six months after the effective date of the Agreement. The Agreement may terminate at an earlier date if the parties agree that the State of Iowa is in substantial compliance with each provision of this Agreement, including the incorporated Plan, and the State has maintained compliance for at least 18 months. The burden shall be on the State of Iowa to demonstrate compliance. Noncompliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance shall not constitute failure to maintain substantial compliance. At the same time, temporary compliance during a period of sustained compliance shall not constitute substantial compliance.

W. Unless specified to the contrary elsewhere herein, in any compliance or other adversarial hearing prior to final dismissal of this action, the burden of proof will be on the party moving the Court.

X. All provisions of the Settlement Agreement and the incorporated Plan shall have ongoing effect until the final dismissal of this action. The Court shall retain jurisdiction of this action for all purposes under this Settlement Agreement until such time as the Settlement Agreement is terminated. Independent of the foregoing, if the United States and the State agree that either facility has achieved substantial compliance with each section of the Settlement Agreement and incorporated Plan, the parties shall file a joint motion to terminate this Settlement Agreement and Plan with respect to the facility that has achieved substantial compliance.

Y. The parties reserve the right to withdraw consent to this Settlement Agreement in the event that this Settlement Agreement is not approved by the Court in its entirety.

Z. There shall be no *ex parte* communications by either party with the Court. There shall be no *ex parte* communications by either party with the employees, experts, agents, or assigns of the other party that is inconsistent with this Settlement Agreement and Plan.

AA. The parties agree that any records produced pursuant to this Settlement Agreement and/or Plan may be shared only with the following: (1) the Court, including public submissions and filings; (2) any expert(s) or consultant(s) selected or retained by the parties pursuant to this Settlement Agreement and Plan; (3) all counsel of record in this matter; (4) staff and clerical

personnel involved in the preparation and review of the submissions and reports for counsel of record; and (5) United States and other governmental officials, as necessary, in order to carry out law enforcement responsibilities. All parties shall be responsible for maintaining the confidentiality of records in their possession. Submissions to the Court that contain identifying information of residents (such as their full name, address, or social security number) shall be filed with the Court using pseudonyms or the residents' initials.

BB. All parties shall bear their own costs, including attorney fees.

CC. It is intended that the parties will pursue a problem-solving approach so that litigation and disagreements can be minimized and the energies of the parties can be focused on the task of meeting the needs of the residents and achieving the outcomes set forth in this Settlement Agreement. Absent an emergency condition, the United States agrees to attempt to confer with the State in a good faith effort to attempt to reach agreement regarding remedy of the alleged deficiencies. If the parties are not able to reach agreement, the United States may seek enforcement of this Settlement Agreement and Plan from the Court consistent with this Settlement Agreement.

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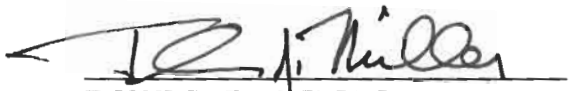
Respectfully submitted,

FOR THE STATE OF IOWA:

THOMAS J. VILSACK
Governor



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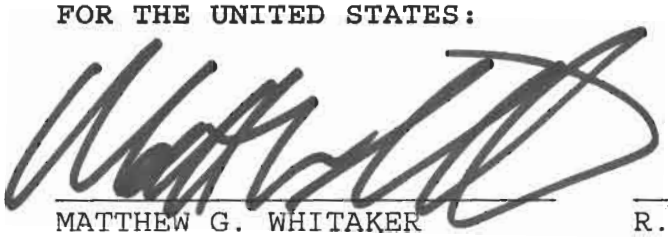

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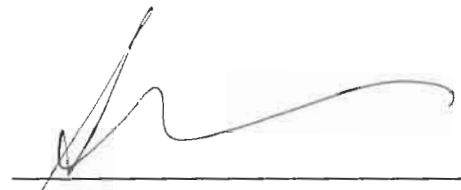

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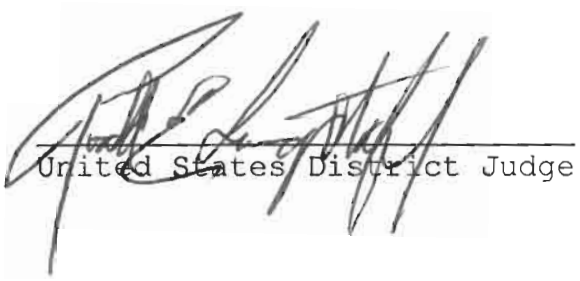
WHEREFORE, the parties to this action having agreed to the provisions in the Settlement Agreement and Plan set forth above, and the Court being advised in the premises, this Settlement Agreement and Plan are hereby entered as the order and judgment of this Court. It is so ordered, this 24th day of November, 2004, at Des Moines, Iowa.



United States District Judge

IOWA STATE RESOURCE CENTERS PLAN

October 2004

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I. Definitions:

A. Competency-Based Training

Competency-based training is a training approach geared to the attainment and demonstration of knowledge and skills to meet specified standards of performance. The elements required in a competency-based model are: information, demonstration, practice and evaluation. Competencies are specifically identified and explicitly defined in terms of specific information, concepts or skills, and criteria for successful completion of the training are established and can be objectively measured. Evaluation may consist of direct observation of skills, oral or written examination or some combination thereof, so long as the skills are objectively assessed.

B. Restraint

1. Chemical Restraint

Chemical restraint means any drug that:

a) is administered to manage an individual's behavior in a way that reduces the safety risk to the individual or others;

b) has the temporary effect of restricting the individual's freedom of movement; and

c) is not a standard treatment for the individual's medical or psychiatric condition.

2. Mechanical Restraint

Mechanical restraint means any device attached or adjacent to an individual's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. The term does not include mechanical supports used to achieve functional body position or proper balance.

3. Medical Restraint

Medical restraint is a health-related protection prescribed by a physician only where necessary during the conduct of a specific medical, including but not limited to dental, procedures, or only if necessary for protection during the time that a medical or dental condition exists, to prevent a person from inhibiting or undoing medical or dental treatment. Restraint does not include methods pursuant to written physician or dentist orders for maintaining position, or temporarily and physically stabilizing an individual for medical, dental, or diagnostic procedures.

4. Physical Restraint

Physical restraint is any approved manual method that restricts freedom of movement or normal access to one's body, contingent on maladaptive behavior. Physical restraint does not include brief, limited, and isolated use of:

a) physical guidance and/or prompting techniques that are used to redirect an individual or assist, support, or protect the individual during a functional therapeutic or physical exercise activity;

b) response blocking and brief redirection used to interrupt an individual's limbs or body without the use of force so that the occurrence of maladaptive behavior is prevented;

c) holding, without the use of pressure or force, to calm or comfort, or hand holding to escort from one area to another; and

d) response interruption used to interrupt an individual's behavior using approved techniques.

5. Emergency Restraint

Emergency restraint is the use of restraint:

a) as an immediate response to an emergency safety situation that places the individual or others at imminent and serious threat of violence or injury if no intervention occurs;

b) only after less restrictive measures have been determined to be ineffective or not feasible; and

c) when the restraint is not part of a program and contained in the individual's Behavior Support Plan or when the restraint is not part of written and documented medical restraint.

C. Time Out

Time out is the removal of an individual from a reinforcing or enjoyable environment to a neutral one in which reinforcement is not present, and which should be used only for a specified time. Time out may include having an individual:

a) removed from an activity;

b) leave the room altogether; or

c) be placed in an unlocked room or other area from which egress is prevented.

