NEW YORK STATE | Office of Mental Health

Part 595

Residential Programs for Adult Residents

595.1 Background and intent.

(a) Housing is a fundamental aspect of mental health recovery, providing stability, support, and a sense of community. It is essential for individuals with mental health conditions to have access to safe and stable housing, as it can significantly impact their mental well-being. The purpose of the Office of Mental Health's (OMH) residential programs for individuals diagnosed with serious [~~a severe and persistent~~] mental illness (SMI) is to provide residential services which support and assist individuals with their goal of integration into the community. Residential programs shall have a rehabilitative focus. Residential programs shall be responsible for engaging a resident in rehabilitative services consistent with the individual's desire, tolerance and capacity to participate in such services.

(b) The rehabilitative focus of a residential program drives improved resident independence, choice and outcomes. This is accomplished by the development and implementation of an individualized written service plan, based upon psychiatric rehabilitation principles of participation and individual resident choice. An individualized written service plan shall be developed with the resident.

(c) The purpose of residential programs is to provide an array of rehabilitative and supportive services that enable the resident to live a healthy, productive life in the community. Such services may focus upon intensive, goal-oriented intervention, within a structured program setting or goal-oriented interventions which focus on improving or maintaining resident skills that enable a resident to remain living in community housing.

595.2 Legal base.

(a) Sections 7.09 and 31.04 of the Mental Hygiene Law grant the Commissioner of Mental Health the power and responsibility to adopt regulations that are necessary and proper to implement matters under their [~~his or her~~] jurisdiction and to set standards of quality and adequacy of facilities, equipment, personnel, services, records and programs for the rendition of services for persons with mental illness pursuant to an operating certificate.

(b) Sections 31.05, 31.07, 31.09, 31.13 and 31.19 of the Mental Hygiene Law authorize the [~~c~~]Commissioner or their [~~his or her~~] representative to examine and inspect programs to determine their suitability and proper operation. Sections 31.16 and 31.17 of the Mental Hygiene Law authorize the [c]Commissioner to suspend, revoke or limit any operating certificate.

(c) Section 31.11 of the Mental Hygiene Law requires every holder of an operating certificate to assist the Office of Mental Health in carrying out its regulatory functions by cooperating with the [~~c~~]Commissioner in any inspection or investigation, permitting the [~~c~~]Commissioner to inspect its facility, books and records and making such reports, uniform or otherwise as are required by the [~~c~~]Commissioner.

~~(d) Section 31.25 of the Mental Hygiene Law requires that the [c]Commissioner establish, pursuant to regulation, licensed residential providers of treatment and/or supportive services to individuals with eating disorders.~~

595.3 Applicability.

(a) This Part applies to any provider of services which operates or proposes to operate a residential program for persons with mental illness and is licensed pursuant to article 31 of the Mental Hygiene Law[~~, including the Community Residence for Eating Disorder Integrated Treatment ("CREDIT" Program~~].

(b) This Part does not apply to Community Residence for Eating Disorder Integrated Treatment ("CREDIT") Programs.

(c[~~b~~]) This Part does not apply to any provider of services which operates or proposes to operate a residential program for children or adolescents with serious emotional disturbances.

(d[~~c~~]) This Part does not apply to family care homes.

595.4 Definitions.

For purposes of this Part:

(a) *General definitions.*

(1) *Admission criteria* are those factors [~~which are~~]identified by the provider of service for use in determining an individual's eligibility for admission to a residential services program.

(2) *Clinical assessment* means an evaluation which shall include, at a minimum, a patient history, mental status determination, strengths and areas for growth, diagnosis and identification of individual treatment needs and recommendations.

[~~(3) *Community Residence for Eating Disorder Integrated Treatment Program (CREDIT Program) for adults* is a subclass of community residence for individuals over the age of 18 who have been diagnosed with an eating disorder as defined in section 2799-e of the Public Health Law, whose individual treatment issues preclude family settings or other less restrictive alternatives.~~]

(3) *Collateral* means an individual who is a member of the recipient's family or household, or other individual who routinely interacts with the recipient and is identified in the individual service plan as having a role in treatment and/or is necessary for participation in the evaluation and assessment of the recipient.

(4) *Designated mental illness diagnosis* means that an individual is 18 years of age or older and currently meets the criteria for a psychiatric diagnosis in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM), [~~or has a diagnosis of an eating disorder as defined in this section,~~] but excluding alcohol or [~~drug~~]substance use disorders, dementias and other disorders due to general medical conditions, developmental disabilities or social conditions (V-codes). ICD[~~-9-CM~~] categories and codes that do not have an equivalent in the most current DSM[~~-IV~~] are also not included as designated mental illness diagnosis.

(5) *Discharge planning* means the process of planning for termination of services from a residential program through the identification of residential and other resources and supports needed for the transition of the resident to another level of care and/or another residential option and making the necessary referrals, including linkages for treatment, rehabilitative and support services to insure a warm hand-off

[~~(6) *Eating disorder* means an *eating disorder* as such term is defined in section 2799-e of the Public Health Law and shall include, but not be limited to, conditions such as anorexia nervosa, bulimia and binge eating disorder, identified as such in the most current edition of the International Classification of Disease or the most current edition of the Diagnostic and Statistical Manual of Mental Disorders, or other medical and mental health diagnostic references generally accepted for standard use by the medical and mental health fields.~~]
(6[~~7~~]) *Extended impairment in functioning* means [~~an individual has met subparagraph (i) or (ii) of this paragraph~~]that the individual has experienced two of the following four functional limitations due to a designated mental illness over the past 12 months on a continuous or intermittent basis:

[~~(i) experienced two of the following four functional limitations due to a designated mental illness over the past 12 months on a continuous or intermittent basis:~~

~~(ii) met criteria for rating of 50 or less on the Global Assessment of Functioning Scale (Axis V of DSM-IV) due to a designated mental illness over the past 12 months on a continuous or intermittent basis.~~]

(i[~~a~~]) marked difficulties in self-care [~~such as~~](personal hygiene, diet, clothing, avoiding injuries, securing health care or complying with medical advice);

(ii[~~b~~]) marked restrictions of activities of daily living [~~such as~~](maintaining a residence, using transportation, day-to-day money management or accessing community services);

(iii[~~c~~]) marked difficulties in maintaining social functioning [~~such as~~] (establishing and maintaining social relationships, interpersonal interactions with primary partners, children [~~and~~]or other family members, friends, [~~or~~]neighbors, social skills, compliance with social norms,[~~or~~] appropriate use of leisure time);

(iv[~~d~~]) frequent deficiencies of concentration, persistence or pace resulting in [~~failure~~] an inability to complete tasks in a timely manner commonly found in a timely manner in work [~~home or school setting~~] settings or in structured activities that take place in home or school settings. Individuals may exhibit limitations in these areas when they repeatedly are unable to complete simple tasks within an established time period, make frequent errors in tasks, or require assistance in the completion of tasks[~~; or~~]).

(7) Family means those members of the Recipient's natural family, family of choice, or identified caregivers.

(8) *On-site services* means those services [~~which~~] that are provided either on a 24-hour basis in a congregate or service enriched single room occupancy program or through periodic visits and on an as-needed basis within an apartment program.

(9) *Provider of service* means the entity [~~which is~~]responsible for the operation of a program. Such entity may be an individual partnership, association or corporation.

(10) *Qualified mental health staff person* means:

(i) a physician who is currently licensed and registered as a physician by the New York State Education Department;

(ii) a physician assistant who is licensed and currently registered as a physician assistant by the New York State Education Department; or

([~~ii~~] iii) a psychiatrist who is currently licensed and registered as a physician by the New York State Education Department, and who is certified by, or eligible to be certified by, the American Board of Psychiatry and Neurology.

([~~iii~~] iv) a psychologist who is currently licensed and registered as a psychologist by the New York State Education Department;

([~~ii~~]v) a social worker who is either currently licensed and registered as a licensed master social worker or as a licensed clinical social worker by the New York State Education Department[~~ or has a master's degree in social work from a program approved by the New York State Education Department~~];

([~~i~~]vi) a registered nurse who is currently licensed as a registered professional nurse by the New York State Education Department, including Clinical Nurse Specialist;

(vii) a licensed creative arts therapist who is currently licensed and registered as a creative arts therapist by the New York State Education Department;

(viii) a licensed marriage and family therapist who is currently licensed and registered as a marriage and family therapist by the New York State Education Department;

([~~viii~~]ix) a licensed mental health counselor who is currently licensed and registered as a mental health counselor by the New York State Education Department;

(x[~~viii~~]) a licensed psychoanalyst who is currently licensed and registered as a psychoanalyst by the New York State Education Department;

([~~i~~]xi) a nurse practitioner who is currently certified as a nurse practitioner by the New York State Education Department;

(xii) an individual having education, experience and demonstrated competence, as defined below:

(a) a master's or bachelor's degree in a human services related field;

(b) an associate's degree in a human services or medical related field and three years experience in [~~human services~~]direct care;

(c) a high school degree including High School Equivalency (HSE) and five years experience in [~~human services~~]direct care;[~~or~~]

(d) a NYS certified peer specialist; or

(e) a certified rehabilitation counselor currently certified by The Commission on Rehabilitation Counselor Certification (CRCC).

[~~(xi) for purposes of a CREDIT program, a registered dietitian who is currently licensed by the New York State Education Department; or~~]

(xiii) other professional disciplines [~~which~~]that receive the written approval of the Office of Mental Health.

(11) *Recovery oriented services* is a broad term to encapsulate rehabilitation services, clinical treatment, care management, and peer services.

(12[~~1~~]) *Reliance on psychiatric treatment, rehabilitation and supports* means that a documented history shows that the individual, at some prior time, met the threshold for extended impairment in functioning, but symptoms and/or functioning problems are currently attenuated by medication or psychiatric rehabilitation and supports.

(i) Medication refers to psychotropic medications which may control certain primary manifestations of mental disorder[~~,~~] but may or may not affect functional limitations imposed by the mental disorder.

(ii) Psychiatric rehabilitation and supports refers to a highly structured and supportive [~~setting which may greatly reduce the demands placed on the individual and, thereby, minimize overt symptoms and signs of the underlying mental disorder~~]service focused on developing readiness, goal setting, navigating supports and resources, skill development, and skill programming intended to address mental health symptoms or barriers and restore functioning.

(13) *Residents' council* means an advisory group comprised of residents of the housing program, who represent the interests of housing services recipients and who work with agency staff members to improve the program.

(14[~~2~~]) *Site* means the type of structure in which a residential program is located.

(15) *Structural types* means[~~are defined to delineate~~] differences in premises, capacity and safety requirements and may include:

(i) *Apartment* which means a unit organized as a self-contained entity requiring staff support appropriate to the needs of the residents.

(ii) *Congregate* which means a program which is a group living design, requiring staff on-site, 24 hours per day.

(iii) *Service enriched single room occupancy* which means a program providing support services for persons who require assistance to improve or maintain their daily living and socialization skills, in residences with private living units and supportive services available on site. Such programs provide [~~24 hour~~]24-hour on-site staff coverage and are designed to enable residents to live as independently as possible in stable community-based housing.

