

**COMMENT DUE DATE: February 3, 2023**

**Date: January 3, 2023**

**Darrin Thompson, Developmental Disabilities Services**

**405-301-2895**

**Holli Kyker, Programs Administrator**

**405-982-2217**

**Brandi Smith, Policy Specialist**

**405-693-6542**

It is important that you provide your comments regarding the **draft copy** of policy by the comment due date. Comments are directed to \*STO.LegalServices.Policy@okdhs.org. The proposed policy is **PERMANENT**.

**SUBJECT:**

**CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES**

Subchapter 1. General Provisions

340:100-1-1 [REVOKED]

340:100-1-3 [REVOKED]

Subchapter 3. Administration

Part 1. General Administration

340:100-3-2 [REVOKED]

340:100-3-3 [REVOKED]

340:100-3-5.2 [AMENDED]

340:100-3-9 [REVOKED]

Part 3. Administration

340:100-3-27 [AMENDED]

340:100-3-27.4 [REVOKED]

340:100-3-28 [REVOKED]

340:100-3-30 [REVOKED]

340:100-3-36 [REVOKED]

340:100-3-38.14 [NEW]

340:100-3-39 [AMENDED]

340:100-3-40 [AMENDED]

Subchapter 5. Client Services

Part 3. Service Provisions

340:100-5-22.1 [AMENDED]

340:100-5-22.6 [AMENDED]

340:100-5-26.1 [AMENDED]

340:100-5-29 [AMENDED]

340:100-5-35.1 [AMENDED]

Subchapter 6. Group Home Regulations

Part 3. Standards

340:100-6-10 [AMENDED]

340:100-6-11 [REVOKED]

340:100-6-12 [REVOKED]

340:100-6-13 [AMENDED]

340:100-6-14 [REVOKED]

340:100-6-20 [REVOKED]  
340:100-6-21 [REVOKED]  
Part 5. Physical Plant Requirements  
340:100-6-30 [AMENDED]  
Part 7. Environmental Health, Safety, and Sanitation Requirements  
340:100-6-41 [REVOKED]  
340:100-6-44 [REVOKED]  
Part 19. Involuntary Transfer or Discharge of Service Recipient  
340:100-6-85 [AMENDED]  
340:100-6-86 [REVOKED]  
340:100-6-88 [REVOKED]  
Part 21. Resident Rights and Responsibilities  
340:100-6-95 [AMENDED]  
340:100-6-97 [REVOKED]  
Subchapter 15. Developmental Disabilities Services (DDS) Preadmission Screening  
and Resident Review (PASRR)  
340:100-15-1 [AMENDED]  
340:100-15-2 through 340:100-15-10 [REVOKED]  
**(Reference WF 23-100)**

**SUMMARY:**

The proposed amendments: (1) position Oklahoma Human Services (OKDHS) DDS to improve services to individuals with intellectual and developmental disabilities; (2) support DDS goals of improving the quality of life of vulnerable Oklahomans by increasing individuals' abilities to lead safer, healthier, and more independent, productive lives; and (3) comply with federal requirements and the Governor's executive order to reduce unnecessary rules.

**Permanent rulemaking approval is requested**

**LEGAL AUTHORITY:**

Director of Human Services; 56 O.S. §§ 162 and 1025 et seq., and the 21st Century Cares Act.



## Rule Impact Statement

**To:** Programs Administrator  
Legal Services Policy

**From:** Beth Scrutchins, Director  
Developmental Disabilities Services (DDS)

**Date:** June 1, 2022

**Re: CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES**

Subchapter 1. General Provisions

340:100-1-1 [REVOKED]

340:100-1-3 [REVOKED]

Subchapter 3. Administration

Part 1. General Administration

340:100-3-2 [REVOKED]

340:100-3-3 [REVOKED]

340:100-3-5.2 [AMENDED]

340:100-3-9 [REVOKED]

Part 3. Administration

340:100-3-27 [AMENDED]

340:100-3-27.4 [REVOKED]

340:100-3-28 [REVOKED]

340:100-3-30 [REVOKED]

340:100-3-36 [REVOKED]

340:100-3-38.14 [NEW]

340:100-3-39 [AMENDED]

340:100-3-40 [AMENDED]

Subchapter 5. Client Services

Part 3. Service Provisions

340:100-5-22.1 [AMENDED]

340:100-5-22.6 [AMENDED]

340:100-5-26.1 [AMENDED]

340:100-5-29 [AMENDED]

340:100-5-35.1 [AMENDED]

Subchapter 6. Group Home Regulations

Part 3. Standards

340:100-6-10 [AMENDED]  
340:100-6-11 [REVOKED]  
340:100-6-12 [REVOKED]  
340:100-6-13 [AMENDED]  
340:100-6-14 [REVOKED]  
340:100-6-20 [REVOKED]  
340:100-6-21 [REVOKED]  
Part 5. Physical Plant Requirements  
340:100-6-30 [AMENDED]  
Part 7. Environmental Health, Safety, and Sanitation Requirements  
340:100-6-41 [REVOKED]  
340:100-6-44 [REVOKED]  
Part 19. Involuntary Transfer or Discharge of Service Recipient  
340:100-6-85 [AMENDED]  
340:100-6-86 [REVOKED]  
340:100-6-88 [REVOKED]  
Part 21. Resident Rights and Responsibilities  
340:100-6-95 [AMENDED]  
340:100-6-97 [REVOKED]  
Subchapter 15. Developmental Disabilities Services (DDS) Preadmission  
Screening and Resident Review (PASRR)  
340:100-15-1 [AMENDED]  
340:100-15-2 through 340:100-15-10 [REVOKED]  
**(Reference WF 23-100)**

**Contact:** Darrin Thompson 405-301-2895

**A. Brief description of the purpose of the proposed rule:**

**Purpose.**

The proposed amendments to Chapter 100, Subchapters 1, 3, 5, 6, and 15 amend rules to implement changes recommended during the annual Developmental Disabilities Services (DDS) rule review process.

**Strategic Plan Impact.**

The proposed amendments: (1) position Oklahoma Human Services (OKDHS) DDS to improve services to individuals with intellectual and developmental disabilities; (2) support DDS goals of improving the quality of life of vulnerable Oklahomans by increasing individuals' abilities to lead safer, healthier, and more independent, productive lives; and (3) comply with federal requirements and the Governor's executive order to reduce unnecessary rules.

**Substantive changes.**

Subchapter 1. General Provisions

Oklahoma Administrative Code (OAC) 340:100-1-1 and 340:100-1-3 are revoked because the rules are no longer applicable. The revocation aligns with the Governor's executive order to reduce unnecessary rules.

### Subchapter 3. Administration

#### Part 1. General Administration

OAC 340:100-3-2 is revoked and combined with OAC 340:100-3-40. The revocation aligns with the Governor's executive order to reduce unnecessary rules.

OAC 340:100-3-3 is revoked because it is duplicated in OAC 340:100-5-26. The revocation aligns with the Governor's executive order to reduce unnecessary rules.

OAC 340:100-3-5.2 is amended to: (1) update terminology; and (2) replace the identified rate with a statement indicating the rate will be defined in OKDHS Appendix D-26, Developmental Disabilities Services Rates Schedule.

OAC 340:100-3-9 is revoked because it is no longer relevant. The revocation aligns with the Governor's executive order to reduce unnecessary rules.

OAC 340:100-3-27 is amended to: (1) combine with OAC 340:100-27.4; (2) update terminology; (3) add virtual monitoring by case managers; and (4) reflect current practices with the OKDHS Request for Proposal process.

OAC 340:100-3-27.4 is revoked and combined with OAC 340:100-3-27. The revocation aligns with the Governor's executive order to reduce unnecessary rules.

OAC 340:100-3-28 is revoked because the authority lies with OAC 340:100-35. The revocation aligns with the Governor's executive order to reduce unnecessary rules.

OAC 340:100-3-30 is revoked because the authority lies with OAC 340:100-36. The revocation aligns with the Governor's executive order to reduce unnecessary rules.

OAC 340:100-3-36 is revoked because it is no longer applicable. The revocation aligns with the Governor's executive order to reduce unnecessary rules.

OAC 340:100-3-38.14 is created to identify training requirements for staff, volunteers, and direct supervisors providing either full- or part-time direct supports for a service recipient receiving extensive residential supports per OAC 317:40-5-154.

OAC 340:100-3-39 is amended to add the ability to accept National Fingerprint Based Background Check through the FBI for out-of-state remote support providers in place of an Oklahoma State Bureau of Investigation check.

OAC 340:100-3-40 is amended to: (1) update terminology; (2) add rules regarding access to electronic records by providers, families, and service recipients and use of electronic signatures; and (3) combine it with OAC 340:100-3-2 in alignment with the Governor's executive order to reduce unnecessary rules.

### Subchapter 5. Client Services

#### Part 3. Service Provisions

OAC 340:100-5-22.1 is amended to add Extensive Residential Supports per OAC 317:40-5-154.

OAC 340:100-5-22.6 is amended to add a provision for respite to be provided in an alternative group home.

OAC 340:100-5-26.1 is amended to: (1) update terminology regarding who prescribes medication; (2) add that behavioral symptoms being treated by psychotropic medication prescribed on a routine or as needed basis must be included in the Protective Intervention Protocol (PIP); (3) clarify the definition of p.r.n. psychotropic medication to be anytime medication is prescribed on a p.r.n. basis to achieve a desired behavioral outcome; (4) add "specific" to describe protocol

requirements for use of p.r.n. medication for behavioral control; and (5) update language for protective intervention protocol.

OAC 340:100-5-29 is amended to: (1) clarify that monitoring is specific for tardive dyskinesia (TD) rather than just dyskinesia; (2) update terminology and language; (3) remove names of specific medications associated with a risk of TD; (4) add that the assessment for TD can be performed by the prescribing healthcare provider and placed in service recipient's record; and (5) remove statement requiring physician to notify service recipient, parent, or guardian of TD diagnosis since team already notifies of diagnosis in 340:100-5-29 (a) (3).

OAC 340:100-5-35.1 is amended to remove language that limits the service to adults.

#### Subchapter 6. Group Home Regulations.

##### Part 3. Standards

OAC 340:100-6-10 is amended to: (1) update terminology; and (2) combine with 340:100-6-11, 340:100-6-12, 340:100-6-20, and 340:100-6-21 in alignment with the Governor's executive order to reduce unnecessary rules.

OAC 340:100-6-11 and 340:100-6-12 are revoked and combined with 340:100-6-10 in alignment with the Governor's executive order to reduce unnecessary rules.

OAC 340:100-6-13 is amended and combined with 340:100-6-14 in alignment with the Governor's executive order to reduce unnecessary rules.

OAC 340:100-6-14 is revoked and combined with 340:100-6-13 in alignment with the Governor's executive order to reduce unnecessary rules.

OAC 340:100-6-20 and 340:100-6-21 are revoked and combined with 340:100-6-10 in alignment with the Governor's executive order to reduce unnecessary rules.

##### Part 5. Physical Plant Requirements

OAC 340:100-6-30 is amended and combined with 340:100-6-44 in alignment with the Governor's executive order to reduce unnecessary rules.

##### Part 7. Environmental Health, Safety, and Sanitation Requirements

OAC 340:100-6-41 is revoked and combined with 340:100-6-95 in alignment with the Governor's executive order to reduce unnecessary rules.

OAC 340:100-6-44 is revoked and combine with 340:100-6-30 in alignment with the Governor's executive order to reduce unnecessary rules.

##### Part. 19. Involuntary Transfer or Discharge of Service Recipient

OAC 340:100-6-85 is amended and combined with 340:100-6-86, 340:100-6-88 and 340:100-6-97 in alignment with the Governor's executive order to reduce unnecessary rules.

OAC 340:100-6-86 and 340:100-6-88 are revoked and combined with 340:100-6-85, in alignment with the Governor's executive order to reduce unnecessary rules.

##### Part 21. Residential Rights and Responsibilities

OAC 340:100-6-95 is amended and combined with 340:100-6-41 in alignment with the Governor's executive order to reduce unnecessary rules.

OAC 340:100-6-97 is revoked and combined with 340:100-6-85, in alignment with the Governor's executive order to reduce unnecessary rules.

#### Subchapter 15. Developmental Disabilities Services (DDS) Preadmission Screening and Resident Review (PASRR)

OAC 340:100-15-1 is amended and combined with 340:100-15-2, 340:100-15-3, 340:100-15-4, 340:100-15-5, 340:100-15-6, 340:100-15-8, 340:100-15-9, and 340:100-15-10 in alignment with the Governor's executive order to reduce unnecessary rules.

OAC 340:100-15-2, 340:100-15-3, 340:100-15-4, 340:100-15-5, 340:100-15-6, 340:100-15-8, 340:100-15-9, and 340:100-15-10 are revoked and combined with 340:100-15-1 in alignment with the Governor's executive order to reduce unnecessary rules.

**Reasons.**

The proposed amendments update and clarify DDS rules, per Section 1020 of Title 56 of the Oklahoma Statutes (56 O.S. § 1020).

**Repercussions.**

The proposed amendments contribute to the health and safety of vulnerable Oklahomans and position Oklahoma to continue to improve service provision.

**Legal authority.**

Director of Human Services; 56 O.S. §§ 162 and 1025 et seq., and the 21st Century Cares Act.

**Permanent rulemaking approval is requested.**

**B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the Agency from any private or public entities:** The classes of persons affected by the proposed amendments are individuals receiving DDS services, who bear no costs associated with the implementation of the rules.

**C. A description of the classes of persons who will benefit from the proposed rule:** The classes of persons who benefit are individuals receiving DDS services.

**D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:** There is no economic impact on individuals who receive DDS services.

**E. The probable costs and benefits to the Agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the Agency:** The probable total costs related to these rule changes, as determined below, is \$361,140.00, which includes federal and state funds.

OAC 340:100-3-5.2. Guardianship Voucher Program.

Increase the reimbursement rate for legal services to establish a guardianship - Increase rate from \$700 TO \$1,550 and volume by 50%: The expected annual costs will be \$35,000.00.

OAC 340:100-5-22.6. Alternative group home.

Add respite in an Alternative Group Home: The expected annual costs will be \$319,740.00.

OAC 340:100-5-35.1. Habilitation training specialist (HTS) services in acute care hospitals.

Expand use of HTS in an acute care facility to include children: The expected annual costs will be \$6400.00.

**F. A determination whether implementation of the proposed rule will have an impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:** The proposed amendments do not have an impact on any political subdivisions or require their cooperation in enforcing the rules.

**G. A determination whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:** The proposed amendments do not have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.

**H. An explanation of the measures the Agency has taken to minimize compliance costs and a determination whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:** The proposed amendments do not increase compliance costs. There are no less costly, non-regulatory, or less intrusive methods.

**I. A determination of the effect of the proposed rule on the public health, safety, and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety, and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:** The proposed amendments bring the rules into compliance with federal and state law, thereby increasing program effectiveness and positively impacting the health, safety, and well-being of affected individuals.

**J. A determination of any detrimental effect on the public health, safety, and environment if the proposed rule is not implemented:** If the proposed amendments are not implemented, the rules will not comply with federal regulations and state laws.

**K. The date the rule impact statement was prepared and, if modified, the date modified:** Prepared June 1, 2022; **modified** December 15, 2022



## SUBCHAPTER 1. GENERAL PROVISIONS

### **340:100-1-1. Purpose [REVOKED]**

~~Issued 10-11-1993~~

~~The purpose of this Chapter is to describe the rules governing the Department's services to individuals who have mental retardation or developmental disabilities.~~

### **340:100-1-3. Legal base [REVOKED]**

~~Issued 10-11-1993~~

~~(a) An Act of the Twenty-Ninth Session of the Oklahoma Legislature, House Bill 789, effective July 1, 1963, transferred administration of the three State Institutions for the Mentally Retarded (the Northern Oklahoma Resource Center of Enid, the Southern Oklahoma Resource Center of Pauls Valley, and the Hissom Memorial Center at Sand Springs) from the Mental Health Board, Department of Mental Health and Mental Retardation, to the Oklahoma Commission for Human Services.~~

~~(b) In prescribing the duties of the Oklahoma Commission for Human Services, the Constitution of the State of Oklahoma, Article XXV, Section 4, includes the following: The Commission shall formulate the policies, and adopt rules and regulations for the effective administration of the duties of the Department.~~

~~(c) In relation to the rule-making authority of the Commission, House Bill 789, now codified at 10 O.S.A., Section 1406 et. seq., included in regard to programs and institutions for the mentally retarded the following:~~

#### ~~(1) Section 305.~~

~~(A) The Commission is authorized and directed to promulgate and adopt all rules and regulations necessary to carry out the provisions of this Act.~~

~~(B) The Commission shall establish and maintain such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis) as are necessary for the proper and efficient administration of the programs and institutions named in Section 1 of the Act; shall maintain records and prepare reports; shall prescribe a uniform accounting system; and shall exercise any other powers necessary to carry out the provisions of this Act.~~

~~(2) Section 310. Release of a pupil from any of the institutions named in Section 1 of Act shall be made subject to such circumstances and conditions as may be prescribed by the Commission relating to release.~~

## SUBCHAPTER 3. ADMINISTRATION

### PART 1. GENERAL ADMINISTRATION

### **340:100-3-2. Client records, confidentiality, and security [REVOKED]**

~~Revised 9-15-21~~

~~DDS case managers maintain an official electronic service-recipient record for each service recipient receiving waiver services on his or her caseload.~~

- ~~(1) All service recipient information and records are confidential and released only to individuals or provider agencies who have proper authorization from the service recipient or his or her legal representative.~~
- ~~(2) It is the legal responsibility of Oklahoma Human Services (OKDHS) employees and contract providers to protect clients' privacy and to ensure the protection of confidential information.~~
- ~~(3) DDS ensures service recipient records are protected from loss, defacement, tampering, destruction, and violation of confidentiality.~~
- ~~(4) DDS personnel obtains individualized, time-limited, informed consent, prior to securing service recipient information or records from provider agencies who do not have a current OKDHS contract.~~

### **340:100-3-3. Communicable diseases [REVOKED]**

Issued 5-18-1992

~~Services are not denied to persons with communicable diseases based solely upon their health status.~~

- ~~(1) The safety and well-being of all consumers, staff and providers is considered and is assured by adherence to guidelines set forth by agencies inclusive of the Oklahoma State Department of Health and the National Center of Disease Control regarding containment of specific disease process.~~
- ~~(2) Educational programs which deal with the containment and the spread of infectious diseases are required for all staff and providers. These programs emphasize the ways in which infection is spread and also emphasize appropriate precautions to be taken to prevent transmission of diseases.~~
- ~~(3) Educational programs for clients meet need identified by the client's interdisciplinary team. Specialized counseling is available for and provided to those clients exhibiting a health need as deemed appropriate by the interdisciplinary team.~~

### **340:100-3-5.2. Guardianship Voucher Program**

Revised 9-16-199-15-23

(a) **Scope and applicability.** Section 1415 of Title 10 and Section 228 of Title 56 of the Oklahoma Statutes, establishes the requirements for ~~the Oklahoma Department of~~ Human Services (~~DHS~~) (OKDHS) to pay for legal fees associated with guardianship proceedings for persons, who:

- (1) are members of the Homeward Bound class;
- (2) receive Developmental Disabilities Services (DDS) Home and Community-Based Services (HCBS) Waiver services and, are determined by the DDS director or designee to need guardianship due to imminent risk to health, safety, or finances; or
- (3) are Robert M. Greer Center residents and are determined by the DDS director or designee to need guardianship due to imminent risk to health, safety, or finances.