D. Behavior Support Plan (BSP)

A behavior support plan (BSP) is a comprehensive, individualized plan that addresses target behavior reduction and replacement behavior acquisition. It shall be developed consistent with current, generally accepted professional standards. The BSP contains intervention strategies designed to modify the environment, teach or increase adaptive skills and reduce or prevent the occurrence of target behaviors.

The BSP includes:

a) The objective delineation of target behaviors, including baseline levels of behavior;

b) A comprehensive assessment of target behaviors, including integration of assessment information from psychiatric, medical, and other disciplines;

c) Training to acquire or increase replacement behaviors selected on the basis of functional assessment and specific implementation procedures; and

d) Target behavior reduction strategies based on functional assessment and specific implementation procedures.

The BSP is a component of the Individual Support Plan (ISP), which is designed to promote integration and provide opportunities for physical and social integration.

E. Individual Support Plan (ISP)

An Individual Support Plan (ISP) is the primary document setting out all of the protections, supports, and services to be provided to the individual. It is developed based on comprehensive assessments, consistent with current, generally accepted professional standards, by an interdisciplinary team that includes, whenever appropriate, the individual. It is a person-centered document that reflects the individual's preferences, strengths, needs and desires, and it integrates all services, supports, treatment plans, clinical care plans, and other interventions provided to or for the individual. Active treatment, supports and interventions along with a prioritized program plan with goals and objectives shall be a part of the ISP. An ISP shall identify methods to track and document progress toward the identified goals and objectives and shall document, track, and address barriers to moving toward integrated community living.

F. Consistent With Current, Generally Accepted Professional Standards of Care

A qualified professional's decision that does not so substantially depart from contemporary, accepted professional judgment, practice, or standards as to demonstrate that the person responsible actually did not base the decision on such judgment, practice or standards.

G. Effective Date

The effective date hereof is October 1, 2004

II. Introduction

As part of an overall service delivery system, Glenwood State Resource Center and Woodward State Resource Center (collectively the "SRCs") provide care and treatment based upon evidence-based practices and empirically supported approaches designed to strengthen and support the individual's ability to function, to grow and develop in ways benefiting quality of life, to attain self-help and social skills, to minimize regression or loss of skills, and to provide for reasonable safety, security and freedom from undue bodily restraint, where possible.

III. Protection From Harm

SRCs shall provide individuals with a safe and humane environment and ensure that they are protected from harm.

A. Restraint

1. Effective immediately, the SRCs shall not place any individual in prone restraint.

2. By six months from the effective date hereof, the SRCs shall ensure that:

    a) The use of a restraint is permissible only when less restrictive measures have been considered or attempted consistent with current, generally accepted professional standards of care; and

    b) The restraint is used only pursuant to current, generally accepted professional standards and not used as punishment, as a substitute for treatment, training or habilitation programs, or for the convenience of staff.

3. By six months from the effective date hereof, the SRCs shall:

    a) Review, revise, and develop as necessary policies, procedures, and protocols governing the use of restraints in behavioral and medical emergencies. This policy will define "approved" techniques for both safety purposes as well as emergency restraint. All staff responsible for the direct support of individuals will have successfully completed competency-based training.

    b) Limit the use of all restraints, other than medical restraint, to emergency situations in which there is imminent risk of harm to the individual, or others. If medical restraints are required for routine medical or dental care for an individual, that person's individual support plan shall include treatments or strategies to minimize or eliminate need for restraint.

4. In furtherance of these goals, the interdisciplinary team serving each individual shall:

    a) By one month from the effective date hereof, identify each individual who has had programmatic or emergency mechanical, physical, or chemical restraint during the past year.

    b) By two months from the effective date hereof, for each person identified above, commence a formal, written, comprehensive functional assessment or analysis, and by 18 months from the effective date hereof, complete all such assessments or analyses consistent with generally accepted professional standards of care.

    c) By six months from the completion of all assessments and analyses, for each person identified above, develop, implement, or review and revise the behavior support plan, based on that individual's particular strengths, specifying:

        i. The objectively defined behavior to be treated that leads to the use of the restraint;

        ii. Alternative, positive adaptive behaviors to be taught to the individual to replace the behavior that initiates the use of the restraint, as well as other programs, where possible, to reduce or eliminate the use of such restraint;

        iii. Active treatment strategies that have been considered, that were attempted when appropriate, and that would not protect the person and/or others from harm; and

        iv. The type of restraint authorized, the restraint's maximum duration, the designated approved restraint situation, and the criteria for terminating the use of the restraint.

5. The SRCs shall require that:

    a) By eight months from the effective date hereof, no restraint shall be used that is prohibited by the individual's medical orders or Individual Support Plan;

    b) Commencing by three months of the effective date hereof and fully implemented by 18 months from the effective date hereof, a physician, physician's assistant, nurse practitioner, or a Registered Nurse with training in application and assessment of restraint, shall conduct and document a face-to-face examination of an individual within 30 minutes after the individual is placed in restraint;

    c) Beginning immediately, as staffing levels permit, and with full implementation by eighteen months from the effective date hereof, staff trained in the application and assessment of restraint shall check the individual as soon as possible but no later than 15 minutes from the start of the restraint to review the application and consequence of restraint. A nurse or licensed health care

professional shall monitor and document vital signs, respiration, circulation and mental status of an individual in restraints at least every 30 minutes from the start of the restraint, except for medical restraint pursuant to a physician's order. In each instance of a medical restraint, the physician shall specify the schedule and type of monitoring required, consistent with current, generally accepted professional standards of care and the person's medical condition;

d) By one month from the effective date hereof, every restrained limb shall be released from restraint, examined for bruising and skin tears, and be exercised at least ten minutes every two hours;

e) By one month from the effective date hereof, every individual in restraint shall be provided a documented opportunity to eat at regular meal times, or as near such time as possible;

f) By one month from the effective date hereof, every individual in restraint shall be provided an opportunity to drink fluids and use a bed pan or toilet, as necessitated by the individual's needs, but not less frequently than every two hours;

g) By one month from the effective date hereof, an individual in mechanical or physical restraint, other than medical restraint, shall be under continuous one-to-one supervision;

h) By one month from the effective date hereof, every use of restraint shall be documented consistent with current, generally accepted professional standards of care;

i) By one month from the effective date hereof, an individual in restraint shall be released from restraint as soon as the individual does not pose an imminent risk of harm to any person, or as soon as the individual's treating physician determines, in the case of a medical restraint, that the restraint is no longer necessary;

j) By six months from the effective date hereof, the terms of the consent given for such restraint, except for emergency restraint, shall be set forth specifically in writing and shall include the name of the guardian or health care representative providing such consent, any limitations on the use of such restraint, and any risk associated with such restraint;

k) By eight months from the effective date hereof, the professional(s) responsible for the behavior support plan and the staff authorized to implement it shall be identified in the behavior support plan; and

l) By one year from the effective date hereof, the frequency and manner with which behavioral data are to be recorded by direct care staff shall be identified in the behavior support plan and shall be implemented.

6. By one year from the effective date hereof, the SRCs shall review and revise, as appropriate, the behavior support plan of any individual placed in restraint, other than medical restraint, more than three times in any four-week period.

7. By six months from the effective date hereof, the SRCs shall ensure the regular practice of reviewing each use of restraint, other than medical restraint, and ascertaining the circumstances under which such restraint was used. The review shall take place within three business days of the start of each instance of restraint, other than medical restraint. Behavior support plans shall be revised, as appropriate.