(16[~~3~~]) *Support residential program* means a residential program which provides supportive services designed to improve or maintain an individual's ability to live as independently as possible and eventually access [~~generic~~]permanent housing. For an individual who is not ready for full participation in services and activities, there may be an extended period of engagement consistent with the individual's desire, tolerance and capacity to participate in such services.

(17[4]) *Treatment residential program* means a rehabilitation-oriented residential program which focuses upon interventions necessary to address an individual's specific functional and behavior deficits which must be resolved in order to access [~~generic~~] permanent housing. The engagement of an individual in services and activities shall be consistent with the individual's desire, tolerance and capacity to participate in such initiatives.

(18[~~5~~]) *Ensure*, as used in this Part, means to describe the duties or obligations of the provider of service, but shall not affect the standard of liability in damages of a provider of service beyond New York Law. [~~As used in this Part to describe the duties or obligations of the provider of service, the word ensure shall not affect the standard of liability in damages of a provider of service beyond the standard set forth in statutory and/or case law applicable in this State.~~]

(b) Service definitions.

(1) *Assertiveness/self-advocacy training* means a rehabilitative skills training service[~~which is~~] designed to promote the individual's ability to assess [~~his or her~~]their needs,[~~ to make a life status change and~~ to increase self~~-awareness~~]self-awareness about [~~his or her~~]their values and preferences,[~~. Training will also~~] increase an individual's ability to respond to medical, safety and other personal problems,[~~. Activities are also intended to~~] improve communication skills and facilitate appropriate interpersonal behavior.

(2) *Community integration services/resource development* means [~~activities~~]services [~~which are~~] designed to [~~help~~]assist individuals identify and regain skills [~~and community supports~~]necessary for specific environments, [~~assess their skills, strengths and deficits in relation to environmental demands, assess available resources, and develop a natural support system by accessing social, educational and recreational opportunities~~]including the skills necessary to identify and develop community supports and other resources available to engage in social, educational and recreational opportunities.

(3) *Daily living skills training* means [~~activities which~~]rehabilitative skills training services which focus on the acquisition or reacquisition of skills and capabilities to maintain primary activities of daily life. Where clinically appropriate, [~~S~~]services [~~are provided by~~] must address[~~ing~~] areas of functioning in categories such as: dressing, personal hygiene and grooming (e.g., bathing, showering, brushing teeth, hair care and toileting), selection and/or preparation of food, cleaning and washing of clothes, functional mobility (walking, navigating in the community) maintenance of environment, budgeting, and money management. [~~Training is intended to increase those competencies needed by the individual to live in his or her goal environment.~~]

(4) *Health support services* means rehabilitative skills training services including interventions which increase developmentally appropriate independence in personal

health care and maintenance. Where clinically appropriate, training must include addressing values clarification regarding one's body and health, helping individuals make choices regarding one's body and health, increasing awareness of personal physical health, basic nutrition, substance abuse, sexual development, sexually transmitted diseases, the role of exercise and sleep. Where clinically appropriate, services must include identifying practices and resources necessary to maintain physical health, including attending regular medical and dental appointments, and basic first aid skills.[~~training to maximize independence in personal health care by increasing the individual's awareness of his or her physical health status and the resources required to maintain physical health, including regular medical and dental appointments, basic first aid skill and basic knowledge of proper nutritional habits and family planning. Also included is training on topics such as AIDS awareness. In the CREDIT program, *health services* may also include assistance and monitoring of the individual's activities relating to food, meals, and weight management.~~]

(5) *Medication management and training* means psychoeducation and skills training service, including interventions to ensure appropriate management of medications through understanding the role and effects of medication in treatment and identification of side effects and potential interactions of medications. Services must include age-appropriate skills training in self-medication, monitoring and supervision associated with the use of medication, including appropriate dosage and frequency, and the review of the appropriateness of an existing regimen by staff members with the prescribing physician. [~~training regarding the storage, monitoring, recordkeeping and supervision associated with the self-administration of medication. This does not include prescribing, but does include a certain degree of reviewing the appropriateness of the residents' existing regimen with his or her physician. Activities which focus on educating residents about the role and effects of medication in treating symptoms of mental illness and training in the skill of self-medication are also included.~~]

(6) *Parenting skills training services* means a psychoeducation and skills training service including structured [~~activities~~]interventions intended to promote positive family functioning and enable residents to assume parenting responsibilities. [~~Activities~~] Where clinically appropriate, services include peer support groups to foster skills around effective parenting, assistance in selecting and obtaining housing appropriate for families, and linkage with the children's service system. Psycho-education [~~programs on~~]services, where clinically appropriate, must address parenting skills, single parenting issues, child care and the nature of mental illness and its effect on the family[~~ are also included~~].

(7) *Rehabilitation counseling* means a [~~therapeutic modality which includes assisting the individual in clarifying future directions and the potential to achieve rehabilitation goals, identifying and specifying behaviors that impede goal setting, improving awareness of the influence of environmental stress, and helping an individual to generalize newly learned behaviors to housing and other situations outside the program structure.~~] psychosocial rehabilitation service utilizing individual, family or group therapeutic

modalities, to assist individuals develop meaningful goals, identify personal strengths and mental health-related behaviors or feelings that assist or interfere with the achievement of goals, and integrate into the community. Where clinically appropriate, services must foster the development of skills to generalize and reinforce positive behaviors within school, home, employment and other community situations and settings.

(8) [~~*Skill development services* means activities which assist clients to gain and utilize the skills necessary to undertake employment or pursue educational opportunities. This may include skills related to securing appropriate clothing, scheduling, work related symptom management, and work readiness training~~]

(9) *Social*[~~ization~~] *Skills Training* means [~~activities which are intended to diminish tendencies toward isolation and withdrawal by assisting residents in the acquisition or development of social and interpersonal skills. It is an activity meant to improve or maintain a resident's capacity for social involvement by providing opportunities for application of social skills. This occurs through resident and staff interaction in the program and through exposure with staff to opportunities in the community. Modalities used in socialization include individual and group counseling and behavior intervention.~~]a psychosocial rehabilitation and skills training service, including interventions to assist in the development and practice of age appropriate social and interpersonal skills that have been impacted by functional and adaptive behavioral deficits. Where clinically appropriate, services promote the capacity to identify and participate in positive social situations, develop and practice appropriate communication skills, and diminish tendencies toward isolation and withdrawal. Services also reinforce the development of socialization skills through modeling, individual and group counseling, and behavioral interventions.

(10) *Substance abuse services* means [~~services provided to increase the individual's awareness of alcohol and substance abuse and reduction or elimination of its use: such services shall include verbal and medication therapies, psycho-educational approaches and prevention and relapse prevention techniques~~]a psychoeducation and psychosocial rehabilitation service to reduce or eliminate alcohol and substance use. Where clinically appropriate, services must provide verbal and medication therapies, psychoeducation, relapse prevention techniques, and tobacco cessation counseling.

(11) *Symptom self-management* for the purpose of this Part, means [~~activities which are intended to achieve a maximum reduction of psychiatric symptoms and increased functioning. This includes the ongoing monitoring of residents' mental illness symptoms and response to treatment, interventions designed to help residents manage their symptoms and assisting residents to develop coping strategies to deal with internal and external stressors. Activities range from providing guidance around everyday life situations to addressing acute emotional distress through crisis management and behavior intervention techniques~~]a psychosocial rehabilitation and skills training

services to reduce psychiatric symptoms and restore functioning. Services must include the ongoing monitoring of psychiatric symptoms and responses to treatment, interventions to assist individuals manage their symptoms and develop coping strategies to deal with internal and external stressors, and addressing acute emotional distress through crisis management and behavior intervention and relapse prevention techniques.

595.5 Certification.

(a) The Office of Mental Health may issue [~~An~~] an operating certificate, valid for a period not to exceed three years, [~~will be issued~~] to residential programs [~~which~~]that comply with the requirements stated in this Part.

(b) [~~No more than 48 congregate beds will be located on the same premises.~~] No [~~S~~]service enriched single room occupancy programs shall [~~not~~] exceed 100 beds.

(c) The certified capacity of the residential program shall not be exceeded at any time.

(d[~~c~~]) A provider of services must submit applications for new operating certificates to the Office of Mental Health Pursuant to Part 551 of this Title, [~~applications for new operating certificates shall be submitted to the Office of Mental Health~~] on required forms in accordance with the instructions therein. The application [~~shall~~] must state the physical setting (congregate, apartment or service enriched single room occupancy) of the residential program and [~~shall~~] include a functional program [~~which describes~~] describing in detail the required information as prescribed pursuant to section 595.7 of this Part. A single application for each program shall be submitted.

(e[~~d~~]) A provider of services must submit [~~R~~]renewal applications [~~shall be submitted~~] to the Office of Mental Health on required forms in accordance with the instruction therein.

(f[~~e~~]) A provider of services must show [~~The~~] current operating certificate [~~shall be available to be shown~~] to anyone upon request.

[~~(f) The certified capacity of the residential program shall not be exceeded at any time.~~]

(g) An operating certificate shall remain the property of the Office of Mental Health. A provider of services must return an [~~An~~] expired, invalidated, revoked or terminated certificate [~~shall be returned~~] to the Office of Mental Health.

(h) A provider of service must follow [~~T~~]the prior approval review (PAR) procedures in accordance with Part 551 of this Title [~~shall be required of a provider of services that wishes~~] to:

(1) change the physical location of the facility, or utilize additional physical locations, premises or parts of premises;

(2) significantly change the number and types of staff members;

(3) initiate major changes in program, including, but not limited to, changes in the criteria for admission or residency termination of residents, or changes in the target population;

(4) change the resident capacity of the program;[~~and~~]

(5) purchase, change ownership, or alter the premises of the program[~~.~~]; and

(6) any additional change as identified in Part 551 of this Title.

(i) The certificate holder [~~shall~~] must notify the Office of Mental Health when they [~~he or she~~] become[~~s~~] aware that alterations are planned in a leased or owned building in which the facility is located which affect or could affect the usability of any part of the facility or limit program accessibility by persons with physical disabilities.

(j) *Suspension, revocation or limitation of the operating certificate.*

(1) The [~~c~~]Commissioner may revoke, suspend or limit the operating certificate upon the finding that a residential program has failed to comply with the terms of any operating certificate or with the provisions of any applicable statute, rule or regulation. The certificate holder shall be given notice and an opportunity to be heard prior to any such action.

(2) Pending a determination pursuant to paragraph (1) of this subdivision, the [~~c~~]Commissioner may, upon written notice to the certificate holder, suspend the certificate for not more than 30 days upon the finding that the continued operation of the residential program presents an immediate danger to the health and welfare of any of the persons residing therein.

(i) The Commissioner may re-evaluate the determination after the initial 30 day suspension, if the underlying determination pursuant to paragraph (1) of this subdivision has not been finalized, and such immediate danger to the health and welfare of any resident is still present.