(b) **Payment.** Payment for legal services is contingent upon resource availability and does not exceed \$700 ~~per service recipient~~ the rate defined in the OKDHS Appendix D-26, Developmental Disabilities Services Rates Schedule. Priority for funding is for groups in the order identified by (a) of this Section.

(c) **Participation.** Participation in the Guardianship Voucher Program extends only to service recipients determined, per Oklahoma Administrative Code (OAC) 340:100-3-5, to need a service listed in (d) of this Section.

(d) **Services.** Payment may be made for legal services necessary to:

- (1) establish guardianship;
- (2) replace, change, or add a guardian;
- (3) appoint a successor guardian;
- (4) alter the terms or level of an established guardianship; or
- (5) restore the ward's capacity.

(e) **Subsequent services.** ~~Requests~~ The DDS director or designee may approve requests for payment for subsequent legal services related to the guardianship of the same service recipient ~~may be approved by the DDS director or designee.~~

(f) **Eligibility.** The guardian or potential guardian applying for a voucher must be:

- (1) a service recipient's relative or a volunteer, per OAC 340:100-3-5.1; and
- (2) recommended by the DDS Personal Support Team ~~(Team)~~.

(g) **Financial eligibility.**

- (1) Approved prospective volunteer guardians are exempt from financial eligibility requirements.
- (2) When the service recipient's spouse, mother, or father is applying to be the guardian, he or she is subject to financial eligibility requirements. To be financially eligible to receive a guardianship voucher, the applicant spouse's annual adjusted gross income or the applicant's mother's or father's household income must be \$60,000 or less.
- (3) Other relatives who desire to become the service recipient's guardian are exempt from the financial eligibility criteria.

(h) **Guardianship voucher application.**

- (1) Form 06MP030E, Guardianship Voucher Application, is available from the DDS case manager assigned to the service recipient.
- (2) The applicant's spouse, mother, or father applying for the guardianship voucher must submit required income verification, per OAC 340:100-3-5.2(i).
- (3) Applications are sent to the DDS director or designee.
- (4) Incomplete applications are returned to applicants for correction.
- (5) Guardianship voucher applications are considered in chronological order of receipt at DDS State Office, with priority given to Homeward Bound class members.
- (6) The number of applications approved is determined by available funding and, eligibility, per (a) of this Section.

(i) **Income verification.** When the applicant is the service recipient's spouse, mother, or father, verification of annual income must be provided. Acceptable forms of verification include a signed copy of the applicant's most recent federal income tax return or documentation of all sources of income from Supplemental Security Income, Temporary Assistance for Needy Families, child support, alimony, other state or federal subsidies, or other types of income.

(j) **Notification of application status.** The applicant is provided written notice of approval or denial within 30-calendar days of receipt of completed Form 06MP030E at DDS State Office.

(k) **Issuance and expiration of guardianship voucher.** When an application for the guardianship voucher is approved, dated Form 06MP031E, Guardianship Voucher, is issued to the applicant who then seeks and retains legal counsel. Each Form 06MP031E is approved for use from the date of issuance and is valid through the printed expiration date on the voucher.

(l) **Submitting voucher for payment.** Upon completion of the guardianship proceedings, the attorney who provides the service submits Form 06MP031E to DDS State Office for payment. A copy of all pleadings filed, the letters of guardianship, the guardianship order, Plan for the Care and Treatment of the Ward, and an itemized bill for legal services must be attached to Form 06MP031E. Designated DDS State Office staff must receive Form 06MP031E and required documentation ~~must be received by designated DDS State Office staff~~ prior to the expiration date identified, or Form 06MP031E expires and is null and void.

(m) **Fair hearing.** Any person who was denied a voucher may request a hearing, per OAC 340:2-5.

### **340:100-3-9. Unscheduled client absence [REVOKED]**

~~Issued 5-18-1992~~

~~Local Administrators implement policy and procedures which assure that the unscheduled absence of a client from a residential or service area does not present a risk to his/her health or welfare.~~

~~(1) Activities tracking the location of clients are no more intrusive than dictated by client needs.~~

~~(2) The implementation of procedures requiring intrusive measures such as the notification of law enforcement officials to locate a client on more than three occasions during a six-month interval prompts the interdisciplinary development of a behavior enhancement program as provided by DDSD behavior management policy team to develop an appropriate action/service plan (e.g., a behavior treatment plan).~~

~~(3) Adult clients who have not been determined legally incapacitated cannot be forced to return to a facility unless ordered by an appropriate legal authority.~~

## **PART 3. ADMINISTRATION**

### **340:100-3-27. Quality assurance**

~~Revised 9-15-229-15-23~~

(a) **Purpose.** Developmental Disabilities Services (DDS) quality assurance (QA) activities assess and encourage delivery of supports consistent with:

(1) the service recipient's preferences and needs;

(2) Oklahoma Human Services (OKDHS) rules;

(3) applicable Oklahoma Health Care Authority (OHCA) rules;

(4) OKDHS and OHCA contract requirements for Home and Community-Based Services (HCBS);

(5) regulatory standards applicable to services; and

(6) federal and state laws.

(b) **Case manager monitoring.** DDS case managers assess services rendered to each service recipient to ensure service effectiveness in meeting the service recipient's needs.

The case manager periodically observes service provision to assess implementation of the service recipient's Individual Plan (Plan). The requirements per this Section are minimum expectations for face-to-face visits with service recipients. Case management may require additional visits to ensure the service recipient's health and welfare.

(1) The DDS case manager conducts face-to-face visits to monitor the service recipient's health and welfare and service effectiveness in meeting his or her needs.

(A) Face-to-face visits include observation of, and talking with, the service recipient regarding his or her health and welfare and satisfaction with services.

(B) The case manager may:

(i) observe service provision and related documentation in any location where services are provided; and

(ii) talk with family members and providers regarding service provision and the service recipient's health and welfare.

(C) For service recipients receiving services through an In-Home Supports Waiver:

(i) a face-to-face visit is completed at least semi-annually with one visit occurring between January and June and one between July and December; and

(ii) at least one of the two visits occurs at the site where the majority of services are provided.

(D) For service recipients receiving services through the HCBS Community Waiver:

(i) a face-to-face visit occurs during each calendar month in the residential service recipient's home, per Oklahoma Administrative Code (OAC) 340:100-5-22.1, or the group home service recipient's home, per OAC 317:40-5-152. Case managers certify home visits on Form 06MP070E, Access to Record and Verification of Monitoring Requirements, located per OAC 340:100-3-40;

(ii) a face-to-face visit is completed each calendar-year quarter, coinciding with the quarters established per OAC 340:100-5-52 for a quarterly summary of progress reports, for service recipients who do not receive residential services or group home services, with at least two of these visits occurring at the site where the majority of services are provided; and

(iii) the case manager visits the employment or day services site at least semi-annually, with one visit occurring between January and June, and one between July and December, when services are funded through the HCBS Community Waiver unless the Personal Support Team (Team) requests a DDS area manager or designee approved exception.

(E) For service recipients receiving services through the Homeward Bound Waiver:

(i) a face-to-face visit occurs in the home during each calendar month. Case managers certify home visits on Form 06MP070E located within the home record per OAC 340:100-3-40; and

(ii) the case manager visits the employment site each calendar-year quarter, coinciding with the quarters established, per OAC 340:100-5-52, for quarterly summary of progress reports, unless the Team requests a DDS area manager or designee approved exception.

(F) For Homeward Bound class members who reside in an intermediate care facility for individuals with intellectual disabilities (ICF/IID), the case manager visits monthly.

(2) ~~The DDS case manager may also conduct virtual visits in addition to the required minimum face-to-face visits utilizing HIPAA compliant phone calls or video conferencing~~ The DDS case manager may conduct virtual monitoring as a substitute for the required minimum face-to-face visits utilizing Health Insurance Portability and Accountability Act (HIPAA) compliant phone calls or video conferencing as identified in (A) through (F) of this paragraph. The DDS area manager or designee approves virtual monitoring.

(A) Virtual visits are limited to two, non-consecutive calendar months per calendar year for service recipients who receive;

(i) daily living supports; and

(ii) traditional or community living group home services, specialized foster care (SFC), agency companion services and Prader-Willi Services.

(B) Virtual visits are limited to one time per calendar year for service recipients who receive non-residential services on the Community Waiver and only when the member does not receive Remote Supports (RS) service.

(C) Virtual visits are not permitted when heightened need for visits is required such as during the first 30-calendar days after a service recipient transitions to a new residential placement or when there are concerns of unmet health and safety needs.

(D) Virtual visits may not be substituted for the required minimum face-to-face visits for service recipients who:

(i) receive services through the Homeward Bound Waiver;

(ii) receive services through the In-Home Supports Waiver;

(iii) receives RS services;

(iv) reside in an Alternative Group Home; or

(v) are in custody of OKDHS, Child Welfare Services.

(E) Virtual visits in addition to the required minimum face-to-face visits utilizing HIPAA compliant phone calls or video conferencing may also be conducted.

(3) DDS case managers review and ensure Plan implementation. The case manager completes a quarterly review for service recipients receiving services through HCBS Waivers, documenting the review in ~~Client Contact Manager (CCM)~~ the service recipient's electronic record.

(4) When the DDS case manager believes the service recipient is at risk of harm, the case manager takes immediate steps to protect the service recipient and notifies the DDS case management supervisor and other appropriate authorities.

(5) When the DDS case manager determines a provider is not effectively addressing a service recipient's needs or meeting contractual responsibilities or policies, steps in (A) through (C) of this paragraph are followed.

(A) The case manager consults with the relevant provider to secure a commitment for necessary service changes within an agreed time frame.

(B) When necessary changes are not accomplished within the specified time frame, the case management supervisor intervenes to secure commitments from the provider.

(C) When the service deficiency is not resolved as a result of the case management supervisor's intervention, an administrative inquiry referral is initiated, per OAC 340:100-3-27.1.

(6) If, during a contract survey, administrative inquiry, SFC monitoring, or area survey, DDS QA staff discovers a situation that requires correction by DDS staff, a system administrative inquiry is initiated.

(A) DDS QA staff emails notification to DDS staff to correct the situation, establishing a reasonable time frame for correction.

(B) When the identified staff is unable to correct the situation within the established time frame, DDS QA staff emails notification to the DDS staff supervisor, establishing a reasonable time frame for correction.

(C) When the staff supervisor is unable to correct the situation within the established time frame, DDS QA staff notifies his or her supervisor, who notifies the DDS area manager, establishing a reasonable time frame for correction.

(D) When the area manager is unable to correct the situation within the established time frame, he or she notifies the DDS State Office QA unit, to resolve the situation with the community services unit deputy director.

(c) **SFC monitoring.** DDS QA staff monitors the SFC program in each area for DDS and OHCA policy compliance. Monitoring is based on a proportionate, representative sample of individuals receiving SFC supports identified for the fiscal year for each area. Monitoring includes a visit to the service recipient's SFC home. A home visit ~~can~~ may be conducted virtually if the home has electronic equipment that allows for face-to-face communication unless health and safety issues are reported that require on-site review.

(d) **Consumer Service Evaluation.** At least annually, service recipients and families receiving supports are provided the opportunity to complete a service evaluation per OKDHS Publication No. 89-10, Consumer Service Evaluation.

(1) Confidentiality is maintained unless the respondent authorizes OKDHS to reveal his or her name to those responsible for service delivery. OKDHS Publication No. 89-10 may be completed anonymously.

(2) DDS QA staff distributes OKDHS Publication No. 89-10 to service recipients or his or her legal guardians at least annually.

(3) OKDHS Publication No. 89-10, when completed is returned to the DDS State Office QA Unit.

(4) Results are forwarded to the respective DDS area office when authorized by the service recipient or legal guardian for resolution of concerns or staff recognition.

(5) A response analysis is completed and distributed to DDS area offices, DDS State Office, or OKDHS for action. Data is available upon request.

(e) **Oklahoma – Advocates Involved in Monitoring (OK AIM).** Service recipients and families receiving supports participate in contact providers' formal assessments to promote service enhancement, consistent with service recipient expectations.

(1) OK AIM operates under direction of the Oklahomans for Quality Services Committee (OQSC).

(A) OQSC is composed of 15 persons who receive or have a family member receiving DDS services. All areas of Oklahoma are represented.

(i) OQSC members may be nominated by the public at large, current OQSC members, or DDS representatives.

- (ii) Appointment of OQSC members occurs as a result of joint consensus by the OQSC chair and DDS director or designee following a determination of the nominee's:
  - (I) commitment to promote the interests of persons with developmental disabilities; and
  - (II) capacity to dedicate the necessary time to fulfill his or her responsibilities.
- (iii) OQSC members have the authority to elect officers based on a simple majority vote and establish by-laws governing the conduct of business.
- (B) OQSC:
  - (i) develops and refines procedures and the survey instrument used, based ~~upon~~ on feedback received from service recipients and their families, providers, and other key constituents;
  - (ii) participates in the selection of agencies submitting proposals to conduct OK AIM activities; and
  - (iii) serves as a resource for education and coordination of agencies conducting OK AIM monitoring activities.
- (2) OKDHS issues and awards a Request for Proposal (RFP) in accordance with state law and DHS rules per the Oklahoma Central Purchasing Act, Sections 85.1 through 85.44E of Title 74 of the Oklahoma Statutes (74 O.S. §§ 85.1 through 85.44E) and the approved OKDHS Internal Purchasing Procedures, and solicits proposals from qualified organizations to participate in the OK AIM initiative. Qualified organizations include agencies that:
  - (A) are incorporated non-profit agencies dedicated to representing persons with developmental disabilities and their family members;
  - (B) are not involved in service delivery funded through DDS or HCBS Waivers; and
  - (C) meet additional requirements set forth by federal and state laws as indicated in the RFP.
- (3) OQSC is consulted regarding bids submitted in response to an RFP.
- (4) Agencies selected to conduct OK AIM monitoring and reporting activities are responsible for:
  - (A) soliciting, screening, and training volunteers to conduct OK AIM site visits;
  - (B) scheduling site visits with all service providers referenced in the ~~ITB~~ RFP within counties for which the agency assumed responsibility;
  - (C) ensuring consistency of volunteer and staff activities with:
    - (i) OQSC-approved procedures and protocols;
    - (ii) federal and state laws; and
    - (iii) OKDHS and OHCA rules;
  - (D) accurately recording OK AIM monitoring activities findings;
  - (E) ensuring provision of findings to provider agencies and DDS; and
  - (F) immediately notifying the DDS area office of any issue identified during OK AIM monitoring activities that presents risk to the service recipient's health or welfare.
- (5) DDS area managers identify OKDHS staff responsible for resolving concerns identified during OK AIM monitoring activities and notify the agencies responsible on how to contact staff during business, evening, and weekend hours.



(6) OQSC with DDS State Office, DDS area offices, and agencies conducting OK AIM activities participation, identifies conditions determined to present significant risks to service recipients.

(A) Conditions determined to present imminent risks to service recipients are reported immediately to the:

- (i) statutory investigatory authority;
- (ii) DDS area office; and
- (iii) provider agency chief executive officer (CEO) or designee.

(B) Issues determined to pose potential risks to service recipients are reported to DDS area office staff, who notify the provider agency CEO or designee, no later than at the close of the first business-day following observation.

(C) OK AIM monitors report any other significant issues to designated DDS area office staff within time frames OK AIM determines appropriate.

(7) DDS staff immediately identifies DDS area office staff to assume responsibility for verification and correction of problems posing imminent or potential risks.

(A) The DDS area manager approves resolution time frames for validated concerns based on the degree of risk.

(B) All identified concerns are resolved within 30-calendar days from initial notification to the DDS area office, unless the DDS area manager authorizes an extension in circumstances that pose no jeopardy to any service recipient.

(C) Concerns presenting immediate and significant risk to service recipients are corrected immediately.

(8) Each DDS area manager designates staff to:

(A) track resolution of each identified concern; and

(B) advise agencies conducting OK AIM monitoring activities of the steps taken to resolve each concern.

(9) OK AIM staff summarizes findings of each home visit volunteers conduct, and staff notes performance in regards to the established OQSC expectations as published in the OK AIM training manual.

(A) Recommendations for service enhancement are presented to the relevant DDS area office for review within 30-calendar days of a home visit.

(B) DDS area office staff shares this information with the provider and collaborates on recommendations as well as other alternatives to achieve targeted service enhancement. Plans developed as a result are shared with OK AIM staff during the next meeting. Provider comments or action plans are maintained with the OK AIM report in area office files.

(10) OQSC re-assesses the OK AIM survey process at least annually and does so based on feedback solicited from service recipients, DDS area office staff, providers, and other constituencies affected by or involved in the process.

(f) **Independent assessments.** An independent authority annually assesses service outcomes for a sample of service recipients receiving residential services funded or administered through DDS or HCBS Waivers.

(1) Assessments employ standardized measures, facilitating individual as well as congregate data analysis over time.

(2) Assessment protocols provide for identification and resolution of circumstances posing immediate risks to service recipients.

(g) **Failure to cooperate.** Provider agencies failing to cooperate with provisions, or providing false information in response to inquiries per this Section, are subject to identified sanctions including contract termination.

(h) **Findings of non-compliance.** Findings of significant non-compliance with human rights, laws, or rules are immediately reported to the DDS director and other relevant authorities for appropriate action, including disciplinary action of OKDHS employees or sanction imposition, including suspension or contract termination with provider agencies, per OAC 340:100-3-27.2.

(i) **Retaliation.** Provider agencies and OKDHS employees are prohibited from any form of retaliation against any service recipient, employee, or agency for reporting or discussing possible performance deficiencies with any authorized OKDHS agent. Authorized agents are OKDHS staff whose responsibilities include administration, supervision, or oversight of DDS services, including all DDS and Office of Client Advocacy staff.

(j) **QA functions.** Additional DDS QA program components are found in OAC 340:100-3-27.1 through OAC 340:100-3-27.5.

(k) Reports. Reports generated by QA discovery activities are distributed as described in (1) through (4) of this subsection.

(1) Reports of performance surveys and administrative inquiries are provided to the administrator of the provider agency surveyed, are stored electronically, and made accessible to:

- (A) DDS staff;
- (B) OHCA;
- (C) Office of Inspector General; and
- (D) appropriate Office of Client Advocacy staff.

(2) Performance survey reports with personal identifying information removed are available to interested citizens upon request.

(3) Reports of administrative inquiries are not released.

(4) Unless otherwise authorized by the individual or the legal guardian, OK AIM reports and case manager reports are available only to the:

- (A) referenced individual(s) served;
- (B) individual's legal guardian;
- (C) agencies providing supports;
- (D) relevant DDS area manager;
- (E) DDS QA administrator; and
- (F) other relevant DDS personnel.