8. By one year from the effective date hereof, the SRCs shall ensure that all direct care staff have successfully completed competency-based training in:

    a) Restraint use;

    b) How to properly redirect behaviors without resorting to undue use of restraint; and

    c) How to provide adequate supervision to any individual in restraint.

B. Time Out

1. By six months from the effective date hereof, the SRCs shall eliminate, to the extent practicable, use of time out.

2. By one month from the effective date hereof, the SRCs shall ensure that use of time out is permissible only when:

    a) Less restrictive measures have been considered or attempted; and

    b) It does not substitute for treatment.

3. By one month from the effective date hereof, time out to a room or area from which egress is prevented only shall be used as part of a behavior support plan.

4. By one month from the effective date hereof, the SRCs shall ensure that time out is used only pursuant to current, generally accepted professional standards and not used as punishment, in lieu of training or habilitation programs, or for the convenience of staff.

5. By one year from the effective date hereof, the SRCs shall review, revise, as appropriate, and implement time out policies, procedures, and protocols that are consistent with current, generally accepted professional standards of care.

C. Abuse, Neglect and Incident Management

The SRCs shall not tolerate abuse or neglect of individuals and shall continue to require that staff report abuse or neglect of individuals. All of the provisions in this subsection C shall be implemented by twelve months from the effective date hereof.

1. The SRCs shall review, revise, as appropriate, and implement incident management policies, procedures and practices that are consistent with current, generally accepted professional standards of care. Such policies, procedures and practices shall require:

    a) A commitment that the SRC shall not tolerate abuse or neglect of individuals and that staff are required to report abuse or neglect of individuals.

    b) The immediate reporting by staff to supervisory personnel and the Superintendent (or that official's designee) of serious incidents, including but not limited to death, abuse, neglect, and serious injury, and the prompt reporting by staff of these and all other unusual incidents, using standardized reporting.

    c) Mechanisms to ensure that, when serious incidents such as allegations of abuse, neglect, and/or serious injury occur, SRC staff take immediate and appropriate action to protect the individuals involved, including removing alleged perpetrators from direct contact with individuals pending either the investigation's outcome or at least a well-supported, preliminary assessment that the employee poses no risk to individuals or the integrity of the investigation.

    d) Competency-based training, at least yearly, for all staff on recognizing and reporting potential signs and symptoms of abuse and/or neglect. Such training also shall include recognizing and addressing precursors that may lead to abuse.

    e) Notification of all staff when commencing employment and at least yearly of their obligation to report abuse and/or neglect to Resource Center and State officials. All staff persons who are mandatory reporters of abuse or neglect shall sign a statement that shall be kept with their personnel records evidencing their recognition of their reporting obligations. The SRCs shall not tolerate any mandatory reporter's failure to report abuse or neglect.

    f) Mechanisms to educate and support individuals, relatives and personal or health representatives to identify and report unusual incidents, including allegations of abuse, neglect and/or mistreatment.

    g) Posting in each living unit and day program site a brief and easily understood statement of individuals' rights, including information about how to actualize such rights and how to report violations of such rights.

h) Procedures for referring, as appropriate, allegations of abuse and/or neglect to law enforcement.

i) Mechanisms to ensure that any staff person, individual, family member or visitor who in good faith reports an allegation of abuse or neglect is not subject to retaliatory action, including but not limited to reprimands, discipline, harassment, threats or censure, except for appropriate counseling, reprimands or discipline because of an employee's failure to report an incident in an appropriate or timely manner.

j) The timely and thorough investigation of all unusual incidents.

2. SRCs shall review, revise, as appropriate, and implement policies and procedures to ensure the timely and thorough conduct of investigations. Such policies and procedures shall:

a) Provide for the conduct of investigations of all deaths, as well as allegations of abuse, neglect, mistreatment, serious injury and theft. The investigations shall be conducted by qualified investigator(s) who have a background in working with people with developmental disabilities, including persons with mental retardation, and who are not within the direct line of supervision of the alleged perpetrator.

b) Ensure that only SRC staff who have successfully completed competency-based training on the conduct of investigations be allowed to conduct investigations of all other unusual incidents.

c) Ensure that the facilities' investigations are coordinated with any investigations completed by law enforcement agencies so as not to interfere with such investigations.

d) Provide for the safeguarding of evidence.

e) Develop and implement standardized procedures and protocols for the conduct of investigations that are consistent with current, generally accepted professional standards of care. Such procedures and protocols shall require that:

i. Investigations commence within 24 hours or sooner, if necessary, of the incident being reported;

ii. Investigations be completed within 5 business days of the incident being reported;

iii. Each investigation shall result in a written report, including a summary of the investigation, findings and, as appropriate, recommendations for corrective action. The report's contents shall be sufficient to provide a clear basis

for its conclusion. The report shall set forth explicitly and separately:

a. Each allegation of wrongdoing investigated;

b. The name(s) of all witnesses;

c. The name(s) of all alleged victims and perpetrators;

d. The names of all persons interviewed during the investigation;

e. For each person interviewed, a report of the questions asked and answers given;

f. All documents reviewed during the investigation;

g. All sources of evidence considered, including previous investigations known to the SRCs, and their results, involving the alleged victim(s) and perpetrator(s);

h. The investigator's findings; and

i. The investigator's reasons for his/her conclusions.

3. The written report, together with any other relevant documentation, shall be reviewed by staff supervising investigations to ensure that the investigation is thorough and complete and that the report is accurate, complete and coherent. Any deficiencies or areas of further inquiry in the investigation and/or report shall be addressed promptly.

4. Whenever disciplinary or programmatic action is necessary to correct the situation and/or prevent reoccurrence, the SRCs shall implement such action promptly and thoroughly, and track and document such actions and the corresponding outcomes.

5. Records of the results of every investigation of abuse, neglect, and serious injury at each SRC shall be maintained in a manner that permits investigators and other appropriate personnel to easily access every investigation involving a particular staff member or individual.

6. Each SRC shall have a system to allow the tracking and trending of unusual incidents and investigation results. Trends shall be tracked by at least the following categories:

    a) Type of incident;

    b) Staff involved and staff present;

    c) Individuals directly and indirectly involved;

d) Location of incident;

e) Date and time of incident;

f) Cause(s) of incident; and

g) Outcome of investigation.

7. Before permitting a staff person to work directly with any individual, the SRCs shall investigate the criminal history and other relevant background factors of that staff person, whether full-time or part-time, temporary or permanent, or a person who volunteers on a regular basis. Facility staff shall directly supervise volunteers for whom an investigation has not been completed when they are working directly with individuals living at the facility. The facility shall ensure that nothing from that investigation indicates that the staff person or volunteer would pose a risk of harm to individuals at the SRC.

D. Quality Assurance

By three months from the effective date hereof, the SRCs shall begin to develop/revise, and implement quality assurance mechanisms that enable the SRCs to comply fully with this Iowa State Resource Center Plan; that timely and adequately detect problems with the provision of adequate protections, services and supports and ensure that appropriate corrective steps are implemented; and that are otherwise consistent with current, generally accepted professional standards of care. By two years from the effective date hereof, the SRCs shall fully implement a quality assurance system that:

1. Tracks data with sufficient particularity to identify trends across, among, within and/or regarding:

    a) Program Areas;

    b) Living units;

    c) Work shifts;

    d) Protections, supports and services;

    e) Areas of Care;

    f) Individual staff; and/or

    g) Individuals receiving services and supports.