(k) The certificate holder [~~shall~~] must notify the Office of Mental Health of any intention to terminate voluntarily the operation of the residential program.

(1) This notice of intention to terminate voluntarily [~~shall~~]must include a statement of the actions [~~which~~] that will be taken to assure appropriate referral of persons in residence, preserve the confidentiality of records and to settle financial accounts according to pre-existing individual agreements.

(2) This notice [~~shall~~] must be submitted at least 90 days prior to termination of operation.

(l) *Catastrophic termination of operation.* If through catastrophe such as, but not limited to, fire, flood or earthquake, a residential program is unable to operate as certified, the governing body [~~shall be responsible for~~] must provide[~~ing~~] emergency accommodations and continuing support to all residents until such time as the residential program can be made habitable, [~~or~~]alternate stable living accommodations can be found, or a new provider is licensed to operate the program. The certificate holder shall notify the Office of Mental Health immediately but no longer than 24 hours after such events.

(m) No operating certificate is transferable.

(n) The certificate holder shall cooperate with the Office of Mental Health during a review or inspection of the residential program.

595.6 Organization and administration

(a) The provider of service [~~shall~~] must identify a governing body [~~which~~] that shall have overall responsibility for the operation of the program. The governing body may delegate responsibility for the day-to-day management of the program to appropriate staff members pursuant to an organizational plan approved by the Office of Mental Health. No individual shall serve as both member of the governing body and of the paid staff member of the program without prior approval of the Office of Mental Health. The owner(s) may serve as the governing body for a proprietary residential program.

(b) The governing body shall establish mechanisms for the participation and input of current or former recipients of mental health services and family members of recipients of mental health services on the governing body. The agency shall make reasonable efforts to resolve barriers to participation.

(c) The governing body must ensure that its membership reflects the ethnic and cultural diversity in which the residential program is located. It must also [~~e~~]affect an appropriate mechanism(s) to facilitate the integration of the program into the community.

(d) The governing body shall be responsible for the following duties:

(1) to meet at least four times a year;

(2) to review, approve and maintain minutes of all official meetings;

(3) to develop an organizational plan which indicates lines of accountability and the qualifications required for staff positions. Such plan may include the delegation of the responsibility for the day-to-day management of the program to an individual and/or management team who is qualified by training and experience to supervise;

(4) to review the program's compliance with the terms and conditions of its operating certificate, applicable laws and regulations;

(5) to ensure the existence of and utilize input from a residents' council meetings [~~or other appropriate mechanism to provide participation into the formulation of house rules and other matters which affect the operation of the residence~~]and resident and/or family satisfaction surveys/grievances/complaints to obtain relevant information on program functioning and to provide a mechanism for participation into the formulation of program expectations and other matters which affect the operation of the residence;

(6) to ensure that the design and operation of the program is consistent with and appropriate to the ethnic and cultural background of the resident population;

(7) to ensure the development of, approve, and periodically review and revise as appropriate all programmatic and administrative policies and procedures. Such policies and procedures shall include, but are not limited to, the following:

(i) written personnel policies [~~which~~] that shall prohibit discrimination on the basis of race, color, creed, disability, sex, sexual orientation, gender identity, marital status, age, HIV status, military status, genetic predisposition or carrier status or national origin;

(ii) written policies [~~which~~] that shall provide for verification of employment history, personal references, work record and qualifications, as well as requesting the Office to perform criminal history record checks in accordance with Part 550 of this Title;

(iii) written volunteer policies [~~which~~] that shall provide for screening of volunteers, verification of employment history, personal references, work history, and supervision of volunteers, as well as requesting the Office to perform criminal history record checks in accordance with Part 550 of this Title;

(iv) written policies that are consistent with the obligations imposed by titles VI and VII of the Civil Rights Act, Federal Executive Order 11246, [~~a~~]Article 15 of the Executive Law (Human Rights Law), [~~a~~]Article 15-A of the Executive Law (Minority and Women Business Enterprises Program), section 504 of the Rehabilitation Act of 1973, the Vietnam Era Veteran’s Readjustment Act, the Federal Age Discrimination in Employment Act of 1967, the Federal Equal Pay Act of 1963, and the Federal Americans with Disabilities Act;

(v) written policies and procedures concerning, if necessary, the assessment of ability to self-administer medication, the supervision of self-administration and the

appropriate storage of medication which shall be consistent with applicable Federal and State laws and regulations;

(vi) written policies and procedures governing resident records [~~which~~] that ensure confidentiality consistent with the Mental Hygiene Law, including sections 33.13 and 33.16, 45 CFR parts 160 and 164 (HIPAA), and other applicable State and Federal laws and regulations, which provide for appropriate retention and resident access of such records;

(vii) written criteria for admission and discharge to the program, [~~which~~] that shall state[~~: that~~] no person shall be excluded from the residential program on the basis of ethnicity/national origin, race, religion, color, age, sex, sexual orientation, gender identity, physical disability, or HIV status. [~~or national origin.~~]A provider of service shall ensure that no otherwise appropriate resident is denied access to services solely on the basis of multiple diagnoses, current or past risk of violence to self or others, physical disability, a diagnosis of HIV infection, AIDS, or AIDS-related complex, pregnancy, or solely because the individual has a diagnoses of substance use disorder; an intellectual or developmental disability or is justice involved. However, nothing in this subparagraph shall be interpreted to prevent a residential program from making admission or discharge decisions based upon the functional, clinical and behavioral needs of the applicant and other residents, which are relevant to its functional program; and

(viii) if a program serves parents with children or adolescents, written policies and procedures regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child or adolescent into protective custody, mandatory reporting of death, immunity from liability, penalties for failure to report, and obligations for the provision of services and procedures necessary to safeguard the life or health of the child or adolescent.[~~Such policies and procedures shall address the requirements for the identification and reporting of abuse or neglect regarding residents who are children, or who are the parents or guardians of children~~]; and

(8) the governing body shall ensure the development of, approve and periodically review and revise a written Quality [~~Assurance~~]Improvement Plan for the residential program. Such plan shall include, but not be limited to, the following:

(i) written policies and procedures for monitoring the operation of the residential program against criteria established in its functional program;

(ii) a written utilization review procedure to monitor the extent to which a resident is receiving appropriate services and is being served at an appropriate level of care;

(iii) a written procedure for incident reporting[~~and~~], incident management, and incident data trending as discussed in Part 524; and

(iv) written policies and procedures describing a resident grievance process [~~which~~] that ensures the timely review and resolution of residents' complaints and which provides a process enabling residents to request review by the appropriate Field Office of the Office of Mental Health when resolution is not satisfactory. Agencies shall maintain a system for tracking complaints and compare rates of grievance across their programs;

(v) written policies and procedures for different emergency situations including protocols for infection control;

(vi) provision of on-boarding and an on-going staff training curriculum to help support residents' current needs and emergent needs as indicated.

[~~(e) A provider of service shall ensure that no otherwise appropriate resident is denied access to services solely on the basis of multiple diagnoses, physical disability, a diagnosis of HIV infection, AIDS, or AIDS-related complex, pregnancy, or solely because the individual has any past involvement with substance abuse or the criminal justice system.~~]

(e[~~f~~]) Each program must create [~~There shall be~~] an emergency evacuation plan and ensure staff members are [~~shall be~~] knowledgeable about its procedures. The evacuation plan shall be posted in a conspicuous common area.

(f[~~g~~]) The provider of service shall participate as required with the local governmental unit in local planning processes pursuant to sections 41.05 and 41.16 of the Mental Hygiene Law. The local government may ask the provider of service to provide, at minimum and not limited to, the following information:

(1) provision of budgeting and planning data[~~as requested by the local governmental unit~~];

(2) identification of the population being served by the program;

(3) identification of the geographic area being served by the program; and

(4) description of the program's relationship to other providers of service including, but not limited to, a description of all written agreements entered into pursuant to this Part.[~~; and~~

~~(5) for CREDIT programs, in addition to the provisions of paragraph (4) of this subdivision, a description of specific affiliation agreements with designated~~

~~Comprehensive Care Center for Eating Disorders providers, which must include referral and admission procedures, as well as procedures for crisis clinical back-up.~~]

(g[~~h~~]) In programs which are not operated by State or local government, [~~there shall be~~] the program must ensure an annual audit is performed, pursuant to a format prescribed by the Office of Mental Health, of the financial condition and accounts of the program performed by a certified public accountant who is not a member of the governing body or an employee of the program. Government-operated programs shall comply with applicable laws concerning financial accounts and auditing requirements.

(h[~~i~~]) The provider of service shall establish mechanisms which ensure that a program provides reasonable accommodations and culturally competent services [~~which are~~] relevant to the cultural, language and ethnic backgrounds of residents. Such mechanisms, whenever possible and appropriate, shall include ethnic representation on the staff and governing body and inclusion of ethnic appropriate content in service programs.

(i[~~j~~]) The provider of service shall provide for the fair compensation of residents who are employed by the provider. Such employment shall meet all applicable requirements of Federal and State labor laws.

(j[~~k~~]) The provider of service shall establish mechanisms to ensure priority access by individuals, referred to the provider, who are enrolled in an assisted outpatient treatment program established pursuant to section 9.60 of the Mental Hygiene Law. The provider of service shall cooperate with the local governmental unit or the [~~c~~]Commissioner, or their authorized representatives, in ensuring priority access by such individuals, and in the development, review and implementation of treatment plans for such individuals. Prior to the discharge by a provider of service of an individual who is also enrolled in an assisted outpatient treatment program, the provider of service shall notify the individual's case manager and the director of the assisted outpatient treatment program. Any and all related information, reports and data which may be requested by the [~~c~~]Commissioner or the local governmental unit shall be furnished by the provider of service. Any requests for clinical records from persons or entities authorized pursuant to section 33.13 or 33.16 of the Mental Hygiene Law, regarding individuals who are the subject of, or under consideration for, a petition for an order authorizing assisted outpatient treatment shall be given priority attention and responded to without delay.

595.7 Functional program.

(a) The provider of service must develop and submit a [~~A~~] functional program [~~shall be developed and submitted~~] with the provider's application for initial certification. The functional program shall, at a minimum, include:

(1) a description of the program's mission, and the adult population to be served;

(2) admission and discharge criteria;

(3) a description of the specific service needs of the defined adult target population;

(4) a description of the existing service system, including but not limited to mental health, physical health, rehabilitative and recovery-oriented services, substance use services, crisis supports, peer services, [~~social~~]community-based and other support services;

[~~(5) a description of the residents' utilization or non-utilization of the existing service system and the rationale for such service use patterns;~~]

(5[~~6~~]) a description of the goals and anticipated outcomes of the program, including the anticipated average length of stay for residents;

(6[~~7~~]) a description of the provider's role, if any, in providing a crisis bed capacity within the geographical area;

(7[~~8~~]) a description of the proposed staff pattern, including job descriptions and qualifications, number of FTE's for each position, the supervisory structure and a staffing schedule;

(8[~~9~~]) a description of the on-site services which will be provided to the residents, including how these services will[~~th~~] further the goals and anticipated outcomes of the program;

(9[~~10~~]) a description of how the residential program will connect to services in the community to adequately meet the residents' needs[~~appropriately utilize community-based services~~] and the other services provided by the agency which residents may benefit from and how access will be facilitated;

(10[~~1~~]) a description of the expectations, if any, [~~which may be placed upon the~~]for residents regarding program participation within the residence and participation in programs outside the residence; and

(11[~~2~~]) a description of the process for providing of information about and explaining the rights of residents to both staff and residents as part of the intake process and on an ongoing basis, if there are program changes and at the request of the resident council or an individual resident.