#### **340:100-3-27.4. Developmental Disabilities Services Division Quality Assurance reports [REVOKED]**

~~Revised 7-1-12~~

~~Reports generated by Quality Assurance (QA) discovery activities are distributed as described in this subsection.~~

~~(1) Reports of performance surveys and administrative inquiries are provided to the administrator of the provider agency surveyed, are stored electronically, and made accessible to:~~

- ~~(A) Developmental Disabilities Services Division (DDSD) staff;~~

- (B) Oklahoma Health Care Authority;
  - (C) Office of Inspector General; and
  - (D) appropriate Office of Client Advocacy staff.
- (2) Performance survey reports with personal identifying information removed are available to interested citizens upon request.
- (3) Reports of administrative inquiries are not released.
- (4) Unless otherwise authorized by the individual or the legal guardian, Oklahoma Advocates Involved in Monitoring (OK AIM) reports and case manager reports are available only to:
- (A) the referenced individual(s) served;
  - (B) the individual's legal guardian;
  - (C) agencies providing supports;
  - (D) the relevant DDS area manager;
  - (E) the DDS Quality Assurance administrator; and
  - (F) other relevant DDS personnel.

**340:100-3-28. Volunteer services [REVOKED]**

Revised 5-15-08

(a) Developmental Disabilities Services Division (DDSD) volunteer service programs link service recipients to volunteers who can provide a needed service.

(b) In addition to requirements per OAC 340:2-35, the volunteer and DDSD volunteer services staff must meet requirements in (1) and (2).

(1) The volunteer:

- (A) completes Form 22VL005E, Application for Volunteer Service, and submits to the local DDSD volunteer services office;
- (B) attends any required on-the-job training prior to assignment of volunteer duties;
- (C) submits completed Form 22VL003E, Volunteer Agreement, to the local DDSD volunteer services office;
- (D) maintains record of contacts using Form 22VL004E, Volunteer Report of Contact, and submits completed Form 22VL004E to the local DDSD volunteer services unit on a monthly basis; and
- (E) must not be listed in the Community Services Worker Registry (Registry) per OAC 340:100-3-39.

(2) The DDSD volunteer services staff:

- (A) mails Form 22VL007E, Volunteer Reference Letter, to three references listed on Form 22VL005E. The returned reference letters must be on file in the DDSD volunteer office prior to assigning a volunteer duties;
- (B) interviews the volunteer prior to and at the end of the job assignment and records data on Form 22VL009E, Volunteer Interview Report;
- (C) sends original Form 04AD003E, Request for Background Check, to DDSD State Office coordinator of volunteer services who completes:
  - (i) Oklahoma Department of Public Safety (ODPS) search;
  - (ii) Oklahoma State Bureau of Investigation (OSBI) criminal search;
  - (iii) Registry search per OAC 340:100-3-39; and
  - (iv) notification to the local volunteer services staff when all searches are completed satisfactorily;

~~(D) provides job-specific training for volunteers and presents an overview of Oklahoma Department of Human Services and DDSD. Orientation and training are documented in each volunteer's file;~~

~~(E) submits Form 22VL006E, Volunteer Quarterly Report, to the DDSD State Office coordinator of volunteer services on a quarterly basis; and~~

~~(F) forms an advisory council of persons dedicated to volunteerism and Oklahomans with developmental disabilities. The advisory council assists volunteer services staff with program functions, fund-raising, or other identified needs.~~

### **340:100-3-30. News media relations [REVOKED]**

~~Issued 5-18-1992~~

~~DDSD, in accordance with DHS policy, maintains an "open door" policy toward the news media.~~

~~(1) DDSD is authorized to seek publicity for its programs, successes, activities, to recruit volunteers or request free public service announcements. Coordination of such activities for the division shall be handled in the State Office by the Division Director of Community Relations.~~

~~(2) Limitations on access to client information required by DHS rules is honored by DDSD staff and Administrators.~~

~~(3) DDSD staff at all times protect the privacy of recipients of services. At no time is information about an individual recipient released unless prior written permission is given by the client, family member, or guardian, when appropriate.~~

~~(4) Prior to release of information to the media, DDSD staff obtain client's/legal representative's permission by completion of Form Adm 13, Permission for Release of Information To News Media. Clients in DHS custody are of special sensitivity and information release or photographs is handled in accordance with DHS rules.~~

~~(5) Information related to employees of the division is released in accordance with DHS rules.~~

~~(6) When news media representatives contact DDSD facilities, area offices or State Office, staff members are to be courteous and as helpful as possible and respond in accordance with DHS rules. The best qualified, knowledgeable available person shall respond to the inquiry.~~

~~(7) Contacts from the media are to be reported to appropriate supervisory/administrative personnel.~~

~~(8) When inquiries involve matters likely to result in major news media coverage, notification is made to the DDSD Administrator as well as the Public Information Office by telephone or electronic mailbox.~~

### **340:100-3-36. Emergency first aid for employees and visitors [REVOKED]**

~~Issued 6-11-06~~

~~Emergency first aid procedures are employed to assist employees or visitors involved in an accident or injury on the grounds of a Developmental Disabilities Services Division (DDSD) program or office. ■ 1~~

~~(1) The employee or visitor seeks treatment at a community health facility for an injury of a non-serious nature.~~

- ~~(2) For a serious but non-life threatening injury, the employee or visitor is made comfortable at the site of the incident, and an ambulance called immediately.~~
- ~~(3) For an emergency medical situation in which it is judged that the employee or visitor's life is endangered, an ambulance is called immediately, and the facility's medical or first aid personnel are called as a source of volunteer medical emergency help until the person can be transported to a community health facility.~~
- ~~(4) The injured employee's or visitor's immediate family is notified in the case of a serious or life threatening situation.~~
- ~~(5) When an injury occurs on OKDHS property, an incident report is completed and the injury is reported in accordance with OAC 340:2-15-5.~~

## **INSTRUCTIONS TO STAFF 340:100-3-36**

**Issued 6-11-06**

- ~~1. When an employee sustains a work related injury, refer to DHS:2-15-1.1.~~

### **340:100-3-38.14. Training requirements for staff providing extensive residential supports**

Issued 9-15-23

(a) **Applicability.** Oklahoma Administrative Code (OAC) 340:100-3-38.14 sets forth training requirements for staff, volunteers, and direct supervisors providing either full- or part-time direct supports for a service recipient receiving extensive residential supports per OAC 317:40-5-154.

(b) **New employee training.** No later than 30-calendar days following the hire date, staff providing direct supports or supervising the delivery of direct supports at any level must complete the online or first available Developmental Disabilities Services (DDS)-approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the staff's work location following the staff's hire date.

(c) **First aid and cardio-pulmonary resuscitation (CPR).** Direct support staff must be certified in an approved course of first aid and CPR before providing services alone or with other untrained staff.

(1) First aid and CPR certification of each staff must occur within 90-calendar days following the staff's hire date.

(2) The service recipient's Personal Support Team (Team) may determine, based on the service recipient's needs, that staff must receive first aid and CPR certification in less than 90-calendar days.

(d) **Medication administration training.** Staff must be certified in an approved medication administration course per OAC 340:100-3-38.10 before administering medication to a service recipient or assisting with a service recipient's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan).

(1) Training requirements are based on the service recipient's identified needs through Team discussion and review of available assessment information.

(2) A service recipient's Team specifies required completion time frames for individual-specific in-service training. When time frames are not identified in the Plan, required

individual-specific in-service training must be completed before working with the service recipient.

(3) As the service recipient's needs require changes in supports or programs, the Team documents in the Plan or in addenda to the Plan, any new or additional in-service training required, with completion time frames.

(4) Individual-specific training is provided by the person or persons designated by the Team and identified by position in the Plan, per rule, statute, and professional practice regulations, when applicable.

(5) The responsible Team member verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

**(f) Job-specific training.**

(1) Staff must complete:

(A) within 90-calendar days after assignment date:

(i) Health course; and

(ii) Ethical and Legal Issues course; and

(B) within six months after assignment date:

(i) Communication course;

(ii) Skill Building course;

(iii) Connections course; and

(iv) Nuts and Bolts course.

(2) Staff who works in both residential and employment or other settings must meet the job-specific training requirements of both jobs. Transfers to avoid required training completion are prohibited.

**(g) Specialized training.** Additional specialized training may be required for direct support staff working with service recipients who have significant health, physical and behavior support issues.

(1) Staff supporting a service recipient with a protective intervention protocol (PIP) that includes non-restrictive intervention techniques must be trained on these techniques before use.

(2) Completion of an approved behavior support course is required for staff supporting a service recipient with a PIP that:

(A) addresses challenging behavior that places the service recipient's physical safety, environment, relationships, or community participation at serious risk; and

(B) contains one or more of these procedures:

(i) physical guidance to overcome resistance;

(ii) physical guidance to move to safety; or

(iii) physical hold to restrict movement.

(3) Staff must complete the approved:

(A) behavior support course before working alone or with other untrained staff, but no later than 60-calendar days after starting work with the service recipient; and

(B) physical management course before using any technique of physical management identified in the PIP.

(i) All staff must complete foundation training with the approved effective teaching course and behavior support course.

- (ii) Staff working with the service recipient implements the positive components of the PIP, as well as non-intrusive procedures to assist the service recipient during a crisis.
  - (iii) The Statewide Human Rights and Behavior Review Committee reviews and approves the PIP.
  - (iv) Only staff and staff supervisors providing support to the service recipient are trained on the use of a physical management procedure.
  - (v) Staff formally trained to use physical management procedures does not use those techniques with other service recipients, except in emergencies per OAC 340:100-5-57.
  - (vi) The DDS human resource development and behavioral supports director approves training curricula regarding behavior support.
- (4) Training regarding physical management procedures must be obtained from trainers approved by the DDS human resource development director.
- (5) Staff must complete:
- (A) annual retraining on physical management or physical restraint procedures in the approved PIP;
  - (B) training in Person Centered Thinking; and
  - (C) training in trauma informed care.
- (h) **Ongoing training.** Direct support staff employed by provider agencies completes eight hours of approved annual training.
- (1) Annual training may come from:
- (A) required re-certification classes in first aid, CPR, or medication administration training;
  - (B) courses per OAC 340:100-3-38(b)(1);
  - (C) courses, conferences, or workshops approved by the DDS human resource development director;
  - (D) individual-specific training; or
  - (E) agency-specific in-services.
- (2) Direct support staff who supervises other staff must take 12 hours of supervisory training annually that may be included in the hours required per this Section.
- (3) Direct support staff may challenge or test out of required annual recertification when an approved option is available. Training completion hours are granted equal to the number of hours for the standard recertification class.
- (i) **Exceptions.** The DDS director or designee may make exceptions to training requirements per this Section.

### **340:100-3-39. Pre-employment screening for community services workers**

Revised 9-15-249-15-23

(a) **Legal basis.** Section 1025.1 et seq. of Title 56 of the Oklahoma Statutes (56 O.S. §§1025.1 et seq.) requires Oklahoma Human Services (OKDHS) to establish and maintain a registry listing the names of community services workers against whom a final investigative finding of maltreatment involving a service recipient, was made by OKDHS or an administrative law judge. Providers of community services:

(1) are required to conduct criminal history records and OKDHS Community Services Worker Registry (Registry) searches prior to any community services worker's permanent employment; and

(2) must not hire, contract with, or use as a volunteer, a person whose name is listed in the Registry or who has a criminal background, per Oklahoma Administrative Code (OAC) 340:100-3-39(e)(1)(G).

(b) **Applicability.** The requirements set forth in OAC 340:100-3-39 apply to all community services providers who contract with, are licensed or funded by OKDHS, or who contract with the Oklahoma Health Care Authority (OHCA) to provide residential or employment services to service recipients through Developmental Disabilities Services (DDS) Home and Community-Based Services (HCBS) Waivers.

(c) **Definitions.** The following words and terms when used in this Section shall have the following meanings, unless the context clearly indicates otherwise:

(1) **"Community services provider"** means a community-based program, corporation, or person who contracts with, is licensed or funded by OKDHS, or who contracts with OHCA to provide residential or employment services to a service recipient through DDS HCBS Waivers. Services are provided through in-person supports or through Remote Supports (RS) services;

(2) **"Community services worker"** means any person who:

(A) contracts with OHCA to provide specialized foster care, habilitation training specialist services, or homemaker services to persons with developmental disabilities; or

(B) is not a licensed health professional; and

(C) is employed by, or under contract with a community services provider, for compensation or as a volunteer, to provide:

(i) health-related services;

(ii) training; or

(iii) supportive assistance.

(3) **"Good cause"** means the failure of a community services worker to make a timely response for reconsideration of a confirmed finding of maltreatment due to:

(A) a death within the community services worker's immediate family;

(B) hospitalization of the community services worker; or

(C) an equally meritorious reason, determined within the sound discretion of the administrative law judge or other OKDHS staff as authorized, per OAC 340:100-3-39 and 340:2-3-39, as applicable, to determine such cause.

(4) **"Habilitation training specialist services"** means the HCBS as defined in the 1915(c) Waiver approved by the Centers for Medicare and Medicaid Services (CMS).

(5) **"Health related services"** means assistance provided to a service recipient that includes, but is not limited to:

(A) personal hygiene;

(B) transferring;

(C) range of motion;

(D) supervision or assistance in activities of daily living; or

(E) basic nursing care, such as:

(i) taking temperature, pulse, or respiration;

(ii) positioning;



(iii) incontinent care; or  
(iv) identification of signs and symptoms of disease; and  
(F) certain tasks that may be performed as basic nursing care by community services workers and require appropriate training provided or approved by OKDHS, written agreement by the service recipient's Personal Support Team, and the primary care physician's acknowledgement and specific order related to the task. Under such circumstances, basic nursing care may include, but is not limited to:

- (i) nutrition, including meals by gastrostomy tube or ~~jejunostomy~~ jejunostomy tube;
- (ii) blood glucose monitoring;
- (iii) ostomy bag care;
- (iv) oral suctioning; and
- (v) administration of oral metered dose inhalers and nebulizers.

(6) **"Homemaker services"** means the HCBS as defined in the 1915(c) Waiver approved by CMS.

(7) **"Maltreatment"** means abuse, verbal abuse, sexual abuse, neglect, financial neglect, exploitation, or sexual exploitation of vulnerable adults, per ~~Section 40-103 of Title 43A of the Oklahoma Statutes (43A O.S. § 10-103)~~; or abuse, neglect, sexual abuse, or sexual exploitation of children, per 10A O.S. § 1-1-105.

(8) **"Remote supports"** means the utilization of technology by community services workers who are in remote locations, away from the residence or location of individuals with intellectual or developmental disabilities, to provide health-related services or supportive assistance to those individuals. Communication with individuals with developmental or intellectual disabilities is achieved with the use of two-way communication by the community services worker through such means as telephone or video feeds.

~~(8)~~(9) **"Specialized foster care"** means the HCBS as defined in the 1915(c) Waiver approved by the CMS.

~~(9)~~(10) **"Supportive assistance"** means service rendered sufficient to enable the service recipient to meet an adequate level of daily living including, but not limited to:

- (A) training;
- (B) supervision;
- (C) assistance in housekeeping;
- (D) assistance in meal preparation; and
- (E) assistance in personal care and activities of daily living necessary for the health and comfort of the service recipient.

(d) **OKDHS duties.** When OHCA contracts directly with a specialized foster care provider, habilitation training specialist services provider, or a homemaker services provider to provide services through DDS HCBS Waivers, OKDHS follows the screening procedures required for community services providers.

(e) **Community services provider duties.**

(1) **Provider pre-employment responsibilities.** Each community services provider conducts a search of criminal history records and the Registry for every potential employee who is not a licensed health professional and who will provide, for compensation or as a volunteer, on a full- or part-time basis, health-related services,

training, or supportive assistance to a service recipient. This requirement also applies to applicants for supervisory, management, or administrative positions, when the applicant is to provide, on a full- or part-time basis, supportive assistance, health-related services, or training to a service recipient. The provider:

(A) uses Form 06PE039E, Employment Application Supplement, to formally advise each applicant of the:

(i) required criminal history records search, the Registry, and Restricted Registry, as applicable, per 10 O.S. § 405.3;

(ii) potential consequences of background checks, including the provider's prohibition from hiring any person whose name appears in the Registry, or who has a prohibited criminal conviction, per OAC 340:100-3-39(e)(1)(G);

(iii) requirement that the community services worker's employment must be terminated if his or her name appears in the Registry, even though the applicant's name may not have appeared in the Registry at the time of application or hiring;

(iv) requirement to report all current and previous employers who provide services to children or to vulnerable adults;

(v) fact that giving false information regarding current and previous employers results in termination of employment; and

(vi) requirement of criminal prosecution for having sexual contact with a person in his or her care, per 10 O.S. § 1430.3 and 43A O.S. § 10-113.

(B) contacts all previous employers engaged in delivery of services to children or vulnerable adults, per 43A O.S. § 10-103, requesting information on investigations or findings of maltreatment;

(C) when contacted by a potential employer, gives accurate information regarding investigations of maltreatment reported to Adult Protective Services (APS), Office of Client Advocacy (OCA), or Child Protective Services (CPS);

(D) requests a criminal history records search from the Oklahoma State Bureau of Investigation (OSBI) or national criminal history records search, based on fingerprints from the Federal Bureau of Investigation (FBI) prior to employment of, or offer of employment to, any applicant, except as provided in OAC 340:100-3-39(e)(1)(F) and (G).

(i) When a community services provider will be providing RS services from outside the state of Oklahoma, the provider will submit an FBI national criminal history records search, based on fingerprints, on prospective out-of-state community services workers in lieu of a criminal history records search by the OSBI as set out in this Section.

~~(i)~~(ii) The provider must secure the criminal history records search and ~~cannot~~ may not accept documents provided by the applicant.

~~(ii)~~(iii) When the provider uses a contractor to secure the criminal history records search, the contractor attaches the document received from OSBI or FBI to any report given to the provider;

(E) investigates discrepancies in the criminal record information received from OSBI or FBI.

(i) When discrepancies exist between criminal history information and information ~~reported by the applicant~~ reports, such as convictions the applicant

- ~~does not reported by the applicant report~~, the provider secures a written explanation of the discrepancy from the applicant, which is sent to OKDHS when the provider is requesting a waiver, per OAC 340:100-3-39(f).
- (ii) When OSBI or FBI information reports inconclusive data, such as reporting the case was referred to another law enforcement agency, the provider secures documentary evidence of the outcome;
- (F) may choose to make an offer of temporary employment to an applicant, pending the results of the OSBI or FBI criminal history records search.
- (i) The provider submits a request for a criminal history records search to OSBI or FBI within 72 hours of the applicant's acceptance of any offer of temporary employment.
- (ii) Temporary employment of any applicant does not extend longer than the time necessary to receive the results of the criminal history records search and Registry review, not to exceed ~~30-calendar~~ 45-calendar days.
- (iii) During any period of temporary employment the temporary employee may not work alone nor work solely with other temporary employees; and
- (G) when the OSBI or FBI search reveals the applicant was convicted, pled guilty or nolo contendere to misdemeanor assault and battery or a felony, the provider does not hire or contract with the person, and immediately cancels any temporary employment arrangement. When a waiver is requested, per OAC 340:100-3-39(f), the community services worker is relieved of responsibilities working directly with service recipients until the provider receives a written OKDHS decision.
- (2) **Provider duties during an investigation.** Upon receiving notification of an investigation of an allegation of maltreatment involving an employee, the provider chief executive officer or designee:
- (A) ensures protection and the health and safety for any and all persons receiving services from the provider;
- (B) notifies the community services worker, in a face-to-face conference, of the upcoming investigation; and
- (C) explains the rights and responsibilities of the community services worker, using Form 15IV015E, Rights and Responsibilities of Accused Caretakers, Community Services Workers, and Persons Responsible for the Childs' Health, Safety, and Welfare of Interest (PRFCI), before the community services worker is interviewed by the investigator, including the:
- (i) ~~the~~ investigation outcome notice is mailed to the community services worker's address on Form 15IV015E; and
- (ii) ~~the~~ community services worker's right to request due process per procedures provided in the notice.
- (3) **Provider responsibilities regarding due process procedures.** When an employee of a provider is called as a witness in a hearing, the provider:
- (A) directs the employee to attend the hearing to give testimony;
- (B) accommodates his or her work schedule; and
- (C) when written records are required, submits the required records or certified copies. Failure to comply with these responsibilities may result in sanctions, per OAC 340:100-3-27.2.