2. Analyzes data regularly and, whenever appropriate, requires the development and implementation of corrective action plans to address problems identified through the quality assurance process. Such plans shall identify:

a) The actions that need to be taken to remedy and/or prevent the reoccurrence of problems;

b) The anticipated outcome of each action step; and

c) The person(s) responsible, and the time frame in which each action step must occur.

3. Disseminates corrective action plans to all entities responsible for their implementation, and:

a) Monitors and documents corrective action plans to ensure that they are implemented fully and in a timely manner, and that they have the desired outcome of remedying or reducing the problems originally identified; and

b) Modifies corrective action plans, as necessary, to ensure their effectiveness.

IV. Integrated Protections, Services, Treatments and Supports

The SRCs shall provide and implement an integrated Individual Support Plan (ISP) for each individual developed by an interdisciplinary team, that ensures that individualized protections, services, supports, and treatments are provided consistent with current, generally accepted professional standards of care.

A. Interdisciplinary Teams

By one year from the effective date hereof, the interdisciplinary team for each individual shall:

1. Provide services and supports that facilitate the individual's ability to exercise his/her choices and enhance his/her ability to develop independence and exercise self-determination.

2. Be facilitated by one person from the team who shall ensure that members of the team participate in assessing each individual, developing, monitoring and revising treatments, services, and supports.

3. Consist of the individual, the Qualified Mental Retardation Professional, other professionals dictated by the person's strengths, preferences, and needs, staff who regularly and directly provide services and supports to the person, and, as appropriate, the individual's family, guardian, advocates, attorneys, and other clinical staff.

4. Conduct comprehensive assessments, routinely and in response to significant changes in the individual's life, to determine the individual's strengths, preferences and needs, consistent with current, generally accepted professional standards of care.

5. Ensure assessment results are used to develop, implement, and revise as necessary, an ISP that outlines the protections, services and supports to be provided to the individual.

B. Integrated Support Plans

The SRCs shall:

1. By three months from the effective date hereof, begin to review, revise as appropriate, and implement policies and procedures that provide for the development of integrated individual support plans (ISPs) for each individual, consistent with current, generally accepted professional standards of care, with full implementation by twelve months from the effective date hereof.

2. By two years from the effective date hereof, an ISP shall be developed and implemented for each individual that:

    a) Identifies each individual's strengths, needs, preferences, and desires;

    b) Addresses, in a manner building on the individual's preferences and strengths, each individual's prioritized needs, provides an explanation for any need or barrier which is not addressed, identifies the supports that are needed, and encourages community participation;

    c) Specifies individualized, observable and/or measurable behavioral goals/objectives, the treatments or strategies to be employed, and the necessary supports to:

        i. attain identified outcomes related to each preference;

        ii. meet needs; or

        iii. overcome identified barriers to living in the most integrated setting appropriate to his/her needs;

    d) Integrates all protections, services and supports, treatment plans, clinical care plans, and other interventions provided for the individual;

    e) Identifies the methods for implementation, time frames for completion, and the person(s) responsible;

    f) Provides interventions, strategies, and supports that effectively address the individual's needs for services and supports and are practical and functional in the most integrated setting appropriate to meet the person's needs; and

    g) Identifies the data to be collected and/or documentation to be maintained and the frequency of data collection in order to permit the objective analysis of the

individual's progress, the person(s) responsible for the data collection, and the person(s) responsible for the data review.

3. By three months from the effective date hereof, begin to ensure goals, objectives, anticipated outcomes, services, supports and treatments are coordinated in the ISP, and by two years from the effective date hereof ensure such coordination within the ISP.

4. Commencing by three months from the effective date hereof, and with full implementation within two years from the effective date hereof, ensure that each ISP is accessible, comprehensible and appropriate for the capabilities of the staff responsible for implementing it.

5. Commencing by three months from the effective date hereof, and with full implementation within two years from the effective date hereof, ensure that, unless otherwise expressly indicated, at least monthly, and more often as the needs of the individual dictate, the responsible interdisciplinary team member(s) for each program or support included in the ISP, review(s) and analyze(s) the data and other information necessary to assess the progress and efficacy of current interventions. If there is a lack of expected progress and/or a significant change in the individual's status has occurred, the interdisciplinary team shall meet to determine if the ISP needs to be modified, and shall modify the ISP as appropriate.

6. Commencing by three months from the effective date hereof, and with full implementation within one year from the effective date hereof, ensure the ISP for school-age students is coordinated with the development of the Individualized Educational Programs (IEPs) to ensure they are consistent and/or compatible.

7. Upon completion of the revised policies and procedures, require all staff responsible for the development and implementation of individuals' ISPs to successfully complete related competency-based training. Training of existing staff shall be completed within 18 months hereof. Once this initial training is completed, the State shall require all staff successfully to complete related competency-based training commensurate with their duties upon their initial employment and on an ongoing, as-needed basis, with refresher training provided at least every 12 months thereafter. Such training shall include training on all policies and procedures and, for staff responsible for implementing ISPs, on the implementation of individuals' individualized plans.

8. By three months from the effective date hereof, each SRC shall designate one person who shall ensure that appropriate training and technical assistance is provided to teams responsible for the development and implementation of ISPs, and to provide quality assurance oversight for the revised individual planning process.

9. To the fullest extent as soon as possible, but no later than 24 months from the effective date hereof, ensure that interdisciplinary teams have a caseload permitting them to perform the steps set forth in Section B.

10. Commencing within six months from the effective date hereof with full implementation by 18 months from the effective date hereof, develop and implement quality assurance processes to ensure that the ISPs developed are consistent with current, generally accepted professional standards and are implemented in an appropriate and timely manner. Whenever problems are identified, develop and implement plans to remediate the problems.

V. General Clinical Care

A. Supervision and Management

The SRCs shall provide supervision and management of clinical services and shall implement an organizational structure to provide integrated clinical services (general medicine, psychology, psychiatry, nursing, dentistry, pharmacy, physical therapy, speech therapy, dietary and occupational therapy) consistent with current, generally accepted professional standards of care.

1. By six months from the effective date hereof, SRCs shall begin to implement a clinical services peer review system, which shall be implemented fully by two years from the effective date hereof.

2. By one year from the effective date hereof, the appropriate clinician shall review recommendations from non-SRC clinicians. The review and documentation shall include whether or not to adopt the recommendations and, if adopted, how to integrate the recommendation into the individual's overall health care plan.

B. Minimum Common Elements of Clinical Care

1. By six months from the effective date hereof, SRCs shall begin to provide preventive, routine, specialized and emergency clinical services consistent with current, generally accepted professional standards of care, with full implementation by two years from the effective date hereof. The SRCs shall require that:

   a) Individuals' needs shall be timely detected through assessments or evaluations that are performed on a regular basis and performed in response to developments or changes in an individual's status, consistent with current, generally accepted professional standards of care;

   b) Diagnoses shall be consistent with current, generally accepted professional standards of care;

   c) Treatments and interventions shall be consistent with current, generally accepted professional standards of care;

   d) Clinical indicators by which efficacy of treatments and interventions shall be measured shall be specified consistent with current, generally accepted professional standards of care;

e) A system shall be established and maintained to monitor the health status of individuals consistent with current, generally accepted professional standards of care; and

f) Treatments and interventions shall be modified in response to clinical indicators, consistent with current, generally accepted professional standards of care.

2. By six months from the effective date hereof, the SRCs shall begin to establish and implement integrated clinical services policies, procedures, and protocols consistent with current, generally accepted professional standards of care, with full implementation by two years from the effective date hereof.