(b) The functional program shall serve as a basis for delineating anticipated program outcomes which shall be monitored pursuant to section 595.13 of this Part.

595.8 Admission criteria.

(a) Eligibility for admission to a residential program for adults age 18 or older shall be based [~~upon~~]only on:

(1) A designated mental illness diagnosis[~~, which, for purposes of the CREDIT program, must include a diagnosis of an eating disorder, as such term is defined in this Part~~]; and one of the following:

(2) Social Security Income or Social Security Disability Insurance enrollment due to a designated mental illness;

(3) extended impairment in functioning due to a designated mental illness, as defined in section 595.4(a) of this Part; or

(4) reliance on psychiatric treatment, rehabilitation and supports, as defined in section 595.4(a) of this Part.

(b) The provider must consider all referrals with a qualifying mental health diagnosis that meet the aforementioned criteria. Referrals shall be considered within the context of each individual. No otherwise appropriate resident shall be denied access to services solely on the basis of multiple diagnoses, current or past risk of violence to self or others, physical disability, developmental disability, a diagnosis of HIV infection, AIDS, or AIDS-related complex, pregnancy, or solely because the individual has any past involvement with substance abuse or the criminal justice system. However, nothing in this subparagraph shall be interpreted to prevent a residential program from making admission or discharge decisions based upon the functional, clinical and behavioral needs of the applicant, which are relevant to its functional program.

([~~b~~]c) The provider of service shall make available to potential residents, upon application for admission, a clear and concise written description of the program and the application process. The description shall include but not be limited to:

(1) the criteria for admission[~~, as well as any criteria for exclusion~~];

(2) the necessary documentation required;

(3) the process for admission; including reasonable accommodations for admissions which may warrant a temporary waiver of one or more of the documentation criteria;

(4) the type(s) of living accommodations available;

(5) the services to be provided;

(6) the fee schedule and relevant financial agreements;

(7) the residency agreement, [and house rules]program expectations, and any rules developed by a Residents' Council;

(8) the notice of resident rights;

(9) the policy regarding continued residency if a resident [needs to be hospitalized]is absent from the program for an extended period, including but not limited to a hospitalization; and

(10) the process for discharge planning.

[(c) A referral for admission to a community residence that is a CREDIT program shall be received from a Comprehensive Care Center for Eating Disorders, or from the individual's primary care physician or mental health provider. All assessments must have occurred within the last 30 days. Each referral must include the following documents:

(1) an updated medical report;

(2) a psychosocial assessment;

(3) a psychiatric evaluation;

(4) a description of the individual's current behaviors and significant strengths and problems;

(5) documentation that potentially less restrictive community, home and/or extended non-residential services have been reasonably explored and are either not available or have not been successful;

(6) nutritional screening for eating disorder behaviors and nutritional status;

(7) psychological testing as needed; and

(8) assessment of the family system, when appropriate, by direct involvement with the family members.]

(d) The provider of service must [shall] [make a decision with regard to] decide on an individual's application for admission as soon as practicable but no later than [15]10 [working] business days after submission of all necessary documentation. The provider

[~~shall~~] must supply a written explanation to the applicant, [~~and~~]the referring agency, and the local government unit where there is reason(s) for rejection or delay, which [~~shall~~] must include the steps that would need to be taken in order for the person to be admitted.

(e) The provider of service cannot impose [~~No~~] specific participation requirements for services outside the residential program [~~may be imposed~~] as a requirement for participation in a support residential program, unless in association with an order authorizing assisted outpatient treatment. A resident of a treatment residential program [~~may be required, as a criteria for admission and continued stay,~~]is expected to participate in on-site and/or outside services [~~if the services~~]that are critical to the rehabilitation goals of such individual, are consistent with the individual's service plan and are stipulated and agreed upon within the residency agreement.

595.9 Discharge planning and procedures.

(a) Each program [~~shall~~] must ensure that a discharge planning process for each resident begins upon admission. The discharge planning process [~~shall~~] must continue throughout a resident's stay. The discharge planning process shall include, at a minimum, the following activities throughout the process:

(1) involvement of the resident, program staff, collaterals, and other community service providers[~~, and collaterals~~] as appropriate and agreed to by the resident;

(2) a consistent, positive and encouraging focus on working toward living independently in the community in permanent housing and identifying the supports and services needed to maintain independent, permanent housing.

(3[~~2~~]) [~~clinical~~]assessment of the resident's personal strengths and supports including challenges to achieving and maintaining independent, permanent housing, including psychiatric status [~~as well as assessment of the resident's~~], rehabilitation, physical, social, and residential needs and goals risks and challenges including substance use/misuse, violence risk, by program staff /or other service programs and providers who [~~, which is conducted by clinical staff who~~]are qualified by credentials, training and experience to conduct such assessments;

(4[~~3~~]) provision to the resident of options for appropriate residential environments and other necessary services;

(5[4]) completion of referrals to appropriate community services, supports, and residential providers which maximize strengths and offset risks and challenges; and

(6[~~5~~]) arrangements for appointments, where the resident so agrees, with community service and residential providers and other community resources and supports.

(b) A resident may [~~who is discharge-ready can~~]be discharged with no further conditions when the following conditions have been met:[~~. Discharge readiness requires that:~~]

(1) discharge planning activities have been [~~fully followed~~]completed;

(2) appropriate alternative housing, community services and supports [~~has~~]have been identified and obtained or linked. This may include but is not limited to referral to an ACT team, PROS program, mental health or substance use clinic, harm reduction services, peer services, or other care coordination and psych rehabilitation services as appropriate; and

(3) the resident is willing to relocate to such housing.

(c) Where conditions in 595.9(b) have not yet been met, [~~A resident who is not discharge-ready~~]or where a [~~who~~]resident is no longer eligible for services, a resident can be discharged provided discharge planning activities have been completed [~~followed~~]to the extent practicable under the circumstances, and one of the following conditions applies:

(1) the resident has permanently vacated the residence;

A discharge in this instance requires a determination that the resident has voluntarily left the residence with no apparent intent to return. To make this determination, the provider shall coordinate with the resident's treatment team and collaterals to ensure that the resident's decision was part of a viable discharge plan and not the result of concerns related to their mental health condition. If such determination cannot be made the program shall treat the absence as an incident pursuant to the requirements of section 595.13(a)(2) of this Part and shall hold the bed until such time as a determination is made regarding the resident's location. In such circumstances the bed shall not be held for more than 30 days.

(2) the resident's condition has changed due to the following[~~ as follows~~]:

(i) the behavioral health[~~psychiatric~~] or medical status of the resident has changed such that the resident requires a higher level of care[~~inpatient hospital care~~]; and/[~~or~~]

(ii) the resident's capacity for [~~self-preservation~~]self-preservation, as determined pursuant to section 595.16 of this Part, requires a level of care other than the residential program, or the resident is otherwise at risk due to requiring [~~additional~~] medical or psychiatric services or supports not available within the residential program; or

(iii) the psychiatric status of the resident has changed such that the services or support required can be provided in a [~~less restrictive~~]more independent setting, and a clinically appropriate, more independent[~~ less restrictive~~] setting has been identified and is available;

(iv) If an individual is to be discharged because that individual is no longer capable of self-preservation as determined pursuant to section 595.16 of this Part, or would be otherwise at risk due to requiring different or additional services, supports or physical environments not available within the residential program except to the extent required pursuant to the Federal Americans with Disabilities Act, the individual shall be notified in writing of the need for and intent to secure an appropriate alternative living arrangement.

The provider shall make every reasonable effort to communicate with the resident's treatment team and appropriate collaterals. This may include coordinating with ACT, AOT, peers, other service providers, and family members.

(3) the resident fails to meet one or more material responsibilities for residency as described in the residency agreement specified in section 595.10(a)(2) and (c) of this Part; or

(4) the resident's behavior poses an immediate and substantial threat to the health, safety and well-being of the resident or other individuals or creates a serious and ongoing disruption of the therapeutic environment of the residential program;

(d) A discharge under paragraph (c)(1) of this section requires that it has been determined that the resident has voluntarily left the residence with no apparent intent to return. A discharge in this instance requires that an assessment be conducted by a licensed mental health professional who is qualified by credentials, training and experience to conduct such assessments. If such determination cannot be made the program shall treat the absence as an incident pursuant to the requirements of section 595.13(a)(2) of this Part and [~~shall~~] must hold the bed until such time as a determination is made regarding the resident's location. In such circumstances the bed shall not be held for more than 30 days.

[~~(e) A discharge under paragraph (c)(2) of this section requires that a clinical assessment be conducted by clinical staff who are qualified by credentials, training and experience to conduct such assessments, provided, however, that a determination under subparagraph (c)(2)(iii) of this section, such services and support required can be provided in a less restrictive setting, must be made by a physician. If an individual is to be discharged because that individual is no longer capable of self preservation as determined pursuant to section 595.16 of this Part, or would be otherwise at risk due to requiring different or additional services, supports or physical environments not available within the residential program except to the extent required pursuant to the~~

~~Federal Americans with Disabilities Act, the individual shall be notified in writing of the need for and intent to secure an appropriate alternative living arrangement.~~]
(e[~~f~~]) A discharge under subparagraph (c)(2)[~~(ii) or (iii)~~] of this section, or a discharge under paragraph (c)(3) of this section, requires the following:

(1) The provider shall first make every reasonable effort to assist the resident in meeting the responsibilities of residency as agreed to by the resident and documented in the [~~clinical~~]residential record or facilitate the resident's ability for self-preservation as applicable.

(2) If efforts under paragraph (1) of this subdivision are not successful, the provider shall [~~conduct~~]obtain [~~a clinical~~]an assessment and make every reasonable effort to identify a mutually agreed upon discharge plan. The provider and the resident shall consult as needed with the local governmental unit or other appropriate entities in an effort to have any differences between the involved parties mediated or to obtain assistance in procuring appropriate residential and service alternatives, which [~~shall~~]must include referral to a single point of access process (or a similar successor process), where such process has been established by the local governmental unit and is applicable.

(3) If efforts under paragraph (2) of this subdivision are not successful, the provider must give the resident a written 30-day preliminary notice of the intent to terminate residency providing the reason(s) for termination, [~~any potential~~]the process for correcting the situation and alternative residential and service options. [~~If requested by the local governmental unit, the provider shall send the written notice to the local governmental unit.~~]If a discharge is predicated upon a resident no longer being capable of [~~self preservation~~]self-preservation, that reason must be included in such notice. Such notice shall also identify the resident grievance procedure as required in section 595.10(a) of this Part[~~,~~] and shall advise the resident of the availability of the mental hygiene legal service or equivalent legal advocacy service.