**(f) Waiver of requirement not to hire based on criminal history records search.** When the criminal history records search reveals a criminal background the provider believes will not place a service recipient at risk of harm and will not affect the quality of services ~~provided by the applicant~~ provides, the provider may request a waiver from OKDHS.

(1) The provider sends a written request for a waiver to the DDS director. The request includes:

(A) the applicant's:

- (i) full name;
- (ii) Social Security number; and
- (iii) date of birth;

(B) a legible copy of the criminal history records search that is no more than 30-calendar days old;

(C) the criminal history record information request; and

(D) an explanation of all factors or circumstances the provider wants to be considered.

(2) A waiver is not granted, under any circumstance, for employment of an applicant who was convicted of, pled guilty, or nolo contendere to:

(A) a felony count of:

- (i) aggravated assault and battery;
- (ii) homicide;
- (iii) murder;
- (iv) attempted murder;
- (v) rape;
- (vi) incest; or
- (vii) sodomy; or

(B) abuse, neglect, or exploitation of any person entrusted to the applicant's care.

(3) No waiver is granted for offenses resulting in a conviction, plea of guilty, or plea of nolo contendere to a felony that occurred less than five-calendar years from the date of the request.

(4) Factors considered in the OKDHS decision to grant or deny a waiver include:

(A) ~~his or her~~ the applicant's other convictions;

(B) responsibility evidenced since conviction;

(C) time lapse since the conviction;

(D) his or her age upon conviction;

(E) nature and underlying circumstances of his or her offense;

(F) evidence of efforts ~~made by him or her~~ the applicant makes toward rehabilitation, including job training or educational programs in which he or she participated;

(G) his or her prior employment record; and

(H) the nature and location of the position he or she seeks.

(5) OKDHS:

(A) may grant a Waiver for applicants who will provide services through DDS HCBS Waivers only ~~upon concurrence by~~ when OHCA concurs; and

(B) assumes no responsibility for the actions of a person employed by a provider subsequent to a Waiver. The provider indemnifies and holds OKDHS harmless

for any damages or attorney fees resulting from a claim an employee of the provider subsequently abused, neglected, exploited, or otherwise injured a service recipient.

(g) **Procedures for notice and due process.** The procedures for maltreatment investigations and the Registry are found at OAC 340:2-3-36 and OAC 340:2-3-39.1.

(h) **Disclosure requirements for Registry.**

(1) The Registry information includes, but is not limited to the:

(A) community services worker's:

- (i) full name;
- (ii) Social Security number; and
- (iii) date of birth;

(B) date the community services worker's name was placed in the Registry; and

(C) final investigative finding regarding the community services worker.

(2) The provider requesting Registry information on an applicant or employing a community services worker alleged to have committed maltreatment is notified when the community services worker's or applicant's name is entered in the Registry. When more than one community services worker is named as an accused caretaker, a separate letter is sent to the provider for each community services worker.

(h)(i) **Public access to Registry.** Access to the Registry is available to the public at [www.OKDHS.org](http://www.OKDHS.org).

### **340:100-3-40. Community records**

Revised ~~9-16-199-15-23~~

a) **Purpose.** Oklahoma Administrative Code (OAC) 340:100-3-40 sets forth requirements for:

(1) contract provider records maintenance;

(2) document transfer to a history file for service recipient records the contract provider maintains; ~~and~~

(3) information transfer when a service recipient changes contract providers;

(4) maintenance of an official electronic record for each service recipient receiving services through a Home and Community Based Services waiver.

(A) All service recipient information and records are confidential and released only to individuals or provider agencies who have proper authorization from the service recipient or his or her legal representative.

(B) It is the legal responsibility of Oklahoma Human Services (OKDHS) employees and contract providers to protect clients' privacy and to ensure the protection of confidential information.

(C) Developmental Disabilities Services (DDS) ensures service-recipient records are protected from loss, defacement, tampering, destruction, and violation of confidentiality.

(D) DDS personnel obtain individualized, time-limited, informed consent, prior to securing service recipient information or records from provider agencies who do not have a current OKDHS contract; and

(5) formatting, use, and retention of electronic records and signatures generated, sent, communicated, received, or stored by DDS, in conformity with the Uniform Electronic

Transaction Act, found at Section 15-101 et seq. of Title 12A of the Oklahoma Statutes (12A O.S. §§ 15-101 et seq.).

(A) Only employees designated by the provider's agency may make entries in the member's record. All entries in the member's record must be dated and authenticated with a method established to identify the author. The identification method may include computer keys, Private/Public Key Infrastructure (PKIs), voice authentication systems that use a personal identification number (PIN) and voice authentication, or other codes. Providers must have a process in place to deactivate within one working day an employee's access to records upon termination of employment of the designated employee.

(B) When PKIs, computer key codes, voice authentication systems, or other codes are used, the provider agency's employee completes a signed statement documenting that the chosen method is under the sole control of the person using it and further demonstrate that:

(i) a list of PKIs, computer key codes, voice authentication systems or other codes can be verified;

(ii) all adequate safeguards are maintained to protect against improper or unauthorized use of PKIs, computer keys, or other codes for electronic signatures; and

(iii) sanctions are in place for improper or unauthorized use of computer key codes, PKIs, voice authentication systems or other code types of electronic signatures.

(C) There must be a specific action by the author to indicate that the entry is verified and accurate. Systems requiring an authentication process include, but are not limited to:

(i) computerized systems that require the provider's employee to review the document online and indicate that it has been approved by entering a unique computer key code capable of verification;

(ii) a system in which the provider's employee signs off against a list of entries that must be verified in the member's records;

(iii) a mail system that sends transcripts to the provider's employee for review;

(iv) a postcard identifying and verifying the accuracy of the record(s) signed and returned by the provider's employee; or

(v) a voice authentication system that clearly identifies the author by a designated PIN or security code.

(D) Auto-authentication systems that authenticate a report prior to the transcription process do not meet the stated requirements and are not an acceptable method for the authentication process.

(E) The signature and date entry are the authentication of an electronic record and are expected on the day the record is completed.

(F) The individual provider or designated administrators within the provider agency may edit records. Edits must be in the form of a correcting entry which preserves entries from the original record. Edits must be completed prior to claims submission or no later than 45-calendar days after the date of service, whichever occurs first.

(G) Use of the electronic signature for documentation constitutes a signature and has the same effect as a written signature on the documentation. The section of the electronic record documenting the service provided must be authenticated by the employee or individual who provided the described service.

(H) Any authentication method for electronic signatures must:

(i) be unique to the person using it;

(ii) identify the individual signing the document by name and title;

(iii) be capable of verification, assuring that the documentation cannot be altered after the signature has been affixed;

(iv) be under the sole control of the person using it;

(v) be linked to the data in such a manner that if the data is changed, the signature is invalidated; and

(vi) provide strong and substantial evidence that make it difficult for the signer to claim that the electronic representation is not valid.

(I) Failure to properly maintain or authenticate records with the signature and date entry may result in the denial or recoupment of payments.

(J) Providers must retain electronic records and have access to the records per guidelines found at OAC 317:30-3-15.

(K) The provisions of the Electronic Transaction Act apply to the time and place of sending and receipt. When a power failure, internet interruption, or internet virus occur, confirmation by the receiving party is required to establish receipt.

(L) Any person who fraudulently represents facts in an electronic transaction, acts without authority, or exceeds his or her authority to perform an electronic transaction may be prosecuted under all applicable criminal and civil laws.

(b) **General requirements.** Records, electronic or paper, the contract provider maintains are indexed, orderly, well-maintained, readily accessible, and current. Records contain adequate documentation of services rendered.

(1) All service recipient records are available for the service recipient, his or her legal guardian, contract provider staff, and ~~Oklahoma Human Services (OKDHS)~~ authorized agents to review upon request.

(2) The service recipient record is maintained with:

(A) an index;

(B) the service recipient's name on the record and on each page;

(C) discernable section tabs; and

(D) documents secured in the record.

(3) All entries in the record:

(A) are made per OAC 317:30-3-15;

(B) are in chronological order;

(C) are legible;

(D) include the date and time of each entry, with legible identification of the person making the entry; and

(E) include, when the entry is health-related:

(i) a description of the concern; and

(ii) action taken.

(4) The provider ensures compliance, per OAC 340:2-8-1 through OAC 340:2-8-13 and OAC 340:100-3-2, pertaining to personal information protection, use, and release.

The provider holds personal information regarding service recipients, including names, addresses, photographs, evaluation records, and all other records confidential. Information is not disclosed, directly or indirectly, unless the adult service recipient or legal guardian consent in writing.

(c) **Home record for service recipients receiving community residential supports, group home services, or non-residential habilitation training specialist (HTS) services.** The in-home contract provider maintains a current service record for each service recipient receiving community residential supports, per OAC 340:100-5-22.1; group home service, per OAC 340:100-6; or non-residential HTS services, per OAC 340:100-5-35.

(1) Documents contained in each home record are not removed and include:

(A) guardianship documents and other legal documents;

(B) current Individual Plan packet and addendum copies; ■ 1

(C) applicable health-related documents including, but not limited to:

(i) Form 06HM005E, Referral Form for Examination or Treatment, physician orders, discharge summaries, and emergency room reports;

(ii) special instructions or the Health Care Plan;

(iii) individually-identified data forms relevant to the service recipient's current health status;

(iv) a Dyskinesia Identification System: Condensed User Scale (~~DISCUS~~) or Abnormal Involuntary Movement Scale (~~AIMS~~), when required, per OAC 340:100-5-29;

(v) current immunization record;

(vi) current medication administration records;

(vii) the most recent lab, x-ray, and consultation reports, and pharmacological evaluation, when applicable;

(viii) miscellaneous health-related consultations and correspondence; and

(ix) Form 06HM073E, Referral Form for Psychiatric Treatment or Examination;

(D) miscellaneous documents relating to the service recipient including, but not limited to:

(i) observation notes;

(ii) Form 06CB035E, Site Visit Report, completed by all professional contract providers;

(iii) standing medical orders and protocols;

(iv) applicable data collection sheets; and

(v) documentation of program coordination staff home visits;

(E) quarterly residential progress reports; and

(F) Form 06MP070E, Access to Home Record and Verification of Monitoring Requirement, certifying that all authorized persons accessing the service recipient information contained within the home record were informed and understand the penalties for misuse of confidential and protected information, per ~~Section 1533.1 of Title 21 of the Oklahoma Statutes~~ 21 O.S. § 1533.1.

(2) In unusual circumstances, at the Personal Support Team's (Team) request, and with ~~Developmental Disabilities Services~~ DDS field administrator's written approval, a



service recipient's home record or specified document types from the record may be maintained at a location other than the service recipient's home.

(d) **Retention.** Each contract provider retains a record for each service recipient receiving services from the provider.

(1) There is a yearly transfer of all documents more than three months old from the provider agency's records to a history file, unless otherwise specified, per OAC 340:10-3-40.

(2) The provider agency retains original records for a six-year period or until any pending litigation involving the service recipient is completed, whichever occurs last.

(e) **Transfers between agencies.** When a service recipient changes provider agencies, within seven-calendar days of the transfer, the agency provides the new agency with a paper or electronic copy of the current home record and any health documents the Team requests.

(f) **Other provider records.** The provider maintains service records that substantiate service provision, service recipient eligibility, and outcome of services.

(1) Records are maintained for a six-year period after OKDHS makes the final payment and all pending matters are closed.

(2) The provider maintains copies of all claims, substantiating documents, and records regarding agency fiscal status within corporate offices in Oklahoma.

## SUBCHAPTER 5. CLIENT SERVICES

### PART 3. SERVICE PROVISIONS

#### **340:100-5-22.1. Community residential supports**

Revised ~~9-15-17~~9-15-23

(a) **Applicability.** Community residential supports are funded through contracts with ~~the Oklahoma Department of Human Services~~ DHS(OKDHS), Oklahoma Health Care Authority (OHCA), or both, and must meet standards per this Section.

(1) A service recipient is considered receiving community residential supports when the service recipient receives:

(A) daily living supports ~~(DLS)~~, per Oklahoma Administrative Code (OAC) 317:40-5-150;

(B) Prader-Willi Syndrome services;

(C) agency companion services (ACS), per Part 1 of OAC 317:40-5; ~~or~~

(D) specialized foster care (SFC), per Part 5 of OAC 317:40-5; or

(E) extensive residential supports, per OAC 317:40-5-154.

(2) This Section does not apply to:

(A) group home services, per OAC 340:100-6; or

(B) services provided to service recipients who receive assisted living services, per OAC 340:100-5-22.2.

(b) **General information.**

(1) Services for children are provided in family settings unless approved by the Developmental Disabilities Services (DDS) Community Services Unit programs administrator or designee.

(2) In addition to OAC 340:100-5-50 through 340:100-5-58, the DDS case manager ensures each Personal Support Team (Team) assesses and addresses the service recipient's needs regarding:

(A) safety in the home, including:

- (i) storage of toxic chemicals, cleaning supplies, and combustibles; and
- (ii) use of a tempering valve or other anti-scald device or lowered, hot water tank temperature to control water temperature;

(B) financial issues in addition to OAC 340:100-3-4, including:

- (i) a household budget that provides adequate resources for housing, food, clothing, furnishings, personal supplies, and recreational opportunities; and
- (ii) assistance ~~needed~~ by the service recipient needs in money management;

(C) selection, adaptation, and maintenance of a home;

(D) community inclusion and access to work, recreation, and therapies;

(E) transportation; and

(F) water safety.

(3) Each service recipient is responsible for his or her room and board expenses, including recreational activities, clothing, furnishings, food, and other expenses for services or supports not funded through ~~DHS~~(OKDHS), except as:

(A) provided to members of the Homeward Bound class; or

(B) approved in emergency circumstances per OAC 340:100-3-33 or 340:100-5-3.

(c) **Homes.** Community residential supports are provided in the service recipient's home.

The provider agency ensures:

(1) the home and yard are clean, well-maintained, safe, hazard free, and adapted to the service recipient's needs;

(2) the home has:

(A) utility service and adequate heating, cooling, and plumbing;

(B) safety items in operating condition located in strategic locations in the home, such as a:

(i) flashlight;

(ii) smoke detector;

(iii) carbon monoxide detector;

(iv) first aid kit;

(v) fire extinguisher; and

(vi) tempering valve or other anti-scald device, when ~~determined~~ by the Team determines it necessary to ensure the service recipient's safety;

(C) phone service is available and accessible to the service recipient. Emergency numbers are available at each phone, including:

(i) the DDS toll-free number;

(ii) the fire, police, ambulance, hospital, and poison control, when not in a 911 area;

(iii) a physician name and number; and

(iv) a nursing agency number, when applicable;

(D) at least two means of exit;

(E) a bedroom of at least 80 square feet for each service recipient living in the home. When a service recipient shares a bedroom with another individual, the bedroom must have 120 square feet or more;

- (F) adequate enclosed storage space available for personal items;
- (G) laundry equipment, when in the home, located in a safe, well ventilated, and clean area, with dryers vented to the outside;
- (H) an address clearly visible from the street;
- (I) a bathroom that:

- (i) includes a:
  - (I) flush toilet;
  - (II) fixed basin; and
  - (III) shower or bath tub that meets the service recipient's needs;
- (ii) is in proper working order;
- (iii) provides privacy;
- (iv) is adapted when needed; and
- (v) provides hot and cold running water; and

- (J) a kitchen and equipment to store, prepare, and serve food in a sanitary manner;

(3) dangerous or deadly weapons are not permitted in the home, except as provided in OAC 317:40-5-40. Provider agency staff is prohibited from assisting any service recipient to obtain or possess dangerous or deadly weapons. Dangerous or deadly weapons include, but are not limited to:

- (A) guns, BB guns, air rifles, or other firearms;
- (B) crossbows;
- (C) paint guns;
- (D) arrows;
- (E) explosives;
- (F) stun guns; and
- (G) knives, except cooking and eating utensils; and

(4) illegal substances are not permitted in the home.

(d) **Pre-service requirements.** The DDS case manager and service recipient, or, when applicable, legal guardian, complete and approve steps (1) through (3) of this subsection when community residential supports are initiated, when the service recipient changes provider agencies, and before the service recipient moves to a new home. The documentation of such is maintained in the home record and the case manager record.

(1) Prior to service delivery, the provider completes an emergency housing back-up plan for review and approval by the service recipient's Team per OAC 340:100-5-52.