C. At-Risk Individuals

The SRCs shall identify individuals whose health or well-being is at risk by implementing a risk screening, assessment and management system consistent with current, generally accepted professional standards of care. At a minimum this will include: use of an enteral tube; dysphagia; aspiration or aspiration pneumonia; upper airway obstruction; obesity or underweight status; unplanned weight change; epilepsy or seizures; gastroesophageal reflux disease; use of a colostomy or ileostomy; osteoporosis; multiple fractures; decubitus ulcers; injury to self or others from behavioral problems; multiple falls within a one-year period; tracheotomy; ventilator dependence; and/or any other acute or chronic condition that places an individual at health risk.

The SRCs shall also:

1. By one year from the effective date hereof, design and implement a risk assessment and management system, and establish criteria for identification of individuals at risk, consistent with current, generally accepted professional standards of care.

2. By one year from the effective date hereof, screen individuals on a regular basis, consistent with current, generally accepted professional standards of care to determine their at-risk status.

3. Perform an interdisciplinary assessment of services and supports after an individual is identified as at-risk and in response to changes in an at-risk individual's condition, as measured by established at-risk criteria. In each instance, the interdisciplinary team will start the assessment process as soon as possible but within five working days.

4. By one year from the effective date hereof, establish and implement within 30 days of the interdisciplinary assessment an individualized services and supports plan for each individual, as appropriate, to meet needs identified by the interdisciplinary assessment, including preventive interventions to minimize the condition of risk, except that the SRCs shall take more immediate action when

the risk to the individual warrants. Such plans shall be integrated into the ISP and shall include the clinical indicators to be monitored and the frequency of monitoring.

VI. Psychiatric Care and Services

By six months from the effective date hereof, SRCs shall begin to provide psychiatric services by a qualified professional consistent with current, generally accepted professional standards to individuals who require such services, with full implementation by two years from the effective date hereof.

1. By six months from the effective date hereof, the SRCs shall ensure that no individual shall receive psychotropic medication without having been evaluated and diagnosed consistent with current, generally accepted professional standards of care.

2. By six months from the effective date hereof, SRCs shall ensure that psychotropic medication plans developed and implemented by SRC staff are consistent with current, generally accepted professional standards of care. Psychotropic medications shall not be used as punishment; as a substitute for a treatment program; in the absence of a psychiatric diagnosis, neuropsychiatric diagnosis, or specific behavioral-pharmacological hypothesis; or for the convenience of staff.

3. Commencing within three months of the effective date hereof and fully implemented by eighteen months from the effective date hereof, SRCs shall ensure that:

    a) A nurse will observe for a minimum of 60 minutes following administration of a chemical restraint and will document the individual's response and notify a physician of adverse effects; and

    b) A physician, physician's assistant, nurse practitioner, or a Registered Nurse with training in the administration and assessment of chemical restraint shall conduct and document a face-to-face examination of an individual within 30 minutes after the individual is administered a chemical restraint. A physician shall conduct a face-to-face assessment within 24 hours. The psychiatrist shall assess the effects of the chemical restraint by reviewing the use of the chemical restraint on the psychiatrist's next working day.

    c) If pre-sedation is to be used for routine medical or dental care for an individual, that person's individual support plan shall include treatments or strategies to minimize or eliminate the need for pre-sedation, and the use of pre-sedation shall be appropriately coordinated with other medications, supports and services, and monitored and assessed, consistent with generally accepted professional standards of care.

4. By one month from the effective date hereof, each SRC shall employ a minimum of one full-time equivalent board certified or board eligible psychiatrist(s) to ensure the provision of services necessary for implementation of this section of the plan.

5. By six months from the effective date hereof, the SRCs shall begin to develop and implement protocols to reach a psychiatric diagnosis, consistent with current, generally accepted professional standards of care, with full implementation within one year from the effective date hereof.

6. By six months from the effective date hereof, the SRCs shall begin to develop and implement a protocol, consistent with current, generally accepted professional standards of care, to screen each individual upon admission for possible psychiatric disorders and ensure that identified individuals, including all individuals admitted with a psychiatric diagnosis or prescribed psychotropic medication, receive a comprehensive psychiatric assessment and evaluation according to the protocols above, with full implementation within one year from the effective date hereof.

7. By six months from the effective date hereof, the SRCs shall begin to develop and implement a protocol to screen each individual residing at each facility for possible psychiatric disorders and ensure that individuals with possible psychiatric disorders receive a comprehensive psychiatric assessment and evaluation according to the protocols above, and diagnoses are consistent with the current DSM or neuropsychiatric criteria, and/or a specific behavioral-pharmacological hypothesis with full implementation within one year from the effective date hereof.

8. By two years from the effective date hereof, the SRCs shall develop and implement a system to integrate pharmacological treatments with behavioral and other interventions through combined assessment and case formulation.

    a) Before a proposed behavior support plan is implemented, the interdisciplinary team, including the psychiatrist, shall determine the least intrusive and most positive interventions to treat the behavioral or psychiatric condition, and whether the individual will best be served primarily through behavioral, pharmacology, or other interventions, in combination or alone. Consideration should be given to the relative risk, contraindications, types of interventions and interaction effects. If it is concluded that the individual is best served through use of psychotropic medication, the ISP must also specify non-pharmacological treatment, interventions or supports to address signs and symptoms in order to minimize need for psychotropic medication to the degree possible.

    b) Before the non-emergency administration of psychotropic medication, the interdisciplinary team, including the psychiatrist, primary care physician and nurse, shall determine whether the harmful effects of the individual's mental illness outweigh the possible harmful effects of

psychotropic medication and whether reasonable alternative treatment strategies are likely to be less effective or potentially more dangerous than the medications.

c) When psychotropic medication is prescribed as part of an ISP, the psychiatrist shall ensure the treatment plan for the psychotropic medication includes:

i. a diagnosis consistent with current DSM, or neuropsychiatric criteria, and/or a specific behavioral-pharmacological hypothesis;

ii. the objective signs/symptoms which will be used to evaluate effectiveness of the medication and how these will be measured; and

iii. the expected time line for the therapeutic effects of the medication to occur.

9. By six months from the effective date hereof, the SRCs shall begin to ensure that the interdisciplinary team, including the psychiatrist, provides ongoing monitoring of the psychiatric treatment identified in the treatment plan as often as necessary, based on the individual's current status and/or changing needs, but no less often than quarterly, with full implementation within two years from the effective date hereof.

The monitoring shall consist of a mental status examination, including face-to-face assessment; an assessment of diagnostic criteria to ensure that medications are appropriate, prescribed at the lowest, most effective dose, and specifically matched to a clinically justifiable diagnosis; a review of behavior program data; a review of side effects of medication; a review of adverse drug reactions; a review of drug/drug interactions; a review of the general health status of the individual; an assessment of the psychotropic medication against identified signs/symptoms; and a reassessment of symptoms, diagnoses and treatment.

10. By one year from the effective date hereof, the SRCs shall develop and implement a facility-level review system to monitor as often as necessary, based on the individual's current status and/or changing needs, but at least monthly, the prescriptions of two or more psychotropic medications from the same general class (e.g., two antipsychotics, two antidepressants, two stimulants, etc.) to the same individual as well as the prescription of a total of three or more psychotropic medications to the same individual, and to ensure that the use of such medications is clinically justified, consistent with current, generally accepted professional standards of care.