(4) In instances when a resident makes reasonable effort to resolve the issues that contributed to their receiving a preliminary notice, the provider must issue a satisfaction letter to the resident indicating that the circumstances have been satisfactorily resolved and the discharge procedure will cease. Such letter shall indicate that the resident has met or is working diligently to resolve any matters that put their housing in jeopardy.

(5[~~4~~]) If efforts under paragraph (3) of this subdivision are not successful, the provider shall give the resident a written final notice of the intent to terminate residency in 30 days, which shall set forth the reasons for termination, as well as alternative residential and service options which shall include referral to a single point of access process (or a similar successor process), where such process has been established by the local governmental unit. Such notice must advise the resident of the availability of mental hygiene legal service or equivalent legal

advocacy service. Such notice shall also advise the resident that [~~he or she has~~]they have the right to submit a written objection to the Office of Mental Health contact person, identified in accordance with section 595.10(a) of this Part, within five business days of [~~the date~~]the resident's receipt of the written final notice of intent to terminate residency. [~~If requested by the local governmental unit, the provider shall send the written notice to the local governmental unit.~~]Objection shall be submitted with the resident's consent and willingness to participate in the field office meeting.

(6[~~5~~]) If the resident elects to object to the determination, the resident or their designee[~~he or she~~] must [~~mail~~]send a written objection to the Office of Mental Health contact person[~~,~~] within five business days of receipt of written notice of intent to terminate residency. Upon receipt of such written objection, the Office of Mental Health contact person [~~or his/her designee~~]shall offer the involved parties an opportunity to be heard, which shall include holding a meeting involving all relevant parties[~~, unless waived by all parties~~]. The meeting should be held within 10 business days from the date of receipt of written notice to terminate residency, whenever possible. A written decision shall be issued to the involved parties within five business days thereafter. A[~~n audio~~] recording of the meeting shall be made, which shall be used, disclosed, and maintained in accordance with Federal and State laws and regulations governing the privacy of individually identifying health information. The mental hygiene legal service or equivalent legal advocacy service or other advocate chosen by the resident may assist the resident with the presentation of [~~his or her~~]their objection.

(7[~~6~~]) If any party to the proceeding is not satisfied with the decision, a request may be made for an administrative review by the [~~c~~]Commissioner. The [~~c~~]Commissioner may designate an individual to conduct such administrative review and fulfill [~~his or her~~]their responsibilities in accordance with this paragraph.

(i) The request for administrative review shall be made within five business days of the date of receipt of the written decision of the Office of Mental Health contact person. Such request may include a written detailed statement of the factual issues in dispute.

(ii) The mental hygiene legal service or equivalent legal advocacy service or other advocate chosen by the resident may assist the resident with the submission or may make a submission on [~~his or her~~]their behalf, provided, however, that if the submission is not made by the resident, a duly executed authorization form permitting disclosure of information to the mental hygiene legal service or equivalent legal advocacy service or other advocate for the purpose of administrative review of the matter at hand must accompany such submission.

(iii) The [c]Commissioner will issue a final written decision to all parties within 10 business days of receipt of the request for an administrative review, which shall

be based on the meeting, the written submissions of the involved parties and any relevant documentation provided to the commission by the involved parties. The [c]Commissioner may, at [~~his or her~~]their discretion, send the matter back to the relevant Office of Mental Health contact person for further review, which must take place within the 10 business day period for the [c]Commissioner's review.

(iv) The determination after the [c]Commissioner's administrative review of the matter shall be final and is not subject to further administrative review.

(7) During the period that an objection is undergoing administrative review:

(i) the resident shall participate in all programming in which [~~he or she~~]they agreed to participate, as set forth in the residency agreement; and

(ii) every effort feasible shall be made to maintain the resident in at least [~~his or her~~]their current level of programming.

(f[~~g~~]) A discharge under paragraph (c)(4) of this section requires the following:

(1) The provider of service must determine that the resident's behavior poses an immediate and substantial threat to the health and well-being of the resident or other individuals or creates a serious and ongoing disruption to the therapeutic environment of the residential program. This determination shall be made in consultation with the resident's treatment team, collaterals, or with appropriate clinical contact, and shall be documented in the [~~clinical~~]residential record. In such instance, nothing in this section shall preclude the provider of service from immediately arranging for the removal of the resident to [~~a location which has been determined to be~~]an appropriate location for the resident given the resident's current status, needs, and conduct. Such location shall have the capacity to provide reasonable safety and support for the resident. If necessary, such removal shall be conducted by a mental health crisis team, where available or, a police officer who is a member of an authorized police department or force, or a sheriff's department. The provider shall notify with the resident's treatment team of the relocation. For residents who are not treatment engaged, the provider shall consult with the local government unit and other community-based services to assist with connecting the individual to appropriate supports.

(2) The provider of service [~~may~~]must give the resident a written final notice of the intent to terminate residency within 30 days, or if subdivision ([~~h~~]g) of this section applies, the period provided for therein, which shall set forth the reasons for termination, as well as alternative residential and service options. Such notice shall also advise the resident that [~~he or she~~]they have[~~s~~] the right to submit a written objection to the Office of Mental Health contact person, identified in accordance with section 595.10(a) of this Part, within five business days of the date of the written final notice of intent to terminate residency. The notice shall also identify the resident

grievance procedure as required in section 595.10(a) of this Part, and shall advise the resident of the availability of the mental hygiene legal service[~~.~~] or equivalent legal advocacy service.[~~If requested by the local governmental unit, the provider shall send the written notice to the local governmental unit.~~]

(3) The provider of service shall make diligent efforts to [~~conduct~~]obtain a clinical assessment by clinical staff who are qualified by credentials, training and experience to conduct such assessments to either assist in the reentry of the resident to the program or to recommend discharge from the program. Such efforts shall be documented in the [~~clinical~~]residential record. The provider of service shall also make diligent efforts, in consultation with the local governmental unit, to make [~~recommendations~~]linkages to [~~for~~] appropriate residential and treatment alternatives and interventions available to the resident upon discharge from the program, which shall include referral to a single point of access process (or a similar successor process) where such process has been established by the local governmental unit.

(4) If the resident elects to object to the determination, [~~he or she~~]they must mail a written objection to the Office of Mental Health contact person, within five business days of receipt of the final written notice of intent to terminate residency. Upon receipt of such written objection, the Office of Mental Health contact person or [~~his/her~~]their designee shall offer the involved parties an opportunity to be heard, which shall include holding a meeting involving all relevant parties[~~, unless waived by all parties~~]. Such meeting should occur within 10 business days of receipt of the resident's written objection[~~,~~] whenever possible. A written decision shall be issued to the involved parties within five business days thereafter. A[~~n audio~~] recording of the meeting shall made, which shall be used, disclosed, and maintained in accordance with Federal and State laws and regulations governing the privacy of individually identifying health information. The mental hygiene legal service or equivalent legal advocacy service or other advocate chosen by the resident may assist the resident with the presentation of [~~his or her~~]their objection.

(5) If any party to the proceeding is not satisfied with the decision, a written request may be made for an administrative review by the [~~c~~]Commissioner. The [~~c~~]Commissioner may designate an individual to conduct such administrative review and fulfill [~~his or her~~]their responsibilities in accordance with this paragraph.

(i) The request for administrative review [~~shall~~] must be made within five business days of the date of receipt of the written decision by the Office of Mental Health contact person. Such request may include a written detailed statement of the factual issues in dispute.

(ii) The mental hygiene legal service or equivalent legal advocacy service or other advocate chosen by the resident may assist the resident with the submission or may make a submission on [~~his or her~~]their behalf, provided, however, that if the submission is not made by the resident, a duly executed

authorization form permitting disclosure of information to the mental hygiene legal service or equivalent legal advocacy service or other advocate for the purpose of administrative review of the matter at hand must accompany such submission.

(iii) The [c]Commissioner will issue a final written decision to all parties within 10 business days of receipt of the request for an administrative review, which shall be based on the meeting, the written submissions of the involved parties and any relevant documentation provided to the [c]Commissioner by the involved parties. The [c]Commissioner may, at [this or her]their discretion, send the matter back to the relevant Office of Mental Health contact person for further review, which must take place within the 10 business days period for the [c]Commissioner's review.

(iv) The determination after the [c]Commissioner's administrative review of the matter shall be final and is not subject to further administrative review.

(6) During the period that the matter is being review by the Office of Mental Health contact person, or by the [c]Commissioner or [his/her]their designee, the program must hold the bed. The program must assure the resident appropriate residency [nothing herein shall preclude a relocation or discharge of a person pending a final administrative decision, provided, however, that the resident shall be assured appropriate residency,]and every effort shall be made to maintain the health and safety of all residents of the program, until the issuance of a final administrative determination.

[(i) The program shall hold the bed until such time as determination by the commissioner is made, but in such circumstances the bed need not be held for more than 30 days.]

(i[i]) In the event the final determination of the [c]Commissioner or [his or her]their designee is that there lacked sufficient grounds to terminate the residency, the [c]Commissioner shall direct that the resident [be permitted to re-enter]remain in the housing program, unless it is determined that it would be clinically inappropriate for the resident or others for such resident to so return. In this event, prior to issuing [his/her]their final determination[within 10 days of receipt of the request for an administrative review in accordance with paragraph (5) of this subdivision], the [c]Commissioner (or [his or her]their designee) [must provide sufficient written notice to]shall notify the resident, [and]the program, and [to]any persons authorized by the resident to receive such notice, that relevant clinical information for consideration by the [c]Commissioner may be submitted within five business days from the date of such notice.

(g[h]) In the event that a resident is hospitalized, the provider shall consult with the hospital inpatient staff, the resident, and other appropriate [service providers and significant others]collaterals to plan for the return of the resident upon discharge from

the hospital. The provider shall assure the resident continued residency for no less than 45 days of such hospitalization unless it is mutually agreed upon by the provider and the resident that the resident will not be returning to the program. The provider shall assure the resident continued residency for up to 90 days if the provider determines, based upon consultation with inpatient staff, the resident, and [~~other appropriate providers and significant others~~]collaterals, that the resident will return within that period of time. Former residents of the residential program who are discharged from a hospital, [~~who do not meet the above 45- or 90-day bed hold criteria, ~~]shall be given priority consideration for readmission to an appropriate residence operated by the provider.

(1) At the point that a resident has been hospitalized for 45 days, the provider shall notify the resident and hospital staff in writing that pursuant to this Part the bed can be held for another 45 days. The letter must advise that the provider will continue to consult with the resident and hospital staff to develop an appropriate discharge plan.