(A) The back-up plan contains the:

- (i) service recipient's name;
- (ii) description of the living arrangement;
- (iii) name and phone number for back-up staff;
- (iv) back-up housing location;
- (v) written agreement by the:
  - (I) service recipient or legal guardian;
  - (II) direct provider of service, when an ACS or SFC provider;
  - (III) agency program coordination staff (PCS), as applicable;
  - (IV) provider agency administrative representative, as applicable; and
  - (V) DDS case manager;

(vi) dates for provider review of back-up plan, required quarterly and as changes occur; and

- (vii) review date by the DDS case manager.
  - (B) When the location for the back-up plan is a hotel or motel, the provider agency is responsible for including a plan to pay the cost without additional reimbursement from ~~DHSOKDHS~~.
  - (C) ~~DHSOKDHS~~ must complete a home profile on a private home prior to the Team's identification of the home in the back-up plan or use of the home to provide back-up services to the service recipient. A home profile is not required when the service recipient stays in the private home of a relative, per (f)(4)(A) of this Section.
  - (D) The ACS or SFC provider is responsible for re-establishing a residence when his or her home becomes uninhabitable.
- (2) The provider agency cooperates with the service recipient and Team to establish and maintain a household budget based on the service recipient's earned and unearned income.
- (A) Expenses associated with supporting the household are maintained in an auditable fashion sufficient to track the use of money ~~collected~~ the contract provider collects from the service recipient ~~by the contract provider~~.
  - (B) Upon request, the contract provider furnishes to the service recipient, service recipient's family, and legal guardian:
    - (i) a record of all funds collected from the service recipient;
    - (ii) documentation of how the money was used; and
    - (iii) the amount of remaining money held by the provider.
  - (C) Upon termination of residential supports from the contract provider, unused funds are returned to the service recipient within 10-calendar days of service termination date.
- (3) Form 06CB034E, Residential Pre-Service Checklist, is completed and this Section's requirements are satisfied.
- (e) **Service requirements.**
- (1) Unless the service recipient demonstrates the ability under varying conditions to independently and appropriately respond to emergency situations, the provider agency assists in conducting fire drills at least quarterly and weather emergency drills twice a year. The dates, times, and outcomes of the drills are available in the home for review.
- (2) The provider:
- (A) ensures all financial information necessary for maintaining the service recipient's financial eligibility is provided to ~~DHSOKDHS~~ in a timely manner;
  - (B) when serving as payee, ensures the service recipient maintains financial eligibility for benefits and services by notifying appropriate authorities of a change in the service recipient's income;
  - (C) when a change of payee is necessary, cooperates to ensure the change is made ~~in a timely manner~~;
  - (D) establishes a written financial agreement with the service recipient or legal guardian that defines financial responsibilities of the provider's and service recipient's financial responsibilities. The financial agreement:
    - (i) accurately reflects the ongoing financial arrangement between the provider and service recipient;
    - (ii) clearly defines who purchases personal items;

- (iii) is renewed annually and when changes occur; and
- (iv) is available to the service recipient, legal guardian, Office of Client Advocacy advocate, and DDS case manager;
- (E) as a member of the service recipient's Team, assists in determining safeguards necessary to protect the service recipient's assets;
- (F) allows service recipients to select stores for the purchase of food, clothing, and personal items;
- (G) implements the service recipient's Individual Plan (Plan);
- (H) provides necessary assistance, including staff support for each service recipient's active participation in community life;
- (I) assists the service recipient in maintaining an adequate supply of seasonal clothing that fits appropriately, personal grooming materials, and linens. All items are maintained in good condition;
- (J) promotes the service recipient's health and welfare, including providing meals that meet the service recipient's nutritional needs;
- (K) promotes visitation and contact with each service recipient's natural family, legal guardian, and friends, according to the service recipient's desires;
- (L) promotes friendships with neighbors, co-workers, and peers, according to the service recipient's desires;
- (M) when the service recipient, legal guardian, or provider wants to discontinue services, cooperates in securing alternative services and continues to serve the service recipient until the Team confirms all essential services are in place;
- (N) while providing services, ensures staff is engaged at all times in purposeful activity that directly or indirectly benefits the service recipient;
- (O) ensures the service recipient attends scheduled medical and therapy appointments.
  - (i) Transportation to the appointment is provided.
  - (ii) Adequate records, needed materials, and equipment accompany the service recipient to the appointment.
  - (iii) When the service recipient requires support in describing illness, issues, or concerns to the health care provider, knowledgeable staff accompanies the service recipient;
- (P) ensures the service recipient's prescriptions are filled and administered as prescribed, per OAC 340:100-5-32;
- (Q) ensures the Plan in a positive manner addresses issues related to maintaining the home per (c) of this Section;
- (R) ensures the service recipient has transportation to programs and services.
  - (i) Transportation is provided to and from:
    - (I) medical or therapy appointments;
    - (II) personal shopping;
    - (III) leisure or recreational activities;
    - (IV) vocational or employment activities;
    - (V) religious or cultural activities;
    - (VI) Team meetings;
    - (VII) appointments necessary to secure or maintain needed services; and
    - (VIII) voting-

- (ii) All vehicles used to transport the service recipient meet local and state licensing, inspection, insurance, and capacity requirements.
  - (iii) A vehicle used to transport a service recipient with physical disabilities is adapted to meet the service recipient's needs.
  - (iv) Drivers of vehicles have valid and appropriate driver licenses.
- (S) ensures the hot water temperature for the home is set to no more than 120 degrees Fahrenheit. The provider tests the hot water temperature of the home at least annually, after any servicing of the home's water system, and any time the water temperature is believed to have increased above 120 degrees Fahrenheit. The provider maintains test documentation and the documentation at minimum includes the test date and the home's hot water temperature. The documentation is maintained in the home and available for inspection. The provisions within this paragraph will henceforth be known as the Julie Teenor Anti-Scald Protocol; and
- (T) ensures reasonable precautions are employed for safety with hot food, cooking oils, and other hot liquids.
- (f) **Provider agency policies, practices, and procedures.** The provider agency develops and maintains written policies and procedures that are consistent with DHSOKDHS rules and govern all aspects of service provision.
- (1) Provider agency policies are made available to each service recipient, the service recipient's parent(s), legal guardian, or advocate, provider agency staff, and DHSOKDHS.
  - (2) Provider agency policies and procedures include, but are not limited to:
    - (A) service recipient rights protection;
    - (B) services provided;
    - (C) admission and discharge criteria;
    - (D) grievance procedures;
    - (E) prevention and reporting of abuse, neglect, ~~and/or~~ or exploitation;
    - (F) confidentiality;
    - (G) emergency management;
    - (H) fees ~~paid by~~ the service recipient pays;
    - (I) health and safety precautions; and
    - (J) safeguarding service recipient funds.
  - (3) The provider agency designates one person who, in the absence of the agency administrator, is responsible for the administration of the agency and is empowered to act on behalf of the provider agency.
  - (4) The provider agency is responsible for recruitment, screening, training, and supervision of staff or volunteers providing direct services, ensuring direct support staff:
    - (A) is not supervised by a relative or person living in the staff's home. A relative includes wife, husband, children, parents, stepparents, parents-in-law, grandchildren, grandparents, brothers, sisters, stepchildren, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, aunts, uncles, nieces, nephews, first cousins or any such person with whom the employee shares a foster relationship;
    - (B) who provides back-up services is available and has received training per OAC 340:100-3-38;
    - (C) is at least 18 years of age;

- (D) is present in sufficient numbers to ensure the service recipient's health and welfare, ~~as authorized by the service recipient's Plan of Care~~ authorizes;
- (E) is physically able and mentally alert to carry out the job duties;
- (F) implements and follows the service recipient's Plan;
- (G) does not take the service recipient to visit staff's home unless the Team has provided prior written approval; and
- (H) ~~must meet~~ meets requirements of OAC 317:40-5-40 when overnight visits are going to occur.

(5) The provider agency ensures ~~the Program Coordinator Staff (PCS)~~ supervises, guides, and oversees all aspects of programming associated with receipt of community residential supports.

(A) The PCS must:

- (i) get to know the service recipient and his or her needs;
- (ii) make announced and unannounced visits to the service recipient's home. The PCS makes a minimum of three face-to-face visits per month, to monitor the service recipient's needs and for staff supervision. Agency Provider agency administration staff meeting (f)(5)(A)(xii) requirements of this Section, may complete these visits in addition to ~~program coordination staff~~ PCS. At least two of the three visits must be unannounced. Of the unannounced visits:
  - (I) at least one visit each month must occur on Saturday or Sunday; or
  - (II) between 8:00 p.m. and 7:00 a.m. on a weekday;
- (iii) ~~Monthly~~ monthly visits may be reduced to one unannounced face-to-face visit to the service recipient's home when the home:
  - (I) has fully trained staff;
  - (II) has had no turn-over for the past year;
  - (III) does not require restrictive or intrusive procedures; and
  - (IV) has had no medication errors during the previous calendar year.
- (iv) provide support and assistance to any service recipient who is experiencing an emotional, behavioral, or medical crisis;
- (v) be accessible to direct service staff 24 hours per day and available to respond, in person when necessary, to an emergency;
- (vi) supervise direct contact staff to promote achievement of outcomes in the Plan;
- (vii) ensure staffing levels meet the requirements of the service recipient's Plan, with staff trained per OAC 340:100-3-38;
- (viii) ensure records are maintained according to DDS community records per OAC 340:100-3-40;
- (ix) ensure basic household requirements are always in place, including:
  - (I) utilities and phone service;
  - (II) furniture;
  - (III) food supplies that meet the service recipient's nutritional needs;
  - (IV) linens;
  - (V) personal items;
  - (VI) adaptive equipment; and
  - (VII) prescription medications;

- (x) assist the DDS case manager as requested to prepare for and implement the Plan and its revisions per OAC 340:100-5-50 through 340:100-5-58;
  - (xi) ensure applicable ~~DHS~~OKDHS and OHCA rules are followed;
  - (xii) complete necessary training per OAC 340:100-3-38; and
  - (xiii) have a minimum of four years of any combination of college level education or full-time equivalent experience in serving persons with disabilities, or full-time equivalent experience in a supervisory position, unless the DDS director or designee waives this requirement ~~is waived in writing by the DDS director or designee.~~
- (B) Provider agencies ensure that residential PCS caseloads do not exceed 27 with the ~~following~~ calculations in (i) and (ii) of this subparagraph:
- (i) Provider agencies calculate one for persons receiving community residential supports and group home services; ~~and,~~
  - (ii) Provider agencies calculate one for every five persons receiving In-home Supports Waiver services, assisted living services, or any other non-residential service on the PCS caseload.
- (C) Provider agencies providing community residential supports for less than one calendar year ensure the caseload of each PCS numbers no more than 15 service recipients when the PCS serves service recipients receiving community residential supports.
- (D) The DDS director may grant a written exception to the PCS ratios per this Section upon written request and adequate justification from the provider.
- (E) Provider agencies who fail to meet program coordination requirements per this subsection may be required to provide a reduced PCS ratio in accordance with sanctions per OAC 340:100-3-27.
- (6) Staff, who assist a service recipient with bathing or showering, must ensure the water temperature is safe and comfortable for the service recipient. The requirements of this paragraph are enforced even when an anti-scald device is used. Staff:
- (A) tests the water temperature by touch or with a thermometer designed to test hot liquids, before the service recipient enters the water. The water must be determined safe and comfortable for the service recipient, not merely comfortable for the staff;
  - (B) is trained by his or her employer in the unique needs of each service recipient including tolerance to water temperature and bathing or showering needs; and
  - (C) does not leave a service recipient who is unable to attend to safety considerations alone in the bath or shower.

### **340:100-5-22.6. Alternative group home**

Revised ~~9-15-17~~9-15-23

- (a) **Legal basis.** Authority to operate alternative group homes is based on the Group Homes for Persons with Developmental or Physical Disabilities Act per Section 1430.1 through 1430.41 of Title 10 of the Oklahoma Statutes (10 O.S. §§ 1430.1 through 1430.41). Administrative and program requirements for alternative group homes are described in Oklahoma Administrative Code (OAC) 317:40-5-152, this Section, and OAC 340:100-6.
- (b) **General information.** Alternative group homes:



- (1) serve up to four service recipients who:
  - (A) have serious behavioral or emotional challenges or community protection issues in addition to intellectual disabilities and require continuous supervision and assistance to remain in the community; or
  - (B) were charged with a felony, determined by the district court as incompetent to stand trial due to intellectual disability, formerly known as mental retardation, and dangerous, and placed by the district court in the custody of the public guardian; and
- (2) provide for the development of skills to assist service recipients to lead healthy, independent, and productive lives to the fullest extent possible.

(c) **Provider approval criteria.** In addition to OAC 340:100-6-12 requirements, prospective providers of alternative group home services must demonstrate a history of effective services and supports to persons with serious behavioral or emotional challenges or community protection issues. Provider approval requires review of historical information, when available, from Developmental Disabilities Services (DDS) Quality Assurance Unit and area office. The DDS director or designee must approve the location of the alternative group home ~~must be approved in writing by the DDS director or designee~~ prior to the implementation of services. Each prospective provider submits written documentation of:

- (1) a history of services to persons who present serious behavioral or emotional challenges or community protection issues, including:
  - (A) past experience;
  - (B) number of persons served;
  - (C) provider's perspective on the greatest challenges in serving persons eligible for alternative group home services; and
  - (D) provider's philosophy for service provision;
- (2) financial viability through fiscal information when requested, including the anticipated budget related to the rate for alternative group home services;
- (3) service provision plans, including:
  - (A) anticipated number of homes;
  - (B) location;
  - (C) floor plans;
  - (D) gender to be served;
  - (E) population to be served; and
  - (F) availability of psychological, psychiatric, and vocational services in the proposed location;
- (4) plans for staffing and program coordination; and
- (5) staff qualifications, including any additional training to be provided.

(d) **Eligibility to receive services.** To be eligible for services in an alternative group home, the person must:

- (1) be in the custody of the public guardian per ~~Section 1175.6b or 1175.6b.A of Title 22 of the Oklahoma Statutes (22 O.S. § 1175.6b or 1175.6c);~~ or
- (2) meet the criteria for an intermediate care facility for individuals with intellectual disabilities (ICF/IID) level of care; and
  - (A) require 24-hour, on-site, awake staff supervision to ensure safety; and

(B) be found by the DDS director or designee to have serious behavioral or emotional challenges or community protection issues, such as:

(i) evidence of commitment of a sexually violent offense, sexually predatory act, or crime of sexual violence including, but not limited to:

(I) rape;

(II) lewd or indecent acts or proposals made to a child, per 21 O.S. § 1123; or

(III) forcible sodomy, per 21 O.S. § 888;

(ii) history of stalking or opportunistic behavior that demonstrates a likelihood to commit a sexually violent or predatory act;

(iii) documented pattern of acts of violence toward others;

(iv) experience ongoing, highly disruptive behavioral episodes that:

(I) are dangerous per 22 O.S. § 1175.1; and

(II) require close supervision and frequent intervention by staff;

(v) evidence of commitment of one or more violent offenses, such as:

(I) murder or manslaughter;

(II) attempted murder;

(III) arson;

(IV) assault;

(V) kidnapping; or

(VI) use of a weapon to commit a crime; or

(vi) severe ongoing self-injurious behavior.

(e) **Services provided.** Services provided are designed to assist service recipients in acquiring, retaining, and improving self-help, socialization, and adaptive skills necessary to reside successfully in a home and community-based setting.

(1) Services include supports to meet each service recipient's needs including, but not limited to:

(A) residential habilitation, such as assistance with the acquisition, retention, or improvement of skills related to activities of daily living, such as:

(i) personal grooming and cleanliness;

(ii) bed-making and household chores;

(iii) eating and food preparation; and

(iv) social and adaptive skills necessary to enable the service recipient to reside in a shared home;

(B) program supervision and oversight including 24-hour availability of response staff to meet schedules or unpredictable needs in a way that promotes maximum dignity and independence, while providing for supervision and safety. In addition to requirements in OAC 340:100-6-55, program coordination staff (PCS) must:

(i) serve no more than 18 service recipients;

(ii) ensure staffing levels meet (1)(H) of this subsection requirements; and

(iii) ensure records are maintained per OAC 340:100-3-40;

(C) implementation of community protection precautions and individual program plans per (f) of this Section;

(D) recreational and leisure activities, including individual and group activities;

(E) assistance in money management;

(F) health care services provided per OAC 340:100-5-26 and OAC 340:100-5-26.3;

(G) medication administration per OAC 340:100-5-32; and  
(H) management of staffing levels that provides supervision to ensure the safety of the service recipient, community, staff, other service recipients, and implementation of each service recipient's Individual Plan (Plan).

(i) An average of 14 hours of staffing per service recipient must be provided per billable day prior to filing a claim for habilitation training staff authorized per OAC 317:40-5-152.

(I) At least two awake-staff must be on duty during daytime and evening hours when service recipients are in the home.

(II) This requirement may be reduced to one awake-staff, when there are only one or two service recipients in the home.

(ii) Sufficient daytime staffing must be provided to:

(I) ensure adequate supervision in the home and community; and

(II) implement the Plan, except during the time the service recipient is in an authorized employment, vocational, or day services program that provides the needed supervision, security, and support identified in the Plan. Staff is trained per OAC 340:100-3-38.

(iii) At least one awake-staff must be on duty during hours when service recipients are asleep.

(I) The provider agency must have a provision to immediately provide additional staff in the home ~~should~~ when the need ~~arise~~ arises.

(II) Staff on duty must be physically able and mentally alert to carry out the duties of the job.

(iv) The provider must:

(I) have staff available to provide necessary support and supervision when the service recipient needs to return from employment or other day services;

(II) provide activity options and supervision during all times when the service recipient is not participating in authorized employment activities; and

(III) ensure effective transition and coordination of supervision between alternative group home and employment programs or other authorized absences from the alternative group home program.

(2) In addition to the services in (1) of this subsection, services for wards of the public guardian are designed to ensure the service recipient is not dangerous to self or others.

(f) **Alternative group home program requirements.** In addition to compliance with applicable Oklahoma Department of Human Services (~~DHS~~) (OKDHS) and Oklahoma Health Care Authority (OHCA) rules, the provider ensures:

(1) staff implements security precautions protecting the service recipient, neighbors, children, vulnerable adults, animals, and others;

(2) staff implements outcomes and action steps detailed in the Plan to assist service recipients to function safely in the community and avoid criminal activity;

(3) collaboration and coordination occur with DDS staff, employment providers, therapists, and other entities and persons, such as law enforcement, corrections officers, schools, employers, mental health workers, and, when appropriate, the public guardian;

(4) written provider agency policies comply with ~~DHS~~OKDHS and OHCA rules;

- (5) effective security and supervision of service recipients in the residence and community are provided;
  - (6) contingency plans are developed and implemented for:
    - (A) emergency relocation of a service recipient who created a danger or who is in danger;
    - (B) emergency staffing in the event changes are required to protect staff or others;
    - (C) general emergencies requiring evacuation of the entire home, such as fire or weather emergencies, per OAC 340:100-6-45; and
    - (D) elopement;
  - (7) legal and court requirements are followed, including adherence to Oklahoma laws governing registered sexual offenders;
  - (8) the health care coordinator (HCC) or other knowledgeable staff accompanies the service recipient to each medical or psychiatric appointment, taking current data summaries that indicate the rate of occurrence of medication-responsive symptoms or behaviors over the last one to three months. For visits to the physician prescribing psychotropic medication, the HCC presents Form 06HM073E, Referral Form for Psychiatric Treatment or Examination, per OAC 340:100-5-26;
  - (9) specific offense patterns are considered and addressed when determining appropriate program locations; and
  - (10) any modifications to the Plan including restrictive or intrusive procedures is supported by a specific, assessed need, and justified in the person-centered plan per OAC 317:40-1-3(b). When the Personal Support Team (Team) determines restrictive or intrusive procedures are essential for safety, the Team must develop a protective intervention protocol per OAC 340:100-5-57.
- (g) **Weapons.** Dangerous or deadly weapons are not permitted in the alternative group home or on the premises. Providers are prohibited from assisting any service recipient to obtain or possess dangerous or deadly weapons including, but not limited to:
- (1) guns, BB guns, air rifles, or other firearms;
  - (2) crossbows;
  - (3) paint guns;
  - (4) arrows;
  - (5) explosives;
  - (6) stun guns; and
  - (7) knives, except cooking and eating utensils.
- (h) **Substances and items prohibited in alternative group homes are:**
- (1) illegal substances; and
  - (2) alcohol.
- (i) **SoonerCare eligibility.** The service recipient and guardian, with necessary support from the provider, establish and maintain SoonerCare eligibility, when possible.
- (j) **Natural supports.** Persons who agree to provide natural supports to a service recipient living in an alternative group home must:
- (1) work with the Team to develop a schedule, support strategies, and agreement for support. Each Plan contains a description of any natural support provided that ensures the safety and welfare of the service recipient and community. No arrangement is made for natural supports that violate existing court orders, security arrangements, or the Plan;

- (2) keep commitments made, regarding supports; and
- (3) document or report to the program coordinator or DDS case manager regarding supports provided.

(k) **Refusal to participate.** When a service recipient or guardian refuses to participate in service delivery described in the Plan:

- (1) the provider:
  - (A) continues to implement the Plan as written; and
  - (B) immediately notifies the DDS case manager of the need for a Team meeting;
- (2) the DDS case manager takes immediate action to convene the Team to address the situation; and
- (3) steps in OAC 340:100-3-11 are followed.