11. By one year from the effective date hereof, the SRCs shall develop and implement a system consistent with current, generally accepted professional standards of care for monitoring, detecting, reporting and responding to side

effects of psychotropic medication as determined by the physician, based on the individual's current status and/or changing needs, but at least quarterly.

12. By one month from the effective date hereof, the SRCs shall obtain informed consent or proper legal authorization (except in the case of an emergency) from guardians and/or health care representatives, prior to administering psychotropic medications or other restrictive procedures.

VII. Psychological Care and Services

By six months from the effective date hereof, the SRCs shall begin to provide individualized services and comprehensive programs developed by qualified professionals consistent with current, generally accepted professional standards of care, to promote the growth, development and independence of all individuals, to minimize regression and loss of skills, and to ensure reasonable safety, security, and freedom from undue use of restraint, with full implementation by three years from the effective date hereof.

1. The SRCs shall maintain at each facility a qualified director of psychology who is responsible for maintaining a consistent level of psychological care throughout the facility.

2. By six months from the effective date hereof, SRCs shall begin to establish a psychology peer review system to review behavior support plans, with full implementation by two years from the effective date hereof.

3. Commencing within one month from the effective date hereof and with full implementation within twelve months from the effective date hereof, the SRCs shall develop and implement standard protocols for data collection, including methods to monitor and review the progress of each person in meeting the goals of the individual's behavior support plan.

    a) Data collected pursuant to these protocols shall include information about target and replacement behaviors and conditions under which they occur, including, where appropriate, the frequency, intensity and duration of behaviors.

    b) Data collected pursuant to these protocols shall be reviewed at least monthly by qualified professionals to assess progress and to modify behavior support programs where the individual has shown no measurable progress over a period of time.

    c) These protocols shall include methods for assessing the reliability of data collection and, as necessary, correcting data collection procedures.

4. By one month from the effective date hereof, the SRCs shall develop and implement standard psychological assessment protocols, consistent with current, generally accepted professional standards of care, that allow for the identification of:

   a) medical, psychiatric, environmental or other reasons for target behaviors; and

   b) other psychological needs that may require intervention, including but not limited to, physical or severe emotional abuse or Post Traumatic Stress Disorder.

5. By one year from the effective date hereof, the SRCs shall ensure that psychological assessments are based on current, accurate, and complete clinical and behavioral data.

6. By eighteen months from the effective date hereof or one month from the individual's admittance to an SRC, whichever date is later, and thereafter as often as needed, the SRCs shall complete a psychological assessment of each individual pursuant to the standard psychological assessment protocols established by the facilities.

7. By one month of the assessment required in VI.6, above, those individuals needing psychological services shall receive such treatment, consistent with current, generally accepted professional standards of care. Documentation shall be provided in such a way that progress can be measured to determine the efficacy of treatment.

8. By one month from the date of the individual's psychological assessment, the SRCs shall develop and implement an individual behavior support plan for each person who is exhibiting behaviors that constitute a risk to the health or safety of the individual or others or serve as a barrier to learning and independence and have been resistant to less formal interventions. The behavior support plan shall include:

   a) specification of behavior(s) for which the plan is being developed;

   b) procedures for measuring outcomes;

   c) relevant assessment information;

   d) relevant replacement behaviors that are consistent with the overall goals of the individual's program;

   e) a description of interventions to be used to reduce problem behavior and to strengthen alternative behavior;

   f) procedures to facilitate generalization and maintenance; and

g) information relevant to competency-based training and monitoring for staff implementing the plan.

Documentation regarding the plan's implementation shall be gathered and maintained in such a way that progress can be measured to determine the efficacy of treatment.

9. By six months from the effective date hereof, the SRCs shall begin to ensure that behavior support plans are written so that they can be understood and implemented by direct care staff, with full implementation within two years from the effective date hereof.

10. By six months from the effective date hereof, the SRCs shall begin to ensure that direct care staff successfully complete competency-based training on the overall purpose and objectives of the specific behavior support plans for which they are responsible and how to implement behavior support plan and training procedures, with full implementation within two years from the effective date hereof.

11. By six months from the effective date hereof, SRCs shall begin to revise and update each individual's behavior support plan whenever necessary, with full implementation within two years from the effective date hereof.

12. Beginning within six months from the effective date hereof, with full implementation within three years from the effective date hereof, the SRCs shall:

a) Maintain a 1:30 ratio of psychologists with specialized training in subjects such as applied behavior analysis and positive behavior supports to provide services for the general population. Specialized training may include coursework or training provided as part of employment; and

b) Maintain one (1) psychology assistant for every psychologist.

VIII. Medical Care

The SRCs shall ensure that the individuals they serve receive routine, preventive, and emergency medical and dental care consistent with current, generally accepted professional standards. The SRCs shall ensure that individuals with health problems are identified, assessed, diagnosed, and treated consistent with current, generally accepted professional standards of care.

1. The SRCs shall maintain a medical director responsible for medical care, consistent with current, generally accepted professional standards.

2. By two years from the effective date hereof, the SRCs shall establish and maintain a medical peer review system.

3. By three months from the effective date hereof, the SRCs shall begin to maintain a medical quality improvement process that collects data relating to the quality of

medical services; assesses these data for trends; initiates outcome-related inquiries; identifies and initiates corrective action; and monitors to ensure that remedies are achieved, with full implementation within two years from the effective date hereof.

4. By three months from the effective date hereof, the SRCs shall maintain a system to track and address errors in the administration of medication.

5. By three months from the effective date hereof, the SRCs shall establish those policies and procedures that ensure provision of medical care consistent with current, generally accepted medical standards.

IX. Neurological Care

The SRCs shall ensure that individuals with a neurological diagnosis are treated and monitored by a neurologist consistent with current, generally accepted standards of care.

1. By three months from the effective date hereof, the SRCs shall ensure that each individual admitted with a neurological diagnosis is evaluated by a neurologist within thirty (30) days.

2. By three months from the effective date hereof, the SRCs shall ensure that standard seizure management plans are developed and implemented consistent with current, generally accepted professional standards of care.

3. By three months from the effective date hereof, the SRCs shall ensure that a neurologist evaluates each individual having a seizure disorder diagnosis at least annually and more frequently as necessary.

4. By three months from the effective date hereof, the SRCs shall ensure that those individuals having seizures significantly refractory in terms of each individual circumstance receive neurological intervention consistent with current, generally accepted professional standards of care.

5. By three months from the effective date hereof, the SRCs shall ensure that each person receiving anticonvulsant medications is monitored for side effects consistent with current, generally accepted professional standards of care.

6. By three months from the effective date hereof, the SRCs shall minimize the use of older anticonvulsant medications with greater side effects in favor of those with fewer side effects consistent with each individual's circumstances.

7. By three months from the effective date hereof, the SRCs shall ensure that each person who has remained seizure free for more than two years is evaluated by a neurologist to determine the continued appropriateness of any anticonvulsant medication treatments that person is receiving.

8. By three months from the effective date hereof, the SRCs shall ensure that the neurologist and psychiatrist coordinate the use of medications, through the interdisciplinary team process, when they are prescribed for both seizures and a mental health disorder.

X. Nursing Care

The SRCs shall ensure that individuals receive nursing care consistent with current, generally accepted professional standards of care. Nurses shall document nursing assessments, identify health care problems, notify physicians of health care problems, monitor, intervene, and keep appropriate records of the individuals' health care status. The SRCs shall:

1. By one year from the effective date hereof, in addition to the ISP reviews, update nursing assessments of the nursing care needs of each individual on a quarterly basis and more often as needed.