(h) In the event that a resident is involved with the criminal justice system (i.e. jailed), the provider shall consult with the resident, the jail's discharge planning team, advocate, legal services, other appropriate service providers and significant others to plan for the return of the resident upon release from jail. The provider shall assure the resident continued residency for no less than 30 days of such absence unless it is mutually agreed upon by the provider and the resident that the resident will not be returning to the program. The provider shall assure the resident continued residency for up to 60 days if the provider determines, based upon consultation with the jail's discharge planning staff and the resident, their legal counsel, and other appropriate collaterals, that the resident will return within that period of time.

(i) If an individual has been admitted to the residence pursuant to an agreement to provide crisis residential services or pursuant to an agreement with a managed care organization which is certified or approved by the Commissioner of the New York State Department of Health or other organization or entity approved by the Office of Mental Health, the provider is exempt from meeting the requirements of subdivision ([~~f~~]e), paragraphs ([~~g~~f])(2) and (3), and subdivision ([~~h~~]g) of this section. Beds utilized pursuant to this subdivision shall be deemed temporary use beds. Temporary use beds are to be used for time limited stays of 60 days or less.

(j) A local governmental unit and/or the Office of Mental Health may request that providers submit all written notices of intent to terminate residency pursuant to subdivisions (f) and (g) of this section, or it may, at its discretion, selectively request the submission of such notices in specific instances.

595.10 Rights and responsibilities of residents.

(a) A resident residing in a residential program must be entitled to the rights defined in this subdivision. A provider of service is responsible for ensuring the protection of these rights.

(1) A resident has the right to:

(i) Be treated with dignity and respect;

(ii) Privacy and confidentiality;

(iii) Self-determination and freedom of choice regarding services and supports, and who provides them;

(iv) Integrated mental health, physical health and substance use services and coordinated care.

(v) Freedom from coercion, including but not limited to programmatic coercion and mistreatment from staff and other residents.

(vi) Not be considered for discharge for reasons including but not limited to, medication non-compliance, non-participation in mental health, physical health and substance use treatment, non-participation in daily programing, unemployment.

(vii) Quality of care and treatment without discrimination.

(viii) Be treated in a way that acknowledges and respects their cultural practices, religious and/or spiritual practices, language of choice, educational background, gender identity, socio-economic background, and environmental preferences.

(ix) A full explanation of the services provided to them, as written in their individualized service plan. Residents have the right to participate to the fullest extent, consistent with the resident's capacity, in the establishment and revision of such plan. Within 30 to 45 days of intake, staff should review services and expectations again to ensure residents understand the information.

(x) Control their own daily schedule and activities.

(xi) Engage in community life to the same degree as individuals not receiving services in the broader community.

(xii) Seek employment and work in the community.

(xiii) Control personal and financial resources, which includes:

(xiv) The right to choose their own Representative Payee, and to be informed of this right.

(xv) Receive their full personal needs allowance in a regular and timely manner. Each resident shall have the freedom to use such allowance as he/she chooses unless enrolled in a voluntary money management program. The provider shall establish and adhere to a regular monthly payment schedule. Upon the increase of a fee, a provider of service shall give a resident at least 30 days' written notice of the implementation of the adjusted fee.

(xvi) Receive a copy of all fees paid to the residential program

(xvii) Report grievances, without fear of reprisal.

(xviii) Access to food shall not be restricted.

(2) The program must provide residents with a clearly written residency agreement, reviewed by the Office of Mental Health, which specifies:

(i) the terms of the agreement;

(ii) the services required to be provided by the program;

(iii) the residence fees;

(iv) the due dates for payment of fees;

(v) the rights and responsibilities of residents;

(vi) the policy concerning continued residency and fees, if a resident has an extended absence including but not limited to inpatient treatment or incarceration;

(vii) the resident grievance procedure which shall:

(*a*) ensure an objective review of the issues, timely resolution and adequate documentation;

(*b*) ensure that the name and number of a New York State Office of Mental Health contact person is made available to a resident upon admission and again whenever a grievance process cannot be resolved to the satisfaction of all parties;

(viii) the program expectations with respect to visitors, and use of the premises; and

(ix) the allowable reasons and process for termination of residency by the providers of service.

(x) the right to access a monthly residents' council and other designated mechanisms for participation in the establishment of program expectations and other matters which affect the operation of the residence. Program expectations may not violate a resident's rights as described in this section.

(b) A provider of service must ensure the provision of notices of recipients' rights pursuant to section 527.5 of this Title.

(c) A resident residing in a residential program shall be apprised and informed, in writing, of their responsibilities and the conditions of residency by the provider of service. Such responsibilities and conditions of residency shall be as follows:

(1) to respect the quiet enjoyment of other residents in common and shared residential areas;

(2) to act in ways which do not adversely impact on the habitability of the premises;

(3) to not create health or safety hazards for themselves, residents, staff or other individuals;

(4) to pay the residency fees in full and in a timely manner. Fees shall be adjusted to reflect each resident's ability to pay. Fees charged recipients of public assistance or Supplemental Security Income benefits shall not exceed amounts actually available to such persons under law less the personal needs allowance required to be reserved for the use of the individual pursuant to State law and regulation;

(5) to comply with the residency agreement and program expectations; and

(6) to give at least 30 days' written notice of the intention to terminate residency.

(e) While an individual's full participation in services is a central goal, a resident’s objection to their individualized service plan, or disagreement with any portion thereof, shall not, in and of itself, result in their termination from the residential program.

[~~595.10 Rights of residents.~~

~~(a) A resident residing in a residential program shall be entitled to the rights defined in this subdivision. A provider of service shall be responsible for ensuring the protection of these rights:~~

~~(1) A resident has the right to receive his/her full personal needs allowance in a regular and timely manner. Each resident shall have the freedom to use such allowance as he/she chooses unless enrolled in a voluntary money management program The provider shall establish and adhere to a regular monthly payment schedule. Upon the increase of a fee, a provider of service shall give a resident at least 30 days' written notice of the implementation of the adjusted fee.2(2) A resident~~

shall be provided with a clearly written residency agreement, approved by the Office of Mental Health, which specifies:

(i) the terms of the agreement;

(ii) the services required to be provided by the program;

(iii) the residence fees;

(iv) the due dates for payment of fees;

(v) the responsibilities of residents;

(vi) the policy concerning continued residency and fees, if a resident needs to be rehospitalized;

(vii) the resident grievance procedure which shall:

(a) ensure an objective review of the issues, timely resolution and adequate documentation;

(b) ensure that the name and number of a New York State Office of Mental Health contact person is made available to a resident upon admission and again whenever a grievance process cannot be resolved to the satisfaction of all parties;

(viii) the house rules with respect to visitors, including but not limited to, curfews and use of the premises; and

(ix) the allowable reasons and process for termination of residency by the providers of service.

(3) A resident has the right to have access to a resident's council or other designated mechanisms for participation in the establishment of house rules and other matters which affect the operation of the residence. House rules may not violate a resident's rights as described in this section.

(b) A provider of service shall ensure the provision of notices of recipients' rights pursuant to section 527.5 of this Title.

(c) A resident residing in a residential program shall be apprised and informed, in writing, of his/her responsibilities and the conditions of residency by the provider of service. Such responsibilities and conditions of residency shall be as follows:

~~(1) to respect the quiet enjoyment of other residents in common and shared residential areas;~~

~~(2) to act in ways which do not adversely impact on the habitability of the premises;~~

~~(3) to not create health or safety hazards for themselves, residents, staff or other individuals;~~

~~(4) to pay the residency fees in full and in a timely manner. each ability to pay. Fees charged recipients of public assistance or Supplemental Security Income benefits shall not exceed amounts actually available to such persons under law less the personal needs allowance required to be reserved for the use of the individual pursuant to State law and regulation;~~

~~(5) to comply with the residency agreement and house rules; and~~

~~(6) to give at least 30 days' written notice of the intention to terminate residency.~~

~~(d) A residency agreement entered into by the provider of service and the resident may create additional rights and obligations, but may not impose conditions that are inconsistent with the provisions or intent of this Part. Such agreement shall be consistent with the resident's individual service plan.~~]

595.11 Service planning.

(a) Services [~~provided~~]within a residential program[~~, including a CREDIT program,~~] [~~shall~~] must be provided in accordance with a service plan developed within 28 days[~~four weeks~~] of admission to the program. [~~In the case of a residence that is a CREDIT program, the initial service plan must be developed within three days of admission.~~]At the time of admission, an admission note [~~shall~~] must be prepared by a qualified mental health staff person which, at a minimum, indicates a description of the needs of the individual, as well as a brief description of the services necessary to meet these needs during the initial period after admission. Admission notes must be completed within three days of admission.

(b) Such plan shall be developed by the staff of the program, the resident and any collateral identified for participation in planning, as appropriate and desired by the resident. The service plan shall be reviewed and signed by a qualified mental health staff person and the resident. The individualized written service plan shall be a mutually agreed upon plan [~~which~~] that, at a minimum, identifies the following:

(1) statement by the resident pertaining to their preferences, goals, and/or participation in the program[~~statement of resident's readiness to participate in the services provided by the program~~; ~~or~~]and

[~~(2) statement of activities which will be provided to engage resident to participate in the services provided by the program; and~~]

(2[~~3~~]) statement of the resident's needs and strengths;

(3[~~4~~]) statement of service goals and objectives;

(4[~~5~~]) identification of the services to be provided;

(5) staff interventions, methods and frequency of service delivery;

(6) proposed time periods; and

(7)[~~- efforts to coordinate services with other providers~~] reflects coordination with other service providers.

(c) Progress notes must be prepared at least monthly for all programs and must be recorded by the housing staff member(s) who provided services to the recipient upon each occasion of service. These notes must summarize the service(s) provided, update the recipient's progress toward their goals, and include any recommended changes to the elements of the recipient's treatment plan. The progress notes must also document the date and duration of each service provided, the location where the service was provided, whether collaterals were seen, and the name and title of the staff member providing each service. The need for complex care management and the actions taken by the provider in response to this need shall also be recorded in the progress notes.
[~~Progress notes shall be recorded by authorized program staff members. Such notes shall be prepared at least monthly for all programs other than the CREDIT program, and shall indicate the type of services which have been provided, significant events which have occurred and, if appropriate, any recommendations for changes to the goals and objectives of the service plan. For the CREDIT program, progress notes should be completed weekly.~~]

(d) The individualized written service plan must be developed within 28 days of admission. The initial service plan review must be done 90 days after development of the initial plan. Thereafter, individualized written service plans must be reviewed every 90 days, or sooner if requested by the resident or if a change in goals or objectives is warranted.
[~~The individualized written service plan shall be reviewed at least once every three months, with the initial review occurring three months from the date of admission. ~~]The review shall include participation of staff involved in the provision of services to the resident, [~~the resident~~,] and[~~/or~~] if appropriate and with the approval of the resident, the resident's family or other collateral. Such review [~~shall~~] must include the following:

(1) assessment of the progress of the resident in regard to mutually agreed upon goals and objectives in the individualized written service plan;

(2) recommendations for adjustment of goals and objectives, time periods for achievement, intervention strategies or the [~~initiation~~]continuation of discharge planning; and

(3) [~~review of the individualized written service plan and signed approval by~~]a qualified mental health staff person must review and sign the individualized written service plan.