(l) **Record keeping.** In addition to requirements of OAC 340:100-3-40, records of service recipients must include documentation of:

- (1) the service recipient's registration with appropriate law enforcement authorities, when required, and documentation of subsequent registration notification to DDS;
- (2) all agreements or plans with other agencies or persons who support the service recipient, including the guardian and family members that specifies the service recipient's supervision requirements when staff is not present; and
- (3) any refusal by the service recipient to follow conditions of the Plan, protective intervention protocols, or treatment recommendations.

(m) **Training.** Staff or volunteers providing direct supports for service recipients in an alternative group home are required to complete necessary training requirements per OAC 340:100-3-38.13.

(n) **Transportation.** Providers of alternative group home services must ensure transportation is:

- (1) available as needed for medical emergencies, appointments, day programs, and community activities per OAC 317:40-5-103; and
- (2) supervised per this Section in accordance with each service recipient's needs.

(o) **Transition Emergency temporary alternative group home supports.** ~~Teams plan for a service recipient's transition to appropriate services when it is determined the alternative group home program is no longer necessary.~~ Emergency temporary alternative group home supports are described in this section. Alternative group homes may serve additional service recipients when the DDS director or designee determines he or she requires alternative group home level of care and there are no other resolutions to the emergency.

- (1) ~~Within three months of the service recipient's admission to an alternative group home, the Team develops reasonable criteria for the service recipient's transition to a less restrictive environment that are~~ When an emergency situation exists in which the Team requests temporary alternative group home supports, the case manager submits a request and justification for the services to the DDS director or designee.  
The request must include:

- (A) included in a written plan submitted to designated DDS State Office staff a description of outcomes the service recipient and his or her guardian desires, when appropriate, and the services and supports necessary to achieve these outcomes;  
and

(B) reviewed at least annually by the Team objective evidence supporting the need for the alternative group home placement; and

(C) criteria of what must occur for the service recipient to return to a less restrictive placement

(2) All transitions from alternative group homes must be approved by designated DDS State Office staff. DDS State Office staff may adjust the transition date when necessary. Within the first two weeks of the service recipient's admission to an alternative group home, the Team develops a transition plan with action steps or methods to achieve the transition including the names of persons or provider agency positions responsible for implementing assigned responsibilities. ■-4

(p) **DDS-initiated transition Transition.** The DDS director or designee may initiate the transition process for a person receiving alternative group home services who can be effectively served in another residential environment. Teams plan for a service recipient's transition to appropriate services when it is determined the alternative group home program is no longer necessary.

(1) Within three months of the service recipient's admission to an alternative group home, the Team develops reasonable criteria for the service recipient's transition to a less restrictive environment that are:

(A) included in a written plan submitted to designated DDS State Office staff; and

(B) reviewed at least annually by the Team.

(2) All transitions from alternative group homes must be approved by designated DDS State Office staff. DDS State Office staff may adjust the transition date when necessary. ■ 1

(q) **DDS-initiated transition.** The DDS director or designee may initiate the transition process for a person receiving alternative group home services who can be effectively served in another residential environment.

### **340:100-5-26.1. Psychotropic medication**

Revised 9-17-189-15-23

(a) Oklahoma Administrative Code (OAC) 340:100-5-26.1 applies to service recipients receiving:

(1) community residential supports per OAC 340:100-5-22.1;

(2) group home services per OAC 340:100-6; or

(3) behavioral supports in Level D group homes.

(b) A psychotropic medication is a drug used to treat a mental disorder or any drug prescribed to stabilize or improve mood, mental status, or behavior per OAC 340:100-1-2.

(c) Medication is not used as punishment, for staff's convenience, as a substitute for a program, or in quantities that interfere with a service recipient's participation in programming.

(d) The service recipient's Personal Support Team (Team) obtains a description of data to be collected to evaluate the psychotropic medication's effectiveness, from the prescribing physician healthcare provider.

(1) The Team:

(A) identifies a method for collecting necessary data; and

(B) specifies a routine method for reporting this data to the prescribing physician healthcare provider.

(2) When the psychotropic medication is changed, the Team obtains new instructions for additional or different data needed to evaluate the effectiveness of the new medication, from the prescribing physician healthcare provider.

(e) The Team monitors for side effects, such as tardive dyskinesia per OAC 340:100-5-29.

(f) The Team reviews the use of psychotropic medication annually during the individual planning process per OAC 340:100-5-53.

~~(g) When psychotropic medication is used to treat the symptoms of a psychiatric diagnosis and the medication is determined ineffective in eliminating or substantially reducing symptoms, the Team provides pertinent information to the prescribing physician about the service recipient's status.~~

~~(h) Use of psychotropic medication for behavior control is an intrusive procedure per OAC 340:100-1-2. The Team must develop a protective intervention protocol per OAC 340:100-5-57: to address behavioral symptoms being treated by the psychotropic medication. Psychotropic medication is considered for behavioral control only when it is prescribed without a confirmed psychiatric diagnosis, appropriate for the medication.~~

~~(h)~~ (h) Developmental Disabilities Services (DDS) defines the use of p.r.n. medication for behavioral control to be a highly-restrictive procedure per OAC 340:100-3-34. Medication is considered for behavioral control when it is prescribed to achieve a desired behavioral outcome. When a medication is ordered to be administered p.r.n. for behavioral control:

(1) the Team:

(A) ensures there is a specific, written protocol for the administration of the p.r.n. medication from the prescribing physician healthcare provider as part of the ~~protective intervention planning~~ a protective intervention protocol per OAC 340:100-5-57;

(B) notifies the DDS director of pharmacy services and requests a pharmacy review within five-business days; and

(C) meets to incorporate the protocol in the individual plan within 30-calendar days; and

(2) the contract provider agency staff follows critical incident reporting requirements per OAC 340:100-3-34.

### **340:100-5-29. Monitoring for tardive dyskinesia**

Revised 5-15-089-15-23

(a) **Scope and applicability.** Developmental Disabilities Services Division (DDSD) (DDS) provides a standardized system training for staff to regularly and systematically assess, evaluate monitor, and inform service recipients who are at risk for dyskinesia, including tardive dyskinesia (TD). Monitoring for dyskinesia TD applies to all service recipients who receive classes of medication per OAC 340:100-5-29(a)(1) medication associated with a risk of TD. Providers of residential services funded by Oklahoma Department of Human Services (OKDHS) ~~DDSD~~ DDS or Oklahoma Health Care Authority (OHCA) have primary responsibility for implementation of OAC 340:100-5-29. Providers of other types of supports inform service recipients and encourage the

implementation of OAC 340:100-5-29. Providers are required to meet standards per OAC 340:100-3-27. Service recipients:

(1) ~~prescribed amoxapine, metoclopramide, or neuroleptic or other medications known to cause side effects that include dyskinesia~~ medication associated with a risk of developing TD are regularly and systematically assessed and evaluated monitored for symptoms of TD for dyskinesia. The service recipient who is prescribed such ~~medications~~ medication, parent(s) of a minor service recipient, or, if applicable, service recipient's legal guardian is regularly informed about the risk of TD;

(2) ~~identified~~ assessed with signs or symptoms of ~~dyskinesia~~ TD are referred to the prescribing healthcare provider for further evaluation to ~~diagnose the type of dyskinesia~~;

(3) ~~properly diagnosed by a physician with dyskinesia,~~ with TD by a healthcare provider, parent(s) of a minor service recipient, or, if applicable, legal guardian are informed of the ~~presence of dyskinesia, including TD; or diagnosis~~; and

(4) ~~with dyskinesia~~ are regularly and systematically assessed and evaluated regarding the status of ~~dyskinesia~~. diagnosed with TD continue to receive regular assessments and monitoring regarding the status of the diagnosis.

(b) **Assessment and monitoring requirements.** ~~Assessments are completed by a A trained rater or licensed professional~~ the prescribing healthcare provider or designee complete assessments using a standardized assessment scale. The Dyskinesia Identification System: Condensed User Scale (DISCUS) is the preferred assessment scale. In the absence of trained raters for DISCUS, the Abnormal Involuntary Movement Scale (AIMS) may be used. ~~DDSD DDS trains staff identified by agency~~ service providers identify to be DISCUS raters on the use of DISCUS at no charge to the service provider agency. Identified staff may be contract staff or employees of the service provider agency. When ~~DDSD rater training is needed to train raters~~, the service provider agency notifies the DDSD DDS area manager in a timely manner training staff.

(1) ~~The rater obtains prerequisite~~ Service provider staff maintains information about ~~neuroleptic medication, amoxapine, or metoclopramide~~ service recipient exposure to medication associated with a risk of developing TD.

(2) ~~The applicable~~ Copies of assessment scale scales completed by provider staff, or documentation of assessment completion by a healthcare provider or designee, are ~~is~~ filed in the service recipient's record per OAC 340:100-3-40.

(c) **Service recipients requiring assessments.** Service recipients:

(1) ~~whose with an unknown~~ history of medication exposure is ~~unknown or uncertain~~ receive an initial rating DISCUS assessment. When the initial rating is assessment:

(A) ~~negative,~~ has a total score less than five ~~on DISCUS~~, further assessments are not needed; or

(B) ~~positive,~~ has a total score of five or more ~~on DISCUS~~, items in (i) and (ii) must ~~be performed~~ occur.

(i) ~~A physician's evaluation and, if indicated, further referral is made to confirm the type of dyskinesia.~~ A referral is made to the prescribing healthcare provider for additional evaluation.

(ii) ~~The assessment is repeated~~ Assessments continue to be completed every six months until the assessment is negative a DISCUS score less than 5 is obtained. The assessment is repeated ~~one month after a negative assessment~~



- and if ~~negative again~~, in one month and, if the score remains less than 5, further assessments are not needed;
- (2) who are prescribed ~~medication or receive medication~~ that may cause dyskinesia TD are assessed before medication is started or within 30-calendar days of the treatment being identified medication initiation.
- (A) Service recipients are routinely assessed every six months while on receiving medication associated with a risk of TD.
- (B) Assessments may be done ~~quarterly or more frequently~~ if medications are changed or side effects are suspected or identified;
- (3) ~~who receive medication that may cause dyskinesia are assessed within 30 days of the treatment being identified.~~
- (A) ~~Service recipients are routinely assessed every six months while on medication.~~
- (B) ~~Assessments may be done quarterly or more frequently if medications are changed or side effects are suspected or identified;~~
- (4) who ~~had~~ have medications discontinued that may cause dyskinesia which are associated with a risk of TD are assessed monthly as described in (A) through (C) of this paragraph.
- (A) After four months ~~of positive ratings~~ with DISCUS scores of 5 or greater, monthly assessments are stopped, and assessments are repeated every six months.
- (B) If a ~~negative rating occurs~~ a DISCUS score less than 5 is reported, reassess assessments are completed monthly until two ~~negative ratings occur~~ additional scores less than 5 are reported.
- (C) After two ~~negative ratings,~~ DISCUS screening is assessments with a score less than 5 are reported, assessments are discontinued; and discontinued.
- ~~(5)~~(4) who have medications introduced again that may cause dyskinesia, TD are monitored according to OAC 340:100-5-29(d) is followed.
- (d) **TD diagnosis.** ~~The diagnosis of TD is conveyed in writing by the physician to the service recipient, parent(s) of a minor service recipient, or, if applicable, legal guardian.~~

### **340:100-5-35.1. Habilitation training specialist (HTS) services in acute care hospitals**

~~Issued 9-15-21 Revised 9-15-23~~

(a) **Applicability.** HTS services, per Oklahoma Administrative Code (OAC) 317:30-5-482, are authorized, per OAC 317:40-5-110 or 317:40-5-111, and OAC 340:100-3-33; and apply to HTS services provided to ~~adult~~ service recipients receiving community residential supports, group home services, and in non-residential settings, per OAC 340:100-5-22.1, 340:100-6, and 340:100-5-35.

(b) **General information.**

- (1) HTS services are authorized in an acute care hospital per the 21st Century Cares Act when the service is:
- (A) identified in an individual's person-centered plan of services and supports;
- (B) provided to meet needs of the individual that are not met through the provision of hospital services;

- (C) not a substitute for services the hospital is obligated to provide through its conditions of participation or under federal or state law; and
  - (D) designed to ensure smooth transitions between acute care settings and home and community-based settings, and to preserve the individual's functions.
- (2) HTS services are available in an acute care hospital for no more than 14-consecutive, calendar days per event, not to exceed 60-calendar days per Plan of Care year, up to the following limits no more than:
- (A) 16 hours per day for those receiving daily living supports (DLS), per OAC 317:40-5-150 or 317:40-5-153;
  - (B) 24 hours per day for those receiving services for Prader-Willi Syndrome, per OAC 340:100-5-34;
  - (C) nine hours per day for those receiving agency companion services, per OAC 317:40-5;
  - (D) nine hours per day for those receiving specialized foster care, per OAC 317:40-5;
  - (E) nine hours per day for those receiving group home services, per OAC 340:100-6;
  - (F) 24 hours per day for those receiving alternative group home services, per OAC 340:100-5-22.6;
  - (G) nine hours per day for those who do not receive community residential supports, per OAC 340:100-5-22.1; group home services, per OAC 340:100-6; or alternative group home services, per OAC 340:100-5-22.6.
- (3) ~~Exceptions~~ The Developmental Disabilities Services (DDS) director or designee may authorize exceptions to the nine hours per day limit ~~may be authorized by the DDS director or designee~~ when needed for service recipients who require additional supports. The DDS director or designee may authorize HTS services provided in psychiatric facilities when required for admission to address issues such as significant daily living, communication and other needs.
- (4) HTS services in an acute care hospital are:
- (A) only authorized during times the service recipient is typically awake. HTS services are ~~utilized~~ used during normal sleep hours when the service recipient demonstrates a pattern of not sleeping at night;
  - (B) not intended to provide more than one Waiver funded staff at a time;
  - (C) not provided by the service recipient's agency companion, per OAC 317:40-5; and
  - (D) not provided at the same time as DLS therapeutic leave, per OAC 317:40-5-150 or 317:40-5-153.

## **SUBCHAPTER 6. GROUP HOME REGULATIONS**

### **PART 3. STANDARDS**

#### **340:100-6-10. License or contract required**

Revised ~~5-11-07~~ 9-15-23

- (a) It is unlawful for any person or organization to operate a group home per Sections 1430.1 through 1430.41 of Title 10 of the Oklahoma Statutes (10 O.S. §§ 1430.1 through

1430.41) without a license from Oklahoma Department of Human Services (OKDHS) Developmental Disabilities Services (DDS). Providers who have a current contract to provide:

(1) group home services with OKDHS ~~Developmental Disabilities Services Division (DDSD)~~ DDS; or

(2) Home and Community-Based Waiver group home services with Oklahoma Health Care Authority (~~OHCA~~) are deemed licensed.

(b) A license to operate a group home may be issued upon completion of an approved application and inspection. The license must include, but is not limited to:

(1) maximum bed capacity for which the license is granted;

(2) kind of program the licensee is certified to operate;

(3) date license was issued;

(4) expiration date of license; and

(5) address of the home for which the license is issued.

(c) A license is issued only for the premises named on the application and is neither transferable nor assignable.

(d) ~~DDSD~~ DDS Community Services staff ~~maintain~~ maintains a record of each group home deemed licensed, including:

(1) maximum bed capacity;

(2) type of group home operated; and

(3) address of group home.

(e) The group home license expires 12 months from the date of issuance.

(f) DDS may issue a conditional license to any group home in which it finds a violation exists. The issuance of a conditional license revokes any license the group home holds.

(1) Prior to the issuance of a conditional license, DDS:

(A) reviews and approves a written plan of correction;

(B) specifies the violations that prevent full licensure and establishes a time schedule for correction of the deficiencies; and

(C) sends notice of the decision to issue a conditional license to the provider with the proposed plan of correction. The notice informs the provider of the right to an appeal per Oklahoma Administrative Code (OAC) 340:100-3-27.

(2) DDS provides notice and due process for the holder of a conditional license per 10 O.S. § 1430.17.

(g) Any person or organization desiring to operate a group home must request a licensure packet from DDS, Group Home Licensure, P.O. Box 25352, Oklahoma City, OK 73125.

(h) An applicant for license, license renewal, or contract to operate a group home must submit to DDS a completed application along with the documents DDS requires to determine whether the applicant:

(1) is 21 years of age or older and of reputable and responsible character;

(2) demonstrates the skill and fitness to provide the necessary services;

(3) has appropriate business experience; and

(4) has professional experience with the population to be served.

(i) An application for a license or contract to operate a group home must include documentation that the state fire marshal or representative has inspected and approved the home. A contract provider who wishes to open an additional group home must also provide this documentation.

- (1) After the initial state fire marshal inspection, each group home must be inspected as required by ordinance per local or state fire marshal and found in compliance with fire safety regulations prior to re-issuance of a license or contract.
- (2) All group home inspections are subject to state fire marshal fees, citations, and penalties.
- (j) Prior to opening, the provider must obtain for each group home a licensed:
- (1) plumber or municipal building inspector's report; and
- (2) electrician or municipal building inspector's report.
- (k) An approval letter from the local zoning authority must accompany all initial license applications or contractor requests for each particular address.
- (l) No person who is ineligible for employment as a community services worker, per OAC 340:100-3-39, is eligible to:
- (1) be licensed; or
- (2) receive a contract to become a provider. If the applicant, licensee, or contractor is a firm, partnership, limited liability company or corporation, the applicant is not eligible to:
- (A) be licensed; or
- (B) receive a contract if any person in (i) through (iv) is ineligible for employment as a community services worker.
- (i) A member of the firm;
- (ii) A major member of the limited liability company or manager;
- (iii) A major partner of the partnership; or
- (iv) An officer or major stockholder of the corporation.
- (m) A license or a contract to operate a group home is not transferable. Ownership of a group home may only be changed from the provider named in the application to another provider who has a current group home license or contract, and only upon prior written approval of DDS.
- (1) The current group home provider must:
- (A) notify the DDS director or designee in writing of the change no less than 30-calendar days prior to the effective date of the change;
- (B) remain responsible for the operation of the home until the change in ownership is complete; and
- (C) remain liable for all penalties assessed for violations occurring prior to change of ownership.
- (2) Any citations, problems DDS identifies prior to the change in ownership, or outstanding deficiencies remaining after the change in ownership are the responsibility of the new owner of the group home to correct.
- (n) Any licensed or contracted group home provider, per OAC 340:100-6, must give 90-calendar days notice prior to closing a home or to closing any part of a home that would require the transfer or discharge of more than ten percent of the residents.
- (1) Notice must be given to:
- (A) DDS director or designee;
- (B) any resident who requires transfer or discharge from the group home; and
- (C) the resident's legal guardian, family, or advocate.
- (2) Notice must state the proposed date of closing and reason for closing.

(3) The group home provider must offer to assist the resident in securing alternative placement.

(4) The DDS director or designee must be notified if there is need for relocation assistance.