2. By six months from the effective date hereof, begin to update nursing diagnoses and nursing care plans to address each individual's health care needs on a quarterly basis or more often and as needed, with full implementation within two years from the effective date hereof. Plans shall be integrated into individuals' ISPs.

3. By six months from the effective date hereof, begin to establish nursing assessment and reporting protocols for medical conditions consistent with current, generally accepted professional standards of care, with full implementation within one year from the effective date hereof.

4. By six months from the effective date hereof, begin to develop and implement a system of recording clinical indicators of risk consistent with current, generally accepted professional standards of care, with full implementation within one year from the effective date hereof. Plans and progress shall be discussed with the interdisciplinary team at regularly scheduled integrated reviews.

5. By three months from the effective date hereof, begin to implement a system consistent with current, generally accepted professional standards of care, to monitor and document the progress of individuals on a regular basis, and modify nursing interventions, as appropriate, with full implementation within two years from the effective date hereof.

6. By three months from the effective date hereof, begin to implement procedures for the administration of medications in a manner consistent with current, generally accepted nursing standards of care and provide the necessary supervision and training to minimize medication errors, with full implementation within one year from the effective date hereof.

XI. Physical and Nutritional Management

A. Minimum Common Elements of Physical and Nutritional Management

The SRCs shall provide each individual with physical and nutritional management care consistent with current, generally accepted professional standards of care. By three years from the effective date hereof, the SRCs shall maintain at each facility an interdisciplinary physical and nutritional management team to address individuals' physical and nutritional management needs. The physical and nutritional management team should consist of a registered nurse, physical therapist, occupational therapist, dietician, speech pathologist, and, as needed, a medical doctor. All members of the team should have specialized training or experience demonstrating competence in working with individuals with complex physical and nutritional management needs. The SRCs shall identify each individual who has a physical or nutritional management problem and provide such individuals with appropriate interventions and supports. The SRCs shall:

1. Ensure that, beginning six months from the effective date hereof, and with full implementation within three years from the effective date hereof, the interdisciplinary physical and nutritional management team shall assess each individual having physical and nutritional management problems to identify the causes of such problems.

2. By six months from the effective date hereof, begin to maintain and implement adequate mealtime, oral hygiene, and oral medication administration plans ("mealtime and positioning plans") for individuals who cannot feed themselves, require positioning assistance associated with swallowing activities, have difficulty swallowing, or who are at risk of choking and/or aspiration (collectively, individuals having "physical or nutritional management problems"), which plans shall address feeding and mealtime techniques, and positioning of the individual during mealtimes and other activities that are likely to provoke swallowing difficulties, with full implementation within three years from the effective date hereof.

3. By three months from the effective date hereof, ensure staff engage in mealtime practices that do not pose an undue risk of harm to any individual. Individuals shall be in proper alignment during and after meals or tube feedings, with full implementation within six months from the effective date hereof.

4. By six months from the effective date hereof, begin to develop and implement positioning plans for each non-ambulatory individual with physical or nutritional management problems, with full implementation within three years from the effective date hereof.

5. By six months from the effective date hereof, begin to ensure that staff responsible for individuals with physical or nutritional management problems have successfully completed competency-based training in how to implement the

mealtime and positioning plans that they are responsible for implementing, with full implementation within three years from the effective date hereof.

6. By six months from the effective date hereof, begin to monitor the implementation of mealtime and positioning plans to ensure that the staff demonstrates competence in safely and appropriately implementing such plans, with full implementation within three years from the effective date hereof.

7. By six months from the effective date hereof, begin to develop and implement a system to monitor the progress of individuals with physical or nutritional management difficulties, and revise interventions as appropriate, with full implementation within three years from the effective date hereof.

8. By six months from the effective date hereof, evaluate each individual fed by a tube to ensure that the continued use of the tube is medically necessary. Where appropriate, implement a plan to return the person to oral feeding.

B. Physical and Occupational Therapy

The SRCs shall provide individuals in need of physical therapy and occupational therapy with services that are consistent with current, generally accepted professional standards of care to enhance their functional abilities. The SRCs shall:

1. By eighteen months from the effective date hereof, conduct occupational and physical therapy screenings of all individuals residing at each facility. Ensure that individuals identified with therapy needs, including functional mobility, receive a comprehensive assessment consistent with current, generally accepted professional standards of care. By six months from the effective date hereof, the SRCs shall begin to implement the following with full implementation by three years from the effective date hereof:

   a) Comprehensive occupational therapy assessments, as needed, that shall consider significant medical issues and health risk indicators, in accordance with generally accepted standards of practice, including but not limited to scoliosis and/or deformities; posture; upper extremity function, including muscle tone and range of motion; transfer status; and positioning options;

   b) Comprehensive physical therapy assessments, as needed, that shall consider: significant medical issues and health risk indicators in accordance with generally accepted standards of practice, including but not limited to scoliosis and/or deformities; lower extremity function, including muscle tone, range of motion and trunk control; and

   c) Wheeled mobility assessments, as needed, that shall incorporate the components of occupational and physical therapy screenings and shall involve interdisciplinary team members. The assessments shall ensure that the wheelchair and positioning are promoting appropriate body

alignment and functional health status, as determined by applicable factors including but not limited to respiration rates; lung sounds; trunk flexibility; trunk balance; and skin integrity.

The assessments shall ensure that, for individuals with physical or nutritional management problems, the wheelchair and positioning seek to mitigate the occurrence of aspiration and positioning is integrated into the daily, 24-hour schedule.

2. By three years from the effective date hereof, SRCs shall develop and implement, as part of the ISP, occupational, physical therapy, and nutritional management plans consistent with current, generally accepted professional standards of care. The plans shall address:

   a) Individualized interventions;

   b) Objective, measurable outcomes;

   c) Positioning devices and/or other adaptive equipment; and

   d) For individuals who have regressed, interventions to minimize further regression.

3. By three years from the effective date hereof, ensure that staff responsible for implementing occupational and physical therapy plans of care, and physical and nutritional management plans of care, have successfully completed competency-based training in implementing such plans of care.

4. By three years from the effective date hereof, SRCs shall develop and implement a system to monitor and address:

   a) The status of individuals in need of occupational and physical therapy;

   b) The condition, availability and appropriateness of physical supports and adaptive equipment; and

   c) The treatment interventions that address the occupational therapy, physical therapy, and physical and nutritional management needs of each individual.

XII. Communication

The SRCs shall provide adequate and timely speech and communication therapy services, consistent with current, generally accepted professional standards of care, to individuals who require such services. The SRC shall:

1. By eighteen months from the effective date hereof, provide a speech language pathologist, with specialized training or experience demonstrating competence in

subjects related to augmentative and alternative communication, to conduct assessments, develop and implement programs, provide staff training, and monitor the implementation of programs.

2. By six months from the effective date hereof, begin to develop and implement a screening and assessment process designed to identify individuals who would benefit from the use of alternative and/or augmentative communication systems, with full implementation within three years from the effective date hereof.

3. By six months from the effective date hereof, begin to ensure that the communication plans of individuals who would benefit from alternative and/or augmentative communication systems address their communication needs in a manner that is functional and adaptable to a variety of settings, with full implementation within three years from the effective date hereof. Plans shall be reviewed and revised, as needed, but at least annually.