(e) As a part of the service planning process for each resident, the provider shall ensure that:

(1) a resident shall have access to a copy of [~~his/her~~]their individualized written service plan at all times;

(2) a resident shall be encouraged to determine the [~~participants~~]collaterals to be involved in the planning process;

(3) entries made in the service plan shall be in the resident's own words or reflect a reasonable substitute for a resident's limitation for verbal expression;

(4) a service plan review shall record planned interventions, document the success or failure of such interventions and include a plan for ongoing supports after discharge from the program; and

(5) a service plan shall reflect the participation of treatment and rehabilitation personnel with specialized expertise relevant to the need of the resident.

(f) In addition, programs receiving reimbursement under the Medicaid Assistance Program[~~,~~] [~~shall~~] must comply with all other service authorization and service planning requirements set forth in section 593.6 of this Title.

595.12 Program requirements.

(a) A residential program shall be designed to provide room and board, as required, within stable housing with on-site services which is supported by transportation activities and mental health, health, social services and other generic services within the community. Single-room occupancy programs shall comply with section 595.15(b)(2)(iii) of this Part as it relates to board requirements.

(b) A residential program shall be responsible for engaging a resident in rehabilitative services consistent with the individual's desire, and willingness and capacity to participate in such services, [~~and~~]the individual's written treatment plan, [~~if any~~]and, where applicable, prepared in [~~association with~~]consideration of an order authorizing assisted outpatient treatment.

(c[~~b~~]) A residential program shall ensure residents receive a thorough orientation as soon as practicable but no later than 5 days after admission.

(d[~~b~~])[~~ A residential program shall ensure that, as indicated in a resident's individualized written service plan, the following services are provided directly or through written agreement with other providers. Such services shall be provided as indicated in a resident's individualized written service plan.~~] A residential program shall ensure that the following services, as indicated in a resident's individualized written service plan, are provided directly or through written agreement with other providers. Such services shall be provided as indicated in a resident's individualized written service plan:

(1) assertiveness/self-advocacy;

(2) community integration services/resource development;

(3) daily living skills;

(4) health services;

(5) medication management and training;

(6) parenting training;

(7) rehabilitation counseling;

(8) skill development services;

(9) socialization;

(10) substance abuse services; and

(11) symptom management.

(e[~~c~~]) A provider of service shall continuously employ an adequate number and appropriate mix of staff to carry out the [~~objectives~~] obligations of the program and to ensure the outcomes of the program.

(f[~~d~~]) Congregate care and service-enriched single room occupancy type residential programs shall have a minimum of one full-time equivalent program staff member on duty at all times.

(g[~~e~~]) Apartment[~~type~~]/Treatment residential programs shall ensure that staff are available to maintain adequate contact to ensure the health and safety of residents[~~and~~], to [~~ensure appropriate~~]support [~~of~~]the [~~program's functional program as well as~~]

individual service goals of residents as identified in their written service plans, and to ensure appropriate administrative support of the program.

(h[f]) Staff of a residential program shall be available to assist in emergencies on at least an on-call basis at all times.

[~~(g) Additional requirements for residences that are CREDIT programs.~~

~~(1) A community residence for eating disorder integrated treatment program (CREDIT program) as defined in section 595.4 of this Part, in addition to the requirements for licensed residential programs identified in this section, also must be affiliated with an entity designated by the New York State Department of Health as a Comprehensive Care Center for Eating Disorders (CCCED).~~

~~(2) CREDIT programs shall admit only individuals over the age of 18 who have been diagnosed with an eating disorder and who have been referred by a CCCED, or by the individual's primary care physician or mental health provider.~~

~~(3) The CREDIT program affiliation with the CCCED shall be pursuant to written agreements with the CCCED or the providers of which it is comprised. Such agreements shall be subject to approval by the Office of Mental Health, shall provide for continuity and integration of care with the CCCED and shall require, at a minimum:~~

~~(i) the performance of a psychiatric assessment;~~

~~(ii) the development of an integrated service plan;~~

~~(iii) the performance of a medical examination;~~

~~(iv) the supervision of meal, bathroom and exercise time; and~~

~~(v) family participation, as appropriate.~~

~~(4) The CREDIT program shall have sufficient staff to meet the special needs of individuals residing in a community residence who have been diagnosed with an eating disorder~~]

595.13 Quality [~~assurance~~]improvement.

(a) Each provider of service [~~shall~~] must develop a quality [~~assurance~~]improvement plan. The plan [~~shall~~] must include, but is not limited to:

(1) Utilization review. Each residential program must have a written utilization review procedure which includes but is not limited to, review of:

(i) appropriateness for admission to and continued stay in the residential program;

(ii) appropriateness of the services provided by the residential program; and

(iii) readiness for referral and transfer of clients who no longer meet criteria for the residential program. Utilization review must be carried out, to the maximum extent possible, by staff who function independently from the staff with primary [~~clinical~~]responsibility for the resident.

(2) Incident management and reporting. Residential programs [~~shall~~] must have an internal incident reporting, investigation and management process. Residential programs [~~shall~~] must comply with Mental Hygiene Law and Part 524 of this Title which governs incident reporting by licensed mental health programs. The quality [~~assurance~~]improvement p[lan shall contain written procedures for carrying out incident management and reporting.

(3) Monitoring. Residential programs shall have procedures for internal monitoring of program performance, which shall be approved by the Office of Mental Health. Procedures must include frequency of monitoring. Residential programs should monitor [~~P~~]performance [~~should be monitored~~] against the criteria stated in the program's functional program. The results of this internal monitoring shall be used to identify problems in client care and opportunities to improve care and shall be regularly reviewed and acted on by the governing body. Statistical information shall be prepared and maintained as may be necessary for the effective operation of the program, and as may be required by the Office of Mental Health.

(b) The Office of Mental Health shall have responsibility for monitoring the quality of residential programs.

(1) Program monitoring. The Office of Mental Health or its authorized agents shall be authorized to carry out [~~E~~]external program monitoring ~~shall be carried out by the Office of Mental Health and/or its authorized agents~~. The Office of Mental Health will review program operations, quality [~~assurance~~]improvement activities and the individual records of residents during periodic certification visits.

(2) Utilization review. External utilization review shall be carried out as necessary by the Office of Mental Health, its regional offices, or other agents against the criteria contained in the residential program's functional program.

(3) Incident reporting. The Office of Mental Health [~~will~~] shall be authorized to conduct an external review of residential programs as necessary based on patterns or trends in reported incidents or on the occurrence of an individual incident of extreme gravity.

(c) If, based on a review of the program and practice of a provider of service, the Office of Mental Health determines that a provider of service is not exercising due diligence in complying with the requirements of this Part, the Office of Mental Health shall give notice of the deficiency to the provider of service and may also initiate the following:

(1) request that the provider of service prepare a plan of correction; and

(2) provide such technical assistance as the Office of Mental Health deems necessary to assist the provider of service in developing and implementing an appropriate plan of correction.

(d) If the provider of service fails to prepare an acceptable plan of correction within a reasonable time or refuses to permit the Office of Mental Health to provide technical assistance or fails to promptly or effectively implement a plan of correction, it shall be determined that the provider of service is in violation of this Part.

(e) Each residential program [~~shall~~] must have a consumer evaluation process, in which residents as well as [~~other relevant individuals involved with the resident~~]collaterals shall have an opportunity to give feedback about the program in a confidential manner. The information from this process shall be summarized annually and submitted to [~~the Office of Mental Health, ~~]the resident and all staff in the program. The confidentiality of residents, families and other impacted parties shall be protected.

(f) Upon a determination that a provider of service is in violation of this Part or upon a determination that a provider of service has failed to otherwise comply with the terms of its operating certificate or with the provisions of any applicable statute, rule or regulation, the [~~c~~]Commissioner may revoke, suspend or limit the provider's operating certificate or impose fine in accordance with the Mental Hygiene Law, section 31.16 and Parts 573 and 503 of this Title.

(g) Nothing in this section shall limit or preclude the [~~c~~]Commissioner from taking whatever immediate measures they determine to [~~may~~] be necessary, including the exercise of [~~his~~]their authority under Mental Hygiene Law, sections 31.16(b) and 31.28, in the event that a resident's health or safety is in imminent danger or there exists any condition or practice [~~which~~] that poses imminent danger to the health or safety of[~~r~~] any resident or the public.

595.14 Case records~~ and reports~~.

(a) There shall be a complete residential case record maintained for each resident. Such case record [~~shall~~] must be maintained in accordance with recognized and acceptable principles of recordkeeping as follows:

(1) case record entries shall be documented in a manner that cannot be altered[~~in nonerasable ink or typewriter~~];

(2) case records shall be legible;

(3) case records shall be periodically reviewed for quality and completeness; and

(4) case records shall be dated and signed by [~~appropriate staff~~]required individuals.

(b) The case record shall be available to all staff of the program who are participating in the provision of services to the resident and [~~shall~~] must include the following information:

(1) resident identifying information and history;

(2) resident's referral package;

(3[~~2~~]) preadmission screening notes, as appropriate;

(4[~~3~~]) mental health diagnosis and co-occurring diagnoses (e.g., SUD, chronic health conditions);

(5[~~4~~]) assessment of the resident's strengths and needs, including: psychiatric, physical, social and psychiatric rehabilitative[~~ needs~~];

(6[~~5~~]) reports of appropriate and necessary mental and physical diagnostic exams, assessments, tests and consultations;

(7[~~6~~]) the individualized written service plan;

(8[~~7~~]) dated [~~progress~~]notes which relate to goals, [~~and~~]objectives and progress of service provision, including communication with collateral contacts in accordance with [~~periodic reviews~~]595.11(c);

(9[~~8~~]) [~~documentation of the type of service provided, the date it was provided, its duration and the name of the person rendering the service~~]dated notes that document services provided in accordance with 593;

(10[~~9~~]) notes which relate to significant events and/or [~~untoward~~]incidents;

(11[~~0~~]) periodic service plan reviews;

(12[~~1~~]) discharge planning summary;

(13[~~2~~]) referrals to other programs and services;

(14[~~3~~]) consent forms;

(15[4]) discharge plan;

(16) financial agreements; and

(17[5]) residency agreement.

[(c) Statistical information shall be prepared and maintained as may be necessary for the effective operation of the program, and as may be required by the Office of Mental Health.]

595.15 Premises.

(a) *Safety*.

(1) All residential programs shall be safe and suitable for the comfort and care of the resident. Residences shall be maintained in a good state of repair and sanitation. Providers should have appropriate staff to maintain the property.

(2) Code requirements.

(i) Residential programs comprising the entire residential occupancy of a building, or programs in which the sponsoring agency or other Office of Mental Health approved entity otherwise controls the entirety of the building, [shall] must meet the provisions of the appropriate chapter and section of the most current recognized edition of the *National Fire Prevention Association (NFPA)—101 Life Safety Code (LSC)* as noted in clauses (a)-(c) of this subparagraph. Said codes are published by the National Fire Protection Association, One Batterymarch Park, Quincy, MA 02269 and are available for review at the Department of State, Division of Administrative Rules, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231 and the Office of Mental Health, Bureau of Inspection and Certification, 44 Holland Avenue, Albany, NY 12229.