### **340:100-6-11. Types of licenses [REVOKED]**

~~Revised 5-11-07~~

~~(a) **Regular license.** The group home license expires 12 months from the date of issue and may be issued upon application and inspection.~~

~~(b) **Conditional license.** OKDHS may issue a conditional license to any group home in which it finds a violation exists. The issuance of a conditional license revokes any license held by the group home.~~

~~(1) Prior to the issuance of a conditional license, OKDHS:~~

~~(A) reviews and approves a written plan of correction;~~

~~(B) specifies the violations that prevent full licensure and establishes a time schedule for correction of the deficiencies; and~~

~~(C) sends notice of the decision to issue a conditional license to the provider with the proposed plan of correction. The notice informs the provider of the right to an appeal per OAC 340:100-3-27.~~

~~(2) OKDHS provides notice and due process for the holder of a conditional license per Section 1430.17 of Title 10 of the Oklahoma Statutes.~~

### **340:100-6-12. Application for group home license, license renewal, or contract [REVOKED]**

~~Revised 7-1-11~~

~~(a) Any person or organization desiring to operate a group home must request a licensure packet from Oklahoma Department of Human Services (OKDHS) Developmental Disabilities Services Division (DDSD), Group Home Licensure, P.O. Box 25352, Oklahoma City, OK 73125.~~

~~(b) An applicant for license, license renewal, or contract to operate a group home must submit to OKDHS a completed application along with the documents required by OKDHS to determine whether the applicant:~~

~~(1) is 21 years of age or older and of reputable and responsible character;~~

~~(2) demonstrates the skill and fitness to provide the necessary services;~~

~~(3) has appropriate business experience; and~~

~~(4) has professional experience with the population to be served.~~

~~(c) An application for a license or contract to operate a group home must include documentation that the state fire marshal or representative has inspected and approved the home. A contract provider who wishes to open an additional group home must also provide this documentation.~~

~~(1) After the initial state fire marshal inspection, each group home must be inspected as required by ordinance per local or state fire marshal and found in compliance with fire safety regulations prior to re-issuance of a license or contract.~~

~~(2) All group home inspections are subject to state fire marshal fees, citations, and penalties.~~

~~(d) Prior to opening the provider must obtain for each group home a licensed:~~

- (1) plumber or municipal building inspector's report; and
- (2) electrician or municipal building inspector's report.
- ~~(e) An approval letter from the local zoning authority must accompany all initial license applications or contractor requests for each particular address.~~
- ~~(f) No person who is ineligible for employment as a community services worker, per OAC 340:100-3-39, is eligible to:~~
  - ~~(1) be licensed; or~~
  - ~~(2) receive a contract to become a provider. If the applicant, licensee, or contractor is a firm, partnership, limited liability company or corporation, the applicant is not eligible to:~~
    - ~~(A) be licensed; or~~
    - ~~(B) receive a contract if any:~~
      - ~~(i) member of the firm;~~
      - ~~(ii) major member of the limited liability company or manager;~~
      - ~~(iii) major partner of the partnership; or~~
      - ~~(iv) officer or major stockholder of the corporation is ineligible for employment as a community services worker.~~

### **340:100-6-13. Inspections**

Revised 5-11-079-15-23

- (a) Each group home must be inspected at least annually by a duly appointed representative of Oklahoma Department of Human Services (OKDHS). At least one inspection per group home must be unannounced.
- (b) Any holder of or applicant for a license or contract is deemed to have given consent to any authorized employee or agent of OKDHS to enter and inspect the home.
- (c) The provider receives results of the inspection and corrects identified concerns in accordance with per Oklahoma Administrative Code (OAC) 340:100-3-27.1.
- (d) OKDHS may revoke, deny, or refuse to renew any group home license found in violation of Section 1430.1 et seq. of Title 10 of the Oklahoma Statutes (10 O.S. § 1430.1 et seq.), Group Homes for Persons with Developmental or Physical Disabilities Act, or OKDHS rules.
- (e) Per 10 O.S. § 1430.32, any person OKDHS determines to have violated any provision of 10 O.S. § 1430.1 et seq. or any OKDHS rule or court order issued pursuant thereto may be liable for an administrative penalty of not more than \$100 for each day the violation continues. The maximum administrative penalty may not exceed \$10,000 for any related series of violations.
- (f) OKDHS may:
  - (1) withhold payments due for group home services until corrections are made or OKDHS approves a plan of correction for all deficiencies; or
  - (2) initiate other action per OAC 340:100-3-27.2.

### **340:100-6-14. Sanctions [REVOKED]**

Revised 5-11-07

- ~~(a) Oklahoma Department of Human Services (OKDHS) may revoke, deny, or refuse to renew any group home license found in violation of Section 1430.1 et seq. of Title 10 of~~

~~the Oklahoma Statutes (10 O.S. § 1430.1 et seq.), Group Homes for Persons with Developmental or Physical Disabilities Act, or OKDHS rules.~~

~~(b) Per 10 O.S. § 1430.32, any person determined by OKDHS to have violated any provision of 10 O.S. § 1430.1 et seq. or any OKDHS rule or court order issued pursuant thereto may be liable for an administrative penalty of not more than \$100 for each day the violation continues. The maximum administrative penalty cannot exceed \$ 10,000 for any related series of violations.~~

~~(c) OKDHS may:~~

- ~~(1) withhold payments due for group home services until corrections are made or a plan of correction for all deficiencies is approved by OKDHS; or~~
- ~~(2) initiate other action per OAC 340:100-3-27.2.~~

### **340:100-6-20. Change of ownership [REVOKED]**

~~Revised 5-11-07~~

~~A license or a contract to operate a group home is not transferable. Ownership of a group home can only be changed from the provider named in the application to another provider who has a current group home license or contract, and only upon prior written approval of Oklahoma Department of Human Services (OKDHS).~~

~~(1) The current group home provider must:~~

- ~~(A) notify the Developmental Disabilities Services Division director in writing of the change no less than 30 calendar days prior to the effective date of the change;~~
- ~~(B) remain responsible for the operation of the home until the change in ownership is complete; and~~
- ~~(C) remain liable for all penalties assessed for violations occurring prior to change of ownership.~~

~~(2) Any citations, problems identified by OKDHS prior to the change in ownership, or outstanding deficiencies remaining after the change in ownership are the responsibility of the new owner of the group home to correct.~~

### **340:100-6-21. Closing of group home [REVOKED]**

~~Revised 5-11-07~~

~~Any provider of a group home licensed or contracted, per OAC 340:100-6, must give 90 calendar days notice prior to closing a home or to closing any part of a home that would require the transfer or discharge of more than ten percent of the residents.~~

~~(1) Notice must be given to:~~

- ~~(A) Developmental Disabilities Services Division (DDSD) director;~~
- ~~(B) any resident who requires transfer or discharge from the group home; and~~
- ~~(C) the resident's legal guardian, family, or advocate.~~

~~(2) Notice must state the proposed date of closing and reason for closing.~~

~~(3) The group home provider must offer to assist the resident in securing alternative placement.~~

~~(4) The DDSD director must be notified if there is need for relocation assistance.~~

## **PART 5. PHYSICAL PLANT REQUIREMENTS**

### **340:100-6-30. General criteria for physical plant**

Revised ~~5-11-07~~9-15-23

(a) Plans for construction or remodeling must be submitted to Oklahoma Department of Human Services and state fire marshal for review and approval prior to the start of construction.

(b) Mobile homes are not approved.

(c) Within the corporate limits of a municipality, any new group home must be at least 1200 feet from any other group home and from any similar community residential facility serving persons in drug, alcohol, juvenile, child, parole, and other programs of treatment, care, supervision, or rehabilitation in a community setting, per Section 863 of Title 60 of the Oklahoma Statutes.

(d) The group home must have interior and exterior features compatible with other residences in the surrounding neighborhood.

(e) A group home must be located:

(1) in an area where the local fire department ~~will respond~~ responds to emergencies; and

(2) adjacent to an all-weather road.

(f) Each group home provider ensures that resident rooms and areas are clean, comfortable, orderly, and provide reasonable privacy.

(1) Each single resident bedroom must contain a minimum of 80 square feet of floor space.

(2) All resident bedrooms must contain a minimum of 60 square feet per person for double or triple occupancy. All new group homes must limit the number of service recipients occupying a bedroom to two.

(3) Each resident bedroom must include:

(A) a clothes closet or armoire;

(B) additional space as needed to accommodate bedside assistance and the use and storage of mobility devices and prosthetic equipment;

(C) at least one outside operable window of adequate size installed in a vertical wall that can be used as an emergency exit, unless otherwise approved by the state fire ~~marshall~~ marshal or representative;

(D) windows that have adjustable coverings to provide privacy;

(E) direct access to exits and other areas of the home without passing through another resident's bedroom, a bathroom, or outside; and

(F) a full door that can be closed to provide privacy.

(4) Each resident must have:

(A) an individual bed of proper size with an adequate mattress, pillow, and bed linens that are clean and in good condition;

(B) a bedside table;

(C) a bureau, or its equivalent, for storing personal belongings;

(D) a chair; and

(E) an adequate supply of clean towels and wash cloths, and individual soap.

(5) Male and female residents are not housed in the same or connected bedrooms, that do not have a full floor-to-ceiling partition and door that can be closed and locked, except a husband and wife may occupy the same bedroom.

(6) Residents are encouraged to reflect their personal preferences in decorating and furnishing the group home.



- (g) Each group home must provide at least one full-size bathroom for resident use.
  - (1) A home for six or more residents must have at least two full-size bathrooms for resident use.
  - (2) Bathrooms must:
    - (A) include a stool, sink, and tub or shower; and
    - (B) provide privacy.
- (h) All licensed group homes must provide common living areas with seating for all residents, excluding the dining room area.
- (i) Tobacco use of any sort is prohibited within the group home. Cigarette butts are properly disposed of in designated areas located outside the home.
- (j) Each group home and its yard must be clean, well-maintained, safe, free from hazards, and adapted to meet the needs of all service recipients.
  - (1) Surroundings must be kept clean and free from accumulated rubbish, weeds, ponded water, refuse, discarded furniture, old newspaper, or other items of a similar nature that may create a health hazard.
  - (2) The group home provider employs effective methods to prevent the entrance and harborage of insects, spiders, and rodents.
  - (3) All garbage must be properly stored and safely disposed of per local ordinance.
    - (A) Trash cans in service recipient areas must be kept clean.
    - (B) Outdoor garbage waste containers must be covered and insect and rodent resistant.
    - (C) Outside storage of garbage in plastic bags is prohibited.
    - (D) Sanitary garbage disposal must be provided.
  - (4) Sanitary sewage disposal must be provided per Oklahoma State Department of Health (OSDH) rules.
  - (5) The interior of the group home must be safe, clean, well-maintained, free of hazards, and adapted to meet the needs of all service recipients.
    - (A) The home must be free from offensive odors, accumulation of dirt, rubbish, dust, and safety hazards.
    - (B) Floors and floor coverings must be clean and in good condition. Floor polishes must provide for a non-slip finish.
    - (C) Walls and ceilings must be in good condition and cleaned regularly. All group homes must have walls capable of being cleaned.
    - (D) Deodorizers must not be used to cover up odors caused by unsanitary conditions or poor housekeeping practices.
    - (E) Combustibles, such as cleaning rags and compounds, must be kept in closed metal containers in areas away from living areas.
    - (F) No items may be stored in the hot water heater closet or furnace closet.
    - (G) General laundry must be placed in linen hampers or carts.
    - (H) Linens or clothing soiled with human body fluids must be placed in bags or nonporous containers with lids tightly closed.
  - (6) The group home must have:
    - (A) a kitchen and equipment to store, prepare, and serve food in a sanitary manner;
    - (B) utility service and adequate heating, cooling, and plumbing;
    - (C) lighting that is adequate for the service recipient's activities in each room;
    - (D) safe water supply per OSDH rules; and

- (E) temperature extremes not less than 65 degrees Fahrenheit nor more than 85 degrees Fahrenheit for all areas service recipients occupy.
- (7) Each service recipient's bedroom must have at least one electrical outlet.

## **PART 7. ENVIRONMENTAL HEALTH, SAFETY, AND SANITATION REQUIREMENTS**

### **340:100-6-41. Access to premises [REVOKED]**

~~Revised 9-17-18~~

~~(a) A service recipient has a right to visitors of his or her choosing at any time per Oklahoma Administrative Code (OAC) 317:40-1-3(b)(6). Any modification of a service recipient's right to visitors is permitted only when requirements per OAC 317:40-1-3(b)(8) are met.~~

~~(1) Visitors are not permitted to enter the immediate living area of any service recipient without first identifying himself or herself and receiving permission from the service recipient to enter.~~

~~(2) The rights of other service recipients present in the room must be respected.~~

~~(3) A service recipient at any time may terminate a visit by a person having access.~~

~~(b) OAC 340:100-6-41 does not limit the power of the Oklahoma Department of Human Services or any other public agency otherwise permitted or required by law to enter and inspect a group home.~~

### **340:100-6-44. Housekeeping and environment [REVOKED]**

~~Revised 5-11-07~~

~~Each group home and its yard must be clean, well maintained, safe, free from hazards, and adapted to meet the needs of all service recipients.~~

~~(1) Surroundings must be kept clean and neat and free from accumulated rubbish, weeds, ponded water, refuse, discarded furniture, old newspaper, or other items of a similar nature that may create a health hazard.~~

~~(2) The group home provider employs effective methods to prevent the entrance and harborage of insects, spiders, and rodents.~~

~~(3) All garbage must be properly stored and safely disposed of in accordance with local ordinance.~~

~~(A) Trash cans in service recipient areas must be kept clean.~~

~~(B) Outdoor garbage waste containers must be covered and insect and rodent resistant.~~

~~(C) Outside storage of garbage in plastic bags is prohibited.~~

~~(D) Sanitary garbage disposal must be provided.~~

~~(4) Sanitary sewage disposal must be provided in accordance with Oklahoma State Department of Health (OSDH) rules.~~

~~(5) The interior of the group home must be safe, clean, and free of hazards.~~

~~(A) The home must be free from offensive odors, accumulation of dirt, rubbish, dust, and safety hazards.~~

~~(B) Floors and floor coverings must be clean and in good condition. Floor polishes must provide for a non-slip finish.~~

~~(C) Walls and ceilings must be in good condition and cleaned regularly. All group homes must have walls capable of being cleaned.~~

~~(D) Deodorizers must not be used to cover up odors caused by unsanitary conditions or poor housekeeping practices.~~

~~(E) Combustibles, such as cleaning rags and compounds, must be kept in closed metal containers in areas away from living areas.~~

~~(F) No items can be stored in the hot water heater closet or furnace closet.~~

~~(G) General laundry must be placed in linen hampers or carts.~~

~~(H) Linens or clothing soiled with human body fluids must be placed in bags or nonporous containers with lids tightly closed.~~

~~(6) The group home must have:~~

~~(A) a kitchen and equipment to store, prepare, and serve food in a sanitary manner;~~

~~(B) utility service and adequate heating, cooling, and plumbing;~~

~~(C) lighting that is adequate for the service recipient's activities in each room;~~

~~(D) safe water supply in accordance with OSDH rules; and~~

~~(E) temperature extremes not less than 65 degrees Fahrenheit nor more than 85 degrees Fahrenheit for all areas occupied by service recipients.~~

~~(7) Each service recipient's bedroom must have at least one electrical outlet.~~

## **PART 19. INVOLUNTARY TRANSFER OR DISCHARGE OF SERVICE RECIPIENT**

### **340:100-6-85. Transfer or discharge**

Revised ~~9-15-17~~9-15-23

(a) A group home provider must not involuntarily transfer or discharge a service recipient residing in a group home except for:

(1) medical reasons;

(2) the service recipient's safety or the safety of other residents;

(3) violations of the agreement between the service recipient and group home provider; or

(4) nonpayment for the service recipient's stay unless limited by the federal Social Security Act.

(b) Involuntary transfer or discharge of a service recipient for violations of the agreement must be subject to:

(1) review of the agreement and notification to the service recipient of specific violations;

(2) discharge only after all appropriate attempts are made to resolve violations. Attempts must be documented in the service recipient's record.

(c) When a service recipient changes provider agencies, only the out-going provider agency claims for services provided on the day the service recipient moves.

(d) Involuntary transfer or discharge of a service recipient from a group home must be preceded by a minimum written notice of 30-calendar days. The notice must inform the service recipient and service recipient's legal guardian or advocate:

(1) of the right to request an administrative inquiry, per Oklahoma Administrative Rules 340:1003-27.1 if the service recipient is aggrieved by the decision; and

(2) how such a request is made.

(e) The 30-calendar day requirement does not apply when:

(1) an emergency transfer or discharge is:

(A) mandated by the service recipient's health care needs; and

(B) per the written orders and medical justification of the attending physician; or

(2) the transfer or discharge is necessary due to imminent risk to the lives or health of other residents as documented in the service recipient's record.

(f) Oklahoma Human Services (OKDHS) may initiate the transfer or discharge of a service recipient when:

(1) the service recipient's health care needs are not being met according to a licensed medical authority;

(2) the transfer or discharge is necessary for the physical safety of other residents as observed or documented in the records, including incident reports, case management records, or other documentation the group home provider maintains; or

(3) it is determined, per applicable OKDHS rules, that a service recipient's rights have been violated or the service recipient has been abused, neglected, or exploited.

(g) The service recipient's wishes, in all situations, are given careful consideration in determining whether the health and safety aspects involved outweigh the wishes of a service recipient being transferred or discharged.

(h) A group home provider may not deny appropriate care on the basis of the resident's source of payment.

### **340:100-6-86. Notice of involuntary transfer or discharge [REVOKED]**

Revised 5-11-07

~~(a) Involuntary transfer or discharge of a service recipient from a group home must be preceded by a minimum written notice of 30 calendar days. The notice must inform the service recipient and service recipient's legal guardian or advocate:~~

~~(1) of the right to request an administrative inquiry in accordance with OAC 340:1003-27.1 if the service recipient is aggrieved by the decision; and~~

~~(2) how such a request is made.~~

~~(b) The 30-day requirement does not apply when:~~

~~(1) an emergency transfer or discharge is:~~

~~(A) mandated by the service recipient's health care needs; and~~

~~(B) in accordance with the written orders and medical justification of the attending physician; and~~

~~(2) the transfer or discharge is necessary due to imminent risk to the lives or health of other residents as documented in the service recipient's record.~~

### **340:100-6-88. Transfer by OKDHS [REVOKED]**

Revised 5-11-07

~~(a) Oklahoma Department of Human Services (OKDHS) may initiate the transfer or discharge of a service recipient when:~~

~~(1) the service recipient's health care needs are not being met according to a licensed medical authority;~~

~~(2) the transfer or discharge is necessary for the physical safety of other residents as observed or documented in the records, including incident reports, case management records, or other documentation maintained by the group home provider; or~~

~~(3) it is determined, in accordance with applicable OKDHS rules, that a service recipient's rights have been violated or the service recipient has been abused, neglected, or exploited.~~

~~(b) The service recipient's wishes, in all situations, will be given careful consideration in determining whether the health and safety aspects involved outweigh the wishes of a service recipient being transferred or discharged.~~

## **PART 21. RESIDENT RIGHTS AND RESPONSIBILITIES**

### **340:100-6-95. Resident rights and responsibilities**

Revised ~~9-15-17~~9-15-23

(a) Each resident is responsible for making a room and board payment to the group home provider in accordance with the financial agreement.

(b) Unless otherwise indicated in the resident's Individual Plan, each resident is responsible for participation in meaningful activities including employment, vocational training, or adult day services that occur outside the group home for a minimum of five hours per weekday.