XIII. Habilitation, Training, Education & Skill Acquisition Programs

The SRCs shall provide individuals with adequate habilitation, including but not limited to individualized training, education, and skill acquisition programs developed and implemented by interdisciplinary teams to promote the growth, development and independence of all individuals, to minimize regression and loss of skills, and to ensure reasonable safety, security, and freedom from undue use of restraint.

The SRCs shall:

1. By two years from the effective date hereof, conduct annual assessments, with quarterly reviews, of individuals' preferences, strengths, skills, needs, and barriers to community integration, in the areas of living, working and engaging in leisure activities.

2. By three years from the effective date hereof, use the information gained from the assessment and review process to develop, integrate, and revise programs of training, education, and skill acquisition to address each individual's needs. Such programs shall:

    a) Be current, individualized, and integrated with other supports and services;

    b) Incorporate the person's preferences and strengths;

    c) Specify individualized, observable and/or measurable goals/objectives, the strategies to be employed, and the necessary supports to attain identified outcomes, in sufficient detail to enable staff to appropriately implement the programs.

    d) Include interventions, strategies and supports that effectively address the individual's needs for services and supports and that are practical and

functional in the most integrated setting consistent with the individual's needs.

e) Include to the degree possible training opportunities in community settings; and

f) Identify the data to be collected and/or documentation to be maintained, the frequency of data collection, in order to permit the objective analysis of the individual's progress, the person(s) responsible for the data collection, and the person(s) responsible for the data review.

3. By three years from the effective date hereof, ensure that all direct care staff have successfully completed competency-based training on the implementation of habilitation programs, including but not limited to training, education and skill acquisition programs.

4. Ensure that, unless otherwise expressly indicated, at least monthly, and more often as the needs of the individual dictate, the responsible interdisciplinary team member(s) for each program or support included in the ISP, review(s) and analyze(s) the data and other information necessary to assess the progress and efficacy of current interventions; and if:

   a) there is a lack of expected progress; and/or

   b) significant change in the individual's status has occurred, then the interdisciplinary team shall meet to determine if the ISP needs to be modified, and shall modify the ISP as appropriate.

5. By three months from the effective date hereof, begin to develop and implement quality assurance processes to ensure that the habilitation, training, education and skill acquisition programs developed are consistent with current, generally accepted professional standards and are implemented in an appropriate and timely manner. Whenever problems are identified, develop and implement plans to remediate the problems, with full implementation within two years from the effective date hereof.

XIV. Serving Institutionalized Persons in the Most Integrated Setting Appropriate to Their Needs

A. Planning for Movement, Transition, and Discharge

The SRCs shall take action to encourage and assist people to move to the most integrated settings consistent with the determinations of professionals that community placement is appropriate, that the transfer is not opposed by the individual, that the transfer is consistent with the individual's ISP, and the placement can be reasonably accommodated, taking into account the statutory authority of the State, the resources available to the State, and the needs of others with mental disabilities.

The SRCs shall provide adequate assessments, transition planning and discharge procedures for individuals who live at SRCs. The SRCs shall:

1. By one year from the effective date hereof, review, revise, as appropriate, and implement policies, procedures and practices related to transition and discharge processes. Such policies, procedures and practices shall require that:

    a) The ISP team will identify the major barriers to the individual's movement to the most integrated setting appropriate to the individual's needs at least annually, and more frequently as appropriate, and shall identify, implement and document strategies to overcome such barriers. If changes in the identified barriers are noted, the ISP team shall revise its strategies for overcoming the barriers, as appropriate. The ISP team also will identify and attempt to resolve, on a timely basis, outstanding concerns of the individual, or the individual's guardian or legal representative, regarding discharge and transition.

    b) The ISP team will identify in each individual's ISP the protections, services and supports that need to be provided to ensure safety and the provision of adequate habilitation in the most integrated appropriate setting based on the individual's needs.

    c) When the most integrated setting is identified to appropriately meet an individual's needs and the individual is accepted for and agrees to service in that setting, then the Team shall develop and implement a transition plan in a timely manner. Such a plan shall:

        i. Specify the actions that need to be taken by the SRC, including informing the county or, as appropriate, Department of Human Services staff, of the proposal for the individual to move, requesting assistance in implementing the transition plan, and coordinating the transition plan with provider staff.

        ii. Specify the SRC positions responsible for these actions, and the time frames in which such actions are to be completed; and

        iii. The SRCs shall invite and encourage the active participation of the county case manager as a member of the individual's ISP team

2. By 18 months from the effective date hereof, ensure that staff responsible for the development and implementation of the individual's ISP shall successfully complete related competency-based training upon employment, and refresher training at least every twelve months thereafter. Such training shall address all policies and procedures on the development and implementation of ISPs, as well as, as appropriate, implementation of the individual's specific plans.

3. By one year from the effective date hereof, when the individual is accepted for and agrees to service in a new setting, promptly review the comprehensive assessment, transition plan and proposed supports with the individual and, as

appropriate, the guardian or legal representative to facilitate their decision-making regarding the new setting.

4. By one year from the effective date hereof, ensure that each individual leaving an SRC to live in a community setting shall have a current comprehensive assessment of needs and supports completed or updated within 30 days prior to the individual's leaving.

5. Ensure that the supports identified in the comprehensive assessment that are determined through professional judgment to be essential to the person's health and safety shall be in place at the transitioning person's new home before the person's departure from the SRC. The absence of those supports identified as non-essential to health and safety shall not be a barrier to transition.

6. Develop and implement quality assurance processes to ensure that the transition plans developed are consistent with generally accepted professional standards of care and are implemented. Whenever problems are identified, develop and implement plans to remedy the problems.

7. Develop and implement a system to collect, aggregate, and analyze data related to the identified barriers. On an annual basis, use such information to produce a comprehensive assessment of barriers and provide this information to the Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission and other appropriate agencies. If this information indicates action that the State can take to overcome barriers, taking into account the statutory authority of the State, the resources available to the State, and the needs of others with mental disabilities, a plan will be developed by the State and appropriate steps taken.

B. For Serving Persons Who Have Moved From the Resource Centers to More Integrated Settings Appropriate to Their Needs

Within 60 days of the individual's placement or within 60 days of the comprehensive assessment that follows placement, the supports called for in the individual's latest comprehensive assessment will be in place and if not yet in place, a specific plan to provide the outstanding supports will be fully implemented within 90 days. The State also shall provide adequate oversight and monitoring mechanisms to ensure that community placement settings are safe and appropriate and that services and supports identified through comprehensive assessments are provided for individuals leaving the SRCs' intermediate care facility for persons with mental retardation program.

XV. Recordkeeping and General Plan Implementation

By one month from the effective date hereof, the SRCs shall begin to establish and maintain a unified record for each individual consistent with current, generally accepted professional standards, with full implementation within three years from the effective date hereof.

1. By two years from the effective date hereof, the SRCs shall review and revise, as appropriate, all policies, protocols and procedures as necessary to implement this plan.

2. By three months from the effective date hereof, the SRCs shall begin to implement additional quality assurance procedures to ensure a unified record for each person consistent with current, generally accepted professional standards, with full implementation within three years from the effective date hereof.

    a) The quality assurance procedures shall include random review of the unified record of at least 15 individuals every month; and

    b) The SRCs shall monitor all deficiencies identified in each review to ensure that adequate corrective action is taken to limit possible reoccurrence.

3. By three months from the effective date hereof, the SRCs shall routinely utilize such records in making care, medical treatment and training decisions, with full implementation within three years from the effective date hereof.

4. Unless otherwise specified herein, each provision of this Plan shall be implemented by no later than three years from the effective date hereof.

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