(*a*) Newly constructed residences shall be governed by the appropriate chapter for new construction of the [*Life Safety* Code]LSC. New residential programs which house 16 or fewer persons (excluding staff) shall specifically meet the provisions of the chapter on Small Facilities. New residences housing more than 16 residents[ces] shall specifically meet the provisions of the chapter on Large Facilities.

(*b*) Existing buildings which are converted to use as residential programs shall be governed by the appropriate chapter for existing construction of the [*Life Safety* Code]LSC. Existing residences housing 16 or fewer persons (excluding staff) shall specifically meet the provisions of the chapter on Small

Facilities. Existing residences housing more than 16 residents shall specifically meet the provisions of the chapter on Large Facilities.

(*c*) The applicable standards of the appropriate chapters of the *LSC* shall be based upon the anticipated evacuation capability of the residents to be housed.

(ii) Residential programs, or portions of residential programs, located in buildings not fully controlled by the sponsoring agency or other Office of Mental Health-[ ]approved entity are required to provide a smoke detection system satisfactory to the Office of Mental Health. A plan showing the proposed system must be submitted for review and approval.

(*a*) Smoke detectors shall be installed per the manufacturer's specifications and are required outside of each sleeping area in the immediate vicinity of the bedrooms, on each additional story of the living unit, including basements. [~~;~~ ~~and s~~]Smoke or heat detectors shall be installed in those areas separated by a door from the above required detectors.

(*b*) Smoke and heat detectors may be powered by batteries, provided that the batteries are monitored. A distinctive trouble signal must be given before the battery is incapable of operating the device.

(*c*) Tests or inspections, as recommended by the manufacturer, shall be made not less than once a month for other than battery-powered detectors and not less than once a week for battery-powered detectors. A record of these tests shall be maintained for review.

(iii) Residential programs, or portions of residential programs located in buildings not fully controlled by the sponsoring agency or other Office of Mental Health-approved entity are required to provide carbon monoxide detectors, as per the Residential Code of New York State, the Fire Code of New York State, subdivision 5-a of section 378 of the New York Executive Law ("Amanda's Law") and Local Law No. 7 for residences in New York City, as applicable.

(*a*) Carbon [~~M~~]monoxide detectors shall be installed in locations as required by applicable law and according to manufacturer's directions and specifications.

(*b*) Carbon monoxide detectors shall be battery-[-]operated, plug-in type or hardwired, in accordance with applicable law.

(*c*) Inspections and tests of carbon monoxide detectors shall be made in accordance with manufacturer's directions and specifications. Written documentation of such testing shall be maintained for review.

(3) Residences must possess a valid certificate of occupancy or other documentation[~~,~~] which, in the opinion of the Office of Mental Health, satisfies the intent of a certificate of occupancy.

(4) All residential programs [~~shall~~] must observe the following precautions:

(i) A sufficient number of fire extinguishers, approved by one of the Nationally Recognized Testing Laboratories (e.g. [~~the~~]Underwriters Laboratories), shall be installed in accessible places on each floor. Fire extinguishers shall be tested and recharged in accordance with manufacturers' recommendations.

(ii) Staff and residents shall be trained in the use of firefighting equipment[~~,~~] and in the means of rapidly evacuating the building (or sheltering in place where applicable).

(iii) The following items are prohibited:

(*a*) devices for heating, cooking, or lighting which use kerosene, gasoline, or alcohol;

(*b*) portable propane devices for heating, cooking, or lighting; and

(*c*) portable electric hot plates for cooking.

(iv) The following items are allowed only with the explicit approval of the Office of Mental Health and with a description of the device in detail, including its safety features, potential hazards and proposed procedures for maintenance and operation:

(*a*) electric space heaters;

(*b*) wood or coal burning stoves for heating; and

(*c*) fireplaces.

(b) *Design and space requirements*.

(1) All residential programs shall:

(i) Provide not less than 145 square feet of living space per resident. Living space shall include:

(*a*) single bedrooms of at least 90 square feet and/or multiple bedrooms providing at least 75 square feet per resident, exclusive of closets. No more

than two persons shall share a bedroom without the specific approval of the Office of Mental Health; and

(*b*) support space of at least 55 square feet per person. Support space may include living rooms, dining rooms, lounge areas, kitchens and other such spaces as are accessible to residents and used in program activities. Bedroom space in excess of the required minimum may be credited toward meeting support space requirements.

(ii) Be eligible, with the approval of the Office of Mental Health, for the following waivers, the total of which shall not exceed 10 square feet per resident:

(*a*) up to 15 percent of bedroom space for one and two resident bedrooms; and

(*b*) up to 10 percent of support space in congregate type residences; or

(*c*) up to five percent of support space in service enriched single room occupancy residences.

(iii) [~~I~~]Ensure that bedrooms and all required support space meet the requirements for habitable space including but not limited to natural light and fresh air ventilation as defined in the applicable building code.

(iv) Provide a minimum of one toilet and one lavatory for each five residents and a minimum of one tub or shower for each eight residents or part thereof.

(v) Provide the following equipment:

(*a*) for each resident, a suitable, comfortable, bed and an adequate supply of clean linen. Cots shall not be used. High hospital-type beds shall not be used except for persons requiring them;

(*b*) a chair, lamp, dresser, closet or wardrobe and, if possible, a desk or table for each resident, and curtains, shades, or blinds for each window.

(*c*) provide appropriate heating and cooling throughout licensed space.

(*d*) provide access to the internet, unless unavailable in the area.

(vi) Maintain common areas in good condition and appropriately furnished.

(2) Each service enriched single room occupancy program:

(i) shall meet all of the requirements of paragraph (1) of this subdivision;

(ii) shall not exceed 100 bedrooms; and

(iii) shall provide either:

(*a*) common areas for food preparation and dining; or

(*b*) at least one kitchen/kitchenette for each six residents, or part thereof; and

(*c*) at least one meal per day per resident prepared external to the premises; and

(iv) [~~shall provide access to cooking facilities for each resident's personal use. At least one kitchen/kitchenette shall be provided and accessible to each 12 residents, or part thereof.~~]The Office of Mental Health may waive this requirement if an existing structure is being used and it would be too costly to renovate the facility to meet this requirement. In such cases, the applicant must submit a plan that provides residents with some access to cooking facilities for personal use.

(c) [~~Handicapped a~~]Accessibility Requirements.

(1) Design and construction of new buildings and the alteration of existing buildings shall be in accordance with the requirements of Part 551 of this Title.

(2) Whenever one or more persons with physical disabilities reside in a residential program, the program activities shall, to the maximum extent feasible, occur in areas of the building which are accessible to such persons.

(d) Waiver from the provisions of this section may be granted by the Office of Mental Health upon its determination that approval of such a waiver will not adversely affect the habitability or safety of the program. Such determination will be based upon a review of the following criteria:

(1) compensatory or other existing features which have the effect of reducing the impact of the proposed waiver;

(2) the service needs of the population or individual served;

(3) the operating history of the program and/or sponsoring agency requesting the waiver; or

(4) the cost of meeting the requirements.

595.16 Determination of capacity for self-preservation.

(a) The evacuation capacity of residents is a function of both the ability of the residents to evacuate and the assistance provided by staff. Each program must determine if a potential resident has a[~~Determination of~~] satisfactory ability to evacuate [~~should be made~~] prior to admission to a residential program. [~~Such a~~] This determination may be made based on a [~~reached by~~] review of the applicant's history and an[~~face-to-face~~] interview [~~which shows~~] demonstrating a capacity to evacuate equivalent to that of [~~the general public~~] an average person. When uncertainty exists a time drill [~~may~~]should be used for a more objective measurement. Determination of the ability to self-preserve should be made no more than 60 days prior to admission or sooner if there is reason to suspect changes in the individual's level of functioning.

(b) Subsequent to admission:

(1) For service enriched single room occupancy and congregate programs, timed drills should be used to regularly evaluate the level of evacuation capability of program residents. Translation of drill times to evacuation capability may be determined as:

(i) three minutes or less, prompt;

(ii) over three minutes but not in excess of 13 minutes, slow.

Evacuation capability is based on the time of day or night when evacuation of the facility would be the most difficult (*i.e.,* sleeping residents or fewer staff present). Residents needing assistance in evacuating should be assisted by staff to the extent that assistance would be available at the time of day or night in an actual emergency.

(2) For apartment programs, there shall be a regular re-evaluation of the resident's capacity to self-preserve, which shall be documented by the program. Such reevaluation shall include demonstration of the individual's ability to evacuate the building, and shall occur no less frequently than yearly and should also occur when there is reason to suspect changes in the resident's level of functioning. Re-evaluation should also occur if an individual moves to a new apartment.

(c) Fire exit drills shall be conducted in congregate and service enriched single room occupancy settings at least monthly at varying times of the day and night. Some drills may be announced in advance to the residents. The drills shall involve the actual evacuation of all residents to an assembly point as specified in the emergency plan and shall provide residents with experience in exiting through all exits. Actual exiting from windows shall not be necessary to meet the requirements of this section. Opening the window and signaling for help shall be an acceptable alternative. In buildings with fire safety features such that the local fire authority recommends sheltering in place, drills may consist of sheltering in an area of refuge. Records should indicate the time to

evacuate, date and times of day, location of simulated fire origin, the escape paths used and comments relating to residents who did not evacuate within the required time.

(d) Residents and prospective residents shall only reside in or be admitted to a type of residential program appropriate to the individual's evacuation capability.

(1) If a resident or prospective resident is clearly capable of prompt evacuation, that individual may be admitted to or remain in any residential program of a type appropriate to [~~his or her~~]their functional level.

(2) If a resident or prospective resident fails to demonstrate a capability for prompt evacuation during a fire drill, the matter should be completely documented in the fire drill log and in the resident's record. Immediate steps should be taken if possible to relocate the resident to a location within the residence which will allow for easier egress for such time as is necessary until another fire drill can be conducted (no more than 14 days) and the resident's behavior observed again.

(3) If any resident or prospective resident would be excluded from a residential program because of inability to evacuate within the time limits above, an evaluation [~~shall~~]may be conducted as described in the most current recognized edition of the *National Fire Protection Association 101A, Alternative Approaches to Life Safety*. Said codes are published by the National Fire Protection Association, One Batterymarch Park, Quincy, MA 02269 and are available for review at the Department of State, Division of Administrative Rules, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231 and the Office of Mental Health, Bureau of Inspection and Certification, 44 Holland Avenue, Albany, NY 12229. If the resultant E-score yields an evacuation difficulty level of prompt, the applicant or resident shall not be excluded for failure to evacuate within the required time limit. If the resultant E-score yields an evacuation difficulty level of slow, the applicant or resident shall not be excluded solely for failure to evacuate within the required time frame from a facility that is constructed to meet the slow evacuator standards of the current recognized edition of the [~~*Life Safety Code*~~]*LSC*.