(c) A Each group home develops a statement of rights and responsibilities developed by each group home including which includes, but is not limited to, each resident's right to:

(1) civil and religious liberties, including the right to independent personal decisions and knowledge of available choices that must not be infringed. The provider must encourage and assist in the exercise of these rights;

(2) private communications and consultations with the resident's physician or attorney or any other person of the resident's choice including sending and promptly receiving unopened personal mail;

(3) without fear of reprisal, present grievances; and join with other residents or persons within or outside of the group home to work for improvements in resident care;

(4) manage his or her financial affairs, unless the resident delegates the responsibility in writing, to the provider. The resident must have at least a quarterly accounting of any personal financial transactions ~~undertaken~~ the group home provider undertakes on the resident's behalf ~~by the group home provider~~ during any period of time the resident delegates such responsibilities to the provider;

(5) receive adequate and appropriate medical care consistent with established and recognized medical practice standards within the community. Each resident:

(A) must be fully informed by the attending physician of his or her medical condition and proposed treatment in terms and language the resident understands; and

(B) has the right to refuse medication and treatment after being fully informed of, and understanding the consequences of such actions;

(6) respect and privacy in the resident's medical care program.

(A) Discussion, consultation, examination, and treatment must remain confidential and be conducted discreetly.

(B) Personal and medical records must be confidential;

(7) retain and use personal clothing and possessions, unless prohibited by law, and security in the storage and use of such clothing and possessions;

(8) be treated courteously and respectfully;

(9) be free from mental and physical abuse, and free from physical and chemical restraints, except for those physical and chemical restraints ~~authorized~~ a health care professional authorizes in writing ~~by a health care professional~~, per Oklahoma Department of Human Services (OKDHS) rules, for a specified period of time;

(10) receive a statement of the group home provider guidelines and an explanation of the resident's responsibility to comply with all reasonable group home regulations and to respect other resident's personal rights and private property;

(11) receive a statement, when adjudicated incapacitated, stating the rights and responsibilities per this Section which must be exercised by a court-appointed guardian;

(12) privacy for conjugal visits. A resident may share a room with a spouse, when the spouse resides in the same group home;

(13) all rights specified in Oklahoma Administrative Code (OAC) 340:100-3-1.2; and

(14) not perform services for a group home provider, except for normal, shared household tasks.

~~(e)~~(d) Upon admission of a resident and at least annually thereafter, or upon request, each resident and resident's advocate or legal guardian must be provided a copy of:

(1) the resident's rights; and

(2) procedures for grievances and appeal, per OAC 340:2-3-54.

~~(f)~~(e) The rights enumerated in this Section may be limited for residents of an alternative group home.

(f) A service recipient has a right to visitors of his or her choosing at any time per OAC 317:40-1-3(b)(6). Any modification of a service recipient's right to visitors is permitted only when requirements per OAC 317:40-1-3(b)(8) are met.

(1) Visitors are not permitted to enter the immediate living area of any service recipient without first identifying themselves and receiving permission from the service recipient to enter.

(2) The rights of other service recipients present in the room must be respected.

(3) A service recipient may terminate a visit at any time.

(g) OAC 340:100-6-41 does not limit the power of OKDHS or any other public agency otherwise permitted or required by law to enter and inspect a group home.

### **340:100-6-97. Denial of care [REVOKED]**

~~Revised 5-11-07~~

~~A group home provider cannot deny appropriate care on the basis of the resident's source of payment.~~

## **SUBCHAPTER 15. DEVELOPMENTAL DISABILITIES SERVICES DIVISION (DDSD) (DDS) PREADMISSION SCREENING AND RESIDENT REVIEW (PASRR)**

### **340:100-15-1. Purpose Nursing facility services for members with intellectual disability or related condition**

~~Revised 6-21-1994~~ 15-23

(a) The purpose of this Subchapter is to provide criteria by which ~~the~~ Oklahoma Department of Human Services, Developmental Disabilities Services Division ~~(afterwards, hereafter~~ referred to as the Mental Retardation Intellectual Disabilities (ID)

Authority), determines the need for nursing facility services in contrast to other services and the need for specialized services for individuals with ~~mental retardation~~ intellectual disabilities and/or or related conditions. The provisions of this Subchapter apply to all Medicaid certified nursing facilities and to departmental staff responsible for evaluating individuals suspected of having intellectual disabilities or related conditions receiving or seeking to receive services in Medicaid certified nursing facilities.

(b) In order for the determination to be made that an individual with intellectual disabilities or related conditions needs services only available in a nursing facility but does not need specialized services, the individual must:

(1) require licensed nursing interventions at least once daily or require licensed nursing monitoring and observation on a frequent basis daily for maintenance of health or basic life support; and

(2) meets meet one or more of the following:

(A) be in a comatose state;

(B) require convalescent care;

(C) have a terminal illness;

(D) be at least 65 years of age, unless similar aging process characteristics are evident at age 50; or

(E) have a serious medical condition which requires on-going medical care and licensed nursing intervention services monitoring or observation. These conditions include but are not limited to:

(i) neurological disorders or malformations which includes muscle wasting diseases that are progressive, dementias, hydrocephalus, meningomyelocele, brain damage secondary to birth trauma, anoxia, cardiac arrest or other causes of cerebral anoxia that are severe enough to induce a comatose state. Cerebral or peripheral nerve damage secondary to central nervous system infection or trauma or other disorders or malfunctions inconsistent with normal functioning;

(ii) pulmonary disorder, with either congenital or acquired pulmonary disorders that leave the individual unable to adequately oxygenate, therefore, requiring respiratory support;

(iii) cardiac dysfunction or malformation which includes individuals with either congenital or acquired heart disease such as myocarditis, that are in persistent or intractable heart failure, have cardiac rhythms that are life threatening, are persistently cyanotic enough to require supplemental oxygen to survive or are otherwise liable to cardiac arrest, either primarily or secondarily. These individuals are identified by a physician as being unable to survive unless immediate skilled medical and nursing intervention is available;

(iv) circulatory dysfunction which includes individuals with either hypotension or hypertension with a central or unknown etiology that require frequent licensed nursing intervention or monitoring and medication or stimulation. It also includes individuals whose orthopedic or postural malformations require meticulous skin care;

(v) endocrine or metabolic disorder which includes individuals with hypothyroidism or hyperthyroidism, or diabetes with its associated problems including, but not limited to, circulation, skin care, infection, etc., aminoaciduria

with secondary intellectual disabilities, glycogen storage disease or other abnormalities of lipid metabolism, and other genetic disorders limiting normal metabolism;

(vi) gastrointestinal disorder or malfunction which includes individuals with primary or secondary disorders of absorption of normal nutrients and vitamins that do not allow adequate calorie sustenance without supplementation by artificial means, those with congenital malformations of the gastrointestinal tract that require, despite surgical intervention, continuing supplementation with special diets and those whose nutritional requirements cannot be met without intravenous supplementation; or

(vii) renal and bladder dysfunction or malformation which includes individuals with severe polycystic kidney disease, hydronephrosis, those with kidney failure secondary to either congenital malformation, trauma or infection requiring frequent intravenous supplementation, and those in whom kidney or bladder malformations require surgical externalization with need for significant nursing and other management.

(c) The individual must be determined by the ID Authority to be unable to benefit from specialized service for intellectual disabilities or related conditions.

(d) It remains the responsibility of the nursing facility to provide services to improve the physical, mental, and psychosocial development of the individual.

(e) In order for the disposition to be made that an individual with intellectual disabilities or related conditions requires nursing facility services and specialized services, the individual must:

(1) meet the requirements in (b) of this Section; and

(2) be determined by the ID Authority to be able to benefit from specialized services for intellectual disabilities or related conditions.

(f) In order for the disposition to be made that an individual with intellectual disabilities or related conditions does not need nursing facility services but does need specialized services the individual must:

(1) be able to benefit from a program of specialized services for intellectual disabilities or related conditions, and

(2) not meet the criteria for nursing facility services identified in Oklahoma Administrative Code (OAC) 340:100-15-3.

(g) Long term residents meeting the criteria listed in (a) of this Section are offered a choice of remaining in the facility or of receiving services in an alternative appropriate setting.

(h) Short term residents meeting the criteria listed in (a) of this Section may not be considered appropriate for continued placement and must be discharged.

(i) The ID Authority does not make advance categorical dispositions that specialized services are needed. Such determinations are based on an extensive individualized evaluation to determine the exact nature of the specialized services that are needed. The ID Authority does make categorical determinations that nursing facility level of care is needed in the categories listed in (1) and (2) of this subsection.

(1) Individuals with a terminal illness as defined for hospice purposes are granted a categorical determination for nursing facility level of care and a negative specialized services determination by the ID Authority. Hospice criteria include late stage disease



process with a life expectancy of six months or less and must be physician referred and certified.

(2) Individuals requiring convalescent care or extended hospital discharge as certified by a physician that are likely to require 30-calendar days are granted a categorical determination for nursing facility level of care and a negative specialized services determination by the ID Authority.

(j) Each individual has a unique prescriptive plan of specialized services based on professional assessments. The plan addresses identified needs and enhancement of independence. Assessments address self-care skills, communication skills, motor and mobility skills, and educational, recreational and leisure skills. The plan includes:

(1) behavioral objectives stated in measurable terms directed at skill acquisition;

(2) identification of additional services and supports necessary for skill acquisition to occur such as:

(A) adaptive, corrective, orthotic, mobility, and other types of equipment and devices;

(B) specific nursing care plan objectives relative to significant medical condition;

(C) Identification of persons responsible for service needs external to the facility such as vocational services or counseling; and

(3) specific methods, strategies, or steps relative to the behavioral objectives to ensure consistency of training;

(4) identification of persons responsible for training, obtaining and maintaining equipment, and providing health related services; and

(5) methods of data collection.

(k) The plan must be monitored by a designated nursing facility staff member on a monthly basis to ensure that training of behavioral objectives is occurring in a consistent manner and progress is being shown, necessary equipment is available and in good repair, all significant health issues are being addressed, and necessary modifications to the plan occur as needed.

(l) For individuals with both an intellectual disability or related condition and mental illness, individuals with dual diagnoses, a joint disposition is required from the ID Authority and Mental Illness Authorities. The Mental Illness Authority is administered through the Oklahoma Department of Mental Health and Substance Abuse Services. This disposition is based on independent assessment information from both authorities. The disposition determines which authority assumes responsibility for serving the individual or if the individual is served by both.

(m) Any individual believed to have been adversely affected by a preadmission screening and resident review disposition made in the context of either a preadmission screening or a resident review may appeal that disposition consistent with OAC 317:35-19-16.

(1) Special case determinations may be required for individuals with intellectual disabilities or a related condition(s) who would benefit from nursing facility level of care due to unusual circumstances other than medical needs.

(2) To make a special case determination ID Authority staff must:

(A) consider all factors including:

(i) the individual circumstances presented;

(ii) the individual's mental and emotional support needs;

(iii) all available assessment information;

- (iv) any other relevant information; and
- (v) availability of other formal and informal supports; and
- (B) provide written specific rationale in support of the exception noting the unique and individualized circumstances of the case.

### **340:100-15-2. Application [REVOKED]**

Issued 6-21-1994

~~The provisions of this Subchapter apply to all Medicaid certified nursing facilities and to departmental staff responsible for evaluating individuals suspected of having mental retardation and/or related conditions receiving or seeking to receive services in Medicaid certified nursing facilities.~~

### **340:100-15-3. Criteria for determining that an individual requires nursing facility services but not specialized services [REVOKED]**

Issued 6-21-1994

~~(a) In order for the determination to be made that an individual with mental retardation and/or related conditions needs services only available in a nursing facility but does not need specialized services, the individual must:~~

~~(1) require licensed nursing interventions at least once daily and/or require licensed nursing monitoring and observation on a frequent basis daily for maintenance of health or basic life support; and~~

~~(2) meets one or more of the following:~~

~~(A) be in a comatose state;~~

~~(B) require convalescent care;~~

~~(C) have a terminal illness;~~

~~(D) be at least 65 years of age, unless similar aging process characteristics are evident at age 50 and/or;~~

~~(E) have a serious medical condition which requires on-going medical care and licensed nursing intervention services monitoring, or observation. These conditions include but are not limited to:~~

~~(i) neurological disorders or malformations which includes muscle wasting diseases that are progressive, dementias, hydrocephalus, meningomyelocele, brain damage secondary to birth trauma, anoxia, cardiac arrest or other causes of cerebral anoxia that are severe enough to induce a comatose state. Cerebral or peripheral nerve damage secondary to central nervous system infection or trauma or other disorders or malfunctions inconsistent with normal functioning.~~

~~(ii) pulmonary disorder, with either congenital or acquired pulmonary disorders that leave the individual unable to adequately oxygenate (i.e., requiring respiratory support).~~

~~(iii) cardiac dysfunction or malformation which includes individuals with either congenital or acquired heart disease (i.e., myocarditis) that are in persistent or intractable heart failure, have cardiac rhythms that are life threatening, are persistently cyanotic enough to require supplemental oxygen in order to survive or are otherwise liable to cardiac arrest, either primarily or secondarily. These~~

~~individuals are identified by a physician as being unable to survive unless immediate skilled medical and nursing intervention is available.~~

~~(iv) circulatory dysfunction which includes individuals with either hypotension or hypertension with a central or unknown etiology that require frequent licensed nursing intervention and/or monitoring and medication and/or stimulation. It also includes individuals whose orthopedic or postural malformations require meticulous skin care.~~

~~(v) endocrine or metabolic disorder which includes individuals with hypothyroidism or hyperthyroidism, or diabetes with its associated problems (i.e., circulation, skin care, infection, etc.), aminoaciduria with secondary mental retardation, glycogen storage disease or other abnormalities of lipid metabolism, and other genetic disorders limiting normal metabolism.~~

~~(vi) gastrointestinal disorder or malfunction which includes individuals with primary or secondary disorders of absorption of normal nutrients and vitamins that will not allow adequate calorie sustenance without supplementation by artificial means, those with congenital malformations of the gastrointestinal tract that require, despite surgical intervention, continuing supplementation with special diets and those whose nutritional requirements cannot be met without intravenous supplementation.~~

~~(vii) renal and bladder dysfunction or malformation which includes individuals with severe polycystic kidney disease, hydronephrosis, those with kidney failure secondary to either congenital malformation, trauma or infection requiring frequent intravenous supplementation, and those in whom kidney or bladder malformations require surgical externalization with need for significant nursing and other management.~~

~~(b) The individual must be determined by the State Mental Retardation Authority to be unable to benefit from specialized service for mental retardation and/or related conditions.~~

~~(c) It remains the responsibility of the nursing facility to provide services to improve the physical, mental, and psychosocial development of the individual.~~

#### **340:100-15-4. Criteria for determining that an individual requires nursing facility services and specialized services [REVOKED]**

~~Issued 6-21-1994~~

~~In order for the disposition to be made that an individual with mental retardation and/or related conditions requires nursing facility services and specialized services, the individual must:~~

~~(1) meet the requirements of OAC 340:100-15-3(a); and~~

~~(2) be determined by the State Mental Retardation Authority to be able to benefit from specialized services for mental retardation and/or related conditions.~~

#### **340:100-15-5. Criteria for determining that an individual does not require nursing facility services but does require specialized services [REVOKED]**

~~Issued 6-21-1994~~

~~(a) In order for the disposition to be made that an individual with mental retardation and/or related conditions does not need nursing facility services but does need specialized services the individual must;~~

- ~~(1) be able to benefit from a program of specialized services for mental retardation and/or related conditions, and~~
- ~~(2) not meet the criteria for nursing facility services identified in OAC 340:100-15-3.~~
- ~~(b) Long term residents meeting the criteria listed in (a) of this Section are offered a choice of remaining in the facility or of receiving services in an alternative appropriate setting.~~
- ~~(c) Short term residents meeting the criteria listed in (a) of this Section cannot be considered appropriate for continued placement and must be discharged.~~

### **340:100-15-6. Categorical determinations regarding need of nursing facility and specialized services [REVOKED]**

~~Issued 6-21-1994~~

~~The State Mental Retardation Authority does not make advance categorical dispositions that specialized services are needed. Such determinations are based on an extensive individualized evaluation to determine the exact nature of the specialized services that are needed. The State Mental Retardation Authority does make categorical determinations that nursing facility level of care is needed in the categories listed in (1) and (2) of this subsection.~~

~~(1) Individuals with a terminal illness as defined for Hospice purposes are granted a categorical determination for nursing facility level of care and a negative specialized services determination by the State Mental Retardation Authority. Hospice criteria will include late stage disease process with a life expectancy of six months or less and must be physician referred/certified.~~

~~(2) Individuals requiring convalescent care or extended hospital discharge as certified by a physician (that the individual is likely to require 30 days or less of nursing facility convalescent care) are granted a categorical determination for nursing facility level of care and a negative specialized services determination by the State Mental Retardation Authority.~~

### **340:100-15-7. Specialized services [REVOKED]**

~~Issued 6-12-95~~

~~(a) Each individual will have a unique prescriptive plan of specialized services that is based upon professional assessments. The plan addresses identified needs and enhancement of independence. Assessments must address self-care skills, communication skills, motor and mobility skills, and educational and recreational/leisure skills. The plan includes the following elements:~~

~~(1) Behavioral objectives stated in measurable terms directed at skill acquisition;~~

~~(2) Identification of additional services and supports necessary for skill acquisition to occur such as:~~

~~(A) Adaptive, corrective, orthotic, mobility, and other types of equipment and devices;~~

~~(B) Specific nursing care plan objectives relative to significant medical condition;~~

~~(C) Identification of persons responsible for service needs external to the facility such as vocational services, counseling, etc.;~~

~~(3) Specific methods, strategies, or steps relative to the behavioral objectives to ensure consistency of training;~~

- ~~(4) Identification of persons responsible for training, obtaining and maintaining equipment, and providing health related services; and~~
- ~~(5) Methods of data collection.~~

~~(b) The plan must be monitored by a designated nursing facility staff member on a monthly basis to ensure that training of behavioral objectives is occurring in a consistent manner and progress is being shown, necessary equipment is available and in good repair, all significant health issues are being addressed, and necessary modifications to the plan occur as needed.~~

### **340:100-15-8. Joint disposition for persons who have mental retardation or related conditions and mental illness [REVOKED]**

~~Revised 7-14-98~~

~~For individuals with both mental retardation or related conditions and mental illness, individuals with dual diagnoses, a joint disposition is required from the Mental Retardation and Mental Illness Authorities. The Mental Illness Authority is administered through the Department of Mental Health and Substance Abuse Services. This disposition is based on independent assessment information from both authorities. The disposition determines which authority assumes responsibility for serving the individual or if the individual will be served by both.~~

### **340:100-15-9. Appeal process [REVOKED]**

~~Revised 7-14-1998~~

~~Any individual believed to have been adversely affected by a PASRR disposition made in the context of either a preadmission screening or a resident review may appeal that disposition consistent with OAC 340:25-6(9).~~

### **340:100-15-10. Special case determinations [REVOKED]**

~~Revised 7-14-1998~~

~~(a) Special case determinations may be required for individuals with mental retardation or a related condition(s) who would benefit from nursing facility level of care due to unusual circumstances other than medical needs.~~

~~(b) In order to make a special case determination that an individual with mental retardation or a related condition(s) would benefit from nursing facility level of care due to unusual circumstances other than medical needs, staff of the Mental Retardation Authority must:~~

~~(1) consider all factors including:~~

- ~~(A) the individual circumstances presented;~~
- ~~(B) the individual's mental and emotional support needs;~~
- ~~(C) all available assessment information;~~
- ~~(D) any other relevant information; and~~
- ~~(E) availability of other formal and informal supports; and~~

~~(2) provide written specific rationale in support of the exception noting the unique and individualized circumstances of the case.~~